

**A Case Study
In Interstate Resource Management:
The California-Nevada Water Controversy,
1865-1955**

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Preface

The long water controversy between Northern California and Nevada owes as much to geography as politics. Although an abundant supply of water is captured in the Sierra Nevada mountains from winter storms, most of California's farms, cities, and factories are far removed from this vast watershed. Moreover, most of the state has a relatively short rainy season. Consequently, elaborate reservoir and distribution systems are necessary to capture and transport Sierra run-off before it returns to the Pacific Ocean. Similarly, arid North-western Nevada, located on the rim of the barren and inhospitable Great Basin, depends on its water storage and distribution facilities to prevent Sierra water from draining aimlessly off into the desert. Most of the streams, rivers and lakes on which Nevada water users rely begin in the mountains of Eastern California but naturally flow across the state line. Thus, for over a century, different water interest groups have tried to reconcile their conflicting demands on a limited natural resource while the two neighboring states debated which held the strongest claim to its use.

This report sketches the water controversy from the perspective of formal interstate efforts to satisfy those interests and find an equitable way of dividing "surplus" water between the states. It consists of two separate parts. After an introductory chapter which summarizes the early history of the water controversy, the rest of Part One is concerned with interstate efforts to resolve differences over water allocation, uses and management from 1931 to 1955. In this part of the story, the California-Nevada Interstate Water Conference Committee played a significant, though often ineffective, role. This Committee persisted into the middle 1950's when a proliferation of water claims on several interstate rivers produced demands for a more powerful organization with more comprehensive objectives. The second part of the report will be published next year; it will outline the activities of the California-Nevada Interstate Compact Commission formed in 1955. This organization's efforts to allocate the surplus water of Lake Tahoe and the Truckee, Carson and Walker Rivers, culminated in a water compact formally accepted by the Commission in 1968. Subsequently, the Compact was ratified by both states and now awaits federal approval before it can take effect.

Inevitably, a historian must ignore, or treat with unpardonable brevity or crudeness, a number of subjects whose complexity warrants more sophisticated analysis. For example, water law is bewildering even to attorneys who spend a lifetime trying to understand it, and technical details of water projects, as well as water use statistics, are best left to hydraulic engineers. Nevertheless, the scope of the Compact Commission's efforts and the increasing public concern over the future of the Lake Tahoe region justify some effort to consider water problems in a historical context understandable to laymen who lack the training, or patience, required to plow through heavily detailed technical monographs.

Thanks are due a large number of Compact Commission members, public officials and private citizens who helped in this project. But two people deserve special thanks. Mrs. A. M. Barton, widow of the late Colonel A. M. Barton, allowed us to use the full records of the Lake Tahoe Water Conference Committee. Without her cooperation, the first part of this report would have been infinitely more difficult to prepare. Mr. Robert Bond, Executive Secretary of the California Compact delegation, also deserves a special commendation. He opened the files of the Commission and spent endless hours answering questions. Moreover, his unfailing good humor and patience made the task of research an enjoyable as well as productive experience. We drew heavily on his knowledge.

Of course, every effort has been made to write this report from an impartial perspective and no errors of fact or interpretation should be attributed to any individual member of the Commission or agency of California or Nevada state government.

Origins of the Conflict and Initial Attempts at Interstate Cooperation

Preface	i
I. The Battle Lines Drawn: The Tahoe Water Controversy, 1865-1929 -----	1
II. Formal Attempts at Interstate Cooperation, 1930-1935 -----	20
III. Keeping the Peace: The Lake Tahoe Interstate Water Conference Committee, 1935-1946 -----	32
IV. Stalemate: The Last Years of the California-Nevada Interstate Water Conference Committee, 1947-1955 -----	40
V. Conclusion -----	49
Maps	

I. The Battle Lines Drawn: The Tahoe Water Controversy, 1865-1929

For over 60 years before Congress authorized the controversial Hetch-Hetchy project in 1913, San Francisco searched for a pure, abundant, cheap and reliable water supply to meet the needs of its rapidly growing population. The city faced more than the typical urban requirements of domestic users and manufacturers. Trans-oceanic ships were loaded and provisioned in the Bay and the wood-frame city faced the constant threat of fires fanned by strong sea breezes, especially during its long dry season.

San Francisco's water needs were matched by those of many blossoming Northern California communities including Stockton, Sacramento, and Oakland. Moreover, there was a great demand for water in the rich Central Valley whose agricultural promise swelled with the population of California's cities, and in the foothills of the Sierra Nevada, where hydraulic miners continued to extract gold from mountain sides long after the individual miner with pan, pick and shovel had given up.

On the other side of the Sierra, silver produced a population boom on the Comstock Lode in the 1860's. There were only a few struggling farms scattered along the Truckee River, but the hope of future agricultural development was strong even while mining was Nevada's major economic asset. Even then, much of the timber used to erect Comstock communities and shore-up its mines bobbed down the Truckee River. In addition, the river supplied motive power to quartz mills and a number of infant industries scattered along its course.

The source of the river, Lake Tahoe, straddled the boundary of the two states, though two-thirds of the Lake, and its outlet, were within California. There was no question that Lake Tahoe water could be put to good use in California and most Californians pictured Nevada as a barren and useless land (save for its silver). Yet it was precisely the water-poor condition of Nevada that gave Nevadans a different perspective. They argued that their state had a better claim to Tahoe water because it was completely dependent on the outflow of the Lake, while Californians could choose from many alternative water sources. And, in any case, the river did empty into Nevada.

The first conflict over Tahoe water began in 1865, only shortly after Nevada became a state. In June of that year, a San Francisco hydraulic engineer, Alexis Von Schmidt, formed the Lake Tahoe and San Francisco Water Works Company to supply San Francisco, and a number of towns, mines and farms along the line of an aqueduct from Tahoe to the Bay Area with a new water supply. The incorporation papers authorized issuance of \$20,000,000 in stock at \$1,000 a share.¹

Initially, those newspapers that took note of the project were awed by its size. In an age of such material progress, public works projects became almost acts of patriotism. Americans longed for majestic engineering projects which would affirm their belief in America's greatness. The Daily Alta California commented that the project would "...throw into the shade all similar works of either ancient or modern times, in the old or new world. The undertaking is so great that we can scarcely hope to see it finished in our time." The San Francisco Call described the scheme as "...decidedly the most stupendous waterworks enterprise ever undertaken on the American continent." Nevada's Gold Hill Daily News had some reservations about how the project would affect Nevada's water rights, but showed little doubt the project would be completed. In the desert there was great respect for builders who could challenge nature and the paper praised "...the great Von Schmidt, the engineer who is going to carry Lake Tahoe to San Francisco."²

However, Nevadans did not respond to the project formally until the following year when Von Schmidt began survey work in the Sierra; too many schemes died overnight, so at first it was reasonable to assume Von Schmidt's project was simply speculative. But in October, 1866, Nevada's Attorney General questioned whether Von Schmidt had any legal right to divert water from Lake Tahoe, an argument expressed many times in the decades to come. The Attorney General, no doubt supported by Nevada timber and mining interests, argued that any attempt to divert water from Tahoe into the Central Valley would inevitably disrupt the natural flow of the Truckee River and infringe on the appropriative rights of ranchers and mills along that river. Even more important, in the future the river would drive new quartz mills erected after the trans-continental railroad, with a spur-line connecting Virginia City and Truckee, had been completed.³

Though Von Schmidt still had not published detailed project plans, he was quick to respond to the Attorney General's challenge, claiming there was water enough for both states,

since only "a comparatively [sic] small quantity of water" would be drawn from the Lake. Moreover, the dam he intended to build near Tahoe's outlet could not cut off the flow of tributary streams entering the Truckee below the dam. Nevada's quartz mills could still be built. However, Von Schmidt added an ominous warning: Since most of the Lake and its natural outlet were located in California, Nevada would, in dry years, have to settle for a smaller share. In any case, the engineer recommended Nevadans wait until actual damage was done to their water interests before complaining.⁴

Actually, the Attorney General's fears were premature. Such a vast project attracted few investors and, temporarily, Von Schmidt concentrated on other engineering projects. Though these had little relation to the Tahoe scheme, his success in designing San Francisco's first dry-dock at Hunter's Point and an elaborate pump system to supply the mines and towns of the booming White Pine Mining District in Eastern Nevada, polished his reputation and made the Tahoe project appear more feasible. During the same period, San Franciscans began to complain loudly about the extravagant water rates charged by its monopolistic Spring Valley Water Company. By the end of the 1860's, the time was ripe for a revival of the dormant Lake Tahoe and San Francisco Water Works Company.⁵

Thus early in 1870 Von Schmidt, who had collected several prominent backers in San Francisco, decided to take his project to the California Legislature and to the United States Senate. By terms of a bill introduced in the California Senate by Robert Betge of San Francisco, Von Schmidt promised 20,000,000 gallons of water daily to San Francisco. In return the city's board of supervisors would be required to submit a \$10,000,000 bond issue to San Francisco voters at the next municipal election. If the bond issue was approved, the Governor, Mayor of San Francisco, and County Judge could appoint three water commissioners to draft the construction contracts and issue the bonds. Until the bonds were paid off, presumably through water sales, the city would hold a preferred lien on the works and property of the company. Finally, "...the said Board of Supervisors are hereby authorized and empowered, if they elect to do so, to purchase all the works, reservoirs, franchises and pipes of the company known as the Spring Valley Water Works, at a valuation not to exceed its present capital stock." Von Schmidt knew Tahoe water prices would undercut rates charged by the Spring Valley Company. Consequently, he could insure potential investors that if his project was approved by the voters, ultimately the Lake Tahoe and San Francisco Water Works Company would own a new monopoly.⁶

The federal bill was designed to aid in construction of the aqueduct, since it promised clear right of way over federal land as well as a supply of earth, timber and stone along the proposed route. Most important, the bill promised a land grant consisting of "...all the ungranted odd sections of said public lands lying within twenty miles of the line of said works, and on each side thereof..." As each quarter of the aqueduct was completed, those lands adjoining that particular section would become property of the Lake Tahoe and San Francisco Water Works Company.

This time the Tahoe project was met by a storm of opposition from Nevadans. The Chicago Tribune had immediately attacked the federal bill arguing that the national government should not subsidize private corporations by squandering the public domain. Moreover, it was concerned that Congress would "...enable a private company in California to steal a river." This became one of the main arguments of Nevada water interests who complained that the "parched vallies" and "workshops, mills, and factories" along the Truckee had a greater potential need for Tahoe water than California cities. Discussion in Nevada newspapers was lively with the Daily Territorial Enterprises of Virginia City going to the extreme of claiming Nevada had exclusive rights to all the outflow of the Lake: "The stream belongs to the State [of Nevada], and no gang of San Francisco speculators, backed by the authority of a Democratic Legislature can divert an inch of water from it." The Enterprise was sure no court would rule in favor of Von Schmidt's scheme over Nevada interests. But if the California Legislature granted the water company diversion rights, and if San Franciscans approved the bond issue, then "...when the survey shall have been made and the workmen sent to cut off the waters of the Truckee, we advise the incorporators to bring to the mountains an escort of twenty regiments of militia. They will need them all for we will not submit to the proposed robbery. That's all."⁸

Though Von Schmidt's scheme met strong opposition in Nevada, Carson City's Daily Appeal pointed out that no claim to the exclusive use of the Truckee River could be sustained in a federal court. The Appeal editor reasoned that since water rights were established essentially by use, rather than anticipated future needs, Nevadans could only wait until their existing rights were violated. This uncertainty concerning Nevada's future helps explain the

intensity of the response to the Tahoe scheme. Day after day editorials maintained Nevada had been reduced to little more than an economic satellite of California. Hence, the Lake Tahoe project took on symbolic meaning in the columns of the Enterprise:

San Francisco speculators have been plundering this state for many years almost without rebuke. They have ruined our best mines, compelled us to feed their extravagance, and played foot-ball with the vital interests of the whole Commonwealth. We have submitted to all this, and shall probably be forced to submit to it for some time to come; but our water supplies from Lake Tahoe must not be tampered with by these gentlemen. They may take the gold and silver from our hills, and bind us in vassalage to the caprices of their stock boards, but the pure water that comes to us from Lake Tahoe, that drives our mills and makes glad our waste places, is God's exhaustless gift, and the hand of man cannot deprive us of it.

The Daily Reese River Reveille (Austin, Nevada) echoed the Enterprise, describing San Francisco as "a city of adventurers," a den of extravagance and sin serving as an instructive contrast to the stern life imposed by the environment of the more "natural" desert state. The Lake Tahoe Project was pictured as the Bay city's greatest speculative flyer. Unfortunately, it was not simply a matter of shuffling worthless paper, or watering stock issues; it threatened to dry up both the Truckee and Pyramid Lake and destroy the agricultural promise of the Washoe Valley:

Are these things to be given up, these important sacrifices to be made because a company of California adventurers are avaricious and desire to grasp a few millions? We should say not, most emphatically. It cannot be done. If you must "take water" gentis San Franciscans, do so speedily; go drown yourselves; but keep your "unwashed hands" out of Lake Tahoe. It is not destined that you shall dilute your whiskey with that pure distillation from the clouds of heaven.⁹

In California, reaction to the project was mixed. Many foothill miners supported the scheme hoping to tap Von Schmidt's aqueduct and double or treble hydraulic mining operations. Similarly, some farmers in the Central Valley looked forward to opening new tracts of virgin land to cultivation. Moreover, some of Von Schmidt's financial allies in Sacramento hoped the capital city could avoid building new water works by buying water from the Lake Tahoe Company. And there were boosters in San Francisco ranging from those hostile to the Spring Valley Company's high water prices to those who thought the project justified as an expression of American ingenuity and enterprise.¹⁰

However, even in California critics outnumbered supporters. This could be expected in Truckee since that community's economy depended on lumber sales to Nevada; as it was, the Truckee River had sufficient volume only four months in the year to float logs across the border. In many other California towns, newspapers ran editorials questioning the economic feasibility of the project, but the strongest opposition came from San Francisco itself where taxpayers were irritated at the passage of a number of private construction bills by the 1870 Legislature. There was so little faith in the Legislature that several newspapers suggested a public holiday be held on the day it adjourned. Von Schmidt's scheme helped fuel public hostility. He still had not released comprehensive project plans, and other critics resented the fact that he had gone directly to the Legislature, appealing over the heads of elected city officials. Most San Franciscans were more frightened by the cost of the scheme than dazzled by the possibility of building "the grandest aqueduct in the world." Consequently, the San Francisco legislative delegation, to which the bill had been referred, cautiously refused to report the bill out. San Francisco's legislators apparently feared for their chances of reelection if they voted to saddle the city with a bonded debt which, at that time, would have exceeded the entire state debt. Meanwhile, in Washington heavy opposition to all new land grant bills defeated the federal bill.¹¹

However, the scheme was far from dead. In the summer of 1870 a diversion dam was constructed four miles downstream from the outlet of the Lake and surveys completed for the canal expected to carry Tahoe water from Truckee into Squaw Valley where a five-mile tunnel through the Sierra would carry the water to the North Fork of the American River. A dam keeper was posted at the Lake through the winter to prevent angry Nevadans from destroying the new structure. More good news came in December when San Francisco's Board of Supervisors (revealingly described as "the boys" by one of the Lake Tahoe Company's major stockholders)

granted the company a franchise to lay water pipes in the city anytime within the next five years. Oakland's mayor promised to get a similar bill passed.¹²

When a new stock issue went on sale in February, 1871, stock sales were brisk. It was now obvious Von Schmidt's company was serious and rumors circulated that the Central Pacific Railroad was ready to merge with the Tahoe Company to share expenses in constructing the tunnel so that the railroad could shorten the length and grade of its trans-Sierra line and eliminate dangerous snowsheds. Von Schmidt had already pointed out that his tunnel could easily be enlarged to accommodate trains. In any case, once the tunnel was built, the Lake Tahoe and San Francisco Water Company could easily finance the rest of the project through water sales to miners and farmers in the Sierra foothills. Consequently, when the engineer presented his plans directly to the Board of Supervisors in March, he made several important concessions. The Board was asked to issue \$6,000,000 in bonds at 6% interest instead of the \$10,000,000 at 7% interest specified in the 1870 California Senate bill. Moreover, his new offer stipulated the bonds would be needed only when the project was completed and Tahoe water was ready for use. For those who had complained the project would take too long, Von Schmidt promised delivery within four years. In effect, Von Schmidt argued the bonds were needed only to strengthen his company's credit. On April 4, 1871, the Board of Supervisors accepted the Tahoe plan by a vote of 7 to 4.¹³

Though few Californians conceded Nevada exclusive use of the Truckee River, most city dwellers opposed the Board of Supervisors' action. San Francisco's Daily Alta California now thought "the enterprise ought to be encouraged," but other Bay Area newspapers complained the promised 20,000,000 gallon supply was inadequate and the cost of building a reservoir and distribution works too high. Moreover, they worried because there was no provision to transfer ownership of the completed water works to the city. Most still thought a thorough investigation of alternative water supplies should precede accepting the Tahoe plan.¹⁴

Understandably, Nevadans were just as concerned. In the previous year there had been no direct threat to their water interests. Now the new dam, the franchise to lay water pipes, and the Board of Supervisors' approval of the bond issue spurred Nevada's Truckee River users back into action. Once again, Virginia City's Enterprise led the editorial attack, demanding the Nevada Legislature draft a legal plan to insure Nevada's exclusive use of the Truckee. Since this would take time, the newspaper suggested the state Attorney General file an immediate injunction suit in a federal court. Though the Legislature was in full sympathy with the Enterprise's objectives, the Judiciary Committee properly refused to take legal action ruling that Truckee River water users, not the state of Nevada, held water rights enforceable in court. Even then, it reasoned, injunction proceedings could begin only when there had been a clear and immediate violation of those rights. A similarly futile crusade was underway in Washington. Nevada's Representative in Congress introduced a bill on April 6, 1871 "to inquire what legislation is necessary to prevent damage to public lands of the United States by the diversion of the waters of Lake Tahoe..." However, the House was not interested in what might happen to a few acres of sagebrush and the bill was killed in the House Judiciary Committee. Some Nevada legislators thought the federal government could intervene in the controversy because Tahoe and the Truckee River were inseparably linked. Since Tahoe was obviously navigable, and the river could not exist without the Lake, the federal government could intervene as adjudicator of a dispute over a navigable "body" of interstate water. Though many Nevadans persisted in raising the spectre of a bone dry Truckee river, the navigation argument was no more persuasive than the others.¹⁵

Thus, once again the fate of Nevada's water-poor economy seemed to be in the hands of Californians. Understandably, Nevadans were jubilant when San Francisco's Mayor Thomas Selby, under strong public pressure, overturned the Board of Supervisors' decision in April, 1871. The Mayor reiterated many of the objections to the Tahoe project expressed daily in editorial columns, emphasizing that San Francisco could find a cheaper, more reliable water supply nearer the city.¹⁶

The Mayor's veto at the end of April, and the death of a leading stockholder in the company in the fall, crippled the Von Schmidt scheme. Though it was again introduced in the Legislature in 1872, and San Francisco city officials reconsidered it several times during the middle and late 1870's, objections to the scheme were more persuasive than those emphasizing its possible benefit. Only the tenacity of Von Schmidt, San Francisco's growth, and the continued unpopularity of the Spring Valley Water Company, kept the Lake Tahoe and San Francisco Water Works Company alive through the 1880's.¹⁷

But, ironically, time seemed to be on the side of the Lake Tahoe scheme, even while Von Schmidt advanced toward old age. By the end of the 1880's, both states showed an increasing interest in Tahoe. Nevada's mining boom had passed, and interest in expanding the state's agricultural production was rekindled by men like Francis G. Newlands who placed heavy emphasis on development of the Truckee, Carson and Walker Rivers. For example, in 1887 a plan was formulated by several Washoe County representatives in the Nevada Legislature to tunnel from Tahoe to the Carson Valley to provide additional irrigation water for farming. The scheme failed mainly because a rival group of Washoe legislators refused to vote for a project they claimed would only benefit farmers in a small part of the county. Nevertheless, in January, 1900, Senator William Morris Stewart of Nevada introduced a bill in Congress that would have made Lake Tahoe a national park. One part of this unsuccessful bill promised the surplus water of the Truckee to Nevada farmers.¹⁸

In California, hydraulic mining was no longer as important as when Von Schmidt first proposed his diversion project, but farmers in the Central Valley could use all the water they could get and farsighted businessmen were busy buying up available electrical power generation sites. In February, 1895, Assemblyman Calvin Ewing of San Francisco introduced a bill to create the State of California Water Works to supply San Francisco and intermediate farms, towns and cities between Tahoe and the Bay Area. Ewing expected revenue from power generation would pay off the \$40,000,000 bond issue needed to build the aqueduct. Apparently the bill was defeated because it required an amendment to Section Fourteen of the State Constitution permitting the State to incur the \$40,000,000 debt.¹⁹

However, there was still a chance that San Francisco might tap Lake Tahoe without the benefit of state aid. In the summer of 1900, Luther Waggoner, Chief of the Department of Public Utilities of San Francisco, led a party of surveyors and rodmen to the Lake to check Von Schmidt's aqueduct route and inspect the diversion dam constructed in 1870. Prior to his departure Waggoner speculated that the diversion dam might not be needed if a tunnel was excavated directly from Lake Tahoe through the Sierra to the North Fork of the American River. Von Schmidt had originally proposed a tunnel from Squaw Valley to the American with the water carried into the valley by a diversion canal branching off from the Truckee River at his dam site. Once in the mountains Waggoner became convinced it would be cheaper to build a dam on the western slope of the Sierra to impound the Rubicon and American Rivers rather than tap Lake Tahoe. Consequently, he urged the city to purchase a suitable reservoir site before the best locations were taken up by mining ditch and electrical power companies.²⁰

More important, the survey team reported "much determined opposition" by Nevadans to any diversion from the Lake. On May 5, 1900, a group of Nevada farmers met at the Reno Courthouse and some suggested "antagonistic measures" to block any attempt to divert Tahoe water into California. Ultimately the group settled for drafting a resolution which was sent to Mayor James Phelan of San Francisco. The resolution observed that the Tahoe scheme was not a credit to Von Schmidt's "integrity or his intelligence" and denied that the Lake Tahoe and San Francisco Water Works Company had any legal water rights at the Lake or even that there was any surplus water to appropriate. The farmers hoped San Francisco's Board of Supervisors would visit Tahoe and Reno:

This would give them an opportunity to see the great sawmill of the Truckee Lumber Company, the box factory and the ice plant, all operated from the Truckee; the new paper mills at Floriston, where San Francisco parties have invested a million dollars; the ice works at Iceland, Floriston and Boca where Californians put up 200,000 tons of ice a year; the mills at State Line, and the new power plant to carry the Comstock mills and machinery; all the farms in our valley, with mills, electric light works; sawmills, box factories, etc. in Verdi, of which nothing would be left after taking away their water supply.

