ORAL HISTORY INTERVIEW

Graham Chisholm

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STATUS OF INTERVIEWS:
OPEN FOR RESEARCH

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Interview Conducted and Edited by:
Donald B. Seney in 1994 and 1996
California State University-Sacramento
For the Bureau of Reclamation's
Newlands Project Oral History Series

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Table of Contents

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GRAHAM CHISHOLM

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INTERVIEWER: DONALD B. SENEY

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Introduction

In 1988, Reclamation began to create a history program. While headquartered in Denver, the history program was developed as a bureau-wide program.

One component of Reclamation's history program is its oral history activity. The primary objectives of Reclamation's oral history activities are: preservation of historical data not normally available through Reclamation records (supplementing already available data on the whole range of Reclamation's history); making the preserved data available to researchers inside and outside Reclamation.

In the case of the Newlands Project, the senior historian consulted the regional director to design a special research project to take an all around look at one Reclamation project. The regional director suggested the Newlands Project, and the research program occurred between 1994 and signing of the Truckee River Operating Agreement in 2008. Professor Donald B. Seney of the Government Department at California State University - Sacramento (now emeritus and living in South Lake Tahoe, California) undertook this work. The Newlands Project, while a small- to medium-sized Reclamation project, represents a microcosm of issues found throughout Reclamation: water transportation over great distances; three Native American groups with sometimes conflicting interests; private entities with competitive and sometimes misunderstood water rights; many local governments with

growing water needs; Fish and Wildlife Service programs competing for water for endangered species in Pyramid Lake and for viability of the Stillwater National Wildlife Refuge to the east of Fallon, Nevada; and Reclamation's original water user, the Truckee-Carson Irrigation District, having to deal with modern competition for some of the water supply that originally flowed to farms and ranches in its community.

The senior historian of the Bureau of Reclamation developed and directs the oral history program. Questions, comments, and suggestions may be addressed to the senior historian.

Brit Allan Storey
Senior Historian
Land Resources Office (84-53000)
Policy and Administration
Bureau of Reclamation
P. O. Box 25007
Denver, Colorado 80225-0007
(303) 445-2918
FAX: (720) 544-0639
E-mail: bstorey@usbr.gov

For additional information about Reclamation's history program see:
www.usbr.gov/history

Oral History Interview
Graham Chisholm

Seney: Today is September 12, 1994. My name is Donald Seney. I'm with Graham Chisholm, Nevada Special Projects Director, Nature Conservancy, in his office in Reno, Nevada.

Good afternoon. Let me start by asking you to tell me something about your family background: Where you're from, what your parents did, when you were born, your education, and so forth.

Grew up in Bellevue, Nebraska

Chisholm: I'm from Nebraska. I grew up in Bellevue, Nebraska, which is just south of Omaha. It's a small community, a growing community similar to Fallon in some ways, in the sense that it was an Air Force base located in a community. The Strategic Air Command was there. Bellevue had been, historically, kind of a trading community, but also an agricultural community.

Seney: Irrigated or dry land?

Chisholm: Dry land, some center pivot.

Seney: "Center pivot" means groundwater pumping?

Left Bellevue in 1981 to Do Graduate Work at the University of California-Berkeley in Political Science

Chisholm: Right. Just south of Omaha it's really, with it's growth of both the military base and the growth of Omaha, it's become largely an extended bedroom community for Omaha. I left there in 1981 and went to UC-Berkeley to do graduate work in political science with an interest in European politics.

Seney: Where did you do your undergraduate work?

Did Undergraduate Work at Creighton University in Omaha

Chisholm: In Omaha, at Creighton University.

Seney: And you went to public schools in Bellevue?

Father Had Supermarkets in Nearby Communities

Chisholm: Yeah, in Bellevue. And, I should probably tell you a little bit about my family. My father worked in the supermarket business and had a couple of supermarkets, warehouse markets in three small communities in Nebraska, not too far from Bellevue.

Seney: Did you work there?

Mother Wrote Fiction and Was a Silversmith

Chisholm: During summers I'd work there. And my mother wrote fiction and was a silversmith.

Seney: Was? Has she passed away?

Chisholm: No, but she's no longer a silversmith. She still does write. My father passed away about a year ago.

Seney: I'm sorry. Where did you come by your interest in environmental matters?

Spent a Lot of Time Outdoors and Birdwatching While in Bellevue

Chisholm: Growing up in a flood plain of the Missouri River, where the Platte River meets the Missouri, I spent a lot of time outdoors whenever I could. Bird watching was my big interest.

Seney: An interest of your parents as well?

Chisholm: They were outdoor oriented, but not particularly bird watchers. Our family just spent time outdoors when we could.

Seney: What is it about bird watching that will draw you into environmental concerns? I mean, the answer may be obvious, but maybe you could tell us.

". . . for me, bird watching was just one way of looking at the natural world, and it's a particular record of what's occurring in an area, and the ecological health of an area. . . . Living in a place for a long enough time, you get a pretty good sense of how an area is changing . . ."

Chisholm: Well, I guess for me, bird watching was just one way of looking at the natural world, and it's a particular record of what's occurring in an area, and the ecological health of an area. It's something that occurs seasonally and annually. Living in a place for a long enough time, you get a pretty good sense of how an area is changing, trends that go one way or another, improvements, degradation, whatever. But it's certainly kind of one pulse and one way of looking at an area.

Seney: Keeping a life list of the birds you've seen?

Chisholm: Yeah, but it's . . . .

Seney: How many have you on your list?

Chisholm: I don't know.

Seney: Oh, you're not counting, okay. Because I know some birders really pay attention.

". . . I've always been kind of drawn more to the natural history of it. It's always interesting to see new birds, but it's also interesting to kind of see things showing up again and again–when they show up, how early, how late. . . ."

Chisholm: Yeah, some birders do. I guess I've always been kind of drawn more to the natural history of it. It's always interesting to see new birds, but it's also interesting to kind of see things showing up again and again–when they show up, how early, how late.

Seney: And if they *don't* show up.

Chisholm: And if they don't show up. There's something in it to me that's interesting about that, and it's interesting, now moving to a new area, and visiting the wetlands out in Fallon for the last couple of years, and beginning to see some of those same rhythms, and how, especially here, it varies with water availability. And so I kind of look forward to long-term seeing a bit of that.

Seney: Did you major in political science at Creighton? (Chisholm: Yeah.) What drew

you into political science?

". . . I'd been interested in going into science, but I was also keenly aware of the fact that public policy has a *lot* of an impact on environmental matters. . . . was interested in . . . and hoping to make that kind of a bridge and trying to bring good science into public policy, and also bring the reality of public policy into science . . ."

Chisholm: Having a natural history background, I'd been interested in going into science, but I was also keenly aware of the fact that public policy has a *lot* of an impact on environmental matters. And I particularly was interested in that bridge between understanding and having a background in science, but at the same time, understanding public policy and hoping to make that kind of a bridge and trying to bring good science into public policy, and also bring the reality of public policy into science, dealing with folks and the scientists who sometimes *aren't* always aware of the reality of politics, and maybe needing to think in those terms as well.

Seney: Do you have brothers and sisters?

Chisholm: Two sisters.

Seney: Are they drawn in the same direction you are?

Chisholm: Just general love of the outdoors. My one sister lives in a farming town in Nebraska called Beatrice, and my other sister lives out in Virginia, married a Navy pilot who was actually stationed in Bellevue for a while, and got a chance to leave, so she did.

Seney: Your other sister is married to a farmer, maybe?

Enjoyed Getting M.A. and PH.D. at Berkeley

Chisholm: Actually married to somebody who's now taken over the grocery business, one of the stores in Beatrice. I left Nebraska, I guess in '81, and went out to California and never been anywhere where it was warm in the winter, and looked forward to it, and really enjoyed going to graduate school there.

Seney: You went to political science at Berkeley? (Chisholm: Right.) Were you attracted simply to the climate, or to the generally liberal environment that Berkeley sometimes represents?

Chisholm: Despite Berkeley's being such a liberal place, the Political Science Department is pretty conservative. But it had a very good reputation.

Seney: Did you get a master's degree? Ph.D.?

"Did my work on West German politics, on the Green Party, which is an environmental movement in Europe, particularly strong in Germany. . . ."

Chisholm: Master's degree and Ph.D. Did my work on West German politics, on the Green Party, which is an environmental movement in Europe, particularly strong in Germany. And I was particularly interested in how environmental politics manifests itself in another type of political system, and the types of comparisons.

Seney: Did you learn much that was useful by studying the Greens?

After Returning from Germany, While Finishing His Dissertation Did Volunteer Work for the Nature Conservancy in San Francisco

Chisholm: Oh, it's hard to tell. If anything, my interest, the more I studied the Greens, the more interested I became in American politics. Actually, after I returned from Germany, while finishing my dissertation, I did some volunteer work for the Nature Conservancy in San Francisco, and did some kind of analytic work for them, some public outreach work.

Seney: If I may, what drew you to the Nature Conservancy?

During Graduate School, Supported Himself Leading Natural History Tours in Europe and the United States for a Seattle Company

Chisholm: Another part of the story is I also, one of the things I did to support myself in graduate school was lead natural history trips in Europe and the United States for a company out of Seattle. As you travel around, you see different areas, and the Nature Conservancy, in my view, had been doing a very good job of protecting some important natural areas.

Seney: Tell me a little about just one of the trips that you conducted–give me a sense [of what you did]. Or maybe the one that's the most typical, but give us a sense of what these are.

Chisholm: It's usually one or two leaders takes a group of twelve to fifteen folks to, in this case, England and Scotland. It's really about the natural history of an area. I'd spend some time there, and you do a lot of preparation for the trips. But it's really showing the flora and fauna, but primarily it orients around birds with this group, over a two- to three-week period.

Seney: Interesting? (Chisholm: Yeah.) And fun? (Chisholm: Yeah.) Interesting people, I suppose attracted to the tour?

Chisholm: Very interesting people. You know, it's exhausting work, but it's one way that I can afford to go out and see some of these areas. To them it's all entirely new, and I enjoy doing it. I like the environmental education side of it.

Seney: So you had done some of those here in the United States, and through those had seen some of the things the Nature Conservancy had done?

Chisholm: Right.

Seney: And then as a result of that you volunteered to do some . . . .

Worked for Senator John Kerrey as a Legislative Assistant for Natural Resources Issues

Chisholm: Volunteered to do some work for them, just part-time, and finished up my doctorate in 1989. In 1988 I had written to Senator [J. Robert][1] Kerrey from Nebraska, who actually

1. Note that in the text of these interviews, as opposed to headings, information in parentheses, ( ), is actually on the tape. Information in brackets, [ ], has been added to the tape either by the

wasn't a senator at that point, but was running for election. He was successfully elected, but I wrote them during the campaign, and essentially told them I was interested and followed up and got an interview shortly after he was elected and went back to Nebraska and met him and got the job, moved to Washington.

Seney: So you became a staff person for the newly-elected Senator Kerrey?

Chisholm: Yeah, I got a job as a legislative assistant for natural resource issues, and did some other things.

Seney: How'd you like that?

Chisholm: It was interesting.

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editor to clarify meaning or at the request of the interviewee in order to correct, enlarge, or clarify the interview as it was originally spoken. Words have sometimes been struck out by editor or interviewee in order to clarify meaning or eliminate repetition. In the case of strikeouts, that material has been printed at 50% density to aid in reading the interviews but assuring that the struckout material is readable.

The transcriber and editor also have removed some extraneous words such as false starts and repetitions without indicating their removal. The meaning of the interview has not been changed by this editing.

Mr. Chisholm provided most of the edits in this interview. Mr. Chisholm's strikeouts have not been printed at 50% density.

Seney: The look on your face won't be conveyed to the tape. May I say that "interesting" is not maybe the word I would use to describe the look on your face. Can you give us a little more?

Found the Work Meaningful and Interesting, but it Was Also Grueling and He Didn't Care for the East

Chisholm: Well, I guess it's fascinating to learn how public policy in this country, at that level, is created. I met wonderful people, worked on great projects, had an opportunity to be involved in some very *meaningful* things, had a lot of autonomy, a lot of trust from Senator Kerrey, and worked on some issues that meant a lot to me growing up–the Platte River, the Niobrara River in Nebraska–and felt as though I had the opportunity to really make a difference there. It's a very grueling lifestyle. I didn't particularly care for the East.

Seney: Climate-wise, you mean, and socially, culturally?

". . . you have a tendency to be asked to do more and more things, as long as you can keep plates in the air, and you'll just get more and more plates, until you're exhausted. . . ."

Chisholm: Climate, landscape, many things. It was good

being reconnected with Nebraska, but also you have a tendency to be asked to do more and more things, as long as you can keep plates in the air, and you'll just get more and more plates, until you're exhausted.

Seney: Did you find it in any way disillusioning or discouraging when you saw the way in which policy was made?

Chisholm: Oh, I guess at some levels, sure. But at others, I feel as though I learned some tools that are extremely valuable.

