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## SB 358

Sponsored By Senator Dina Titus

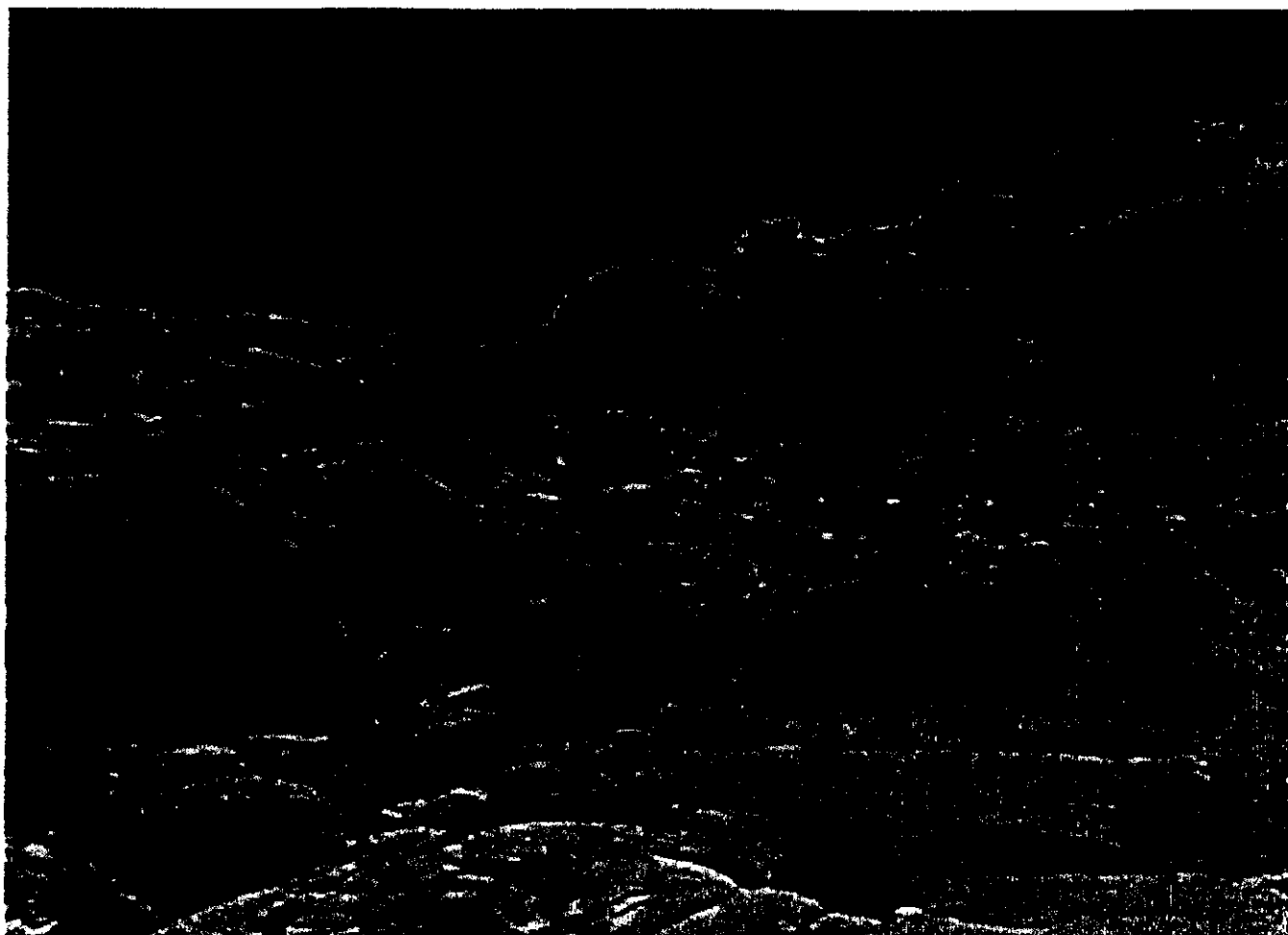
Introduced on March 17, 2003

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## APPENDIX 18

### RED ROCK CANYON NATIONAL CONSERVATION AREA BOUNDARY EXPANSION

--H.R.3050-- Public Law 103-450 ---November 2, 1994  
103<sup>rd</sup> Congress

An Act

To expand the boundaries of the Red Rock Canyon National Conservation Area.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

