

# ORAL HISTORY INTERVIEWS

Mary Conelly



STATUS OF INTERVIEWS:  
OPEN FOR RESEARCH



Interviews Conducted and Edited by:  
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California State University-Sacramento  
For the Bureau of Reclamation's  
Newlands Project Oral History Series



Interviews further edited and desktop published—2013  
By Brit Allan Storey, Senior Historian

Oral History Program  
Bureau of Reclamation  
Denver, Colorado

SUGGESTED CITATION:

**Conelly, Mary**, ORAL HISTORY INTERVIEWS. Transcript of tape-recorded Bureau of Reclamation oral history interviews conducted by Donald B. Seney. Edited by Donald B. Seney and further edited and desktop published by Brit Allan Storey, senior historian, Bureau of Reclamation. Repository for the record copy of the transcript is the National Archives and Records Administration in College Park, Maryland, or in the regional office in the Denver, Colorado, area.

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STATEMENT OF DONATION  
OF ORAL HISTORY INTERVIEW OF  
MARY CONELLY

1. In accordance with the provisions of Chapter 21 of Title 44, United States Code, and subject to the terms, conditions, and restrictions set forth in this instrument, I, MARY CONELLY (hereinafter referred to as "the Donor"), of RENO, NEVADA do hereby give, donate, and convey to the National Archives and Records Administration (hereinafter referred to as "the National Archives), acting for and on behalf of the United States of America, all of my rights and title to, and interest in the information and responses (hereinafter referred to as "the Donated Materials") provided during the interview conducted on August 22, 1999, May 16, May 23, and May 30, 2006 at Reno, Nevada, and prepared for deposit with the National Archives and Records Administration in the following format: tape recording and transcript. This donation includes, but is not limited to, all copyright interests I now possess in the Donated Materials.
2. Title to the Donated Materials remains with the Donor until acceptance of the Donated Materials by the Archivist of the United States. The Archivist shall accept by signing below.
3.
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5. The Archivist may dispose of Donated Materials at any time after title passes to the National Archives.

Date: 11/30/10

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Signed: MA ONELLY

INTERVIEWER: DONALD B. SENEY

Having determined that the materials donated above by MARY CONELLY are appropriate for preservation as evidence of the United States Government's organization, functions, policies, decisions, procedures, and transactions, and considering it to be in the public interest to accept these materials for deposit with the National Archives and Records Administration, I accept this gift on behalf of the United States of America, subject to the terms, conditions, and restrictions set forth in the above instrument.

Date: \_\_\_\_\_

Signed: \_\_\_\_\_

Archivist of the United States

Note: Mary Conelly signed and dated this statement of donation on May 30, 2006. The scanner did not pick up the handwritten material clearly. Original is in the oral history files at the National Archives and Records Administration. .pdf scan of original is in Reclamation's electronic files.

## 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;
- limited water resources in an urbanizing area;
- three Native American groups with sometimes conflicting interests;
- private entities with competitive and sometimes misunderstood water rights;
- many local governments with growing urban areas and 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.

Reclamation manages the limited water resources in a complex political climate while dealing with modern competition for some of the water supply that originally flowed to farms and ranches on its project.

A note on the nature of oral histories is in order for readers and researchers who have not worked with oral histories in the past. We attempt to process Reclamation's oral histories so that speech patterns and verbiage are preserved. Speech and formal written text vary greatly in most individuals, and we do not attempt to turn Reclamation's oral histories into polished formal discourse. Rather, the objective during editing of interviews is to convey the information as it was spoken during the interview. However, editorial changes often are made to clarify or expand meaning, and those are shown in the text.

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.

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For additional information about Reclamation's history program see:  
[www.usbr.gov/history](http://www.usbr.gov/history)

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Oral History Interviews  
Mary Conelly

Seney: My name is Donald Seney. I'm with Mary Conelly of Senator's Reid's<sup>1</sup> staff, in her office in Reno, Nevada. Today is August 22, 1999. This is our first session and our first tape.

Good morning, Mary.

Conelly: Good morning.

Seney: Why don't you begin by telling me where you were born, and when, and where you grew up?

**Born and Raised in Fallon, Nevada**

Conelly: I was born in and raised in Fallon, Nevada, about forty-six years ago.

**Attended the University of Nevada-Reno**

I stayed there until I was eighteen years old and then moved up to Reno to attend the University of Nevada, and I'm a U-N-R [University of Nevada Reno]<sup>2</sup> graduate.

- 
1. Senator Harry Reid contributed to Reclamation's oral history work on the Newlands Project.
  2. A note on editorial conventions. In the text of these interviews, information in parentheses, ( ), is actually on the tape. Information in brackets, [ ], has been added to the tape either by the 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.

While we attempt to conform to most standard academic rules of usage (see *The Chicago Manual of Style*), in these interviews we do not conform to those standards for individual's titles which then would only be capitalized in the text when they are specifically used as a title connected to a name, e.g., "Secretary of the Interior Gale Norton" as opposed to "Gale Norton, the secretary of the interior;" or "Commissioner John Keys" as opposed to "the commissioner, who was John Keys at the time." The convention in the Federal government is to capitalize titles always. Likewise formal titles of acts and offices are capitalized but abbreviated usages are not, e.g., Division of Planning as opposed to "planning;" the Reclamation Projects Authorization and Adjustment Act of 1992, as opposed to "the 1992 act."

The convention with acronyms is that if they are pronounced as a word then they are treated as if they are a word. If they are spelled out by the speaker then they have a hyphen between each letter. An example is the Agency for International Development's acronym: said as a word, it appears as AID but spelled out it appears as A-I-D; another example is the acronym for State Historic Preservation Officer: SHPO when said as a word, but S-H-P-O when spelled out.

**“ . . . I told the Senator . . . when he got ready to hire me . . . ‘I’m a known irrigator.’ ”**

And, I told the Senator once, when he got ready to hire me, I said, “I’m a known irrigator.” (Laugh)

Seney: A “known irrigator”?

Conelly: A “known irrigator.” (Laugh) But, you know . . .

Seney: What did he say to that?

Conelly: He laughed.

Seney: Yeah.

Conelly: You know, I came from a family that didn’t have a, you know, *large* acreage out in Churchill County but, you know, probably did fifteen, twenty acres of irrigation, and, you know, kind of familiar with the whole ditchrider system and (Seney: Right.) how that all works.

**“ . . . got involved in politics . . . in an unusual way. I was between jobs . . . and someone called me and asked me if I would be interested in doing voter registration for women on welfare. . . . ”**

And, got involved in politics sort of like most people, I suspect, in an unusual way. I was between jobs and wasn’t really looking for a job and someone called me and asked me if I would be interested in doing voter registration for women on welfare. And, I have a social work background. And, I said, oh I thought that was a *great* idea. So, I got involved in, they called it an *Empowerment* Project for Women on Welfare, to do voter registration.

**“ . . . then I went to work for the Democratic Party. Then I went to work for Senator Reid, and now I’m Senator Reid’s State Director. . . . ”**

And then it just kind of, then I went to work for the Democratic Party. Then I went to work for Senator Reid, and now I’m Senator Reid’s State Director.

Seney: So, you do both northern and southern Nevada?

Conelly: I do both now. I have since January.

---

Seney: Since January? Well, that's why we're in such a large, lovely office on the (Laugh) Ninth Floor of the new Federal Building.

Conelly: I'm not complaining. (Laugh)

Seney: Yeah. I wouldn't either, if I were you. Right. So, that was the connection then, working for the Democratic Party?

Conelly: Yes.

Seney: You got to know Senator Reid and he got to know you, and . . .?

### **Worked on Senator Reid's 1992 Campaign and Was Then Offered a Job on His Staff**

Conelly: In his '92 election I was the executive director for the *local county* party and they were looking for someone to come in and do some work on his campaign, and I did that and then after his campaign he offered me a full-time job as a *staff* person. So.

Seney: Here? Here in Nevada?

Conelly: Here in Nevada. (Seney: Right.) Here in Reno.

Seney: So, you began with him then subsequent to the '92 election?

Conelly: Right. I actually was on his payroll, but it would be his *campaign* payroll, starting in '91.

Seney: At that point, at what point were you drawn into these water issues, apart from your family and so forth?

### **Became Involved in the Water Issues in 1992 When She Became Senator Reid's Regional Director in Reno**

Conelly: Interestingly enough, not until probably late of '92. After I had come to work for the Senator he had another staff person who was the Regional Manager here, and I believe that she had been somewhat involved. And, I had expressed an interest to her that I was very interested in what was going on, and she basically told me that, you know, it was very complicated and it would take too long to learn, and she already knew everything there was to know, and that I didn't need to be concerned about it.

### When She Was Assigned Water a Second Round of Negotiations Were Just Beginning and She Sat in on All the Meetings

So, when *she* left the Senator gave me her job and then he told me, “It’s now your job to learn everything there is to know about the negotiations and the settlement, and TROA [Truckee River Operating Agreement],” and I got *really* lucky. It was just, he was starting the second round negotiations at exactly the time that he said, “This is now your job.” And, I sat in on every meeting of the negotiations and it was like going to school. It was *wonderful*. And I, I don’t think I would know what I know now, or be in a position to *contribute* now if I had not been at that point where I could go to all of those meetings and listen to all the negotiations. (Seney: Right.) It was just like going to school.

Seney: These were the ‘94-‘95 (Conelly: Yes.) negotiations, known as Settlement II, or (Conelly: Yes.) the Negotiate—what am I trying to . . .

Conelly: Second Round.

Seney: Second Round. And, there’s another term, “Facilitated Negotiations”?

Conelly: Oh yes. Facilitated Negotiations. So that’s, I mean, you know, I had been kind of studying, and I’d read some things, but it wasn’t until those meetings started that I really felt like I had a clue what was going on.

Seney: I understand the way those meetings were structured—and, of course, they were not open to the public?

Conelly: Right.

Seney: These meetings? In fact, I had asked if I could come and I was told I couldn’t come.

Conelly: Well, that’s a shame.

Seney: Yeah. Well, I don’t know. Apparently they’re much more, they were much more interesting than the TROA meetings we were mentioning before?

Conelly: *Much* more.

Seney: Right. And I’m told, very educational in the sense at the beginning people came in and expressed their point of view, and sort of gave their version of the issues?



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**“It was a wonderful experience. . . . you really got to have a feel for *everyone’s* positions . . .”**

Conelly: It was a wonderful experience. I’m not sure everybody else who attended them would think the way I do. But, you really got to have a feel for *everyone’s* positions and how they got there. Because, it was difficult for someone to state, “Well, our position is now X,” without them telling why they got there. And, you know, there is a lot of bad feelings out there and a lot of perceptions that are real and not real, and it kind of, everybody put everything on the table, and it was just, I mean, *I* learned a lot. Not just about the specific mechanics of what they were trying to do, but about their perceptions, and their feelings, and their positions, and how they got where they were.

Seney: Right. Apart from Senator Reid saying, “This is now your job,” did he give you any guidance as to what his views were and what the office view should be?

Conelly: *No. He didn’t.* “Just learn everything that you can and then let me know what I need to know. And, keep on top of this.” No one has ever said to me, until probably the last year, which I find interesting, exactly what the office or the Senator’s position was. I, but it was easy to *discern* it, you know, just sort of figuring out what, who we were going to help and who we weren’t going to help, (Seney: Right.) and where we were going to be if the negotiations got to a point where people were coming to us and asking for, you know, “Give them a nudge.” It was easy to tell.

Seney: Right. Right. And I’m aware that it would have been Larry Werner who would have been the Senator’s (Conelly: Right.) perhaps chief representative in those negotiations?

Conelly: He was, and he attended a couple of the meetings, and mostly I reported to him, and he was there at a couple where we actually, we thought we had an agreement once during the course. Twice, actually, (Seney: Right.) during the course of the (Seney: Right.) negotiations, and the only way we could get there is we were frankly strong-arming the tribe to accept some things they didn’t want to accept, and Larry did that, which was fascinating to watch too.

Seney: Was it?

Conelly: I loved it. (Laugh)

Seney: Yeah. Yeah. Could he do that pretty well?

Conelly: He was very effective at that.

Seney: Yeah. Yeah. Can you give us a flavor of what you're talking about here, what you wanted the tribe to accept that they didn't want to accept?

### **Getting the Tribe to Change Its Position to Meet Conditions Set by TCID**

Conelly: It was some changes in the OCAP, the Operating Criteria and Procedures, that the community down there, Newlands, wanted and the tribe didn't want to agree to. And it was sort of, *we* thought at the time, because they told us so, we thought that was a very important point for the Newlands people to get in order for them to move on to some other items and the tribe didn't want to move on it. And, we basically told them they had to, in kind of those terms, and they agreed. And so, we went back and then Newlands walked on it anyway. So.

Seney: Would this have been the carryover storage in Lahontan?

Conelly: Some of that was in that.

Seney: Yeah.

Conelly: There were three or four items, and . . .

Seney: Can you remember the others?

Conelly: No. But, I could probably check my notes and see what they were.

Seney: Yeah.

Conelly: But, it was primarily OCAP, and then it was also some items on their O&M [Operations and Maintenance] contract that they wanted much more lenience and less Bureau of Reclamation oversight. And, of course, the tribe didn't want that. They didn't trust them to do it without Bureau of Reclamation oversight. (Seney: Right.) You know, we thought, "Well, you know, if this is what we need to do to get to a deal so they'll sign on to TROA it's worth it."

### **After the Tribe Changed its Position, the TCID Didn't Agree to the Deal**

And, talked the tribe into agreeing and then the Newlands people<sup>3</sup> didn't take the deal.

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3. The water user organization on the Newlands Project is the Truckee Carson Irrigation District (TCID).

Seney: Now, I understand from interviewing people out in the Newlands Project that Larry Werner leaned on them a little too?

Conelly: You know, I'm sure that that was their perception, but, you know, I don't think that's true.

Seney: You were there when (Conelly: Yeah.) this happened?

### **Member of Congress Barbara Vucanovich's Staff Worked with Newlands Project People**

Conelly: I mean, you know, I think they could probably say that there was, you know, *we wanted* a deal and, you know, we were encouraging everyone to get to a deal, but I don't, I just don't believe that's true. You know, I mean, we, we leaned on the tribe big time. Now we *did*, I remember this specifically, we did get some staff from Barbara *Vucanovich's*<sup>4</sup> office to speak to the Newlands people. I mean, they don't have a lot of trust with us. (Seney: Right.) And, we thought, "Okay, we'll get the tribe to move. Vucanovich's staff can get the Newlands people to move, and we'll get a deal," and Vucanovich's office did. I mean, they basically said, "This is what you need to do to get this deal." (Seney: Yeah.) And, we thought (Seney: Yeah.) we had one.

Seney: Well, I've interviewed former Congresswoman Vucanovich (Conelly: Yes.) as well and, you know, I thought when I interviewed her in her Washington office that she was very forthcoming, more than I expected her to be. I think people in elected office are very careful when they talk to (Conelly: Yes.) someone like me.

Conelly: But, she's wonderful.

Seney: Well, I think she had made up her mind to leave the Congress at that point.

Conelly: Oh.

Seney: But, had not said anything about it.

Conelly: So, she felt comfortable being candid?

Seney: I think she did. And, she expressed—I'm not quite sure how to characterize it—disappointment that the Newlands Project people did not move on this.

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4. Barbara Vucanovich contributed to Reclamation's oral history work on the Newlands Project.

Conelly: Well, we had talked, she had staff there and they, they were good, and we talked to them. I mean, we'd had a meeting and it was Larry, and myself, and Nancy from Barbara's staff.

Seney: Nancy?

Conelly: I'd have to think of her last name. I'll think of it.

Seney: That's all right. We can fill it in when . . .

**“. . . we thought we had a deal. And, primarily the deal was structured around what the Newlands people wanted. . . .”**

Conelly: And, we thought we had a deal. And, primarily the deal was structured around what the Newlands people wanted. *We* knew that, you know, they were the key pin to a deal. They were the reason we were at the table again. And, we had Betsy Rieke<sup>5</sup> giving us advice about what we could do within the Reclamation department, and we were moving forward and, I mean, at a meeting Ernie Schank from the, you know, from Newlands said, “If you can give us this, we've got a deal.” And so, we had a meeting and, you know, said, “Okay, who talks to who?” and it was determined that we would, frankly strong-arm the tribe, and that the Vucanovich folks would strong-arm the Newlands people. And, and *I* believe it was much harder for us to strong-arm the tribe than it was for them to talk to the Newlands people, because we were trying to get to *their* deal. (Seney: Ah.) And when it blew up, you know, like a couple of days later and it was the Newlands people that had walked, I do think the Vucanovich folks were, were not real happy.

Seney: Right. There's a factor in here we should mention and that's the 1994 Congressional elections?

### **Effect of the 1994 Congressional Election on the Negotiations**

Conelly: Oh, that was a big factor.

Seney: Which, in which the Republicans gained control of *both* the (Conelly: Yes.) House and the Senate. *I* do know, from interviewing people in Newlands, that they took great comfort in that.

### **TCID Thought it Would Get the Deal Repealed but Didn't Take into Account That Senator Reid Could Block Anything the House Passed**

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5. Elizabeth (Betsy) Rieke participated in Reclamation's oral history work on the Newlands Project.

Conelly: Oh, they felt so good, and I mean they, they let us know it. I mean, they did things like they had House members from the committee that would actually have some oversight of this out to the Project for tours, Republican House members that didn't have anything to do with Nevada, but they were on the committee. And, you know, they gave, they wined and dined them, and gave them tours, and they always let us know when they were doing that. "Well, oh, we can't meet on Tuesday because we have, you know, congressman so-and-so coming to tour the project." That, you know, to let us know, "We're lobbying people outside of you guys to get what we want." And I, you know, I don't know that anybody ever said, "We don't need to worry about you guys anymore. Now we've got a Republican Congress and we'll get what we want regardless." It was implied in a *lot* of stuff they did. And, you know, frankly we thought, you know, "This isn't the way to go about this." (Seney: Yeah.) I mean, "You might get it through the House, but you'll never get it through the Senate if Harry Reid doesn't support it." I mean . . .

Seney: I mean that was the reality, wasn't it? Even in the Minority, Senator Reid, under the rules of the Senate (Conelly: Yeah.) and given his influence?

Conelly: It just wasn't going to happen.

Seney: Yeah.

**Senator Reid ". . . credits the passage of the Negotiated Settlement to Barbara Vucanovich. . . ."**

Conelly: And *he*, and he may have said this when you interviewed him, but I've heard him do it *time and time* again, he credits the passage of the Negotiated Settlement to Barbara Vucanovich.

Seney: Yes. He said that.

**“. . . you know Barbara played that very well. She still got support from that community even though she's probably the one that they, if they were paying attention, rolled them.' . . ."**

Conelly: I mean, he, (Seney: Yes.) I have heard him say that time and time again. I mean, you know, we certainly take credit for it for a variety of reasons, mostly political, but—and, I think he has some personal pride in the fact that, you know, that happened—but, he says, "Without Barbara Vucanovich that would have *never* happened." And, I was always amused, and I used to tell people like when Barbara

left and we got a new congressman, I said, “You know, you know Barbara played that very well. She still got support from that community even though she’s probably the one that they, if they were paying attention, rolled them.” (Laughter) But, she did (Seney: Yeah.) it very well.

Seney: Yeah. She told me that she bluntly told them *not* to take any comfort in the ‘94 election, that Public Law 101-618<sup>6</sup> was (Conelly: Was . . .) *not* going to be changed.

**“. . . they really believed they’d get it repealed. . . .”**

Conelly: A couple of people, Ernie Schank<sup>7</sup> was one and Norman Frey were another, told me, of which those are both people I went to school with, both told me they were going to get it repealed, and I laughed. “Well, good luck.” (Seney: Yeah.) You know, and I think they just thought we were being facetious, but I said, “This isn’t going to happen. Let’s figure out a way to go forward so you can get something you want.” (Seney: Right. Right.) But they were, I believe they really believed they’d get it repealed.

Seney: Well, I think the political equation was against them. California was happy with it.

Conelly: Yes.

Seney: Nevada was happy.

Conelly: Yes.

Seney: The tribe, both tribes, the Fallon and Pyramid Lake, more importantly Pyramid Lake.

Conelly: Pyramid Lake.

Seney: Sierra Pacific Power was happy with it.

Conelly: Reno-Sparks, Washoe County.

Seney: Yes. Right. Right.

Conelly: You know, they, I mean they just . . .

Seney: The only unhappy party was the district [T-C-I-D]?

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6. Public Law 101-618 is included as Appendix 2 on page 155.

7. Ernie Schank participated in Reclamation’s oral history work on the Newlands Project.

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### At First in the Job She Thought She Would Be Able to Assist TCID

Conelly: Exactly. (Seney: Yeah.) And, you know, when I got the job and the Senator said, “Now you’re in charge of this,” I actually, for a while, had a vision that I would be able to *get* them to the table and to *get* them to be more willing to come up with some solutions that would help them and others, because I believed that they probably had not been treated fairly, both by Senator Reid’s staff and just by the process.

Seney: Right. Your sympathies, (Conelly: Yeah. I . . .) given your upbringing, were out there? Yeah.

**“ . . . I recognize that a lot of it has to do with lack of leadership . . . But, they’re just too busy fighting changes . . . ”**

Conelly: I *totally* believed that they had not been treated fairly. Now, several years later, I recognize that a lot of it has to do with lack of leadership down there. They just don’t have someone who’s willing to stand up and say, “Look, you know, this train has left the station. We better get on and make sure we *get* something out of it.” I mean if they, if, *all* the money that they’ve spent on litigation, which at one time I had a number, they could have gotten anything they wanted. But, they’re just too busy fighting changes, (Seney: Yeah.) which I’ve, it really, still to this day, it really bothers me.

Seney: Yeah. Did they, they must have thought the minute you went to work for Senator Reid you were a turncoat?

Conelly: Well, I believe they did.

Seney: Yeah.

Conelly: Yeah.

Seney: Yeah. You know, when I, I’ve interviewed a lot of parties in this, many, many, many, and some have said things on record and some will say, after the tape is off, “Well, you should know this, but (Conelly: Yeah.) I didn’t want to say that.” So, I’ve gained the impression that, that Senator Reid, and I, he agreed to this when I interviewed him, was really not aware of his election night pledge in 1986, whether . . .

Conelly: What it meant?

Seney: Meant to . . .

Conelly: I think that's true.

Seney: To solve the water wars of northern Nevada.

Conelly: I don't think he had a clue.

Seney: Yeah. But, he went right to work on it. He put (Conelly: Yeah.) Wayne Mehl<sup>8</sup> on it, who is a very able individual.

Conelly: Terribly.

Seney: Yeah.

Conelly: Capable. Although, and I mean I would say this on the tape as long it's going to be restricted, I don't believe that Wayne Mehl ever really cared about the Newlands Project. And, I think that was part of the problem from the beginning, as far as making sure they were part of the process.

Seney: Yeah. Yeah. I think his interview maybe implies that as well.

Conelly: Yeah.

Seney: That he was out there without experience in the West, (Conelly: Yeah.) and on, working on behalf of the Senator. And, of course, if you look at this politically, in that 1986 election, Senator Reid *only* carried Clark County, but he carried it by a large enough margin, it being the largest county . . .

Conelly: It was not much different in '98.

Seney: Wasn't it?

Conelly: He carried two counties.

Seney: What was the final vote margin?

Conelly: Four hundred and twenty-eight votes.

Seney: Between the Senator and Mr. Henson?

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8. Wayne Mehl contributed to Reclamation's oral history work on the Newlands Project.



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- Conelly: Four hundred and twenty-eight votes.
- Seney: How many did he lose by, in 19– I’m trying to think when it would have been–‘80, ‘74 to Mr. [Paul] Laxalt?
- Conelly: Oh, I don’t know, but not . . .
- Seney: It was about the same, wasn’t it?
- Conelly: I mean, I’m thinking it was a little over a thousand, but not much.
- Seney: Yeah. Right.
- Conelly: You know, it was a *very* close race.
- Seney: Right. Right.
- Conelly: Yeah.
- Seney: And, so looking at it, I mean in purely political terms, Churchill County can’t (Conelly: It means . . .) deliver much?
- Conelly: They can’t deliver much.
- Seney: Yeah.

### **The Negotiated Settlement Is Popular in the Reno Area**

- Conelly: And, you know, the Negotiated Settlement up here, and we played this politically, is very popular even among Republicans. Frankly, in fact, *largely* among Republicans who understand what it means for growth and development. So I mean, you know, we play that politically. And, you’re right, I mean we could do *anything* for Fallon right now and they’re never going to vote for Harry Reid. I have had, since I’ve had this job, I have—it’s a joke.

### **Taking Senator Reid out to Fallon**

It’s a joke on our staff meetings, on our phone calls, where I always say, “Well, I’m going to take the Senator out to Fallon” and the big thing is everybody says, “Why?” And, I’ve taken him out there a few times and we’ve done some things, and you know clearly there’s other things out there besides just the Newlands Project, but I’ve

taken him to the base.

Seney: The military base, for example? Yeah.

Conelly: I've taken him to the base a couple of times, and we've done some Democratic Party things a couple of times and, you know, we've done some stuff like that, and it's a joke. I mean it's, among our staff here it's like, "Yeah. Mary's dragging the Senator out to Fallon so that he can see her two relatives that *might* vote for him." (Laugh) I mean, it's a big joke. But, you know, (Seney: Yeah.) so from a political (Seney: Yeah.) perspective, you know, we could write them off.

Seney: Right. Right.

Conelly: And they wrote us off.

Seney: Yes. Right. And frankly, that, it doesn't shock me or surprise me that a Senator and his staff would look at things in that way.

Conelly: Uhm-hmm.

Seney: I mean that's, that shouldn't be a revelation to *anyone* who knows anything about the political process.

Conelly: Yeah. I mean, you know, I continually, and I'm kind of working on one now, continually look for opportunities where we can help the community. And I'm sure that's because I'm from there. (Seney: Right.) But, I mean I do it everywhere, but I'm, but because it's so difficult out there I'm continually looking for opportunities, and there have been opportunities where we could have assisted them with federal funding of one type or the other and they don't want it. You know, they've got that whole, "The federal government is bad." And so, you know, we spend the money someplace else.

Seney: What would you have spent it on out there?

Conelly: We looked at some stuff with regard to road improvements. And, I did get the Senator to give some money to the Army Corp of Engineers for some flood control improvements. That was a big fight. Everyone said, "Why are we doing this?" And so, things like that that are, (Seney: Yeah.) that are not necessarily related to the Project, but that are helpful to the community as a whole.

Seney: Has the Senator been active at all in the expansion of the air base functions?

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### Senator Reid Has Been Active in Expansion of the Fallon Naval Air Station

Conelly: Yes. He has.

Seney: Because, the Top Gun School, went from San Diego to there?

Conelly: We've done a really good job. And, that was the other thing Barbara Vucanovich was very helpful on, and the two of them worked on that, and obviously were successful. (Seney: Right.) And, we continue to look for ways, every appropriation cycle, to get more money to the base out there.

**“ . . . we have an admiral out there now . . . ”**

I mean, they have, I mean we have an admiral out there now, which we, has been there for about a year, which we never had. I mean . . .

Seney: That's a real upgrade, isn't it?

Conelly: It's real serious out there.

Seney: Yeah, isn't it.

Conelly: Yes.

Seney: Yeah. Yeah. Well, I can understand the Navy would want someone pretty high up overseeing the Top Gun School (Conelly: Yeah.) and all that. (Conelly: Yeah.) And, it's now prestigious enough to attract an admiral?

**“ . . . we're still fighting with the Navy about some of the water use on the project. . . ”**

Conelly: It is. We have an admiral out there. And, although we're still fighting with the Navy about some of the water use (Seney: Yeah.) on the project.

Seney: Yeah. A naval base in the middle of the desert, I suppose, is a, is something of . . .

Conelly: Kind of bizarre?

Seney: It is. Yeah. It is. Did you have, and the Senator have, any role in the attempt to build a federal prison out there?

### **Senator Reid Supported Building a Federal Prison as an Economic Opportunity for the Community of Fallon**

Conelly: This is interesting. We thought that was an *excellent* opportunity for some jobs for the community. And when, I mean *we* didn't come up with the original idea, but when the idea came up we were very supportive, and would have taken whatever steps were necessary to make sure that that happened.

#### **In a Referendum the Community Voted Not to Have a Prison**

And then, the community did this referendum (Seney: Right.) on their ballot and defeated it, and I, I specifically remember he kind of threw his hands up in the air and went, "Fine. We'll move it someplace that wants it." You know, I mean it was just like, "You can't do anything to help those folks" is kind of the feeling (Seney: Yeah.) that we had. (Seney: Yeah.) And, you know, I mean, and I talked to the Senator and others, you know, "If they don't want a prison, they don't want a prison, you know." But, you know, still thought it was a missed opportunity.

Seney: I do know from my interviewing out there that the local government officials, particularly at the county level, were quite active in their support of that?

Conelly: Yeah. They were.

Seney: And were, I think, I interviewed them before the referendum and I think they felt that the referendum might not carry, but it did, convincingly.

Conelly: Well, it was a sizeable margin.

Seney: Fifty-seven sixty-two?

Conelly: Seven, something like that. Yeah.

Seney: Somewhere in there? Right. I mean, it was enough (Conelly: It was big.) to make them back off it, and rightly so.

Conelly: Yeah. The community doesn't want it.

Seney: I mean, the community speaks, that's it. Right.

**“. . . the Newlands Water Protective Association . . . fought against it. . . . once again it's this a small number of people that are controlling the destiny of a larger**

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**community . . . sometimes I'm not sure they have the best interests [of the community] at heart. . . ."**

Conelly: Although, I was told, and I don't know that this is true. I mean, I never checked it out. I was told that it was largely the Newlands Water Protective Association that fought against it. (Seney: Yeah.) And, I thought, you know, once again it's this a small number of people that are controlling the destiny of a larger community, which is not uncommon, (Seney: Yeah.) but sometimes I'm not sure they have the best interests at heart. They were, I still say, which is why I want this restricted, somewhat self-serving.