Seney: A person certainly needs to know how the political process works to be effective in it. That doesn't mean a person likes everything they see. Would you be in that sort of situation, do you think?

Chisholm: Well, before I answer that, there's a common theme now, which is characterized as being anti-politics or anti-Washington.

Seney: That's not what I'm trying to get at. No, no, that's not at all what I'm trying to get at. Let me say a little more and then ask you to comment on it. I would think someone with your background, conducting these tours and being involved in the environmental

movement, and even the atmosphere of graduate school can make one somewhat idealistic. But certainly the practical politics of Washington, D.C., when one's idealism rubs up against that, it's likely to be tarnished a bit. I'm not talking about anti-political views so much as I'm thinking, did you find things that you found were discouraging? Did you find that irrelevancies began to intrude in the policy process. (Chisholm: Some, sure.) And that maybe you would go about making a great deal of effort on a project, and all of a sudden, something would come through the door, completely unexpected, that would change the whole equation and maybe negate what you had done.

". . . if you're [an] . . . idealist . . . the reality of what occurs there is that . . . somebody comes up with an idea . . . and what occurs is a question of incorporating others' interests and integrating those other views. From an idealist's perspective, that is watering-down, making it worse, making it unbearable– whatever. . . . at times, that can be frustrating. . . ."

Chisholm: It's funny, if you're a purulent idealist, it does. I also have always had a fairly strong practical side, and the reality of what occurs there is that you do have that combination of, you know, somebody comes up with an idea,

maybe idealistically, and what occurs is a question of incorporating others' interests and integrating those other views. From an idealist's perspective, that is watering-down, making it worse, making it unbearable– whatever. But sure, at times, that can be frustrating.

Seney: Do you remember any specifics that would maybe illustrate that, that you could tell us about?

Chisholm: (sigh) Not really.

Seney: I don't believe you, but that's okay. (laughs) I can understand. [It] seems to me you feel you need to be a little bit guarded, and I don't want you to necessarily feel that you need to be guarded. And I'm not asking you to tell tales out of school here on Senator Kerrey, or on anyone else, for that matter. Just maybe a general illustration.

Chisholm: I guess there's a tendency to everybody wanting to throw their ideas in, and I can think of the scenic river designation for the Niobrara River.

Seney: Did it work out, did it get scenic designation?

Chisholm: Well, it did get scenic designation, but many other things were thrown into that legislation which I didn't particularly think were relevant, and I think ultimately mar the scenic river designation.

Seney: But you came to understand it was probably necessary–if you wanted scenic designation, the other things had to be done.

Chisholm: I guess so. The reality of it is the House of Representatives put some provisions in, and you have to live with them.

Seney: That didn't have to do with this particular river and the scenic river designation?

Chisholm: Only indirectly.

Seney: The purpose being to make sure that these things got through on a vehicle that would pass.

Chisholm: Yeah, it was kind of a pet project of another member of Congress from Nebraska who wanted a study of a national park, which I don't necessarily think makes sense for the landscapes up there.

Seney: Okay, that's what I'm looking for.

Chisholm: And culture. And it was put in and he had been pushing it. It wasn't in his district, so it was quite easy for him to do that.

Seney: How long did you work for Senator Kerrey?

Worked for Senator Kerrey for Four Years

Chisholm: For four years, longer than I initially anticipated.

Seney: Is that a long time in Washington, do you think? I mean, I know a lot of people spend their whole lives there.

"I wanted to get back to the West, I wanted to work on a specific project. . . ."

Chisholm: Well, there are the kind of people who come in and burn out in a couple of years and leave. There are others who stay for ten, fifteen years. I wanted to get back to the West, I wanted to work on a specific project.

Seney: Did you feel burned out by the time the four years was up?

Chisholm: Ah, yeah. It was time to go back. It's a very unpredictable life.

Seney: Is it a worthy apprenticeship? (Chisholm: Yeah.) Is it something that's valuable in terms of what you're doing now? (Chisholm: Sure.) What makes it valuable in terms of what you're doing now?

Chisholm: I guess the experiences are valuable in two ways: one is the particular person I work for.

Seney: Here in the Nature Conservancy?

Chisholm: No, Bob Kerrey, having worked for Bob Kerrey.

Seney: Good guy? You like him?

That work was able to ". . . help me . . . rethink how I thought about environmental issues. . . . trying to understand from a rancher's or a farmer's perspective, the importance of making sure that it makes sense, and addresses *their* concerns. And you know that's a political lesson . . . It's also, I think, a lesson of successfully working with a ranching or farming community. It's a lesson that can be applied elsewhere as well. "

Chisholm: Yeah, but I also think the ability to help me understand, by looking at environmental policy in Nebraska, the importance [of helping me rethink how I thought about environmental

issues.] It isn't so much kind of how I'm looking at it, but trying to understand from a rancher's or a farmer's perspective, the importance of making sure that it makes sense, and addresses *their* concerns, ~~if it's going to be successful~~. And you know that's a political lesson, but ultimately it's a little bit more than a political lesson. It's also, I think, a lesson of successfully working with a ranching or farming community. It's a lesson that can be applied elsewhere as well.

". . . I think the more general lessons of Washington are ones that are valuable in terms of . . . lessons dealing with the bureaucracy in Washington, and knowing where to go and how to go. . . ."

But I think the more general lessons of Washington are ones that are valuable in terms of if we're going to be settling some of the issues surrounding the Newlands Project, there are lessons dealing with the bureaucracy in Washington, and knowing where to go and how to go.

Seney: Kerrey's office helped you learn that?

Chisholm: Sure. You need to do a lot of problem-solving, and knowing what . . . .

Seney: What does that mean when you say "problem-solving"? What do you mean?

Chisholm: I guess things get caught up in bureaucracies, decisions are sat on. It's a question of finding where things are. Whose desk it's on. What buttons need to be pushed in order to have that happen. And then there are also lessons about the legislative process, which I think ultimately are going to be fairly important, even if the negotiations are not successful there'll [eventually] be a legislative component here, and I think that'll be helpful. But also just the lessons of working with people and needing to incorporate other interests and bring them in and figure out how that works.

Seney: Was that Ph.D. useful in Washington?

Advantages and Disadvantages to Having His Ph.D.

Chisholm: Yeah. I guess in terms of the analytic skills it teaches you, in terms in the ability to research.

Seney: Give you any standing or status?

Chisholm: The funny thing is I never used my title. I think generally most people don't know that I have a doctorate. It can be both an asset and a

disadvantage.

Seney: Did you use it here?

Chisholm: No.

Seney: It would be a disadvantage here, would you think?

Chisholm: Perhaps. I mean, I don't hide it, but it's something that if I went into academics, it's necessary.

Seney: It's the "union card."

Chisholm: Yeah, I guess.

Seney: Academics never occurred to you?

Chisholm: It did.

Seney: Was it the job market that was not good?

"I think being in graduate school, and Berkeley is a particularly divisive department, and it turned me off from being an academic. . . ."

Chisholm: Not particularly. I think being in graduate school, and Berkeley is a particularly divisive department, and it turned me off from being

an academic.

Seney: I can understand that.

". . . I also had that kind of practical side, and I think I found a niche that I enjoy. . . ." at the Nature Conservancy

Chisholm: And I also had that kind of practical side, and I think I found a niche that I enjoy.

Seney: When you left Kerrey's office, had you made arrangements for the job with the Nature Conservancy, (Chisholm: Yeah.) and it was all worked out? How did that happen?

Senator Kerrey Requested He Do Research on the Nature Conservancy's Water Acquisition Program

Chisholm: Well, a couple of years ago Kerrey had read an article in *The Washington Post* about the water acquisition program that was pioneered by the Nature Conservancy, and asked me to do some research on it. I called Dave Livermore who had done that work, and we had talked.

Seney: Is Mr. Livermore a member of the Livermore family, named for Livermore and all that sort of thing?

Chisholm: Yeah, and he's the Great Basin Director for the Nature Conservancy.

Seney: Does that encompass this project?

Chisholm: Utah and Nevada, and this project as well.

And I had made that contact initially, but I had read that Nature Conservancy was going to be looking for somebody, and actively solicited it, liked it, it was *a* project, it was a great team of people.

Seney: This was the Great Basin Project as a whole? Or the Newlands component.

Is Working on a Joint Project of the Nature Conservancy and the Environmental Defense Fund

Stillwater Marsh-Pyramid Lake Bioreserve Project

Chisholm: Well, Nature Conservancy and the Environmental Defense Fund [EDF] together put together a partnership, and have a [joint] project. Within the Nature Conservancy it's known as the Stillwater Marsh-Pyramid Lake Bioreserve Project.

Seney: So you're in it with the Environmental

Defense Fund on this one?

David Yardas of the Environmental Defense Fund

Chisholm: Yeah, we have a partnership. David Yardas actively participates. Nature Conservancy, I think, in terms of the institutional infrastructure is much more dominant–David is a participant and a key player just because of his analytic [skills]. He's been involved ten years in this project.

Seney: But he's in Oakland and you're here, so that's what you mean in terms of the institutional infrastructure–you're actually structured to be in the area.

Chisholm: Yeah, and Nature Conservancy has ~~the~~ [a local] office.

Seney: So were you assigned immediately to this project?

". . . I applied for this project director position. . . ."

Chisholm: Well, I applied for this project director position.

Seney: Did you know anything about the Newlands Project before then?

". . . what I liked about it was that it was an attempt to work through a whole series of conflicts in a way that I could support. . . ."

Chisholm: Yeah. I spent a lot of time reading about the Newlands Project, about Nature Conservancy's involvement here, about some of the litigation that has gone on surrounding the Newlands Project, surrounding the Truckee River-Carson River. In many ways what I liked about it was that it was an attempt to work through a whole series of conflicts in a way that I could support.

". . . environmental restoration of two very important areas . . . committed to working with the community, to avoid litigation, to work with other stakeholders . . . and really trying to find solutions that worked . . ."

Working for environmental restoration of two very important areas: Pyramid Lake/Lower Truckee River, and the Lahontan Valley Wetlands, by also being committed to working with the community, to avoid litigation, to work with other stakeholders within the broader community, and really trying to find solutions that worked–both biologically, but also for the community and for the other stake-holders.

Seney: Were you impressed by the complexity and the difficulty of the situation when you began to delve into it?

Chisholm: Overwhelmed is probably (chuckles) a better word.

Seney: I must say I know the feeling.

". . . there are a lot of pieces. But I don't think it's too complex a problem. . . . [though some] people like to say it is, to keep new people from getting involved in it. But when it comes right down to it, it can be untwined . . ."

Chisholm: Yeah, there are a lot of pieces. But I don't think it's too complex a problem. And I think there are times when people like to say it is, to keep new people from getting involved in it. But when it comes right down to it, it can be untwined and you can begin figuring how to address them.

Seney: I can certainly understand why Sierra Pacific Power is interested. I can certainly understand why the Pyramid Lake Tribe and the Fallon Tribe are interested, and why TCID [Truckee-Carson Irrigation District] is interested, and Churchill County, and Washoe County, and on and on, the whole list of participants. But what was it that stimulated

the Nature Conservancy to become involved?

Involvement of the Nature Conservancy with the Newlands Project

"Dave Livermore decided to buy water rights for Stillwater Marsh because of the importance of this type of wetlands system in a desert, in the Great Basin. . . ."

Chisholm: [Dave Livermore decided to buy water rights for Stillwater Marsh] because of the importance of this type of wetlands system in a desert, in the Great Basin.

". . . David Yardas of the Environmental Defense Fund . . . was interested in the question of can market mechanisms be used to benefit the environment? . . . Dave Livermore handled the real estate side, Robert Wigington, . . . with Dave Yardas, helped pioneer . . . the transaction . . . to define what was being purchased, how to deal with the potential protests from the Pyramid Lake Tribe [and TCID] and how to get waters out to the wetlands. . . ."

He was also approached by David Yardas of the Environmental Defense Fund who was interested in the question of can market mechanisms be used to benefit the

environment? And essentially Dave Livermore handled the real estate side, Robert Wigington, our water rights attorney, with Dave Yardas, helped pioneer, essentially, how the transaction not just the real estate deal, to define what was being purchased, how to deal with the potential protests from the Pyramid Lake Tribe [and TCID] and how to get waters out to the wetlands.

Seney: You're talking now about actually going out and buying some water rights and dumping the water out into the wetlands and rejuvenating them.

". . . having the wetlands become a water rights holder within the Newlands Project, and . . . hold the water right and be able to call the water right out into the wetlands. . . ."

Chisholm: Yeah, and basically having the wetlands become a water rights holder within the Newlands Project, and having Fish and Wildlife Service, Nevada Division of Wildlife, Nature Conservancy–whoever–hold the water right and be able to call the water right out into the wetlands.

Seney: Now doesn't the Nature Conservancy usually hang onto this kind of thing itself? That is, in some other part of the country, if you were to

buy water rights or land, you would retain title to that?

