

MAY 7 1982

ALEXANDER L. STEVAS.

CLERK

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In the  
**Supreme Court of the United States**

**October Term, 1981**

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**No. 73, Original**

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STATE OF CALIFORNIA,

*Plaintiff,*

VS.

STATE OF NEVADA,

*Defendant.*

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**REPORT OF SPECIAL MASTER**

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ROBERT VAN PELT,  
Senior United States  
District Judge  
Lincoln, Nebraska  
Special Master



## INDEX

	Page
Subject Matter of Report .....	2
National Geodetic Survey	
Expression of Appreciation.....	4
Recommendations .....	4
Appendices	
Appendix 1 - Stipulation .....	6
Appendix 2 - Proposed Decree .....	14
Appendix 3 - 50% Reduction of Exhibit A	
Without Scale .....	18



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ROBERT VAN PELT,  
Senior United States  
District Judge  
Lincoln, Nebraska  
Special Master

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This case involving the boundary between the States of California and Nevada was previously before this Court on the report of your Special Master filed October 29, 1979. On the 10th day of June, 1980, the Court, by unanimous decision, affirmed the report of the Special Master. *California v. Nevada*, 447 U.S. 125 (1980). In a footnote, the Court discussed the procedure for the marking of the boundary and stated in part:

“Several subsidiary issues relating to the California-Nevada border are considered in the Special Master’s recommendations. First, it turns out that Von Schmidt’s north-south line and the United States Coast and Geodetic Survey oblique line do not intersect at precisely the 39th parallel, as in theory they should. The Special Master suggests that the two States be given the opportunity to determine by agreement the point in Lake Tahoe where the two lines meet. Failing such an accord, he indicates that he would recommend a solution; but this probably will not be necessary since the parties are apparently in agreement that if the balance of the Master’s report is accepted the best course is to extend the oblique line in a northwesterly direction to the point where it crosses the north-south line. This solution to the problem is entirely permissible. Cf. *New Hampshire v. Maine*, 426 U.S. 363 (1976). Second, the Master recommends that he be authorized to arrange for surveys, at the parties’ expense, if necessary to resolve disputes over the precise location of portions of either of the lines we approve today. That, too, seems appropriate.”

*Id.* at 132 n.9.

Counsel, with the assistance of surveying and engineering experts for the States and the National Geodetic Survey, have reached an agreement, dated February 5, 1982, called Stipulation. The Stipulation sets out the location and marking of the entire boundary between the two states. A copy of this Stipulation, marked Appendix 1, is attached hereto as a part of this report. A proposed Decree was also tendered to your Special

Master, a copy of which is marked Appendix 2 and attached hereto. The original signed Stipulation and the proposed Decree are being submitted separately to the Clerk for filing. The original documents contain a map designated Exhibit A showing the agreed upon intersection in Lake Tahoe of the Von Schmidt north-south line and the United States Coast and Geodetic Survey oblique line. In order to include Exhibit A in this report, it has been reduced in size exactly 50% from the original. Thus, the scale as shown upon the reduced copy in the appendix is inaccurate. The 50% reduction would also allow the map to be printed as a part of the Decree in the Official Reports of the Supreme Court.

Your Special Master has discussed this reduction in size with counsel, who have conferred with their respective experts, and have agreed, and so advised me, that the reduction of Exhibit A has no effect on the information it contains except for the scale. The parties are agreed, and your Special Master concurs, that the simplest way to eliminate this problem is to remove the scale from the map, as was done with Appendix 3, attached hereto. Appendix 3 could then be substituted for Exhibit A in this Court's printed version of the Decree, providing it is acceptable to the Court. The parties do believe that the map is necessary for the benefit of future surveyors and for the information of the public in each State. Even in its reduced size, the map is legible and will serve the purpose of the parties.

In order to make the Stipulation and this Court's Decree available to interested persons, the Attorneys General of the two States, by David B. Judson and Larry D. Struve, have agreed that a certified copy of each shall be filed in appropriate offices in the States of California and Nevada. In Nevada these documents will be filed with the State Lands Registrar, Room 120, 201 South Fall Street, Carson City 89701. California will file

them in the State Archives, 1020 O Street, Sacramento 95814. The California State Lands Commission will also maintain copies at its office at 1807 13th Street, Sacramento 95814. They have also agreed that copies of these documents should be offered to the National Archives or the Library of Congress, whichever institution, if either, will accept them.