Seney: Well, that's what I was going to get to. That was my, I was going to suggest something to you. That is, if I were one of them I would see Senator Reid's attempts, I would look at them very cynically.

Conelly: They do.

Seney: And very suspiciously.

Conelly: And they do.

Seney: And, I would say, "What is he doing? He's not our friend. He is trying to diminish the importance . . ." you're shaking your head 'yes,' "of the Newlands Project to the community, effect demographic changes which will maybe be more disastrous for us than the legislation was that was passed."

**Many in Fallon Believe Senator Reid Wants to Shut down the Truckee Canal**

Conelly: I'm sure that's how a lot of folks feel. And, they accuse us all the time, they tell me this all the time that they believe the Senator's intent is to shut down the canal, shut down the canal so . . .

Seney: The Truckee Canal?

Conelly: Yes. And that is one of our number one goals. Well, that's never a goal that I've ever heard discussed in any way, shape, or form, but they believe it. So, for them it's true. So, every time we do any actions that makes them ~~more~~, less dependent on the Truckee River, and clearly we do a lot of that and that is our agenda, to make them less dependent (Seney: Yeah. Yeah.) on the Truckee River, they see that as, "Oh yes. That's just more along the lines so they can shut down the canal."

Seney: Well they . . .

**“ . . . I’m sure the tribe would like to shut down the canal. I don’t doubt that for a minute. . . .”**

Conelly: Now, I’m sure the tribe would like to shut down the canal. I don’t doubt that for a minute. (Laughter)

Seney: Right. And I suppose they infer from your, what they regard as close rapport with the tribe, that that is, in fact, the case?

Conelly: Yes. And I, I try to be careful about that whenever we have, we had occasion this last legislative session in the State to have several meetings. There’s a piece of State legislation. Now, that’s a good story.

Seney: Well, we’ll get to AB 380.<sup>9</sup>

Conelly: That’s a good story.

Seney: Yes.

**“You know, that . . . we *have* a very close relationship but I don’t want it to be perceived as we do *everything* the tribe wants. We don’t. But, Pelcyger is smart. He wants them to perceive that too. . . .”**

Conelly: That I, you know, I wasn’t going to sit by the tribe. I mean, Bob Pelcyger wanted me to have lunch with him in the cafeteria and I said, “I’m not going to do it.” (Seney: Yeah.) You know, that we are joined at the hips, and in fact, you know, we *have* a very close relationship but I don’t want it to be perceived as we do *everything* the tribe wants. We don’t. But, Pelcyger is smart. He wants them to perceive that too.

Seney: Yeah. Yeah.

### **Assembly Bill 380**

Conelly: So, I mean, you know, I’m very careful about that. And, at those meetings, and in fact I’m the one that got the tribe to move on the number of acres in AB 380, that they weren’t going to budge on, and I said, “You guys are going to have to move on this, because you’re going to lose all of this if you don’t.”

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9. The text of AB 380 is included in Appendix 1 on page 149.

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Seney: Well, why don't we talk a little about AB 380 if you like?

Conelly: Well, that was interesting.

Seney: Yeah. And, this, this has to do—well, give me your view of sort of the background on this.

Conelly: Well, it was a piece of legislation, I understand—I didn't know that at the time, but I understand later—written by Mike Mackedon and proposed by Marcia de Braga.<sup>10</sup>

Seney: Mr. Mackedon is a prominent attorney in Fallon?

### **Dealing with Senator Reid over AB 380**

Conelly: Yes. He's their, the city attorney. (Seney: Yes.) And she drafted this legislation, he drafted it and she proposed it, and we saw it as a threat to the Negotiated Settlement. How *real* of a threat, I'm not sure. But, and I learned a personal lesson there about Senator Reid, which I've learned a couple of times and, you know, you this happens, is I talked to him. It was my job to monitor legislation down there and I, I read the legislation, talked to some people, talked to the feds, you know, Bettenberg<sup>11</sup> and those folks, (Seney: Right.) and talked to the tribe, and talked to some folks and decided this was not a piece of legislation that we would support. And, I told the Senator that we needed to kill this.

### **Marcia DeBraga Said She Had Discussed the Bill with Conelly**

And, you know, I talked to Marcia de Braga and she told me that she had talked to me about this bill before, but she had not, which I thought was very interesting, you know. And, I'm not going to tell her, "You did not." We talked about several pieces of legislation. This was not one she told me was coming.

Seney: Do you—that's a real breach of etiquette in these kind of matters, is it not?

### **"I thought it was just inexcusable. . . ."**

Conelly: I thought it was just inexcusable. Because, we'd had, they had had a bill last year that would have allowed the district to put liens on property in the event someone does not pay their O&M. The truth of the matter is, I don't even know *why* we got involved in that, but we did. Actually, we got involved in that at the request of the

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10. Marcia DeBraga contributed to Reclamation's oral history work on the Newlands Project.

11. Bill Bettenberg participated in Reclamation's oral history work on the Newlands Project.

Fish and Wildlife, who were concerned how that would impact them if later on *they* decided to stop paying O&M fees. They pay them now, but they have no written contract to do so. They pay them because it's the right thing to do.

Seney: My understanding is there's Nevada State legislation that . . .

Conelly: But, that was *this* legislation.

Seney: There wasn't previous legislation (Conelly: No.) that required (Conelly: There wasn't.) anybody who bought water rights to pay O&M.

Conelly: Not, not allowed them to put a lien on the property.

Seney: Ah, okay.

Conelly: So, we got involved two years ago, because our legislature only meets every other year, and we got involved two years ago and killed this legislation, and it was Marcia's legislation and she was very upset about it. And, we were . . .

Seney: How do you kill something like that?

Conelly: We talked to all of the legislators that were on the committee, Republicans and Democrats, and the deciding vote--this is a good story--was a Washoe County Republican Assemblyman that killed that in Committee.

Seney: This goes back to your point that maybe the Republicans here are more interested in the (Conelly: They get it.) Public Law 101-618?

Conelly: You know, and that's what we told them that, you know, "This is, has an impact on the implementation of Public Law 101-618." That's kind of a stretch, but that's what (Seney: Yeah.) we did, and he voted against it. So, the bill was killed. So, this year, before the . . .

Seney: Can I stop you to make one point here?

Conelly: Yeah.

### **Interstate Allocation of the Truckee River Between California and Nevada Is a Part of Public Law 101-618 of Particular Interest in Nevada**

Seney: My understanding is that people here in Washoe County, that Reno-Sparks, Washoe



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County, that are interested in Public Law 101-618 are particularly interested in the interstate allocation between California and Nevada. Ten percent to California, ninety percent of Truckee River water to Nevada?

**If the Water Allocation on the Truckee River Is Ever Reopened Nevada Will Never Get the Same Deal Again**

Conelly: We go *out of our way*, every chance I get *I stress* that in the community, with the help of the Chamber, which are not traditionally supporters of Democratic senators. The Chamber and I spend every chance we get, we tell people how important that is so that *that* is what they hear all the time. I think, obviously, the power company has some other interests, and developers have other interests, (Seney: Right.) but for the guy on the street that might, you know, like a casino owner, any chance I get I tell them, “Look, you lose this interstate allocation you’ll never get that deal again.” That was the, basically my *testimony* too, was, you know, “You can say whatever you want about the Negotiated Settlement, but if you lose the interstate allocation and we have to renegotiate that, you *won’t* get that deal again.” And, I *believe* that to be true.

Seney: Because, now the Upper Truckee interests on the California side are mobilized?

Conelly: They’re starting to pay more attention.

Seney: Yes.

**“ . . . you can talk about the tribes and the endangered species, and the upstream storage, and the drought protection, and all of that, but if you talk about, ‘Hey, right now we get ninety percent of the water and if you change this we’re screwed . . . ’”**

Conelly: And, I think, I think even some of them are kind of going, “How did that happen?” And, you know, if we get in a position where they can renegotiate that we *won’t* get that kind of a deal again. It’s kind of a fluke we have it now. And, and I remember telling Marcia de Braga and Joe Dini, who is the Speaker for the Assembly down there, in a meeting over this 380, I said, “Hey, we can argue about the water all you want once we get it to the State, but if we lose the interstate allocation then we’re all just sitting here messing around for no good reason.” And we make that point *every* chance we get, because I think it’s something that people can understand. (Seney: Right. Right.) I mean, you can talk about the tribes and the endangered species, and the upstream storage, and the drought protection, and all of that, but if you talk about, “Hey, right now we get ninety percent of the water and if you change this we’re screwed,” people get that, (Seney: Yeah. Right.) you know. So.

So we, so before this session, after we had killed this bill for Marcia two years ago, she called me in. And, I've known Marcia all my life, (Seney: Yeah.) and called me in and said, "I've got some bills and I want to go over them with you, and if you guys have problems with them *I want to know now.*"

Seney: Based on her previous experience?

### **Advised Senator Reid That AB 380 Would Be Bad for the Negotiated Settlement**

Conelly: Yes. So that we wouldn't do anything. (Seney: Right.) And so, I went down there. We had *lunch* in her office and it was a great meeting, and we went over six bills and this was not one of them. So, I had a staff person going over there everyday to check on any new bills, and she gave me this bill and I went, "I don't know anything about this. Marcia never talked to me about it." And, I started checking around and it looked like there was a problem. So, I told the Senator that, "This is a bill that we shouldn't have. It's going to be bad for the Negotiated Settlement. It's a bad bill." And, he got engaged.

Seney: Now, you were beginning to say you learned something about the Senator?

Conelly: Well, that was it. He, (Seney: That he . . .) he got engaged and, you know, it's not my job to call in Senator Reid when the going gets rough. I mean, that is not how this is supposed to work, but it is a tool (Seney: Yeah.) in my job, (Seney: Right. Right.) that, you know, I can talk to some people and they'll listen but sometimes if I really want to be sure they get it . . .

END SIDE 1, TAPE 1. AUGUST 22, 1999.

BEGIN SIDE 2, TAPE 1. AUGUST 22, 1999.

Seney: Staff person had done some lobbying?

**“. . . I told the Senator that we had the votes to kill this bill and Marcia had also counted votes and realized that she couldn't get it out of committee, so she . . . put it on an agenda and she'd *table* it. . . she did a very smart procedural thing. I mean it was, frankly, brilliant, and it reminded me of Senator Reid. . . that's kind of our M-O [Modus Operandi] and here she is using it against us. . . .”**

Conelly: Done some lobbying and we thought we had the votes, and Marcia, to kill it in committee. And Marcia, and the votes that we had were from Clark County, not from up here, because there was no one up here on her committee. Oh, wait. [Recording paused]

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Seney: Go ahead.

Conelly: So, I told the Senator that we had the votes to kill this bill and Marcia had also counted votes and realized that she couldn't get it out of committee, so she tabled it and she, then she put it on an agenda and she'd *table* it. And, and we were continuing to make sure our votes were firm, because you know people make deals all the time, and we were just trying to watch our votes very carefully, and then they, they did a, she did a very smart procedural thing. I mean it was, frankly, brilliant, and it reminded me of Senator Reid. (Laugh)

Seney: He's known for that, isn't he?

Conelly: Yes.

Seney: Yeah.

Conelly: He's known to use the process, (Seney: Yeah.) and that's what she did, which I actually found somewhat amusing that, you know, that's kind of our M-O [Modus Operandi] and here she is (Laugh) using it against us. And, it was hard to fight against Marcia. I mean, she's a Democrat, you know, and we recognize that she's in an extremely difficult position, and we were, we were talking to, I had the Senator call everyone on that committee and it made Marcia furious, just furious. And so, I mean she was *barely* speaking to me, and she was just furious and said, you know, that we overplayed our hand. She had the committee pass it to the full Assembly without a recommendation. So it got out of committee, which was my best shot to kill it. (Seney: Yeah.) So, it went to the full Assembly, and then Joe Dini stepped in and said, basically said to me, with a message to the Senator, "Look, you guys lost that battle, now you're going to lose this war if I put it before the full Assembly and recommend it passes. So, now you better sit down and let's talk about what we can do."

Seney: You know, I'm told that not only was Assemblywoman de Braga furious, but that Mr. Dini was furious?

Conelly: He was furious, and he was furious because he heard some things the Senator may have said to some other assemblymen. I wasn't on those calls, so I don't know what he said, but I heard . . .

Seney: That might have been critical of him perhaps?

Conelly: Yes. Yes.

Seney: Ah.

Conelly: And, and then at the very end when we thought we were going to lose this and lose all these votes, the Senator called up assembly people and basically told them, “I want your vote on this, and if you don’t vote on this I’ll never help you again.” And, *that’s* the lesson I learned, to be sure, if I’m going to get him engaged, that I know what it is he’s going to do, (Laughter) because I was shocked. And then . . .

Seney: That’s pretty tough stuff, huh?

Conelly: It’s very tough stuff, and they didn’t like it, and they didn’t like it *a lot*. And, basically, that’s when Joe Dini said, you know, “You’re history. You guys have overplayed your hand. You’re history. This bill passes. And, if it screws your Negotiated Settlement,” even though he recognizes it’s good for the State, “so be it. Now, what do you want to do?” (Seney: Yeah.) So, (Seney: Yeah.) it was, you know, frankly we overplayed our hand.

Seney: Do you think you could have killed it without any help from the Senator?

Conelly: Probably. (Seney: Yeah.) I had the votes. And, I just said, “You know, I think you should call these people and just make sure their votes are with us.” (Seney: Oh.) And, he didn’t call them and say, “How much I appreciate your vote.” He called them up and said, “*If* you don’t vote for us . . .” (Seney: Oh.) And, a couple of, at least one freshman legislature, legislator was horrified, didn’t know what to do, went to Joe Dini and that made Joe Dini mad, you know. “Who is Harry Reid to be telling *my* legislators,” it was a Democratic legislator, “what to do?” So, it was very uncomfortable.

Seney: Protocol wise he should have gone to the Speaker, probably, and said, “This is really important to me, and . . .”

Conelly: Which we did after the fact.

Seney: Oh.

Conelly: We didn’t do it the way, I mean, you know.

Seney: Legislatures are very delicate (Conelly: Yes.) institutions?

**“. . . we haven’t paid much attention to the State legislature . . . we had Governor Robert (Bob) Miller (1989-1999), who, *if* the legislature passed a bill that we didn’t**

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**like . . . we could go to Governor Miller and make a case and he would veto it. We don't *have* that now, and so we were paying much more attention and getting more involved . . ."**

Conelly: Yes. And, but I think we learned a lesson there, and you know, from a *way* big-picture perspective, we haven't paid much attention to the State legislature, and the reason we haven't is we had Governor [Robert (Bob)] Miller [(1989-1999)], who, *if* the legislature passed a bill that we didn't like or had a real detrimental impact on something, not just the Negotiated Settlement, but we could go to Governor Miller and make a case and he would veto it. We don't *have* that now, and so we were paying much more attention and getting more involved, (Seney: Oh.) and, you know, we didn't do a very good job. I mean I, we didn't. (Seney: Yeah.) We didn't do a good job at all.

Seney: Yeah. Yeah. Well, it's very different when you have to deal with one sort of, I don't know, cooperative Democrat as Governor with a (Conelly: Yeah.) veto pen and as opposed to a legislature.

Conelly: Yeah. And, (Seney: Yeah.) and then the whole issue of Marcia's election, I think, came into that in that, you know, she's had very tough races. The Democrats need her desperately going into reapportionment. (Seney: Right.) Joe Dini made a real point of telling me, "If we lose Marcia, you know, we can't afford to lose the Assembly, for the Democrats, and if this bill doesn't pass we could *lose* Marcia and then, then what are you going to do?" And, I mean, (Seney: Right.) it was a very good point. We have helped Marcia. We make jokes about it. The Senator tells Marcia, "I'll help you or I'll come out against you, whichever one will do you the most good," and it's a joke. (Seney: Yeah. Yeah.) You know, we go down there and we register voters for her and we work for her, (Seney: Yeah. Yeah.) but, you know, behind the scenes. And, the point is, you know, "You guys are going to kill this bill and then she doesn't get reelected, what have you gained?"

Seney: Yeah. And, I can understand the Speaker's preoccupation with (Conelly: He, He was doing his job.) maintaining his majority. Absolutely. Yeah.

Conelly: And, his majority is more important now going into reapportionment *than ever*. And so . . .

Seney: Forgive me for not knowing what the breakdown is in the Senate?

Conelly: I think it's, right now I think it's eleven to nine. Eleven Republicans and nine Democrats.

Seney: So, you need control of that one house?

Conelly: We have to have that house, because we don't have the Governor and we don't have the Senate.

Seney: Yeah. Yeah.

Conelly: So we lose that, Democrats are screwed.

Seney: Yeah.

Conelly: And, that was his point. And to think that a Democrat would screw the Democrats is not a good thing.

Seney: Let me, let me go back to more of the origins of this, of this business, because it really comes out of the tribes filing protests?

### **Pyramid Lake Paiute Tribe Filing of Protests Before the State Engineer**

Conelly: Yes, it does.

Seney: Before the state engineer?

Conelly: Yes.

Seney: Over water right transfers in the Newlands Project?

Conelly: Right.

Seney: Claiming that their post-1913 law applies to them, and so it's a question of forfeiture of those?

Conelly: Exactly.

Seney: Right.

Conelly: And I don't know how many suits they filed, but hundreds. (Seney: Right. Right.) Or protests. Hundreds of protests. And, you know, I am told and I believe it to be true, that a lot of people down there have—oh, and the Bureau of Reclamation made a decision that as long as they were under protest they wouldn't deliver any water rights. I mean, so some people who may have had, some people were filing transfers

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- on water that had *not* been used forever and, you know, now was probably a developed piece of property, a parking lot or something, but some people were legitimate irrigators who just wanted to move it from here to here. And, once the Bureau of Reclamation made a decision that *nobody* that has any water rights under protest are going to get a delivery of that water right. It has been very onerous out there.
- Seney: Oh. Because, those protests really raised hackles?
- Conelly: Terrible. Because, I think some of them were *legit*. I mean, a guy like Ernie Schank, he hasn't put up a parking lot or a shopping center. He's still doing his stuff and he, you know, when he can't transfer the water from here to here, (Seney: Right.) you know, or build a pump house and use the water that was under the pump house over here, he's going to be upset.
- Seney: Yeah. Yeah.
- Conelly: I think, I, I don't *know* this but my gut feeling has always been about half of them were legitimate protests where, you know, the property's been developed, (Seney: Right.) it has, and half of them were not. Well, the half that are not, that's a lot of folks.
- Seney: That's right. That's right.
- Conelly: Who had, you know, who had water that they now *could not call for* because the tribe filed a protest.
- Seney: And, the community is small enough still that all of that is talked about (Conelly: Oh sure.) incessantly?
- Conelly: Sure.
- Seney: Yeah. So, even the ones who maybe have a questionable right, who've had a corral on that, (Conelly: Yes.) or a house, or a road, they're going to feel just as (Conelly: Or sold it.) grieved?
- Conelly: Yeah.
- Seney: Right. Right. Yeah. Right. Now the, the community does something very interesting here. And, you're smiling. You have a wry smile on your face. What do they do?
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Conelly: You tell me. (Laugh)

Seney: They filed protests in Washoe (Conelly: I, I thought . . .) in the Truckee Meadows.

### **The Fallon Community Started Filing Protests Regarding Water Rights in Washoe County in the Truckee Meadows**

Conelly: I have been personally and professional disappointed in the leadership of the community, both the folks who sat in on the Second Round negotiations, which, you know, was an interesting mix of characters representing an interesting mix of interests. I've been *personally* disappointed in the leadership in the county and the city that they haven't been able to come to the table and say, "This is what we want and here's what we have to have, and here's what we can give up." That there's never been any kind of a consensus of *what* they need to do. *I thought that was brilliant.* That was the only thing they could have done that would have raised *any* interest upstream with what's going on down there. Reno-Sparks and Washoe County might have some *personal* sympathies for how their way of life has been impacted, or they say it has been, but it's just a little bit. Boy, they came up here and filed protests. *It was the smartest thing. I thought it was brilliant.*

Seney: And it worked?

**“. . . I thought it was . . . just brilliant. . . . But, it was the only thing they could have done that would have gotten upstream interest. . . . that got everybody's attention. . . .”**

Conelly: And it worked. I thought it was just *brilliant*. You know, I had so many phone calls and so many people concerned about, "What Fallon's doing to us," I thought it was brilliant, just *brilliant*. I don't know (Seney: Yeah.) whose idea it was. (Seney: Yeah.) I probably never will. (Seney: Yeah.) But, it was the only thing they could have done that would have gotten upstream interest. They can file lawsuit, after lawsuit, after lawsuit, (Seney: Right. Right.) but, you know, "We needed a comprehensive EIS. We need this." But, *that got* everybody's attention.

Seney: Apparently the few protests that the state engineer ruled on, he ruled in favor by, pretty much uniformly in favor of the Washoe County interests?

Conelly: It didn't matter.

Seney: Because, they hung things up?



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**“They hung things up and they *scared* them. . . . it was the *fear* that they were going to be able to prevent future development. . . .”**

Conelly: It didn’t matter. They hung things up and they *scared* them. And, and that, it was, (Seney: Yeah.) it was the *fear* that they were going to be able to prevent future development. Yeah.

Seney: Yeah. And they created a climate of uncertainty for the developers, (Conelly: Yes.) which is the *most* fearsome climate?

Conelly: It scare them to death.

Seney: Yeah. Yeah.

Conelly: They scared them to death.

Seney: Now, I have been told—by the way, when I said, “And then the community did . . .” and you started to smile and you said, “You tell me,” I have to think that there may have been something else I could have said. Would they do anything else?

Conelly: No. I think that was the smartest thing they did. I thought that was *brilliant*.

Seney: Well, then you didn’t quite answer my question. (Laughter) You’re very good. But, was there something else that they did as well, apart from this?

**“. . . because of my personal disappointment with the lack of leadership from the community it seems like many times it’s the Newlands Project that drives the community. . . . you just have to look at their economics to know that that is wrong. . . .”**

Conelly: Well, I think they handled themselves in AB 380 very well. And that was, that was the other thing, because of my personal disappointment with the lack of leadership from the community it seems like many times it’s the Newlands Project that drives the community. (Seney: Right.) And, you just have to look at their economics to know that that is wrong.

Seney: And so, they’re not a big part of the community’s (Conelly: I think . . .) economic base, (Conelly: No.) are they?

**“. . . they’ve (TCID) done a *marvelous* job of selling themselves as, you know, ‘You must protect us or the community dies.’ And so, the community does. . . .”**

Conelly: But, they have done, *they've* [(TCID)] done a *marvelous* job of selling themselves as, you know, "You must protect us or the community dies." And so, the community does. But, during AB 380, when we were having some discussions about acres that were being bought out, and it was the community, it was the mayor, Ken Tedford , and the city attorney, Mike Mackedon, and even to a lesser degree, you know, the county chairman of the county commissioners, who got the . . .

Seney: Is that Mr. Regan [spelling?] still?

Conelly: Yes. (Seney: Yeah.) Got the T-C-I-D [Truckee Carson Irrigation District] people to agree. And, that is the first time I ever saw them say, "This is what we're going to do." It's always been the other way around. T-C-I-D has kind of told *them* what to do and they've gone along. And, I just thought that was a real important thing. And, what happened to *me* in the course of the negotiations is when I saw this leadership then on a couple of occasions when, and they weren't major things but minor things about how the negotiations were going to come out on AB 380, I told the tribe, "I'm going with the City of Fallon." And, I felt like I *had* to because they had displayed real leadership.

Seney: And, you wanted to reward that?

Conelly: I wanted them to know that the feds weren't going to *roll* them. And, you know, the tribe was very unhappy that I—I mean, they weren't major things and I wouldn't have done anything to hurt the tribe, but it's just they did something I hadn't seen them do, ever.

Seney: Is this the kind of thing you'd have to clear with the Senator if you were going to go with them on these minor things?

### **TCID Wants Money to Support O&M Long Term**

Conelly: I had to clear with the Senator the money. I remember calling the Senator, because we promised big money, I called the Senator on my way back from Carson City and I said, "I need some money." (Laugh) He said, "How much money do you need?" and I said, "Several million dollars." And he goes, "Do you have to have it all in one year?" And I said, "No." And he said, "Fine." (Laughter)

Seney: It turns out to be \$7 million (Conelly: Yes.) from the feds, doesn't it?

Conelly: Yes.

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Seney: Yeah.

Conelly: I . . . it's going to be more.

Seney: Is it? So, I understand (Conelly: Yes.) that there are hangups now (Conelly: Yeah.) that they're quarreling over . . .

Conelly: O & M.

Seney: O & M. Right. They want a fund (Conelly: Yeah.) to essentially have an annuity, I guess, to . . .

Conelly: I think that's fair.

Seney: Well, I do too. Yeah.

Conelly: I'm going to have to sell that to the Senator.

Seney: As if it matters what I think, by the way. (Laugh)

Conelly: But, I think that's fair.

Seney: Yeah. I know. Right.

Conelly: And I think, in fact I'm going to Fallon tomorrow to meet with Lyman [McConnell],<sup>12</sup> and probably Ernie, to talk about how . . .

Seney: Ernie Schank is now the president of the T-C-I-D Board (Conelly: Yes.) and Lyman, of course, is the (Conelly: Executive director.) manager? Right.

**“ . . . / want them to leave this program believing they got a fair deal. I don't want them to think they ripped off the federal government. . . and I don't want the federal government . . . to believe that T-C-I-D ripped them off . . . ”**

Conelly: I guess manager, whatever. And, I think that they should have an annuity and I think it should be, what I've told everybody, including them, which is like the worst place in the world to negotiate but I did it on purpose, *I* want them to leave this program believing they got a fair deal. I don't want them to think they ripped off the federal government, because I can't sell that in D.C., (Seney: Right.) and I don't want the federal government, like Bill Bettenberg and those folks to believe that T-C-I-D

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12. Lyman McConnell participated in Reclamation's oral history work on the Newlands Project.

ripped them off, but I *want* them to think they got a fair deal. And, I've told them that. Now, we're having some—I hope it doesn't fall in the toilet. I'm real worried about it. But . . .

Seney: Well, I guess there is concern, because their, their number for this annuity is \$4 million, as I understand it.

Connor: Yeah.

Seney: And, you—the tape won't see these wonderful looks you get on your face. (Laugh) I wish we had a video camera, because it was kind of skepticism, and worry, and “Is this right? Is it too much maybe?” What number do you have in mind?

Conelly: I, honestly, and since I know you're not going to talk to him before tomorrow, I could sell \$2.5 million in thirteen seconds to the feds.

Seney: I wouldn't say it anyway, if I were.

**“I could get the Senator to go with \$2.5 million. . . . without batting an eye. . . . I might be able to go to \$3 million. . . . more difficult. . . .”**

Conelly: But, I could. I could get the (Seney: Yeah.) Senator to go with \$2.5 million. I could sell that without batting an eye. I mean, I wouldn't even, I'm just going to say, “We're going to spend \$2.5 million,” and everyone would say, “Fine.” I might be able to go to \$3 million. That's going to be more difficult. Anything over \$3 million *I'm* going to have a *very* difficult time getting. Because, even if I get the Senator to go with it, and I probably could, (Seney: Yeah.) then it has to go to committee and Bureau of Reclamation people and Interior people will comment on it. (Seney: Yeah.) And if they think that the feds were getting (Seney: Yeah.) ripped off, they'll say, “*This* is a bad deal.” (Seney: Right.) And, I don't think . . . I'm told that they would never go for anything over \$3 million.

Seney: Well, there is a quarrel about what the O & M costs are, (Conelly: Yes. There is.) aren't there? And, some feeling that the District is inflating the number here, and going for the max in every direction they can go?

**“. . . my history with them in negotiating is they go in high and then they never move. . . . They have hung tough on \$4 million and I . . . don't know that it's real. . . .”**

Conelly: And, I don't *actually blame* them for that, (Seney: No.) if that's a negotiating tool,

- (Seney: Right.) but, but if they, my, unfortunately my history with them in negotiating is they go in high and then they never move. I mean, you know, if I, and I told them a million and a half thinking, “Okay, I’m going to raise it to \$2.5 million and we’ll be happy.” They have hung tough on \$4 million and I, I believe that they’re not looking for ways to justify it. I don’t know that it’s real.
- Seney: Yeah.
- Conelly: I mean it’s, I’ve seen all of their stuff. I don’t think it is real and I, I mean I can’t sell it. And, to have this program fall apart because they won’t budge, (Seney: Yeah.) which has been their way, (Seney: Yeah.) makes me really uncomfortable.
- Seney: Well, do they begin to mention, do you think the \$4 million number, enough people hear it that any back off from that is going to look like retreat?
- Conelly: I don’t know if they do that intentionally, or if that’s just a byproduct. I don’t know what the deal is. But, you know, it’s like, I do this with the tribe all the time. We did it with the tribe on the acres, you know. They wanted, God knows what they wanted, probably 10,000 acres, you know. (Laugh)
- Seney: Ended up with six? Yeah.
- Conelly: Sixty-five hundred.
- Seney: Right.
- Conelly: And, I mean, I think the city was talking five. And, you know, we ended up with 6,500, which I think . . .
- Seney: This will be the buyout over time (Conelly: Yes.) from willing sellers (Conelly: Yes.) of these disputed lands?
- Conelly: Right.
- Seney: Right.
- Conelly: I just don’t know. I mean, if *they’re* not willing to move I don’t know what happens now, and I guess I’ll find out tomorrow.

### Ernie and Cyril Schank

Seney: Let me, let me suggest a little history to you, and this particularly bears on Ernie Schank, whose father Cyril Schank<sup>13</sup> has been a leader in the community. They're wonderful people. I've interviewed (Conelly: They're fabulous people.) them both. I've spent a lot of time with Ernie. (Conelly: Yeah.) I *really* like him. I really respect him.