Chisholm: It varies. Depending. Some properties we purchase to hold indefinitely, [and] manage ourselves. And there's some properties that we intend to do that, but over time if we don't feel as though we can any longer afford the investment, we'll find an entity that will perform that same function through eternity, and manage it for biological resources.

Seney: So it very much depends on the local circumstances.

"In this particular area, it was different in the sense that the land was already technically protected. The wetland areas . . . simply didn't have dependable water. . . ."

Chisholm: It does. It varies. In this particular area, it was different in the sense that the land was already technically protected. The wetland areas were out there, they simply didn't have dependable water.

Seney: What to you mean "technically protected"? It's part of the Stillwater Wildlife Management Area?

Chisholm: Well, in the sense the land was out there in ownership of certain agencies, in this case . . . .

Seney: BLM [Bureau of Land Management], or . . . .

Chisholm: Well, it's Fish and Wildlife Service. Carson Lake is a little bit more complicated–the State of Nevada was involved, but it's Federal land. But the lands were there, the wetlands were there on paper, and they simply didn't have water rights that they could call and depend on. So it didn't make sense, necessarily, for us to be out buying land to hold it. Here we were buying water rights, and the agencies where managing those wetland areas are probably the entities that are best suited to hold onto the water rights. It wouldn't make sense for Nature Conservancy, necessarily, to hold a block of water rights, when the management of those water rights would be in the hands of the State or Fish and Wildlife Service.

Seney: So under those circumstances, whomever they'll finally fall to, the State of Nevada or the U.S. Fish and Wildlife Service, you'll work out some sort of contract with them? Or when you hand over the water rights you'll say, "Now these are for you, but we expect you to do certain things with them"?

". . . we do the transaction to transfer the water right from the particular parcel . . . out to the wetland area–either Carson Lake or Stillwater Marsh–so that . . . the water right is now appurtenant to the wetland area. . . ."

Chisholm: Well, before we're essentially bought out, taken out of a water right, we do the transaction to transfer the water right from the particular parcel where it's appurtenant, out to the wetland area–either Carson Lake or Stillwater Marsh–so that when Fish and Wildlife Service or the State of Nevada acquires that water right from us, the water right is now appurtenant to the wetland area.

Seney: So that really solves all the problems I'm suggesting here, (Chisholm: Yeah.) that is, in what they're going to do with it. It's a natural sort of business.

". . . question of how those wetland areas are managed is one that is being worked out as water is being acquired by the agencies, with public involvement. . . . Nature Conservancy will . . . *want* to be involved in terms of how water is managed, what types of wetlands are recreated in those areas. Is water managed for wetland communities? . . . Is it managed for ducks versus shore birds? . . . in terms of vegetation. . . . what

types of areas: deep water, shallow, alkaline playas . . . how the water . . . management occurs. It affects species mix, plant composition . . . we would like . . . to look at managing for biodiversity . . . trying to recreate the mosaic of wetlands that were out there prior to the Newlands Project, granted that we're looking at a scale model as opposed to anything on the order of what was here historically. . . . probably about 150,000 [acres] on average, plus some additional wetlands over in the Lake Winnemucca area. . . ."

Chisholm: The question of how those wetland areas are managed is one that is being worked out as water is being acquired by the agencies, with public involvement. And I think Nature Conservancy will remain involved, and *want* to be involved in terms of how water is managed, what types of wetlands are recreated in those areas. Is water managed for wetland communities? What types of wetlands communities? Is it managed for ducks versus shore birds?

Seney: Is that what you mean when you say "wetlands communities," ducks versus shore birds?

Chisholm: I mean wetland communities more in terms of vegetation. Are they tule communities, alkali ~~weed~~ [bullrush]–what type of wetland

vegetation? That often corresponds to certain types of species.

Seney: And how much water maybe you put on an area as well.

Chisholm: Yeah, and what types of areas: deep water, shallow, alkaline playas, whatever.

Seney: And water that's always there sometimes leaches out or evaporates–I'm not sure I'm using the right words.

Chisholm: Right. And how the water is moved around in a system that's now a series of units–how the water management occurs. It affects species mix, plant composition, et cetera. And that's an area that we have particular interest, because we're involved in this, in part, because we would like, in the wetlands case, to look at managing for biodiversity, as we call it–more specifically, trying to recreate the mosaic of wetlands that were out there prior to the Newlands Project, granted that we're looking at a scale model as opposed to anything on the order of what was here historically.

Seney: Well, I think you say that there were 175,000 acres.

Chisholm: Well, probably about 150,000 on average, plus some additional wetlands over in the Lake Winnemucca area.

Seney: This was prior to the Newlands Project.

Chisholm: Yeah. That's an estimate that was created by the U.S. Geological Survey.

Seney: Are you pretty comfortable with that estimate? Do you think they have it right.

Historic Wetlands at the Terminus of the Carson River

Chisholm: It's hard to tell, but probably. They were looking at, I think, the 1845 to 1860 period. It varied greatly, and that's the biological importance of these wetlands, is that they would vary from very small, probably down to 25,000 acres during very dry periods, then expand up into . . . .

END SIDE 1, TAPE 1. SEPTEMBER 12, 1994.
BEGIN SIDE 2, TAPE 1. SEPTEMBER 12, 1994.

Seney: So they're looking at this 1840 to 1865 period? I guess they're seeing if that's an extra heavy year, or period of rain?

Chisholm: Yeah, I mean, they tried to normalize for that,

and they have a whole methodology for looking at the numbers, but roughly speaking, their view is that probably that average is based on, at minimums, probably being down to 25,000 acres, in the Carson Lake area, which was the historic fresh water area in that valley; growing into very, very, very wet years where the Carson Sink entirely filled and connected with the Humboldt Sink, and probably you had on the order of 250,000 acres of wetlands.

". . . essentially you're looking at a system that was a giant inland delta. . . . Water would push into the valley, runoff driven, and there were wetland areas that were fresh, such as Carson Lake, which . . . filled up and overflowed, . . .into a series of sloughs . . . And the importance of it is, you had a whole salinity gradient going from very fresh water in the Carson Lake area . . . up north becoming increasingly saline, and different types of wetland communities corresponding to that salinity gradient. . . ."

And essentially you're looking at a system that was a giant inland delta. It was a terminal basin. Water would push into the valley, runoff driven, and there were wetland areas that were fresh, such as Carson Lake, which was probably about eight feet deep on

average. And as that filled up and overflowed, it would overflow into a series of sloughs that would push the water up through the valley up to the north-northeast, up towards Stillwater, and eventually out into the Carson Sink. And the importance of it is, you had a whole salinity gradient going from very fresh water in the Carson Lake area, south of the community, up north becoming increasingly saline, and different types of wetland communities corresponding to that salinity gradient. That changed somewhat with a flood in, I believe it was 1861-62, when the Carson River formed a new channel up to the northeast. Water continued, I believe, to flow to the south branch, but now water also went directly up toward the Carson Sink. You know, this natural process. A little later on, another hole was . . . .

Seney: Would that make it more fresh water up there.

Chisholm: There were some freshwater areas up there as well. An artificial channel was also created, probably within a decade after that, but by that time you were beginning to see water being diverted for pasture land, and kind of the development of agriculture in the valley.

Seney: Even before the [Newlands] Project itself, you mean? (Chisholm: Right.) Yeah. And I'm

not sure if I understood when you said what you want to recreate. Is it going to be a kind of microcosm of this, do you know?

Chisholm: A scale model. We hope.

Seney: Some from fresh water to salinity, this gradient, kind of repeat it if you can?

Chisholm: Yeah, try to recapture that gradient–and it's difficult. At this point, you're dealing with–for the wetlands, in any case–generally more saline water. And part of the acquisition program is to try to get a fresher supply for the wetlands, to be able to commingle with the very heavy drain component that comes into those wetlands, which tends to be more saline.

Seney: That complicates the water quality, doesn't it?

Chisholm: I think so, yeah.

Seney: Is there any thought at some distant point in the future that Lake Winnemucca may once again be a wetland? That's going to require refilling, almost, Pyramid Lake, by what, seventy feet, plus? (Chisholm: Yeah.) And then the overflow from that. Is that in the thinking that someday that may be?

". . . as far as *naturally* having a wetlands system redevelop at Lake Winnemucca, I think that's a long way in the future [if ever]. . . ."

Chisholm: I think it's, as far as *naturally* having a wetlands system redevelop at Lake Winnemucca, I think that's a long way in the future [if ever]. Just generally speaking, looking at some of the modeling that's done by David Yardas, ~~that~~ [we estimate] even if there were no more diversions out of the Truckee for the Newlands Project, and you had a repeat of the historic hydrology, which is a big question mark, that you're still looking at about another, I believe, eighty to eighty-five years before Pyramid Lake would rise to a level that was high enough to be able to move water into what was called Mud Slough, and move water over to Lake Winnemucca [, assuming you put a culvert under the highway.]

There Has Been Some Talk of Creating Artificial Wetlands in Lake Winnemucca

Now there has been talk of the potential of recreating some artificial wetlands in Lake Winnemucca, both by the Pyramid Lake Tribe and apparently by Bookman-Edmonston, potentially pumping water into . . . .

Seney: Bookman-Edmonston is?

Chisholm: Is a consulting firm that's doing work on behalf of Lahontan Valley Community. But it's hard to tell.

Seney: That would be pumping?

Chisholm: It would be pumping water into the basin, it would be taking water out of the Lower Truckee River, or out of Pyramid Lake. And I think there would be a lot of questions that would have to be answered before we would want to think about pumping water, to try to create a wetlands system out there of unknown quality at this point.

Seney: Now, Public Law 101-618 mandates 25,000 acres of wetlands out in the Stillwater Marsh area. Do I understand that right?

Chisholm: It calls for, on average, 25,000 acres of wetlands in three different areas.

Seney: A little more, a little less, depending upon how much water has fallen in the winter.

Chisholm: Yeah. And that's important, how you define that average. It makes a big difference in terms of how much water you need to do that.

If you tried to keep a 25,000-acre minimum, it couldn't be done, probably. You'd have to take out, and acquire ~~almost all the~~ [a tremendous amount of] agricultural land to maintain ~~any -- if you didn't want to drop below~~ [a minimum of] 25,000. So looking at the average, makes it, I think, much more doable. The question is, how do you define an average? Annually? Do you measure it four times a year? How that's done. And that makes a big difference.

Seney: That'll be a subject, I would think, of some intense negotiations.

Chisholm: Probably.

Seney: Will that be in this second round of negotiations, that question, do you think?

Chisholm: Yeah, I think it's pretty clear that Senator [Harry] Reid wants to maintain the goal as defined in the legislation. The question is, how do you get there, how do you define the goal? And I think that's where some of the discussions will occur.

Seney: In the paper that you gave me that *you* wrote on all of this, the 25,000-acre wildlife refuge is going to require 100,000 acre-feet of water, according to the Fish and Wildlife Service.

Chisholm: Not less than 100,000.

Seney: Yes, not less. That's a lot of water.

Chisholm: I think that's of acquired water. They're looking at about 125,000 acre-feet, which includes acquired water plus maybe about 25,000 in drain flow. They're modifying that somewhat. Environmental Defense Fund and Nature Conservancy are looking at that and trying to look at how much water will it take, overall, plus a core of acquired water. It could be that we only need 110,000 acre-feet of water, *total*, composed of acquired, leased, drainwater, other pieces. I mean, that's what, going into this negotiation, we're going to try to [determine].

Seney: So that's still on the table? You haven't been able to decide quite exactly how much you need.

Chisholm: We have some ideas of how much [but it varies according to many factors, including how you manage it]. And we're looking at roughly a core of acquired water on the order of 75,000-80,000 acre-feet of water.

Seney: Then you add the 25,000 acre-feet of drainwater?

Chisholm: Well, drainwater, if you're only acquiring that much, you'll [probably] have more drainwater. The more you acquire, the less drainwater you have, because drainwater comes off agricultural land. So there'll be a drainwater component. We're also looking at leasing water so that you can keep more agricultural land in production permanently, but allow the wetlands to interrupt it in certain types of years.

Seney: Let me go through these, because you do talk about leasing water, so that we have an idea what this means. You're talking about the idea of taking[2] 100,000 acre-feet of water– even *buying* the water rights, which is, as I understand, what you'd have to do on the Newlands Project (Chisholm: Right.) because these are water rights owners. The law is pretty clear there. So you're going to have to go into the market and buy these. (Chisholm: Right.) But that has, as you point out, alarmed the community in Fallon, because that would pretty much cut in half the amount of water now used for irrigation.

Chisholm: It would basically reduce the agricultural base

2. In a marginal note on the manuscript Mr. Chisholm added the following: "I don't want any misunderstanding that I agree we will 'take' water rights."

kind of in half if you're looking at the numbers Fish and Wildlife Service is looking at–a half to two-thirds.

Seney: Yeah, so we're going from, say, 60,000-~~65,000~~ irrigated acres, to 20,000-30,000 irrigated acres. (Chisholm: Yeah.)

Let me ask you to talk about some of these terms here. One is the locally-developed "land rating system," as part of the acquisition program. Tell me what you're talking about with this rating system.