The farmers appointed a four-man committee to deliver the invitation to the Mayor and to represent Nevada at any meetings of San Francisco's Board of Supervisors called to reconsider Lake Tahoe as a water supply.²¹

Waggoner's report and the bitter reaction of Nevada's Truckee River users frightened the Board of Supervisors, but the Tahoe scheme lived on. In 1901 Alexis Von Schmidt, now in his eighties, offered to sell his company's property and water rights to San Francisco for \$50,000. The offer was refused, but after the engineer's death five years later, the water rights were acquired by Judge James A. Waymire, another prominent San Franciscan

with a strong background in water law acquired through work on several California water projects. The Reno Evening Gazette of September 5, 1908, ominously reported that Waymire had studied the legal issues involved, secured Tahoe water rights from the Von Schmidt estate, and garnered the backing of several un-named California "millionaires." Professor Henry Thurtell, a member of Nevada's Railroad Commission and former State Engineer, alerted the Gazette to Waymire's plans and the judge confirmed the report several days later.²²

In most details, Waymire's plan followed Von Schmidt's. However, in addition he wanted to build four large power plants on the American River capable of generating 400,000 horsepower. Though the project would cost \$42,000,000, the judge was confident his backers could easily raise \$50,000,000. Equally important, Waymire had published two pamphlets, one of which outlined legal arguments supporting his California Water Company's title to Tahoe water, and the other practical arguments justifying California's exclusive use of the Truckee River. He argued that the two states had different, but complementary, assets. Nevada's resources were mineral and, at best, only 185,000 acres of its soil could be irrigated profitably. For that acreage, there were many alternative reservoir sites in the Sierra, including Donner and Independence Lakes. In fact, "[t]he flow of the Carson River alone, properly used, is more than sufficient" to meet Nevada's present and future agricultural needs. The cost of building reservoirs to replace Tahoe storage could be financed by the Reclamation Service which had supervised operation of the Newlands Project in Western Nevada since 1902. Waymire suggested an interstate bargain. Nevada could appropriate all the surplus of the Walker and Carson Rivers in exchange for California's right to full use of the Truckee.²³

Since Nevada farmers had already appropriated Truckee River water to irrigate land within the Newlands Project boundaries, Waymire's scheme was potentially even more controversial than Von Schmidt's. However, when the judge died in April, 1910, the dream of a Tahoe aqueduct died with him. Nevertheless, the water controversy had plenty of life left.

In 1902, Theodore Roosevelt had signed the Newlands Reclamation Act into law. Senator Francis G. Newlands had worked since the 1880's to convince residents of Nevada that their future would be agricultural. He personally bought a large tract of land at Donner Lake and built a dam at its outlet into the Truckee River. In addition, he purchased 160 acres along the course of the Truckee near its Tahoe outlet to permit Nevada to build a new dam for more efficient discharge of the Lake's water. Like Waymire, Newlands saw Tahoe, and the Truckee, Carson and Walker Rivers as inseparably linked. Nevada's agricultural development depended on the use of water from each of these sources.²⁴

However, Nevada farmers who flooded into Churchill County on the bright promises of the United States Reclamation Service found the government had moved too fast. Although Tahoe contained an enormous potential water supply, the dam at its outlet was controlled by a power company. In 1870, the California Legislature had granted the Donner Boom and Logging Company, a subsidiary of the Central Pacific Company, the right to build a dam at the outlet of the Lake to modify the flow of water to float logs into Nevada. This right was acquired by San Francisco's Fleishacker power interests, which organized the Truckee River General Electric Company shortly after the turn of the century. This company, in turn, absorbed several smaller electric companies along the course of the Truckee between the outlet of Tahoe and the California-Nevada border. Many federal reclamation officials doubted the lumber company could transfer control of the dam to a power company, since the original grant did not include the right to regulate the outflow of the Lake for irrigation or power generation. However, since the power company exercised de facto control of the dam, a federal suit would be required to transfer control to the federal government. Thus two new water interests, the power companies and the Reclamation Service, entered the water controversy at the beginning of the twentieth century.

To compound the problem even further, Tahoe was no longer an isolated alpine lake. More and more of its land was falling into private ownership and resorts had sprouted along its vast shoreline. Von Schmidt's scheme, and the crude log dam used by the Donner Boom and Logging Company, never posed a real threat to these resort communities. But water hungry Nevada farmers introduced the possibility the "natural levels" of the Lake would be disrupted.

Thus at least four separate water interests emerged by the end of the first decade of this century. The Reclamation Service, dedicated above all to making its projects appear successful, often thought more about expanding the limits of irrigated land than meeting the needs of farmers already settled within project boundaries. The farmers themselves, many of whom were not included in the Newlands project, argued among themselves, as well as with

Californians, over how much water they needed and who among them had the strongest legal and ethical case. Power companies and mills along the Truckee wanted a steady supply of water to drive their generators and machinery, even though during much of the winter the water used to produce electricity drained off into the desert where it was lost to farmers. Tahoe property owners simply wanted the Lake left as it was.

There were two basic legal questions: who would get Truckee River water and what use would it be put to? The Reclamation Service's water claims could be considered only as they represented the rights of individual water users; the federal government had no special water rights and the farmers stood second in line to water users with prior appropriative water rights along the channel of the Truckee (particularly at the Truckee Meadows outside Reno). Similarly, the Reclamation Service had little authority over how water was used. The power stations along the river were legally guaranteed a certain flow of water year around. Yet without adequate storage facilities, these rights were destined to clash with the interests of farmers who needed a relatively concentrated flow of water during the spring and early summer.

During the first decade of the twentieth century an alliance between Tahoe property owners and downstream power companies blocked all attempts by the federal government to take over control of the dam. The government offered the Fleishacker interests \$100,000, but the offer was curtly refused. In August, 1905, the Reclamation Service decided to try a different strategy by issuing contracts to build a new dam downstream on the Truckee one-half mile from the shore of the Lake. This time the Fleishacker companies pressed suit and won a court injunction blocking construction. Each new government offer to buy control of the dam was accompanied by the threat of federal condemnation proceedings, since the legal right of the power companies to control the dam was questionable. As late as 1908, the Reclamation Service bought land on the Lake's edge and tried to construct a diversion canal into the Truckee to bypass the dam. Again its efforts were stalled by court injunction.²⁵

The Reclamation Service played into the hands of W. P. Hammon who represented the Boston-based engineering and power syndicate, Stone Webster and Company. The Hammon syndicate was busy trying to establish a power monopoly in the Sierra, presumably because of persistent rumors the Southern Pacific planned to convert its trans-Sierra trains from steam to electricity. Throughout the spring and early summer of 1909, Hammon's engineers surveyed potential power plant sites on the Rubicon River.²⁶

July, 1909, was a particularly important month for Stone and Webster. San Francisco newspapers picked up a rumor that the Company intended to tunnel through the Sierra to Hell Hole on the Rubicon, at which point it would build a power plant large enough to take advantage of the 2,000 foot fall produced by the nine-mile tunnel. Whether Hammon ever seriously considered this project is unclear. In any case, his attention shifted quickly to western Nevada where his company already had secured a monopoly after buying out the Reno Light and Water Company in July. At that time Hammon's chief lieutenant, F. G. Baum, promised Nevada residents his company would construct a "large plant" on the Truckee, Carson, or Walker River; the exact location would be selected when Hammon returned from a visit East. The Reno Gazette was certain Stone and Webster's intention was to build a huge power plant at Washoe Lake rather than in California.²⁷

At the end of July, several San Francisco newspapers broke a story that explained Hammon's apparent abrupt change in plans. The San Francisco Examiner of July 29, 1909, printed the headline: "SECRET DEAL WITH U. S. PUTS TAHOE IN SYNDICATE'S CLUTCH." The San Francisco Evening Bulletin reported: "RECLAMATION SERVICE MAKES PACT WITH W. P. HAMMON WHICH MANY FEAR WILL RUIN MOUNTAIN RESORT." It was an incredible bargain. The Truckee River General Electric Company, now under control of the Stone and Webster Syndicate, offered to give up control of the Tahoe dam to the federal government. In turn, the government would pay one-half the cost of constructing an efficient new dam to replace the log crib structure erected by the Donner Boom and Logging Company; it would also pay the full cost of operating the new dam. Even more important, the power company was offered perpetual rights to power generated by Tahoe water and could locate new power plants on federal lands anywhere within the Tahoe Basin. This included an option to tunnel from an unspecified point below the rim of the Lake to a huge new electrical plant which would profit enormously from the spill. These rights, and others, were granted free. Not surprisingly, the Stone and Webster company had already signed the contract on July 1, 1909; this probably accounted for its flurry of activity in buying up power sites in Nevada and California.²⁸

The reaction of Californians and Nevadans to the contract reflected the increasingly complicated conflict between the water interests of the two states. Lake property owners joined with independent power companies in the region to attack the contract as simply another attempt by the "power trust" to gobble up the public domain; it was another "skirmish" in the continuing war between "the people" and "the interests." However, the property owners had two more immediate concerns. If the government controlled the dam, what was to prevent it from flooding property and beaches while it stored water for the next growing season? Or, when the power company had constructed its diversion tunnel, what was to prevent it from draining the Lake?²⁹

Understandably, most Nevada farmers favored the proposed contract. The Reno Evening Gazette maintained the purpose of "...the reclamation service in seeking to control the dam at Tahoe is not to increase the height of the dam, nor to lower the channel, but to regulate the flow scientifically and serve all parties better than has been done heretofore." In fact, the new dam would benefit Tahoe property owners by permitting a faster discharge of water during heavy storm seasons, reducing the danger of high water damage. Moreover, the Gazette argued that since most Tahoe shore line owners built at the Lake when a dam was already in place, they had implicitly accepted the possibility of property damage from manipulation of the Lake's level.³⁰

The Fallon Standard, the leading newspaper in Churchill County, declared that the Reclamation Service had made a good bargain with the power company since it had nothing to swap for control of the dam. Thus a contract appeared to be the fastest and cheapest way of getting more water into the desert. Moreover, the objections of Tahoe property owners to the contract seemed yet another example of a wealthy elite undermining the interests of "the people." If the contract was judged in terms of the greatest good for the greatest number, Newlands Project farmers clearly had the strongest claim to Tahoe water: "But if it came to choosing between utilizing the waters of the lake for reclamation of arid lands or leaving them undisturbed (so) that a few of California's millionaires may disport themselves during a few spare moments in the year, certainly public opinion should be in favor of the project interests as against pleasure seekers; another case of business before pleasure."³¹

However, Nevada farmers lacked effective advocates in Washington; California's political leaders always seemed to have a louder voice. William Kent, a Representative from California with strong credentials as a Progressive leader, and a sizable parcel of land at the Lake, carried the objections of Tahoe property owners to individual members of the Cabinet, and even to President Taft. In September, 1909, he hired a hydraulic lawyer and a hydro-electric power expert to analyze the terms of the contract. Subsequently, he issued a lengthy statement condemning the contract point by point.

Kent charged that the contract went far beyond "reasonable concessions" to the power company, especially in granting perpetual rights. Moreover, he was convinced the contract would permit the company to reassert its control over the dam in the future. Though the company's existing right to operate the outlet dam was uncertain, approval of the contract would be tacit acceptance of its legality. Consequently, if the government was unable to fulfill its part of the agreement, the power company could sue for breach of contract. Since the contract promised certain seasonal releases of water from the Lake to permit generation of electrical power, what would happen if nature did not cooperate? In short, the government had nothing to gain, and much to lose, by approving the contract.³²

Pressure from California legislators, and opposition to the contract within the U. S. Forest Service, killed the agreement. In late August, President Taft turned to Senator Newlands for advice. The latter recommended formation of an investigative committee consisting of Gifford Pinchot, Chief of the Forestry Department, Frederick H. Newell, Chief of the Reclamation Service, a Geological Survey Engineer, the Chief of the War Department's Corps of Engineers, Chief of the Bureau of Soils, and an outside engineer to be selected by the President. However, the investigative committee never met; the Reclamation Service wisely withdrew the contract.³³

Nevertheless, the Reclamation Service still needed more water to make the Newlands Project successful and the contract was revived, in an amended form, in 1911. The power company was getting ready to build a huge plant at Washoe Lake. The tunnel scheme, which had been only a possibility in 1909, was now a more immediate threat. The company planned to tunnel from Tahoe to Washoe Lake and return the diverted water to the Truckee River channel near Reno. This new scheme was designed to win even stronger support from Newlands Project farmers since the company promised to build a modern reservoir at Washoe, at its own

expense, so that the water it used to generate electrical power during the winter could be stored for future agricultural use.³⁴

In 1909 many of California's public officials had joined Kent in his opposition to the Reclamation Service scheme but there was no formal protest from the state government. Two years later California's Legislature, alarmed by the immediate plans of the power company, formally joined the protest movement. Assemblyman Frank Rutherford of Nevada County presented a joint resolution in the Assembly urging Taft to reject the contract as in 1909. Later he introduced a second resolution declaring it "unlawful for any person, firm, association or corporation to transport or carry through pipes, conduits, ditches, tunnels, or canals, the waters of any fresh water lake, pond, brook, creek, river or stream of this State into any other State, for use thereto." The resolution asked the Governor to keep watch over California water to make sure it was used exclusively for the benefit of California. It passed both houses easily and was sent on to Taft with the original declaration. Both resolutions were endorsed by Governor Hiram Johnson.³⁵

Opposition also came from a number of Northern California communities. Truckee residents were particularly concerned because their factories, mills and resorts would be destroyed by the diversion. The Legislature also received formal protests from the Nevada County Chamber of Commerce and the Auburn Board of City Trustees which had also sent its own appeal to President Taft.³⁶

Ironically, California was now in the same position Nevada had been when the Von Schmidt proposal was first made; it had to wait until actual damage was done to its water interests before court action could be taken. Meanwhile, in Nevada, Governor T. L. Oddie, approved a resolution drafted by his own legislature and forwarded it to Washington. The Nevada resolution argued that government engineers had approved the new contract and "...said contract meets with the hearty approval of the citizens of Nevada, and we pray it be consummated at the earliest possible date, notwithstanding the protest of the people of California, whose claim to these waters we do not concede."³⁷

Reclamation Service officials argued that the proposed tunnel was simply an improvement on the Lake's natural outlet, a more efficient way to remove Tahoe's "surplus" water. Understandably, they talked most about the storage reservoir and elaborate canal network which would be constructed at the power company's expense. Just as understandable, the Service was mute on what would happen to the natural flow of the Truckee from the outlet of the Lake to the point outside Reno at which the diverted water would flow back into the river channel.³⁸

The conflicting interests seemed irreconcilable. But the power company itself broke the impasse by withdrawing from the contract pleading it was "weary" of waiting for government approval and distressed by opposition from California. Some California officials speculated the Reclamation Service, whose reputation had steadily declined since its auspicious beginning, was even more "weary." Probably both would have been embarrassed by the public investigation of contract proceedings recommended by California Congressman John Raker.³⁹

While many Northern California newspapers rejoiced at their victory, Raker and Will S. Bliss, a large Tahoe landowner, feared another scheme would be negotiated by the Reclamation Service and power interests in secret. Bliss did not trust Reclamation Chief Newell. Newell had told him the power company withdrew from the contract because it could not raise the money to build the Washoe tunnel. This was nonsense and Bliss knew it; the power company was strongly backed by eastern financial interests. Consequently, Bliss and Raker wondered what the Reclamation Service planned to do next.⁴⁰

They did not have long to wait. In the following year a severe water shortage re-opened the controversy. In June, 1912, the Fallon Standard reported it was "...freely prophesied that Reno will be in darkness in the months of October and November, through lack of sufficient water in the Truckee River to furnish power for electrical development." Almost the entire flow of the Truckee was being diverted into the Carson River Basin for use in the Newlands Irrigation District. Even so, Reclamation officials predicted no water would reach Fallon after July 1.⁴¹

Early in October, the Truckee River General Electric Company and the Reclamation Service sent a dozen workmen with dredging equipment to deepen the channel at the mouth of the Lake by cutting down the rim. Lake-front property owners quickly obtained an El Dorado County court injunction to block any alteration of the channel after appeals to Taft and Walter Fisher, the new Secretary of the Interior, failed. Bliss was now sure Republican officials,

including Newell, Gifford Pinchot, and even Congressman Kent, favored reviving the contract to cover up the failures of the Reclamation Service and prevent them from becoming campaign issues in the fall elections. Bliss estimated that if the Reclamation Service had its way the Lake would be lowered six feet. This would provide the power company and farmers with an extra 750,000 acre feet of water worth \$1,500,000. Since there were no major storage reservoirs in Nevada, the supply would not last long; but it might appease critics of the service long enough to get past the elections.

Thus Bliss's earlier fears were confirmed. He expected that the power company, now at work building a new dam at the Lake's outlet, would turn over control of the new dam to the Reclamation Service as soon as it was sure of getting its windfall. Reclamation officials knew that in lowering the Lake the Service would be liable for property damages, but "...no property owner could in the ordinary lifetime collect damages against the government, but they could against a private corporation." Newell had told Bliss a year earlier that as Chief of the Reclamation Service he represented "the people" and would tell Tahoe property owners nothing about any arrangements his office made with the power company. Consequently, Bliss urged Secretary Fisher, who planned to visit the West late in October, to take advantage of the opportunity to investigate the shady alliance.⁴²

Congressman Kent, hurt by Bliss's charge of duplicity, admitted he and Raker had attended an August meeting at the Interior Department called to discuss straightening the outlet channel. However, he claimed Interior Department Officials promised their plan would lower the Lake no more than a few inches. Kent had called the scheme "reasonable," but refused to give formal approval. In his own mind the cause of the water controversy was still the greed of the power company and mismanagement in the Reclamation Service. Thus he saved his strongest words for Newell: "He [in 1909] was obviously willing to sacrifice any and every other interest of state or nation in order to make good his estimate as to the value of the Truckee-Carson Project and to supply it with water at whatever damage to public or private interests." Kent declared his support for the suit being pressed by Bliss and other Tahoe littoral owners against the Reclamation Service because it would force Secretary Fisher to make an equitable settlement of the water controversy. He also expected California's Attorney General, U. S. Webb, would file a court action to define and preserve California's right to its share of the power and irrigation potential of Tahoe water.⁴³

This did not reassure those Tahoe property owners who thought Tahoe had gotten mixed up in partisan politics. They wondered if earlier champions like Kent and Raker could still be trusted. On January 23, 1913, the Lake Tahoe Protective Association filed incorporation papers and became the first group in Tahoe's history devoted to protecting the Lake's scenic beauty. The Board of Directors was wisely drawn from property owners in many parts of Northern California. Four were San Franciscans, three Sacramentans, and individual members came from Menlo Park, Belmont, Folsom, and several Tahoe communities. Though the group was formed specifically to block any alteration in the existing levels of the Lake, it also dedicated itself to preventing the leakage of sewage into the Lake and preserving forests and fish life.⁴⁴

Thus Tahoe property owners were well represented at the first of a series of hearings Secretary Fisher called beginning in January, 1913. M. M. O'Shaughnessy, San Francisco City Engineer, and A. W. Maltby, an official of the Forestry Department, were appointed as "disinterested observers" to investigate the controversy and make technical recommendations to Secretary Fisher. The Reclamation Service sent its own battery of engineers and lawyers who worked closely with representatives of the Truckee River General Electric Company. W. S. Bliss served as chief spokesman for the Lake Tahoe Protective Association and the State of California was represented by its Assistant Attorney General, John T. Nourse. Bliss opened the first day of testimony with the stark prediction the rim-cutting scheme would cost Tahoe property owners over \$1,500,000 in property damages.⁴⁵

The meetings extended into February. In the meantime the California State Water Commission, after making its own study of Tahoe water problems, recommended that the U. S. Supreme Court adjudicate the allocation of Tahoe's surplus water. It also suggested California should file an injunction against the Truckee River General Electric Company's operation of the dam on grounds that the power company had no legal right to store flood water for use in generating electricity.⁴⁶

The California Water Commission's recommendations were ignored. Instead of seeking a permanent legal compromise to the water controversy, conferees in Washington put their faith in the ability of engineers to find some way to satisfy each conflicting interest group.