#### SECTION 1. BOUNDARY EXPANSION.

Section 3(a)(2) of the Red Rock Canyon National Conservation Area Establishment Act of 1990 (16 U.S.C. 460ccc-1(a)(2)) is amended to read as follows:

(2) The conservation area shall consist of approximately 195,610 acres as generally depicted on a map entitled 'Red Rock Canyon National Conservation Area--Proposed Expansion', numbered NV-RRCNCA-002, and dated July 1994.'

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#### SEC. 2. OTHER AMENDMENTS TO THE RED ROCK CANYON NATIONAL CONSERVATION AREA ESTABLISHMENT ACT OF 1990.

(a) DEADLINE FOR MANAGEMENT PLAN- Section 5(a)(1) of the Red Rock Canyon National Conservation Area Establishment Act of 1990 (16 U.S.C. 460ccc-3(a)(1)) is amended by striking 'Within 3 full fiscal years following the fiscal year in which the date of enactment of this Act occurs,' and inserting in lieu thereof 'No later than January 1, 1997,'

(b) EXCHANGE AUTHORITY- Section 7 of the Red Rock Canyon National Conservation Area Establishment Act of 1990 (16 U.S.C. 460ccc-5) is amended--

(1) by striking 'Except as specifically authorized' and inserting in lieu thereof '(a) Except as specifically authorized'; and

(2) by adding at the end thereof a new subsection, as follows:

"(b) The Secretary may transfer to the owner of the Old Nevada recreation facility the approximately 20 acres of Federal lands within the conservation area which, on March 1, 1994, were used to provide parking for visitors to such facility, in exchange for lands of

DEIS-A58

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equal or greater value within the conservation area acceptable to the Secretary."

(c) PRIORITY DATES- Section 10(b) of the Red Rock Canyon National Conservation Area Establishment Act of 1990 (16 U.S.C. 460ccc-8(b)) is amended by striking 'Act.' and by inserting in lieu thereof 'Act, except that as related to rights associated with lands added to the conservation area after such date, the priority date shall be the date of enactment of the Act adding such lands to the conservation area.'

### SEC. 3. POTENTIAL CONSERVATION LANDS.

(a) WITHDRAWAL- Subject to valid existing rights, the lands identified in subsection (b) are hereby withdrawn from all forms of entry under the public land laws, including the mining laws, and from operation of the mineral and geothermal leasing laws: Provided, That nothing in this subsection shall limit the issuance of any necessary licenses or public land rights-of-way for any hydroelectric project involving such lands.

(b) LANDS- The lands referred to in subsection (a) are the approximately 1,280 acres of public lands as generally depicted on the map entitled 'Potential Conservation Lands: Possible Hydroelectric Project' dated July, 1994.

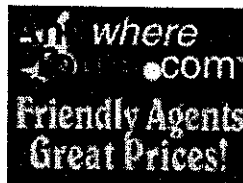
(c) FUTURE STATUS- (1) Effective on the date 5 years after the date of enactment of this Act, the lands described in subsection (b) shall be added to the Red Rock Canyon National Conservation Area unless before such effective date all necessary licenses and public land rights-of-way have been issued for a hydroelectric project involving some or all of such lands.

(2) For purposes of section 10(b) of the Red Rock Canyon National Conservation Area Establishment Act of 1990, as amended by this Act, the date on which the lands identified in subsection (b) of this section are added to the Red Rock Canyon National Conservation Area shall be deemed to be the date of enactment of an Act adding such lands to the conservation area.