Conelly: Wonderful, decent (Seney: Yes.) people.

Seney: Hardworking. Right. Right.

Conelly: Yes.

Seney: And, I think Ernie has wanted to be a leader in the community as his father was, and I think he has the capacity for leadership (Conelly: Yes.) and the energy that's required, but he had a terrible, terrible experience in 1984. Do you remember when the Board accepted the 395,000 acre-feet deal?

Conelly: Yeah.

Seney: Which they would give anything for today (Conelly: Right.) I think.

Conelly: Yes.

Seney: And, (Laugh) I mean at that point the tribe was willing to, what, take three hundred, roughly, 250-300,000 acre-feet. They're up to 550,000 (Conelly: I know.) acre-feet? I mean it's just . . .

Conelly: They'd love to go back.

Seney: They would. But, the upshot of the acceptance by the Board of that deal was the defeat of numerous members, including Ernie Schank.

### **Ernie Schank Was Thrown off the Board of TCID in 1984 Because the Board Agreed to Accept 395,000 Acre Feet**

Conelly: He told me that once. He told me—we'd had lunch or something. He told me that he'd been thrown off the Board for being willing to accept that. Yeah.

**“. . . in the Second Round negotiations. . . . Ernie is the one who agreed to the deal, and then came back a couple of days later and said, 'We have no deal.' . . . 'I**

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13. Cyril Schank participated in Reclamation's oral history work on the Newlands Project.

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**can't sell this to the community. . . .’ And, I remember thinking, ‘You didn’t try. You just decided it was going to be too hard . . .’ . . . made no efforts to go out to the community . . .”**

Well, I also saw Ernie in the Second Round negotiations. I mean, he has good technical knowledge. He has, I think, pretty good instincts, and he, Ernie is the one who agreed to the deal, and then came back a couple of days later and said, “We have no deal.” And when we were pushing him, and it wasn’t me, it was, you know, like the, you know, the people from the environmental community and the power company, and the Interior. I mean, everyone was going, “What happened?” Ernie kept saying over and over again, “I can’t sell this to the community. I can’t.” And, I remember thinking, “You didn’t try. You just decided it was going to be too hard and you just said, ‘No deal.’” He made no efforts to go out to the community and say, “This is the deal we can get you and here’s why it’s good and here’s why it’s not so good.” He just said, “No, I can’t sell this to the community.” He made no effort to try. And I remember thinking at the time, “Ernie, that’s not leadership,” you know. He was *afraid*.

Seney: I would agree with that from—(Conelly: Yeah.) yeah. Right.

Conelly: He was afraid.

Seney: And, I have to say that, if you read his interviews, you’d think that it goes back to this 1984 experience.

Conelly: Yeah, well, it probably could.

Seney: Yeah. Right.

Conelly: Yeah.

Seney: What are you going to do when you go out tomorrow and meet with Lyman and Ernie? How do you handle something like that?

**“ . . . I’m going to tell them exactly what I told you. ‘I can give you \$2.5 million right this minute without batting an eye. I don’t need anybody’s approval. We’ll just do \$2.5 million. And if the total cost of the program costs more than the money that we’ve allocated, we’ll get it.’ . . .”**

Conelly: You know, it’s never comfortable. It’s just not. And, and I’m going to tell them exactly what I told you. “I can give you \$2.5 million right this minute without

batting an eye. I don't need anybody's approval. We'll just do \$2.5 million. And if the total cost of the program costs more than the money that we've allocated, we'll get it. Senator Reid will make that commitment. I'm not concerned. Anything over that I'm going to have to . . ."

Seney: That is over the \$13 million, roughly?

Conelly: Yes. And I think, I think right now we're real close to \$13 million without O&M. Because, the appraisals came in for the water. And if you figure it out, plus the administrative fees that the Carson Subconservancy is going to take, we're pretty close to \$13 million without giving them a penny. Now, it was . . .

Seney: For O&M?

Conelly: Yes.

Seney: Yeah.

Conelly: It was my intent, on purpose, and I'm sure that they know this, to make sure that we had complete buy-in of the program from everybody and to negotiate O&M last. So that if the program falls apart because they won't accept an O&M, I can go, "Look, we're ready to go. All they have to do is take \$3 million." (Seney: Yeah. Yeah.) And . . .

Seney: So, you're trying to put a little political pressure on them?

Conelly: I did it intentionally.

Seney: Yeah.

Conelly: They wanted to negotiate O&M first and I wouldn't do it. I said, "O&M will be the last thing we do," and I did that intentionally. So, we got an appraisal. We figured out what the administrative costs for the Subconservancy is going to be, and *now* the *only* thing that's preventing this program from being implemented is their accepting an O&M.

Seney: Yeah. Yeah. You know, I had a phone conversation with an individual that is, would be identified with the project interests, and they said to me that there was some feeling that you were waffling now on the O&M stuff.

Conelly: God, I'm just not. I, they probably got that feeling because I wouldn't meet with



- them, and I did that on purpose. I mean, I've only had one meeting. It's been, other things are being settled. They're probably perceiving that I'm backing away, when in fact I want them, *I want them* to be the ones to say, "No."
- Seney: And, that's exactly what you want them to think (Conelly: Yes.) at this point, is that you're backing away from it?
- Conelly: Yes.
- Seney: Yeah.
- Conelly: Yeah.
- Seney: Yeah.
- Conelly: And, I want them to be—if somebody kills this program *it will be them*, not the feds, not the State, not the irrigators. It'll be the T-C-I-D Board that won't accept an O&M. And I believe, from the calculations I've seen, I'm not an economist, although I've had it gone over by a couple of Bureau of Reclamation economists, \$3 million is very fair. And, that was my goal. I *want* them to believe not that they got screwed but that they got treated fairly. And, I'm probably going to put the \$3 million on the table tomorrow and if they don't take it then I have *no* idea where we're going to go from there. But then, I'd probably start applying political pressure.
- Seney: Which would be?
- Conelly: Oh, you know, talking to some of the commissioners down there, and Mike Mackedon, and the mayor, and Marcia.
- Seney: But, you're probably not going to get the Senator involved?
- Conelly: No, I don't think so. (Laughter) But say, "Look, we made them a \$3 million offer (Seney: Yeah.) and everyone says it's fair. That's the only thing that keeps this from going. I don't know where to go from there. You guys tell me what to do."
- Seney: Because, what you saw in the AB 380 negotiations, that is from the community, you're hopeful now that they can (Conelly: It's . . .) tell T-C-I-D, "You better take this."

**Lyman McConnell and Bob Pelcyger**

Conelly: Lyman is a very, a presence in these discussions. He always is. And, in these AB 380 meetings, and I don't remember how many there were, but several, Lyman was not participating. He was not the leader. He, they asked him a couple of times, and a couple of times he made some points and people kind of went, "Oh, Lyman." I mean, he wasn't *the guy*. And so, I'm hoping that if I can't get Lyman to agree, and I pray that I can, that maybe he still isn't the guy and someone else can get him to do it.

Seney: Though I understand that at the end of these negotiations over AB 380 that he and Bob Pelcyger shook hands?

Conelly: Yeah, I saw that.

Seney: To some jubilation, I guess, (Conelly: We were all laughing.) and applause? Yeah.

### **Mike Mackedon Was Active in Negotiations**

Conelly: But, but you know, both Bob and Lyman are always the ones that talk. You have to ask them to shut up so other people can talk. (Seney: Yeah.) Lyman didn't do that. And, wasn't actually *allowed* to. It was Mackedon.

Seney: That seemed to be calling the shots?

Conelly: Uhm-hmm. Yeah.

Seney: Ah.

Conelly: Mackedon and Marcia. And, Mackedon did very well. I mean, I was, I've seen him in court. I've seen him in negotiations. He has *never* impressed me until that time. I've always thought, "Oh lord, if he just knew what he was talking about maybe we could get somewhere." He did *really well*. He was good and they got their money that day. (Laugh)

Seney: So you, again you're hopeful that this will (Conelly: I'm hopeful.) indicate a little shift in where the leadership comes from?

**"I think that there are things they could get, if they were willing to negotiate as opposed to litigate, that would be helpful for them. . . ."**

Conelly: I hope so. I think that there are (Seney: Yeah.) things they could get, if they were willing to negotiate as opposed to litigate, that would be helpful for them.

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### The Fallon Area Needs a Sewer

- Right now they need a sewer. They have two problems related to their sewer. One's with regard to a, through the tribe down there. There's a big fight with the tribe. And then the other one is they need some federal funds to help them improve their sewer system. And, they came to us for money, and I had someone in Washington D.C. put it in a budget and I took it out. I said . . .
- Seney: You could have gotten that for them, couldn't you?
- Conelly: Yes. And, I said, "Absolutely not. We give them a penny for their sewer right now and I will go screaming into the night." And, I called the Senator and I said, "We are *not* giving them any money for sewer."
- Seney: Because you need the leverage?
- Conelly: That's right. I said, "We are *not* doing that." And it's a million and a half dollars. And just, I mean, it's not a big deal for us. I imagine it would be a big deal for them. (Seney: Right.) And, I said, "Under *no* circumstances do we give them any money for sewer, *now*. But, you know, they could come to me and say, "If you'll give us this money for the sewer we'll do this." (Seney: Yeah.) "It's yours."
- Seney: Yeah. Right. Right. Do they know that or are you going to say to them . . .
- Conelly: They know that.
- Seney: They know that? Okay.
- Conelly: They know that.
- Seney: Do they know you took it out?
- Conelly: I don't think so. They just know it didn't get in.
- Seney: Would it, obviously you don't think it would helpful for them to *know* you took it out (Conelly: I don't think so.) at this point? Yeah. Right. Right. But, you know, let me go back to Lyman.
- Conelly: I'd rather go to them and say, "I could get it back in for you if . . ."
- Seney: Yeah. (Laughter) Or "I'll," rather than "I'll put it back in"?

Conelly: Uh huh. Yeah.

Seney: Right? Yeah. Okay.

Conelly: “Oh, I could probably work on the Senator and maybe get this money for you, if you guys did this.” (Laugh)

Seney: Yeah. I see. Right. Right. That’s a much more (Conelly: Yeah.) helpful kind of happy, (Conelly: Yes.) warm, fuzzy way to do it.

Conelly: As opposed to, I was screaming on the phone. “You give them money for this sewer and I will scream until you hear me back there.” (Laughter)

Seney: And they got the point?

### Lyman McConnell

Conelly: Uhm-hmm.

Seney: Back to Lyman, for a minute, who I’ve interviewed a number times, and whom I like and respect. (Conelly: Uhm-hmm.) He’s very smart.

Conelly: Oh, he’s really smart.

**“ . . . I’m told by those who were there that he began in the back of the room and moved slowly up. And, the more he moved up the more rigid the District became . . . ”**

Seney: And he knows this stuff upside, one side and down the other. I think he’s like Bob Pelcyger in that regard, although Bob’s got more history than Lyman does on these matters. But, I would agree with your characterization of the kind of presence, although I have not seen him in that many meetings. And, to go back to the Settlement II negotiations, I’m told by those who were there that he began in the back of the room and moved slowly (Conelly: Came up.) up. (Conelly: Yeah.) And, the more he moved up the more rigid the District became, the community became?

**“ . . . I go into negotiations hoping that everybody gets something. I believe Lyman is very concerned about what *other* people get . . . Lyman does not care about win-win. He wants him to win and them to lose . . . I believe Lyman is willing to lose, as long as the other guy does too. And, I think that has hurt them . . . ”**

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Conelly: My impression of Lyman is that, you know, like I go into negotiations hoping that everybody gets something. You know, that old cliché, “win-win.” (Seney: Right.)

And even though Pelcyger can be amazingly annoying, I don’t think he cares if other people win, as long as he gets what he wants. (Seney: Right.) And, he is single-minded in that, you know, as long as they get what they want. I mean it’s like, you know, I think of a nuclear fallout. Anything that happens around there, he doesn’t care about it as long as he gets what he wants.

I believe Lyman is very concerned about what *other* people get, that he’s *not* as focused in on “what we want,” as “are they going to get something out of this too?” That he actually takes this probably far more personally than most others do. I mean, I’ve been able to sell things to Bob many times that, you know, “T-C-I-D will get something,” or “the Power Company will get something.” (Seney: Yeah.) He doesn’t care, as long as he gets what he wants. Lyman does not care about win-win. He wants him to win and them to lose, and that’s what makes it very difficult to negotiate with Lyman, because he’s *often* as concerned about what the other guy gets as whether he wins. And I believe, I’ve seen it happen, I believe Lyman is willing to lose, as long as the other guy does too. And, I think that has hurt them (Seney: Yeah.) many, many times. (Seney: Yeah.) I mean, if the tribe got something, even if it didn’t impact what they [T-C-I-D] wanted, I think that he wouldn’t go for it.

Seney: You know, it was, as I’ve thought about these things it strikes me that rather than, and you’re saying this too, rather than being helpful Lyman’s not helpful?

Conelly: He’s not.

Seney: Right. And I don’t know if this ever came up, and maybe you could tell me if it did, was there ever any discussion with the new contract between the Bureau and T-C-I-D, which I assume your office had some input on and was kept aware of?

### **O&M Contract Between TCID and Reclamation**

Conelly: Some, but not much.

Seney: Well, I have heard that the Senator admonished people over this and not to be so pro-irrigator?

Conelly: I assume you're talking about Ann Ball?<sup>14</sup>

Seney: I could be.

Conelly: Could be? Yeah. (Seney: Yeah.) I'm sure he did.

Seney: Right. Was there ever any discussion of putting in that contract the requirement that the Project Manager had to be an engineer?

Conelly: I'm . . . not that I'm aware of. There may have been, but not that I was a party to or the Senator was a party to. Yeah. Not that I'm aware of.

Seney: Yeah.

Conelly: The . . .

END SIDE 2, TAPE 1. AUGUST 22, 1999.

BEGIN SIDE 1, TAPE 2. AUGUST 22, 1999.

Seney: This is Donald Seney and I'm with Mary Conelly Senator Harry Reid's State Director, in her office in Reno, Nevada. Today is August 22, 1999. This is our first session and our second tape.

And, we were talking about maybe elements of the O&M contract that might have led to a change in leadership, and you were saying that really hadn't been discussed. I would think that would be fairly heavy-handed to try to eliminate Lyman from the picture, negative influence as you think he might be, by that kind of thing?

Conelly: I just think that would be *really* inappropriate for us to do, (Seney: Yeah.) and I would, I like Lyman too, but I also think that he's been as much of the problem as anything. But, I don't think that's our role to say. I mean, I might tell Ernie that. I can't imagine what the circumstances would be, but I, I just don't think that's our role. (Seney: Yeah. Yeah.)

### **Ann Ball Didn't Get off on the Right Foot with Conelly**

But, when they were in the middle, or actually before they started the O&M negotiations, we had a new state director here for the Bureau of Reclamation, Ann Ball, and she came to visit me before they went down to do the O&M negotiations, and I had said that I thought I might attend some of those meetings, and she asked me

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14. Ann Ball participated in Reclamation's oral history work on the Newlands Project.

*not* to. And, interestingly enough, I didn't really want to go. I thought I'd go see how they were going, but when she asked me *not* to and said that it wouldn't add to the ability of her to negotiate these, I mean all that did was make me mad. And, when I told the Senator, all it did was make him furious. I thought about it later. All she had to say is, "You know, they're going to be boring meetings. Let me just call you and tell you how they're going." And, I would have said, "Fine. Thanks."

Seney: Yeah. Yeah.

Conelly: And so, we had a very rocky relationship with her.

Seney: And, that was right out of the chute with her?

Conelly: Yep. First time I met her.

Seney: She was selected because she had worked on Senator Seymour's staff?

Conelly: Yep.

Seney: On a detached assignment, and was thought, within the Bureau, to have political instincts?

### **Ann Ball Refused to Participate in the All-Federal Truckee-Carson Coordination Office**

Conelly: Well, I never evidenced any of that. And, and then, you know, at the time we had the Coordination Group, which was all the federal agencies (Seney: Right.) and she refused to participate.

**"... she really was a problem. And, we did actively lobby for her removal . . ."**

I mean, she really was a problem. And, we did actively lobby for her removal, and I think it was the smartest thing we ever did.

Seney: What, what you're talking about now is the Truckee-Carson Coordination Office, (Conelly: Yes.) which was set up, there are many people who, who claim parentage here, (Laugh) I might add.

Conelly: I don't have a clue who it is, either.

Seney: Well, many, many. (Laugh) And, this . . .

Conelly: Of course. (Laugh)

Seney: I can give you that. (Laugh)

Conelly: That's great.

Seney: Yeah. It's, this is a child with many strings of DNA. (Laugh)

Conelly: That's funny.

Seney: Yeah. Yeah. And, but this is an office to kind of bring the federal agencies together, Fish and Wildlife, and Bureau of Reclamation, and Bureau of Indian Affairs, and to get the feds here kind of coordinate their positions, right?

### **The Idea Was to Use the Office as a Way of Coordinating Federal Activities and Positions Regarding the Water Issues**

Conelly: You know, I'm sure, even people in Fallon, who have had a lot of dealings with different federal agencies believe that they all speak from the same book, but from our perspective that hardly ever happens. And, you know, whoever's idea that was, and it was brilliant, because at least it got some of—and, they still have problems. Fish and Wildlife's arguing with the BLM about some (Ringing phone) lands, and water, and this, that, and the other thing. But, I do have to get that. That might be . . . [Recording paused]

Seney: You were saying the BLM and, what are they arguing about?

**“ . . . they're having a big fight over where these water rights should go. So . . . this *vision* that federal agencies . . . are all speaking from the same page is not even *close* to accurate. . . . ”**

Conelly: They're arguing about acquiring water rights. The Fish and Wildlife folks down in Stillwater want to acquire some water rights in the Upper Carson. The BLM wants to retain them in the county and have gotten the county to go along with them. So, they're having a big fight over where these water rights should go. So, I mean, you know, this *vision* that federal agencies, you know, are all speaking from the same page is not even (Seney: Yeah.) *close* to accurate. I mean, we're seeing the same thing now with the fires. I've got the BLM and the Forest Service arguing over responsibility, or lack thereof, for the fires. And, I mean, so whoever came up with this idea to have these folks meet *regularly* and make sure that everybody's on the same page was *brilliant*.



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**“ . . . it was working very well. . . . were talking from the same page, and then Ann came along and kind of screwed up the process. . . .”**

And then, and it was working very well. At least in *public* forums, (Seney: Right.) they all, you know, were talking from the same page, and then Ann came along and kind of screwed up the process. And . . .

Seney: How do you, do you have any guess or insight into her motives in that case, or what?

Conelly: Well, no. I would just have to believe that, you know I think she saw herself in two roles, as the only federal agency that was willing to step out on the limb to help Newlands, and that the rest of these guys were not. So, you know, she was kind of like the protectorate. (Seney: Right. Right.) And, that’s kind of a traditional Bureau of Reclamation role. But, you know, she took it to the point where that was more important than anything else she did. (Seney: Yeah.) And then the second thing is, I think she just didn’t want to relinquish any kind of control.

### Ed Solbos

Seney: Let’s go back to her predecessor, if we may, Ed Solbos (Conelly: Uhm-hmm.) whom I’ve also interviewed at length. And, again, he’s a very bright, capable person, and, but he came a cropper on a *number* of issues. What brought it to a head, I guess, was the late water deliveries to the Fallon tribe. The district did not want to give them late water in a fifty-seven percent water year because they had said no one else could have it. You’re kind of rolling your eyes.

**“ . . . Ed made a terrible decision. . . . sometimes I wondered if he actually knew what was going on, because it seemed like he made every decision to benefit T-C-I-D . . .”**

Conelly: Yeah. I mean, I just think Ed made a terrible decision. And, we always had the impression, it was kind of a joke here among our staff. I know Larry used to make jokes about it. But, you know, Ed would do whatever T-C-I-D told him to do. He just, you know, he was like, sometimes I wondered if he actually knew what was going on, because it seemed like he made every decision to benefit T-C-I-D, and you know, some of those certainly were appropriate but not *every* decision. And, I think *not* delivering the water to the tribe was just, well it turned out to be political suicide.

Seney: Right.

Conelly: I mean, it just wasn’t very *smart*.

Seney: I thought that, you know, the—interviewing people out on the project they had quite a different view of Ed Solbos.

Conelly: Oh, I'm sure.

Seney: And, that was that he was hardly seeing it their way.

Conelly: Really? Isn't that interesting?

Seney: Yeah. Right. They saw him as someone who was very antagonistic.

Conelly: Uhm-hmm.

Seney: And, he was made very uncomfortable.

Conelly: But, he must have done that to everybody, because that's how we saw him too.

Seney: Is that right?

Conelly: Yeah.

Seney: Yeah. He was making . . .

Conelly: So, maybe he did that with everybody. (Laughter)

Seney: Perhaps that's so. Did you have a hand, did Senator Reid's office have a hand in that change?

Conelly: No. Well, we may, he, the Senator may have said something to the Secretary about, you know, "We could use some . . ." (Seney: Right.) and then we got Ann Ball.

Seney: Well, you know, the Assistant Secretary . . .

Conelly: That kind of served us right. (Laughter)

Seney: Then Assistant Secretary Rieke, who is now the project, or Area Manager, I interviewed her and she was quite blunt in the fact that that was, that she had said, "This was enough." (Conelly: Yeah.) That . . .

Conelly: I think she did. I (Seney: Yeah.) think that we, I think we may have said something, but I don't think we were the impetus behind the change.

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Seney: Now, here's my understanding about what happened, that Ed Solbos actually made the decision to deliver the water to the tribe, (Conelly: Uhm-hmm.) right?

**“ . . . you have no idea how much political pressure had to be applied to him to . . .” cause him to deliver late season water to the Fallon Paiute Shoshone Tribe**

Conelly: But not, we, you have no idea how much political pressure had to be applied to him to do so.

Seney: Oh, is that right?

Conelly: I mean it wasn't something, I mean it, we, we were frankly as real close to threatening him. You know, we called his superiors and everybody else. This is not a decision he said, “Oh yeah, I'll do that.”

Seney: That would be Roger Patterson, probably?

Conelly: Yes.

Seney: Right.

Conelly: Which, I think the Senator probably called somebody in Washington. (Seney: Yeah.) That's just his way. But, yeah. No, it was not something where he said, “Yeah. I'm going to do this. No problem.”

Seney: Now, the Truckee Carson Irrigation District, again, didn't like him much?

Conelly: That's interesting. (Seney: Yeah.) I guess I assumed they did, because *we didn't* like him.

Seney: Well. (Laughter) I'll tell you that . . .

Conelly: That's so funny.

Seney: The opinion was pretty uniform.

Conelly: Isn't that interesting? (Seney: Yeah.) I had no idea. Honest.

Seney: Yeah. There was a particular meeting and he alluded to in his interview as well, and I don't want to say any more than that, because he's not *approved* his, (Conelly: Sure.) the others have, and but he, you know, they were *really, really* up in arms over I can't

remember what. Maybe it was the late deliveries and the changes in the OCAP, which were coming over every day, it seemed like to (Conelly: Yeah, that's true.) them, by fax. They'd get another one and another one. And, I happened to be interviewing Ted de Braga,<sup>15</sup> the former president of the Board, a wonderful man really.

Conelly: I love Ted de Braga.

Seney: Salt of the Earth. A very smart, capable individual I think. On the day that these, this late water delivery business was going on, and he was absolutely livid. I mean he was really, really (Conelly: Isn't that interesting?) angry that this was being done.

Conelly: Was going to happen?

Seney: Yeah. His view, and again he's approved his interview. It's been published. His view was, you know, that these were just more irrigators on the project, the Indian tribe, (Conelly: Oh.) the Fallon tribe, that they treated them like they treated everyone else. They had made a decision on late water deliveries that no one else would get them, and they didn't see why they should make (Conelly: Why they should get them?) an exception (Conelly: Yeah.) for the tribe. And frankly, I can see some merit in his thinking on that.

**“ . . . the federal government has a *trust* responsibility to the tribe, they don't understand that. . . . ”**

Conelly: Oh, I can, I can see where he's coming from. The dilemma we have with that is, and I mean, you know, we're arguing about it now with Donner, or not Donner Lake. Well, yes we are, arguing with Donner Lake. But, Carson Lake Pasture is that, you know, to explain to folks like Ted, and Ernie, and others, and Lyman, that the federal government has a *trust* responsibility to the tribe, they don't understand that. (Seney: Yeah.) And, you know, or probably want to. (Seney: Yeah. Yeah.) They probably don't.

Seney: You know, it's very interesting, the first time that I went out and talked to the people on the project and introduced myself as being from the Bureau of Reclamation and doing an oral history. I mean, I'm a university professor. I was very naive about all of this, you know. I didn't know what the intense conflicts were, and I was just learning about it. Boy, a call comes, "Who is this person?" you know, and . . .

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15. As indicated by Professor Seney, Ted DeBraga contributed to Reclamation's oral history work on the Newlands Project.

Conelly: Isn't that interesting?

Seney: Yeah.

Conelly: Well, that doesn't surprise me.

Seney: And, that occasion, the meeting, the Senior Historian came out and we met with Ed Solbos, told him what we were doing, and everything was fine. And, they were fine with me as well. But, when I first went out there, Lyman presented me with a copy of Mr. Townley's *Turn This Water Into Gold*.<sup>16</sup>

Conelly: Oh, sure. Sure. Sure. They still do that.

Seney: Yeah. It's very much the, T-C-I-D's point of view. It's a good history.

Conelly: Well, I think it's—yes.

Seney: Yeah, it's very good. But, it's their, it's from their perspective. And, also a copy of the poster you've seen, many Times.

Conelly: They gave that to me too.

Seney: You got one too? Right. Right.

Conelly: Yes. They gave that to me (Seney: Yeah.) too.

Seney: And, these are kind of, if you will, icons. And, I have it up on my wall. I framed it (Conelly: That's great.) very nicely. It's up on my study wall. It's there to remind me of the point of view of the farmers, to make sure (Conelly: Uhm-hmm.) I remember that. I have an Indian map having to do with the Sioux tribe that was deprived of land. I don't have anything from Pyramid Lake—I couldn't find—up there to remind me of the Indian's point of view. But, they[, TCID,] feel strongly that there's a trust responsibility, if you will, from the federal government toward them.

Conelly: I understand. They do.

Seney: Yeah.

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### **Fallon is changing, and there is no planning to deal with the changes**

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16. John M. Townley, *Turn this Water into Gold: A History of the Newlands Project*, (Reno : Nevada Historical Society 1977).

Conelly: And, and I mean it's, it's difficult to explain to them, and I've had this conversation philosophical with, like Ken Tedford, the mayor, and I have had this conversation *many* times with Mike Mackedon, that they cannot blame the federal government, or the Negotiated Settlement, or Senator Reid for a lot of the things that are happening out there because they're happening because of growth and change. Now, *I* can blame them for failing to recognize that those things were going to impact their community and that they haven't *planned* for them, as well as they can blame us for causing them. Because, I mean, this is a community who now is having sewer trouble, you know, that, I mean they'll resolve them and hopefully we'll give them money next year if we can work some things out, but, you know, they have not recognized that there are things happening in their community that have *nothing* to do with Newlands, and they failed to plan for it.

**“ . . . the Town of Fallon doesn't even require developers to bring water in when they're going to do a development. . . . ”**

The Town of Fernley has been buying surface water rights. This, the Town of Fallon doesn't even require developers to bring water in when they're going to do a development. How can you say that all of their problems are the result of the Negotiated Settlement when the Venerachi's [spelling?], who used to be one of the largest irrigators on the project, they grew Heart O' Gold for years, developed their property.

Seney: The melons?

Conelly: Yeah. (Seney: Yeah.) Years ago. They turned them into housing subdivisions. They didn't have to bring that water to the table to do that. You do here.

Seney: Reno-Sparks?

Conelly: If I was an irrigator and I wanted to, and Double Diamond's a classic, if I wanted to develop my property I have to take the water to the Power Company to show that I'm providing the water to serve my development. They *still don't* in Fallon. They do in Fernley. They do here. They still *refuse* to plan for their future. And so, when they talk about, "The government has a trust responsibility," I ask, "Where is *your* responsibility to your community?" They have not, I mean I cannot *believe* that I could go out there and buy Ernie's property, I mean if I had the money, and turn it into a housing development, and not have to give the city water to serve it.

Seney: You could if you bought his property and water rights? You could sell . . .

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Conelly: I could sell the water rights to the wetlands.

Seney: Yeah. Yeah.

Conelly: That's *absurd*. (Seney: Yeah.) I mean, and yet, and so, you know, they have a responsibility to plan for their future and to accommodate the change that is occurring that has *nothing* to do with Newlands. And, I mean, they'll turn that around and say, "Well, people wouldn't stop farming if they were sure their water rights were secure." Well, some of that may be true, but not a lot of it. And they, I mean they failed to *plan* for it. (Seney: Right.) I mean, it breaks my heart. (Seney: Yeah. Yeah.) It just kills me.

Seney: Of course, it's the inefficiencies in the system, the irrigation system, that recharge the wells, isn't it?

Conelly: Yes, it is. Fernley has the same situation and we're working out a deal with them. I mean, and if we could work out a deal with Fallon I'd be throwing money at them, but I'm not going to until I know they're willing to compromise.

Seney: And, what kind of a deal? How do you work out a deal over there, say, (Conelly: Oh, this . . .) with Fernley?

**Fernley's water supply will dwindle and there is now a deal to drill wells on the reservation to provide water and hook the reservation to Fernley's sewer system**

Conelly: The deal at Fernley was brilliant. Fernley's entire municipal water system is recharge, and as there's fewer and fewer water being diverted for agriculture they're going to have less and less recharge and it's going to impact their system. (Seney: Right.) We are going to *drill wells on the reservation* to pump water into Fernley's municipal system, in exchange the tribe is going to hook up to Fernley's sewer system. It's perfect. It'll probably take us two or three more years to get all the bugs worked out, (Seney: Yeah.) but it works.