There was only limited understanding that preserving Lake Tahoe's scenic beauty, and using it to develop the desert's agricultural potential, implied two fundamentally different sets of human values and demands.

The conferences themselves were the first major attempt to reconcile conflicting claims to Tahoe water. But, perhaps more significant, they staked out the responsibility of the Secretary of the Interior to arbitrate the conflict. This happened almost by chance. Any one of several cabinet departments might have played the role finally assumed by the Interior Department. The Department of Agriculture (which attacked the management of the Reclamation Bureau during the contract dispute) had an interest in the Tahoe Basin because it managed national forests. The Department of War had an interest in Tahoe as a navigable interstate body of water. The Justice Department was the logical department to consider legal conflicts between the states. But the Bureau of Reclamation was part of the Interior Department, even though it could have easily been under the jurisdiction of Agriculture. This helps explain the emphasis on engineering solutions to the water conflict. Interior department officials were used to seeing resource problems in these terms.

Moreover, the appointment of O'Shaughnessy and Maltby forced the Lake Tahoe Protective Association to conduct engineering studies of its own. By the end of February the Interior Department engineers finished their survey at the Lake and the Protective Association hired its own engineers to determine how much Tahoe water Nevada farmers really needed. The Association's engineers concluded that nearly all of Nevada's power and irrigation needs could be filled without Tahoe water if new storage reservoirs were built. Nevertheless, the membership of the Protective Association realized such facilities could not be constructed overnight. Consequently, in the meantime the Association urged that Tahoe be used as storage reservoir within four foot limits, a low level of 6,225.3 feet and a high water mark of 6,229 feet. Association engineers estimated this would provide 500,000 acre feet, more than enough water to meet the farmer's needs even during the driest years. This recommendation was vetoed by O'Shaughnessy and Maltby who suggested regulation of the Lake's level between limits of 6,224.8 (a foot and a half above the natural rock rim of the Lake) and 6,229.8 feet.⁴⁷

Since these recommendations were not legally binding on any of the water interests, the levels issue remained unresolved. New conferences were called in 1913, after the Californian Franklin K. Lane became Secretary of the Interior in the new Wilson administration, but they side-stepped the problems. However, early in September of that year, all water users agreed the outlet dam, which had been rebuilt in 1912, should be regulated by the federal government, or an irrigation district acting in its name, and that the government should begin condemnation suit proceedings. Representatives of the Interior Department promised to resist any future attempt to cut the natural rim of the Lake. This new spirit of cooperation persisted in private meetings between Will Bliss and D. W. Cole, Newlands Project engineer. Bliss agreed to permit dredging the river channel as long as no alteration in the outlet of the Lake was made. Nevada farmers in Churchill County hoped that the Lahontan Reservoir would be completed in time to store the spring run-off in 1914 and that the two dry years of 1912-13 would be followed by a stormy winter. Finally completed in 1915, the Reservoir impounded the Carson River and water diverted from Derby Dam on the Truckee. It was capable of storing 300,000 acre feet of water. Though Tahoe littoral owners hoped this would reduce dependence on the Truckee,⁴⁸ project officials still had ambitious plans to expand the acreage under cultivation.

In June, 1915, control of the dam was finally transferred from the power company to the federal government in a "friendly suit." The U. S. District Court in San Francisco ordered the Truckee River General Electric Company to transfer full rights to the dam, outlet works, and surrounding land to the federal government for \$139,500. The power company, recognizing the inevitability of the suit, cooperated with the government in deciding its legal flow requirements. These were incorporated in the 1915 decree and later became the source of new controversy.⁴⁹

Secretaries Fisher and Lane only won a truce in the series of meetings held in 1913 and 1914. Nothing had been permanently settled except that the federal government would serve as arbiter in Tahoe water disputes. Even then, it was unclear what the government could do to compel conflicting water users to honor its recommendations. In the background, nature was still the real arbiter of the water controversy. After the several wet years of 1915-1918, 1919 was hot and dry and in 1920 the Lake fell to its lowest level since hydrologists began measuring its levels regularly in 1900.

Again the water shortage pressed the Reclamation Service to consider a new way to get more water out of the Lake. Since the Lake's level had fallen below the rim, regulation of the dam was useless. In May, 1919, the Service quietly requested a large number of Tahoe shoreline residents to sell their water rights to the government. This action raised the possibility the Service was considering another scheme to raise or lower the Lake's level. In either case the quit-claims would permit it to avoid paying property damages.⁵⁰

As usual, the Service did not publicize its plans and newspapers were left to speculate. Thus the San Francisco Chronicle reported: "It is planned to lower the waters of the Lake two feet a year until the supply is gone..." On the other hand, the Sacramento Bee was sure the Service planned to raise the water level of the Lake six inches above the natural rim to increase storage. Either plan would have been enough to provoke the opposition of Lake littoral owners, private organizations, and California officials.⁵¹

As a consequence, the Interior Department again took the position of mediator, calling a hearing for July 23rd at which Secretary Lane agreed to submit the whole matter to U. S. Attorney General A. Mitchell Palmer to determine what legal water rights each faction had at Tahoe. Two weeks later, on August 9th, California friends of Tahoe staged a huge public meeting at the Lake. By this time, with past experience in mind, virtually every public and private group with an interest in Tahoe had mobilized. Representatives from the War Department, California's Attorney General's office, the California Highway Commission, California State Automobile Association, the Placer and El Dorado county boards of supervisors, many foothill Chambers of Commerce, the Lake Tahoe Protective Association, the See-Tahoe-First Association, and the Sierra Club attended as well as many individual Lake property owners. The group adopted a resolution declaring the natural rim of the Lake to be 6,225 feet, not the 6,223.3 foot level upstream from the dam. The large number of representatives from chambers of commerce was no accident. Tahoe entered its first building boom in the 1910's and the recreation potential of the Lake was acknowledged in the group's resolution: "California is only now commencing to realize the wonderful asset she possesses in Lake Tahoe as an attraction for tourists and as an outing place for her own people. The preservation of the Lake's beauties, as well as of its navigability, depends in great measure on the maintenance of the Lake's surface at a level not lower than that fixed by nature."⁵²

The next day California Attorney General Webb made an impassioned speech reflecting the increasing public concern for the Lake among Northern Californians: "I do not believe that the Reclamation Service or any other branch of the Federal Government has a right to interpose its authority, as the former desires to do at Lake Tahoe, against the wishes of the State [of California]." Webb conceded the federal government's authority to intervene in matters of interstate commerce or navigation, but maintained it had no business interfering with a state's right to decide how it would use its own water resources. He concluded his speech with a warning: "California will defend her rights, and I have no doubt will establish her power to hold Lake Tahoe inviolate from spoliation in the interests of irrigation, most of the benefits of which would accrue to Nevada." Once again Californians, who had no plans to tap the Lake to water land in their own state, placed recreation before agriculture.⁵³

Attorney General Webb's new role reflected increasing state interest in the complicated legal questions involved. Protest meetings continued at Tahoe Tavern, and more and more groups, from county administrators to women's clubs, sent delegations or declarations of support. But, increasingly the issues were difficult for laymen to understand. For example, Webb's Deputy Attorney General, R. H. Harrison, mentioned that at the Lane hearing on July 23rd the Attorney General had pressed for an answer to a vital, but complicated question:

At the rehearing this question was asked several times: If the two feet extra lowering of the Lake's level will give water to furnish 30,000 more acres of land in Nevada, what will be done by the Reclamation Service when it wants to reclaim more land, or when it develops that even the amount of water already reclaimed cannot be cared for out of Lake Tahoe without continually lowering the Lake's level? No answer could be secured to that question.

A. C. Greene, an attorney who represented the Tahoe landowners added another element of concern. He was convinced the government was perfectly willing to pay the \$200,000 damages which would result from lowering the level of the Lake. This was part of an elaborate plot. For if the Lake was lowered by two feet, the strip of beach land exposed would cut existing Lake front owners off from the water. Once damages were paid, the Reclamation Service would not

have to worry about lowering the Lake's level in the future. When the State sold the exposed strips of land at auction, the Reclamation Service would outbid any private land-owners and hence become lake-front owners; no longer would Tahoe owners be able to block the efforts of the Reclamation Service. As if this was not enough, William Kent discovered that the Assistant to the Secretary of the Interior directly responsible for handling Tahoe matters had been a partner in the Stone-Webster Company at the time of the contract controversy and had favored tapping the Lake by tunnel!⁵⁴

As usual, Northern Nevada newspapers supported the Reclamation Service. On July 21, 1919, the Reno Gazette published a letter from M. A. Pray, one of the Directors of the Newlands Project, who charged Californians had been "...worked up as a regular matter of propaganda by large hotel interests at the lake, who desire to sell their holdings to the government at an exorbitant price." He repeated the reassurance which accompanied each new Reclamation Service scheme: No damage would be done to Tahoe property; the Service merely intended to lower the Lake to its low limit before the dam was erected. This simply meant drawing all water down to the natural rim to permit opening up 50,000 additional acres of project land, mostly near Pyramid Lake, part of the Fernley District, and in the Triangle and Lahontan bench lands. In effect, the Reclamation Service wanted to extend the range between high and low levels at the lake from five and one-half to seven feet. However, no tunnel or rim-cutting was planned. The Gazette concluded: "It is a fair plan, carefully worked out so as to harm nobody's property or equities while at the same time enabling the reclamation service to give much-needed water to the hundreds of settlers on the Truckee-Carson reclaimed lands."⁵⁵

Since the 1919 Tahoe Tavern talks lasted long after any new release of water could have helped farmers, the issue was put off until the following year. Californians had become increasingly suspicious of the Interior Department as well as its "subordinate" agency, the Reclamation Service, and by the summer of 1920 there was additional evidence those fears were justified. E. E. Winslow, a War Department engineer, called a meeting of Truckee River water users, but no Tahoe people were originally invited despite a Reno Gazette report the meeting would discuss new ways of getting Tahoe water. Many Californians wondered what right the War Department had to make decisions relating to the amount of water discharged from the Lake. Even more alarming, Secretary of the Interior J. B. Payne had asked to meet with representatives of the Truckee-Carson Irrigation District's Fernley District, and Senator Kay Pittman, to discuss dredging out a "sand bar" behind the outlet dam to get a stronger outflow. This was strange enough, since no one at the Lake knew there was a sand bar, but even more ominous was the location of the meeting: Yellowstone National Park!⁵⁶

After the meeting Pittman made a statement concerning the sand bar:

Some time ago the Government issued an order [affirmed in the Consent decree of 1915 giving control of the dam to the Reclamation Service] allowing the power plants along the Truckee River the right to a certain number of inches of water at all times. At the same time it issued an order stating that the level of Lake Tahoe could not be lowered below a certain point.

Since that time there has been a sand bar gradually accumulating at the lake's outlet which is now materially interfering with the flow of water. It is planned to have this bar dredged out under the theory that it will not violate the order of the Government, but will merely lower the rim of the lake to the hight [sic] at the time the order was made.

Attorney General Webb quickly arranged to attend the Winslow meeting on July 30, 1920, so that objections of Californians to the new proposal could be aired. He expressed sympathy for the farmers, but blamed their water shortage on the insatiable year around demands of the power companies, not the selfishness of Tahoe residents.⁵⁷

The War Department only had jurisdiction over the navigability of the Lake, but Winslow made a full investigation of the water controversy, the first since O'Shaughnessy and Maltby studied the levels problem in 1913 for the Interior Department. Meanwhile, the newly formed Hands-Off-Lake Tahoe group was sending telegrams to Secretaries J. B. Payne (Interior) and Newton Baker (War) urging protection of the Lake's beauty and opposition to any rim-cutting scheme. Telegrams were also sent to Washington by many different agencies and groups including California's State Director of Agriculture, the Sacramento City Commission, the Sacramento Chamber of Commerce and the Sacramento County Board of Supervisors.⁵⁸

Almost as many different groups attended the Winslow conference as the Tahoe Tavern meetings of the previous year. This time many more individual farmers, and representatives from irrigation sub-districts within the Newlands Project, attended. Their presence suggested a growing unwillingness to permit the Reclamation Service to represent their interests directly. The Nevada delegation was led by Governor Boyle and Senator Pittman; the California contingent by U. S. Webb and William Kent. The Lake Tahoe Protective Association and Lake Tahoe Development Association also sent representatives. The Truckee River General Electric Company, under fire both from Tahoe residents and increasing numbers of Nevada farmers, sent no one.

The Nevadans appealed for an emergency allocation of one-tenth foot of water, 12,000 acre feet, over a sixty day period. Fernley farmers complained they had already suffered \$50,000 in crop losses and expected worse if they could not get a special ration of Tahoe water. There were some sharp exchanges, as when Senator Pittman threatened a water war if California did not accept his terms and supply one and one-fifth inches of Tahoe water immediately to Nevada. But there were also concessions: Reclamation Chief A. P. Davis admitted California had not been adequately briefed on his bureau's plans in the past; Californians expressed sympathy for the farmers and admitted they may have overreacted to the rumor of rim-cutting. Unfortunately, since the power company had to agree to any change of the flow rate of the river, no formal agreement could be made to make an emergency water grant.⁵⁹

During the first week in August, 1920, power company representatives joined in private meetings between Californians and Nevadans. Since Nevada water users had abandoned the "sand bar" removal scheme, the only negotiable issue was whether the channel outside the dam could be cleared of debris and algae growth. While drought-stricken residents of Fallon got out their oil lamps in anticipation of the time all electrical power would be cut off, a contract was signed in San Francisco on August 7, 1920, authorizing the Reclamation Service, at its own expense, to remove "vegetable growth" and "sunken piles" from the channel of the Truckee for the 400 feet from the Lake's rim to the dam. Only hand tools were permitted, and any dredging of the channel of the river was forbidden. Elaborate safety precautions were taken. Engineers representing the Reclamation Service, California and Nevada were appointed to supervise the work; if any one of them disagreed with the way the channel clearing was conducted, work would stop. The contract also stipulated that clearing the channel was only a temporary expedient; no precedent was accepted by the Californians who signed the contract.⁶⁰

Unfortunately, the channel clearing effort, expected to provide an additional 110 second feet to downstream users by increasing the flow rate, produced only a fraction of that amount. Fallon, now completely without electricity, bore its loss stoically. Residents of that desert community were waiting for the string of wet years that always seemed to follow drought.

Early in September, Winslow made a full report to the War Department on his investigation of the Tahoe water controversy. Although he still seemed puzzled as to why the Department of the Army had decided to send him to Tahoe, his report contained a number of interesting reflections on the causes of the water controversy. Although the main reason for the controversy was, obviously drought, there were a number of attendant causes:

Important contributing causes are, first: ...water that might this summer have been of great value to the farmers, was used last autumn and winter for power development purposes and thus was lost, as far as the irrigation of the lands under consideration is concerned, because of the operation of the gates controlling the outlet of Lake Tahoe in accordance with the terms of a court decree [that of 1915]...binding on the Reclamation officials; and second,...the water that does pass down the Truckee River is caught and used by other farmers before it reaches the land properly forming part of the Reclamation Project.

Winslow confirmed that there was no sand-bar at the outlet of the Lake; this had been checked by soundings. The real problem was that the court decree of 1915 gave the "...water power interests an almost complete control over the outflow of the Lake." Since the power interests were guaranteed a flow of 500 second feet from April to September and 400 second feet from October to March, "...the practical result of the decree is...to render it almost a legal impossibility for the Reclamation Service to control or exercise any effective control over the outflow in the interests of irrigation." It was doubtful the power companies actually

needed this flow. The water was not "used up" by power generation during winter months, but much of it was wasted because of inadequate storage facilities. Unfortunately, the United States government had accepted the power companies' rights, even though they conflicted with the needs of farmers, to get control of the dam:

In my personal opinion...there must remain in the minds of many of the interested parties a strong feeling, that in the negotiations immediately preceding the consent decree, the attorneys representing the United States were outwitted by those of the power interests, and that as a result the power interests were given, by the consent decree, much more than they were legally entitled to.

The power company's flow rights could be changed only if the U. S. Department of Justice encouraged California to open a federal suit.

Winslow thought a second basic reason for the water controversy was the conflict within Nevada between agricultural users. Since many Truckee Meadows farmers held appropriative rights which antedated the reclamation project (1903), they were first in line to take any water released from Tahoe and usually took more than their share. Although Nevada State engineers pointed out that 42% of the water used by the Reno area farmers returned to the river by seepage or underflow, Winslow emphasized that in drought years only about one-third of the water used to irrigate those lands returned to the river and became available for downstream users:

Owing to the use of water for irrigation near Reno and the unavoidable seepage through and around the Derby Dam only about 150 out of the 500 second feet passing Floriston [the measurement station on the California side of the state border], were at the time of the hearing actually flowing into the diversion canal...and consequently it is mainly among the farmers owning these lands located in the vicinity of the town of Fernley and Hazen that the greatest need is felt...

A third element in the water controversy was the persistent fear of Tahoe owners that the Reclamation Service could cut the rim of the Lake. Once this was done, they could see no obstacle to draining the Lake:

It was stated at the hearing by the Director of the Reclamation Service that the Service had never had any idea of drawing upon the water capital of the lake, and that all they had ever intended to do was to use the water that flowed in from time to time. Unfortunately, however, suggestions as to cutting the rim of the lake or lowering the level of the lake by tunnels or otherwise have been made somewhat frequently by various representatives of the Government directly or indirectly connected with the Reclamation Service. In fact in some of the telegrams which passed between officials in the few weeks immediately preceding the hearing the expression "cutting the rim of the lake" was several times used.

Under these circumstances it is but natural that the [Tahoe] land owners should become much alarmed and make up their minds to press to the utmost all their legal rights and to use all the influence they might possess to prevent such an occurrence even though indirectly such efforts might hamper legitimate processes of the Reclamation Service. Unfortunately it appears that in their efforts to get the assistance of public opinion the land owners have not been as careful as might have been wished to keep within the bounds of propriety, [and] inspired newspaper articles have appeared in several of the papers so worded as to create quite an erroneous impression as to the aims of the Reclamation Service...

Nevertheless, despite his sympathy for Tahoe interests, Winslow did suggest that a concrete weir could make the irregular natural rim more uniform and permit better outflow. Also, he recommended regulation of the Lake's level within six-foot limits instead of the five feet suggested by O'Shaughnessy and Maltby in 1913. Both these modifications would aid downstream users. Nevertheless, the report concluded that the unsavory alliance of the Reclamation Service and power interests was the basic reason for the water controversy.⁶¹

During the 1920's drought-ridden farmers appealed to Tahoe property owners twice, in 1924 and 1929, to pump water from the Lake when its level fell below the natural rim. In 1924, 60,000 acre feet were pumped and in 1929, 20,000 acre feet. Though farmers showed considerable resentment to the rich and powerful Californians who doled out Tahoe water, as when 50 Truckee Meadows farmers threatened to blow the rim of the dam in 1924, they spent as much time fighting among themselves. In 1924, Truckee Meadows farmers demanded rights to the full flow of the River five days weekly; Fallon farmers thought four days a week sufficient. When upstream users swallowed up the yearly natural outflow of Donner Lake, whose flood water emptied into the Truckee, headgates of many Truckee Meadows irrigation ditches were ripped out and deputy sheriffs stepped in to prevent violence. Some desert farmers recommended special watchmen to meter the extra flow⁶² of the Truckee and prevent upstream diversions in excess of amounts permitted by law.

None of the major issues of the water controversy were settled in the 1920's. Lake property owners had recognized the needs of farmers, but argued that grants of water to farmers were gifts which in no way acknowledged new water rights. Farmers had begun to speak for themselves, but only in dry years; they did not seem particularly interested in pursuing a final settlement. The power company continued to let the Reclamation Service grope for a solution to its dilemma. If the federal government was accepted as an arbiter, it was a long way from being welcomed as a peacemaker. In short, if some concessions were made by each of the different interests involved in the water controversy, the keynote of the controversy since 1902 was stalemate.

Yet it was clear the temper of some farmers was getting uglier. When additional water had been granted, it was always too little too late. So far stoic resignation characterized the response of most farmers to water shortages. But the drought of the early 1930's produced a new crisis during which farmers and resort owners would confront each other not across conference tables in Reno or San Francisco, but at the rim of the Lake.

Notes--Chapter I

To save space we have used the abbreviated form of the following newspaper titles:

1. Daily Alta California (San Francisco) as Alta
2. Daily Morning Call (San Francisco) as Call
3. Daily Reese River Reveille (Austin, Nevada) as Reveille
4. Daily State Register (Carson City) as Register
5. Daily Territorial Enterprise (Virginia City) as Enterprise
6. Evening Bulletin (San Francisco) as Bulletin
7. Evening Gazette (Reno) as Gazette
8. Fallon Standard as Standard
9. Sacramento Daily Union as Union
10. San Francisco Chronicle as Chronicle
11. The Daily Bee (Sacramento) as Bee; The Sacramento Bee (after 1903) as Bee
12. The Daily Examiner (San Francisco) as Examiner

Some of the material in this introductory chapter was taken from our "Lake Tahoe Water: A Chronicle of Conflict Affecting the Environment, 1863-1939," published by the Institute of Governmental Affairs, University of California, Davis, in February, 1972 as a monograph in its Environmental Quality Series. Essentially that monograph covers the same chronological period in greater detail. However, much of the material in that report does not appear here because of space limitations or the more restricted scope of this work. Moreover, considerable material from our subsequent research into the water controversy appears in this study, but not in the earlier one.