". . . our view was that if water is going to be acquired, it should be done, as much as possible, from the margins of the project in [order to] avoid checkerboarding, try to take out the worst quality soils in order to improve water quality into the wetlands. . . ."

Chisholm: Approximately, I guess, about two-and-a-half, three years ago, Nature Conservancy, Environmental Defense Fund, spoke with Soil Conservation Service,[about a rating system]. If we're going to be acquiring water from land, where in the community should we be acquiring that? That was a question we put to some folks in the community–it's a very difficult question to answer. I think from a

community's perspective, it's a very difficult question, aside from the difficulty of figuring it out in terms of soils or whatever–it's politically difficult. At the same time, our view was that if water is going to be acquired, it should be done, as much as possible, from the margins of the project in [order to] avoid checkerboarding, try to take out the worst quality soils in order to improve water quality into the wetlands.

Seney: Let me ask you, if you're going to take the least productive land, would you generally be taking it, roughly speaking, from the outside in?

Soil Conservation Service Proposed to Modify its Land Evaluation and Site Assessment [LESA] Tool for the Area

Chisholm: Generally speaking, yeah. A group was put together by Soil Conservation Service and they decided to try to modify the LESA rating system that's used. And LESA is Land Evaluation and Site Assessment, and historically it had been used to evaluate the productivity of agricultural land and soil capability. What was decided locally is that they would take the LESA rating system, the shell of it, and try to open it up and incorporate other types of factors–factors that

this particular community viewed as being important–project efficiency, size of agricultural parcel acquired, impact on community services, how far would an ambulance or fire truck have to go if this piece of land were purchased and then developed. There were a whole series of rating criteria.

Seney: Added to the normal criteria of what the soil was like.

How the LESA System Might Be Used in Purchasing Water Rights

Chisholm: Right. And at this point a prototype has been developed. The question now is whether the community will embrace it. But the idea would be that this type of a rating system would then be used by the Nature Conservancy, the State, or the Fish and Wildlife Service in trying to acquire [water rights]. So the particular market mechanisms that we, within the Nature Conservancy and Environmental Defense thought about using ~~it would be kind~~ [the voting system as part] of an auction ~~system, which is almost like a~~ [or] reverse auction, a pool solicitation where we would say, "This round there's one to two million dollars available. We would like to accept bids from landowners within a certain

geographic area. Your bid would be evaluated"–and we haven't worked out the details, so let me just kind of give you an example. Your bid would be evaluated maybe fifty percent on price, and then fifty percent on how you rank in comparison to all the other properties that have been submitted for this round. And presumably, what you would do is get–a local committee would oversee the rating, in a sense, that was a locally-developed rating system–and then twenty properties, run it through the rating system, do a weighting with the price bid, and essentially you'd have properties and you'd begin at the top and work your way down until the amount that was stipulated for this round was spent.

Seney: So if my eighty acres were, let's say, pretty sandy, located on a lateral that really leaked, was adjacent to the main highway, so if it were developed, ambulance and school bus service would be pretty readily available to me and so forth. I might be pretty much at the top of the list for acquisition, if I had my price right. (Chisholm: Right.) Which I have presumably discussed with all my neighbors. (laughs) We're going to fleece you guys if we can, right? So there'll be some of that, I would think.

Chisholm: Well, there are ways to structure things too, to

make it more competitive.

Seney: To overcome that problem? Okay. Now on the other hand, if I just want to get out of farming and I've got good land, pretty remote, on a good lateral that's not leaking, you're going to put me at the bottom of the list.

". . . the question is, practically speaking . . . will the community endorse this? . . ."

Chisholm: Probably. Now I think there are different ways of weighting it, and that's where we begin getting into some of the other ideas. You know, the question is, practically speaking, number one, will the community endorse this?

Seney: Will they, do you think?

Chisholm: I don't know.

Seney: You must be working with them when you're doing this.

Chisholm: Yeah. I think there's support for some of this, but I think there are also others who are very concerned about endorsing any type of a rating system that in any way may, in *their* view, affect the ability to sell within a market.

Seney: They're worried it's going to undercut what they can ask, in other words.

". . . I think there's some who also say, 'I don't want to do anything that would in any way inhibit my ability to sell.' Whereas others in the community say, 'This community needs to *think* about what we want to look like in the future, where we want a green belt to be, where we want agriculture to be protected.'. . ."

Chisholm: Potentially. And I think it's just the whole problem with zoning. Does it benefit you? Does it hurt you? It can do both, and it really varies on where it is and what the circumstances are. And I think there's some who also say, "I don't want to do anything that would in any way inhibit my ability to sell." Whereas others in the community say, "This community needs to *think* about what we want to look like in the future, where we want a green belt to be, where we want agriculture to be protected." And it's a tension. I have my own views on that, but it's a decision this community needs to make, and needs to think about.

Seney: Can they make it, do you think?

Chisholm: Well, it's something, growing up in Nebraska and being in a rural community, you see that

some do, some don't, and it really varies. I don't think there are any easy ways to know if a community *can* make this type of decision.

Seney: If I may, based on my conversations with them, not in terms of anything they've said in particular, but the way they've said things, I would think it would be very difficult for the farmers in the Newlands Project, that *I* have talked to, to accept a system like this, or any system that they thought was going to encourage the purchase of their water rights.

"The unfortunate thing is, Nature Conservancy will get blamed for things that would occur anyway. . . ."

Chisholm: Yes, I think so. But on the same hand, many people are selling in the community, many long-time farmers. There's a lot of development occurring within the community. Even if I left tomorrow, water rights would be sold, land would be developed. And I think it's important to think about planning. That's how I personally feel. The unfortunate thing is, Nature Conservancy will get blamed for things that would occur anyway. A very good example, and one that I'm not particularly happy with, is an area south of the naval air station where water rights were purchased,

farms were purchased by the Nature Conservancy. There were a couple–this was before I got here–and they were purchased, the State of Nevada didn't want the land but wanted the water rights, so Nature Conservancy found a third-party buyer for the land without water rights.

Seney: What does that mean, "a third party"?

Chisholm: Essentially another buyer. So when we went to closing, someone else showed up to buy the land, and the Nature Conservancy bought the water rights and then later sold it. It's a complicated transaction, but because the State didn't want the land, there was no point in our [keeping it].

Seney: Oh, it didn't look right. Is that what you're saying, that it didn't look right to the local people?

Chisholm: No, that wasn't the problem, the problem was that the developer then turned around and on five-acre parcels, or ten-acre–I forget exactly what they are–put in mobile homes. And in an area of the community that has very poor drinking water. Now the question is, should the county be willing to zone that to prevent that kind of development? You also have overflights from the Navy, and it's an

approach to a runway. The Navy wasn't very happy, but should development be limited there? Should it be a certain type of development? The county didn't take a step, and they since later put a moratorium in place, but it took some time. The question is, what responsibility does the Nature Conservancy bear for that type of a planning decision?

Seney: That's the part you're unhappy with, that that kind of development was allowed to go in. I thought you were saying something else. I thought you were saying that the community at large looked at this transaction and didn't like it.

Chisholm: No, I don't think the transaction's a problem, I think it's the fact that development occurs there. Now, is it the Nature Conservancy's role to try to limit development there? I mean, should we hold that land and prevent development? Or, in my view, a community needs to have a community plan and decide where development occurs and doesn't occur, and some areas that they don't want to encourage development. Now I'm willing to help them out and bend over backwards. I've made sure that we haven't done that kind of a transaction, because I think the community needs time to work something like that out,

and we've come up with this land exchange idea to precisely prevent that from happening. That's a mechanism that we've suggested– whether the community endorses land exchange or not is another question. There *is* support for that.

Seney: Talk about that land exchange.

Using Land Exchange as a Tool for Planned Community Development

Chisholm: The idea would be that since the land south of the naval air station, as an example, is undesirable for development, apparently from the community's perspective, that instead of that land becoming privatized, and allowing development to occur there, that particular landowner could sell us their water rights, and exchange their parcel for a now public ~~piece of~~ parcel, in an area of the community that's more desirable for development.

Seney: That might belong to Bureau of Reclamation or BLM?

Chisholm: BLM. And that way, BLM would then hold the piece of land in the part of the community that *wasn't* desirable for development, south of the naval air station, or whatever public agency it would be. And then the community

would have the benefit of no change in terms of amount of land in public ownership, and development could be encouraged in an area of the community that the community likes to develop, such as along the highway toward Reno, west of the community. There are BLM parcels there. That's one idea.

Seney: Will BLM go along with this kind of thing? Are they likely to?

Chisholm: They would be helpful. The other question is what agency would manage that? Navy, BLM, Fish and Wildlife Service, State, I don't know.

Seney: So this is not an impossible situation, if it's BLM land.

Chisholm: No, I think it could be worked out. But that gets into the question of planning. And does the community want to try to encourage that or not?

Seney: How do you perceive, based on your experience with them and your knowledge of them, their attitude toward this kind of thing?

Chisholm: My sense is some support it and some don't. But it's like, you know, any rural community–

it's hard to come by dollars to do the good planning work, but I think it can be done.

Seney: The community's changing, a lot of outsiders are coming in, different kinds of people are coming in. Do you kind of look at that as a kind of opportunity for you as the community is changing, and maybe people with an urban background, who don't look at planning in quite the same way as rural people? It's a natural development, certainly, but as you see the situation it's one that you think maybe in the long run will be useful to you?

Issues Associated with Planning in a Community like Fallon

Chisholm: I don't know if it's useful or not, because people come into communities for different reasons, and maybe to escape precisely that kind of planning, so they may not be supportive. I think what is occurring is a great deal of change, and the imperative, in my view, is to think about it now and try to get ahead of that, and perhaps use the fact that it is changing to–it's becoming very obvious to many people in the community that development is occurring so quickly, agricultural land–*good* agricultural land in the core area where I don't want to be buying–is the land that's being subdivided and

purchased. They're losing a green belt right around the community, land along the river is being developed, and I think more people are realizing that it is time to think about that. The question is, is there broad support within the community for that–maybe for even going out and purchasing conservation easements, or development easements on agricultural land to try to keep a greenbelt around a community. That's a decision the community has to make. They need to decide if they want to tax themselves in order to do that, basically. I don't know if they will.

Seney: Let me ask you about some of the other things: What do you mean when you say "mixing fee acquisitions with leasing"?

A Combination of Fee Simple and Leasing Might Solve Both Biological and Financial Issues

Chisholm: Well, I think initially Fish and Wildlife Service thought in terms of looking at straight acquisition, fee simple, they own it. It would mean taking out more agricultural land permanently. The question is also, number one, biologically; number two, financially; does a straight fee approach make sense? And I think *our* sense is it probably doesn't, that looking at a mixed strategy works

biologically.

"These wetlands were about increasing and decreasing amounts of water coming in, and variability. Extra pulses in certain years, and a leasing strategy could help with that. . . ."

These wetlands were about increasing and decreasing amounts of water coming in, and variability. Extra pulses in certain years, and a leasing strategy could help with that. Financially, it also means putting up less money up front. I have serious questions about whether Congress would ever appropriate sufficient dollars to purchase 100,000 acre-feet of water.

Seney: You've mentioned 100 million-plus here as a likely figure.

Chisholm: And that's a rough estimate, it could be less, it could be more, *much* more. Leasing, the notion would be that you keep more land in production, you have the ability to give the wetlands pulses when it needs it. You have the ability to also create an endowment, get a revenue stream, if you can find one, and pay for water further out.

Seney: Let me get a sense of what it would mean. If you come to me and you want to lease my

water for, what, a year, maybe two years?

Dry Year Leasing Option

Chisholm: Well, there are different strategies. You can look at a dry-year option.

Seney: Tell me about that, because that's one of the things that kind of stuck here. I didn't quite understand that.

Chisholm: A dry-year option essentially is, I come to you and we negotiate my ability to interrupt your water delivery under certain conditions. We can negotiate many different types of ~~ways~~ [arrangements].

Seney: Say if it falls below sixty percent a year, then we have a lease agreement.

Chisholm: Or it could be just in a twenty-year period I have the ability to interrupt your water five times, under any condition. You can negotiate many different types of ways. Or it could be any time it's a fifty percent year and less, I give you a payment that year, and that year that we interrupt. But a dry-year option probably would mean I give you an up-front payment as a consideration for holding the option, and then in any given year that I

interrupt it–or I may decide *not* to interrupt it, it may be too expensive for me to interrupt it–but I would pay you in the year.

Seney: Good faith money up front?

Chisholm: And then money in each year that I interrupt it. A lease is potentially a different strategy. I mean, you can have short- and long-term leases. It could be a spot-market lease where essentially, in a given year, we look at the water situation, we say, "Boy, the wetlands are going to really take a beating. They could really use 10,000 acre-feet of water," and we go out and offer, call for bids.

Seney: Advertise in the Fallon newspaper, say, "We need 10,000 acre-feet."

Chisholm: Who comes through the door at a certain price–it could be a fixed amount, or it could be bid to us. But that's a slightly different strategy than a dry-year option.