Seney: There's been talk of this for a long time, hasn't there?

Conelly: Yes.

Seney: Drilling in the . . .

Conelly: I'm very happy that we're starting to move forward (Seney: Yeah.) on it.

Seney: Yeah.

Conelly: And, I'll *throw* money at that.

Seney: Right. Right.

Conelly: You know, we have an obligation to make sure that Fernley doesn't use, lose their municipal system. I feel the same way about Fallon, but they've got to be able to (Seney: Right.) give something.

Seney: And, you've got water quality commitments to the tribe (Conelly: Yes.) and the Lower Truckee River?

Conelly: Yes.

Seney: Yeah. Right.

### **Some Want to Import Dixie Valley Water to Fallon**

Conelly: Yeah. They're, I mean I, Bill Bettenberg talked to me once and it still sticks in my mind, he said, "If it's true, and it's logical that it may be, that the municipal system in Fallon is going to be impacted by fewer and fewer agricultural irrigation, (Seney: Right.) fewer agriculture irrigation occurring, then the way to resolve that isn't to transport water from, you know, Dixie Valley," which would cost millions, probably, the last I heard \$25 million—that isn't going to happen—"is to buy some water from the system and recharge." You know, the system is in place. (Seney: Yeah.) All the ditches, everything is in place. All you do is pump the water into the ground and it recharges the system itself. We could probably do that for a few million dollars. I would *throw* money at that project. (Seney: Yeah.) But, they want to buy, they want us to spend millions of dollars to buy Dixie Valley water and then build a pipeline. That's not going to happen.

Seney: That they hope will save the agriculture (Conelly: Yeah.) in the community, and still serve the water needs?

### **David Yardas**

**“. . . he talked about how important it was for the community to identify how much agriculture they wanted and where they wanted it at, and to make steps through planning or eminent domain, or whatever they needed to do, to take some of the less productive lands out of production . . .”**



Conelly: In the Second Round negotiations, and I didn't really understand that at the time, but I really do now, the environmentalists that were sitting at the table, it was a gentleman named David Yardas,<sup>19</sup> a brilliant young man, just brilliant, he talked about how important it was for the community to identify how much agriculture they wanted and where they wanted it at, and to make steps through planning or eminent domain, or whatever they needed to do, to take some of the less productive lands off of, out of production, ones that are at the end of those sandy ditches at the end of these long lateral lines, and to develop an *efficient*, productive, agricultural section in the community, and then work to support that instead of all this other stuff. And, they wouldn't have anything to do with it. And I remembered later on, when I finally figured out what he was talking about, going, "Why won't they take those steps now?"

Seney: Yeah. Well, the Nature Conservancy, Graham Chisholm<sup>20</sup> and Yardas, of the Environmental Defense Fund, (Conelly: Yes.) had worked out a whole set of criteria.

Conelly: It was brilliant.

Seney: Right.

**“This community should be taking this to their bosom . . .’ then they should enact development criteria, that if you’re going to develop your property you have to *bring* water to the table to support the development . . .”**

Conelly: I mean, I've gone over it later and went, "This community should be taking this to their bosom and going, 'This is what we're doing.'" (Seney: Yeah.) And then they should enact development criteria, that if you're going to develop your property you have to *bring* water to the table to support the development, and they should be listening, unfortunately, to the feds talk about a recharge system for their municipal use. They're not doing any of that. They're suing.

Seney: They're suing over the E-I-S/E-I-R (Conelly: Yeah.) the impact on the water?

Conelly: Anything that they think they have an ability to stop the implementation of, they're suing.

Seney: Yeah. That's just stalling tactics (Conelly: Sure.) would you say?

Conelly: Sure.

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19. David Yardas contributed to Reclamation's oral history work on the Newlands Project.

20. Graham Chisholm participated in Reclamation's oral history work on the Newlands Project.

Seney: Yeah.

Conelly: I mean, I don't know, they may win. But, you know, I'm told not, but who knows? (Seney: Yeah.) It's litigation. Anything can happen.

Seney: That's right. Exactly.

Conelly: So.

Seney: Let me go back to the Bureau of Reclamation, because again Mr. Solbos leaves, and I guess you think you played a minimal role in that, the Senator's Office?

Conelly: I don't, if something happened about it that we played any other than a minimum role *I* don't know about it.

Seney: But, a bigger role in the, in Ann Ball's removal?

Conelly: Oh yeah. (Laughter) Oh yeah.

Seney: Yeah.

**“I believe the Senator specifically spoke to probably John Leshy. . . .”**

Conelly: I believe the Senator specifically spoke to probably [John] Leshy.<sup>21</sup>

Seney: John Leshy, the Solicitor, (Conelly: Yes.) who was the point person (Conelly: Yes.) at that time an Interior person probably?

Conelly: And probably the Secretary, and said, “Get her out of here.” I would bet money that that's pretty much what happened.

Seney: Right. And that's something they would do, I would imagine? I mean, an Area Manager in a remote project was not very important to them, but a powerful Senator, a member the Appropriations Committee, by that time—well, not Minority Whip yet?

Conelly: Not yet.

Seney: But, clearly a man of influence then?

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21. John Leshy served as Department of the Interior Solicitor (General Counsel) during the term of President Bill Clinton.

Conelly: Ranking member on that Committee.

Seney: Yeah.

Conelly: You know?

Seney: Yeah.

### **Senator Reid's Meeting with Ann Ball and Patty Beneke**

Conelly: I think, Bill Bettenberg told me once, and I think he's right, the Senator had a meeting with Ann Ball in his office and just, with Patty Beneke, it was after Betsy had left.

Seney: Patty Beneke's now the Assistant Secretary (Conelly: Yes.) for Water and Science.

Conelly: Who took Betsy Rieke's spot.

Seney: Right.

Conelly: So, Patty Beneke and Ann Ball, and I don't know who else was there, I wasn't there, but I heard about the meeting from our staff. And, of course, Bill heard about it from their staff. That the Senator was just horrible, just, you know, told Ann Ball point blank, you know, "You're useless. You're not doing us any good. You're hurting us out there, and if you don't straighten up you've got to go." And, I mean, like I said I wasn't there. I don't know exactly what his words were. And, Bill told me later on that that kind of *went* through Interior, you know, and that it wasn't helpful. That it was, you know, like *our* getting involved in, you know, employment and management decisions at that level was probably not a good thing. (Seney: Uh huh.)

And, I thought about that, and he's probably right, but she was a problem. (Seney: Yeah.) I mean, on a day-to-day basis she was a problem. And, I, I have no regrets that we probably had something to do with her leaving. None whatsoever. She, I got complaints from *every other* federal agency, almost *daily*, about her. Complaints from the tribe. *Complaints* from *both* tribes. I mean, it was a nightmare.

Seney: What could *you* do about that? What would *you* do about that?

Conelly: Exactly what I did, is talk to the Senator about what a nightmare this was being.

Seney: I mean, once it reached a certain level you'd have to (Conelly: Have to.) take it to

the—yeah. And, that’s a matter of your judgment, right, (Conelly: Yeah.) and your own political judgment on when it reaches that threshold? Would you ever, I suppose based on your first meeting with her you probably weren’t very well disposed toward her?

Conelly: I wasn’t.

Seney: Yeah.

Conelly: And, and then, you know, kind of . . .

Seney: That is, let me say, I guess I was thinking if you were better disposed you might say, “Let’s have lunch, Ann,” and . . .

Conelly: “Let’s figure this out.”

Seney: Yeah. Right.

Conelly: I met with her a couple of times. They were always, I mean they were horrible meetings. She left and I was always mad. “How did this happen?” (Seney: Yeah.) And so, you know, I was—I mean at that point in time I’m sure I was just as instrumental in lobbying the Senator to get rid of her as anybody.

Seney: Let’s talk about Bill Bettenberg a little bit.

### **Bill Bettenberg**

Conelly: Yeah.

Seney: Because, he’s an interesting man?

Conelly: He, that he is.

Seney: Yeah. And very able? You know, that’s one of the things that’s really impressed me in this, this project is I don’t think I’ve met a single dud, (Conelly: Yeah.) really. It’s . . .

Conelly: Really bright people.

Seney: It’s too demanding a subject area. If you haven’t got the wits, you’re not going to last, I don’t think in this policy area. It’s . . .

**“I’m probably Bill Bettenberg’s number one fan. . . .”**

Conelly: I’m probably Bill Bettenberg’s number one fan. I have defended him with everyone from the Senator to anyone that will listen. I think Bill Bettenberg is, it’s another joke in our office that “Bill Bettenberg’s a pain in the butt,” and I said, “Yeah, but he’s *our* pain in the butt.” (Laugh)

**“He understands . . . the history of the project so much so that sometimes something that should take a minute takes ten . . . he’s amazingly creative in solutions, and *I think* Bill approaches *everything* from win-win. . . .”**

He understands—I don’t think he gets credit for being creative. You know, he talks slow. Everything, he is deliberate. I mean, he’s very thoughtful. You know, he understands the history of the project so much so that sometimes something that should take a minute takes ten, you know. He’s—but I also think that he’s amazingly creative in solutions, and *I think* Bill approaches *everything* from win-win.

**“I’m sure they hate him out there and if they had any idea how many times he has come up with solutions to help *them*, they would be *shocked*. . . .”**

I’m sure they hate him out there and if they had any idea how many times he has come up with solutions to help *them*, they would be *shocked*. I mean, he’s the one that says, “Okay, what can we do to help them?” all of the time. And, I just think that he has been, I mean, there will be others that will disagree with me, but in my experience Bill Bettenberg, if this Negotiated Settlement is implemented, and I believe it will, it will be because *of* Bill Bettenberg. A lot of help from a lot of other people, but I think he will be the one, and I believe that.

Seney: How often do you talk to him?

Conelly: Once a week. Once a week. He keeps me informed and I tell him what I hear. And, I mean, he is, you know, he gets it. He gets it politically from the Senator’s perspective. I mean, he’s the one that said, you know, “That wasn’t very helpful when the Senator screamed at Ann Ball in front of the Assistant Secretary.” (Seney: Yeah.) He tells us, tells me things politically.

Seney: Would you say that to the Senator? Would you tell him?

Conelly: Oh yeah. Oh yeah.

Seney: What did he say when you told him that?

Conelly: “Well, too bad.” You know, (Laugh) “Too bad. (Seney: Yeah.) She deserved it.”

Seney: Yeah. Yeah.

### **Bettenberg Understands the Political Aspects of the Project**

Conelly: He gets it politically. I mean, both from our perspective. And, I mean, he works very well with, he worked very well with Vucanovich’s staff, and he works very well with [Member of Congress Gibbons’s<sup>22</sup> staff. I mean, he’s very good politically.

#### **“He understands . . . and he can explain it to me. . . .”**

He’s good from a historical perspective. He understands all of that. He understands, you know, it’s very complicated from an engineering and modeling, and you know just a process perspective. (Seney: Right.) I mean, sometimes I think I have it and then someone will ask me a question and I’ll go, “I don’t get that.” And, I can tell Bill, “I don’t understand what you’re talking about,” and he can explain it to me. He understands the whole system. I think if anybody understands the whole TROA, I mean although I think there are several people who are really understanding TROA, he does. And, and he has, he’s like on a *mission*, you know. He’s like this *missionary* (Seney: Yeah.) to get this taken care of. And, I mean, he’s bailed out the Fish and Wildlife with money, and he’s, I mean he’s just *problem* solving all the time. (Seney: Yeah.) I just think he’s great.

Seney: I’m told he’s very good at finding money?

#### **“He’s very good at finding money. . . .”**

Conelly: He’s very good at finding money. I mean, he, he’s been back there long enough he knows all the little ins and outs. I mean, he is, in my mind, if I had to say one person, I would say Bill Bettenberg.

Seney: You know it’s, his, I’m sure you’re aware that his coming into this had to do with some very unfortunate testimony by then Assistant Secretary for Water and Science, John Sayre, before Mr. Bradley’s Committee, (Conelly: Right.) and people who have been there have just told me that it was very unfortunate. And when I first talked to Bill Bettenberg over the phone to arrange the appointment he said I should read that testimony, and I did, and he was brought in to kind of pick up.

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22. Republican Jim Gibbons served in the U.S. House of Representatives 1997-2006 and as Governor of Nevada from 2007 to 2011.

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**Testimony of Assistant Secretary John Sayre Before Senator Bill Bradley's  
Committee**

Conelly: I've *never* read the testimony.

Seney: Well, it's, it's—do you have a copy of the green book?

Conelly: I do.

Seney: It's in there.

Conelly: Right.

Seney: I'm pretty sure it's in the green one.

Conelly: I should read that.

Seney: Yeah. If it's not I'll find it at home and I'll give you call and let you know where you can find it. Because, you'll definitely have the report. And, you can see in that report, or in that testimony, that it's pretty clear that the old Bureau of Reclamation, (Laugh) the original Bureau of Reclamation (Conelly: Yeah.) wrote that testimony for him, and he just did not know what he was talking about.

Conelly: Was talking about?

Seney: And, Bradley was incensed. (Conelly: Oh.) That he, I think at one point he says, "If I can get up at four o'clock in the morning to read my briefing book, so can you."

Conelly: (Sigh)

Seney: Yeah.

Conelly: Pretty awful.

Seney: Apparently the tension was just electric in the room, in the hearing room at that point. (Conelly: Wow.) And then in comes Bettenberg, Secretary, then Secretary Lujan calls problem-solver Bettenberg in and . . .

**Bill Bettenberg Was Called in to Deal with the Problems at the Hearing**

Conelly: But, he is.

Seney: And hands him this. Yeah.

**“ . . . I try to get Bill and the Senator together once, sometimes twice a year. The Senator hates it. . . . ‘I didn’t need all that information.’ ”**

Conelly: You know, but I mean I try to get Bill and the Senator together once, sometimes twice a year. The Senator hates it. “Why do I have to meet with Bill? Why do I?” “Because Bill knows everything, you know, Bill doesn’t leave any stone unturned, you know.” He gives a briefing and the Senator, “I didn’t need all that information.” But, (Laugh) I mean he knows his stuff. And, what I’ve found from Bill is that, you know, if I go out to Fallon tomorrow and I say, (Phone ringing) you know, “I want to give them \$3.5 million,” Bill will say, “Well, Mary go on and do whatever you want but you’re not going to be able to get that through the Committee.” (Seney: Yeah.) You know, I mean he, he’ll tell me when we’re wrong.

**“ . . . you know I think a lot of people think the federal government does anything the tribe wants to do . . . and that is not true. And, Bill will tell the tribe, ‘No. You’re not going to do that.’ . . . ”**

He’ll, I mean, you know I think a lot of people think the federal government does anything the tribe wants to do, you know, and that is not true. And, Bill will tell the tribe, “*No*. You’re not going to do that.” I mean, I mean he just, I believe, has a really good big-picture perspective.

**“ . . . he’ll tell us, ‘No. You know, you’re out of line. That’s too much. That’s not enough. That’s . . . ’ I mean, I just feel like he has a great perspective. . . . ”**

I mean, he’ll tell us, “*No*. You know, you’re out of line. That’s too much. That’s not enough. That’s . . . ” I mean, I just feel like he has a great perspective.

Seney: Yeah. You know, I, in bureaucratic terms—I don’t mean that in a negative sense, in a descriptive sense—the Truckee Carson Coordinating Office that we were talking about before, I think is a, can be seen as an instrument of Bill Bettenberg’s to bring some rationality to the federal agencies.

### **Truckee Carson Coordinating Office**

Conelly: I think so too.

**Ann Ball**



Seney: Yeah. And, I want to go back to Ann Ball for a minute, because, who knows what she was told by her superiors (Conelly: Who knows?) in Reclamation when she came out here. Because, Reclamation has, you know, lost control over the Project?

Conelly: Oh sure.

Seney: And, I've even met the Commissioner of Reclamation, Mr. [Eluid] Martinez, the current one, and I asked him about the Newlands Project and he sort of said, "Well, you know, of course I don't really have anything to do with that. That's handled by the Solicitor." I mean, he's bypassed completely on this. And, who knows, she may have been told to reassert herself. But, there was (Conelly: Maybe.) an attempt to do that. The so-called "Glaser Report."

### **"Glaser Report" and the Western Water Policy Review Advisory Commission**

Conelly: Oh yes.

Seney: Do you remember that?

Conelly: Quite well.

Seney: Talk about the "Glaser Report."

Conelly: Uhm . . .

Seney: I know you see a lot of things, so I'll, I'll refresh your . . .

Conelly: Oh, I remember it.

Seney: Okay.

Conelly: Isn't that the Western Regional Advisory<sup>23</sup> thing?

Seney: No, this is different. The "Glaser Report," Don Glaser was a former Bureau of Reclamation (Conelly: Oh yeah. But he . . .) official.

Conelly: But they took his stuff and put it in the Western Water Regional (Seney: That could

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23. Referring to the Western Water Policy Review Advisory Commission which published *Water in the West: Challenge for the Next Century*, June 1998. Donald (Don) Glaser served as Executive Director of the staff of the Commission from September of 1996 until April of 1998. He also served as one of the writers of the report. Mr. Glaser participated in Reclamation's oral history program and may have discussed the Newlands Project during those interviews.

very well be.) Advisory Commission.

Seney: Could very well be. Yeah. Right.

Conelly: Yeah.

Seney: And he was hired by the Bureau to study the administrative relationships between . . .

Conelly: I was *livid* that he never interviewed us. *Livid* that he spent all this time down in Fallon interviewing everybody, never interviewed anybody, not me, not Larry. Larry was still here then. Not *anybody* from the Senator's Office for perspective, and *only* interviewed, and I'm not sure, only interviewed Pelcyger because they *demand*ed it. I mean, went out there and, you know, you're not going to get a perspective if you're only interviewing half of a—and I was *livid*, and then from our perspective *they* took his report and that was the *basis* for most of the work. In fact, I think he wrote it, for the Western Water Regional Advisory Commission Report, which basically said that "The Newlands, the Negotiated Settlement was an example of the federal government coming in without paying any attention to local interests, telling them what to do." And, of course, we weren't very happy about *that*. And then later on found out, you know, that was a draft, and I don't how much they changed it. But, you know, that came out at an *election* time and that made us very unhappy. But, it was, *his* report was the basis for that. (Seney: Yeah.) Which, you know, I was screaming, and ranting, and raving that "I don't need this coming up in litigation, you know, when it's a one-sided . . ."

END SIDE 1, TAPE 2. AUGUST 22, 1999.

BEGIN SIDE 2, TAPE 2. AUGUST 22, 1999.

Seney: But he, he never interviewed (Conelly: Never did.) the Senator's Office? You know, I thought this was interesting, because to me it was a ploy on the part, I thought, of the Bureau of Reclamation to establish a basis to reassert authority over all of this business. (Conelly: Sigh) Did you see the—go ahead.

**“. . . three or four times a year it will come to our attention that Bill Bettenberg is in a bad way with Reclamation and the Interior . . . and . . . they occasionally try to reassert themselves . . . that they're in charge and Bill shouldn't be doing this. . . .”**

Conelly: Well, occasionally, I mean three or four times a year it will come to our attention that Bill Bettenberg is in a bad way with Reclamation and the Interior because of his role in this, and that they *occasionally* try to reassert themselves into that they're in

charge and Bill shouldn't be doing this. It happens pretty regularly.

I mean, since I've been around, two or three times a year, and a couple of times the Senator has made calls and said, "Look, we need Bill. We want Bill. You know, you guys, we understand you manage your own stuff, but Bill is the one that we need, at least until the Negotiated Settlement is implemented." After that, I suppose all bets would be off. (Seney: Yeah.) But, after that I think Bill would be willing to walk away. (Seney: Right.) But, you know, I think, I mean I think he's had trouble with various people in Interior because he *is* so involved and they, you know, it's like they go, "Wait a minute. That should be ours."

Seney: Yeah. I guess, did you see the document that, as this went up the line through Roger Patterson, (Conelly: Uhm-hmm.) and I don't know that it went to the Commissioner's Office.

Conelly: I don't think it did.

Seney: I think it went right up, at this point, to Patty Beneke, who is (Conelly: Uhm-hmm.) taking over from Leshy as the (Conelly: Yes.) point person again, as Ms. Rieke was. Did you see what came out of Patricia Beneke's Office, (Conelly: Well.) based on this report?

Conelly: Well she met with us and told the Senator that she thought she would close this office down, the Coordination Office, and make a bunch of administrative changes, and we protested. We said we didn't like it. We were happy with the way things were going.

Seney: Well, her letter that came out, if anything strengthened Bill Bettenberg's hand?

Conelly: I know. And, I think that letter came out after the Senator met with her and said, "*No*." (Seney: Ah.) We like this. We like the way this is going. This is working for us. We don't want Bill out of the picture. We don't . . ." you know.

Seney: I mean this, to me this attempt backfired by the Bureau, this Glaser Report. I mean, it redefined the, it got a statement by the Assistant Secretary that, obviously inspired by the Senator, she had obviously felt she had to meet with you to tell you what she was contemplating here?

### **"Women of Water" and Patty Beneke**

Conelly: She had had a meeting right after she'd gotten the job. It was actually so funny it was horrible. She was coming out here and she called our office and said she wanted to

meet with some people, she wanted to meet with us, and at the time Larry was our Legislative Director, and I called Larry and I said, “She’s coming out.” And he said, “Well, I’ll come out.” And I said, “Great. We’ll do a meeting.” She decided, somebody decided, I wish I could remember who but I can’t, that she would get together with women. I know what it was. It was during the presidential campaign and they were doing this thing that if they were going to have, you know, an appointed person in the administration come to a state that they’d do their regular business and then they’d do some political business. And, somebody in Patty’s office decided that she would meet with women. She was a woman appointee.

Seney: “Women in Water”?

Conelly: “Women of Water.” And, Patty came to the State and some of us put together this group called Women of Water to meet with Patty.

Seney: You’re sort of rolling your eyes when you say that.

Conelly: It was so horrible. I was just *appalled*. It was a big crowd for that sort of meeting, maybe, I don’t know, thirty, thirty women, and we met at the Nugget. And, her plane was late, so the women were kind of all—and it was this, you know, like Rebecca Harold<sup>24</sup> and some really wonderful people, but, you know, who—and then there was like me, and maybe one person from the tribe. But, it was like twenty-five people on one side and five people on the other, and she came in, and late, and Larry was waiting. We were going to meet with her right after this meeting, and, and she had everyone go around the room and talk about their experiences with the federal government and the Negotiated Settlement. Well, like the first ten it was like, you know, the first ten said, “Well, you know, it’s been interesting, you know.” It got really rolling, so by the end of the thing it was like, you know, “They haven’t done anything to talk, you know, they haven’t communicated with us. They haven’t consulted with us. We’ve been screwed. We’ve, I mean, been lied to.” And, she’s just sitting in there and taking it all in, and I was just getting angrier and angrier. She had no control over the meeting. I mean, it was *totally* unproductive. There was *no* discussion going on. It was just, “Let’s bitch at the federal government about the Negotiated Settlement.” I was *livid*. I was just *livid*.

### **Met with Larry Werner and Patty Beneke after the “Women of Water” Meeting**

And then, then Larry and I met with her and he basically, and I had a moment to relay this information to him, he basically told her that, “We’re going to have this Negotiated Settlement implemented with her or without her, and it was up to her to

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24. Rebecca Harold contributed to Reclamation’s oral history work on the Newlands Project.

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decide where she wanted to be.” So, that, and that was the first time *they* had ever met. And so, it was, I remember sitting in the meeting with my mouth hanging open, and that was, that was the beginning of that relationship, which I think has gotten much better over time. But, it was just like, “We’re going to do this with you or without you. You decide.” Bleah. (Laughter) And then after that somebody called me about getting together with the Women of Water and I said, “No thanks. (Laugh) (Phone ringing) I don’t need that.”

Seney: Once was enough?

Conelly: Oh, it was awful. (Seney: Yeah.) It was just awful. (Seney: Yeah.) It wasn’t productive. It was just a bitch session. It was so weird. (Seney: Yeah.) I hated it.

Seney: Well, again, the upshot of all this and her, it must have been to put her on notice, this particular thing, that the Senator’s Office was going to be adamant, because the Senator was. I mean, (Conelly: Yes.) Mr. Werner wouldn’t have said that if (Conelly: No.) he weren’t speaking directly for the Senator?

**“The Negotiated Settlement, we consider it the cornerstone of the Senator’s legislative legacy . . .”**

Conelly: The Negotiated Settlement, we consider it the cornerstone of the Senator’s legislative legacy, (Seney: Right.) and, you know, it’s, how can that be a legacy if it’s not implemented?

Seney: Yeah. (Laugh)

Conelly: You know.

Seney: Right. Right.

Conelly: I mean, that’s the deal.

Seney: You know, I’ve had people tell me that there’ll be meetings at which, in this case it was people in the Truckee Coordinating Office, Jeff Zippin, (Conelly: Yeah.) who tentatively agreed to something and that people from the tribe were there. Oh, no, I’m sorry. Let me put it this way.

Conelly: People from the tribe weren’t there.

Seney: No, this was another time, when Mervin Wright was the chairman, and he seemed to

agree to something in a meeting and *very quickly* that information got up the line and back down, and Pelcyger had him on the phone, Mervin Wright, and telling him, and people maybe from this office, that “That’s not the way it’s going to work.” And, the sense was that the office, the communication between the tribe and the Senator’s Office was very close, and the cooperation was very close. And, that’s sort of what I’d like you to comment on, is the relationship between, because I’ve heard numerous people say, and it wouldn’t be hard for you to identify who would say this—and you’re smiling—that there’s very close cooperation, they would say too much, between Bob Pelcyger—he apparently has excellent entree into the Senator’s Office. And, that wouldn’t surprise.

### **Bob Pelcyger**

Conelly: That’s absolutely true, and, and that probably is my doing. I think they had excellent entree before I came. Before *I* was the Manager, when I was a staff person, he would come in and meet with the Manager regularly, and that’s how I met him. And, and I talk to him all the time. Not just about Negotiated Settlement. They have a lot of other issues. We’re doing some work on their dams, and we’ve got Army Corp of Engineers working on their stuff.

### **Senator Reid Believes the Federal Government Has Screwed Indian Tribes**

And the Senator, and this is something *he has* said, and like he didn’t say, “Mary, this is how”—the Senator believes that the United States federal government has screwed Indian tribes. And, you know, it doesn’t take a rocket scientist that that’s probably true in most cases. And, he personally is very proud of the fact that this Negotiated Settlement has done something to resolve that, with regard to the Pyramid Lake tribe and the Fallon tribe. (Seney: Right.) That’s important to him, *personally*.

**“ . . . we have the ability to schedule meetings with the Senator, from tribal representatives, easier than federal folks. . . . ”**

We have, it’s interesting because I, I kind of laugh about it, we have the ability to schedule meetings with the Senator, from tribal representatives, easier than federal folks. I mean, I can get the Senator to meet with the tribe as many times as I want.

### **As State Director of Senator Reid’s Staff She Controls the Schedule When the Senator Is in Nevada**

You know, one of the things that you have when you’re in a state staff is you control the schedule when he’s in the State. (Seney: Ah.) You don’t have a *lot* of authority,

but that's one of the things you do have and you can control that. And so, you know, you can, we do, I do. I control who he meets with. I mean, he okays everything (Seney: Sure.) but usually he sees it in . . .

Seney: But, he's going to be listening to you, pretty much?

Conelly: And he's looking at it and he's going, "Okay, fine." (Seney: Yeah.) "Why do I have to meet with him?" You know, it's like I said, he always argues when I put Bill Bettenberg on it. (Laugh) I try to do it at least twice a year, and I try to do it in the State.

Seney: Yeah, where you can control the agenda?

Conelly: Yeah, because . . .

Seney: Or at least the meeting time?

**“. . . he'll meet with the tribal chairman a hundred times. He has this . . . deeply-held personal belief that he should do whatever he can to help them. . . .”**

Conelly: If he meets with him back there he'll meet with staff and Bill won't get to see the Senator. And so, I try to do it—and, the Senator *always* argues. "Why do I have so long with Bill? Can't we do it in ten minutes?" (Laugh) You know, but, but he'll meet with the tribal chairman (Seney: Yeah.) a hundred times. (Seney: Yeah.) He has this personal, I mean deeply-held personal belief that he should do whatever he can to help them. So, that's in my mind. I mean, that's there. (Seney: Sure.) I mean if, from a, from a strictly personal perspective if like the chairman had called the Senator and said, "We can't get a meeting with Mary," I'd be in trouble. I mean, personally. (Seney: Yeah.) But, I *also* agree with him. So, that makes my job even easier in that I'd probably be pushing the other way, even if he didn't feel that way.

I think that we have continually screwed, screwed Native Americans in this country, over, and over, and over again and if we can, in some small way, do something to make it better now, why not? So, *that* is the perspective (Seney: Yeah.) we come from. And then I think that it's easier to deal with Pelcyger than others because he doesn't *care* who else wins.

Seney: He's also a very charming and able man, I've found him to be.

Conelly: Oh sure. He's delightful. (Seney: Yeah.) I mean, you know, that Larry Werner got to the point where he wouldn't talk to him because it took too long. And, I do that

now. He calls and I go, "I don't have time." (Seney: Yeah.) I, you know, I look at my watch to see if I have time. He, you know, and the big joke is, "How much is he billing the tribe? Well, that ought to cost the tribe, you know, X number of dollars." (Laugh) I mean, he's time consuming, but (Seney: Yeah.) he's very thorough. He has been real helpful to me from an educational perspective. He can explain things to me same as Bill (Seney: Right.) and sometimes their stories are a little different, and I like to compare them, (Seney: Yeah. Right.) which is nice. But, but it's true. I mean, I talk to Bob once a week, probably, sometimes more. When, if we can help them on an appropriations issue or something we will. I mean, it's never a discussion "if we should," it's "can we?"