1. See the incorporation articles of the Lake Tahoe and San Francisco Water Works Company dated June 19, 1865, at the California State Archives, Sacramento.
2. Alta editorial reprinted in the Sacramento Daily Union, June 22, 1865; Call editorial reprinted in the Union, July 6, 1865; Gold Hill Daily News (Nevada) editorial reprinted in Union, August 3, 1865.
3. Union, October 9, 1866.
4. Union, October 15, 1866.
5. There is no biography of Alexis Von Schmidt and his personal papers appear to have been lost or destroyed. However, his career is treated by George Reimer in "Colonel Alexis Von Schmidt: His Career as a Surveyor and Engineer, 1852-1900," an unpublished M. A. thesis, University of California, Berkeley, 1961.
6. SB 346 (Betge), California Legislature, 18th Session, introduced February 14, 1870.
7. United States Senate Bill 572 (Cole), February, 1870.
8. Enterprise, February 23, 1870; Union, February 25, 1870.
9. The Virginia City Daily Territorial Enterprise, March 2, 1870. The Reveille editorial is reprinted in the same issue of the Enterprise.
10. Sacramento Bee, March 19, 1870; March 23, 1870; The Stars & Stripes (Auburn, California), August 11, 1870.
11. San Francisco Bulletin, March 4, 1870; March 15, 1870; March 17, 1870; March 19, 1870; March 21, 1870; March 24, 1870; April 11, 1870; Alta, March 12, 1870; March 19, 1870; March 20, 1870; March 28, 1870.
12. Von Schmidt to David Hewes, December 18, 1870, in Von Schmidt Collection, California State Library, Sacramento.
13. Ensign to Hewes, December 20, 1870, in Hewes Collection, California State Library, Sacramento; Sacramento Union, February 24, 1871; March 8, 1871; Alta, March 14, 1871; Bulletin, March 14, 1871; Union, March 15, 1871.
14. Alta, February 26, 1871; February 28, 1871; April 8, 1871; Bulletin, March 22, 1871; April 4, 1871; April 6, 1871; April 10, 1871. On the Water Board see the Bulletin of April 18, 1871; April 19, 1871.
15. Enterprise, February 22, 1871; March 9, 1871; March 12, 1871; March 15, 1871; March 16, 1871; April 21, 1871; May 23, 1871.
16. Alta, April 25, 1871.
17. AB 263 (Wheaton), March, 1872; Alta, February 6, 1872; August 25, 1874; August 5, 1876; August 6, 1876; August 10, 1876; August 26, 1876; May 10, 1877; The Chronicle (San Francisco), May 10, 1877; G. H. Mendell, Report on the Various Projects for the Water Supply of San Francisco, San Francisco, 1877, pp. 8-11. Reprinted in San Francisco Municipal Reports, 1876-77, pp. 712-715.
18. Mary Ellen Glass, Water for Nevada: The Reclamation Controversy, 1885-1902, Reno, 1964, p. 35.
19. Call, February 21, 1895; AB 932 (Ewing) Cal. Leg., 31st Sess., February 20, 1895.
20. Call, May 6, 1900; August 9, 1900; Chronicle, May 6, 1900; May 11, 1900.
21. Ibid.
22. Bee, September 5, 1908; Reno Evening Gazette, September 5, 1908; Chronicle, September 6, 1908.

23. James A. Waymire, Diverting Water from Lake Tahoe for Use in California, Oakland, 1908; Lake Tahoe and Truckee River Water Supply: Distribution of Interstate Waters, Oakland, 1908.
24. Francis G. Newlands, An Address to the People of Nevada, Reno, 1890.
25. Call, August 1, 1905; Standard, August 12, 1905; October 14, 1905.
26. Chronicle, July 13, 1909.
27. Bee, July 29, 1909; Gazette, July 30, 1909.
28. Bee, July 29, 1909; Bulletin, July 29, 1909; Examiner, July 29, 1909; Gazette, July 29, 1909; Call, July 30, 1909.
29. Ibid.
30. Reno Evening Gazette, August 2, 1909.
31. Fallon Standard, August 5, 1909.
32. Bee, September 7, 1909.
33. Truckee-Carson-Lake Tahoe Project, U. S. 62nd Cong., 2nd Sess., 1912, H. Doc. 451, p. 149, 153 (Serial 6321).
34. Call, January 31, 1911.
35. Call, February 1, 1911; February 8, 1911; Bee, February 4, 1911; February 7, 1911; Standard, February 8, 1911.
36. Bee, February 15, 1911; Gazette, February 17, 1911.
37. Bee, February 11, 1911; Standard, February 15, 1911.
38. Ibid.
39. Bee, March 3, 1911.
40. Bee, March 4, 1911; March 9, 1911.
41. Standard, June 19, 1912; July 24, 1912; August 14, 1912.
42. Examiner, October 1, 1912; Standard, October 2, 1912.
43. Examiner, October 2, 1912; Call, October 3, 1912.
44. Call, January 24, 1913. Incorporation articles can be examined at the California State Archives, Sacramento.
45. Standard, January 29, 1913; February 5, 1913.
46. Call, February 6, 1913.
47. Standard, March 5, 1913.
48. Standard, September 10, 1913; Bee, October 9, 1913; October 15, 1913.
49. Chronicle, June 5, 1915; Standard, June 9, 1915; Bee, June 15, 1915.
50. Examiner, May 12, 1919.
51. Chronicle, July 16, 1919; Bee, July 16, 1919; Annual Report of the Reclamation Service, 1917-1918.
52. Bee, July 23, 1919; July 24, 1919; August 4, 1919; August 9, 1919.

53. Bee, August 5, 1919.
54. Bee, August 11, 1919.
55. Gazette, July 21, 1919; August 23, 1919. The Bee responded to this editorial on August 28, 1919.
56. Gazette, July 23, 1920.
57. Bee, July 24, 1920; July 26, 1920; Gazette, July 26, 1920; Examiner, July 28, 1920; July 29, 1920.
58. Bee, July 29, 1920.
59. Bee, July 30, 1920; July 31, 1920; Gazette, July 30, 1920; July 31, 1920.
60. Gazette, July 31, 1920; August 4, 1920; August 7, 1920; Bee, August 3, 1920; August 6, 1920; August 7, 1920.
61. Report of E. E. Winslow to the War Department's District Engineer, First District, San Francisco, California, dated September 7, 1920, entitled "The Dispute as to the Use of Water From Lake Tahoe."
62. Bee, June 2, 1924; June 7, 1924; July 22, 1924; July 18, 1929; July 20, 1929; Gazette, June 3, 1924; June 6, 1924; July 14, 1924; July 15, 1924; July 24, 1924; Examiner, June 3, 1924.

II. Formal Attempts at Interstate Cooperation, 1930-1935

In 1929 Tahoe littoral owners gave Nevada farmers permission to pump 20,000 acre feet of water from the Lake after its level fell below the natural rim. But attached to the grant was a warning: no pumping would be permitted the following year. Unfortunately, 1930 was just the second in a string of drought years made all the more bitter by the accompanying economic depression. The summer of that year began ominously as Lovelock Valley ranchers demanded Nevada Governor Fred Balzar send in the state police to discipline those water users along Lovelock's major irrigation canal who ignored notices posted by water commissioners and pilfered water belonging to their neighbors. The flow of the Truckee slowed to a trickle past the border measurement station and beyond Reno stopped entirely after the end of July.¹

Truckee Meadows farmers voted at the beginning of July to ask Tahoe littoral owners for permission to pump from the Lake; it was denied. Consequently, on July 26, 1930, a steam shovel and crew arrived at Lake Tahoe from Reno under police guard. The workmen began digging a deep trench on the Sierra Pacific Power Company property bordering the Lake. Amid rumors that Nevada's Truckee Meadows farmers were preparing to dynamite the dam, Tahoe residents rushed to the scene. Jack Matthews, Tahoe Tavern manager and deputy sheriff, rounded up a posse. Fortunately, Carl Bechdolt, another deputy, arrived to prevent bloodshed. He served a temporary warrant on the shovel crew charging the machine's noise was disturbing sleepers.

On the following morning, with the sun well up, the shovel crew resumed its work. Thomas P. King, director of the newly-formed Washoe Conservation District, explained that farmers wanted the 75,000 additional acre feet of water impounded since Tahoe's new dam was constructed in 1912. King promised that if Tahoe owners got an injunction to stop pumping, they would be held responsible for crop losses. Though the diversion trench would not cut through the rim of the Lake, it was planned to be four and one-half feet below the water level of the Lake and three feet below the rim. When completed, it would carry 250 second feet of water into the Truckee channel. King expected the diversion to last 50 days.² A subsequent investigation by the Sacramento office of the Army Engineers early in August supported King's argument.

This gate structure is so situated that, for all except the very high flows at least, when the gates are open the natural rim is still the control of the outflow, but when the gates are closed, the gate structure becomes the control and prevents outflow. Those gates have been so manipulated the last few years that there is now water stored in the lake, which would not be there if the outflow of the lake had been unregulated. H. C. Dukes, Water Master for the Truckee River, appointed by the Federal Court and answering to it alone...has carefully worked up an analysis of that situation....That analysis shows that there is 74,200 acre feet of water in the lake due to the manipulation of those gates, which would not be there under natural conditions of flow. That storage represents a raise of 0.64 feet on the water surface of the lake.

The Army report concluded that even if such a discharge endangered navigation on the Lake, neither the federal government nor California had the right to forbid pumping.³

Nevertheless, Tahoe residents did everything possible to block the diversion. When it appeared workmen were getting ready to plant charges too near the rim, an impromptu "fishing fleet" rowed over spots where the charges might be placed as partisan onlookers cheered from the shore. At ten o'clock that night 60 Tahoe residents waded into the chilly water of the Lake to plant sand bags around the intended sump sites so that even if pumps were installed, they would not be able to draw water. This group of Tahoe "vigilantes" had to finish its work in darkness when a string of lights provided by the Sierra Pacific Power Company to aid the Nevada crew was switched off as the sandbags were being stacked. Six men, including Placer County Sheriff Elmer Gumm and Deputy District Attorney Marshall Lovell, guarded the "dam." That same night other Tahoe vigilantes partially filled in the diversion ditch and stole the shovel's magneto.⁴

On July 29th a temporary El Dorado County Court injunction was served against the Truckee-Carson Irrigation District (Newland's Project), Sierra Pacific Power Company, and 40 "John Does." It forbade any further excavations at the Lake pending a final hearing on August 5th. Copies were posted at the Lake and the shovel crew stopped work.⁵

Legal officials of each state made threats. Nevadans promised to get the suit transferred to a friendlier federal court while Attorney General Webb wanted a permanent injunction against pumping. However, negotiations were already under way between Nevada water users and Tahoe property owners. A pumping agreement was almost reached at a meeting held in Reno on August 2nd that would have allowed Nevadans to take up to two inches of water while the injunction suit was fought out in the courts. But the farmers were reluctant to sign any agreement until the Tahoe interests agreed to transfer their injunction suit to a federal court. The Gazette speculated Tahoe property owners had given in only because they feared a liability suit for crop losses. Nevada water users were busy snapping photographs of the Lake's shoreline for use in such a suit and Governor Tasker B. Oddie introduced a bill in the Nevada Legislature to finance construction of a storage reservoir on the Little Truckee and dams at Webber, Donner and Independence Lakes. He hoped these facilities would limit Nevada's reliance on Tahoe.⁶

Settlement was held up briefly as Nevadans and Californians tried to decide what low limit of the Lake to put in their agreement. But this was a minor obstacle, perhaps because the Nevadans were ready to press Tahoe property owners with the demand for a \$500,000 surety bond against crop damages if negotiations broke down. The agreement reached was far more comprehensive and complicated than the pumping agreements of 1929. Farmers could pump up to two inches from the Lake immediately if that amount did not reduce the level beneath 6,223.5 feet, which was about one foot lower than the level of the Lake early in August. Nevada was also permitted to pump water from the Lake in 1931 and 1932, but the level of the Lake could not drop lower than 6,223.75 on October 1st of either year. And if the water level of the Lake reached 6,225.9 feet or above in 1932, the Lake surface could not be lowered beneath 6,224 feet. The agreement also stipulated that all pending injunction suits would be transferred to federal courts for adjudication and all Nevada defendants would appear in court to speed up settlement. Finally, an interstate committee was proposed to recommend reasonable high and low water levels for the Lake and study upstream storage sites on the Truckee. Unfortunately, agreements made by the negotiators had to be ratified by the farmers, many of whom claimed that since the stipulated low water level would be measured on October 1st no pumping would be possible in 1931 or 1932. They wanted the low water level measured on September 1st because of the heavy evaporation that occurred in September.⁷

Once again, the Department of the Interior stepped in to try to speed up a settlement. In San Francisco, Northcutt Ely, executive assistant to Secretary of the Interior Ray Lyman Wilbur, called a series of meetings which began on August 11th. Now Nevada negotiators supported the position of dissident farmers. They would accept a minimum level of 6,223.75 feet on September 1st if 30,000 acre feet had escaped from the Lake before pumping began. If 40,000 acre feet left the Lake by gravity, Nevadans were willing to accept 6,224 feet as the minimum. Though Californians suggested a compromise measurement date of September 15th, Nevadans flatly refused. At the August 14th meeting Edwin S. Pillsbury, attorney for Tahoe property owners, blamed the power companies for blocking a final settlement: "The stumbling block is the attitude of the Stone & Webster interests [Sierra Pacific Company] and the Truckee Carson Irrigation District in refusing to consider any curtailment in the Winter [power] outflow from the lake. This makes it impossible to reach any basis for a permanent increase of the Lake's levels in the Summer." Pillsbury promised that if a compromise on the pumping negotiations could not be achieved "...the suit of the property owners will be pushed to a final conclusion."⁸

As commonly happened in Tahoe water negotiations, an agreement was reached when discussions appeared deadlocked. On August 16, 1930, both sides agreed to call a three-year truce in the water controversy to allow Interior Department engineers to make a full investigation. The Interior Department's report would serve as the basis for final adjudication of the water controversy in the federal district court in San Francisco. In the meantime Nevadans won the right to take two inches from the Lake immediately, provided the Lake's level could be held at 6,223.5 feet on October 1st. After that date a small amount of water could be pumped to meet sanitation needs of Reno and Sparks, but all pumping had to stop after December 1st. Pumping was also permitted while the Interior Department's field investigation was underway in 1931, 1932, or 1933, but the Lake level had to be maintained at 6,223.75 feet or higher on September 15th and total withdrawal from the Lake restricted to 20,000 acre feet yearly unless the Lake's high water mark went above 6,224.70. Nevadans could draw one-third of the amount above that level from June through September and there would be no restrictions against pumping water after September 15th unless the level of the Lake was short of the 6,223.75 mark, in which case the dam gates would be closed until the level was restored. Nevada water users furnished a \$20,000 bond as evidence of their faith in the agreement and attorneys on both sides agreed to suspend their injunction suits pending completion of the Interior Department's survey.⁹

The three-year "truce" was short lived. By March, 1931, Nevada farmers were already trying to get more water. In response to their demands, Governor Fred Balzar of Nevada wrote to Governor James Rolph of California on May 2, 1931, reporting his appointment of a special committee to negotiate outstanding water differences between the two states. He encouraged Rolph to do the same:

The Nevada interests have been diligently endeavoring to adjust the differences between themselves, and have accomplished a great deal in that direction. However, there are still points of difference that must be settled. It is also advisable that the differences between Lake Tahoe lake owners and the Truckee River interests be also adjusted.

In the hopes that this matter may be amicably settled for all time, I have appointed a committee to act in an advisory capacity in an effort to bring about an agreement between all of these interests.... I would appreciate it very much if you would also appoint a committee to sit jointly with those named, the purpose of the body being to endeavor to reconcile all differences between the Nevada interests themselves, and between Nevada and California interests.¹⁰

Through some bureaucratic delay, Balzar's letter did not reach Rolph until May 21, by which time many Nevadans were convinced California was stalling. Nevertheless, on May 29, 1931, Rolph formally notified Balzar that he had appointed a nine-man committee to meet with the Nevada delegation.¹¹

The first formal meeting of the interstate committee was held on June 15th. In a morning meeting of the California contingent it became clear there was division among California's representatives. One group, led by V. S. McClatchy and Henry Lyons, argued Nevada water users had failed to honor past promises to push for construction of additional storage facilities. This group wanted to force the Nevada interests into accepting a permanent low level in exchange for a water grant. On the other hand, Mrs. Anita Baldwin, a large landowner at the Lake, urged that negotiations concerning a permanent agreement on water levels be deferred until the immediate water need of Nevadans were satisfied. Resort owners at the Lake supported Mrs. Baldwin fearing Nevadans might otherwise boycott Tahoe business.

However, the McClatchy group prevailed and the California delegation presented a resolution at the afternoon joint meeting linking the two issues. Nevada representatives argued it was impossible to guarantee a minimum level because Nevada users were divided and no spokesman could ratify an agreement binding individual users. Consequently little was accomplished at this meeting.¹²

The mood of the two committees became more intractable at a six-hour conference held at the Tahoe Tavern on June 28, 1931. A week earlier, 25 irate South Tahoe property owners agreed to oppose any pumping agreement made by the new Interstate Water Conference Committee unless the levels dispute could be settled immediately. The California Committee now offered to permit pumping for 30 days while the levels issue was settled by a bi-state committee, or board of arbitration, or Secretary of the Interior Wilbur, but Nevadans thought settlement of such a controversial issue could not be reached in so short a time. As the day wore on, tempers grew hotter on each side. A few Tahoe owners suggested Nevada farmers could dig deeper wells to get their water and some Nevadans countered by charging Lake shoreline owners with stalling so that any water they could obtain through a pumping agreement would come too late to do any good. Finally, Dr. J. C. Ferrell of the Nevada delegation threw down a challenge:

We in Nevada are not in a position to make any definite agreement as to lake levels. We cannot agree to guarantee any levels within thirty minutes or thirty days, (and) we are getting no place fast.... We refuse to get down on our knees to you people in California. We Nevadans want to quit if you can't understand our viewpoint. You are trying to make a goat out of the Power Company. The Power Company is not interested in the pumping of this water, we are. California is procrastinating, and the quicker we take it to court the quicker the action.

Dr. Ferrell underscored his point by resigning at the end of the meeting.¹³

There was no doubt the Nevadans needed water. Only three of twenty-eight irrigation canals branching off the Truckee were receiving any water and the Sierra Pacific Power Company expected to shut down its Truckee River plants and buy electricity from the Pacific Gas and Electric Company. Damage to crops would exceed \$1,000,000. The Reno Gazette tried to be charitable by arguing "...those who caused the break-up [of the Tahoe Tavern conference of June 28th] were relatively few in number. They held the whip hand because any one of them could stop pumping by invoking the injunction against pumping which was issued last year with the consent of the Nevada interests in order that they might pump at that time."¹⁴

The Gazette was right. Since Nevada farmers had agreed to the injunction of 1930, it was incontestable. The opposition of a few South Shore property owners listed on the injunction suit could block any new agreement. Consequently, Governor Balzar again made a direct appeal to Governor Rolph:

At the present time there is no water for irrigation along the stream [Truckee River] and many of our farmers have not only insufficient water for their livestock but an insufficient supply for domestic use. For miles below Reno the stream bed is virtually dry and the air is filled with pestilential odors from decaying fish and vegetable matter....Previously our people asked to pump six inches of water from the Lake for irrigation and domestic use. They now ask for only one-third of this amount, just enough for domestic and livestock consumption, and I confidently believe that you can meet the situation by requesting the plaintiffs in the injunction suit mentioned to immediately consent to its modification as recommended by California's Lake Tahoe Committee...¹⁵

Rolph responded two days later by appointing Major A. M. Barton, Chief Engineer and General Manager of California's Reclamation Board, to serve as his special representative at meetings of the two Tahoe water committees. Barton was given full authority to act in his name: "...I will try to show Nevada that California is a real sister state."¹⁶

In the days before the next scheduled conference in San Francisco, Rolph's office received a number of appeals from Nevada officials and private citizens. Because of an urgent request from Nevada's Health Department, Barton instructed Dr. Giles Porter, California's Director of Public Health, to investigate sanitary conditions along the Truckee River. In addition, informal meetings with Tahoe signators of the injunction suit of 1930 were scheduled. W. H. Moffatt, a Reno cattle rancher, wrote to Barton warning that "[a]dded to the already depressed condition of the livestock business, failure to get this help [additional water] will mean absolute ruin to the live stock owners in the valley....I wish to further state that prompt action is imperative, as livestock will be dying of thirst within a very short time unless water can be obtained from Lake Tahoe."¹⁷

Meanwhile, Barton was busy drafting the agenda for the meeting. There was still considerable doubt California officials could persuade dissident Tahoe shore owners to go along with decisions made in Sacramento, as reflected in a confidential memo from Barton to the governor's office:

Governor Rolph might start off by calling on some of the lake owners, rather than leaving it for the one most warmed up to start off. Anyone called on should be selected as being a fairly large interest, one not too well known as favorable to Nevada and one having leadership in the group....While it would probably be unwise to shut off any land owner, or attorney, who may get the floor at this stage, it would be much better to get the jump on them by calling on the first speaker....Those presiding should try to steer the difficult line between allowing opportunity for relief of undue internal pressure by those afflicted without letting the meeting get out of hand. Reliance can, I think, be placed on Mr. King's [Director of the Washoe Conservation District, an organization of Truckee River farmers] assurance that the Nevadans will take any charges regarding past occurrence in silence and not blow up if it is necessary to let some Californians so indulge themselves before they are ready to consent.