### SEC. 4. AUSTIN, NEVADA MUSEUM.

(a) LANDS- The Austin Historic Mining District Historical Society (hereafter referred to as 'the Historical Society') shall be permitted to use the lands located in Austin, Nevada, identified as township 19 North, range 44 East, section 19, block 38, lots 1 through 16, assessor's parcel number 01-147-01, amounting to approximately 0.59 acres, in accordance with the requirements of this section.

(b) USES- The Historical Society's use of the lands identified in subsection (a) shall be subject to the requirements of this section and shall be limited to use for a museum or other facility to illustrate the history of the Austin Historic Mining District.

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Sunday, April 27, 2003  
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## **NEVADA VIEWS: Protecting Red Rock**

### **Development is not inevitable**

#### SPECIAL TO THE REVIEW-JOURNAL

The Clark County Commission and the Legislature appear poised to stabilize current zoning requirements for the Hardie gypsum mine property on Blue Diamond Hill, between the Las Vegas Valley and Red Rock Canyon National Conservation Area. The tenor of an April 17 Review-Journal editorial is that this level of zoning (one residential household every two acres) will adequately protect the Red Rock area -- that our American freedom and prosperity dictate that Jim Rhodes must now be invited to construct something like a Lake Las Vegas resort on the eastern ridge of Red Rock Canyon.

Elsewhere in the 17 April edition, BLM officials view this property as woefully "ripped to shreds" and therefore undesirable as a possible purchase with funds available from the 1998 Southern Nevada Public Land Management Act. Somewhat ironically, the BLM has a long history of accommodating activities that are known to produce high levels of disturbance -- activities such as mining, grazing and motorized off road vehicle recreation -- on lands under its jurisdiction.

The BLM spokesman goes on to ask: "If we were in a position to buy that property, what would the public interest be?" I would submit that the answer lays in the dual, related, realms of its biological and aesthetic importance. While a significantly "scarred landscape" might on the surface not appear to possess a high degree of either, I think we can develop a strong argument for both. The essence of both lies not entirely within the intrinsic quality of that particular property, but rather in its physical location - - as a much-needed filter between the unrelentingly urban Las Vegas Valley and the relatively intact landscapes of Red Rock.

First, the biological argument: There appears to be wide consensus that the Red Rock National Conservation Area offers irreplaceable recreational value. The fundamental root of that value is in its state of relative wildness. As such, it incorporates a wide array of species and ecosystems that still operate in a more or less ecologically intact state. Legislators recognized these qualities in their creation of the La Madre wilderness area last year.

In land-use planning, conservation biologists argue forcefully for recognition of diffuse, multiple-use "buffer zones" between intact "core" natural landscapes (such as those represented by wilderness areas) and highly altered urban landscapes. Why? Because ecological processes do not end at the border of a

wild area. Mountain lions cannot read a sign that says, "Houses begin here -- do not trespass or you will be killed." Coyotes don't really care if they are feeding on rabbits or house cats.

Nevertheless, many kinds of recreation are compatible with the maintenance of some level of ecological integrity (e.g., hiking, horseback riding, mountain biking, or using motorized vehicles on designated roads). Multiple use buffer zones can be used as valuable management tools, and I am therefore puzzled by the lack of interest by BLM in considering Blue Diamond Hill in that context.

As for the mined hill itself, the scarred landscape need not necessarily reduce its biological value. For example, we strongly suspect that human disturbances have led to a severe reduction in local populations of the highly sensitive Townsend's big-eared bat, once probably common in the Red Rock Canyon area. These cave-dwelling bats are known to utilize abandoned addits and mine shafts as roosting sites when their original cave roosts have been disturbed. Perhaps then, one or more of the previously worked openings into this hillside is serving as important substitute roost sites for these bats.

Perhaps the type of mining here has not produced suitable roost sites, but at the very least, the possibility should be addressed and surveys performed before we write the Hill off as a biologically unimportant landscape.