Considerable work has been done by the National Geodetic Survey, a sub-division of The National Oceanic and Atmospheric Administration, on the surveys agreed upon by the parties. Counsel and your Special Master recognize the work that has been done, without charge to the parties, and believe that the solution to this long-standing controversy between the two sovereign States would have been delayed for a much longer time without such help and assistance.

Counsel proposed and your Special Master agrees that this report should contain the following recognition:

“As part of their agreement to determine the point in Lake Tahoe where the north-south and oblique lines intersect, the states requested the National Geodetic Survey of the National Oceanic and Atmospheric Administration to locate and monument certain points around the periphery of the lake from which this point of intersection as well as the positions of the boundary lines within the lake could be calculated. The National Geodetic Survey consented and undertook the task at its own expense. Both states have expressed their satisfaction for the meticulous and technically precise job done by the Survey and their appreciation for the very professional, courteous and expeditious manner in which that staff performed the job. The Assistance offered by the National Geodetic Survey was instrumental in the final resolution of this controversy.”

Your Special Master recommends that the Court accept the parties Stipulation and enter the Decree sub-



mitted herein, but that the 50% reduced map, Appendix 3, be substituted in the Decree of this Court for Exhibit A, attached to the original Stipulation. Your Special Master further recommends that no costs be taxed for the services of your Special Master herein, that upon the order of termination of this case your Special Master file a report setting forth the amount of money received by him from the parties for the payment of costs and expenses pursuant to his requests and of its disbursement for approval by the Court unless prior thereto the parties in writing have approved your Special Master's report as to the disbursement of said moneys.

Respectfully submitted,

ROBERT VAN PELT,  
Special Master  
Senior U.S. District Judge  
566 Federal Building  
100 Centennial Mall North  
Lincoln, Nebraska 68508

DATED: April 27, 1982.

## Appendix 1

IN THE  
SUPREME COURT OF THE UNITED STATES  
October Term, 1981  
No. 73, Original

STATE OF CALIFORNIA,	)
	)
Plaintiff,	)
	)
v.	)
	)
STATE OF NEVADA,	)
	)
Defendant.	)
	)

---

### STIPULATION

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State of Nevada

IN THE  
SUPREME COURT OF THE UNITED STATES

October Term, 1981

No. 73, Original

STATE OF CALIFORNIA,	)
	)
Plaintiff,	)
	)
v.	)
	)
STATE OF NEVADA,	)
	)
Defendant.	)
	)

---

STIPULATION

It is hereby stipulated by and between the State of California, Plaintiff, and the State of Nevada, Defendant, by and through their respective counsel whose signatures are affixed below, that:

1. On June 10, 1980, the United States Supreme Court approved the Special Master's recommendation that the boundary between the States of California and Nevada be determined and established to be the line known as the Von Schmidt line from its initial monument at the intersection of the 42nd parallel of north latitude on the Oregon border and the 120th degree of longitude west from Greenwich, each as reported by Alexey W. Von Schmidt in 1872 and extending south as marked and determined by Von Schmidt to the point in Lake Tahoe on or near the 39th parallel of north latitude where such north and south line intersects a straight line known as the United States Coast and Geodetic Survey line as established by it from 1893-1899 and continuing from such point of intersection along

said straight line running in a southeasterly direction to the point where the 35th parallel of north latitude intersects the Colorado River as determined by compacts between Arizona-Nevada and California-Arizona. The Court decision is more fully set forth in 447 U.S. 125.

2. The Court recognized that the Von Schmidt north and south line and the United States Coast and Geodetic Survey oblique line do not intersect at precisely the 39th parallel of north latitude.

3. The Court approved the Special Master's recommendation that the two states be given the opportunity to determine by agreement the point in Lake Tahoe where the north and south line ends and the oblique line begins and how it shall be marked, if at all, subject to the approval of the Court.

4. The states have agreed on a method by which to locate the point of intersection of these lines in Lake Tahoe and have requested the National Geodetic Survey of the National Oceanic and Atmospheric Administration within the Department of Commerce to perform the field work necessary to locate and monument reference points for this purpose around Lake Tahoe.

5. Pursuant to this request the National Geodetic Survey has completed an official project entitled California-Nevada Boundary Resurvey, Lake Tahoe (Task No. 83621115; G16758) in which the desired reference monuments have been established according to the authorized standards and regulations of that agency.