Whether Barton's neatly planned meeting would come off as planned remained uncertain.¹⁸

The meeting opened with a pathetic appeal from Balzar: "As a spokesman of those suffering people across an imaginary line, I come to you this morning not in a spirit of

aggressiveness, but we come, as it were, on our bended knees, asking your aid and assistance....(W)e are pleading with you, and I don't think that there is a property owner on the South end of the Lake who would not now, if they knew the conditions, permit us to take what we are asking, possibly one hundred second feet of water from Lake Tahoe." Another spokesman for Nevada gave sobering details of the drought's effect. From Reno to Pyramid Lake the Truckee was bone dry and 800 or 900 farm homes in the Fernley and Hogan areas were served only by drying up wells. A similar condition prevailed in the Fallon area and in Spanish Springs Valley and would reach Reno and the Truckee Meadows within a few weeks. Barton pointed out that no water was being asked for crops, a distinct difference from earlier pumping requests. He presented extensive data demonstrating "...that the additional lowering that would result from pumping while undesirable, would not result in preventing navigation, or other uses of Lake Tahoe." Dr. Porter of the California Department of Health followed with a report on critical sanitation problems, which were particularly acute downstream from Reno because of that city's discharge of raw sewage into the river.

Even though V. S. McClatchy, a "hard-line" South Tahoe property owner, gave his approval to pumping, others, including Henry Schmiedell of the Tahoe Associates, and Henry Lyon, District Attorney of El Dorado County, took the floor to argue that Nevadans consistently asked for new allocations of water without showing any willingness to tackle broader water problems. Each time, Nevadans promised to work toward a final solution and each time they quickly forgot their promise once the additional water was granted. Several blamed the Sierra Pacific Power Company for stalling negotiations, and all of these protestants wanted some assurance that the past would not repeat itself.

Finally, it was Governor Rolph's impassioned plea, and promise, that seemed to pacify dissident Tahoe owners:

Mr. Kelham [a "hard-line" South Tahoe owner], this matter now-- the appeal having been made to the Governor of California--[is] more or less in his hands. Will the property owners in the meantime trust me to try and solve this, as you have never been able to get any full agreement with the people of Nevada before? I want to tell you that it was through the efforts of the Senator from Nevada that [we] put through the Hetch-Hetchy plan in the Democratic [Wilson] Administration. It was what came out of Nevada that built this City [San Francisco], plus the gold from California.

Nevada is the highest taxed State in the United States. The population is but 93,000, and it is difficult for Nevada, in a hurry, with that small population, to raise sufficient money to put up the dams which are needed to store the winter waters and have them for use in the summer.

Will you trust your Governor to assert his influence and his efforts to go to the Governor, two Senators and the Congressmen and officials in Nevada, and have them sit down for the first time together and see if California cannot help Nevada to help themselves, so that they may store this water in the winter time and take care of themselves?

Though Governor Balzar steadfastly refused to link pumping to the levels question, he promised to do his best to provide for additional Truckee River storage and encourage participation of Nevada water users in future negotiations to solve the levels controversy.¹⁹

The new pumping agreement simply waived terms of the 1930 injunction for an additional two years, during which time the levels issue would be submitted to federal arbitration. Unfortunately, Nevada farmers and ranchers found out that pumping could not begin before late August because of legal formalities and the \$30,000 to \$40,000 cost to install pumps would have to be paid by Truckee Meadows farmers. Consequently the farmers voted not to pump and the agreement became null. The farmers preferred the cheaper solution of moving their stock to water than moving the water to the stock and they continued to haul their domestic water from wells, often at great distances from their farms. Nevertheless, Balzar expressed thanks to Rolph and other California officials who had responded to Nevada's appeal.²⁰

At this stage, the Lake Tahoe Interstate Water Conference Committee had not become a formal standing committee, so as the water controversy faded from public attention, Barton and the other members of the California delegation appointed in 1931 also turned their attention away from Tahoe. The two following years were wetter, so the need to pump water from Tahoe did not arise. Moreover, both Nevadans and Californians seemed to have tired of the endless negotiations. Rather than fight over the issue of levels, Nevadans turned to resolving disputes among their own water users on the Truckee and Carson Rivers by pressing for federal court decrees. They looked wistfully to Washington where massive New Deal public works projects promised that Nevada might soon have the alternative storage facilities which would reduce its reliance on Tahoe.

During both 1932 and 1933 the low level of the Lake did not drop far below the natural rim. However, in 1934 the low water mark of the Lake was a full foot lower than the preceding two years, roughly corresponding to the low level of 1931. Consequently, Nevada's new Governor, Morley Griswold, sent a confidential appeal to Governor Rolph:

We are now faced with the worst conditions ever experienced in the state on the Truckee River. It seems that the only relief possible is from Lake Tahoe....In the event we are permitted to pump from the Lake, we would not lower the lake to exceed six inches and it would insure the drought relief of approximately one-third of the people of this state. We are facing an appalling condition unless this situation can be successfully handled.

Specifically, Griswold asked Rolph to intercede in behalf of Truckee River users by convincing the Lake Tahoe Protective Association to permit pumping.²¹

At the end of the month, Louis Bartlett, President of the Lake Tahoe Protective Association, returned from a trip to Washington and alerted the group's members to a contract drafted by the power company and Reclamation Service which would have set limits to manipulation of the Lake's level without consulting Tahoe property interests:

In this contract, the power company and the irrigation interests avoid responsibility for damages to the riparian owners by placing the burden of damages entirely on the federal government. Since the federal government may not be sued without the consent of congress we are left practically without a remedy.

On the other hand this contract permits the federal government to operate the dam at the outlet of Lake Tahoe only upon the instructions of the power company and the irrigation and conservation district. In other words it gives these interests the right to say the lake level may be raised to a point where we will all be flooded out; or to order the federal government to draw off enough water to ruin the natural shore line.

This contract aligns the federal government and the power and agricultural interests against the riparian owners. There is not a word in it according a single right to us.

Two days later, Bartlett wrote to Secretary of the Interior Harold Ickes protesting the new contract. He condemned the amount of water granted by decree to the power companies, much of which was unnecessary and wasted, and the unlined canals of the Truckee Carson Irrigation District which also contributed to waste.²²

After Governor Rolph's death, Acting Governor Frank Merriam asked A. M. Barton to reassess the Tahoe water situation. There were rumors Griswold was getting ready to go to Washington to ask Ickes to permit pumping without consulting the Tahoe interests. Ickes had set a deadline of June 28th for Nevada's Truckee River users to resolve their water differences or lose a \$1,500,000 appropriation earmarked for construction of a new reservoir on the Little Truckee River.²³

At this point Bartlett was clearly the spokesman for Tahoe riparian owners even though many Nevadans, including Governor Griswold and representatives of the Sierra Pacific Company, resented his arrogance. By mid-June, Bartlett had three major objectives. First, he wanted Secretary Ickes to defer final decision on the allotment for upstream storage until August

28th to provide additional time for meetings between California and Nevada interests, and for resolution of differences between Truckee River users. Second, he wanted California officials to insist that Tahoe owners be consulted and allowed to participate in discussions over terms of the Truckee River pact, since it would involve allocation of water from Tahoe. And, finally, Bartlett wanted any profits the power company made from a pumping agreement to be used to pay the legal expenses incurred by the Lake Tahoe Protective Association. He reiterated these points at a meeting held in Governor Griswold's office on June 13th. Meanwhile, A. M. Barton, now Governor Merriam's personal representative, and F. C. Hermann, a hydraulic engineer hired by the Lake Tahoe Protective Association, began an investigation to verify Nevada's need for the special water allotment and to consider the best high and low limits for the Lake.²⁴

Virtually all of Tahoe property owners favored permitting Nevada to draw extra water from the Lake in 1934. In part this change of heart resulted from the efforts of Nevadans during the past two years to resolve their own water differences and push ahead with plans to construct new storage facilities. But Lake residents also feared the government might begin pumping whatever their objections; Secretary Ickes seemed much more willing to intervene on behalf of the farmers than Secretary Ray Lyman Wilbur had been in 1931. If that happened, and Bartlett thought it would, Tahoe property owners would be forced to sue the government. Such a suit would be costly and dangerous; it was much safer to grant the farmers what they wanted.

The Nevada water interests were showing renewed confidence; there were no pathetic appeals like those made in 1931. In fact, they appeared to be stalling while most Tahoe owners pushed for an agreement. On June 16th Nevadans were offered 36,000 acre feet from the Lake. But when the time arrived to sign the agreement on the following day, the representative of the Sierra Pacific Power Company was absent and agents of the two largest farmer's associations, The Truckee-Carson Irrigation District and Washoe County Conservation District, pleaded they did not have the authority to sign the contract. At the same time Nevada's Governor Griswold left for Washington, ostensibly to discuss federal action on the storage reservoir and to win a federal subsidy to pay for the pumping.²⁵

Because of Nevada's apparent lack of interest in reaching an agreement, on June 18th Governor Merriam telegraphed Griswold in Washington:

Cannot you make effective your original plan of having the three Nevada interests, parties to the proposed contract, act together and through cooperation with the California attorney general and riparian owners, which I am assured can be had, secure such modification of the proposed contract as will be fair to all interests?²⁶

It was difficult to know just what was going on in Washington. On June 19th Harry Hopkins, Federal Relief Administrator, wired a special request to Merriam: "I want to urge you as strongly as possible and through you the citizens of your state to aid the federal government in every possible way in meeting this emergency [by permitting pumping]. I appreciate the difficulties involved, but it seems to me the public interest in times like these should take precedence." Later in the day, Governor Griswold telegraphed Merriam explaining he did not know why conferees at the June 17th meeting had failed to ratify the terms informally agreed to on June 16th. Suspicion increased among Californians that Nevadans were stalling until Griswold could approve the contract between the power company and the Reclamation Service which Bartlett had alerted Tahoe riparian owners to late in May.²⁷

Although Griswold's telegrams to Merriam assured the California governor Nevada would not seek federal intercession, his actions did little to support his assurances. He claimed, apparently for consumption of Washington officials, that Merriam had refused to answer a telegram requesting the California Governor's intercession in speeding up the pumping agreement. Moreover, Griswold issued a statement indicating that he had discussed the possibility of pumping without the approval of Tahoe property owners or California state officials:

I have talked with all interested officials in Washington and my reaction has been that the only bar to the immediate settlement of the issues involved are legal technicalities. If the federal government thinks it desirable to pump immediately, it can order pumping operations to start at once, regardless of what property owners on the lake think about it.

In response, Barton charged that the fault lay with Griswold who was "unable or unwilling" to exercise the executive leadership necessary to get Nevada water interests to settle their own differences. Barton had been told by George DeVore, a representative of the Sierra Pacific Power Company, that the power company had sent no representative to the June 17th meeting because Governor Griswold had failed to notify the power company of the meeting.²⁸

Some of the fears of Californians were eased on June 21st when Harold Ickes sent letters to Senator Hiram Johnson and Attorney General U. S. Webb assuring them that the terms of the proposed Truckee River Agreement (the contract Bartlett had discovered) were tentative. "I propose, before any contract is signed on behalf of the United States, to submit it to you and other parties interested in Lake Tahoe levels, in order that your comment and the comment of the other interested parties may be received." Meanwhile, Barton hastily arranged a new meeting for June 26th.²⁹

That conference quickly drafted a new pumping agreement similar to the one proposed in the middle of June but stalled by the Nevadans. On June 28th, Attorney General Webb approved the new arrangement, which permitted Nevadans to withdraw 36,000 acre feet of Lake water (or 3.6 inches) between July 20 and September 20. Terms of the contract were forwarded to federal officials in Washington.³⁰

Though Louis Bartlett still wanted to link a levels agreement to the water grant, he reluctantly approved the new pact after Nevada water interests promised to allow him to sit in on the negotiations over levels which would begin in July. Bartlett's determination to regulate the Lake's level between four feet (6,224 and 6,228 feet) as opposed to the six feet suggested by F. C. Hermann, engineer for the Lake Tahoe Protective Association, irritated Barton. In a July 6th letter to Henry Lyon, also a Director of the Lake Tahoe Protective Association, Barton wrote:

It is my personal opinion that if Bartlett desires to sit in on any further negotiations, well and good, but I am certain that he will cause a lot of unnecessary trouble and there is a possibility that he may engender such feeling as will prevent any satisfactory agreement being reached.

It is evident to me that Bartlett is making a desperate effort to protect his holdings from damage on the high and low water question, notwithstanding the fact his predecessors in interest, I am informed, sold their flowage rights [in 1919]; further, that he is trying to wreck vengeance upon the Power Company because of an old feud.

In my opinion, the high and low level question will never be settled satisfactorily unless elevations which will adversely affect the least number of people are determined and agreed upon. The Nevada interests are willing and have already given a great deal of data which would lead to the determination of aforesaid levels, and an agreement can be reached if a committee from both sides, such as met the other day in my office can sit down in round-table discussion, without the injection of past feuds and animosities, and be permitted to reach a satisfactory conclusion based on the facts alone.³¹

The majority of members of the Lake Tahoe Protective Association conceded that some flood damage would be done to property, particularly at South Shore, by adopting a high level of 6,229 feet. Whether the high water mark was 6,229 or 6,228, the only way to protect all littoral property from flood damage was to reduce the level of the Lake gradually since some beaches exposed in dry seasons would inevitably be flooded in wetter years.

However, this argument did not appease Bartlett's forces. Although the California delegation of the Lake Tahoe Interstate Water Conference Committee consisted entirely of members of the Lake Tahoe Protective Association, (V. S. McClatchy, the Sacramento realtor, Henry Lyon, District Attorney of El Dorado County, and Henry Droeste, a Tahoe resort owner), the Bartlett group feared these men would become representatives of the State of California rather than of Lake Tahoe property owners. Bartlett knew that political solutions involved compromise but he could not forget the broken promises of Nevada water users. Moreover, how could the beauty of Tahoe's beaches be negotiated?

After a three-day meeting of the Lake Tahoe Committee in mid-July, Barton issued an optimistic statement that a solution to the water controversy was in sight. The Interstate Conference Committee did make progress. The Nevada delegation promised to oppose any plan for further development of Nevada agriculture which required additional water from Tahoe. The conferees also agreed on decreased flows for the power company and prohibition of any future diversion from the Lake or alteration in its natural outlet. Moreover, after a full consideration of charts, graphs, tables and reports prepared by Herrman and Nevada engineers, the 6,229.9 and 6223 feet limits were provisionally accepted.³²

However, when the Board of Directors of the Lake Tahoe Protective Association met on July 21st, at the Tahoe Tavern, the rift in the organization deepened. Bartlett and two other Directors continued to oppose the levels recommended by the Interstate Committee. Since there were only ten Directors present, and the by-laws of the organization required the approval of eight of eleven Directors to make a policy decision, the agreement reached by the Interstate Conference Committee could not be ratified. Moreover, dissident followers of Bartlett called for the resignation of the Board and a new election. Meanwhile the Interstate Committee continued its negotiations. Members agreed that control of the dam-gates should be turned over to the Washoe County Conservation District and they expressed concern that the intransigence of Bartlett's followers would threaten the \$1,500,000 earmarked for the new storage reservoir, and give the Sierra Pacific Power Company a chance to back out of its promise to reduce its water flow allowance.³³

Since the dispute within the Lake Tahoe Protective Association could not be resolved until some assessment of the opinions of Tahoe shoreline owners had been made, V. S. McClatchy, Secretary of the Protective Association and a member of the Interstate Committee, began a poll of the property owners. The petitions outlined the agreement reached by the Committee in mid-July, and informed Tahoe residents of the next meeting of the Interstate Conference Committee scheduled for August 4th. The poll was conducted by members of the Interstate Committee aided by sympathizers in the Lake Tahoe Protective Association.³⁴

Increasingly, Barton, as well as a majority of Directors of the Protective Association, came under heavy fire from the Bartlett forces. Barton reported to Attorney General Webb that Bartlett was eager to see him dismissed as Chairman of the Interstate Water Committee. Bartlett was also busy destroying as many of the petitions as he could find. "It would appear that this matter is rapidly developing from a skirmish into what might be termed a major engagement."³⁵ The reason for Barton's concern was understandable. Several of Bartlett's followers had accused Barton of selling out to Nevada interests: "It may be that, in your position as Chairman of the Conference, although appointed to that position by the Governor of California, you feel that you cannot work for the interests of the many California land owners at the southern end of the Lake; but if that is the case I should think that you would be equally restrained from working for the interests of Nevada property owners at a distance from the Lake."³⁶ The same charge was made in a letter from Bartlett to Governor Merriam, in which he maintained the extra foot of Tahoe storage between 6,228 and 6,229.1 feet would be used to bring 22,500 acres of Nevada land under cultivation, at the expense of several hundred thousand dollars worth of flood damage to piers, boat houses, beaches, septic tanks and other property at the south end of the Lake:

Your refusal to permit a vote on the Truckee River Agreement by the only considerable group that has heard both sides of the controversy; the fact that your representative on the California-Nevada Conference [Barton] furnished no copy of the completed Draft of the agreement to any who had expressed opposition to it; that he sent out a false statement as to the action of the Lake Tahoe Protective Association concerning it; that in asking for approval of the Truckee River agreement, he sent a one-sided statement to a carefully selected list of property owners, which did not include those who will be damaged by the agreement; all this has led the great majority of those at the Tahoe meeting (of August 7th) to wonder if, in your tender solicitude for unborn blades of grass on 22,500 acres of Nevada desert, you are fully mindful of the interests of the people of California and the Nation in the maintenance and preservation of the wonderful playground that Tahoe has become, and of the property rights of your fellow Californians.³⁷

The immediate cause for Bartlett's letter was a hearing over which Governor Merriam had presided on August 7th. At that time, the Governor refused to hear motions from the floor because he was concerned simply with hearing arguments relating to the proper maximum level

of the Lake, and many of those present did not own Lake shore property. However, in response to Bartlett's charges that the Barton survey was biased, Merriam asked that all Tahoe frontage owners write him giving their preference between 6,228 and 6,229.1. Shortly after he wrote Merriam, Bartlett asked Secretary of the Interior Ickes to make a full investigation of the Truckee River Agreement, particularly the 22,500 acres Bartlett claimed would be opened to farming by virtue of the additional foot of storage. "Is it wise to increase irrigated acres at a time when the government is paying large sums for limitation of agricultural outputs?"³⁸

That Bartlett could muster only a vocal minority of shoreline owners became apparent as poll results reached Barton's office in Sacramento showing nearly 70% of those owning property around the Lake's edge favoring the Lake Tahoe Interstate Water Conference Committee's level recommendations and the proposed general terms of the Truckee River Agreement. Similarly, a large majority of those who wrote to Merriam favored the agreement. The pact was held up temporarily by Attorney General Webb who demanded the new arrangement take clear precedence over the 1915 court decree which wrested control of the dam from the power company; he also wanted to strengthen the language prohibiting alteration of the rim or constructing any artificial diversions. Consequently, during a series of meetings late in October, the pact was modified to resolve Webb's objections. Thus by the end of October, 1934, V. S. McClatchy, Secretary of the California delegation to the Interstate Committee, was confident all major differences had been erased. Only approval by Elwood Mead, Director of the Reclamation Service, and Secretary Ickes were still necessary. And, since a spokesman for Secretary Ickes had sat in on the legal meetings, quick approval from his office was expected.³⁹

Ickes set December 13, 1934, as the date to hear terms of the new Agreement. Since final results of the poll showed about 85% of property owners favored the Truckee River Agreement (417 to 78), Ickes had little sympathy for Louis Bartlett's last appeal:

This resolves itself to a point where there is only a foot of difference between you. A wise judge might divide the difference, but I don't know whether any would then be satisfied.

I can say for the California members of the conference that so far as we understand Mr. Bartlett's objection to the 6,229.1-foot level and his preference for the 6,228-foot level, it is based on his statement that the higher level would injure certain beaches which would be covered at the higher level would be covered by 6,228 feet as well, and that in any event they would be covered at a time early in the year when the season had not yet opened.

Furthermore, anyone who had erected improvements on the beaches did so with full notice that under ordinary conditions the level of the lake might rise at any time to 6,229 feet, because it had been at that point or higher ten times within the last twenty years.

Shortly before the meeting adjourned, a spokesman for the Truckee-Carson Irrigation District argued that any arrangement should put the interests of farmers first. "There can be no possible question about that as far as I am concerned," Ickes replied.⁴⁰

Secretary Ickes scheduled formal signing ceremonies for January 5, 1935. Although the Truckee River Agreement still had to be accepted by individual members of the Truckee-Carson Irrigation District and Washoe County Conservation District, and terms of the Agreement incorporated in a formal federal court decree, no one doubted that the water controversy had finally been settled. As the great drought of the '30's waned, no one could foresee that Louis Bartlett would be vindicated.

Notes--Chapter II

1. Bee, June 18, 1930; July 2, 1930.
2. Bee, July 28, 1930; July 28, 1930.
3. Report of the U. S. Engineer's Office, Sacramento, California, to The Chief of Engineers, U. S. Army, Washington, D. C., dated August 20, 1930.