**“. . . the political support for the Senator from the tribe, as far as votes, isn't that great. . . . I was surprised about that . . .”**

And, you know, the interesting thing is, and I just found this out a few minutes ago, the political support for the Senator from the tribe, as far as votes, isn't that great. And I, I was surprised about that, because we go . . .

Seney: When you looked at the precinct out there?

Conelly: Not that great.

Seney: Yeah.

Conelly: And, I was surprised.

Seney: Isn't that interesting? Yeah.

**“Considering *how hard we work for them*, obviously we haven't done a good job of telling them, or they don't care . . .”**

Conelly: Considering *how hard we work for them*, obviously we haven't done a good job of telling them, or they don't care, I don't know which, but . . .

Seney: Yeah. In this case the Senator's not going to be looking at that though, you don't think?

Conelly: Never.

Seney: It's a personal (Conelly: Never.) commitment to him?



Conelly: It's, I mean we're working with some Shoshone tribes right now on a settlement. It's a tribal issue. (Seney: Yeah.) It is.

Seney: What about the relationship with the Fallon tribe? Do you deal with them much?

### Fallon Paiute Shoshone Tribe

Conelly: Not as much.

Seney: Is Alvin Moyle still the (Conelly: He is.) tribal chairman?

### Alvin Moyle

Conelly: He is. And, he's a wonderful gentleman, just a delightful person. They're not as sophisticated as the Pyramid Lake tribe.

**“ . . . the Senator talks about Indian politics being the toughest politics in the world, and having, I believe that to be true. I think it's because you're talking families . . . ”**

I mean frankly, you know, the leadership in all tribes is, I mean, the Senator talks about Indian politics being the toughest politics in the world, and having, I believe that to be true. I think it's because you're talking families, you know. (Seney: Right.) You're voting for nieces and nephews, and aunts, and uncles, and it's awful. The Fallon tribe is not as sophisticated.

**Bob Pelcyger “ . . . is just *enormously* annoying, but also, you know, he is representing his client. I mean, if I was an Indian tribe, *I would hire him*. . . ”**

They don't have, I mean they have, certainly, attorneys, but nobody as diligent, or, other words that come to mind, as Pelcyger. (Laugh) I mean, I think I have this love-hate relationship with him. He is just *enormously* annoying, but also, (Seney: Yeah.) you know, he is representing his client. I mean, if I was an Indian tribe, *I would hire him*. I mean, in fact I've recommended to a couple of other tribes, “You guys ought to hire Pelcyger,” and they all go, “Oh no, not Pelcyger.” But, you know, he represents (Seney: Yeah.) his clients (Seney: Yeah.) *very* well.

Seney: He's very imaginative.

Conelly: He's very, he's (Seney: Yeah.) creative.

Seney: Dogged and . . .

Conelly: Just, yes, (Seney: Yeah.) all of those things. So, you know, the Fallon tribe doesn't have someone like him who's always talking to us. But, we meet with him regularly. I'd like to work something out next year to expand the reservation out there. I mean . . .

Seney: They have the authority to purchase land under 101-618, right?

### **Fallon Paiute Shoshone Tribe Bought Thirty-one Acres in Downtown Fallon for a Convenience Storey and Gas Station**

Conelly: Oh, yes they do, and they just bought thirty-one acres in downtown Fallon, that's caused them no end of grief. That's part of the sewer problem. They purchased land, within the city limits, to build a convenience store and gas station, and they went to the city to get sewer hookups—well first, because the law says that they can do this, they can purchase this land with their money . . .

Seney: Right, their Development Fund?

Conelly: And that it *automatically* goes into trust. If it was another Indian tribe and we purchased land someplace, there's a process to put it into trust. The law says that theirs automatically go into trust. So, the normal process takes about eighteen months. It took them something like forty days to get this land added to the reservation, even though it's not contiguous.

**“They went to the City of Fallon and applied for sewer hookups for this convenience store and gas station and the City of Fallon turned them down. . . . and said, ‘We can’t have an Indian business in town that we have no control over.’ . . . So, the tribe sued them. . . .”**

They went to the City of Fallon and applied for sewer hookups for this convenience store and gas station and the City of Fallon turned them down.

Seney: That they're going to build or is it there already?

Conelly: They're working on it now. And, the City of Fallon turned them down and said, “We can't have an Indian business in town that we have no control over.” Because, they don't have to follow all those zoning laws. And, I tried to broker a deal with the tribe where they paid them payments in lieu of taxes and agreed to abide by their zoning laws, and stuff, and the City of Fallon won't do anything. So, the tribe sued them.

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And, that's part of this whole sewer thing where I'm trying to still work a deal. The tribe sued them and said that they were violating their civil rights because they have given other people sewer hookups that are like in the county. So, they don't have to follow city zoning, and they won't do it for the tribe.

**“ . . . I found out that . . . the Bureau of Indian Affairs gave the City of Fallon several million dollars to expand their sewer line, to take it out to the reservation, and in *exchange* for that money to expand the city's sewer system, they were supposed to get 100 hookups. So, they've already *paid* for and have these hookups, and the city *still* won't give them to them. . . . ”**

And then in researching this I found out that I, maybe 1986, I'm not sure about the year, the Bureau of Indian Affairs gave the City of Fallon several million dollars to expand their sewer line, to take it out to the reservation, and in *exchange* for that money to expand the city's sewer system, they were supposed to get 100 hookups. So, they've already *paid* for and have these hookups, and the city *still* won't give them to them. So, I think the Department of Justice is about to join in on this lawsuit and I hope they do.

**“ . . . that's one of the reasons why I'm not giving the City of Fallon any money for sewer expansion when they won't even hook up the tribe, in town. And, the mayor actually sat in here and said, 'Mary, I cannot have an Indian business in town competing with other businesses.' And, I'm going, 'Then don't come crying to me for money.' . . . ”**

So, that's one of the reasons why I'm not giving the City of Fallon any money for sewer expansion when they won't even hook up the tribe, in town. And, the mayor actually sat in here and said, “Mary, I cannot have an Indian business in town competing with other businesses.” And, I'm going, “Then don't come crying to me for money.”

Seney: That's an incredible thing to say isn't it?

Conelly: It's just, it's unbelievable. And, I hope he's smart enough not to say it in deposition, or they'll have civil rights fines and things.

Seney: Yeah.

Conelly: I'm sure his attorney will stop him from saying something like that.

Seney: Yeah.

Conelly: They're prepared to take that case all the way to the Supreme Court. Does not, they do not want a tribe operating within city limits, any kind of business.

Seney: Does this have anything to do with the gambling, do you think?

Conelly: I think they're afraid, but . . .

Seney: They might open a casino?

**“It's just that there would be a tribal owned business within city limits the city can't control. . . .”**

Conelly: I don't think that it's just the gambling. It's just that there would be a tribal owned business within city limits the city can't control.

Seney: Competing with non-tribal businessmen (Conelly: Yeah.) who are undoubtedly putting great pressure on the mayor?

Conelly: Undoubtedly. Because, the tribe doesn't have to pay taxes.

Seney: And they probably consider this a subsidy, since that was (Conelly: Of course.) development funds?

### **Fallon Paiute Shoshone Tribe and Pyramid Lake Paiute Tribe Use of the Federal Money Provided for Economic Development**

Conelly: Of course.

Seney: Yeah. Yeah.

Conelly: Yeah.

Seney: And the construction money, will that come out of the interest on that?

Conelly: It'll come out of their economic development money.

Seney: Yeah. Not the capital though, the interest (Conelly: Right.) off of it only?

Conelly: Well, they can spend some of their capital.

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Seney: Under certain circumstances, can't they?

Conelly: Yes. They . . .

Seney: They can buy land with it?

Conelly: The Pyramid Lake tribe can't. Can't yet. They will be [able to] later. But, I believe they used some of their capital to buy the land.

Seney: Yeah. Right. They can't use it for a distribution (Conelly: No.) though, can they? (Conelly: They can't.) That's forbidden? Right.

Conelly: Yeah.

Seney: Well, Pyramid Lake will get access to that once the TROA is (Conelly: Yes.) agreed to? Everybody is . . .

Conelly: And I think they'll do, I mean Pyramid Lake tribe will, hopefully will do a good job with their economic development. I pray they do. We'll see.

Seney: Yeah. Well, it's been, the law hectors it in pretty well, to try to take into account past abuses of (Conelly: Yes.) tribal distributions, which were (Conelly: Nightmares.) just-ugh.

Conelly: Nightmares.

Seney: Attracted greedy and unscrupulous people to (Conelly: Horrible things.) take advantage of unsophisticated individuals.

### **Concern about the Tribes Having Professional Assistance in Managing Their Money**

Conelly: We had a meeting with the tribal chair about six weeks ago and the Senator asked them what they were doing about getting someone professional to come in and help them develop an economic development plan.

Seney: The Pyramid Lake tribe?

Conelly: Yeah. You know, they shouldn't be hiring someone out of the newspaper. They need someone, (Seney: Right.) you know, a national firm (Seney: Right.) who has good experience.

Seney: How was the change out there in tribal leadership, from your point of view? Mervin Wright replaced Norm Harry, and then Norm Harry defeated him, and I understand quite decisively.

### **Norman Harry and Mervin Wright as Chair of the Pyramid Lake Paiute Tribe**

Conelly: Yeah, he did.

Seney: I mean, they, you know, you were saying before that, you know, I think tribal politics is like academic politics, you know.

Conelly: Very much the same.

Seney: Yeah. (Laugh) Very nasty and petty and they're often just a few votes separate these people, (Conelly: Yeah.) so. A big win?

Conelly: I think it was a few votes when Mervin beat Norm the first time. Yeah.

Seney: I think it was. Yeah.

Conelly: But, this was more decisive. From *our* perspective, I think Mervin is much more aggressive than Norm. Norm's very laid back. Mervin's much more aggressive, and has a different agenda than Norm does. Totally different styles. Mervin's very interested in the *cultural* resources of his tribe. He was, you know, very concerned about how those things are treated. I think Mervin is far more interested in how he, as a person, is perceived as a leader of a nation than Norm is. I think Norm, I think Norm is concerned about that, but he's more like a manager. They looked at it totally, from a totally different perspective. And that, I think, sometimes we had to deal with Mervin's ego, where we never have to deal with Norm's ego. And so, those are the kind of things, you know—Mervin was eager to say, "Let's have a meeting without the attorneys," which *never* served him well. But, I don't think Norm would do that. I mean, Norm will *assert* himself, as he did in 380 negotiations, that "I am the chairman. I will be speaking for the tribe." But, and so they both do that. But, he also listens to his attorney. Mervin was far less inclined to listen to Bob, which I always thought was a mistake. So.

Seney: So, you're not unhappy with the change?

Conelly: I'm not. Mervin was a good chairman, but I (Seney: Yeah.) think more difficult to deal with.

Seney: Yeah. Yeah.

Conelly: You know, I think he *was* a good chairman. He has, you know, and he's gone on. He's working on his, is it his masters or his doctorate in water resources management, which I think is very great, you know. I mean he, he certainly has great technical knowledge and stuff, but Mervin was *much* more interested in that perception of being the leader of a nation, you know, as opposed to (Seney: Yeah.) "I'm here representing the Pyramid Lake Paiute Tribe."

Seney: Yeah. Yeah.

Conelly: Yeah.

Seney: Why don't we leave it there for today?

Conelly: Okay. Sounds great.

Seney: This tape is almost over. Thank you, Mary.

END SIDE 2, TAPE 2. AUGUST 22, 1999.

BEGIN SIDE 1, TAPE 1. MAY 16, 2006.

### **Assembly Bill 380<sup>25</sup>**

Seney: In Reno, Nevada. Today is May 16<sup>th</sup>, 2006. This is our second ~~tape and this is our~~ ~~or our second~~ session, ~~I should say~~, and this is our first tape. Mary, we ended last time talking about AB 380 which had just been passed, and why don't you talk about the implementation of that?

#### **Issues with an Administrator for AB 380**

Conelly: Well, we had through sort of the legislative process that occurred at the State had decided— well we had a struggle in deciding who would be the Administrator. That was a real serious concern to me and clearly to all the other parties.

#### **Carson River Subconservancy District**

And at the time there was this group called the Carson River Subconservancy that had been somewhat on the sidelines of the discussions and arguments that occurred for AB-380, but they had a new executive director, a gentleman named Ed James, who

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25. The text of AB 380 is provided in Appendix 1.

understood water issues, who seemed to be neutral, and was willing to do it. So, we got them appointed as the Administrator of the program. And, they started out pretty good. I was somewhat concerned. One of their first actions was to hire someone from Churchill County to be the point person on the program and I was scratching my head going—but as it turned out, that was not a bad move and they began advertising how the program would work, and they had some folks come forward. We got appraisals on the water rights so they knew what they were going to pay. And, they worked out some agreements with the tribe about how the process would work. And it was moving along, frankly, pretty good.

However, there was some disappointment on the part of some of the parties that, you know, we had agreed that we would purchase ~~6,800 acre-feet of water rights and, or no, 6,800 acres not 6,800 acre-feet~~. And, you know, we were getting deals that were two acres here and four acres there, and there were some concerns that at that rate it was going to be a difficult (Seney: Right.) process. And, all of the paperwork that was involved would be the same for a two-acre purchase as a two hundred acre purchase. So, there were some issues with that but they were working it out pretty good.

### **Subconservancy District Added People to the Board from Churchill County and the Program Changed**

And then a couple of years into the process, and it was moving kind of slowly, but you know, steady progress, a couple years into the process the Carson Subconservancy added some people to their Board of Directors. They were, they're a nonprofit group that deals with water issues and, by county, and Churchill County was not a member of their group. And about two or three years into the process they had legislation passed at the State Legislature that added Churchill County.

**“ . . . frankly the administration of the program changed from being a pretty congenial process with the Subconservancy staff dealing with the tribal staff to get these protests removed. And then it became somewhat of an adversarial position . . . ”**

And so then, the makeup of their board of directors changed, and frankly the administration of the program changed from being a pretty congenial process with the Subconservancy staff dealing with the tribal staff to get these protests removed. And then it became somewhat of an adversarial position and, you know, it became much more difficult where there were agreements on how we would handle the tribe's releasing their litigation, and that became a problem, and there was some name calling.



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**“You know, it always surprises me when people in public meetings say racist things about folks, particularly Native Americans, but it happens. . . .”**

You know, it always surprises me when people in public meetings say racist things about folks, particularly Native Americans, but it happens. And, there was some of that going on. It was just, it became much more adversarial where instead of just sort of, you know, getting reports from them about how much federal money they’d spent or, you know, what they were doing, how many acres they had acquired, then I started having to go to meetings just to make sure they didn’t pull something crazy. And, poor Ed James who was their executive director, you know, now he had a completely different board. I don’t believe if he’d known it was all going to change that he would have accepted this responsibility. They weren’t getting rich off of it. It was pretty time consuming. It became adversarial and basically has been that way for the last couple of years.

**“. . . the program took on a completely different flavor after Churchill County was added to their Board of Directors. . . .”**

And, you know, they’re still purchasing acres, purchasing the water, retiring these protested water rights, but the program took on a completely different flavor after Churchill County was added to their Board of Directors.

Seney: Did you see this coming in the legislature? Did you . . .

Conelly: I did, and I thought it would be fine, which tells you—I mean, I’m always surprised. I’m obviously naive. I thought it would be good to have them involved in regional water issues. They were doing—the Subconservancy does good work. They do a lot of (Seney: Yeah.) they do a lot of interesting things that are region-wide issues and I thought it would be fine, but it wasn’t.

Seney: Maybe they would, the Subconservancy would educate Churchill (Conelly: I had high hopes.) County interests a little? Yeah. (Conelly: But it . . .) I hardly think of you as naive, by the way.

Conelly: Well it just, I actually, I mean they talked to me. Not that I could have done anything to stop it but, you know, if I had any problems with it and I said, “No. I think it’s fine.” I don’t think I realized my concerns about having somebody from Churchill County administer it, you know, we’re probably on-point and when they got some of their people on the Board that’s when the whole demeanor of the project changed.

### **Difficulties of Keeping the Process from Going Awry**

So, these last couple of years have been kind of a pain in the butt. And the tribe, as you probably know, uses this office and Senator Reid's, sort of you know, benevolence to them sort of like a sword sometimes, (Seney: Right.) and sometimes I allow that to happen intentionally, you know. Sometimes I don't know about it. (Laugh) And sometimes I'm offended by it, but in this case they pretty much used us to sort of keep the Subconservancy from screwing them and I had to take that role because these folks would have done that. They did all sorts of, I mean where they're trying to change the rules in the middle of the program, and you know it was actually, became a real pain in the butt.

Seney: As long as, my understanding is here you've got the money to pay these people for their water rights, and a fair sum. They weren't being shafted on that?

Conelly: No, I, well I think they should have raised—I mean, they did an appraisal at the beginning of the program and, you know, water has changed (Seney: Yes. Yes.) significantly in the last few years. I think they should have raised the rates. The **Board** made a decision not to, and so then people were kind of sitting around waiting for them to raise the rates, and I think that kind of slowed down the folks participating.

Seney: How much were they paying, do you remember?

### **The Price of Water Rights Has Changed Significantly**

Conelly: I don't. (Seney: Okay.) But, like in the \$1,100 to \$2,000 range per acre-foot, which, you know, frankly right now Fernley you can buy water for between \$30-\$40,000 an acre-foot. So, I mean, you know these were clearly water rights that were protested. You probably couldn't use them. This was just sort of to, you know, clean house kind of thing, (Seney: Right.) but I still thought it probably wasn't, you know, the accurate estimation of the value, although how do you value water that you can't use?

Seney: Yes. Exactly. Right.

Conelly: I mean, the appraisal process was somewhat difficult (Seney: Right.) just trying to, (Seney: Right. Right.) find out how to do that.

Seney: How many acres have they ended up buying at this point, do you know?

### **They've Bought about 3,500 Acres**

Conelly: I think they're over, they're at about 3,500. I went to a meeting last month—I think that's the neighborhood. They're, they've gone back to the State Legislature once and the State Legislature said "The program will end June 30<sup>th</sup> of this year." They will *not* have spent all of the money and they won't get close to the 6,800 acres to retire, so now there's some talk by this Board about, "Well, maybe we'll offer the tribe, you know, a lump sum to get them to remove all their protests on the other water rights to get to the—I don't know that the tribe will go for it. I wouldn't if I was them. And so, you know, we'll see how the program ends. But, I'm not sorry that it's ending because we knew probably two or three years ago they weren't going to meet the goal and so it's just been kind of a pain in the butt, (Seney: Right.) although I think it's probably useful to retire water rights. (Seney: Right. Right.) I'm not sure, you know. I don't know if somebody asked me, and you might, "Do you think it was a success?" I'm not sure I could say, "I think it is." You know, it was the way we got out of some really onerous State legislation. (Seney: Right. Right.) So, in that regard it probably was successful, but in our actual hopes for the program, not so much. I think it was just okay.

Seney: You know, this was a ploy on the part of Churchill County and T-C-I-D [Truckee Carson Irrigation District]. I think Mike Mishada [spelling?] was the moving force (Conelly: Yes.) behind this wasn't he, (Conelly: Yes.) to go in and protest here in the Truckee Meadows on water transfers?

Conelly: Well they filed, you know, (Seney: Right.) this lawsuit and they dropped it, of which he never fails to mention. You know, because I mean there was really *nothing*, which I thought was stupid at the time, there's nothing that prevents them from refiling that lawsuit, but their position has changed. I don't know that it would have legs now, but . . .

Seney: How do you mean?

**“ . . . there was a lot of concerns that we were going to go down there [Fallon/TCID] and buy all their water rights to use up here [in Reno/Sparks]. . . .”**

Conelly: Well, you know, at the time there was a lot of concerns that we were going to go down there and buy all their water rights to use up here. Some of that is happening no matter what we did. (Seney: Right.)

**“ . . . our developers . . . can't seem to play well with each other, and . . . these developers are actually competing with each other for water. So, that kind of throws the market open. . . .”**

You know these, I mean not only is there phenomenal growth in Fernley there's phenomenal growth here, and our developers, who can't seem to play well with each other, and with the changes from our water purveyor changing from Sierra Pacific to Truckee Meadows Water Authority and some of the changes that occurred during then, these developers are actually competing with each other for water. So, that kind of throws the market open. And so, a lot of them figured out they could go down there and buy water. And so, the circumstances have changed, you know. Before, Churchill County was blaming Washoe County, and Reno and Sparks for it, but now it's the developers and how do you sue developers on something like that (Seney: Right.) the market? (Seney: Right.) You know.

Seney: How has—well let me, before I ask you that let me—has T-C-I-D, Churchill County, come up with anymore kind of elegant moves like the one that spawned AB 380? Have they shown?

**“ . . . ten years ago . . . I was somewhat nervous about T-C-I-D and Churchill County . . . I'm *not* anymore. And I don't think it's because I know more, or the Senator's in a different position. They haven't been as good at what they used to be good at. . . . they've just managed to blow several opportunities that would benefit themselves. . . . ”**

Conelly: They really haven't, and I'm not sure why. I mean, they really haven't. I think, you know, they have become—you know ten years ago, Don, I was somewhat nervous about T-C-I-D and Churchill County to a certain degree, and you know I'm *not* anymore. And I don't think it's because I know more, or the Senator's in a different position. They haven't been as good at what they used to be good at. And I've given that a lot of thought, and *Betsy* and I have talked about it a lot, in that they've just managed to blow several opportunities that would benefit themselves. And then the whole Churchill community has kind of changed in that, you know, ten years ago or, you know, when I was a kid living there the farmers ruled. (Seney: Right.) That's *not* the case now. (Seney: Right.) You know, the base is clearly a significantly player, and we should talk about that.

Seney: Right. I want to.

### **Fallon Has Changed as it Became a Bedroom Community for Reno/Sparks and as the Naval Air Station Grew**

Conelly: The base is a significant player but, you know, it's become more of a bedroom community, more people commute here even though it's an hour away, but the farmers're still important. They don't rule. And, you know, that makes a big

difference. You know?

Seney: Go ahead.

### Issues at TCID in Making Deals

Conelly: So, it makes a big difference. I'm not, you know they've just, T-C-I-D and the county even to a certain degree, until the last couple of years, have been pretty dysfunctional. You know, they're just—Betsy and I have talked about it and, you know, the beauty of a Bob Pelcyger is that he represents his clients so well. He'll make a deal that benefits his clients and he doesn't care who else benefits, as long as *he* gets what he wants. I mean, I've watched him and I've actually learned from him. You know—get what you want. Who cares if—but T-C-I-D and Churchill County could never make that leap. They, I mean Lyman McConnell told me once he was “more interested in making the tribe suffer than helping T-C-I-D.”

**“ . . . they actually believe that to do a deal where the tribe benefits is immoral, that their responsibility is to make the tribe suffer because the tribe has made them suffer. So, they've walked on lots of wonderful opportunities . . . ”**

He actually told Betsy this, he didn't tell me this, but he actually, they actually believe that to do a deal where the tribe benefits is immoral, that their responsibility is to make the tribe suffer because the tribe has made them suffer. So, they've walked on lots of wonderful opportunities, and you saw that a little bit in Churchill County.

**“ . . . I used to sweat out them going back to D.C. and getting the Interior to back this, that, and the other thing, and you know, it never happened. . . . other people found out that they weren't willing to compromise, they couldn't make deals, they were vindictive. . . . ”**

And so they've just been sort of dysfunctional. And some of the people that I used to worry about, that they could influence, not so much. Not so much. I mean, I used to sweat out them going back to D.C. and getting the Interior to back this, that, and the other thing, and you know, it never happened. I mean they, they either, you know, other people found out that they weren't willing to compromise, they couldn't make deals, (Seney: Yeah.) they were vindictive. I mean, in 1994 when we had that big change in Congress, you know, they pretty much told us, “We're going to rule now and you aren't.” And, you know, they capitalized on it. They just couldn't put it together. And so, I'm not, you know, I'm kind of, I look at them now and kind of go, “What a shame.”

Seney: You know, I interviewed Congresswoman Vucanovich after that '94 election, and of course she was in a very powerful position (Conelly: Certainly.) at that point as one of the Subcommittee Chairs in Appropriations.

Conelly: Yeah.

Seney: Do I have that right?

Conelly: Yes.

Barbara Vucanovich told TCID ““You know, nobody’s going to change this for you because there’s so many other people who have benefitted from it.’ . . .”

Seney: And she said she told them, “You know, nobody’s going to change this for you because there’s so many other people (Conelly: Involved.) who have benefitted from it.” (Conelly: Yeah.) And her point to me, and staff members made this point too in the Congress, because I think it’s a big violation of the culture of the Congress, (Conelly: I do too.) that they wouldn’t compromise, (Conelly: Yeah.) that they wanted it all, and you can’t have it all. Nobody can.

### **Bob Pelcyger Taught Her That He Would Improve Others’ Position If it Also Improved His Position**

Conelly: They couldn’t, they couldn’t figure out what Bob has taught me that, you know, and I mean I’ve seen him do it time and time again, I’m even seeing him get the other person’s position improved if it improves his. (Seney: Yeah. Yeah.) I mean I’ve seen him (Seney: Yeah. Yeah.) do things where you’re kind of going, “Whoa that’s surprising.” But, he’s *always* got his clients interests at—I mean he never forgets what he wants.

Seney: Yeah. Yeah. That’s a smart move to work with the other. . . Yeah.

Conelly: And they never, they couldn’t get it. (Seney: Yeah.) They couldn’t get it. (Seney: Yeah.)

**“ . . . when I went to work for Senator Reid I had high hopes that I would be able to help them. . . . They made it *impossible* for me to help them, to the point where I wouldn’t even bother. . . .”**

So, you know, I mean, you know I think I probably told you this in the first interview, when I went to work for Senator Reid I had high hopes that I would be able to help

them. From Fallon, knew them all, knew everybody, you know, had roots in the community. They made it *impossible* for me to help them, to the point where I wouldn't even bother. (Seney: Right. Right.) And you know, I think I'm just one among *many* (Seney: Right.) that they did that to, you know, that they just, they just made it impossible to deal with them. So, I think that actually hurt them, big-time over time and, you know, I think. I no longer worry about them much, what they can do and not do. I mean, they can litigate TROA, [Truckee River Operating Agreement] and I'm sure they will, and they can do all sorts of other things, but they just can't seem to get their act together.

Seney: You know the, one of the, I think, core of their success in the first phase, up to the early '60s was the close-knit community they have.

Conelly: Me too.

Seney: But then that becomes a, what, a negative doesn't it now? Because they can't really go beyond?

### **Ernie Schank**

Conelly: They really can't. (Seney: Yeah.) I mean, Ernie Schank who is their president now, has been their president for a very long time and, you know, Ernie is politically naive. You know, he said *horrible* things about the Senator to the press, and then when I see him he goes, "Well, when's the Senator going to come visit us?" And I'm just looking at him going, "Are you kidding?" And he said to me one time, "You don't think the Senator's mad at me do you?" And I thought, "He really doesn't get it." (Seney: Yeah.)

### **Lyman McConnell**

And yet, this is their leader. And then they had Lyman McConnell for, you know, forever, who really didn't want to make deals. He just wanted to punish folks. And so, you know, that doesn't make for a culture of (Seney: Yeah.) success.

Seney: Will Dave Overvold<sup>26</sup> make a difference, do you think?

### **Dave Overvold**

Conelly: Well, I think he could have. I think he could have. You know, he came from a different background. You know, he wasn't from the community. You know, I think

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26. David (Dave) Overvold participated in Reclamation's oral history work on the Newlands Project.

he could have, but I think he just kind of got sucked into this environment. You know, he didn't make a difference. (Seney: Right.) Could have.

Seney: Well, I know he considers Betsy Rieke the reason for his leaving the Bureau of Reclamation. He wanted that job. She got the job. (Conelly: Yeah.) And, he has told me she then said, "Well, there really isn't a place for you (Conelly: Wow.) in the office." He said in the interview that I did with him about it.

Conelly: I have no doubt that that's probably (Seney: Yeah.) what happened. You know, I had, frankly, kind of limited experience with him in that, you know, he wasn't in charge for very long after I took this job before he left. Now, you know, Betsy wasn't the first person—I mean he was sort of around, (Seney: Right.) but then they hired Ann . . .

Seney: Ball?

### **Ann Ball**

Conelly: Yeah. Yeah. That was a good story in a horrible sort of way. She brought out the absolute worst in me.

Seney: Did she?

Conelly: Yeah. I said horrible things to her in a nice way. She was just awful. She came to see me when they were negotiating their O & M [Operations and Maintenance] contract, and we were very interested in that at the time, when we were actually following what they were doing, and she said, "You know, it would be better if you didn't come to these meetings. In fact, I don't *want* you to come to the meetings. I think you would screw up the negotiations." Of which I took personally. And so, I told my boss who was like, "Who the hell does she think she is?" And I thought about it later. All she had to say was, "You know Mary, let me tell you what's going on in these negotiations. Let me talk to you about what's going on and you don't have to spend the time coming." But, by telling me that my being there was going to screw things up, then of course I wanted to go. (Laugh) So, I went to some of them and, you know, pretty much disrupted things as she said I would, and (Laughter) then she started talking badly about the Senator to folks. And of course, this is a small State. You always hear about that. (Seney: Right. Right.) And so, I went to a TROA meeting once, which you know I've probably only been to four TROA meetings. I just don't go. I went to a TROA meeting once and she was giving the Senator a really hard time about some stuff and we had a break, and I went up to her—this is so embarrassing I shouldn't put it on tape—and I said, "So, how does your husband like



living here?” She goes, “Well he, you know, he thinks it’s great.” And I said, “So, you know, if you had to leave would he be upset?” (Laugh) Just mean. But, the Senator did get her fired. (Seney: Yeah.)