6. The National Geodetic Survey has provided the states with the official results of the project which contain the adjusted coordinates for the reference monuments. The states have agreed that the method used to establish the point of intersection in Lake Tahoe of the aforesaid lines by means of these reference monu-

ments is the best method available to establish the true boundary between the states falling within Lake Tahoe.

7. The states have further agreed that a copy of the project report, computations and any other pertinent records made available to either state by the National Geodetic Survey relative to the monumentation of the reference points hereinafter described shall be filed as public records in an appropriate state agency in each state whose interest may be affected by the lake boundary and angle point described herein.

8. The states have further agreed to strengthen the rock pile containing the marker placed in 1872 by Alexey W. Von Schmidt at the place as determined by him to be the beginning of the aforementioned north-south line at or near the intersection of the 42nd parallel of north latitude along the southern boundary of the State of Oregon and the 120th degree of longitude west from Greenwich which is referred to as the Initial Point on the California-Nevada boundary in the proposed description hereinafter set forth, said strengthening to occur at a time and in a manner to be mutually agreed upon between the two states, so that said marker becomes a more secure permanent monument on the California-Nevada boundary.

NOW, THEREFORE, THE PARTIES AGREE that the boundary between the States of California and Nevada should be described in the decree of this Court as follows:

Beginning at the Initial Point on the California-Nevada boundary as established under authority of the Act of June 10, 1872, 17 Stat. 358, by Alexey W. Von Schmidt in 1872 as an eight (8) inch square wood post set in a large mound of stone at the intersection of the 42nd parallel of north latitude along the southern boundary of the State of Oregon and the 120th degree

of longitude west from Greenwich, each as reported by him; thence running southerly along said 1872 boundary as surveyed and marked by Alexey W. Von Schmidt to a cast iron monument designated as Von Schmidt Milepost 191 on said boundary; thence S  $00^{\circ} 09' 15''.21$  W along a line directed toward a standard National Geodetic Survey brass marker cemented in a granite formation and stamped "VS 120, 1981," located at the geographic position of: Latitude  $38^{\circ} 53' 51''.59866$  Longitude  $120^{\circ} 00' 20''.93116$ , a distance of 80,191.63 feet to an intersection in Lake Tahoe with a line extending between two points, the first of which is a standard National Geodetic Survey brass marker cemented in granite and stamped "EAGLE ROCK, 1981," which has a geographic position of: Latitude  $39^{\circ} 06' 33''.17268$ , Longitude  $120^{\circ} 09' 38''.06504$ , and the second being a granite stone with copper bolt identified as No. 1 (Initial 1894), being the first monumented point on the California-Nevada Oblique 1893-99 Boundary survey as determined and marked by the U.S. Coast and Geodetic survey; thence from said intersection point in Lake Tahoe S  $48^{\circ} 46' 02''.80$  E, 21,568.48 feet to said Monument No. 1 (Initial 1894); thence proceeding southeasterly along the oblique California-Nevada boundary line as surveyed and marked by the U.S. Coast and Geodetic Survey, under authority of the Act of August 5, 1892, 27 Stat. 357, during the period 1893-1899, to Point No. 1 described in the Interstate Compact Defining the Boundary Between the States of Arizona and California, executed on March 12, 1963, being a point common to Point No. 1 described in the Interstate Compact Defining A Portion of the Arizona-Nevada Boundary On The Colorado River, executed February 6, 1960. Bearings, distances, and geographic positions used hereinbefore are based upon the 1927 North American Datum and are denoted on

the attached map, Exhibit A, which is incorporated herein by reference.

The intersection of the two lines described herein shall form the only angle point of the true California-Nevada state boundary within the waters of Lake Tahoe, which angle point shall be considered as satisfying the definition of the intersection of the 120th meridian west of Greenwich with the 39th parallel of north latitude as prescribed in the constitutions of California and Nevada.

THE PARTIES FURTHER AGREE that the decree of this Court should include directions pertaining to the allocation of the expenses of this action, as follows:

1. That the necessary expenses incurred by the Special Master incident to this litigation and all other proper expenses incurred jointly by the parties shall be equally borne by the parties.
2. That, except as provided in the aforesaid paragraph, each party shall bear its own expenses.
3. That any unexpended funds contributed by the parties to the Special Master for necessary expenses be returned to the parties in proportion to their contributions.