Then there is the aesthetic argument. We need to ask ourselves what exactly it is that people cherish about the Red Rock Canyon landscape, and second, what will constitute a significant deterioration of those qualities? Each proponent of the "Save Red Rock Canyon" movement will develop a slightly different answer, but let me provide these scenarios for consideration and perhaps as a rallying point.

If you are sufficiently healthy and unafraid of walking on rocks exposed to steep drop-offs, take a day and hike to the top of Bridge Mountain. If you are unable or unwilling to take that hike, stop for a few moments at the overlook pullout, half way around the scenic loop (the highest elevation point on the loop).

In either case, look across the canyon to the top of the Hill and reflect upon how you might feel if you were looking down on a mosaic of rooftops that blend into the urban sea of the Las Vegas Valley -- after all, a residence per two acres is still a lot of houses -- rather than the currently scarred but otherwise still undeveloped landscape. I myself much prefer the latter.

So, it would appear premature to sign the death warrant on the Hill as a critical biological and aesthetic buffer zone separating the urban from the wild landscapes in Southern Nevada.

Why should we consider the case necessarily closed and walk away accepting the inevitability of further residential development in the Red Rock Canyon area? Why should we believe that questioning the inevitability of Rhode's entrepreneurial juggernaut undermines our American values?

As expressed by Edward Abbey, an American who wrote often in defense of the need for both protection of private property rights and public open spaces in a healthy and free democracy, "growth for the sake of growth is the ideology of the cancer cell," and as such, "the developers and entrepreneurs must somehow be taught a new vocabulary of values."

Write to the BLM and ask it to not prematurely dismiss the merits of purchasing the Hardie mine property from developer Rhodes. Tell the BLM you want all parties involved to be engaged in an open discussion of the merits of the Hill as a link in the non-urbanized lands mosaic of southern Nevada. Don't give up just because a newspaper said it was the proper American thing to do.





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April 15, 2003

## Editorial: When is a conflict not a conflict?

LAS VEGAS SUN

When looking at the chronology of the issue behind it, there's a certain irony about the lawsuit filed last week against Clark County Commissioner Mark James. The suit, filed in District Court by developer Jim Rhodes, argues that James, as an attorney, counseled Rhodes about the purchase and development of the 2,400-acre gypsum mine overlooking the Red Rock Canyon National Conservation Area. Because of this, the suit seeks to stop James from introducing, advocating or voting on an ordinance that would limit residential development of the mine property to low density.

The recent history of the mine includes overwhelming public opposition to dense residential development out of concern that it would detract from Red Rock's natural beauty. James, who represents the area, took office in January. He started out neutral, saying that Rhodes had a right to be heard. His neutrality was viewed with skepticism by his constituents, especially when Rhodes announced March 26 that he had bought the mine for \$50 million. But on March 29, James announced that he favors low density. The irony is that Rhodes, if what he says in his lawsuit is true, did not raise an issue about James before purchasing the land. He apparently valued James' advice enough to shell out \$50 million. But now that James has publicly announced his support for low density, Rhodes sees a conflict so grave that he believes the court should intervene.

According to County Counsel Mary-Anne Miller,

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James did not give Rhodes legal advice because he was acting in the capacity of a candidate for the County Commission, and not as a private attorney, when he discussed the mine with Rhodes. If the court upholds the suit, however, Rhodes will face one less local opponent in striving to achieve his aim for high-density zoning. And the suit makes it abundantly clear that he wants high-density zoning. It also makes clear that a bill by Senate Minority Leader Dina Titus, D-Las Vegas, is urgently needed. Red Rock Canyon, visited by a million people a year, is too precious for porous local protection. Her bill would require low-density zoning around Red Rock Canyon and place responsibility for enforcing it where it belongs -- with the state.

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P.O. BOX 97, BLUE DIAMOND, NEVADA 89004 (702) 255-8743 FAX (702) 363-6779

Dear Friends of Red Rock Canyon,

The following is a general policy statement from the Board of Directors regarding urban encroachment into the Red Rock Canyon National Conservation Area.