4. Bee, July 29, 1930; Chronicle, July 29, 1930; Gazette, July 29, 1930.
5. Examiner, July 30, 1930; Chronicle, August 2, 1930.
6. Gazette, August 2, 1930; August 4, 1930; Bee, August 4, 1930; August 5, 1930; Chronicle, August 5, 1930.
7. Gazette, August 5, 1930; August 6, 1930. The Gazette story reported that the Sierra Pacific Company and Truckee Carson Irrigation District had arranged to obtain water from Donner and Independence Lakes; August 8, 1930; August 9, 1930; August 11, 1930; Examiner, August 6, 1930; Chronicle, August 6, 1930.
8. Bee, August 15, 1930; August 16, 1930.
9. Chronicle, August 17, 1930; August 18, 1930; Gazette, August 18, 1930. The Gazette reported that settlement had been won by a direct appeal by Nevadans to President Hoover, but there is no direct evidence to corroborate this story.
10. Balzar to Rolph, letter dated May 2, 1931.
11. Rolph to Balzar, telegram dated May 29, 1931.
12. Minutes of California-Nevada Interstate Water Conference Committee Meeting of June 15, 1931.
13. Minutes of California-Nevada Interstate Water Conference Committee Meeting of June 28, 1931.
14. Gazette, June 29, 1931; Bee, June 30, 1931; Chronicle, June 30, 1931.
15. Balzar to Rolph, telegram dated July 10, 1931.
16. Rolph to Balzar, telegram dated July 12, 1931.
17. W. H. Moffat to A. M. Barton, letter dated July 15, 1931.
18. A. M. Barton to Governor James Rolph, memorandum on Lake Tahoe pumping dated July (?), 1931.
19. Transcript of Lake Tahoe Interstate Water Conference Committee, July 21, 1931.
20. Gazette, July 28, 1931; July 29, 1931; Bee, July 29, 1931; Chronicle, July 30, 1931; Examiner, July 30, 1931.
21. Griswold to Rolph, letter dated May 22, 1934.
22. Bartlett to Ickes, telegram dated May 30, 1934. The Bee, May 29, 1934.
23. Barton to Frank Merriam, memorandum dated June 13, 1934. Bartlett to Ickes, telegram dated June 13, 1934.
24. Bee, June 12, 1934; June 14, 1934.
25. Bee, June 18, 1934; Chronicle, June 19, 1934.
26. Merriam to Griswold, telegram dated June 18, 1934.
27. Hopkins to Merriam, telegram dated June 19, 1934; Griswold to Merriam, telegram dated June 19, 1934. Memorandum of telephone conversation between Barton and Devore, June 21, 1934.
28. Bee, June 22, 1934; Gazette, June 27, 1934; June 28, 1934.
29. Ickes to Webb, letter dated June 21, 1934.
30. Pumping agreement of 1934 (in Barton Collection).

31. Barton to H. S. Lyon, letter dated July 6, 1934.
32. Bee, July 25, 1934.
33. Bee, July 28, 1934; Chronicle, July 28, 1934; Gazette, July 29, 1934.
34. Bee, July 25, 1934.
35. Barton to Webb, letter dated July 30, 1934.
36. William H. Gorrill to Barton, letter dated August 3, 1934.
37. Bartlett to Merriam, letter dated August 11, 1934.
38. Bee, August 22, 1934; Chronicle, August 22, 1934; Gazette, August 22, 1934.
39. H. F. Droeste and V. S. McClatchy "To the President and Directors--Lake Tahoe Protective Association," progress report dated November, 1934; also V. S. McClatchy to D. W. Ross, letter dated November 13, 1934.
40. Bee, December 14, 1934; Chronicle, January 17, 1935.

III. Keeping the Peace: The Lake Tahoe Interstate Water Conference Committee, 1935-1946

At the time Secretary Harold Ickes approved the Truckee River Agreement in January, 1935 the Lake Tahoe Interstate Water Conference Committee had been in existence for nearly four years. Its activities had always been a side-line for its members; formal meetings were scheduled only when the water controversy heated up. Moreover, though the committee played an important role in settling the levels dispute, its effectiveness depended on the direct support of the governors of the two states. In January, 1935 the water committee was still informal; it lacked well-defined responsibilities and statutory powers.

After 1935 the water committee assumed responsibility for administering the new water pact and served as a forum for the continuing conflict between Tahoe property owners and Nevada interests. Yet the composition of the Lake Tahoe Interstate Water Conference Committee, as well as its lack of clearly defined responsibilities or powers, limited what it could achieve. Though Barton, as Chief of California's Reclamation Bureau and an appointee of the governor, had no immediate interests at Tahoe, the other three members of the California delegation invariably held property at the Lake or represented large landowners. Similarly, the three members of the Nevada delegation spoke almost exclusively as individuals representing special interests. The three Nevadans included an engineer from the Sierra Pacific Power Company, a director of the Washoe County Conservation District and his counterpart from the Truckee-Carson Irrigation District. Thus the conflict over Tahoe water continued to be shaped by men with a restricted, and generally very technical, approach to water problems. Most members of the water committee were either engineers or lawyers and their attitudes toward water problems were conditioned, at least in part, by their training.

Although V. S. McClatchy had been confident the Truckee River Agreement would take effect in January, 1935, Secretary Ickes' formal approval was delayed until June. First, the Bureau of Indian Affairs complained the water rights of the Pyramid Lake Indians had not been adequately protected by the new Agreement. These objections were overridden when Nevada Senator McCarran appealed directly to President Roosevelt. Second, the Sierra Pacific Power Company seemed interested in modifying the Agreement to get additional flow rights from the new Little Truckee reservoir. Since the power company held water rights to some of the best reservoir sites, they could drive a hard bargain.¹

However, few in Nevada seemed willing to jeopardize the hard won agreement. On July 27, 1935, the Reno Evening Gazette published an editorial opposed to any pumping of water from the Lake in 1935, even if the federal government paid the cost of installing and operating the pumps. Since the drought was not as acute as in the previous five years, the editorial suggested "this Valley should drop the matter." Directors of the Washoe Conservation District, which included many Reno area farmers, agreed; they feared any water pumped would arrive too late to help crops and the renewed controversy might imperil the storage reservoir appropriation. At this point there was still a remote possibility that the Truckee River Agreement would not take effect. For a few months it appeared that a dissident group of Truckee-Carson Irrigation District farmers might reject the Agreement when it came to a full vote within the district. This group argued that the proposed new dam would primarily benefit farmers in the Washoe Conservation District because any new storage reservoir on a tributary of the Truckee River would probably reduce the amount of water available for diversion to Lahontan Reservoir. However, most of the farmers served by Lahontan were unmoved by this argument.²

Thus the summer of 1935 passed quietly, with no formal appeal to pump from the Lake. Instead, Nevada water users were preoccupied with debating the site of the reservoir and polishing the language of the Agreement. The heavy storms during the winter of 1935-1936 promised an adequate supply of water for the following growing season and in April, 1936, the last hurdle for the Truckee River Agreement was passed as individual farmers in the Truckee-Carson and Washoe Conservation Districts approved the new pact.³

On May 25, 1936, Barton presided over a meeting of the California Committee at which Harry C. Dukes, watermaster of the Truckee River, was the main witness. He revealed that the best reservoir site, at Boca, "...is now and has been for some two or three years under option to the Sierra Pacific Power Company. This company has announced that it would turn over its option on the site to the United States provided that they may have a capacity of 4,800 acre feet as contemplated under the [revised] Truckee River Agreement." Dukes was sure the reservoir would be ready by the spring of 1939 and reassured his audience that the demands of the power company would not threaten the interests of California parties to the new pact. Later in May, Attorney General Webb ruled there was nothing in the revised Truckee River Agreement that challenged California's water interests.⁴

Members of the Committee looked forward to a meeting of key state officials to call an end to the controversy once and for all. In a spirit of levity seldom recorded in the official documents of the Lake Tahoe Conference Committee, Barton made some suggestions to Secretary McClatchy:

With reference to the menu, I cast my vote for trout and/or filet mignon, with a cocktail precedent. I am not quite clear as to whether you are suggesting a diagram as to the best court procedure or the positions occupied in civil life of those invited. I would suggest that the head of the table radiate from the Governors at the center and the members of the Joint Commission draped gracefully on their right and left.⁵

The Tahoe Tavern meeting of August 28, 1937, was the twentieth gathering of the Interstate Conference Committee since June 15, 1931 and the hostility and mutual suspicions which marked some of the earlier meetings had dissipated, as Barton implied in his opening remarks:

During the "Last War" [World War I] it was my privilege to actively participate in 5 major engagements. The second battle of the Marne and Chateau Thierry had nothing on some of these battles that you and I have managed to survive by adroitly dodging verbal barrages and many high explosives, and G. I. cans. Somehow or other we all seem to be on speaking terms and by a miracle of team-work have finally reached an agreement which should end the generation-old conflict between California and Nevada as to the control and use of the waters of Lake Tahoe.

Though the meeting was essentially ceremonial, members decided the Lake Tahoe Interstate Conference Committee should continue in existence to administer details of the Truckee River Agreement. Though most participants at the conference wanted to put controversy behind them, Ray Knisely, manager of the huge Anita Baldwin Tahoe estate, sounded an ominous note:

I believe that this question of high water is something that is far from being settled. It is rather difficult to see how the committee is going to satisfy the people that own low lying lands. The amount of land that will be flooded will be greatly in excess of the amount of land you have been led to believe will be flooded. I believe the question of high water level is unsettled. The reports we have from Mr. Lyon are to the effect that the damage done would be sufficiently great to offset any good done to Nevada.

McClatchy pleaded that Knisely's comments were "not opened to discussion," because the Truckee River Agreement had already taken effect. However, Knisely responded that South Tahoe property owners had not been a party to the Truckee River Agreement and could not be expected to accept the deliberations of the Lake Tahoe Interstate Water Committee. Louis Bartlett, miffed at not being invited to the Tahoe Tavern celebration, struck the same note in a letter to Barton on the day preceding the meeting: "If, in the operation of the dam at Tahoe City the interests of [South Tahoe] owners are impaired or destroyed you may expect them to protect their rights in all appropriate ways." McClatchy was sure Knisely's comments indicated Bartlett was busy trying to organize a coalition of Tahoe property owners to shatter the new agreement at the first threat of high water damage to Tahoe's expansive beaches.⁶

Thus, even as the gathering of peacemakers was held, there were ominous signs the peace would be fragile. Barton deliberated a month before he replied to Bartlett, consulting each member of the water committee before sending off a lengthy letter. He tried to convince Bartlett that Tahoe property owners had won more than they lost under the terms of the Truckee River Agreement. He pointed out that the agreement prohibited any future alteration of the rim or tunnel diversion and it also permitted operation of the outlet dam to prevent flood damage when the level exceeded 6,229.1 feet; this point had been unclear in the 1915 court decree which transferred control of the dam to the Bureau of Reclamation.

Barton's letter did nothing to heal the rift among California interests. The conflict was more than just a disagreement over particular features of the new pact. Bartlett had always believed that preserving the beauty of the Lake and providing water to farmers and power companies were incompatible objectives. In the early 1930's dissident Tahoe property owners, through the use of injunction suits, were able to stymie the Nevada interests. However, with the new agreement in effect, Barton argued that Tahoe property owners had forfeited the right to take their case to court and press for damages. Consequently Bartlett's followers wondered what recourse they had in the event of property damage.⁷

The high water threat was not imagined. By the beginning of spring, 1937, it was obvious that heavy winter storms would restore the level of the Lake much faster than engineers had thought in 1935 or 1936. As the level rose, a group of Tahoe property owners began circulating a petition to have water discharged from the Lake. Unfortunately, control of the dam gates under the terms of the Truckee River Agreement could not begin until the Boca storage dam and reservoir were completed.⁸

Though a snow survey in April predicted the Lake would only reach 6,228.8 feet, many Tahoe property owners did not have much faith in the predictions of engineers. Consequently, Ray Knisely wrote to Barton urging that the State do something about the rising level of the Lake and not leave the dispute to individual property owners.

I am greatly disturbed by reports that Lake Tahoe will reach elevation 6,229.5 feet at its crest this year. Should we have a warm rain or a week of unusually warm weather it would undoubtedly exceed this, and there is so much snow along other tributaries to the Truckee channel that it would be impossible to open the gates for drainage. If I remember correctly, during last summer's conversations, engineers estimated a period of six years with strenuous efforts of conservation in effect before Tahoe levels could approach elevation 6229 feet, yet, nature, in her curious way, has reached that level in one year.

Knisely's fears were shared by other property owners, not all of whom owned property at the South end of the Lake. H. P. Gray sent photographs of his boat house and pier to Barton. "As you will see from the pictures the destruction of this property is complete and wholly **due** to the excessively high water,...the whole due to the fact that the gates at Tahoe City are practically closed, allowing no water down the Truckee River."⁹

Barton hastily called a meeting of the Interstate Water Conference Committee for April 18th at which time figures were presented assuring all that the level of the Lake would not exceed 6,228.8 feet, despite predictions of worried property owners. Unfortunately, since the 1915 decree permitted the federal government to store water even above 6229.1, and most of the threatened property had been erected after that date, the government assumed no liability for damages.

Barton was encouraged when the Army Corps of Engineers began studies into flood control projects later in the summer.¹⁰ At a meeting of the Conference Committee on August 18th, members voted to ask the Corps of Engineers to find some way of lowering the elevation of the Lake to 6,228.1 feet. However, this recommendation was not made public.¹¹ On September 28, 1938, the Corps of Engineers called a meeting to discuss two reports. One of these, proposed by the Lake Tahoe Sierra Association, suggested that when the Lake rose above 6,228 feet the extra water should be transferred to a substitute storage facility. The Association expected the cost of the new dam to be between \$1,500,000 and \$2,000,000, which cost they recommended be paid entirely by the federal government from funds allocated for flood control. A second report was presented by Truckee River watermaster Harry C. Dukes suggesting construction of a new 250,000 acre-foot storage reservoir on the main Truckee River below Prosser Creek at a cost of about \$6,000,000. There was some hope the Army would finance such a project since Truckee flood waters imperiled the farm lands along the Truckee Meadows as well as the city of Reno. Much would be heard of the project in future years, but the anticipated flood never came.¹²

In the summer of 1939 two more important events took precedence. The long awaited Boca Dam was completed and would be ready to capture spring run-off the following year. Even more important was a new project announced by Commissioner of Reclamation John C. Page. He dusted off a 30-year-old scheme of Reclamation Service engineer E. B. Debler to tap Tahoe by tunnel and make Washoe Lake into a huge storage reservoir. At the time the project was first proposed, Reclamation Chief Elwood Mead dismissed it as impractical. But Debler tenaciously clung to his dream and found a more sympathetic boss in Page as well as a federal administration more likely to smile on vast public works projects. Page thought the additional power generated by the spill of the tunnel, and the possibility of bringing many more acres of Nevada land under cultivation, would pay off the \$6,000,000 cost.¹³ No one seemed to take the scheme too seriously including Nevadans who were happy to have the Tahoe controversy settled. Former Governor T. B. Oddie warned Nevada to "watch her step" because it had no need for more electrical power and new storage reservoirs could be built for much less than the proposed tunnel. Though the project manager of the Truckee-Carson Irrigation District called the scheme "practical," he predicted none of the conflicting water interests

would support it through Congress. Such a diversion was clearly prohibited by the Truckee River Agreement.

Ironically, Nevada was **not** responsible for the defeat of the project. Senator Pat McCarran offered an amendment to the Reclamation Service's appropriations bill requiring the approval of all states involved in reclamation projects encompassing an interstate water system. McCarran was "suspicious" that the real proponents of the tunnel project were Californians who were cleverly trying to manipulate Nevada into admitting the legality of the plan so that they could move ahead with a project of their own to drain Tahoe water into the Rubicon River for use in Central Valley irrigation projects: "So far as I am concerned, I am opposed to any project that will destroy or impair water rights in the Truckee river. I don't believe the Washoe valley project should be undertaken. Nor do I believe that the Lake should be tapped on the California side." The Senate killed the scheme.¹⁴

Barton had been concerned earlier in the year that with completion of the Boca Reservoir there was little need for the Lake Tahoe Interstate Water Conference Committee to continue. Another member of the California delegation, H. F. Droeste, tried to assure him to the contrary:

I had a good laugh and also a drink when I saw the article in the Reno Gazette regarding a proposed tunnel project from Lake Tahoe to Washoe Valley, Nevada, and especially was this laugh good and the drink better when I recalled your previous letter in which you stated that the Tahoe Water Committee seemed to be a dead issue.

If this tunnel thing goes merrily along with boosts from Washington, then the committee will have something to do after all, and plenty according to my way of thinking.

...I think we had better get pudgy face Bartlett on the committee now, especially as he is death on Nevada, that is to say, unless he can see his way clear to get under their hides or something.¹⁵

But Barton was right. From 1939 to early 1942 the Lake Tahoe Committee was dormant. No one was selected to fill the place of the California delegation's secretary, V. S. McClatchy, who died in 1939, and the war dampened state and federal interests in Tahoe water problems.

Only the threat of high water damage revived the Committee. Since the late 1930's the nature of Tahoe water problems had been transformed by the heavy storms that followed the long drought. Most of the water controversy since 1902 derived from the threat of draining the Lake by cutting down the rim, pumping over the rim, or tunneling under it. Thus traditionally Tahoe property owners had considered the low level of Tahoe most important. As late as 1939, Louis Bartlett's persistent warnings about possible flood damage were ignored by most Tahoe residents.

However, in January, 1942, Charles Young, owner of the Bijou Lodge, at Bijou, Lake Tahoe, wrote to Henry Lyon, a member of the inactive Interstate Conference Committee, warning that the Lake level was at 6,228.1 feet, the highest level ever recorded so early in the year. In February, the Tahoe-Sierra Association scheduled a meeting on the flood threat and encouraged California Governor Culbert Olson to revive the Committee and fill the spot left vacant by McClatchy's death. The Secretary of the Association, and also a member of the water committee, Henry F. Droeste, thought the flood danger more acute than in 1938 when the tourist trade suffered from the submerged beaches.¹⁶ As in that year, irate property owners, most of whom did not understand how limited Barton's authority was, began writing letters blaming him for not permitting even heavier discharges from the Lake.

At the insistence of members of the Tahoe-Sierra Association, Olson asked Droeste and Lyon to again take their places on the Committee; Charles Young was appointed to fill the spot left by McClatchy's death and Barton was asked to resume his chairmanship of the Committee. Olson also requested Governor E. P. Carville of Nevada to reappoint the Nevada delegation. On February 20th Barton informed Olson the flood gates at Tahoe had been opened and Nevada interests would cooperate fully in permitting heavy discharges from the Lake to prevent its level exceeding 6,229.1 feet, although he foresaw no danger of flooding.¹⁷

By June the Lake's level stood at 6,228.95 feet and as much water was being discharged from the Lake as possible without endangering homes and farms downstream along the Truckee

River. A number of Tahoe property owners sitting in on a meeting of the Conference Committee held at Bijou on June 18th still blamed the irrigation district and power company for damage to their property. After the meeting, Barton received an indignant letter from A. L. Haight, Nevada delegate from the Truckee-Carson Irrigation District, complaining that Nevada's representatives had been "...ridiculed and criticized without justification by [visitors at] the Conference in rabble rousing political speeches which can only have the effect of disrupting the Conference and undermining all of the work which it has heretofore accomplished. If in the future a meeting of the Conference is to be held merely as an adjunct to a mass meeting of Lake Tahoe property owners or others, may I request that this information be contained in your notice of the meeting?"¹⁸

In response, Barton sent a confidential letter to George Devore, agent of the Sierra Pacific Power Company, and probably the most powerful of the Nevada delegates to the Interstate Committee, blaming his old nemesis Louis Bartlett, for attempting to re-kindle the water controversy.

I am informed that Mr. Fred Tatton, the local Secretary of the State Chamber of Commerce, has broadcast to all and sundry that I am favoring the power company and Nevada interests, whatever they may be, and [he] sees eye to eye with Mr. Bartlett in that regard.

Personally, I would be very glad to step down and out and let Mr. Bartlett, and whoever the State Chamber of Commerce sees fit, advise the Governor and handle this affair, but nine years' of work of the committee would count for nothing if such comes to pass. However, if the Committee feels that the interests of everybody concerned can be served, I shall be more than glad and pleased so to do.

The thoughts conveyed in Mr. Haight's letter with regard to the tin horn politicians and ambulance chasing lawyers is right, 100 per cent. Unless the two Governors can be contacted in a manner that will give them the right story, as far as I am concerned the thing can fold up right now.