Seney: So in the dry-year option, maybe a twenty-year agreement with me, paid up front.

Chisholm: Well, partially paid up front, and then payments in the years that we interrupt.

Seney: That's right, but you may *never* interrupt.

Chisholm: And I may never pay you more than $1,000 to hold the option. But essentially I guess what we're looking at is eventually a whole mixed portfolio that would work financially and biologically–[to provide] a core protection, [we need this because the wetlands remain at tremendous risk]. They're at the end of the system, they're dependent on drainwater. Part of the acquisition program is sharing some of that risk, putting the wetlands in a better situation. Not acquiring all the water we need means the wetlands ~~would still have some of that risk~~ [will still be at risk] because they have less than maybe in the best of all possible worlds, but that's the reality of it, I understand that. But it means having a core and then using a mixed portfolio to supplement that in various years, and figuring out the financial management of that, and how that would work. You need a large endowment, and you need to think pretty carefully about how often you want to exercise an option agreement or enter the leasing market.

Seney: So you'll make some judgement about how many water rights you really need to buy, straight out, "We ought to own this many to have a minimum guarantee. Then we'll have some drought-year [options], then we'll have

some leasing," and that kind of thing to supplement it over the years. (Chisholm: Right.) Are these things that the Conservancy has used elsewhere? Or are these kind of pioneer notions you're coming up with?

Believes That Acquisition of Water Rights for Environmental Objectives on a Federal Project Was Pioneered on the Newlands Project

Chisholm: I think it's pioneered in the Newlands Project. My understanding is that the acquisition of water rights [for the environment] within a Federal project was first done in the Newlands Project. The notion of a dry-year option, or drought-year option, interestingly enough, has never, in a narrow sense, as I've previously defined it, hasn't actually even been done for ~~- - cities haven't been able to negotiate a dry-year option yet~~ [for the benefit of the environment.] An economist who's been working with us, Ari Michelsen from Washington State University, is interested in trying to help us figure out, it can be done here.

Seney: So you're looking forward to some real innovation here.

Chisholm: Yeah, and clearly EDF has played a very big role here in terms of their real expertise, in

terms of the whole notion of water marketing. David Yardas has been real key in that regard, as well.

Seney: What do you mean when you talk about–and maybe you've answered this already–a "land bank to keep highly productive agricultural land in production"?

Using a Land Bank to Direct Development along Lines Approved by a Community and to Assure Project Efficiency

Chisholm: Well, we've kind of talked around it a little bit, but the notion is that if the rating system has defined a core area of agricultural land, that from the community's perspective, they would prefer to see maintained in agriculture; that if you owned good farm [land, and] wanted to still get out, we wouldn't discourage you, but we would hold your land–not your water rights–but your land in a land bank to be made available, to hopefully entice somebody on the margins of the project to trade a less desirable piece of land for a piece of land in the core of the project.

Seney: And bring their water rights along?

Chisholm: And bring their water rights with them to that

piece of land. But it's a way of helping protect that core area of agricultural land.

Seney: Is this something you feel you need to do to allay the community's fears that their agricultural community will disappear? Or do you think it's just good policy?

Chisholm: I think it just makes sense. We think in terms of core protection strategies for the wetlands, and then these kind of interruptible pieces.

END SIDE 2, TAPE 1. SEPTEMBER 12, 1994.
BEGIN SIDE 1, TAPE 2. SEPTEMBER 12, 1994.

Seney: This is September 12, 1994. My name is Donald Seney. I'm with Graham Chisholm, the special projects director of the Nature Conservancy, in his office in Reno, Nevada. Go ahead, we were talking about applying the same core strategy to the community of Fallon as you're doing to the wetlands themselves.

". . . the way *I* would envision it . . .is that if the agricultural base over time is going to be downsized–regardless of whether it's because of the water rights acquisition program, or simply because of change occurring within the community, that it's wise to think in terms of a core agricultural area, both in terms of keeping the best lands in production, but also in terms of

project efficiency . . ."

Chisholm: I guess the way *I* would envision it–and I'm always open to hearing what the community thinks about this–is that if the agricultural base over time is going to be downsized–regardless of whether it's because of the water rights acquisition program, or simply because of change occurring within the community, that it's wise to think in terms of a core agricultural area, both in terms of keeping the best lands in production, but also in terms of project efficiency, and trying to keep the most efficient areas–don't have a checkerboarding so you have blocks of land that are being irrigated and water is being delivered to.

Seney: The problem there being that the inefficiencies of having the canal come way out to one or two places, and leak all the way along.

Chisholm: Right, and having the acquisition program purchase pieces of land in kind of a checkerboard.

Spread of Weeds from Unfarmed into Farmed Land Is a Concern of Farmers

Seney: And the farmers argue, too, that if you do that,

apparently the weeds will come from an undeveloped and no longer farmed lot into a field which has still got alfalfa in it, and cause them a lot of headaches. (Chisholm: Sure.) I guess they have that concern too.

". . . it's a question of seeing . . . if there's [community] support . . . If there's *not*, the question becomes, over the long term, how does the acquisition program work? . . . ultimately the community needs to support these wetlands if they're going to survive over the long term, and recognize that the wetlands can also be a very important partner for them . . . in terms of keeping water flowing into that valley . . ."

Chisholm: And it makes sense. But things that make sense don't always happen. And my view is, we've put out a lot of these ideas, and they're ideas we've picked up from other people as well. And it's a question of seeing, perhaps in the negotiations, if there's support for trying to implement some of them. If there's *not*, the question becomes, over the long term, how does the acquisition program work? My view is, these are some of the types of ideas, that if implemented, will help create a better relationship between the restored wetlands over the long term in the community. My view is that over the long term, unless Nature Conservancy and others, Fish and Wildlife

Service, think in these terms, it's going to be very difficult to actually restore these wetlands, because ultimately the community needs to support these wetlands if they're going to survive over the long term, and recognize that the wetlands can also be a very important partner for them, being at the bottom of a river system, in terms of keeping water flowing into that valley, that there's a very good partnership there.

Seney: That it's a lure, in other words, politically speaking.

The Situation in Fallon Is Very Complex in Terms of Community Interrelationships, Agriculture, the Wetlands, the Fish and Wildlife Service, and Pyramid Lake

Chisholm: It's a broader coalition. Which is something that in the past has not always been thought about and been there. You know, there's been some real animosity. I mean, there are clearly people in the community who are lovers of the wetlands and have spent childhood days out there hunting, fishing, just wandering around. But there has also developed kind of an animosity, I think, that's unfortunate.

Seney: But when you say "animosity," you're talking

about the feeling that the farmers have out in Fallon toward the . . . .

Chisholm: Some do, some don't. It really varies. It's a complicated picture, because they're feeling pressure from their neighbors over in the Truckee system, the Pyramid Lake Tribe. But they're also feeling pressure from Fish and Wildlife Service. And I think there are different types of issues there. But it's very easy for it to become kind of "us versus them," and it's a much more complicated picture.

Seney: There is often suggested a "Solomon's choice" here between the restoration of Pyramid Lake and the restoration of the wetlands. Do you see it that way? Do you see a problem?

Chisholm: Not at all.

Seney: Tell me why you don't see that. A lot of people have suggested to me that they think that there's a big difficulty there.

With Pyramid Lake and the Stillwater and Carson wetlands "There's a difficulty, there's a challenge. . . ."

Chisholm: There's a difficulty, there's a challenge.

". . . the perspective of the Environmental Defense Fund and Nature Conservancy is that both ecosystems are important for different reasons. We don't want to play one off against the other . . ."

> But when it comes down to it, I have to say that the perspective of the Environmental Defense Fund and Nature Conservancy is that both ecosystems are important for different reasons. We don't want to play one off against the other, and we're pursuing a strategy that does our best not to play one off against the other.

Seney: How do you mean that?

"Part of the notion of the acquisition program was to . . . put the wetlands on an equal ground [at] the same time that you're reducing diversions out of the Truckee River, because it was recognized . . . you, through the various measures in OCAP, would also reduce the wetland acreage within the Lahontan Valley. And the water rights acquisition program . . . recognized that that's precisely what would be happening and it was a way to try to give the wetlands a standing. Unfortunately, we've seen the impact on the wetlands before

we've seen the acquisition program built out. And there has been a substantial shrinking of the wetlands. . . ."

Chisholm: Well, I guess there are two ways you could go: One is from a wetlands perspective, if that's all you cared about, you would say, "Bring over as much water from the Truckee system as you want, and don't worry about endowing permanently the wetlands with a large portion of Truckee River water." I personally, and the Nature Conservancy, can't approach it that way, because that's really putting one system off against the other, and I find it unacceptable. Part of the notion of the acquisition program was to undo that false choice and put the wetlands on an equal ground [at] ~~on~~ the same time that you're reducing diversions out of the Truckee River, because it was recognized under the OCAP [operating criteria and procedures] mechanism that reducing diversions out of the Truckee system, you, through the various measures in OCAP, would also reduce the wetland acreage within the Lahontan Valley. And the water rights acquisition program, I think in many ways, recognized that that's precisely what would be happening and it was a way to try to give the wetlands a standing. Unfortunately, we've seen the impact on the wetlands before we've seen the acquisition program built out.

And there has been a substantial shrinking of the wetlands.

The Issues with Diversion out of the Truckee River Are Quite Complex

It's been a very difficult choice for us. The Pyramid Lake Tribe supports physically decoupling and taking out the Truckee Canal. (Seney: "Blowing up Derby Dam," is sometimes mentioned.) Or breaching it, however you do it. In an ideal world, that may be the most desirable thing. It's not an ideal world.

Closing the Truckee Canal ". . . would, at this point, not only put the agricultural community in jeopardy, but from my perspective, and more importantly, it would simply undermine the wetlands entirely. . . ."

The fact of the matter is that you have a community, an agricultural community, that's developed with that supply in mind. And it would, at this point, not only put the agricultural community in jeopardy, but from my perspective, and more importantly, it would simply undermine the wetlands entirely. And I think that's a real problem, and one that I have a lot of heartburn over,

because it's a difficult choice.

"You know, what's best for Pyramid Lake in an absolute sense is very harmful to the wetlands under current circumstances. . . . what we are advocating is a way to try to reduce dramatically diversions out of the Truckee in a way that still protects the entitlements of the water rights holders within the project. Put the Truckee system back into its role as an insurance supply. . . ."

> You know, what's best for Pyramid Lake in an absolute sense is very harmful to the wetlands [under current circumstances]. So what we are advocating is a way to try to reduce dramatically diversions out of the Truckee in a way that still protects the entitlements of the water rights holders within the project. Put the Truckee system back into its role as an insurance supply. (Seney: Rather than main supply.) Right.

". . . hold . . . water in the Upper Truckee where there is storage space available. And then . . . once you see what the Carson river has actually delivered, allow that water to be brought over on the canal, if need be, to meet headgate entitlements of the farmers. Right now there's a real concern that if the water isn't brought over, they'll never see it. And it's going to take trust-

building–it's also going to take a serious accounting system . . ."

And it also may mean operating the Truckee Canal on a little bit more of a stand-by basis. Allow the water to come down the Carson River System, see what the runoff is, before you divert. Avoid diverting during the *cui-ui* staging and spawning season. Try to hold that water in the Upper Truckee where there is storage space available. And then later in the season, once you see what the Carson river has actually delivered, allow that water to be brought over on the canal, if need be, to meet headgate entitlements of the farmers. Right now there's a real concern that if the water isn't brought over, they'll never see it. And it's going to take trust-building–it's also going to take a serious accounting system to be able to develop a credit storage system that works.

Seney: Upstream credit in Stampede or Boca or Prosser?

Reducing Seepage and Evaporation Losses in the System

Chisholm: Wherever. The difficulty now is if we divert the water and bring it across and then it turns

out that they [need] to get that water back. Leaving that water up there allows a greater flexibility. And part of our view is, in such a tight system, the greatest amount of flexibility you can create, the better. It would also help reduce the amount of water that you're losing in evaporation at Lahontan, which is substantial–it can be on the order of 50,000 acre-feet a year; it can help reduce the amount of water that seeps and is lost in the Truckee Canal, which can be up to 20,000 acre-feet a year. Those are the types of losses in the system that we need to try to capture and avoid or reduce and put to other purposes.

Seney: I know a lot of people want–Sierra Pacific, for example, which they've said at public meetings where I've attended–that they want TCID to use more upstream storage, and leave it in Lake Tahoe, to have some exchanges out of Prosser or Stampede. I don't know if Boca is in the mix, but perhaps it's in the mix as well. And TCID is very reluctant to do that. They don't seem to want to work that out, and I guess their fear is that if they don't, as you're suggesting, get it run through the Truckee Canal, parked in Lahontan Reservoir, they won't get it.

Opposition of TCID to Managing the Water on the Truckee River

Chisholm: Right. That's true. And I think while that's true, we're going to have to figure out ways to work out credit storage; kind of flexible use of reservoirs and credit storage I think is simply the wave of the future, and it's certainly a direction that the Bureau of Reclamation is more and more interested in looking at, apparently, from what I can tell.