The Friends of Red Rock Canyon have been committed to the preservation of Red Rock Canyon since our formation in 1984. It is vitally important to maintain its priceless beauty, spiritual quality and ecological integrity, for us as well as future generations. This irreplaceable natural resource would be jarringly and negatively altered by any residential development on adjacent lands, which integrate visually and physically with Red Rock Canyon.

As an organization dedicated to Red Rock Canyon, our membership now stands united against any encroachment by residential development on lands adjoining the Red Rock Canyon National Conservation Area.

Sincerely,

Tom Pfaendler  
President



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April 04, 2003

## Letter: Stand and fight to preserve Red Rock

On March 29 a few hundred men, women and children gathered at Red Rock Overlook to protest the development of Red Rock. I was one of them and proud of it.

Throughout the history of this country there have been people like these, trying to save this country from some form of destruction. One young child said it all that day: Why should the animals have to die so houses can be built on Red Rock?

That protest should have had thousands in attendance. In future debates and meetings over the fate of Red Rock, please try to be a force for saving an area that only brings joy to people going there. Don't let it become an eyesore that we have to look at forever. Building show-off homes on two-acre lots is an eyesore to me.

Stand up and fight for what is right for Red Rock. We have servicemen in Iraq doing the same thing.

**JOHN TOMINSKY**

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Sunday, May 04, 2003  
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## LETTER: Eyeing green at Red Rock

To the editor:

Jim Rhodes is not stupid. He knew full well what the reaction would be to his proposed development near Red Rock Canyon.

So why would he do it? Money.

What if your real plan is to have the county buy the land from you or arrange a land swap? First, you buy it for an inflated \$53.8 million, but this price sets a baseline value. You also know the zoning is about to be locked in, so you quickly file a land-use application for the development of your 2,400 acres. Just for fun, you claim that it is actually several smaller developments under 700 acres, so the county's year-long process for large-scale housing projects doesn't apply. You draw up a nice pretty site map of the proposed development, with lots of bright colors showing the home sites and amenities.

Next comes the hearing to determine how much money to give you for the land. You stand up in front of the commission and say that your intent all along was to develop this land. You show them your pretty site map and tell them how the mean people wouldn't consider a zoning change to allow you to build under your preferred plans after you made a substantial monetary investment.

You say that because of this the market value has dropped from \$200 million. But as a responsible citizen you'll accept \$100 million -- otherwise you will have to sue and that would be a waste of taxpayer money. You leave with nearly \$50 million in profits in your wallet.

When I visit Red Rock, I am fascinated by the multiple colors in the cliffs and the sheer beauty of the area. But poor Jim Rhodes can only see one color. The color of money.

GREG WOOD

NORTH LAS VEGAS

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Sunday, March 02, 2003

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## LETTER: Let's save Red Rock

### To the editor:

It is appalling to realize that, just months after an outraged public forced John Laing Homes to abandon the effort to build 8,400 homes on Blue Diamond Hill, overlooking treasured Red Rock Canyon, another developer, Jim Rhodes, is out to do the same thing. It would mean thousands of cars and even more people creating devastating damage to the ecology and beauty of the area. It must not happen.

Every Nevadan -- Republican or Democrat -- should support state Sen. Dina Titus' proposed moratorium on zoning changes in the Red Rock overlay until the people can vote on the issue. That is the only way to go, to stop the despoilers ... for good.

Finally, all those who have decision-making responsibilities in state and local government, as well as BLM officials, should realize that the people of Nevada will be informed about who did and who did not work to genuinely protect Red Rock's unspoiled beauty.