With the increasing interest in selling Tahoe to Californians, more and more Chambers of Commerce championed Bartlett's cause as high water threatened property sales and tourist revenue. Barton believed that business, as well as politics, should be divorced from the mutual water problems of California and Nevada. Yet many Tahoe property owners, with a memory of the mid-30's, recalled the time when Tahoe interests fought the Reclamation Service and Sierra Pacific Power Company to a standstill. Then there was a sense that the future of Tahoe was still under control of those who lived and worked at the Lake. Whether it was a whim of nature, or a flow requirement of the power company, Tahoe owners were convinced more could be done to protect their Lake.¹⁹

Barton's only hope was to encourage the two governors and Water Committee to meet with the Army Corps of Engineers and the Reclamation Service to speed development of flood control projects. Of course, the Corps of Engineers (though it sent representatives to meetings of the Conference Committee) had more important work to attend to during the war, and the Reclamation Bureau had to limp along on an austere budget. Nevertheless, high water continued. On April 1, 1943, the level at the Lake was 6,228.2 feet and a snow survey by California's State Department of Public Works predicted there was a snow pack sufficient to raise the elevation of the Lake to 6,229.9 feet by summer if larger quantities were not discharged in the interim.²⁰

Soon after California's new Governor, Earl Warren, took office, he reappointed Barton and the other members of the California delegation to the Interstate Committee.²¹ During the spring and summer of 1943, Barton tried unsuccessfully to get specific flood control plans from the War Department and Reclamation Bureau, kept a close check on the rising level of the Lake and the regulation of the discharge gates, and wrote sympathetic letters to Tahoe property owners. In a letter to Virgil E. Dickson, Superintendent of the Berkeley Public Schools, and President of 50 property owners who had formed the Tahoe Meadows Club, Barton reiterated the difficult position he was in. His Committee could only gather information, advise legislators, and serve "...as a medium through which the littoral owners of the Lake may check the operations of the agencies charged with manipulation of the outfall gates, and exert every effort to the end that the high and low elevations are not exceeded in accordance with the existing agreement." Those who suffered property damage could only hope for restitution through suit against the federal government.²²

Barton began during the summer of 1943 to urge Governor Warren to call an Interstate Conference Committee meeting at which federal representatives could present full details of their flood control projects. It was important that California get in line for the anticipated post-war public works project allocations: "The writer has learned by experience gained throughout twenty years of battling for Federal and State flood control appropriations [as Chief of California's Reclamation Bureau], that success in all instances is predicted upon the vigorous and concentrated efforts of the right sponsorship." This meant California's and Nevada's Governors and Senators.²³

The meeting was finally held on March 19, 1944, and Army engineers outlined an extensive flood control and reclamation project they hoped to begin at the end of the war. The Army plan was comprehensive, including flood control and new reservoirs on the Carson and Walker Rivers, as well as the Truckee.

On the East Fork of the Carson River, the Army planned to construct a reservoir to complement Lahontan Dam, which impounded both the Carson River water and water diverted from the Truckee by the Derby canal for use in the Truckee-Carson Irrigation District. This reservoir would have a capacity of 45,000 acre feet and, used in conjunction with Lahontan, could provide a maximum flood control reserve of 89,000 acre feet.

On the Walker River a new reservoir would be constructed on the West Fork at Pickle Meadow with a gross capacity of 60,000 acre feet. This reservoir would provide 58,500 acre feet of flood control storage. Moreover, at the upper end of Antelope Valley a 7,500 kilowatt capacity hydroelectric plant would be constructed. In addition, modifications in the operation of Topaz Reservoir were planned to provide an additional 59,000 acre feet of flood water storage.

Plans for the Truckee River were much more complicated. These included lowering the maximum level of the Lake one foot, to 6,228, which would reduce the storage capacity of the Lake to 579,000 acre feet with a flood control reservation of 255,000 acre feet. In addition to modifying existing storage facilities, the Army planned construction of an enormous reservoir in Washoe Valley with a capacity of 1,311,100 acre feet, about 40% larger than the storage capacity of Tahoe. Because lowering the Lake would reduce its outflow, adequate plans had been made to build new hydroelectric generating facilities including a 30,000 kilowatt plant near Steamboat Springs on a diversion conduit connecting the Truckee River and Washoe Valley Reservoir. In addition, a new concrete weir, with a crest elevation corresponding to the level of the "natural rim" of Tahoe (6,223.3) feet, would reduce the rim to a uniform level. This, along with a wider outlet channel, would improve outflow from the Lake. Meanwhile the newer channel would be dredged and fortified with levees in flood-prone sections.

The total cost of the project was estimated at \$16,496,000 of which water users would be required to pay no more than \$299,000. This expense would include modification of the existing Fleish electric plant and irrigation structures near Truckee Meadows and Reno. The estimated benefits from additional irrigation water, flood control, and power, were set at over \$1,000,000 yearly.²⁴

Though most Tahoe property owners now favored a substitute storage reservoir to permit lowering the permissible upper level of the Lake, there was widespread fear they would have to pay part of the price of the reservoir, or at least for the construction of the concrete outlet weir. Past controversies left a legacy of suspicion toward the plans of any federal agency to excavate at the rim of the Lake, even if excavations were designed only to make the crest of the rim more uniform.²⁵

Meanwhile, the property owners waited to see what plans the Reclamation Service had. There was a rumor the Service had revived its tunnel project, an engineer's dream no amount of public criticism could kill. Subsequently, an Army engineer confirmed the rumor. Although the Army continued to favor its canal diversion from the Truckee River to a storage reservoir at Washoe Lake, it had worked closely with Reclamation officials and was a good deal better informed about the Service's plans than the Interstate Water Conference Committee.²⁶ No doubt it was a good strategy to keep several plans handy, even though the rivalry between federal agencies and their frequent reluctance to release details of projects to the public bred mistrust and suspicion.

During the summer of 1944 the Truckee-Carson Irrigation District, Washoe County Conservation District and Sierra Pacific Power Company, studied the Army Engineer's project, and

came up with one of their own. The Nevada water interests rejected construction of an outlet weir because of possible conflict with Tahoe owners. Instead of diverting water from the Truckee to Washoe Valley, they suggested construction of a new reservoir on Prosser Creek with a storage capacity equivalent to that lost by reducing the maximum level of the Lake. From a dam at the town of Truckee, part of the river's flow would be channeled into Prosser Creek. The Nevadans accepted without qualification the Army's flood control suggestions for dredging the river bottom.²⁷

In December, Nevada's alternate project was discussed by the Water Conference Committee and Barton made an enthusiastic report to Governor Warren:

...[T]he Committee was so favorably impressed, that they unanimously endorsed the plan as being apparently sound and not in conflict with existing rights and entitled to further study in detail by the Army Engineers. The data before our committee would indicate that the Prosser Creek plan would provide more flood control protection than the Washoe plan. This factor, in conjunction with the lesser cost and fewer legal obstacles, would seem to us to justify its adoption as an alternative regulatory plan but we would like to have the benefit of comprehensive studies and the conclusions of the Army Engineers.

The Prosser Creek Plan was also accepted by the Tahoe-Sierra Association which had represented the property interests of many large landowners since the late 1930's.²⁸

As the Army began to study the alternative project, it was clear that the State of California was beginning to see Tahoe as part of the entire state's water resources. On November 26, 1945, Governor Warren wrote to Barton emphasizing that "[o]ur great need in California is an over-all program covering all our State water problems--a plan which gives sympathetic consideration to the needs and opportunities of every community--a plan which gives consideration to the fullest possible uses of all the water in all our streams."²⁹ Since the Truckee River Agreement had taken effect the responsibilities of the California-Nevada Interstate Water Conference Committee had been essentially administrative. Now the end of the war promised renewed federal and state interest in Lake Tahoe.

Notes--Chapter III

1. T. R. King (Washoe Conservation District) to A. M. Barton, letter dated July 25, 1935. V. S. McClatchy to Barton, letter dated July 26, 1935.
2. Reno Evening Gazette, July 27, 1935; McClatchy to Barton, letter dated August 16, 1935.
3. H. C. Dukes (Truckee River Watermaster) to A. M. Barton, letter dated May 1, 1936.
4. Minutes of California Interstate Water Conference Committee Meeting of May 25, 1936. The Sacramento Bee, May 26, 1936. U. S. Webb to Lake Tahoe Water Conference Committee, letter dated June 5, 1936.
5. Barton to McClatchy, letter dated July 24, 1937.
6. Transcript of Lake Tahoe Interstate Water Conference Committee meeting of August 28, 1937. Bartlett to Barton, letter dated August 27, 1937. Sacramento Bee, August 28, 1937; Reno Evening Gazette, August 29, 1937. Knisely to McClatchy, letter dated Sept. 3, 1937. McClatchy to Barton, letter dated August 29, 1937.
7. Barton to Bartlett, letter dated Nov. 2, 1937.
8. A. L. Haight (attorney for Newlands Project) to Barton, letter dated April 13, 1938.
9. Knisely to Barton, letter dated April 15, 1935; Gray to Barton, letter dated April 22, 1938; Bartlett to Barton, letter dated April 23, 1938.
10. Bee, April 9, 1938; April 20, 1938; Union, April 20, 1938; Examiner, April 21, 1938. Barton to Droeste, letter dated August 8, 1938.

11. Minutes of Lake Tahoe Interstate Water Conference Committee meeting of August 18, 1938.
12. Reno Evening Gazette, September 28, 1938; Sacramento Bee, September 29, 1938.
13. Reno Evening Gazette, July 15, 1939; Bee, July 17, 1939.
14. Bee, July 28, 1939; Gazette, July 28, 1939; The Tahoe Tattler, August 4, 1939.
15. Droeste to Barton, letter dated July 20, 1939.
16. Young to Lyon, letter dated January 28, 1942. Droeste to Lyon, letter dated January 30, 1942.
17. Olson to Barton, letter dated February 11, 1942. Olson to Carville, letter dated February 12, 1942. Barton to Olson, letter dated February 20, 1942.
18. Haight to Barton, letter dated June 19, 1942.
19. Barton to Devore, letter dated June 22, 1942.
20. Barton to Devore, letter dated April 9, 1943.
21. Warren to Barton, letter dated April 22, 1943.
22. For example, see Barton to O. G. Stanley (War Department), letter dated May 3, 1943; Barton to S. A. Kerr (Bureau of Reclamation), letter dated May 3, 1943; Devore to Barton, letter dated May 6, 1943; Memorandum of interest by Barton to Harry Dukes, dated May 10, 1943; Barton to Dickson, letter dated June 9, 1943.
23. Barton to Warren, letter dated August 20, 1943.
24. Transcript of Lake Tahoe Interstate Water Conference Committee meeting of March 19, 1944.
25. For example, see E. G. Schmiedell to Barton, letters dated April 4, 1944 and April 25, 1944.
26. Schmiedell to Barton, letter dated July 25, 1944. F. Kochis to Barton, memorandum dated July 31, 1944.
27. Joint Statement of Truckee-Carson Irrigation District, Washoe County Conservation District and Sierra Pacific Power Company dated October 20, 1944.
28. California delegation to the Lake Tahoe Interstate Conference Committee (Barton, Henry Lyon and Charles Young) to Warren, letter dated December 12, 1944. Lake Tahoe-Sierra Association to Barton, letter dated December 7, 1944.
29. Warren to Barton, letter dated November 26, 1945.

IV. Stalemate: The Last Years of the California-Nevada Interstate Water Conference Committee, 1947-1955

During World War II it became obvious that a solution to the threat of high water damage would have to wait for the end of the war. Yet during the post-war decade several obstacles produced a stalemate in negotiations between California and Nevada. First, most Tahoe shore-line property owners wondered what effect lowering the maximum level of the Lake would have on their riparian rights and, with memories of the battles fought in the early 1930's still fresh in their minds, they were reluctant to permit any alteration in the natural rim. Moreover, since flood control projects were usually linked to broader reclamation schemes designed primarily to benefit Nevadans, and since few at the Lake were willing to pay for flood control out of their own pockets, little could be accomplished. Second, a post-war population boom in the Tahoe Basin convinced many Californians outside the Basin that the value of the Lake for recreation would suffer if downstream farmers and power companies had their way. Finally, by 1955 many Californians argued that Tahoe water problems could not be solved unless some broader agreement was made concerning each state's share of the surplus water of the Truckee, Carson and Walker Rivers.

Early in the post-war decade there were signs that cooperation between the two states was breaking down. In March, 1947, the Nevada Senate passed a bill authorizing the state engineer to conduct a survey of Tahoe water resources to determine future water needs both within the Basin and downstream. At the same time it authorized a thirteen-man committee to draft plans for supplemental storage facilities which could be passed on to the Reclamation Service and Army Engineers. All this was done with no consultation of the California delegation to the Interstate Water Conference Committee, although California state engineers were invited to participate in the survey.¹

Since appointment of the Nevada committee implicitly challenged the jurisdiction of the Conference Committee, and seemed to herald a "go it alone" attitude on the part of some Nevada officials, the California delegation showed considerable concern. Henry S. Lyon, long time member of the California delegation, wrote to Barton urging an immediate executive meeting of the California delegation to discuss the implications of the move by Nevada:

With the exception of George Devore, it appears that the Committee appointed to study this matter is clearly a separate Committee from our Conference Committee. It would appear that some of the interested parties in Nevada either hasn't confidence in our Committee or feel that more can be accomplished from their view point under the new setup.

Barton himself seemed to be less pessimistic, but chided a representative of the Truckee-Carson Irrigation District and member of the Nevada Interstate Committee by commenting that "It would appear that the right hand doesn't know what the left hand is doing." Barton continued to direct letters to Devore to keep track of the activities of the new Nevada committee.²

The Tahoe-Sierra Association continued to represent most of the Lake property owners and at a meeting held on July 14, 1947, accepted a suggestion offered by Barton to appoint a study committee of Tahoe shore line owners to consider the effect of any reclamation projects on Tahoe interests. Will Bliss quickly came to the conclusion that Devore was completely unsympathetic to the needs of Tahoe interests: "...I hope Mr. Devore may be lead in some way to cooperate with us rather than, as I now feel, he would like to grab every advantage against us that he may lay his hands on. I am sure our [Tahoe] interests will meet him more than half way."³

In March of 1948, amid rumors Nevada farmers would ask to pump water from the Lake for the first time since 1934, Reclamation Commissioner Michael W. Straus said the water shortage in Western Nevada was a local matter and that the federal government, contrary to the opinion of certain Nevada water interests, could not intervene to order that water be pumped from the Lake. By April, the level of the Lake was at its lowest point for that time of year since 1935.⁴

At this time the Interstate Water Conference Committee was overshadowed as much by the Bliss Committee of the Tahoe-Sierra Association as by the Nevada state engineers investigatory committee; both groups could speak more effectively for local water users in reporting their desires to the Corps of Engineers. The Tahoe-Sierra Association held a meeting on June 23, 1948, at which the Bliss group presented its preliminary recommendations. As expected, the

committee suggested the maximum level of the Lake be reduced to 6,228 feet. To insure against any alteration of the rim, it maintained the rim level should be set at 6,223.3 feet by a new court decree. And to avoid any future controversy over pumping, the Bliss Committee suggested permanent pumps be installed between the rim of the Lake and the dam, an area of several hundred feet, "...to knock off the crest of high water and act as a stand-by for pumping water from below the rim in case of acute drought in the future..." Finally, the committee recommended final adjudication of the legal rights of Tahoe-riparian and other property owners. No position was taken on the concrete weir proposed by the Army, but the strong language against altering the rim was discouraging.⁵

Subsequently, a report by California's Assistant State Engineer, based on interviews with Tahoe property owners, confirmed that

...the proposal of the [Army's] District Engineer to excavate and thus lower the present natural rim at the outlet of Lake Tahoe and the substitution of an artificial sill at the same elevation 6223.3 feet [Lake Tahoe datum] would be opposed unless and until the property rights of the riparian and other littoral owners on the lake are determined finally and definitely by and through a decree of the courts. It is the belief of those interviewed that an agreement between the parties involved is not sufficient and that if the natural rim is excavated to a lower elevation and an artificial control were substituted, it would be possible for the artificial control to be lowered by those constructing the control. If this should occur, then and in that event there would be a strip of lake frontage that might not be considered riparian and the existing owners would lose contact with the lake and, therefore, their riparian status.

Moreover, Tahoe owners refused to contribute financially to any new project.

Nevada water users also continued to oppose the Army project. The Truckee-Carson Irrigation District representatives thought Derby Dam, the diversion dam which channeled Truckee River water to the Lahontan Reservoir, was not adequate to handle the outflow of the proposed Prosser Creek dam. Moreover, the Prosser dam had a maximum flood control potential of only 10,000 acre feet, less than half of what would be necessary. In addition, the Sierra Pacific Company's chief engineer, George Devore, demanded that local interests, rather than the Army, control local flood and irrigation works. He was also concerned that increases in population at the Lake would infringe on the water rights of the power company and irrigation interests downstream. The company would not be fully compensated for the diminished outflow of the Lake.⁶

As a consequence of the reluctance of Tahoe owners to approve the new project, the Lake Tahoe Interstate Water Conference Committee met on July 8, 1948 and adopted the following resolution:

That the Lake Tahoe Water Conference Committee acting through its chairman, A. M. Barton, request the respective Attorney Generals of the States of California and Nevada, to study the problem and render a written opinion as to the possible effect upon the riparian rights of the littoral owners, of cutting the natural rim of the Lake and replacing it with a concrete rim at the same elevation as the present minimum elevation of the existing rim,...and also that the respective Attorney Generals be asked for advice as to what procedure should be followed to secure them in their present rights.

At the same meeting, a number of new questions were raised. Did the city of Reno approve of the Army's flood control plan? Exactly how much would local interests be expected to pay? None of those representing Nevada were willing to pay the \$860,000 the project was expected to cost. As the meeting adjourned, it was clear that major modifications of the Army's plan would be necessary to meet the varied objections raised by water interests present at the meeting.⁷

On July 22, 1948, Barton requested California Attorney General Fred Howser to begin a legal study of the water rights of Tahoe owners.⁸ At the same time, there were many water disputes in the area adjoining the Tahoe Basin. For example, a case was pending in the U. S. District Court in Sacramento questioning the right of the Sierra Valley Water Company

to divert water from the Little Truckee River to irrigate 14,500 acres in the Sierra Valley. The legal right to divert the water was established early in the 1870's, but apparently had not been exercised continuously in the intervening years. Since the Little Truckee fed into the Lake, the members of the Interstate Water Conference Committee thought the matter fell within jurisdiction of that Committee. If the rights of water users were adjudicated in court, the State of Nevada might be drawn into the controversy, creating ill feeling between the two states and imperiling any future water use agreements. The Bliss Committee of the Tahoe-Sierra Association had already asked the Interstate Committee to seek an out-of-court compromise so that California would not be put in the position of favoring the rights of one California interest, either Tahoe riparian owners or Sierra Valley farmers, against the other. Consequently, at a meeting of the Interstate Committee held on September 9, 1948, the Committee attempted to expand its jurisdiction by asking the governors of both states to permit the Conference Committee to arbitrate the dispute. Governor Warren quickly approved the request.⁹

In mid-October, Barton proposed a temporary solution. He suggested that as long as Derby Dam held enough water to satisfy the legal rights of the Pyramid Indians and Truckee-Carson Irrigation District farmers, the Sierra Valley users should be given the full 60 cubic feet per second flow they claimed from the Little Truckee. However, in dry years, the flow of the Little Truckee should be split 50-50, with half going to Sierra Valley users in California, and the other half to downstream users on the Truckee River in Nevada.

However, California's State Engineer determined that the Sierra Valley diversion had a negligible effect on the level of Lake Tahoe, and thus did not imperil the water rights of riparian owners at the Lake. Consequently, the Conference Committee's reason for expanding its jurisdiction was no longer valid. By the end of December, Barton wrote Governor Warren that the Water Committee would hold no more meetings concerning the dispute:

Inasmuch as the Committee is not a party to the case there is apparently nothing further that it can do and it does not have in mind any further meetings. It is believed, however, that the Committee has acted constructively in that the attorneys on both sides of the case have been brought together for discussions and have agreed that they will make every effort to reach a settlement [out of court].

Barton remained concerned with the dispute as hearings continued in the California legislature's Water Problems Committee. He thought the most likely long-range solution was expanded storage in Webber Lake, the source of the Little Truckee. As in most of the water conflicts between Nevada and California no solution appeared imminent because water users were reluctant to pay for new storage facilities, especially when the cost might exceed the profits irrigated land could return to the farmer. Moreover, construction of a reservoir at Webber Lake was bound to reduce storage in Boca Reservoir, further downstream on the Little Truckee, and thus even more directly threaten the water rights of downstream users.¹⁰

The Sierra Valley water dispute occurred at the same time a survey of water use within the Tahoe Basin was being completed. The survey (mentioned at the beginning of this chapter) had been authorized early in 1947. California and Nevada engineers began gathering data in January, 1948, and field work was completed by the end of summer. Data was systematically gathered concerning the sources and amount of water used in communities scattered around the Lake, how the water was used, the legal rights involved in appropriating it, and how future population growth in the Tahoe Basin would affect the water rights of downstream Truckee River users in Nevada. Population statistics were gathered for twenty-six areas surrounding the Lake and broken down into monthly figures to take into account the growing disparity between summer and winter water demands. The survey predicted Tahoe's population would double in 25 years and ultimately, during the peak season, might reach 200,000.