Seney: So as far as you're concerned, decoupling really isn't a practical alternative at this point.

Chisholm: A straight, physical decoupling?

Seney: It would threaten the wetlands too much.

Reducing Truckee Diversions Probably Will Result in Acreage Reduction in TCID

Chisholm: Yeah. In our view, this notion of operational decoupling as we've talked about it, you *can* dramatically reduce the amount of diversion out of the Truckee and come pretty close to attaining some of the same benefits for the Lower Truckee River and Pyramid Lake and the *cui-ui*.

Seney: You know, the farmers that I've talked to in the project seem to think that everybody thinks the solution to the problems of water

and distribution and so forth, are to shrink the Newlands Project down to about 20,000 acres of productive agriculture. That would save enough to rejuvenate the *cui-ui* run, that would save enough to rejuvenate the Stillwater Marsh. Are they thinking the way others are thinking when they come to that conclusion?

Chisholm: I don't know if 20,000 acres or 30,000 or whatever.

Seney: But you see it as shrunk considerably?

Chisholm: Yeah. Essentially we're going back to an acreage which is probably close to what was originally there. (Seney: Before the project.) Right.

Seney: It was about 20,000-30,000.

". . . realistically, given what's occurring in Fallon, that type of shrinking is likely to occur anyway. . . . as land becomes more valuable and water becomes more valuable, it becomes very difficult to farm, and specifically to farm the types of crops that are being farmed within the Newlands Project . . ."

Chisholm: And I think realistically, given what's occurring in Fallon, that type of shrinking is

likely to occur anyway. The fact is, as land becomes more valuable and water becomes more valuable, it becomes very difficult to farm, and specifically to farm the types of crops that are being farmed within the Newlands Project, primarily.

Seney: So what will happen there is what has already happened in the Truckee Meadows, and that is the irrigators will sell off their water rights, subdivide their property and agriculture will essentially disappear from Fallon.

Agriculture ". . . won't disappear, but it'll certainly be reduced. The question is, "How?" And do we plan ahead and think about these issues together and try to work on them or not? . . ."

Chisholm: It won't disappear, but it'll certainly be reduced. The question is, "How?" And do we plan ahead and think about these issues together and try to work on them or not?

Seney: One of the things that the people in Fallon talk about is the building of a municipal water system. If a municipal water system were built by someone–and they would like someone else to build it as kind of a bribe for them going along . . . . (Chisholm: So would every community.) I can understand that. If I

could get it, I would want it too. That would substantially change the equation, would it not? If a municipal water system were built there, then the argument that the leaky canals recharge the aquifer would be taken away. Then the problems of development would be somewhat satisfied, because now you'd have a separate water system that could be used.

Chisholm: Except you'd prefer, to keep costs down, the development occurs in certain areas.

Seney: That's one way you make sure it does, is by where you extend the mains and all that for the water system, of course. (Chisholm: Right.) Is that something that the Nature Conservancy has in the back of it's mind.

Issues with Canal Seepage and Culinary Water Supply in Fallon and the Surrounding Area

Chisholm: Sure. I mean, we've been very explicit about it, that even if water were not being purchased, and land being dried up, which is one of the concerns that'll have an impact on the shallow aquifer, which is the source of maybe 4,000 wells or so, folks outside of the municipality of Fallon. You've got some water quality problems within the shallow aquifer. And kind of quantity problems as well. You've got septic systems that

potentially can leach out into the groundwater table. There's a need to address that question. There's also a need within the city limits of Fallon–the water system is a centralized system based on a deeper basalt aquifer, and there's some questions of water quality there related to arsenic. The city's been working with EPA [Environmental Protection Agency] over the arsenic question. That water supply is being mined, it's being used unsustainably at this point. It's a community that's growing, demands are growing, especially in the basalt aquifer. There's just a need to think about water planning as well. It's a common theme here. But certainly we would support trying to figure out how to get a system that maybe conjunctively uses water out of the deep basalt aquifer in addition to surface water. It's expensive–surface water treatment, the distribution system. It costs money. It probably needs to be some kind of a joint partnership with low-interest loans of some kind. I think the naval air station, given the types of demands that they're putting on that community, needs to be a player there, and involved in terms of helping to address that issue for the community.

Seney: Are you working with them at all to draw them in as someone who would help pay for

some of these solutions as a way to overcome some of the . . . . (Chisholm: Yeah.) I would understand that politically-speaking, that would be a wise thing on your part to do.

The Nature Conservancy Is Encouraging Reclamation to Study Drinking Water Problems in All of Churchill County and Actively to Include the Naval Air Station

Chisholm: Well, not just wise. I mean, they're the largest employer in the community. I mean, they're a big player there. Growing up in a military community, I know that often they would prefer to say, "We don't affect the community in those types of ways," and not get involved in it. That's not the reality of it.

I've encouraged the Bureau of Reclamation to expand their drinking water study for the Fernley-Wadsworth area to do a study of the Churchill County area, and make sure that the Navy's involved. Now's the time to get folks involved in that. And the Bureau has initiated the studies. It seems to be going slowly, but I think the Bureau recognizes that that's a real problem and a real issue. And in an area that I think the Bureau is well-suited to helping a community and a traditional constituency address change. And I would like to see them do more of that.

Seney: How do you find the Bureau to work with?

Chisholm: You know, I have no problems with the agency–individuals vary, as in any agency. From the background that I come from, I'm very sympathetic to their traditional constituents, and where a lot of the folks come from. And you know, a lot of the folks who work in the Bureau that I bump into are from places like Nebraska or the Dakotas or wherever, and they're in a very tough situation now, because it's an agency undergoing change. There's a great deal of uncertainty as to what that change is, and what it's about, what it should be about; uncertainty about what *their* role is in the future. And I guess I see a lot of these individuals operating in that uncertainty. And when they operate under uncertainty, some do well, some don't. Some are rising to the challenge, some aren't, so it's a real mixed bag.

Seney: Well, we're interested in the views of the participants and all the people we talk to, in terms of the Bureau of Reclamation and the role that the Bureau has played, and I can understand what you're saying here. And if you want to say anything more specific, that would be useful to us, and critical for that matter, or laudatory for that matter–so that the

Bureau can have a picture of where it stands in this sort of thing.

". . . I think OCAP is disastrous . . . a micromanaging nightmare–not just for the Bureau . . . being asked to manage, in this micro sense, their traditional constituents . . . It's a nightmare also from the community's perspective in that they're being micromanaged–no doubt about it. It hasn't integrated the wetlands into the thinking of it. . . ."

Chisholm: You know, they're kind of *both* types of comments. On the one hand, I think OCAP is disastrous: the type of OCAP that we've come up with is a micromanaging nightmare–not just for the Bureau, which I suspect it is, because they're being asked to manage, in this micro sense, their traditional constituents, the Newlands Project. It's a nightmare also from the community's perspective in that they're being micromanaged–no doubt about it. It hasn't integrated the wetlands into the thinking of it.

Seney: Well, it's been disastrous for the wetlands, hasn't it?

". . . it unmasked the impact of the Newlands Project on the wetlands. . . . the impact of the Newlands Project on the wetlands was masked by

the fact that you could bring over so much water from the Truckee system, and you could run water out there in the winter and there was a great deal of slop in the system. . . ."

Chisholm: Yeah. What it did was, it unmasked the impact of the Newlands Project on the wetlands. For so long, the impact of the Newlands Project on the wetlands was masked by the fact that you could bring over so much water from the Truckee system, and you could run water out there in the winter and there was a great deal of slop in the system.

Seney: Generating power in the winter.

". . . once you begin tightening down and trying to benefit Pyramid Lake, all of a sudden the *real* impact of the Newlands Project on the wetlands becomes very apparent. . . ."

Chisholm: Right. And once you begin tightening down and trying to benefit Pyramid Lake, all of a sudden the *real* impact of the Newlands Project on the wetlands becomes very apparent. And I think a lot of people don't like to think of it that way, and that's, I think, a reality there.

"As far as the Bureau goes, they played a role in

writing the OCAP. They may be unhappy with it now, and certainly the people who have to implement it are unhappy with it, but they helped create it as well. . . . my view here is that the Bureau needs to take a leadership role . . . They're the best agency right now to help this community figure out how to adjust to a change. . . ."

> As far as the Bureau goes, they played a role in writing the OCAP. They may be unhappy with it now, and certainly the people who have to implement it are unhappy with it, but they helped create it as well. On the other hand, my view here is that the Bureau needs to take a leadership role, and you see it with some individuals, you don't see it with others. They're the best agency right now to help this community figure out how to adjust to a change.

"The Bureau helped create that community, and they need to help that community make it through that change. Change is happening anyway. A lot of things are happening . . . It needs to help recognize that change is coming, and help that community . . ."

> The Bureau helped create that community, and they need to help that community make it through that change. Change is happening anyway. A lot of things are happening–the

Bureau needs to play that leadership role. Some people in the Bureau don't–some would rather help the community lock the gate and try to make change go away. That is, my view, from an agency's perspective, the most irresponsible thing that that agency can do. It needs to help recognize that change is coming, and help that community, whether it's in dollars, whether it's in planning, technical expertise. I mean, the Bureau is well-suited to do it, and you do see Ed Solbos doing some of that. The drinking water study I think is a key piece. There's *some* participation in helping with a coordinated GIS system within the valley, trying to bring all the various agencies in.

Seney: The "GIS," meaning?

Chisholm: Geographic Information Systems. Kind of the planning map and components that can help that community think about these types of changes and plan for them. The Bureau has been a participant in the whole LESA land-rating working group. Those are the types of efforts that I think are key, that the Bureau needs to do more of.

The question of "Can the Bureau and the Fish and Wildlife Service work together?"

is a good one. Fish and Wildlife Service is buying land, the Bureau is concerned about efficiencies, because that's what they're being driven by. The question is, "Can they work together to help identify areas in the project that should be retired? Should targeting occur? How does it occur? Can you do targeting with a willing seller market? Can you offer incentives to try to bring more willing sellers into the market and target [them]?"

". . . the Bureau and the Fish and Wildlife Service need to sit down and work. But they are two agencies that historically *haven't* worked all that well together . . ."

Those are questions that the Bureau and the Fish and Wildlife Service need to sit down and work. But they are two agencies that historically *haven't* worked all that well together, and I think the challenge is to really get them to do that.

Seney: Well, the Fish and Wildlife Service has a problem because they have one set of individuals at Pyramid Lake and another at Stillwater Marsh, and my understanding is they don't necessarily agree on what should be done.

There Are Differences Within Bureaus

Chisholm: There's some differences within agencies, and it can be very counterproductive. Counterproductive also in terms of good planning, good ecosystem planning, good dollar planning. I think there needs to be better integration. Bill Bettenberg with the Department of the Interior, the special assistant who's been the coordinator within Interior on this issue has needed to bring in a whole planning team, kind of a whole new set of individuals to try to do an integrative planning. It doesn't speak well for the fact that the agencies here haven't been able to do that together, *within* agencies.

Seney: As I understand it, part of the root of the problem is the fact that the components of Interior don't agree: BIA [Bureau of Indian Affairs], BLM, the Bureau of Reclamation, and the Fish and Wildlife Service.

Disagreements among Federal Bureaus

Chisholm: Yeah, and then you've got Soil Conservation Service, EPA.

Seney: Soil Conservation Service is Department of

Agriculture?

Chisholm: Well, they're outside of Interior. I mean, Interior needs to figure out how to bring this together. There are also some difficulties in terms of Endangered Species Act, being one set of imperatives, whereas the wetlands, you don't have that sort of endangered species "hook."

Seney: But you do have it at Pyramid Lake, is that what you mean?

". . . we need to think kind of a little bit more broadly in how to integrate that. . . . You can't have the *cui-ui* folks, the fishery folks, thinking just in terms of how to address *cui-ui* needs, and the wetlands folks just thinking about in terms of how do you enhance wetlands. They need to understand that as an agency, they have a broader responsibility. . . ."

Chisholm: Right. But all I'm saying is, we need to think kind of a little bit more broadly in how to integrate that–not by undermining *cui-ui* by any sense, but in terms of thinking about it. It's the agency's responsibility. You can't have the *cui-ui* folks, the fishery folks, thinking just in terms of how to address *cui-ui* needs, and the wetlands folks just thinking about in terms of how do you enhance

wetlands. They need to understand that as an agency, they have a broader responsibility.

Seney: You know some cynics that I've spoken to in the project suggest that between the marsh and the *cui-ui* the squeeze is on the project, and that far from wanting to undermine the *cui-ui* pressure or the marsh pressure, those two groups will benefit from the fact that they *seem* to be antagonistic. (pause) A little too machiavellian?

Chisholm: Well, if agencies were that clever, we wouldn't have some of the problems we have now. I think that type of conspiracy view of this doesn't kind of meet the facts.

Seney: All it does is maybe reveal the thinking of the people expressing it.