LOUIS C. KLEBER

LAS VEGAS



**Kamalani, Keku**

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**From:** Seth [konafish@swbell.net]  
**Sent:** Sunday, March 23, 2003 7:36 PM  
**To:** dtitus@sen.state.nv.us  
**Subject:** Red Rock Canyon

Dear Senator Titus,

I am one of those people who brings tax dollars to your fine State. Yes I am a tourist - one who visits Las Vegas one or two times each year. I am also one who believes there is more to Las Vegas than "The Strip." My wife and I have enjoyed a number of trips to Red Rock Canyon to appreciate its beauty.

Please know that I am in favor of Senate Bill #358, which protects Red Rock Canyon. As you are aware, there are economic benefits to "eco-tourism". So, preserving natural areas is not costly but profitable for a region. These areas provide diversity, better resident quality of life and a natural identity that can be unique and draw tourists.

I look forward to the successful passage of Senate Bill #358.

Sincerely,  
Seth Thomas  
Fort Worth, TX

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Tuesday, May 06, 2003

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**COLUMN: Steve Sebelius****Rhodes' rage**

Now this is getting ridiculous.

Developer Jim Rhodes is cementing his reputation for aggressiveness with a series of television and newspaper ads aimed at "educating" the public about his proposal to develop a subdivision atop a hill in Red Rock Canyon.

The proposal isn't before the Clark County Commission, mind you. It's not even ready to go before the county's Planning Commission.

But Rhodes is spending huge sums anyway, all in an effort to stymie two laws that would keep the current zoning on the 2,600 acres atop Blue Diamond Hill to one house on every two acres.

In the television ads, Rhodes personally stands atop the hill -- which has been used for decades as a gypsum mine -- and decries the devastation that mining has wrought on the land. Left unsaid is the fact that Rhodes has allowed that mining to continue since he bought the property two months ago, and has even hinted through spokesmen that the mining operation could expand.

That is, unless Rhodes can turn it into a fancy subdivision.

The newspaper ad is even better. Pretty pictures of Red Rock are interspersed with ugly mine snapshots. "Neighboring Red Rock: From pit mine to master plan," reads a subheading. The message is clear: Wouldn't it be better for soccer moms in SUVs to be driving up the hill than multi-ton trucks carrying minerals blasted from the Earth?

"Despite what some people have been led to believe, Jim Rhodes' proposed community is not in Red Rock Canyon;

**STEVE SEBELIUS**  
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rather, it is completely outside of the conservation area's boundary," the ad says. But despite what Rhodes would like to lead you to believe, his proposed community is within Red Rock Canyon, although it does lie outside the conservation area. (It's possible to be in Red Rock Canyon and still not be within the conservation area. If the land had been included in the conservation area when it was created in 1994, development would have been prohibited.)

But the most outrageous part of the ad has to be the suggestion that Rhodes is being victimized by the big, powerful state of Nevada, which proposes to "confiscate" his property rights. The nerve of state Sen. Dina Titus, who authored Senate Bill 358, the bill that would codify the current zoning. (Of course, Titus requested the bill in September, months before Rhodes bought the property.) It's a darn good thing Rhodes has made millions developing land elsewhere in the valley, or he may not have had the means to respond to this vicious assault!

"With the introduction of SB358, the Nevada Legislature could be on the verge of undermining the authority of local regulators -- a move that also could set an unhealthy, radical precedent for other counties throughout the state," the ad says. And given all the time and money Rhodes has spent buying up local regulators, that move in and of itself could be considered a taking under the Fifth Amendment.

"By yielding to exaggerations and misinformation about the proposed community -- and ignoring the real facts associated with the proposal -- legislators from Battle Mountain, Ely, Eureka, Winnemucca, Elko, Reno and other towns and cities far from Clark County, could wrest the decision-making process away from Clark County officials and determine how private land owners can build on their property," the ad says. "In short, SB358 would amount to a confiscation of private property rights by the state -- an outrage in a state that so strongly values local control."