The investigation was somewhat reassuring to downstream users. It revealed that water sources within the Basin could easily support a transient and permanent population double the July, 1948, peak of 27,589 residents and visitors. Most new houses, apartments and motels would replace irrigated meadow lands. Consequently, water engineers expected increasing domestic demands for water would be compensated by the reduction in water used for irrigation, even allowing for a few more golf courses. If the population doubled, the net increase in water use was expected to be about 250 acre feet yearly. This would reduce the Lake's level only 1/40 inch even if all the additional water was drawn directly from the Lake rather than streams or wells within the Basin. Even then, the flow of water discharged into the Truckee would be reduced only a fraction of one per cent, a decrease which would

cost Truckee River power plants about \$157 yearly in reduced power generation and lower the volume of water available to Truckee Carson Irrigation District farmers no more than 5/100 of one per cent. Thus, the Tahoe population boom posed no immediate threat to the rights of water users outside the Basin.¹¹

Nineteen forty-nine was a relatively quiet year in the Sierra, with 1950 no more exciting. In February, 1950, California's Attorney General finally responded to the July 8, 1948, Conference Committee resolution which had requested the Attorney General to consider whether Tahoe lakeshore property owners could legally object to construction of a concrete weir at the Lake's outlet. Although the Attorney General refused to render a formal ruling--largely because the danger to the rim of the Lake was only anticipated and not fact--he did think the owners would be justified in pressing suit to prevent any alteration in the rim, and he promised his office would formally support such suit as it had in the past.¹²

Meanwhile the thirteen-man committee of Nevada's Truckee River water users authorized in 1947 was studying new alternatives to the Army Engineers project. By July the group decided they would accept part of the original proposal, including the Prosser Creek Dam and reduction of the Lake's allowable maximum level to 6,228 feet, and recommend construction of additional dams in the Stampede Valley on the Little Truckee and at Young's Crossing on the Carson River; the first was rated at 150,000 cubic feet capacity, and the second at 45,000 cubic feet. In addition, two major power plants were proposed, a 20,000 kilowatt plant near Verdi, whose generators would be turned by water from Stampede Dam, and a 10,000 kilowatt plant near Prosser Dam. The influence of the Sierra Pacific Company was obvious; most new amendments to the original Army Engineers' plan involved electrical development.

The new Nevada plan faced a stormy future. The proposal included construction of the concrete weir and permanent installation of pumps for drought relief at the outlet of the Lake. Though the Bliss Committee had suggested permanent pumps might be installed as part of a comprehensive project, there was little chance Tahoe shoreline owners would also accept "flattening" the rim. In fact, Bliss originally proposed installation of pumps as an alternative to weir construction. Moreover, the new plan waited on adjudication of the water rights of Carson River users within Nevada, specifically those of farmers in the Carson Valley which conflicted with those of farmers in the Truckee-Carson Irrigation District.¹³

The Interstate Water Conference Committee met to discuss the new proposal on September 28, 1950. As might have been expected, discussion concentrated on the benefits of the new project to the Sierra Pacific Company. Here the main obstacle was that the Stampede River dam and power plant near Verdi were to be constructed and paid for by the Reclamation Service but run by local interests. Consequently, special legislation to suspend provisions of the Federal Power Act, which required power plants built by the Reclamation Service to be controlled by the federal government, was necessary. Though Tahoe interests remained cool to the new Nevada plan, as they had been to others proposed since the late 1930's, they were happy to hear an Army engineer testify that his agency now was willing to drop the weir construction scheme. The conferees adjourned to await formal written reports on the new proposal from individual water interest groups.¹⁴

Much of the attention of the Conference Committee in the early 1950's was devoted to the old nemesis, high water damage. With increasing numbers of tourists visiting the Lake, flooded beaches would have a much broader effect on the local economy than in the late 1930's or early 1940's. At the time of the Conference Committee of June 5, 1951, the Lake's level stood at 6,228.88 feet, a scant two-tenths of a foot below the legal maximum. Since nothing immediate could be done about pending flood control projects, the Committee decided to issue formal warnings to property owners against building within the flood zone and call a future meeting to convince the five counties with jurisdiction around the Lake to pass zoning ordinances forbidding construction too close to the Lake's edge. Subsequently, Barton drafted a formal warning, copies of which were sent to newspapers, post offices around the Lake, the Tahoe-Sierra Association, construction firms, and individuals with extensive Lake frontage. Nevertheless, he thought it was the responsibility of property owners themselves, not the Interstate Water Committee, to prevent flood damage:

In thinking the situation over with regard to high lake levels, it occurs to me if the shore owners at Lake Tahoe are ever to solve this problem, it will be necessary for them to provide a war chest and secure the best legal talent available to the end that by stipulation or otherwise, the maximum level be reduced, say to 6228.1.

It is my studied opinion that if the littoral owners take no action of this character and await the working out of the Nevada interests of their scheme for storage outside of Tahoe, you and I and everyone else will be dead for twenty years and your grandchildren will have beards two feet long.

In any case there was little the Conference Committee could do but watch the level of the Lake and supervise discharges of water in accordance with the Truckee River Agreement.¹⁵

High water conditions persisted into the spring of 1952. Letters from worried Tahoe businessmen and property owners, and the lack of progress in drafting a relief project acceptable to all interests, forced Governor Warren to call a session of the Interstate Conference Committee for April 11, 1952. Senator George Malone of Nevada, former State Engineer, opened the discussion with a lesson in politics. He gently chided the water users for failing to agree among themselves so that the Army Engineers could draft an alternative plan which would clearly represent the desires of local water users and thus have a chance of getting through Congress. It was a remarkably candid lecture:

...I am familiar with the actions of water users. They only get enthusiastic when in danger of drought or flood....I have never seen water users present anything when everything is going all right...

...I just happen to be on the Public Works Committee of the Senate and the Interim Insular Affairs Committee. I can't miss on one of those committees. Every two or three years they have an Omnibus Bill. That committee holds many hearings throughout the United States, and no project is ever slighted....This year there was some discussion of having an Omnibus Bill, a small one, but they decided against it, at least I think they have, because of the desire of Congress to hold off for the National Conventions....As soon as the "police action," as the President calls it, is over, we can start again.

...If you can't agree, agree as far as you can with the Army Engineers' report and point out the specific differences on which you can't agree, and shoot it back to them, and then that will put it in our laps. Then it is our move. It has been your move for five years [since the Army proposed its plan in 1946].

Malone emphasized that concessions would have to be made by all water users; his testimony was seconded by Army Engineers who pointed out they were considering 23 projects nationwide, but had no money to start them with.

Though the Army's plans had been well known since 1946, the Bureau of Reclamation had kept its plans secret. Theoretically, the Bureau planned irrigation and power projects while the Army concentrated on flood control. Unfortunately, there was no neat way of defining jurisdiction and the Reclamation Service began to think more comprehensively. H. A. Hunt of the Carson City office of the Reclamation Bureau revealed that the Reclamation Service was ready to talk about its own ambitious project. He prefaced his description of the project with a few comments on the nature of reclamation planning in western Nevada:

I have worked in quite a few areas with quite a few conflicting projects, but I have to admit that this has got it. I have never found so many of these [projects] in one area. To begin with when I came here, of course I read up on everything that was available and talked with quite a few people. I talked with Mr. Devore's committee [of Truckee River water users], looked over our report and looked over the Army's report. I found it was very difficult to work out a project that was engineeringly feasible and economically feasible, and I don't know whether I have found one.

The new scheme wisely recognized that Truckee and Carson River reclamation would have to be part of one comprehensive project, though it would be tacked on to the Army plan. The Reclamation Service planned to build two new reservoirs, one on the Carson River in the Hope Valley and another just above the Carson Valley. The Hope Valley reservoir was essentially designed for power development, the Carson Valley reservoir for irrigation. But the main part of the project, originally suggested by the Army, was a storage reservoir at Washoe Lake.

Now there is one other part of that development, and that would be a storage reservoir at Washoe Lake. [This would include] an intake out of Tahoe through [a] level tunnel with a lip at the same elevation as the existing lip at the current outlet. It is difficult to find a good storage space for handling that water [the upper 1.1 foot of the Lake] economically. You had the possibility of an outlet that will permit you to keep the lake down and we anticipate pulling it down two and one-half feet. This could be done and is feasible as far as the economical and engineering aspects are concerned. I know and read about a similar outlet [proposed] in the past, but they were considering putting that outlet considerably below the agreed level, and I think that everybody was justified in fighting that. However, being an outsider and not fully aware of all the ins and outs, I don't believe that that would materially hurt Tahoe at this time.

Hunt promised a full report within six months, but assured the Committee it would not differ in broad terms from what he had outlined.

The meeting raised many new issues. Assemblyman Francis Lindsay of California's Sixth District accused Nevadans of ignoring California's water needs and El Dorado Supervisor Andrew Robertson informed the Committee his county wanted a maximum lake level of 6227 feet. Even without these objections the meeting produced many questions, including how Tahoe property owners would respond to the tunnel scheme, as well as how the Army Engineers and Reclamation Service would manage to reconcile their potentially conflicting plans.¹⁶

A Congressional hearing into the various plans was inevitable. As if the Army Engineer's Prosser Dam project, the Reclamation Service's Washoe Project, and the Truckee River Water Users Committee's amended Army project were not enough, Assemblyman Lindsay presented a fourth plan at a meeting of the Interstate Committee on May 16, 1952. This project was suggested by the California Division of Water Resources as a way to make Tahoe a part of more comprehensive water planning in California. The plan included a diversion from Meeks Bay, Lake Tahoe, through a six-mile pressure tunnel into the Rubicon River, a tributary of the American River in El Dorado County, California; power generation was expected to be the main benefit of the diversion. But the ingenious pressure tunnel would make it possible to pump water back into the Lake during dry seasons. Although Lindsay emphasized that much study would be necessary before a determination of its economic feasibility could be made, if the plan cleared this hurdle, it had a good chance of being included in the California State Water Plan. The scheme was unique in being the only plan ever devised to put water back into Tahoe. More important, it reflected the resentment of some California officials that their state's water users would not benefit from either the Army or Reclamation Service projects. Whether or not the scheme had a chance of winning the support of the California Legislature, it helped prevent Senator Malone from winning Congressional acceptance of any federal project. Once California had a plan of its own, there was no way to reconcile the various projects; it was completely inconsistent with any of the other three.¹⁷

Since its ambitious plan was in trouble, the Army Engineers put together a more modest flood control project to provide some immediate flood relief to Tahoe littoral owners and to those who lived along the banks of the Truckee. In December, Colonel C. C. Haug, district engineer of the Army Corps of Engineer's Sacramento office, announced a \$950,000 plan to widen and deepen the Truckee channel for a distance of 3,200 feet from the outlet of the Lake and along a stretch of river from the Truckee Meadows to Vista. Subsequently, at a special meeting of the Interstate Water Conference Committee, an Army representative explained that the interim project combined the flood control segments of the other three more comprehensive projects, so it was likely different water users could quickly accept the interim proposal. However, some Nevadans opposed the interim project fearing its acceptance might imperil future adoption of projects which included storage facilities. The Conference Committee concluded its meeting by adopting a resolution endorsing the new plan. Barton suggested the \$13,000 which would have to be raised by "local interests" at Tahoe could be appropriated by each state legislature on a proportional basis corresponding to the 42 miles of Tahoe shoreline in California and the 29 in Nevada.¹⁸

Of course, the Conference Committee did not represent all the conflicting water interests; nor could it force them to accept the flood control proposal. Subsequently, Senator Pat McCarran of Nevada, speaking for those farmers who stood to gain most from new storage facilities, urged Governor Russell to oppose the interim flood control plan:

The upstream storage facilities heretofore mapped out by the water users committee is of primary importance and demands first consideration. Insofar as I am concerned, nothing short of full program involving upstream storage projects will be acceptable. Mere lowering of rim in Truckee River and the clearing of channel will not accomplish the result desired....I do not favor any federal appropriation that does not contemplate the accomplishment of the upstream storage units in full and the clearing of the Truckee and the reduction of the rim at Vista at one and the same time.¹⁹

In order to try to satisfy various Nevada interests, Senator Malone subsequently introduced a bill linking the Army's interim flood control project with a cheaper version of the Reclamation Bureau's original Washoe Plan. The amended plan dropped the idea of tunneling from Lake Tahoe to Washoe Reservoir; it also abandoned the Prosser Creek Reservoir. The project now consisted essentially of the Stampede Dam, on the Little Truckee, and Watahemu Reservoir on the East Fork of the Carson River.

The new bill had absolutely no chance of passage. Now Tahoe shoreline property owners were joined by many other California groups who opposed both the Army and Reclamation Bureau plans. Alpine County water users resented the absence of any concern for development of their farm lands in the Washoe scheme:

None of the Bureau's proposals for development of the Truckee and Carson River Watershed takes into account the future development of lands in Alpine County. The county tax base therefore will be frozen in perpetuity except for residential and recreational or industrial investments put in by private citizens. The power developments proposed are to be wholly owned and operated by the federal government with no taxation or owner interest remaining in the county. Land presently owned by private interests which are required for reservoir and power site purposes will of course be taken off tax rolls. Under the Bureau's plan interest payable would go into the treasury of the United States in an amount substantially equal to the benefits of the flood control.

There is absolutely no recognition of the equitable distribution of water in an interstate stream or the other points raised in Alpine County's petition for intervention in the Carson River adjudication. The Bureau of Reclamation's program will forever preclude development of Alpine County assets under locally owned and managed districts of private enterprise. Thus the entire project appears harmful to the best interests of Alpine County and its taxpayers.

California's State Engineer pointed out there were over 6,000 acres of land in California's Carson River Basin that could be opened to cultivation, as well as 8,500 acres at the south end of Tahoe and 21,000 acres along the Truckee. The California Department of Fish and Game had already expressed concern over the project's inadequate safeguards for fish life.²⁰

Since the end of World War II disputes between water users on the Carson and Walker Rivers had increased. Though federal decrees could establish existing water rights they could not divide up unclaimed water for future development. Thus Nevada's State Engineer and representatives from the California Department of Water Resources suggested at a joint meeting of the Nevada Legislative Commission and California Commission on Interstate Cooperation held on August 29, 1953, that a formal compact between the two states would be the best long-range solution to the water dispute.²¹

The Washoe Project bill was introduced several times in 1954 and early 1955, but each time died in Committee. There was obviously a stalemate, and the time had long passed when advisory committees like the California-Nevada Interstate Water Conference Committee, could be very useful. The various projects, in a variety of forms, had been aired time and again and the recommendations of the Conference Committee had no effect. On January 14, 1955, Barton recommended a full-time Compact Commission to consider each state's complex water needs. Two months later, on March 11, 1955, California and Nevada senators introduced a bill to form an interstate compact commission to consider the uses and allocation of the waters of Lake Tahoe and the Carson, Truckee, and Walker Rivers. The bill quickly passed Congress and became law on August 11, 1955.²²

The Lake Tahoe Interstate Water Conference Committee died as the compact commission was born. Several members of the Committee, including Barton and George Devore, were appointed to the new commission. At its first formal meeting, officials of the two states seemed confident the commission could find a way to break through the impasse. But the water controversy was more complicated than ever, and less likely to be solved quickly. Drafting a water compact would be no easy job.

Notes--Chapter IV

1. Reno Evening Gazette, March 12, 1947; Sacramento Bee, March 14, 1947; Barton to Charles Young, letter dated March 24, 1947.
2. Lyon to Barton, letter dated March 18, 1947; Barton to Haight, letter dated April 18, 1947.
3. Bee, July 15, 1947; Barton to E. G. Schmiedell, letter dated August 21, 1947; Bliss to Barton, letter dated March 19, 1948.
4. Bee, March 6, 1948; April 12, 1948; Barton to Bliss, letter dated March 19, 1948.
5. Bee, June 23, 1948.
6. A. D. Edmonston, California Assistant State Engineer, to Edward Hyatt, State Engineer, memorandum dated June 30, 1948.
7. Minutes of the Lake Tahoe Interstate Water Conference Committee meeting of July 8, 1948.
8. Barton to Howser, letter dated July 22, 1948.
9. Barton to Warren, letter dated September 10, 1948; Bliss to Barton, letter dated September 14, 1948; Bee, September 15, 1948.
10. Barton to Edward Hyatt [California State Engineer], letter dated October 18, 1948; Barton to Warren, letter dated December 22, 1948.
11. Joint Report on the Use of Water in the Lake Tahoe Watershed, prepared by California and Nevada state engineers, Carson City, 1950. [Copy in the California State Library, Sacramento].
12. California Attorney General to Barton, letter dated February 24, 1950.
13. Nevada State Journal, July 7, 1950.
14. Minutes of Lake Tahoe Interstate Water Conference Committee meeting of September 28, 1950.
15. Nevada State Journal, June 5, 1951; Sacramento Bee, June 6, 1951; August 3, 1951; Minutes of Lake Tahoe Interstate Water Conference Committee meeting of June 5, 1951; Barton to Bliss, letter dated June 11, 1951.
16. Transcript of Lake Tahoe Interstate Water Conference Committee meeting of April 11, 1952.
17. A. M. Barton, "Preliminary Report of the Lake Tahoe Interstate Water Conference Committee," unpublished [typescript copy in California State Library, Sacramento].
18. Nevada State Journal, December 23, 1952; Barton to Robert Allen, Chairman of Nevada's Public Service Commission, letter dated December 24, 1952; Minutes of California-Nevada Interstate Water Conference Committee meeting of January 6, 1953.
19. McCarran to Russell, telegram dated February 14, 1953.
20. W. Coburn Cook, District Attorney of Alpine County to Bureau of Reclamation, letter dated February 27, 1953; Minutes of California-Nevada Interstate Water Conference Committee meeting of March 16, 1954; Sacramento Bee, March 17, 1954; March 18, 1954; Reno Evening Gazette, March 15, 1954.

21. Minutes of joint meeting of Nevada Legislative Commission and California Commission on Interstate Cooperation of August 29, 1953.

22. S. 3408 (McCarran), 83d. Cong., 2d Sess., 1954; S. 497 (Malone), 84th Cong., 1st Sess., 1955; Sacramento Bee, March 11, 1955; Barton to Joint Conference, Nevada Legislative Commission and California Commission on Interstate Cooperation, memorandum dated January 14, 1955.

V. Conclusion

This report has attempted to weave together two closely related stories: the interstate conflict over uses of Lake Tahoe water and the activities of the committee formed to resolve those differences. From 1865 to 1931 the allocation and uses of Lake Tahoe water were dictated entirely by local water interests. Though federal and state agencies showed considerable interest in Sierra water problems, the responsibility for deciding how both states would use the water from the huge Lake they shared fell to Tahoe property owners, power company officials, representatives of various irrigation districts, and the farmers themselves. After considerable prodding, the governors of each state formed the California-Nevada Interstate Water Conference Committee in 1931, entrusting it with the responsibility to settle a wide range of issues including the limits within which the Lake's level could be manipulated. The Truckee River Agreement was drafted in 1934-35. After helping with that task, the role of the Interstate Water Conference Committee became almost entirely administrative. To the surprise of its members, high water damage soon became more of an issue than the traditional fear of draining the Lake, and by the early 1940's, the Committee admitted the Bartlett faction had been right in 1934-35; consequently the Interstate Water Conference began to solicit suggestions from federal agencies as to how the upper limit of the Lake could be lowered without violating the water rights of Nevadans assured in the Truckee River Agreement. However, since the Committee could serve only as a forum for conflict, it did nothing to resolve the differences between water users that stalled initiation of major flood control and reclamation projects.

By 1955, each state had good reason to place its trust in the negotiations of the new Interstate Compact Commission. Californians wanted assurance that some of the flow of the Truckee, Carson, and Walker Rivers would be reserved for their state's future development. Nevadans knew a water compact was the only way to get a comprehensive water project through Congress. Both states wanted to avoid the lengthy and bitter process of permitting water rights to be decided in court.

Whether or not the Conference Committee failed is a moot question. More important, what could it achieve? From the beginning, its responsibilities were unclear. At first, the Committee served as a safety valve permitting various water interests to let off steam. Yet by the mid 1930's, with the strong backing of California's and Nevada's governors, the Committee had the authority to pursue attainable objectives. Since both governors participated frequently in negotiations, they helped persuade dissident water users to accept Committee recommendations. The leadership of important state officials tended to cast the controversy into more manageable terms of state's rights, rather than leaving basic decisions to be thrashed out by a multiplicity of local interests, where discord was as common among water users within each state as between the two states themselves.

Clearly, the Conference Committee's effectiveness depended on the willingness of each state to back its decisions, and after 1935 the governors of Nevada and California showed little interest. Neither state was willing to abolish the Committee or give it the leadership and authority necessary to enforce its recommendations. It became a classic example of bureaucratic rationale; its existence became the prime reason for its perpetuation. The Committee could only react to emergency situations, not exercise a creative role in finding a solution. The very nature of the Committee hindered its effectiveness. Obviously a Committee which met regularly would have been more effective in gathering information, making recommendations and binding its members to a certain position. Yet the membership of the Committee was always small, four members from California--including Barton, who served as chairman--and three from Nevada. Since there were no regular meetings, members pursued their careers and devoted little time to the Committee. When a member died, the vacancy remained unfilled until the next high water crisis making it even harder to achieve continuity. In addition, members never actually spoke for their states; they always represented local water user groups. The Nevada delegation's three members represented the Sierra Pacific Power Company, Truckee-Carson Irrigation District and Washoe County Conservation District; California's delegation was generally chosen from Tahoe property owners or their spokesmen. Thus, by the nature of membership, emphasis was placed on representing specific water interests rather than in finding a solution to broader interstate water problems. The Committee had to depend on men with specific knowledge of Tahoe water problems, and each inevitably had good reason to protect his interest.

As time went by, members of the Committee became well acquainted and often maintaining personal relationships seemed as important as the issues before the Committee. Barton's resentment toward dissident Tahoe property owners was not determined solely by what they

thought but also by their capacity to undermine the smooth relations existing between members of the Committee. All institutions seek to protect themselves, and members of the interstate water committee tried hard to avoid those issues which could bring it public disfavor. Thus certain "new" interests, including California farmers and the Pyramid Lake Indians in Nevada, were virtually ignored until the early 1950's.