DATED: February 5, 1982

GEORGE DEUKMEJIAN, Attorney General  
of the State of California  
N. GREGORY TAYLOR,  
Assistant Attorney General  
JAN S. STEVENS,  
DAVID B. JUDSON,  
Deputy Attorneys General

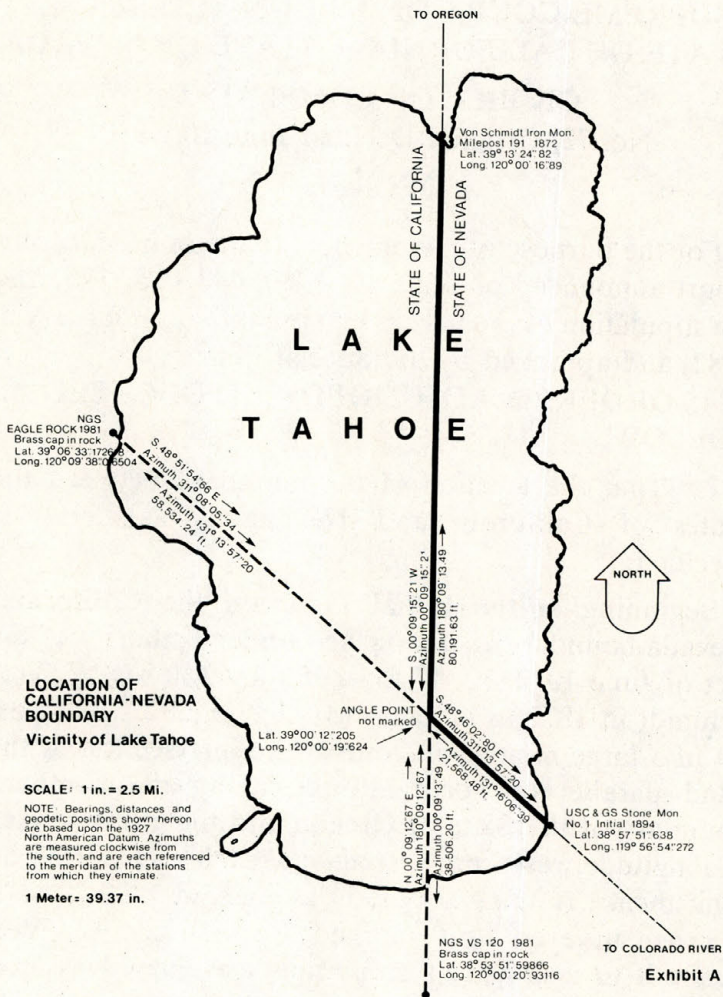
By David B. Judson  
DAVID B. JUDSON,  
Deputy Attorney General  
Counsel for Plaintiff,  
State of California

DATED: February 5, 1982

RICHARD H. BRYAN, Attorney General  
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Deputy Attorney General

By Larry D. Struve  
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Chief Deputy Attorney General  
Counsel for Defendant,  
State of Nevada





## Appendix 2

SUPREME COURT OF THE UNITED STATES  
STATE OF CALIFORNIA v. STATE OF NEVADA  
ON BILL OF COMPLAINT  
No. 73, Original Decided June 10, 1980  
DECREE

For the purpose of giving effect to the opinion of this Court announced on June 10, 1980, 447 U.S. 125, and the stipulation of the parties entered into on February 5, 1982, and approved by the Special Master:

IT IS ORDERED, ADJUDGED AND DECREED AS FOLLOWS:

1. That the location of the boundary between the States of California and Nevada is as hereafter specified:

Beginning at the Initial Point on the California-Nevada boundary as established under authority of the Act of June 10, 1872, 17 Stat. 358, by Alexey W. Von Schmidt in 1872 as an eight (8) inch square wood post set in a large mound of stone at the intersection of the 42nd parallel of north latitude along the southern boundary of the State of Oregon and the 120th degree of longitude west from Greenwich, each as reported by him; thence running southerly along said 1872 boundary as surveyed and marked by Alexey W. Von Schmidt to a cast iron monument designated as Von Schmidt Milepost 191 on said boundary; thence S 00° 09' 15" 21 W along a line directed toward a standard National Geodetic Survey brass marker cemented in a granite formation and stamped "VS 120, 1981," located at the geographic position of: Latitude 38° 53' 51" 59866 Longitude 120° 00' 20" 93116, a distance of 80,191.63 feet to an intersection in Lake Tahoe with a line extending between two points, the first of which is a