The real outrage is the way Rhodes has turned the facts to benefit his cause. But consider this:

- Rhodes could apply for building permits today for his land so long as he limited his building to one home per two acres, and nobody could do a thing to stop him. His rights to develop his land are therefore not "confiscated."
- Rhodes has no guarantee that the county will grant him a zoning change in the future. He bought the property knowing full well what the zoning was, and unless he had some reason to suspect that the County Commission would be amenable to allowing him to build more homes on the hill (where could he have gotten that idea, after all?),

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Titus' bill shouldn't be a problem. Should it?

- Rhodes himself has hired firms that are either owned by or employ three county commissioners -- Chip Maxfield, Bruce Woodbury and Rory Reid. Moreover, he sued Commissioner Mark James after James indicated that he would oppose any zone changes on the land, contending that since the commissioner previously represented him as a lawyer, he had a conflict. The lawsuit, which sought to silence James on the matter entirely, came only after James announced his opposition. Before that -- when James seemed amenable to a zone change, if Blue Diamond residents would go along -- the same conflict existed, but was apparently benign. So who is it really who is trying to "wrest the decision-making process away from Clark County officials"?

But the ad campaign does give new urgency to a plan by U.S. Sens. Harry Reid and John Ensign for the federal government, through the county, to buy the land and place it inside the conservation area. Unless you count Titus, Reid and Ensign, it's hard to find heroes on that scarred Red Rock hill.

Steve Sebelius is a Review-Journal political columnist. His column runs Tuesday, Thursday and Sunday. Reach him at 383-0283 or by e-mail at [ssebelius@reviewjournal.com](mailto:ssebelius@reviewjournal.com).

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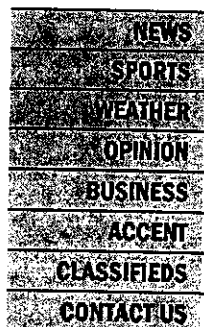
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April 16, 2003

## Columnist Jeff German: Red Rock deal raises ethics issue

Jeff German's column appears Tuesdays, Wednesdays, Fridays and Sundays in the Sun. Reach him at [german@lasvegassun.com](mailto:german@lasvegassun.com) or (702) 259-4067.

...

As she stood with other protesters outside the courthouse Tuesday, Lisa Mayo-DeRiso carried a sign that read, "Political Manipulation vs. Democratic Process."

She was referring to the fight by Blue Diamond residents to stop wealthy developer Jim Rhodes from using his clout to pave the way for a massive housing development on the edge of scenic Red Rock Canyon.

If you ask Blue Diamond residents to explain how Rhodes has manipulated the political system, it won't be long until they bring up the name of Erin Kenny, their former county commissioner who has become the developer's mouthpiece and political arm-twister.

And if you believe Kenny's successor, County Commissioner Mark James, a one-time Rhodes ally who now has taken up the cause of the Blue Diamond residents, Kenny probably violated the county's four-year-old ethics policy when she lobbied him this year on behalf of Rhodes.

But no one's likely to do anything about it because the policy, which calls for a one-year cooling-off



Debt Problems - What kind of debt do you have?

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period on lobbying, has no teeth.

When the county commissioners, including Kenny, passed the policy on March 2, 1999, they conveniently forgot to include penalties for those who violate it.

That means the policy is useless, and developers like Rhodes still are free to buy the influence of anyone who leaves office.

Rhodes started buying Kenny after she lost her race for lieutenant governor in November. Records show his companies made a total of \$60,000 in post-election contributions to her campaign.

Kenny, who set up her own consulting business, couldn't wait to earn her keep.

On Jan. 7, the day after she gave up her County Commission seat, Kenny met with James to discuss Red Rock development. According to James, she promptly warned that it would be "dangerous" to cross Rhodes.

And James says Kenny attempted to influence his position on Red Rock in subsequent meetings and telephone conversations.

One commissioner, Rory Reid, had the good sense to avoid Kenny.

Reid says he received messages from Kenny, but never returned them because he was made aware of the cooling-off period and didn't want to be improperly influenced by her.

Kenny's blatant contact with her former colleagues, it seems, became so obvious that it attracted the attention of County Manager Thom Reilly, who sent out a memo on Jan. 21 reminding the commissioners about the one-year lobbying ban.