". . . if you look at these basins [Carson and Truckee], agriculture controls eighty-plus, maybe ninety percent of the water, maybe more . . . It's only natural that as you look to meet needs that were unmet when . . . agriculture was put in place, that it's going to come out of the biggest share of the pie. And agriculture is where people are going to look to acquire water rights. . . ."

Chisholm: Probably. You know, the fact of the matter is,

if you look at these basins, agriculture controls eighty-plus, maybe ninety percent of the water, maybe more, I'm not sure, in terms of acre-footage. It's only natural that as you look to meet needs that were unmet when the project was put in place, when agriculture was put in place, that it's going to come out of the biggest share of the pie. And agriculture is where people are going to look to acquire water rights.

"As change occurs in the West and . . . all of a sudden you've got huge cities growing [and needing water supplies], agriculture water is the only real place it's going to come from, aside from conservation . . ."

As change occurs in the West and you begin thinking about reallocating water and dealing with the fact that all of a sudden you've got huge cities growing, agriculture water is the only real place it's going to come from, aside from conservation within each of the sectors–within the urban sector, for example, reducing its use and making it go further.

Seney: Do you have much to do with the Paiute-Shoshone Tribe out in Fallon? You work very closely with them on the marsh business?

Working with the Fallon Paiute-Shoshone Tribe, Especially Regarding Wetlands Issues

Chisholm: I've met with them a number of times in developing our "second-generation proposal," as we call it, trying to better understand what their concerns are, what their needs are. And that's been the contact. One of their representatives, a hydrologist, shows up at meetings. Bill DuBois, I got to know him that way.

Seney: I guess what I'm asking is, it would seem to me that your interests would kind of interlock here on the marsh itself. Have you found that to be particularly so?

Chisholm: The legislation provides for the restoration of 800 acres of wetlands on the tribal lands. The tribe has been asked to do that in consultation with the Fish and Wildlife Service, and the planning process is still in place. The tribe would like the Fish and Wildlife Service to buy the water *now*. Quite frankly, I think there is some suspicion on both sides as to how the wetlands will be managed, and who gets the water. I think that needs to be worked through, and to recognize that the Fallon tribes have played a historic role there.

They historically have; their people, in fact quite recently, were sustained by those wetlands and they helped sustain those wetlands. And I believe that they should be taken at their word that they would like wetlands there, and should be a part of that mix, because I think a lot of what we know about the wetlands has been learned through reading about what Wuzzy George told Kay Fowler who's an anthropologist here at the University. They provided a very important window into what those wetlands are about. And if we're going to think about restoration, they're part of that window, part of helping us understand them.

Seney: And they, from conversations I've had with them, consider that part of their culture as well (Chisholm: Right. The Paiutes.) Right.

I want to ask you about the second-generation negotiations. And I said before we started, I'd like you to discuss to the extent you feel you can, what the Nature Conservancy–and I guess the Environmental Defense Fund too, you're in this together, although you'll be at the table, am I right?

Settlement II Negotiations

Chisholm: Yeah. So will David Yardas.

Seney: The two of you will be there together.

Chisholm: In addition to Fred Wright, representing the Lahontan Valley Wetlands Coalition or the Nevada Waterfowl Association.

Seney: So you'll be the environmental team, kind of, that's going to be there. (Chisholm: Yeah.) And you'll be actually at the table and David Yardas will be sitting there, and this other gentleman (Chisholm: Fred Wright, yeah.) will be in the background.

Chisholm: No, he'll be at the table too.

Seney: What is your agenda here, to the extent you can tell me about it.

". . . this can't be done through litigation. . . . restoration of the wetlands, which is important to us; restoration of Pyramid Lake and the Lower Truckee River, which is important to us. Our vision is that success here is going to mean restoration with the recognition that there are other competing demands for water . . ."

Chisholm: Well, I guess the important thing to remember is that my view is that this can't be done through litigation. When I say "it can't be done," I mean restoration of the wetlands,

which is important to us; restoration of Pyramid Lake and the Lower Truckee River, which is important to us. Our vision is that success here is going to mean restoration with the recognition that there are other competing demands for water–communities dependent on that water–and figuring out how to restore the wetlands in *our* view means figuring out how to deal with these other interests. The way that is done, and the way we've supported from the beginning is actually sitting down and trying to put ideas out there, and trying to be creative, problem-solving participants. We're not coming in kind of with a hardball position of saying "this and only this." It's not going to work. That is also not my philosophy, nor the philosophy of the Nature Conservancy in coming into these negotiations. We suggested the idea of a mediated round.

Seney: This whole business was part of what you had put forward then.

". . . this is something that people in the community and from the irrigation district said to me, 'The only way we're willing to really participate is if we get some kind of a neutral facilitator.' So I viewed that . . . as a challenge . . . how do we actually create a table, a room, where participants are willing to sit down and talk to

each other . . ."

Chisholm: Yeah. Well, before wanting to take credit for it, I have to say that this is something that people in the community and from the Irrigation District said to me, "The only way we're willing to really participate is if we get some kind of a neutral facilitator." So I viewed that, when I first heard that two years ago, as a challenge, that how do we actually create a table, a room, where participants are willing to sit down and talk to each other, *particularly* the agricultural . . . .

END SIDE 1, TAPE 2. SEPTEMBER 12, 1994.
BEGIN SIDE 2, TAPE 2. SEPTEMBER 12, 1994.

Seney: How do we create this with the agricultural community and the broader Lahontan Valley community?

Chisholm: Yeah. To create a table or space where they would participate. They, in many ways, were the missing piece in the 1990 Settlement Act. They either walked out or were forced out– who knows, I don't care. The fact of the matter is, they need to be part of any additional settlement.

Senator Harry Reid

We suggested to Senator Reid, after he held with Senator [Bill] Bradley the two hearings, one in Washington and one in Reno, that he think about some kind of a neutral mediator. A number of the other parties said that they would be willing to participate, depending who, how. I think Senator Reid really took that idea and showed some real leadership in terms of being willing to say, "I want to ask the parties to sit down together." He could write a piece of legislation, put it in, but he's willing to say, "Give the parties some room to sit down and see if they can work things out" *before* he moves ahead. Creating that space was an important one, and I think he's done a lot to say, with the community, "Let bygones be bygones."

There's a lot of animosity between Senator Reid and the community, going both ways. And I think he's done a lot to say, "Look, regardless of that, I'm willing to allow a neutral mediator, not somebody from my staff, to sit down and I want you to be there." And I think he's done a lot to bring the community. He's helped delay the negotiation of a long-term O&M [operations and maintenance] contract between TCID and the Bureau, to give the community some breathing space so that they would have the

ability to prepare for these types of negotiations. That is part of the trust-building. It's not going to disappear overnight, but I think parties coming to the table is going to be a real challenge.

The issues that are being addressed now, the most important one being "How much Truckee River water can leave the Truckee Basin?" is the issue that Congress wasn't able to settle the last time around, and is the issue that was punted on.

Seney: Is that going to be the toughest one to begin with?

Chisholm: I think ultimately it will be the toughest one, but I believe it's one that can be settled by looking at that broader picture, and that's why I think you can't just look narrowly at downstream–there's some upstream issues that need to be looked at here.

". . . I believe it's going to be a challenging negotiation. It'll be interesting to see if good will is there on the part of all parties. . . ."

But I believe it's going to be a challenging negotiation. It'll be interesting to see if good will is there on the part of all parties.

Seney: Let me suggest something to you and get you to comment on it. I've talked to people from I think almost every group that's going to be there now, with the exception of the Pyramid Lake Indians. I've talked to Mr. [Robert F.] Pelcyger and I will be talking to him, and to Mr. [Joe] Ely as well, and I'm sure Mr. [Alvin] James too, and it seems to me that all the participants, with the possible exception of TCID are in the mood to make an agreement.

Chisholm: *Except* TCID?!

Seney: Yeah. I guess I would, from my contact with them, I think there's a difficult problem there. That would be my analysis of the situation, for whatever it's worth, and it's probably worth nothing, and I don't want to influence you by saying this. I want to put up a hypothetical to you, and that is, I would think of all the players, they're going to be the ones who are going to be the most difficult to deal with, given the past history. Again, who cares who walked out or was thrown out or any of the rest of it. And I guess, if I were in your shoes–and this is what I want you to comment on–if I were in your shoes and Mr. Yardas's shoes, and the other gentleman's shoes, wanting to make an agreement, I think I would say, "Well, the toughest part of this is

[going to be] getting TCID to feel good about this and be confident about this and to trust us. And the first thing that we're going to have to do in these negotiations is kind of make sure that they *feel* like there's a level of trust here, that they'll want to go along with the agreement that we reach, that we'll want to establish a kind of rapport with them in these negotiations that will help us achieve all these things we want to achieve in terms of water rights purchase and all that kind of thing." Does that enter at all into your thinking? Have you approached it in that fashion? Or am I *way* off base here?

"My being hired by the Nature Conservancy was in part based on the recognition that if this was going to be successful, we would need to have a person with a face working this issue with the community. And I have spent a *lot* of time . . . within the community . . ."

Chisholm: My being hired by the Nature Conservancy was in part based on the recognition that if this was going to be successful, we would need to have a person with a face working this issue with the community. And I have spent a *lot* of time with Lyman McConnell, a number of TCID board members, and many others within the community–individual irrigators,

non-irrigators, et cetera–trying to let them understand what *my* perspective is, and the fact that while they may not *like* me, that there are ways that we need to think about working together. And I've been trying to do my best to do trust-building. We have a relatively good relationship with TCID, I think. We go through water transfers, we've dealt with each other, and we've worked together, and I've tried to be very straightforward in terms of, "This is my strategy." You know, we put ideas on the table.

I'm sure people think we have a secret plan in our back pocket, but you know, we don't. We've really tried to lay out our ideas even when other people *haven't* been willing to do that. To me that's part of this trust-building. They wanted neutral mediators so that that would be a key for them. I'm happy. I mean, I think that's a good idea, aside from the fact that I think it's important for them to be there, to get them there. I happen to think it's the right thing to do. So in a sense, I feel as though we've gone through a lot of the trust-building. I understand that there are people who still don't trust me. But they need to understand that I've, you know, that maybe enough time . . . .

Seney: I don't mean so much you personally, I'm

kind of meaning the environmentalists.

Dealing with the Interests in the Lahontan Valley

Chisholm: Sure. Well, the other thing is, I'm not sure I agree with your premise that, they're the most difficult party. I'm not sure. Because I think one interesting development has been I think a recognition within TCID that regardless of whether they're right or wrong, that the way they handled the Settlement Act negotiations in 1989-90, they handled them poorly, and for better or not, they have become viewed as being part of the problem.

TCID Recognized the Need to Bring Parts of the Community That Were Not Traditionally Involved in Water Discussions into the Process

And I think Lyman's recognition of that–and I don't want to just point out Lyman, because there are others who have talked to me about this–but Lyman recognized that TCID could no longer speak for the community, that they needed to think strategically, more broadly, that they needed to bring into the decisionmaking process other elements within the community that historically had not been involved in water decisions, to create a Lahontan Valley

Environmental Alliance, to create a Newlands Water Protective Association, to create broader entities that brought more people in, and within a negotiation, provided a broader community front. That said, I think, that you can't speak of TCID or Lahontan Valley or Fallon as one entity. The fact that you have the variety of organizations down there, shows that beneath the common negotiator, you still have differences of opinion, you have people who don't trust each other within the community, irrigators who are suspicious of all of a sudden these "new folks," the professionals, the teachers within the community who want to speak on water issues.

So I'm not sure how to evaluate whether TCID is going to be the most difficult. And I say "TCID"–now we're talking about a community group. I don't know if they're going to be the most difficult one, because I think there are many different views within that, and the question is whether they can build trust, maybe more importantly, within their coalition, to come to some kind of an agreement. Maybe the question of whether an agreement is reached is less trust between me and TCID, but between the farmer and the nonfarmer within the community. And whether they feel as though together they are

willing to take some risks on both sides to help reach some kind of a settlement. That's a challenge.

Seney: Who do you think is going to be more difficult, potentially, than TCID?

Chisholm: I don't know.

Seney: (chuckles) You mean you won't say. That's fair enough, I understand that.

The Pyramid Lake Paiute Tribe and Their Attorney Bob Pelcyger

Chisholm: I mean, I think we *all* have our difficulties– let me put it that way. It sounds a little diplomatic . . . .

Seney: How are the Pyramid Lake Indians going to be, do you think? They're well-represented–I think Mr. Pelcyger and their own people. They're *well* represented.

Chisholm: Well, you know, Bob Pelcyger I think is extraordinary in many ways–gives very good legal representation. But more broadly, I mean, he's not a traditional attorney. He has very good kind of strategic sense and political sense. He represents his clients, the Pyramid

Lake Tribe, very well.