**“ . . . I think she very well may have been very smart, but just politically naive. . . .”**

You know, it’s just she was so—they said she was really smart and I think she very well may have been very smart, but just politically naive. You know, she was doing stuff like that when we had a Democrat in the White House. What are you nuts? (Seney: Yeah.) You know, you just, you know it just was silly. (Seney: Right.) So, yeah. But anyhow, you know, back then I only had *limited* experience with Dave and, you know, my one experience with him wasn’t that positive but I don’t know that it was his fault or my fault it just didn’t work out.

Seney: Why don’t we talk about the naval base, because that has changed the community. It has grown?

### **Fallon Naval Air Station**

Conelly: It has made such a difference.

Seney: You know, but let me just tell you a little vignette. I was there once and I went into the post office because I had something I’d forgotten to mail so I went in to mail it. And, standing in the line at the post office was a farmer’s wife, very clearly, Levis, you know, (Conelly: Sure.) a scarf on her hair, suntanned face, sunburned face really, (Conelly: Yeah.) and right behind her was a Navy officer’s wife. Very clearly.

Conelly: Oh, which is—well yeah. Actually I’ve, you know, even *now* you know and I, you know I’ve got a nice job and, you know, live in a larger community and, you know, I wouldn’t call myself worldly but I’m not naive. You go to those Change of Command ceremonies at the Navy base, those women look like they just stepped out of Vogue. (Seney: Yes. Yes.) You know, it’s, I mean they’re like dressed to the nines, and you’re like “Whoa.”

Seney: Quite a different point of view coming to town?

### **The Air Station Has Grown**

Conelly: Oh, a totally different perspective. (Seney: Yeah.) You know, and as the base has grown, I mean, just in the last ten years, you know, it went from a fairly small facility. When they got Top Gun and then they got, you know, they have, what the

heck is the name of it, they have several different aspects of the base out there. Now they have an admiral there now.

Seney: Oh, they do?

Conelly: They have an admiral. I mean, it's a pretty . . .

Seney: That's a big deal?

Conelly: It's a big deal. And so, you know, that brings in more officers. It brings in some more, you know, military personnel but it's primarily officers, because what their main function is is they rotate large numbers of people in and out for training purposes. So, they've got those bombing ranges. And so, you know, even though it has an impact on the community in terms of just more military personnel, it's the officers that are there. (Seney: Right. Right.) They've got Admirals, and Captains, and all these people who, (Seney: Right.) you know, are part of the community, who get involved. I'm sure they're instructed to do so.

Seney: Yes, I think that's part of the deal.

Conelly: I'm sure they are, you know, and they, and part of their job is to make the base accepted in the community. And we've had run-ins with different Captains over the years who, as they became more aware of what was going on decided that one of the ways to become accepted was to, you know, give Senator Reid a bad time. But we've also had some smart ones that have figured out that's not the way to go. But, you know, the base has made a huge difference and I think that the base has played a larger role in the overall economy of the community, which is *clearly* evident. (Seney: Right.) That, you know, it has had a diminishing factor on frankly just T-C-I-D folks. You know, the farmers and the folks they represent. And so, the community has changed quite a bit. It's become a little more sophisticated. You know, it's made a difference.

Seney: What part has Senator Reid played in bringing the Top Gun school there, or increasing the size?

Conelly: He has been instrumental—he's been, for lack of a better word, extremely benevolent to that facility. One of the things, and you probably know this, is that people who work for federal agencies, including the Department of Defense and military folks, are not allowed to lobby us for funding. (Seney: Right.) But, you know, we never let that stop us. You know, we ask them, you know, "What do you need?" and they're allowed to answer those (Seney: Right.) sorts of direct questions. And so, we've

been dealing with the military, both at Nellis in southern Nevada, *and* this facility, and Hawthorne. We throw money at them like crazy, which has helped all of these bases, frankly, sort of expand their missions (Seney: Right.) and you know, just capital improvements. We've done, you know, warehouses, and new hangers, and airports, and just all sorts of things for them, new towers, (Seney: Right.) and all sorts of things (Seney: Right.) over the years. You know, a smart Captain, and we've had several including one I want to talk about, who look at that and go, "Well, you know, this community might not like Senator Reid but boy he's been good to my base." (Seney: Yeah. Yeah.) And we got in a fight with a command, a Captain named Roy Rogers—I'm not making that up—(Laugh) who—you know, the Navy owns quite a few water rights out there? (Seney: Right.) And, they were irrigating all this land, which they still do some, all this land right around the base, and the tribe was hammering on me about "The Navy water, the Navy water." And so, we went to the Navy and said, "We'd like you to fallow some of these fields, and, you know, abandon these water rights." And this Captain decided he wasn't going to do that and he was fighting us. And, of course, we won and one of the things the Senator did he got so mad he put legislation, language in legislation that said that Navy base can never have a golf course, because he knew that's what the officers wanted.

Seney: Oh.

Conelly: And, I mean, it was the big talk among the Department of Defense about, "What the hell did those guys do?" So, you know, just, I mean, fighting with us over, you know, they said, "Oh, it would make it dangerous." And we presented them with . . .

Seney: Aren't they talking about dust in the engines, and like that?

Conelly: Yeah, but you know, (Seney: Yeah.) very few naval airbases have, you know, thousands of acres around the facility that are being irrigated. I mean, it was just crazy. And, you know, they were trying to be good T-C-I-D members (Seney: Yeah.) and you know. So.

Seney: I'm trying to remember, what 6,000, 9,000 acre-feet of water rights, somewhere in there?

Conelly: About that. Yeah. (Seney: Yeah.) I think it's close to nine. (Seney: Yeah.) So, they have abandoned some. (Seney: Right. Right.) So, and we're working on getting them to abandon some more. But, you know, I don't know that I want to go to the mats on it. (Seney: Right.) The tribe wants me to, (Seney: Sure.) but we'll see.

Seney: Sure. You know, if I were a cynic, which of course I'm not, (Laughter) I

might—you've got a big smile on your—I might think Senator Reid was so gracious toward the Fallon Naval Air Station because that's one of his long-term goals is to kind of diversify the community?

Conelly: You know, I've thought about that but I've never heard him speak about it, or you know sort of give me any hints that that was a plan. I think he's just, in general, supportive of military facilities in communities because they're such a wonderful source for the economy. (Seney: Right.) I mean, I've actually wondered about that too, but I've *never* heard him say anything, or I don't, I don't know that he was that sort of Machiavellian, which, you know, people assume he is about most things. (Seney: Right. Right.) But, I just, I think if that was the case I'd know, and I've just never gotten a hint of that, now.

Seney: Well, there was the proposal for the federal prison out there, as well?

### **Proposed Federal Prison in Fallon**

Conelly: Yeah. We tried that.

Seney: Right. Now. Was that—see, I might wonder if that would be in the same category?

Conelly: Well, I think, I think that one very well may have been. In fact, I'm pretty sure that one was, and it was the community that decided (Seney: Right. Right.) they didn't want it.

Seney: I interviewed the county executive, the former county executive whose name now slips my . . .

Conelly: BJ<sup>27</sup>?

Seney: Yes. Right. Right. And, I know he was all for it.

Conelly: Yeah, it was a kind of an excellent opportunity for them, (Seney: Yeah.) but they just took a pass on it. I think the Senator thought they were absolute idiots, and kind of said, "Well fine. I'm done with trying to help them and their economy. I'll just . . ." But, you know, I think he sees the economy of the base as, you know, a different sort of interest.

Seney: Right.

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27. Bjorn (BJ) Selinder has contributed to Reclamation's oral history work on the Newlands Project.

Conelly: You know, so, yeah. I mean if it was his plan to, you know, help the base grow to sort of have an impact on that I certainly never got a hint of it, but the prison, dead-on.

Seney: Definitely.

Conelly: Dead-on. (Laughter) (Seney: Yeah.) Dead-on, yeah.

Seney: Well, BJ even told me that when he went to the Bureau of Prisons people they said, “Oh, first of all nobody will come and visit, and if they do and give you any trouble we’ll transfer the inmate right away.” (Conelly: Yeah.) I mean they couldn’t have been more cordial.

Conelly: It could have been a wonderful deal for them, (Seney: Yeah.) but you know the economy out there is doing fine, (Seney: Right.) and they’re doing *very well*, and not just from the base. I mean, there’s been a, like I said, there’s sort of a bedroom community. They’ve got a lot of, a lot of housing development. It’s sort of mind boggling. And you know, there’s just a, you know, it’s pretty much a thriving community.

**“ . . . look at . . . the doomsday predictions of what would occur if they had to give up . . . a cup of water, and . . . none of those have come true, and the community actually is doing better than they’ve ever done. . . . ”**

I mean, you look at all the, you know, the doomsday predictions of what would occur if they had to give up, you know, a cup of water, and you know none of those have come true, and the community actually is doing better than they’ve *ever* done.

### **New Churchill County Manager, Scott Ryder**

So, that brings me to this guy, (Seney: Right. I was going to ask you.) who is their new county manager, a former Navy Base Commander [Scott Ryder [spelling?]], and one that I sort of got along with but not always.

The guy is doing such a fabulous job. He brought—I mean, you know, there are people who thought BJ was fabulous. This guy is. [Sigh]

Seney: You’re indicating maybe that wouldn’t be you?

Conelly: That wouldn’t be me.

Seney: Right.

### He Is Thinking out into the Future

Conelly: But, I think that he did serve his commissioners well. (Seney: Right.) I'm just not sure he served the community well. You know, when you have lay people in those sort of elected jobs, you know, farmers and folks like that, you know, it's different than folks that are looking ten, fifteen years down the road. This guy now, who's name of course escapes me right now . . .

Seney: We can add it.

Conelly: I'll think of it. He's doing a *fabulous* job. I've talked to him four or five times. He's come to visit me. He's reaching out to us. He's thinking fifteen years, twenty years down the road. He's keeping his county commissioners in line. They're not going off half-cocked. He's dealing with *all* of their real needs not their imagined needs. I mean, he's dealing with their infrastructure. I mean, I'm pretty impressed. (Seney: Yeah.) I'm pretty impressed and, you know, I deal with lots of, you know, county managers and city managers. And, you know this guy brought to the job clearly something he picked up in the military about strategic planning and, you know, dealing with folks on all sort of various levels of expertise, (Seney: Right. Right.) and egos and he's doing a *really* good job. I'm impressed.

Seney: That's very interesting that they would hire someone who—of course, they've gotten to know him a bit being (Conelly: Yeah. Yeah.) Commander of the base.

Conelly: Yeah, those are usually two-year appointments. (Seney: Yeah.) So, and you know, he was involved in a bunch of stuff. But, you know, and he's told me, his family wanted to stay there, wanted to commit to the community. You know, I don't know how old he is but, you know, I'd say forties, (Seney: Right.) you know mid-forties. Smart guy, and doing a pretty good job out there which is really, I think, important. And, you know, I would say now, you know, ten years ago if you said, you know, it would be somebody from T-C-I-D that was sort of kind of pulling the strings. This guy's in charge. And, in a way that I don't think is threatening to his county commissioners. He's done a very good job. I'm impressed. [I] don't agree with everything he's doing but he's doing a good job.

Seney: Yeah. Sometimes these people guide without . . .

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BEGIN SIDE 2, TAPE 1. MAY 16, 2006.

Seney: Saying he, he does a good job.

Conelly: He does a good job. I, we're impressed.

Seney: Yeah. Good. The Senator likes him? And . . .

Conelly: Yes.

Seney: Yeah.

Conelly: We're all impressed. And not just us. I know he's done the same thing to [John] Ensign's<sup>28</sup> office, and [Jim] Gibbons's office. I mean, he's a *smart* guy, you know, and so it's kind of nice.

Seney: Yeah. Well these, you know, Naval Captain's a pretty high rank. It's higher than an Army Colonel, (Conelly: Yeah.) I mean even though it's equivalent in a sense, but they have higher responsibilities as they move up in their careers.

Conelly: And he clearly is a smart guy (Seney: Yeah.) and, you know, like I said, brought skills to the job that I think serves Churchill County very well, and, you know, picked up the ball and is doing a—it's pretty good.

Seney: What's going on with the leukemia cluster out there? Is that still in the news?

### Study of a Leukemia Cluster in Fallon

Conelly: Occasionally it pops up. There was, there is a researcher from the Department of Arizona, a guy named Dr. [Mark L.] Witten<sup>29</sup> who decided, without much help from the Center for Disease Control, or frankly the federal government, or the State government which, you know, proved to be completely worthless in all of this—there is a community in Arizona, I think it's called Chula Vista<sup>30</sup> that's also close to a military facility that has exactly the same sorts of circumstances and he decided that there might be some research possibilities between factors that have affected the [Sierra] Chula Vista folks, theirs is the same thing, kids with leukemia, and factors

28. Republican John Ensign served as a U.S. Senator from January 2001 until May 2011.

29. Mark L. Witten of the Institute of the Environment at the University of Arizona is a research professor in pediatrics. He studied a leukemia cluster in Fallon in the mid-2000s. See: <https://desertbeacon.wordpress.com/2006/04/27/new-report-finds-possible-reason-for-fallon-leukemia-cluster-divine-strake-gives-a-tour/>, consulted January 23, 2013, at about 6:45 A.M. See also: <http://www.environment.arizona.edu/mark-witten> consulted at about the same time.

30. Likely Sierra Vista near Fort Huachuca, Arizona. The nearby Libby Army Airfield also shares space with the Sierra Vista airport.

that have affected the kids in Churchill County. And so he's done some research and they've found some interesting things that have to do with different chemicals in the water, and the ground, and airborne that are common to [Sierra] ~~Chula~~ Vista, and one of them is tungsten. Now, the thing about that that's sort of interesting, because we were always looking at arsenic and all of those (Seney: Right. Right.) sorts of things, is that there are no protocols about tungsten. There's no levels. There's no, you know, it's like nobody's ever really proven that tungsten is dangerous, you know, if you ingest it or it's in your water. So, here we've got these high levels of tungsten in [Sierra] ~~Chula~~ Vista, high levels of tungsten in Churchill County, same sort of thing .

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Seney: Doesn't that go along with silver? Isn't silver and tungsten (Conelly: I think it is.) kind of best friends in a way?

Conelly: And so, (Seney: Yeah.) he's continuing his research, and you know there are still people who think it was, you know, the fuel from the base. There are folks who believe it's the arsenic. I mean, you know, there's just (Seney: Right.) the CDC [Centers for Disease Control and Prevention] isn't doing anything anymore, and the State who never really did anything isn't doing anything. So, we've got one researcher at the university who's doing some work on, which I think is probably going to be the answer, we'll never know—you know how these things interact with each other (Seney: Right. Right.) and create these synergies that, you know, we'll probably not understand in my lifetime.

There was a rumor about, oh a year ago, that there was a new case. But, it turned out not to be true. There was a case of the exact same kind of leukemia in Lovelock, which is about an hour north of Fallon that was indeed true, but they decided it wasn't sort of the same circumstances. They didn't *add* it to the cluster. So, you know, it's just sort of, there's some folks still doing some research. It comes up once in a while.

You know, we spent \$14 million on a water treatment facility for the city, which, you know, even though we had no real evidence that it was arsenic that was causing the problem, the Senator's attitude, which I so admired was, "So what? We know arsenic's bad. Even if it didn't cause the leukemia they have these enormously high levels of (Seney: Right.) arsenic. Let's treat it anyway." (Seney: Yeah.) And, you know, which was *of course* the right thing to do. We had a little fight with the school district before the plant was operational. Some of the parents didn't want their kids drinking water out of the fountains. So, we found someone who would provide bottled water, and the school district gave us some trouble about it was too much trouble to dispense. And so, we had to work that all out. But, you know, we haven't



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- had any new cases in, I don't know, like three or, (Seney: Yeah.) three and a half years. So.
- Seney: Yeah. It's been out of the news, definitely.
- Conelly: So, you got to cross your fingers and hope that, you know, although, you know, an amazing, extraordinary circumstances to have that many kids in that, you know, in that short of a time. (Seney: Right.) We don't hear a lot (Seney: Right.) about it right now.
- Seney: It's very scary.
- Conelly: It would be—yeah. And, you know, people moved. (Seney: Right.) There was a guy, his name was Kim Hansen [spelling?], who was the refuge manager at Stillwater Wildlife Refuge and he was young, and his wife was young, and they had young children. She made him move. He went to North Dakota. And, you know, I could understand that. (Seney: Right. Right.) You know, (Seney: Yeah.) I got that and I think it, you know, it had some impacts I think on their real estate market for a while. It doesn't seem to have (Seney: But that hasn't persisted?)—it's all gone.
- Seney: Yeah. Well, that's why I asked about it, in terms of growth obviously.
- Conelly: Yeah. It hasn't had any impacts now. (Seney: Yeah.) I think it did for a while, but that's over. You know.
- Seney: Let's talk about Fernley, unless you want to say some more things about Fallon?
- Conelly: No.
- Seney: Okay.
- Conelly: Ah! The Captain's name is Scott Ryder [spelling?].
- Seney: Scott Ryder, and he's the new county executive?
- Conelly: He's the new county guy.
- Seney: Okay.
- Conelly: Yeah.
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Seney: I think I'll go talk to him.

Conelly: Oh, you should.

Seney: Yeah.

Conelly: He's—I'm impressed.

Seney: Okay.

Conelly: And, I'm not usually. (Laughter) But I'm impressed.

Seney: All right. Let's talk about Fernley then, because as we said before we started talking, the growth there has just been . . .

### Issues in Fernley

Conelly: It's unbelievable.

Seney: It really is. You've got—I know that Amazon.com is there because I get a lot of things from Amazon.com

Conelly: Oh sure. Sure.

Seney: And, I appreciate the quick delivery from Amazon.

Conelly: We toured that plant. That's kind of an amazing facility.

Seney: I'll bet it is.

Conelly: You know, for someone who doesn't have that sort of warehouse, manufacturing, production—I mean I was sort of just, just the equipment to move books around was sort of fascinating (Seney: Right.) to me. (Seney: Right.) I was like . . .

Seney: Well they must have a very (Conelly: It's *huge*.) sophisticated system, (Conelly: They do.) I would think. Yeah.

Conelly: And it's *huge*. (Seney: Yeah.) I mean, it's mind-boggling huge. So, yeah.

Seney: Who else is out there? Who else comes to mind?

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Conelly: Oh—now that you asked that I can't think of anybody right now but there's like five large . . .

Seney: Warehouse and shipping kind of (Conelly: Yeah.) operations? Yeah.

### **Nevada's "Free Port Law"**

Conelly: You know, that's that old, you know Nevada has this Free Port Law. Where if, you know, like J-C Penneys has their major distribution center here and so does General Motors, and what our *law* is that you can park your inventory here and we won't charge you *taxes* on it. (Seney: Ah.) That's, it's called "Free Port," and so Nevada has Free Port legislation that says, you know, "If you want to keep your inventory," (Seney: How smart.) so we're sort of a, it's, warehousing is kind of a big thing (Seney: Ah.) and part of our economy.

Seney: I wasn't aware of that.

Conelly: And, lots of stuff here. We've got General Motors, and J-C Penneys, and R-R Donnelly, the book publishers. And, there's some out in Carson City, and clearly, you know, that big industrial development (Seney: Right.) in Fernley.

Seney: I thought, and this of course would bear on it, that the transportation was very good, which it is.

Conelly: It's good.

Seney: With a major California market?

Conelly: It's good. You know, it's centrally located to some of that California area. But, the reason that folks pick us over California (Seney: Right.) is because they can store (Seney: Don't have that ad valorem?) that whole inventory here and we don't charge taxes on that inventory.

Seney: Well, the first of every year (Conelly: Yeah.) you have to pay ad valorem (Conelly: Yeah.) floor tax on what you've got in California.

Conelly: And, we don't. (Seney: Yeah.) So, that's, I'm sure that's why Amazon.com is here because, you know, they had, you know, such a huge inventory that we don't charge them taxes on it.

Seney: What are the, what are the political implications from your point of view of the

growth out in Fernley?

### **Fernley Isn't Prepared for the Growth That Has Occurred**

Conelly: Well, it's done a couple of things, some good and some not so good, in that, you know, they were *so* unprepared for the growth. I mean, and you know I can't even really fault them for that, although I think that their elected officials are, you know, among some of the least competent. But, even that, I don't know that *really* good people could have been prepared for what has occurred out there.

Seney: Now, this is Lyon County, right?

Conelly: Yes, it is.

Seney: Right. Right.

Conelly: And, Lyon County, who most of their, until the last few years, most of their folks lived in different parts of the county. Lyon County's an interesting county in Nevada in that it has several population centers. That's, you know, with the exception of Clark County, that's not usually the case. (Seney: Right. Right.) You usually have one or two. Like Reno, we've got Reno and Sparks, you know, (Seney: Right.) but that's about it. In Lyon County they have Yerington, and Dayton, and Silver Springs, and Fernley, and I mean, you know, so their . . . they have a pretty substantial geographic area to be concerned about. The growth that's occurring in Fernley is actually happening *all* over the county.

### **"Their county commissioners have really had a hard time dealing with long-term planning, strategic planning. . . ."**

Their county commissioners have really had a hard time dealing with long-term planning, strategic planning. They've done the same thing you see happening, frankly, all over the country, where, you know, somebody wants to come and subdivide or do a subdivision and they just give them permits and then, like four years later go "Oh my God, we don't have the infrastructure. We don't have the schools. We don't have the parks. We don't have the roads. We don't have the fire station. Oh my God, what are [we] going to do?"

So, they've been playing catch-up for a good long while. About, well about the time Rebecca [Harold]<sup>31</sup> left, so it's been a few years now, the people in Fernley, they had what was called a "town board," which answered to the Lyon County

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31. See footnote on page 64.

commissioners. They decided to incorporate and become a town, a city, and they did that. And so, their town board became the mayor and city council people. So, they have a different sort of relationship with Lyon County than they had before but they didn't really know how to do it. And so, that's been kind of a problem.

**“. . . *clearly* they have this huge water issue that they have dealt with . . . [in an unbelievable way. . . What they've done is to line the pockets of some of these town board members who have, you know, water rights and family interests that go back . . . So that instead of dealing with the *community's* real issues these guys are selling their water rights to developers, making sure they get the permits, and the community's getting screwed. So, it's been *really* kind of horrible to watch. . . .”**

So, I mean, *in my view*, I mean even if they were good they would have had a hard time keeping up, but they weren't good. I mean, they didn't do a lot of the things you would like to see communities do when they're experiencing this kind of growth. I mean, you know, they're playing catch-up on all of those things. The roads out there are *impossible*. They haven't dealt with their schools. They haven't dealt with parks. They haven't dealt with, you know, fire stations. And *clearly* they have this huge water issue that they have dealt with, in my view, in a really, frankly just an unbelievable way. And, there are people who have strong feelings about what they've done. What they've done is to line the pockets of some of these town board members who have, you know, water rights and family interests that go back, you know, fifty, sixty, seventy years. So that instead of dealing with the *community's* real issues these guys are selling their water rights to developers, making sure they get the permits, and the community's getting screwed. (Seney: Oh.) So, it's been *really* kind of horrible to watch. So . . .

Seney: Would these be water rights on the Truckee Division of T-C-I-D?

**“. . . it took Fallon *forever* to finally require developers to bring water rights to the table if they wanted . . . subdivision permits. Fernley . . . did that and then they started doing things like *waivers* and weird crap that I never really understood but assumed it was all sort of questionable because it didn't make any sense. . . .”**

Conelly: Some are, yes. (Seney: Yeah.) Yes. And, you know, I mean it took Fallon *forever* to finally require developers to bring water rights to the table if they wanted, you know, subdivision permits. Fernley, you know, did that and then they started doing things like *waivers* and weird crap that I never really understood but assumed it was all sort of questionable because it didn't make any sense.

Seney: Huh.

### **Change of Boundary Between Lyon and Washoe Counties**

Conelly: And so, yeah, they've got some real stuff going out there. They went—this is actually an interesting story that I don't know a lot about but I'm sure is a story. They went to the State Legislature, in the last State Legislature, and got them to change the *boundary* of Lyon and Washoe County because they had a developer that wanted to do a big project in Lyon County and they wanted it all in Lyon County, and they *actually* got the county borders changed. They, and on land bordering the reservation they didn't even tell the tribe until it was almost up for a vote at the State legislature, which I found *appalling*. And . . .

Seney: And it went through?

Conelly: It went through. And, you know, I always wondered.

Seney: Washoe must have agreed with it?

Conelly: They did.

Seney: Didn't they?

Conelly: And, they did because they were sold this concept that, you know, we're taking care of this. You don't have to worry about it. And, Washoe County kind of went, "Yeah, okay fine." And when I raised it to their attention they're like, "Well, we already told them we're going to do it." And I said, "You should have talked to some folks first, like the tribe." So, the tribe went down to the Legislature and of course got rolled. So then it was just—they've done some really bizarre sorts of transactions.

Seney: Does that raise questions in your mind as to what might have motivated some of these people who (Conelly: Absolutely.) supported them?

Conelly: Absolutely.

Seney: Yeah.

### **Complaints to the Attorney General's Office about Water and Building Permit Transactions in the Fernley Area**

Conelly: I think there's—there have been many, actually I understand five maybe, complaints to

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the Attorney General's Office about transactions that have occurred in the Fernley area with regard to water and building permits and all sorts of stuff. And, you know, I have no idea what will happen about that, nor do I want to know. You know, I don't want to be involved in that. (Seney: Right. Right.) But, there's plenty of people kind of scratching their head going, "What the hell is *that* all about?" (Seney: Yeah.) So, you know, it does make you wonder.

Seney: Well, you said that the water rights are now worth \$30-\$40,000 an acre-foot?

Conelly: Can you imagine?

Seney: In Fernley.

Conelly: In Fernley.

Seney: Well, with all the growth out there that's . . .

Conelly: And the developers are fighting each other.

Seney: And we're both, you know, raising our hands?

Conelly: Yeah.

Seney: Yeah.

Conelly: Who would have guessed? You know, so, so how that impacts, frankly, TROA has been interesting.

Seney: Well, why don't we talk about that. Tell me about that.

### **Public Law 101-618, Fernley, and Upstream Storage**

Conelly: In the legislation, in Public Law 101-618, there is a provision that allows Fernley—it's not mandated. You know, they're not a required signatory to the agreement. But, there is a provision in the legislation that allows Fernley to have upstream storage. And, throughout the years I'll bet you I have been involved in ten attempts to come to some sort of agreement about how that might work. And, I've been in meetings with Bureau of Reclamation people, Interior people, state people, the tribe, Fernley, you know, and various machinations of all those groups, and we've never really been able to come to any sort of agreement, and the problem is this.

**“The tribe isn’t really opposed to Fernley having upstream storage but they don’t want them to . . . still be able to utilize the Truckee Canal to convey that storage. . . they want to close the canal. . . .”**

The tribe isn’t really opposed to Fernley having upstream storage but they don’t want them to have upstream storage, which is a benefit for the community, and still be able to utilize the Truckee Canal to convey that storage. Of course, they want to close the canal.

Seney: Right.

**“Fernley believes . . . they use the recharge from the leakage of the canal to do all sorts of wonderful things for the community, and if they have to give up the canal they want to be compensated. That is the basic gist of the problem. . . .”**

Conelly: Fernley believes if they have to close that canal then upstream storage isn’t of much use to them, and that they use the recharge from the leakage of the canal to do all sorts of wonderful things for the community, and if they have to give up the canal they want to be compensated. That is the basic gist of the problem. (Seney: Ah.)

**“. . . a few years ago when Rebecca was involved we had what I thought was a pretty decent agreement. It did *not* address closing the canal. . . .”**

And, a few years ago when Rebecca was involved we had what I thought was a pretty decent agreement. It did *not* address closing the canal.

**“. . . we think we have an agreement, things go on, the town goes from being a town board to a little city. They have a mayor. The mayor can’t stand Rebecca. He fires her. He’s still the mayor and the subject of much of the complaints to the Attorney General’s Office. . . .”**

So we, you know, we think we have an agreement, things go on, the town goes from being a town board to a little city. They have a mayor. The mayor can’t stand Rebecca. He fires her. He’s still the mayor and the subject of much of the complaints to the Attorney General’s Office. His name is Davey Stix.

### **Betsy Rieke Become Involved with the Fernley Agreement**

So, Rebecca’s [Harold] gone. He doesn’t understand TROA. He hires a new attorney who doesn’t understand TROA. Frankly, he’s just incompetent, but, you know, the two of them are off doing all of their stuff and, you know we’re, I think we



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were *all* sort of thinking we were fine, we had this agreement.

**“And then Bill Bettenberg retires and Betsy Rieke takes over Bill’s lead role in the TROA negotiations and she decides, ‘I can fix this.’ . . .”**

And then Bill Bettenberg retires and Betsy [Rieke] takes over Bill’s lead role in the TROA negotiations and she decides, “I can fix this.” In spite of—and I’ve *been* involved in many of these attempts to deal with her. This is not her first attempt. But, she decides she can fix it and she comes to me and she goes, “I know your boss just wants this over, but I think I can fix this and I think that the way the agreement is written now isn’t fair to Fernley. And so, let me try to fix this.” And I went, “Sure. Go ahead, but don’t take too long.”

Well, of course that didn’t happen, but she did bring it to their attention that, you know, they might be able to negotiate some deals out of this, Fernley. And so, Betsy goes back to Washington and talks to them and says, “You know, the deal the way it’s written with Fernley isn’t fair to them.” She sells this to me. She doesn’t really tell the tribe, but she sells this to me on the basis that “The people in Washington don’t really know what this agreement says with regard to TROA and it’s my responsibility to make sure they understand.” So, I brief my boss on it and he’s pissed, you know. “We were moving along fine and she didn’t need to bring this back up. We had a deal. You know, these guys, probably Davey Stix and his attorney, you know, probably didn’t know there was something out there.”