Reilly's warning, however, didn't stop Kenny from making more phone calls and setting up more meetings. She talked to James as late as two weeks ago.

So far, the arm-twisting hasn't worked, which is good for the Blue Diamond residents fighting to save Red

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Rock.

But why should the County Commission even allow it to happen?

What good is an ethics policy that doesn't stop unethical behavior?

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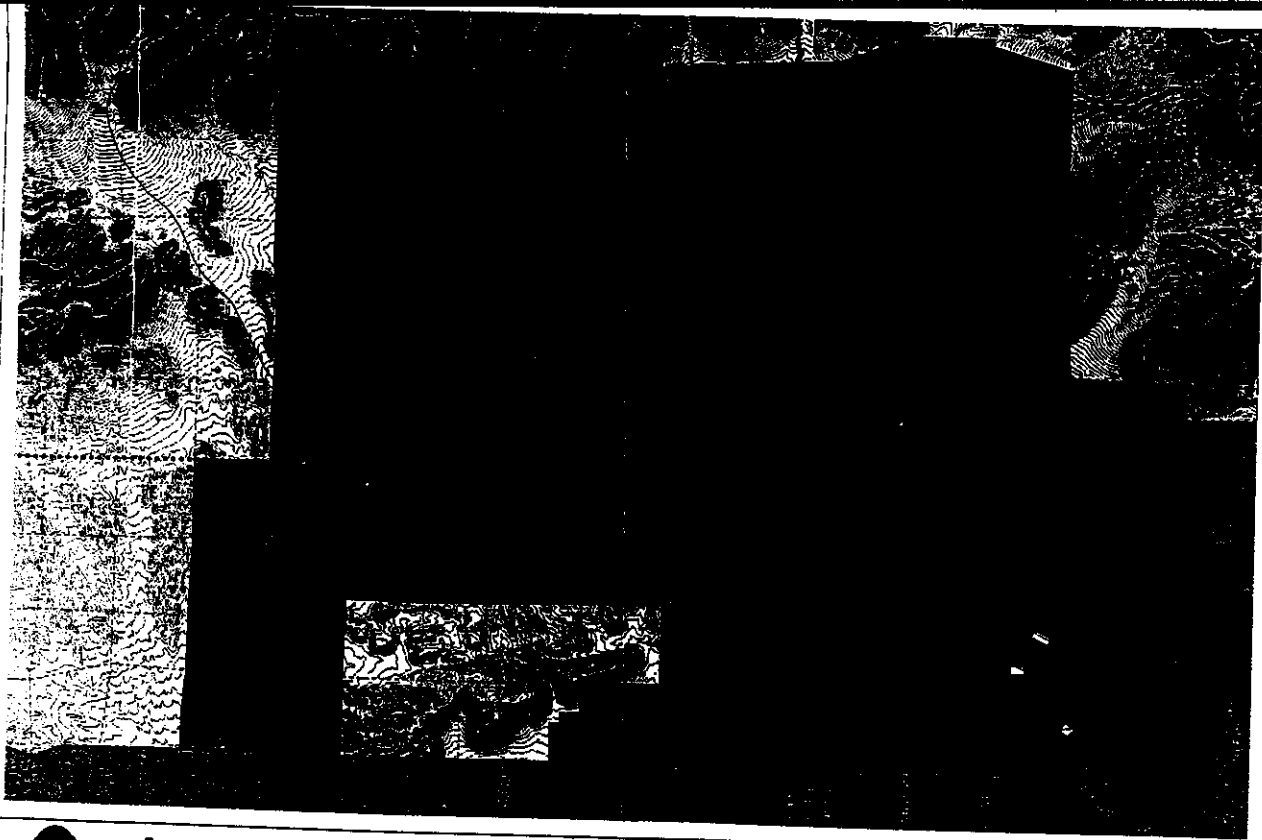
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