It'll be interesting to see what their position is, coming into these negotiations. Clearly they would like to see the Truckee Canal removed *entirely*. My question to Bob Pelcyger and members of the tribe who are going to be there is, "Fine, with any proposal, I think we each have the responsibility of explaining to other parties how they fare under our proposal." And they will need to do the same thing with their proposal and explain to me, on behalf of the wetlands, to others, how they'll fare under the proposal. And it's going to be interesting to see how flexible they are and how creative they want to be.

I don't know the chairman as well, I just met him a couple of times. I know Bob Pelcyger and he's a very creative individual. I don't know what the marching orders are from the tribal council, and I think that's particularly important–what it is that they would like to achieve in these negotiations. As the Nature Conservancy I share, I think, many of the same goals in terms of restoration of the Lower Truckee River, in terms of the health of Pyramid Lake. Clearly they have a much more kind of "rooted" sense about that–culturally, economically, otherwise–that I can't even begin to approach. But I think

there are many ways in which we jointly can think about ways of really trying to address–at least I can give some help on the biological side of how to achieve what it is I'd like to achieve, I think.

Seney: You still haven't told me what your agenda is for this. Will you? Or do you feel you can or can't? If you can't, that's fine.

What the Nature Conservancy Wants to Achieve in the Settlement II Negotiations

Chisholm: Well, sure. I mean my agenda is one of really trying to figure out how to make the restoration pieces, goals that were in the Settlement Act, a reality.

Seney: And pretty much along these lines, if you can?

Chisholm: Well, in the paper I've really talked about the wetlands component. I haven't talked about the Pyramid Lake component. I'm just as committed to those.

"My biggest concern right now is that we have the goals on paper . . . until it happens, they're not secure. My agenda is also going to be to figure out ways to do that. . . ."

My biggest concern right now is that we have the goals on paper, but until it happens, they're not secure. My agenda is also going to be to figure out ways to do that.

". . . not just the mechanics of how to buy water . . . but it's also figuring out *how* I address community needs on both sides, up and down the system. . . ."

The ways to do that is not just the mechanics of how to buy water or how to modify a particular structure or something, but it's also figuring out *how* I address community needs on both sides, up and down the system. Newlands Project community is perhaps the most important one, the most economically-tied to water use, in terms of the players. I need to think about how things work for them–otherwise the restoration components I'm talking about are a pipe dream.

Seney: So you feel like you've got a pretty good chance, within the broad context of wanting to get the wetlands rejuvenated according to what the law requires?

Chisholm: That's the wetlands, but also Pyramid Lake.

Seney: That you're pretty flexible within that framework of getting that achieved?

Chisholm: Well, flexible in the sense of there are many ways to get there. I've got my ideas, and I'll put my ideas out there. If somebody can't live with a particular one, fine–what's a better one? And I want to hear ideas on how to achieve that.

Seney: How do you think Sierra Pacific Power is going to play this?

Sierra Pacific Power and the Settlement II Negotiations

Chisholm: Well, I'm not clear yet as to what their goals are in this negotiation.

Seney: Do you have the sense yet, or have you exchanged papers on what your goals are?

Chisholm: We all kind of meet . . . . You know, you meet and talk.

Seney: Right, exactly. I mean, you know each other.

Chisholm: Right. I know Sierra Pacific is interested in the hydropower generation and transmission facilities in Lahontan Valley. And I think that's an important question also, environmentally. I would like to see some dollars generated from the hydropower sales

to benefit the environmental restoration of the wetlands.

Seney: So you'll be discussing that with them.

Chisholm: Well, with them and TCID, because clearly TCID has received a subsidy from hydro revenues. But clearly Sierra Pacific is interested in terms of how water is managed in the upper system, the kind of credit storage and create a bit of flexibility, potentially looking at additional drought supply for the community, potentially looking at the question of access to Newlands Project water, Can they purchase water?

". . . I don't know how much they actually need. I mean, everybody says 'the urban sector, the urban sector,' but when it comes right down to it, the appetite for the urban sector is relatively small. . . ."

And I don't know how much they actually need. I mean, everybody says "the urban sector, the urban sector," but when it comes right down to it, the appetite for the urban sector is relatively small.

Seney: Sixty-thousand acre-feet[3] is not a lot of water.

Chisholm: No. And when you're talking about a diversion for the Newlands Project on the order of 300,000-315,000 acre-feet of water, that's *much* larger than what you're looking at. That amount of diversion is the Nevada-Las Vegas allocation out of the Colorado River. So you're talking about a lot of urban before that amount of water is needed. So it'll be interesting to see what the urbans are interested in.

". . .I have some concerns about opening up Newlands Project water. While I'm not entirely *opposed* to it, I think it needs to be structured and limited. Values need to be considered. The ones I'm concerned about are environmental values. You take water out of the Newlands Project, you get less drainwater that benefits wetlands. . . ."

And I have some concerns about opening up Newlands Project water. While I'm not entirely *opposed* to it, I think it needs to be structured and limited. Values need to be considered. The ones I'm concerned about are environmental values. You take water out

3. The approximate amount of water used in the Reno-Sparks metropolitan area on an annual basis.

of the Newlands Project, you get less drainwater that benefits wetlands. And that's a big concern, but it's also a concern in terms of how the market is opened up, whether speculation occurs. Because it could be that there is an attempt to grab as much as possible as quickly as possible, and I think that can be harmful not only environmentally, but also to the community.

Seney: If the water rights are opened on a market, along the Truckee, which is what Sierra Pacific would like to do.

Chisholm: I don't know.

Seney: Sue Oldham's testimony in the December '93 meeting here with Senators Reid and Bradley was certainly to that point.

"My sense is that they would like probably to have some kind of access to *some* Newlands Project water. How *much* is the big question. . . ."

Chisholm: My sense is that they would like probably to have some kind of access to *some* Newlands Project water. How *much* is the big question.

Seney: Right. Will you be pressing them on conservation measures? Will that be something that you'll bring up in terms of

what they're doing in Westpac and their water use?

"In such a tight system, you *can't* overlook conservation. . . ."

Chisholm: Yeah. In such a tight system, you *can't* overlook conservation. The same goes for agricultural users.

Seney: Have you formed an opinion on how they've done to date on conservation?

Chisholm: Unfortunately . . . . How do I answer this? The Nature Conservancy doesn't really get involved in kind of urban water politics. I've got to say that we've kind of stayed out of it.

Seney: Okay. But I mean, when you bring it up at the table, you can say, "Gee, you've done a great job so far, keep up the good work," or, "You've got a lot of room to go."

Chisholm: Generally, philosophically speaking, we're going to support efforts to encourage conservation. I just think it's needed. I think it becomes complicated–it's easy to blame a utility for lack of conservation, but it also is the citizens within a community that are not always supportive of conservation, and I think

the voting that was done on the water meter issue was a nonbinding vote, clearly showed that the public's very divided. Should Sierra Pacific show more leadership? Sure. But is it a broader community problem? You bet. And I think that's where you can't just point a finger at a utility–it's a broader community: city government, county government, and the rest of us.

Seney: What do you think about the failure to include the upstream users on the Carson in these negotiations? Some people think you're just going to have to maybe reopen them and whatnot, but I want . . . .

Upstream Users on the Carson River Have Not Been Included in Negotiations

Chisholm: Well, it's interesting. I guess they will have some kind of observer role. For the most part, they have been out of the discussions that have occurred historically on these issues. My view is that in the Upper Carson above Lahontan you have 140,000 acre-feet of water that historically made it down the system, that no longer do[es]. And if you look in terms of restoration, you cannot ignore the upper basin.

"There are a lot of legal questions in terms of how water would show up, even if you *could* purchase

water. . . ."

There are a lot of legal questions in terms of how water would show up, even if you *could* purchase water. And that's a real problem, so I don't see me running up there and trying to invest dollars quickly in terms of trying to move water down, because just as I think community issues need to be worked out in Fallon when I buy a water right, I think community issues would need to be worked out in the upper basin. There are concerns about what's happening to wetlands in Carson Valley, primarily because of the transition from ranchland to subdivision, but I think there would be concerns about buying water rights and moving it down the river.

Diversions in the upper Carson have also taken water from the terminal wetlands, and ". . . I don't think the Newlands Project water users should be the only ones to be a part of a restoration of the wetlands. . . ."

There are some people in the upper basin who prefer to see these as two basins, and they called it an inter-basin transfer, attempts to move water down. And the fact of the matter, until that water was diverted upstream, it used to go out to the wetlands.

And I don't think the Newlands Project water users should be the only ones to be a part of a restoration of the wetlands. But there are some challenges, and I think you cannot ignore the fact that they have some legitimate concerns. But if it's going to work, ultimately you can't just think about the lower river.

Will the Negotiations Reach a Settlement?

Seney: Are you optimistic that these negotiations are going to come to some conclusions?

"I think there are some parties who believe that relying on litigation will eventually yield them the best result. . . ."

Chisholm: Depends what day I'm asked. (both chuckle) Clearly, I think it is *the* best strategy. I think there is an opportunity to come to agreement. I don't know if the will to come to an agreement is there yet. I think there are some parties who believe that relying on litigation will eventually yield them the best result.

Seney: Who do you think that is?

Chisholm: I think that's kind of on *many* sides.

Seney: (chuckles) You're smiling! I don't blame you if you don't want to answer these

questions. But the tape recorder can't see those smiles you give me when I ask you questions like that.

"Unfortunately, there are some people in Lahontan Valley who believe that . . . there's going to be some magic Supreme Court decision that'll help them. But if you look at their record, they've had a tremendous asset base that's been eroded. They could have made a compromise probably, twenty years ago, that would have avoided this. . . . there are some who will still swear by litigation. I can't help but think that also the Pyramid Lake Tribe has done so well in litigation that there is a sense that perhaps, over the long term, litigation will yield them the result that they want. . . ."

Chisholm: Unfortunately, there are some people in Lahontan Valley who believe that eventually litigation, there's going to be some magic Supreme Court decision that'll help them. But if you look at their record, they've had a tremendous asset base that's been eroded. They could have made a compromise probably, twenty years ago, that would have avoided this. I know they don't believe that, but I think some do, some don't. But there are some who will still swear by litigation. I can't help but think that also the Pyramid Lake Tribe has done so well in litigation that there

is a sense that perhaps, over the long term, litigation will yield them the result that they want. At the same time, I think Bob Pelcyger is enough of a pragmatist that he understands that an opportunity to try to negotiate things around the table, if successful, could yield a very good result, and avoid some of the bad feeling that would come through twenty years of litigation.

Seney: What do you say to cynics who've said to me that, "Well, this is just a ploy by Senator Reid who doesn't like the people in Fallon" because of various things they've done, put up signs along the road and his name on a gorilla, and that kind of thing–just a ploy by Senator Reid to go through these negotiations, which he doesn't really think are going to yield anything, and then in the end legislate TCID virtually out of existence.

Senator Harry Reid's Role in the Issues

Chisholm: I guess if he really felt that way he wouldn't bother going through this, and I don't think it's giving him enough credit for doing what he's doing. I think clearly if they read his statements pretty carefully, he's been saying a number of things that *I* think are intended to show that he is open and listening.

Seney: And this is a good faith effort on his part?

"It *is* a good faith effort. But you're always going to have people who either view this as a conspiracy–I mean, other people tell me that it's simply all run behind the scenes by Sierra Pacific or Pyramid Lake Tribe . . ."

Chisholm: It *is* a good faith effort. But you're always going to have people who either view this as a conspiracy–I mean, other people tell me that it's simply all run behind the scenes by Sierra Pacific or Pyramid Lake Tribe–many explanations. And I think there are times when we need to say, "Well, maybe we do have a unique opportunity before us," and there are actually people who support it and who believe this is the right way to do things, and understand that given this unique opportunity, we should do our best to try to show that *this* could be a model, if done properly, to help other communities, other tribes, other ecosystems, other cities, recognize that there *are* better ways to do things than kind of endless litigation.

The Settlement Act [Public Law 101-618] I think was a tremendous break-through in 1990. It didn't settle all the issues, didn't make everyone happy. Like it or not, it's

looked at as a model. I think we can take that further and apply this kind of mediation to try to see, "Can we settle some of the most intractable issues?" "Can we settle through mediation some of the issues that have come up through the implementation of the legislation?" And kind of through the second generation settlement, really show that this is a real model, and if it can be done here, it *certainly* can be done otherwheres, because I can't imagine, in some ways, a more complicated or multi-faceted water conflict. Clearly we're dealing with a smaller water basin than maybe the Missouri or other systems, but still, I think we need to recognize that there is this opportunity here.

Seney: Well, I've heard it said that it's hard to believe that so much quarreling can go on over a hundred-mile watershed.

Chisholm: But maybe the small size of it makes it . . . . (Seney: More intense.) The stakes are bigger.

Seney: Yeah, who knows. And in the West, where there is so little water.

Well, that's all I want to ask you about today, and maybe after the negotiations are over and several months from now I can come back and spend another hour with you and ask

you what happened during those negotiations and what you see the future to be.

Chisholm: Okay.

Seney: Okay, I appreciate it, thank you.

END SIDE 2, TAPE 2. SEPTEMBER 12, 1994.
END OF INTERVIEW.