**The Dispute Raised by Reopening the Agreement with Fernley**

So now, everything that was resolved for now a couple of years, with regard to Fernley, is back on the table and *Fernley* is playing this out in the press, about how they’re getting screwed by the tribe, about how if they close the canal all of their trees will die, how they’re the fastest growing city and nobody’s paying any attention to them. And so now, so they went to their ally in all of this, which is the State of Nevada, and the State of Nevada says, “Well, we can’t really roll Fernley. If we have to roll somebody it’ll have to be the tribe.” And the tribe comes to us and says, “Well, you can’t roll us. If you got to roll somebody it’s going to have to be Fernley.” And so we have, and California is saying, “Well, we have to do what the State of Nevada does. You know, we don’t want to get into a bi-state problem.” So, we have Truckee Meadows and maybe our office lined up with the tribe, and we have the State of Nevada, California, and the feds lined up with Fernley and this issue needs to be resolved before we go forward, and it’s huge. I mean, it’s like one of the larger issues and we have nobody who’s willing to sit down and do an agreement. I blame Betsy. I don’t know if she knows that, but I do. And, you know, she, I think,

had a vision that she could come up with a solution that would make everybody happy. She understands now that these folks—it's sort of the same old dynamic that we had with Fallon and the tribe, now it's Fernley and the tribe—neither one of them want to make the other one happy. They're actually both being kind of jerks. So, we've had several meetings. I had a meeting here last week with the State and with the Bureau of Reclamation. I've met with the tribe. Tomorrow there's a meeting with the tribe and the State. I'm going to be there, and then tomorrow afternoon there's a meeting with the Truckee Meadows Water Authority and the tribe. You know, everybody's trying to line up their, their allies. And, you know, there is no, there's no solution to that. And, the Senator asked me "What is the best case scenario?" And I said, "The best case scenario is that we get Fernley to shut up, stop playing this in the media, that we negotiate some terms for them to have upstream storage, and the issue of the canal is taken out of the TROA process. But the only way they'll agree to that is if we assure the tribe and Fernley that we won't walk away from it. So, that involves our office, probably the federal, you know, the federal folks, and the states to say, 'We'll deal with this. We just won't deal with it in TROA.'" I don't know that either one of them are willing to do that. This is the tribe's leverage. (Seney: Yeah. Yeah.) And Fernley also has the leverage, so they're both like this.

Seney: Is this Betsy, do you think, wanting to put her stamp somehow on this process?

Conelly: I think she did. You know she—and I adore her. I mean, I just adore her. I think she fancies herself as someone who can make deals, you know, get people to see how to make a deal, and I think, you know, she took over for Bill and although her and Bill got along okay there was some professional, you know, sort of one-upmanship between kind of both of them. I mean, over the course of the years I've had both of them say to me, "Don't tell Bill. Don't tell Betsy." You know, that they kind of want to be *the* one. And so, Bill retires and I think Betsy sees this as her opportunity to (Seney: Yeah.) be the one.

**“... clearly Fernley issues are huge and so I really think she thought, ‘I can do this.’ But, she couldn’t and now we’re in worse shape than we were before she tried. . . .”**

And clearly Fernley issues are huge and so I really think she thought, “I can do this.” But, she couldn't and now we're in worse shape than we were before she tried. So, it's not very pretty.

Seney: So, the question is upstream storage *and* keeping the canal open (Conelly: Yeah.) from Fernley's point of view?

**“ . . . I think Fernley should have upstream storage. Why shouldn't they? . . . ”**

Conelly: Now, I think Fernley should have upstream storage. Why shouldn't they? (Seney: Right. Right.) You know, I mean . . .

Seney: Is that something the tribe's opposed to necessarily?

**“The tribe believes that they should have upstream storage but not if they're going to keep the canal open indefinitely, because the more upstream storage they have the more they'll need the canal to convey it, and their goal has *always* been to close the canal. . . .”**

Conelly: The tribe believes that they should have upstream storage but not if they're going to keep the canal open indefinitely, because the more upstream storage they have the more they'll need the canal to convey it, and their goal has *always* been to (Seney: Right.) close the canal. (Seney: Right.)

**“ . . . they [Pyramid Lake Paiute Tribe] also think, and this I do agree with . . . *everybody* that's going to have upstream storage . . . has negotiated what those terms are. . . . and the tribe's position is, 'Fernley should negotiate too.' . . . You have to negotiate the terms of that storage with all the other parties, and Fernley has not been willing to do that. In that regard I think the tribe is dead-on. . . . ”**

They also, I think, and this is where I'm not sure I agree with that, but they also—in fact, I don't agree with that—they also think, and this I do agree with, *everybody* that's in the negotiations, Truckee Meadows Water Authority, the tribe, *everybody* that's going to have upstream storage, Fish and Wildlife, *everybody* has negotiated what those terms are. You didn't just say I need x-number of acre-feet and this is what I'm getting. Everyone has negotiated and the tribe's position is, “Fernley should negotiate too.” You don't get to just say, “I'm getting upstream storage.” You have to negotiate the terms of that storage with all the other parties, (Seney: Yeah.) and Fernley has not been willing to do that. In that regard I think the tribe is dead-on. (Seney: Yeah.) So . . .

Seney: But you're dealing, you think, with people in Fernley who are, at best, naive, and at worst maybe even something else?

### **A Lot of Issues Are Being Revisited Because of New People in the Negotiations**

Conelly: Well, naive and they actually, they're, they don't understand TROA. They know that legislation tells them they can have upstream storage so they actually believe “We get

it.” You know, so, and what’s happened over time, which is sort of a sad situation, we have new people at the State, new people in California, new people in Fernley, now Betsy’s in charge of the feds—kind of lost some of that expertise, we don’t have Bill—we have all of these new people who are like revisiting things that have already been settled.

Seney: Ah.

Conelly: You know, so as we lose some of the folks that were hanging around forever dealing with all of this, you know, it’s like, “Well, what about X?” And we go, “X has been settled for four years.” “Yeah, but if I have to give up Y I want X.” So it’s, you know, it’s like we need to do something that closes this issue (Seney: Yeah.) and take it up in a different venue. (Seney: Right.) I don’t know. (Seney: Right.) I mean, I don’t know if that’s mediation or, you know, the State suggested arbitration. I said I wouldn’t support arbitration but I would support mediation.

**“ . . . bring in somebody, just get them [Fernley] to talk and . . . if they need help . . . We’ll figure out a way to get you some help with what you need.’ They never ask for anything, and how silly is that? . . . ”**

I mean, you know, bring in somebody, just get them to talk and, you know. We have had on the table with the City of Fernley for ten years, at least ten years, that if they need help, and clearly they do, with infrastructure, water and sewer infrastructure—and we spent \$14 million in Fallon—(Seney: Right.) “If you need help as part of figuring this all out, it’s on the table. (Seney: Yeah.) We’ll figure out a way to get you some help with what you need.” They never ask for anything, and how silly is that?

Seney: Really. Yeah. Really.

**“ . . . our position is basically two-fold. We want TROA finished. I don’t really care if they get storage or not. I think they deserve it . . . I don’t think the canal should be closed because I think it has impacts on the Stillwater Wildlife Refuge and how we get water down there. . . . ”**

Conelly: How silly is that? So, you know, I just—and our position is basically two-fold. We want TROA finished. I don’t really care if they get storage or not. I think they deserve it but I don’t really care. (Seney: Yeah. Yeah.) We don’t have a dog in that hunt. I don’t think the canal should be closed because I think it has impacts on the Stillwater Wildlife Refuge and how we get water down there. But, you know, if somebody can come up with a better idea how to get water to Stillwater, I don’t care

about that either. We care about getting TROA finished. And so, we look at this as our role is to get these folks to finish TROA, and *anything* that's not resolved in TROA we'll talk about in another venue. I don't know how successful we're going to be.

Seney: You know, in all the interviews I've done, one of the most interesting people I interviewed was Bob Kelso<sup>32</sup> (Conelly: Oh sure.) from Fernley.

### Bob Kelso and Fernley

Conelly: You know he was, he was good?

Seney: You know he really, I would tell my students, "This is the kind of person that Tocqueville had in mind in terms of the citizen."

Conelly: Oh, isn't it though?

Seney: And, he was, he had a very long view, almost visionary view, of things, and I take it he's not involved anymore?

Conelly: No. He retired from, he retired before they became a city. He was on the town board (Seney: Right.) and when they became a city, he retired before that. We were pretty crushed about that because, because he *was* a long-term (Seney: Right.) strategic (Seney: Right.) thinker. (Seney: Right.) He also wasn't vindictive. (Seney: Right.) You know, he didn't care if the tribe won. I mean, he really was interested in what was best for everybody. So that, that was a loss. He's, I actually haven't thought about him in years. I liked him very much.

Seney: Yeah. Yeah. I thought he was a very interesting man.

Conelly: I liked him very much. (Seney: Yeah.) He helped us on some campaigns. We liked him. (Seney: Yeah.) So, that's the first thing, is just the dang TROA thing.

The other thing that's happened with the growth of Fernley, that's been sort of interesting is that, not just Fernley but also Washoe County, this growth issue is so, you know, so big and so pressing and so immediate that it's gotten some local folks, including some State legislators, and you *really* never want them in your business, State legislators looking at regional (Laugh) water issues. You know, not just Reno, but Reno and all of the outlying counties. And, you know, there's three pipeline

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32. As indicated Robert (Bob) Lee Kelso participated in Reclamation's oral history work on the Newlands Project.

projects being considered bringing water in from northern Nevada to Reno.

**“ . . . this whole issue of the cost of water rights, the developers formed a little group to put pressure on local officials to help them, when in fact they’re their own worst enemies by competing with each other. . . .”**

And then there’s this whole issue of the *cost* of water rights, the developers formed a little group to put pressure on local officials to help them, when in fact they’re their own worst enemies by competing with each other. And so, there’s just sort of all of this pressure.

### **State Legislation Has Triggered a Look at Combining All the Water Companies into One Larger One**

A couple of State legislators had some legislation passed in the last legislative session to look at combining all of the water purveyors which includes Truckee Meadow Water Authority, some small water companies, the county runs, getting them all in one. And, you know, there’s lots of people have really strong feelings about that. That’s being discussed this week and next. And so, you know, it’s just sort of gotten everybody talking about, you know, a much bigger picture, (Seney: Yeah.) you know.

Seney: Is that good, you think?

### **Developers Became Their Own Worst Enemies When They Drove the Price of Water from about \$18,000 an Acre Foot to up to \$40,000 an Acre Foot**

Conelly: I haven’t decided. (Seney: Yeah.) I think anything that keeps developers from competing to the point where they’ve made the cost of water *impossible*, both in terms of *public* projects but also development, and that’s what they’ve done. (Seney: Yeah.) Washoe County had some water rights, and about a year ago they put their water rights up for sale at an auction. And, at the time water rights were going for about \$18,000 an acre-foot. They didn’t have a lot but enough to support a housing development. You know, maybe, I don’t know, five or six hundred acre-feet of water and they were going to sell it. And, Truckee Meadows Water Authority was going to buy them. So, instead of the county just making a deal with Truckee Meadows, which they could have done, you know, because the Truckee Meadows is sort of a quasi-government, and their board includes Washoe County commissioners. So instead of making a deal they put it up for auction and developers outbid each other until they sold for \$40,000 an acre-foot.

**“ . . . Oh, my God. We’re in trouble here, because now that these have sold for**

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**\$40,000 nobody's going to sell until *they* get \$40,000.' And the developers did it to themselves . . ."**

So, the developers sat around and went, "Oh, my God. We're in trouble here, because now that these have sold for \$40,000 nobody's going to sell until *they* get \$40,000." (Seney: Yeah.) And the developers did it to themselves, and then they, and then Truckee Meadows, who *was* buying water rights to make available for development, they would sell them but, you know, they were out there, they were out of the market.

Seney: Right. Right.

Conelly: So . . .

Seney: Well, Sierra Pacific used to do that?

Conelly: Same thing.

Seney: They would (Conelly: Same thing.) get the water rights and then resell them to the developers?

Conelly: Yeah. And so, they were out of the market. They couldn't compete. And so, the developers pretty much screwed themselves, you know, by—I told them—they came to see me, like ten of the top ones—and I said, "You guys screwed yourselves. You need to form, you know, some sort of a coalition where *you* buy water rights (Seney: Restraint of trade?) you know, I mean (Seney: Yeah.) you guys need to be, you know, forming a water bank (Seney: Yeah.) so that you're *not* driving the water up by competing with each other." Well, of course they can't do *that*. You know, they're just way too interested in their *own* needs. And so, they went to the Legislature and said, "Make Truckee Meadows buy water again." And, you know, Truckee Meadows is going, "We'd love to but you guys screwed the market." So, it's, I (Seney: Oh man.) have interest—I don't know what the answer is. I really don't.

**". . . some environmental folks . . . are *absolutely* opposed to this consolidation of the water purveyors because they believe that it will be controlled by the developers. . . . that's a genuine fear. . . ."**

There are some environmental folks that are *absolutely* opposed to this consolidation of the water purveyors because they believe that it will be controlled by the developers. And, you know, that's a genuine fear.

Seney: Right. And a realistic one. Yeah.

Conelly: And, I think terribly so, and some of the local . . .<sup>33</sup>

END SIDE 2, TAPE 1. MAY 16, 2006.

BEGIN SIDE 1, TAPE 1. MAY 30, 2006.

Seney: In Reno, Nevada. Today is May 30<sup>th</sup>, 2006. This is our third session and our first tape. Good afternoon Mary.

Conelly: Good afternoon.

Seney: We were talking last time, before I forgot to turn on the tape recorder (Laugh)—and you're so charitable. I really appreciate that. (Laugh) We were talking about the developers here who, you had mentioned how they had gotten together with the auction of the county's water rights, the five or six hundred acre-feet and bid that up to \$40,000, how they had come to see you, how you had remonstrated with them that perhaps they, that they ought to look in the mirror if they were looking for a villain and that maybe they should band together and do something about the water rights, and that's where we left it when the tape ended.

Conelly: Well, you know, because we don't, we don't believe we have enough water to support all of the development that these folks are proposing, and that we may even need it, that I, you know, development's always a controversial question, (Seney: Right.) but because they're influencing the market and one of the ways they're doing that is by outbidding each other, they're actually causing the high rates to occur themselves. I don't think that my telling them that had any impact on them because they continue to blame the Truckee Meadows Water Authority and the State, and anyone else that they can blame for that, which I think is a shame. Because what they really should do is band together and form a water bank of some type where, you know if you buy 100 acre-feet of water, or even a dollar value probably would make them happier, if you buy \$400,000 worth of water rights that later on you could take out \$400,000, (Seney: Right.) but so that they're not bidding against each other (Seney: Right.) so that there's (Seney: Right.) water available. When, before Truckee Meadows Water Authority was this quasi-governmental entity that's exactly what Sierra Pacific used to do, is they used to go out, they had an internal program where they went out and acquired—"excess" is probably (Laugh) not an appropriate term for water rights, but you know, *available* water rights (Seney: Right.)—and then made those available to developers, you know, without trying to make a lot of money on it,

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33. Editor's note. Professor Seney did not turn on the tape recorder after inserting tape 2 so the interview topic was picked up in the next interview on May 30, 2006.



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just making it so that the developers weren't screwing with the market. And when Truckee Meadows Water Authority came to be they stopped that practice and I think that's sort of what exacerbated the problem that caused the developers to be bidding against each other *and* bidding against Truckee Meadows Water Authority which was, you know, (Seney: Yeah.) insane.

Seney: As I remember the price, when Sierra Pacific did that the price was about \$3,500 an acre-foot?

**“ . . . when it's gone from \$5,000 to \$40,000 [an acre foot] in less than . . . three or four years you have to know that there's something going on *beyond* just a shortage of water. Because, there's still water rights available. . . . ”**

Conelly: Probably around there. (Seney: Yeah.) I was going to say around \$5,000, which is a lot of money, (Seney: Right.) but you know when it's gone from \$5,000 to \$40,000 in less than, you know, three or four years you have to know that there's something going on (Seney: Right.) *beyond* just a shortage of water. Because, there's still water rights available. But if you're, you know, particularly an old-timer that's sitting on some water rights and, you know, you weren't willing to sell at \$5,000, you know, you're looking at these water rights selling for \$40,000 thinking, “I'm going to hang onto this because I might get *more*.” (Seney: Right.) And, you know, it's, I mean they've made the market tight. They've made the prices rise. I mean, they've had nothing but detrimental impacts on the market. (Seney: Right.) And, I think it's a shame.

Seney: Would some mechanism of a water bank amongst them, would that be legal?

Conelly: I think that if it wasn't they could get legislation passed that would cause it to be legal. (Seney: Right.) But, I think it probably would be if they did it under the guise of, you know, maybe a nonprofit trust or something, where (Seney: Right.), you know, I mean that they weren't just trying (Seney: Yeah.) to manipulate the market, which is what has occurred, I think, without their intention. (Seney: Right. Right.) They've manipulated the market so that they've screwed themselves.

Seney: Why would they come see you about this?

Conelly: Well, I think probably because of the Senator's work on the negotiated settlement. And, you know, if you look at the negotiated settlement, if you step back from it and look at it big picture and not all the little pieces that make it an interesting piece of legislation, the whole point was to provide for the Truckee Meadows. And so, you know, I think that there are folks out there that still believe that, you know, Senator

Reid's interest is in providing for the Truckee Meadows, and that there might be something that we could do (Seney: Right.) that would be helpful. (Laugh)

I don't think they liked my answer very much (Laugh) but I also, I did talk to the Truckee Meadows Water Authority people after that and, you know, I don't know how they're going to characterize it but I was pretty harsh with them and told them that this was frankly their fault because they dropped the program that they had at Sierra Pacific and that if they weren't careful that these same developers, who had a great deal of political power, were going to go to folks who could influence their activities and that if they weren't careful, and I was pretty candid as I tend to be, they'd be looking for work. And, you know, the Board of Directors of the Truckee Meadows Water Authority is made up of elected officials from Washoe County, Reno, and Sparks. And so, these elected officials are interested in what these developers are saying. (Seney: You bet. You bet.) And they've got some, you know, political pull with them. And so, you know, I was pretty candid with them that "You guys better get your acts, you know, straighten it out or you're going to be sorry." And some things have occurred that I think was the result of this.

### **Truckee Meadows Water Authority (TMWA) Is Having Difficulty Transitioning from a Publicly Owned Company Responsible to Shareholders to a Quasi-public Authority Responsible to Constituents**

Two things in particular. One, State legislature; legislator, a woman named Heidi Gansert [spelling?], passed legislation at the State Legislature that called for an *audit* of the activities of Truckee Meadows Water Authority. And her, I don't know exactly, I haven't talked to her, don't know exactly what caused her to do that but the audit looked at all of their financial activities, and how they were spending their money, and how they were making decisions. And, the report came back fairly critical of their management. And then, Truckee Meadows Water Authority is not the *only* water purveyor in the valley. And then there is another piece of State legislation that asks for an interim committee, "interim" being in between our legislative sessions, to look at the possibility of *combining* all of these water districts and purveyors under one umbrella organization. *Both* of these activities have been *widely* supported by the developers, and I'm sure that's just them looking at the Truckee Meadows Water Authority and going, "You're not doing that good. (Seney: Yeah. Yeah.) There's a couple ways you need to clean it up." I don't—I mean clearly they didn't welcome the audit although they said they did, but you know they didn't.

Seney: What else are you going to say?

Conelly: Yeah. (Laugh) "Oh thanks. Come on in."

Seney: Yeah. (Laugh)

Conelly: And clearly they're not particularly supportive of this consolidation, but I think that bus has left. I mean they're, it's going to be consolidated whether *they* like it or not. And now their Board is fully on, you know, onboard with this action. So, they just, I'm sure I said this to you last time, I just think they didn't make the transition from being a publicly-owned company (Seney: Yeah.) responsible to shareholders to a semi-quasi public entity responsible to constituents, and they continue to make a lot of decisions that would have been just fine in a corporate setting, not so fine in a public setting. (Seney: Right.) And the, I think they still struggle with that. I mean, they did things like they gave all of their top employees significant bonuses. Taxpayers don't want to hear about that.

Seney: Oh no.

Conelly: Corporate people don't like it, but you know when you answer to shareholders, if you meet their demands for returns, you know, you can kind of get away with that. (Seney: Right. Right.) Not so much if you're a public agency. And so, everyone was scratching their heads and, you know, they've continued to make kind of, I think, silly mistakes that have put them in jeopardy I think for being the main purveyor. So.

Seney: You know I interviewed Sue Oldham<sup>34</sup> this morning, of course, who's the, was the (Conelly: Their counsel? Yeah.) water person, yes, at Sierra Pacific Power and came over to TMWA [pronounced tum wuh, i.e., Truckee Meadows Water Authority]. As she told me, nearly everyone did. There kind of was a wholesale shift.

Conelly: There was.

Seney: Right. And the woman who's now it, Julie, the woman who's head of it?

Conelly: Lori Williams?<sup>35</sup>

Seney: Lori Williams right. And she was praising her. I guess from Sue's point of view, what she was making is that they've stuck by TROA [Truckee River Operating Agreement] and they understand what's important about TROA, and getting TROA done from their point of view.

### **Truckee Meadows Water Authority Had to Be Prodded to Maintain Support of**

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34. As indicated by Professor Seney, Sue Oldham participated in Reclamation's oral history work on the Newlands Project.

35. Lori Williams served as General Manager of the Truckee Meadows Water Authority (TMWA).

### TROA Consistently

Conelly: You know, that's true but it hasn't been without some pressure. A couple of years ago, Truckee Meadows Water Authority were saying things in the public like, "Well, we'll be fine if TROA doesn't pass, or we don't agree on TROA. I mean, you know, I mean the benefits we're going to get from TROA we can make those benefits up someplace else." And so, although I believe they've finally figured it out, it wasn't like they came to the dance jumping up and down. (Seney: Ah.) We had to apply some pressure, and I also think part of it was that they left Sierra Pacific Power, which under the guidance of Walt Higgins and some folks that came before him and after him, understood the benefits of TROA. They left there and kind of went, "Oh well, you know, if we get it fine. If we don't we're fine anyway." And I think it took us a while to make them understand, "maybe not so much." And so, they are supportive of TROA but it hasn't been easy dealing with them.

Seney: Would this be, would this have been you going and talking to . . .

### Met with the TMWA Board Regarding a Fernley Issue

Conelly: We talked to them and then I talked to some of their board members. I had occasion to meet with their board members a couple weeks ago, I think after we talked last time, (Seney: Right.) and, on a Fernley issue that we (Seney: Right.) talked about. (Seney: Right.) I was very impressed how much their board members *knew* and understood. And, you know, I was. I left there going, "Whew. They get it." (Seney: Right.) They were very well informed and I, you know, if that is the result of staff briefings, bravo. (Seney: Right.) Because they understood a great deal about what was going on. I was very impressed.

Seney: Well, you mentioned that, I think, the day after we talked you were going to go to a meeting with the Board?

Conelly: Yes.

Seney: Yeah. Because I guess you said they, people, various people were lining up on this Fernley issue?

Conelly: Yes.

Seney: Fernley and the State of Nevada on one side, California, I guess, and then on the other side the tribe, Sierra Pacific Power, and . . .

Conelly: TMWA and us.

Seney: And the Senator's office, (Conelly: Yeah.) right. How has that progressed? Has there been any change in that?

**“ . . . one of the problems with the TROA negotiations has been that they've gone on for so long we've had changes in staffing. . . . ”**

Conelly: Well, one day we had seven and a half hours worth of meetings, and one of those meetings was the tribe explaining their position to the State. You know, one of the problems with the TROA negotiations has been that they've gone on for so long we've had changes in staffing. And so, you know, even though, you know, there are a few people that have been around forever not many. (Seney: Right.)

### **Allen Biagge, Representing Nevada Is One of the New Faces in the Negotiations**

And so, in the State's situation they have a new guy in charge, a wonderful man named Allen Biagge who I think has a reputation for, you know, getting people to agree. And he's, you know, he's interested in compromise. He's interested in getting things done. But, you know, I'm not really sure. You know, TROA is complicated. (Seney: Right.) I'm not really sure how much he *understands* of all of that. And so, one of the meetings that we had was the tribe explaining to him their position and why they were where they were. I think that was helpful. You know, I mean they explained it beyond just they don't agree with Fernley's position. (Laughter) But, which is nice. (Seney: Yeah.) And, Allen had some ideas how we might go forward with regard to removing this provision for TROA, for Fernley to get storage under TROA, and dealing with it outside of the TROA document, which *I* actually support. Now, if we can get people to agree on what the language will say. We're exchanging language now (Seney: Ah.) between the State and the tribe about how the language would actually work on that.

Seney: The exclusion language (Conelly: Yes.) that says, “This will come later” and all that?

Conelly: Yeah. Well, in a different format and won't, you know, impede the progress. I actually think that concept is good. I'm just not sure we'll be able to get to the language.

Seney: What—where do the feds stand on that?

Conelly: Well, interestingly enough . . .

Seney: Because we did talk about Betsy Rieke and that was on the tape.

### **Betsy Rieke and Dealing with Fernley**

Conelly: Yeah. You know, she's, in my view, made some mistakes in handling this, and you know that's hard for me to say because I think she's been such a good friend to, you know, *all* of these communities dealing with TROA and she understands it. But I also think when she came in to the person in charge, when Bill Bettenberg retired, we kind of talked her into taking that role, and I think she wanted to put her stamp on it, and I think it backfired on her. I think she, you know she, like all of us, likes to believe that we can (Seney: Right. Right.) get people to agree. And I think that she actually thought she could reach a compromise. And when it became apparent that Fernley wasn't either prepared to compromise, or didn't understand how to compromise or why they needed to, she kind of drew a line in the sand and I think she got pulled back by the Bureau of Reclamation in Washington D.C. So, now her ability to influence this process is basically gone. And she kind of did that herself. (Seney: Ah.) So, you know . . .

Seney: That must be very disappointing to her I would think?

### **Betsy Rieke Ran into Issues Regarding the Fernley Negotiations**

Conelly: I think she's, we've had some interesting discussions about it. She felt it was necessary to go back to Washington D.C. and brief a bunch of folks back there about where she was. And they, to the best of my knowledge, didn't really support her position. And so, now she's kind of screwed. And she came back and told me they didn't support her position because Senator Reid had said many nasty things about the Republican president. And I thought, none of my—you know, we continue to say lots of things but you know, "You said, 'This is where we're going to draw the line in the sand,'" and they said, "No. We don't think so." (Seney: Yeah.) So, you know, I don't think it had a lot to do with Senator Reid's position. So, you know, we'll see. But, I think that, you know, the main negotiators, other folks besides Betsy that have been involved in the process for a long time *supported* her position. I just don't think she was able to sell it to the administration.

### **Nevada Has Proposed Binding Arbitration to Settle the Fernley Issues, and That Isn't Possible**

So now we have the State, who I really think that, I think that the Bureau of Reclamation folks in D.C. would go along if the State changed their mind. You know, their position is "We're going to do what the State wants." So now, we have

to (Seney: Right.) see if we can get the State to do something. And the *problem* with the language, as I understand it, is that the State is looking for—so let's say we take this problem out of TROA and try to deal with it outside, "How will we know, you know, how do we ever actually come to (Seney: Right.) an agreement?" And they wanted to have binding arbitration, of which the tribe had said, "We'll never do binding arbitration. And, what about all the other parties to TROA?" Number one. The feds are legally forbidden from entering into binding arbitration. And, you know, why would California do that, (Seney: Right.) why would anybody do that? (Seney: Right. Right.) So, now we're looking at language that talks about maybe mediation. I don't know.

Seney: You know, I know that within the Bureau of Reclamation they didn't really, for a long time, I guess things have changed, they didn't really have much to say about the Newlands Project and TROA. That really all went through Bill Bettenberg and, you know, through the higher-ups and directly to the Secretary and Under Secretary. That's changed, obviously. The Bureau is back with a role now?

### **Bill Bettenberg Replaced by Betsy Rieke for TROA**

Conelly: Well, I think that's because of Betsy. You know that. (Seney: Right.) I mean Bill's position within Interior is different than Betsy's position. Even though it's still within Interior it's under the guise of the Bureau of Reclamation. (Seney: Right.) And so, when Bill decided to retire (Laugh) . . .

Seney: You're weeping. The tape won't show that.

Conelly: Oh. We were struggling with who would take over Bill's role, not just because he had a wealth of knowledge that no one else had, I also, and I think I mentioned this last time, I think Bill, no one, not enough people appreciated how creative Bill could be. I mean, he was a problem solver extra ordinaire. But, the main thing that I was worried about was, Bill convened the meetings, Bill sort of *kept* everybody on track. And although (Seney: Right.) it's been a slow process, without Bill they would go, you know, a *long* time without meeting. You know, they just, they weren't moving. And Bill kind of kept them all moving forward. And so, you know, not that any one person was in charge (Seney: Right. Right.) but it kind of did fall to Bill. And so, I was struggling with, "My God, what are we going to do without Bill?" And, you know, kind of decided that, you know, maybe that would be a good role for Betsy. We have the *upmost* respect for her. She understands the process. She knows the players. She knows what's involved and that she could take it to the, you know, we were very close to the finish line, that she could take it over to the finish line. And, you know, she inherited a document and an understanding of where everybody was

from Bill, but then she tried to tweak at the end, (Seney: Yeah.) and that's how I think we got where we were. If she had just let this go, there was an understanding on the part of almost everyone about where Fernley was, including where Fernley stood, and then she went out there and started these discussions. And so, I think, you know, it just didn't work out the way we'd all had hoped.

Seney: Do you think it was to her disadvantage to go from being Assistant Secretary of Water and Science under the Clinton Administration to this Area Manager job, and then to go back and meet with people (Conelly: Sure.) who are under the Bush Administration?