standard National Geodetic Survey brass marker cemented in granite and stamped "EAGLE ROCK, 1981," which has a geographic position of: Latitude  $39^{\circ} 06' 33''$  17268, Longitude  $120^{\circ} 09' 38''$  06504, and the second being a granite stone with copper bolt identified as No. 1 (Initial 1894), being the first monumented point on the California-Nevada Oblique 1893-1899 Boundary survey as determined and marked by the U.S. Coast and Geodetic Survey; thence from said intersection point in Lake Tahoe S  $48^{\circ} 46' 02''$  80 E, 21,568.48 feet to said Monument No. 1 (Initial 1894); thence proceeding southeasterly along the oblique California-Nevada boundary line as surveyed and marked by the U.S. Coast and Geodetic Survey under authority of the Act of August 5, 1892, 27 Stat. 357, during the period 1893-1899, to Point No. 1 described in the Interstate Compact Defining the Boundary Between the States of Arizona and California executed on March 12, 1963, being a point common to Point No. 1 described in the Interstate Compact Defining A Portion of the Arizona-Nevada Boundary On The Colorado River, executed February 6, 1960. Bearings, distances, and geographic positions used hereinbefore are based upon the 1972 North American Datum and are denoted on the attached map, Exhibit A, which is incorporated herein by reference.

2. That the intersection of the two lines described herein shall form the only angle point of the true California-Nevada state boundary within the waters of Lake Tahoe, which angle point shall be considered as satisfying the definition of the intersection of the 120th meridian west of Greenwich with the 39th parallel of north latitude as prescribed in the constitutions of California and Nevada.

3. That the necessary expenses incurred by the Special Master incident to this litigation and all other

proper expenses incurred jointly by the parties shall be equally borne by the parties.

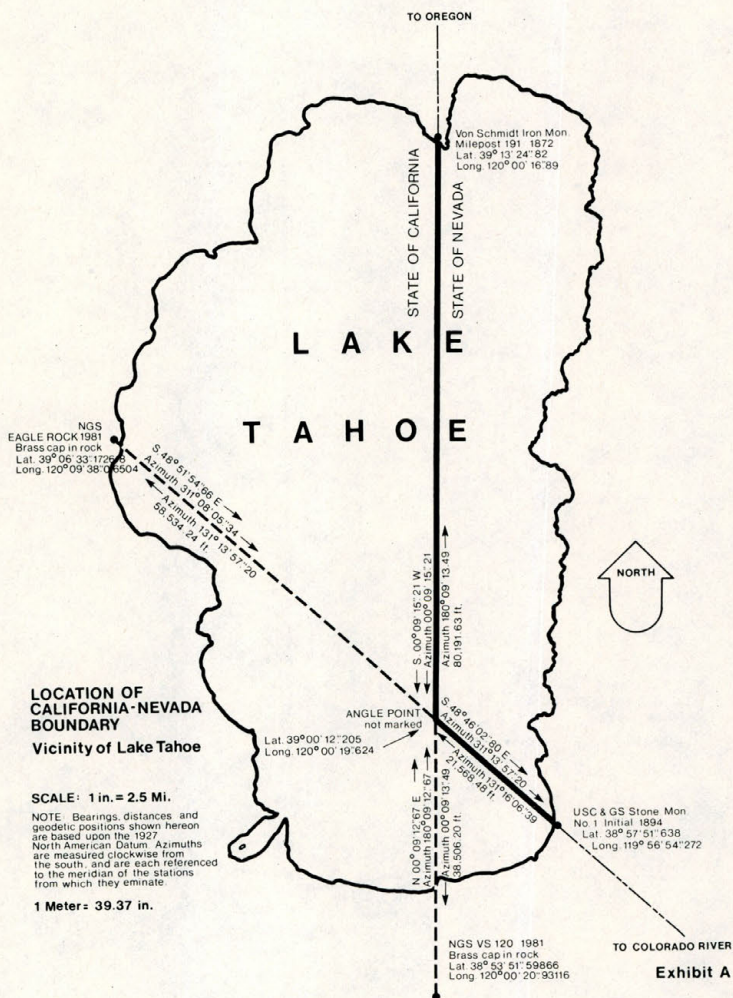
4. That, except as provided in paragraph 3 herein, each party shall bear its own expenses.

5. That any unexpended funds contributed by the parties to the Special Master for necessary expenses be returned to the parties in proportion to their contributions.

DATED: \_\_\_\_\_

Supreme Court of the United States

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# Appendix 3