**“ . . . we've been very careful in dealing with Betsy because we have no doubt that there are folks at the Department of Interior who look at her with suspicion. . . . she was a Clinton appointee, an Assistant Secretary . . . under Bruce Babbitt . . . ”**

Conelly: We've been, we've been very careful in dealing with Betsy because we have no doubt that there are folks at the Department of Interior who look at her with suspicion. You know, she was a Clinton appointee, an Assistant Secretary, you know, under Bruce Babbitt, who I'm sure they look at her and scratch their head and wonder, you know, that she's not one of them. She one of “*those*” people.

**“ . . . we've been pretty careful . . . in our opinion . . . she does a very good job, we've always been pretty careful not to make it seem like she was ‘our’ person at the Bureau of Reclamation . . . we don't want her higher-ups or even her staff to believe that . . . she's in our pocket. . . . ”**

And so we've been pretty careful about that in that, you know, although we rely on her for a great many things, and we, you know, her knowledge and skills, in our opinion are, you know she does a very good job, we've always been pretty careful not to make it seem like she was “*our*” person at the Bureau of Reclamation, (Seney: Right.) that, you know, Betsy and I talk regularly and we don't *want her* higher-ups or even her staff to believe that, you know, she's in our pocket. And we just don't want that to occur, because I think it could be really detrimental to her. (Seney: Right.) And we've been very respectful of that. She, I think she's in a difficult position. We've *tried* to be very respectful of that.

### **Bennett Raley**

So, you know, it's been sort of—but yes, I believe if she went back there and was asking to do something that they might not normally do they're going to look at her with suspicion. (Seney: Right.) And I think that's been difficult for her, and she sort



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of handled it very well for a very long time. She had a great relationship with the gentleman who had her former job, the Assistant Secretary, a guy named Bennett Raley. She was able to forge a really good relationship with him. She also helped me in making my boss [understand] how to deal with Bennett Raley and they actually had a great relationship.

Seney: Because he could be somewhat troublesome couldn't he?

Conelly: He could be. (Seney: Yeah.) And, you know, I think my boss and he have similar personalities where, you know, they can kind of dig their heels in. And Betsy and I were kind of able to both manage that so that they got along fine. And so, you know, that worked out pretty well. But, we've always tried to be respectful of what is probably very uncomfortable position (Seney: Right.) she can be in (Seney: Right.) sometimes.

Seney: You think she might have overestimated her influence?

Conelly: Yes. I think she did.

Seney: Yeah. Yeah.

Conelly: I think she did.

Seney: That would be easy to do I suppose, having once had one of the big offices?

### **Mark Limbaugh**

Conelly: Well, and I, you know I don't, I mean the guy who took Bennett Raley's place was a guy named Mark Limbaugh, and I've met him a couple times and clearly she has. I don't think she had that same kind of relationship with him. And, you know, I just think that it was, you know, it didn't work out the way she wanted.

Seney: Right. You know, generally this current administration has, I've found, taken every opportunity to find fault with the previous, the Clinton Administration. (Conelly: Yeah.) It seems to be a matter of policy with them, almost?

Conelly: Well, Bill Bettenberg, and I'm sure you've interviewed him, (Seney: Right.) Bill Bettenberg said interesting things about, you know, he'd been with the Department of Interior for over forty years, (Seney: Yeah. Right.) I think.

Seney: Since the late '60s.

Conelly: It was mind-boggling to me how long he'd been there. (Seney: Right.) But, you know, and I don't want to speak for him, but I asked him a couple of times about this because he'd worked at the Department of Interior through a variety of Secretaries, you know, in positions, (Seney: Right.) when Bill had been in positions where he had contact with the Secretary, where he was part of the inner workings. And, you know, we've clearly had some interesting (Laugh) Secretaries of Interior. You know, [James (Jim)] Watt and some other folks that came in (Seney: Right. Right.) and were just, you know, and I'm sure Bruce Babbitt was controversial. I mean, all of these people had different agendas.

**Bill Bettenberg “. . . basically said, ‘This administration [George W. Bush],’ no matter who the Secretary was, ‘seemed to be more interested in making sure that things didn’t happen.’ I mean, they were just so concerned that somebody was going to do something they didn’t like they didn’t really do anything. . . .”**

And you know, he basically said, “This administration,” no matter who the Secretary was, “seemed to be more interested in making sure that things didn’t happen.” I mean, they were just so concerned that somebody was going to do something they didn’t like they didn’t really do anything. And, you know, I think for somebody like Bill who was very good at getting things done, (Seney: Right.) just *very* good—you know, we should have more government employees like Bill Bettenberg we’d all be better served—but, you know, that they were just so interested in making sure nobody did anything they didn’t like that’s pretty much all they paid attention to. And I think that’s sort of what happened to Betsy. You know, to think that they would stop a process that’s this close to being done over something that had frankly been decided about three years ago, rather than let somebody get something, you know, like, I mean Betsy said, “Like Senator Reid credit.” But it isn’t even us. It’s just, don’t let this move forward, you know, in case somebody gets something they don’t want. They’re not going to let that happen. It’s very dysfunctional.

Seney: Yeah. I would say, yeah.

**“. . . I know lots of people who have left the Department of Interior in the last few years because it’s just so dysfunctional. . . .”**

Conelly: You know, I know lots of people who have left the Department of Interior in the last few years because it’s just so dysfunctional. And, you know, that’s a shame. Some really *good* people who *have* been there through Republicans and Democrats. And, it didn’t matter to them. (Seney: Right.) They had a job to do. And, you know, maybe their focus changed a little, (Seney: Yeah.) but, you know, they all had this same sort of mission. (Seney: Right.) And apparently that’s not the case now.

Seney: You know, I interviewed Bill several times and I have to say I have no suspicions as to what his partisan leanings might be.

Conelly: No.

Seney: I assume he has them but I'm not even sure about that.

Conelly: I mean he's just very, (Seney: Yeah.) he's a very *good* (Seney: Right.) employee. He was. I mean, just someone who understood what his mission was, you know, and was interested in solving problems and getting things done. (Seney: Right. Right.) I mean, he was *wonderful*. (Seney: Yeah. Yeah.) I actually miss Bill very much.

Seney: Well, he held all kinds of high-level positions?

Conelly: *Lots* of high level positions.

Seney: In Indian Affairs, (Seney: Yeah.) in Minerals Management. He was Budget Director for the Department.

**“We were going to do a big public meeting about TROA. . . . we were going to let people know . . . ‘We’re moving. There’s progress being made. . . .’ and we were all struggling of who would best deliver that message and we decided it was Bill Bettenberg . And, I told the Senator . . . there were going to be about 200 people there, and he said, ‘Well, who’s going to give the main speech?’ I said, ‘Bill Bettenberg .’ And he kind of looked at me and he goes, ‘Well, he’s so boring, but he is our boring guy.’ . . .Bill could take something and stretch it out, but yeah he did a fabulous job. . . .”**

Conelly: He did all sorts of amazing things, which all of that experience, I think, is what caused him to be such a creative problem solver (Seney: Right.) because he knew, you know, kind of everything. (Seney: Right. Right.) You know, he really did. And, the Senator told me one time, and I'm going to say this on tape because it was so funny. We were going to do a big public meeting about TROA. This was probably six years ago. It was a long time ago. We'd invite everybody, you know, because there was lots of talk about “TROA wasn't going anywhere,” who knew, and we were going to let people know, you know, “We're moving. There's progress being made. (Seney: Right.) This is where we are. This is why it's worthwhile.”

You know, and we were all struggling of who would best deliver that message and we decided it was Bill Bettenberg . And, I told the Senator, and the Senator was going to be at this meeting and there were going to be about 200 people there, and he

said, “Well, who’s going to give the main speech?” I said, “Bill Bettenberg .” And he kind of looked at me and he goes, “Well, he’s so boring, but he is our boring guy.” (Laughter) And, you know, I mean, you know, (Seney: Yeah.) Bill could take something and stretch it out, but yeah he did a fabulous job. He understood, (Seney: Right.) you know.

Seney: Right. Right.

Conelly: Yeah.

Seney: Yeah.

Conelly: Yeah.

Seney: Well, I remember you told me when we talked the last time several years ago, that you would schedule time with the Senator, and Bill Bettenberg and the Senator would sometimes kick and scream but . . .

Conelly: Oh just, yeah.

Seney: In a manner of speaking, of course.

Conelly: Well, you know, and Bill is a very thoughtful person, you know. He thinks about what he’s going to say, you know, (Seney: Right.) and here’s Harry Reid just like, “Okay, is it black or white?” Bill’s going, “Well . . .” you know, (Laughter) so yeah it was actually very interesting. (Seney: Yeah.) You know we’ll be hard-pressed to replace somebody of Bill’s caliber.

Seney: You know, last time when we talked and it didn’t get on the record, we talked about the water coming in from the north, the Honey Lake Lite (Laugh) and the other project. Why don’t you, if you don’t mind, talk about that again?

### **Honey Lake Lite**

Conelly: Well, you know, there is a reincarnation of Honey Lake, which was that old water project to import water from it’s actually partly northern Washoe and partly California (Seney: Right.) into the State. And the first incarnation of the project was fraught with all sorts of corruption and bizarre circumstances.

Seney: The developer was suspect?

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Conelly: Apparently there were some deals and the state water engineer verified that there was X-number of acre-feet that could be imported that apparently had nothing to do with any reality or research, and all sorts of bad things were going on, and the county was in cahoots with the water developer and paying him all sorts of fees. Actually, I believe they paid him over \$2 million in fees and then never got anything for it. So, I mean there was all sorts of weird stuff going on.

**“ . . . Senator Reid was able to stop the project because it did cross the reservation, and the tribe didn’t want it. . . . ”**

But basically, Senator Reid was able to stop the project because it did cross the reservation, and the tribe didn’t want it. And so, he went to Secretary Babbitt and basically they stopped the EIS, and with no EIS there could be no project.

Seney: Wasn’t there a question also about some of the water quality of the water from California, because it was partly on an old missile base, (Seney: Yeah.) or something of that kind, a military base?

### **Vidler Water Company**

Conelly: I remember that, but I don’t know a lot about that. That was sort of around the time I was coming on. I do remember when the Senator stopped the project and Washoe County wasn’t very happy. But, you know, it was just an odd deal from start to finish. (Seney: Right.) So, you know, we didn’t hear anything about it for years and then this company that owns a lot of water rights throughout all of Nevada, a company called Vidler [Water Company] came in and bought those water rights from the former owner.

Seney: Where’s Vidler based?

Conelly: Arizona. (Seney: Ah.) Arizona.

Seney: Are they an American company?

Conelly: I believe they are. It’s very large. They are the, if I’m not mistaken, after the federal government the largest property owner in the State of Nevada. They bought *all* of the Union Pacific checkerboard lands (Seney: Oh wow.) when they went up for sale several years ago. I mean they have deep pockets.

Seney: This is the alternate sections of land (Conelly: Yes.) that they got when they built the railroad?

Conelly: Yup. Yup. And they got all of those and apparently they . . .

Seney: By the way I ask if it's a French company or a German company because there are French and German companies that have bought a lot of water rights (Conelly: Yeah.) all over the world.

Conelly: Actually someone had asked me about the French before because we knew that that was something that they were doing. (Seney: Right. Right.) But, I don't think so. I think it's an American company, but I could be wrong. So *they* bought the water rights for Honey Lake and *they* decided they were going to do a pipeline and . . .

END SIDE 1, TAPE 1. MAY 30, 2006.

BEGIN SIDE 2, TAPE 1. MAY 30, 2006.

Conelly: They pride themselves in being a company that's, they're straight shooters, and they deal up front, and they don't make side deals, and they do everything, you know, and they're generous, and all of these things but, and I—and they honestly believe it. It's just, I mean, they actually believe it. I know all the principals very well, but the general public and folks who deal in water issues doesn't exactly have that feeling about them. (Laughter)

So, it's been kind of interesting to deal with them, but they have a project on, they're working on a project that would involve importing water from the Honey Lake area to northern Washoe via pipeline, but it still goes through tribal lands. And so, there have been negotiations between the Pyramid Lake Paiute tribe and the Vidler folks ongoing now for about two years, and I don't know how that's going to end. But, you know, it will be about somewhere between eight and nine thousand acre-feet of water, which everyone, including the tribe seems to believe that that's doable. (Seney: Yeah.) And, you know, when water's selling for \$40,000 an acre-foot, and this would be an ongoing source, (Seney: Right.) you know, that's pretty significant. (Seney: Right.) You know.

Seney: I understand the tribe has some objection to hooking this up to the sewer system and pumping the waste generated by this eight or nine thousand acre-feet?

### **The Tribe Is Beginning to Develop Relationships with City of Reno Government Officials**

### **There Are Issues with Vidler's Water Project That Can Only Be Resolved with the City of Reno**

Conelly: They do, and they want the Vidler people to resolve that for them. But, the way that it works is that recharge water becomes the property of the City of Reno, and Vidler says, “We’ll go to Reno and tell them what you want, but it’s not our shop.” And the tribe’s kind of holding firm on it. So, I actually think in this regard, and this is hard for me say, I think the tribe is wrong and Vidler’s right. It’s, I mean, it’s not something Vidler can fix. (Seney: Right.) The tribe has to fix it.

And the tribe, to their credit, for the first time ever, they have developed relationships with city elected folks. I’m very pleased. I mean, they’ve met with the mayor several times. There’s a couple of city council people they’ve developed relationships with. So, I mean that may have occurred a long time ago, but not since I’ve been around. They’ve kind of relied on us to carry their water, so to speak. So—pardon the pun—but I’m very pleased that they’re (Seney: Yeah.) kind of reaching out to develop relationships with some of these folks so that when these decisions are made, you know, they’re not just the eight-hundred pound gorilla in the room that all the city electives hate. (Seney: Right. Right.) Which is, you know, it’s smart for them. I’ve been begging them to do it for years and they really are doing it now.

Seney: Has this had anything to do with sovereignty issues, as far as they’re concerned?

**“. . . I think that they [Pyramid Lake Paiute Tribe] have frankly just used us. I mean, why bother to build relationships when you can just go to Senator Reid and he’ll take care of you? . . .”**

Conelly: They always claimed that, and occasionally it’s true (Laughter), you know, I mean occasionally (Seney: Yeah.) it’s true, but I really just think, they wouldn’t like to hear this, but I think that they have frankly just used us. I mean, why bother to build relationships when you can just go to Senator Reid and he’ll take care of you?

**“Don’t rely on us to take care of you at the State Legislature. Don’t rely on us to take care of you with the cities and the county. I mean, you need to be able to do this stuff yourself.’ . . .”**

And, I have been encouraging the same thing with the State Legislature. You know, “Don’t rely on us to take care of you at the State Legislature. Don’t rely on us to take care of you with the cities and the county. I mean, you need to be able to do this stuff yourself.” And they’re finally starting to. And, I really think it’s just been, you know, not, I won’t say “laziness” but there was no motivation for them to do that before.

**“. . . I think with the State what convinced them was in this last legislative session**

**there was a piece of legislation that changed the boundary of Washoe County to the detriment of the tribe and I didn't help them. . . ."**

And I think I finally convinced them, and I think with the State what convinced them was in this last legislative session there was a piece of legislation that changed the boundary of Washoe County to the detriment of the tribe and I didn't help them. (Seney: Yeah.) I said, "You guys need . . ." I mean, it was probably too late to help them, but the fact that all of this work had occurred and they weren't involved, I think kind of slapped them in the face.

Seney: And didn't have some way of knowing that that was going on. Yeah.

**". . . I think they finally recognized that they have, you know, I mean that we can't take care of everything for them. . . ."**

Conelly: They, you know I talked to them, "If you're not going to be down at the legislature and do all this work yourself then hire a lobbyist. I'm not your lobbyist." (Seney: Yeah.) And so, I think they finally recognized that they have, you know, I mean that we can't take care of everything for them. (Seney: Right.) Number one, we don't want to, and number two we can't. (Seney: Right. Right.) You know, we just can't do it. And, you know, it's like we're using too much of our political capital to take care of them and they need to develop some of their own, and they are. (Seney: Right.) I'm very pleased.

Seney: You mentioned last time, and I can't remember the specific issue that brought it to your mind, was that the Senator said, "Well, when is enough enough?"

**Pyramid Lake Paiute Tribe has used the Senator's office inappropriately over the years, and ". . . he did ask that question, he said, 'How will we know when we've done enough?' . . ."**

Conelly: Yeah. I worry about that, and it was, when was the—I remember briefing him. Something. But you know, for many years, I mean even before I was around and now I've been here for thirteen, going on fourteen, years, we have been their benefactor. We have been their, you know, sort of their mentor and their ally, you know, and we've frequently gone to the State on their behalf. And, you know, they have used us sometimes inappropriately where they've said, "Well, you know, if we don't get what we want we're going to go to the Senator's office." (Seney: Right.) And they're, I believe, and this I think in some ways has been good and in some ways has been bad, that, you know, people don't want Senator Reid's office calling them to deal with something. (Laugh) (Seney: Uh huh.) You know, I mean I know that



sometimes that's not pleasant to get those phone calls, (Seney: Yeah.) but we have done that for the tribe over the years a lot. And sometimes I think they threaten that we're going to do it that we don't even know about. They've used us sort of like, you know, a sword. And, you know, I think that the Senator is kind of, and I know I am, where you reach kind of a point that goes, "How," and he did ask that question, he said, "How will we know when we've done enough?" And, you know, I think that's a question they need to deal with.

**“ . . . if they for whatever reason, and God forbid this happens, if they for whatever reason do not sign TROA, God help them. . . . we've been their benefactors, and their mentors, and you know, for years on a *million* issues . . . ”**

I, if they for whatever reason, and God forbid this happens, if they for whatever reason do not sign TROA, God help them. You know, really. (Seney: Yeah.) In that, you know, we've been their benefactors, and their mentors, and you know, for *years* on a *million* issues I've gone to council meetings, and county commission meetings, and spoken on their behalf, and *lobbied* at the legislature, and written letters to Interior, and dealt with Fish and Wildlife. And, you know, hounded Betsy about the head and shoulders. I mean, we've just for years, and years, and years. And, you know, all for, you know, this mutual benefit (Seney: Right.) if for whatever reason, you know, and they say they've drawn a line in the sand about Fernley on TROA. If that's not resolved and the tribe *doesn't* sign, really, *God* help them. You know, and I've told them that. I don't think they believe me, but I need to *get* them to believe me. (Seney: Yeah.) So, I'm kind of working on that.

Seney: And you told them what the Senator said?

Conelly: I don't believe I told them that. You know, I told their new attorney who I think could be good because he doesn't have that history (Seney: Right. Right.) of (Seney: Right.) "Harry Reid will bail us out." (Seney: Right.) I mean, you know, I'm sure he's been told that but I'm telling him, "No." (Seney: Yeah.) So, I think I told him that. You know, "You just need to know that this is how our relationship has been and I do see it changing." And, you know, our interests are changing too. If we get TROA, I mean we're working on Walker Lake. I mean, we're working (Seney: Right.) on new things, you know, and some of their problems have been resolved.

**“ . . . you can't look at Pyramid Lake and not say that we haven't done a good job. . . . everybody's done a good job, and so at some point in time we're going to move on. . . . ”**

I mean, you can't look at Pyramid Lake and not say that we haven't done a good job.

(Seney: Right. Right.) They've done a good job. The feds—I mean, everybody's done a good job, and so at some point in time we're going to move on. (Seney: Yeah.) You know, so it'll be interesting to see how that all pans out.

Seney: I take it when you met with Mr. [Don] Springmeyer that was alone, without Bob Pelcyger?

### **Hopefully Don Springmeyer Will Bring New Perspectives to the Pyramid Lake Paiute Tribe's Activities**

Conelly: We had a joint meeting and then Don and I happened to be at the same meeting in Carson City and we went and had lunch, and we had a very good conversation. I think he'll be good for this tribe. I really do.

Seney: Yeah. So, it was more a spontaneous kind of thing, the meeting, (Conelly: Yeah.) kind of a . . .

Conelly: Yeah.

Seney: A nice circumstance in a way?

Conelly: It worked out really well.

Seney: Yeah. Yeah.

### **Bob Pelcyger and the Pyramid Lake Paiute Tribe**

Conelly: I think, I've told you this. I tell anybody who will listen. I think Bob Pelcyger is brilliant, (Seney: Right.) just brilliant. I mean, if I was the tribe, even if he had a license or not—that's a whole another situation—I would hire him in a minute. But, I also think that over the years he's become somewhat entrenched in some positions. You know, you have the same position for thirteen years, you know, you're not inclined to change it. I think Don Springmeyer will be helpful to them in seeing things from a different perspective as they go forward.

Seney: Right. Right.

Conelly: You know, that, it will be interesting.

Seney: Well, I suppose to some extent Bob's almost become an issue himself at times?

Conelly: He *totally* has, *many* times. (Seney: Yeah.) And, you know, notwithstanding whatever's happening with Bob, I mean I think he's sort of a lightening rod from—I mean he's clearly a lightening rod for T-C-I-D. I mean, (Laugh) there's a little group down here in Carson City called the Carson River Subconservancy Group and the tribe has had some dealings with them that, I've been dealing with for years with them. And, the chairman of that Board is a Lyon County Commissioner named Bob Mills. He never talks about the Pyramid Lake Paiute tribe. He talks about Bob Pelcyger. So, I mean, it's like he, he has determined this is—(Seney: Yeah.) So, I think that you're right. I think he's become (Seney: Yeah.) the lightening rod.

Seney: Right. For better or for worse? (Conelly: Yeah.) Yeah. Because I would certainly agree with you (Conelly: Right.) in terms of his abilities. (Conelly: The guy is just brilliant.) And from *my* point of view, in terms of someone who can explain.

Conelly: Right. It's like going to school.

Seney: From the tribe's point of view—yes he's wonderful.

### **Bob Pelcyger Was Able to Explain Things She Didn't Understand**

Conelly: It's like going to school. (Seney: Yeah.) I, we had a staff person in Washington a few years ago who told me one time that Bob just calls me “to jack up the tribe's billing.” And I thought about that for a while, and I finally decided I didn't care, because if he would call me and I didn't understand he could explain it to me (Seney: Yeah.) so that I would. And, you know, I, he was *excellent* at that. I always said, (Seney: Yeah.) you know, he could explain all this to anybody.

Seney: Do you think that was true that he was calling you to . . .

Conelly: I never did.

Seney: You didn't think . . .

Conelly: I never did.

Seney: Yeah. Yeah.

Conelly: You know, I just—he's a busy man who—I mean, I didn't believe it for a minute.

Seney: He doesn't strike me as . . .

Conelly: Me neither. I never believed it.

Seney: You know the, I think he has genuine feelings for that tribe.

Conelly: I think he does too.

Seney: It's more than just a retainer, way more.

**“ . . . I believe that he can be amazingly irritating, and we've done things like just not taking his calls because we just can't do it sometimes . . . ”**

Conelly: I think way more, and you know, I think he's given them more than that. And I, you know, he didn't call me just to chat. You know, there was always a reason. I mean I never felt that way. (Seney: Right.) You know, now he, both (Laugh) Betsy and I believe that he can be amazingly irritating, and we've done things like just not taking his calls because we just can't do it sometimes, but *that* aside (Seney: Yeah.) I never felt like, I never once felt that he did that to get his fees, and I just never believed it. (Seney: Right.) Still don't.

Seney: Yeah. Right.

Conelly: You know, yeah.

Seney: You mentioned two water projects from the north. Honey Lake and there's another?

### **The Aqua Trac Project and Bob Gallagher**

Conelly: There is another project. It's called Aqua Trac, T-R-A-C, and the owner of that is an interesting gentleman named Tom Gallagher, a long-time Nevada family from Elko. He has an engineering firm here called Summit Engineering that's done *lots* of infrastructure work in the valley, been around a long time, very successful. And he acquired water rights further south than the Honey Lake and a little further east, kind of on the *other* side of the old dry Winnemucca Lake. But still, his is northern. It has to cross through reservation land. *He* has worked out a deal with the tribe. Now, I don't know exactly what the terms of the deal is but he has a water importation project that he's proposing. He's at the stage in his project where he has drilled test wells to see, you know, about the *yield* of these. These are underground water rights. They're not surface water rights. And, *apparently*, he's briefed me a couple times, briefed the Senator once, *apparently* it's going to be very productive.

Seney: Do you have a ballpark figure that seems right?

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Conelly: [Sigh] Well, he's saying over 15,000 acre-feet.

Seney: That's a lot of water for this area?

Conelly: That's a lot of water. And so, the question a lot of people have is number one "Is that really true?" That's why he's drilling the test wells. And, "Could he sustain the yield for very long?" And, "If you did do that kind of groundwater pumping from an area that appears to be pretty arid, (Laugh) you know, what would be the long-term impacts on the aquifer and everything around it?" (Seney: Right.) So, they're working all that out. It'll be interesting to see what he does with that.

Seney: What's that groundwater likely to taste like?

Conelly: I understand it would of course (Laugh) have to be treated, (Seney: Yeah.) but sometimes, like the aquifer in Churchill County, which is in also a pretty ghastly arid location, (Seney: Right.) has some of the best drinking water around. So, you know, I think it matters how deep it is (Seney: Right.) and, you know, they call the aquifer in Fallon is the "Basalt Aquifer." I don't *know* that much about this aquifer, (Seney: Right.) but I think, I understand that part of his plan involves pumping it down to kind of like the Fernley area and having a treatment plant there. (Seney: Uh huh.) And then whether he brings it up here, I think, is still up for question, or if he just exchanges it for some of the water that the community's using from up here. (Seney: Uh huh.) Which, you know, brings into play Fernley again.

Seney: Right. And upstream storage?

Conelly: Yes. So, it'll be interesting to see how that goes.

Seney: But, you know, this is a smart guy. I can't imagine him spending the kind of money he's spending unless he believes that this is the real deal? One of the things that could happen is no water exchange. The water stays there and fuels development in Fernley. Do you get into anything like that kind of a tug and pull, say, between the developing property-owning interests here in the Washoe Valley and what might happen in Fernley as time goes on?

**“. . . that's how our involvement usually occurs, is either in the money for infrastructure or in bartering how you would utilize already-existing federal resources, whether it's canals or dams, or . . . upstream storage . . .”**

Conelly: Our role in that, we get into play in that the reason people talk to us is that usually those kinds of projects involve significant infrastructure, (Seney: Uh huh.) pipelines

and treatment plants, and, you know, those sorts of things using canals that exist and (Seney: Right.) federal facilities. And so, we get involved in those, or exchanging the ability to keep that water here for, you know, something upstream on a federal reservoir. (Seney: Right.) And so, we get involved in those projects only as they—I mean they all want money, (Seney: Right.) of course, to pay for the infrastructure, the pipelines and all of that. You know, most of those pipelines run about a million dollars a mile, and if you’re looking at a thirty-two to thirty-six mile pipeline now we’re talking real money. (Seney: Right.) So, that’s how our involvement usually occurs, is either in the money for infrastructure or in bartering how you would utilize already-existing federal resources, whether it’s canals or dams, or, you know, upstream storage, that sort of thing.

Seney: Are there Reno developers you’ve talked with about water problems here, are they involved in the development in Fernley?

Conelly: Many of them are.

Seney: I would think, yeah.

Conelly: Many of them are.

Seney: And so there’s got to be some kind of pull and tug, right, between?

Conelly: There is. It’s interesting. You know, I’m sometimes so disappointed in the developers that they don’t have a lot of foresight.

Seney: I think that’s true generally. Yeah. (Conelly: I think . . .) Wherever you find them.

Conelly: You know it’s, well it probably is true that, but I mean some are very good. *I deal* with a couple that are just amazing, you know, that recognize they need to build schools (Seney: Right.) and fire stations, and parks, and you know, (Seney: Right.) then you have the other guys that just, you know, want to build and get out, and take their money.

You know, so, but I mean—and I told Fernley this and I told the State this, the constituents in Fernley who are going to experience, if they aren’t already, significant issues related to their water are our constituents too. They’re the same, I mean, you know. (Seney: Right.)

We’re not just looking out for Washoe County. Those are our constituents. And so, you know, anybody who’s not paying attention to the fact that there *is* a

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connection between Fernley water problems going forward and Washoe County water problems that exist going forward isn't paying attention. I do believe there's lot of solutions out there that could encompass both of those entities.

You know, we do have the Truckee Canal, which leaves the river, (Seney: Right.) and you know, kind of in that area and goes all the way down to Fallon. That's a federal asset. You know, whether we use it to take water out of the Truckee to send to Fallon, or whether we use it to send water the other way, you know, there's all sorts of things we could do. Bill Bettenberg I thought always had a brilliant idea. He said we should put a pipeline right down the middle of the canal because we already own it and we own the right of way, and that part, you know, part of the expense of building a pipeline is getting the right of way, (Seney: Right.) and the construction costs. (Seney: Right.) We already own the dang thing. So that if the tribe wants us to close the canal down and not take Truckee River water, you know, divert Truckee River water down to Fallon, then let's use it for something else. (Seney: Right.) And, you know, that's, I mean those are going to be larger solutions that someone's going to have to take very seriously. We'll be involved simply because it's a federal asset and I'll be looking for money and probably lots of it.

Seney: Right. Right.

Conelly: Yeah.

Seney: And, I suppose there's just as much interest in the Senator's part, isn't there, in providing that kind of infrastructure development here as there would be (Conelly: Absolutely.) in Clark County in southern Nevada?

Conelly: Absolutely. He's been very good that way. (Seney: Yeah.) In fact, he's been criticized sometimes that he pays more . . .

Seney: Well, he doesn't get that many votes out of here?

Conelly: Well, he's been criticized that we don't pay enough attention to Clark County, that we—because we, frankly, have done more federal appropriations for water and sewer projects in northern Nevada than we have in southern Nevada. And, there are people in southern Nevada that's going “Hey.” I think part of that has been that they've done, you know they don't have sort of the issues that we had. You know, I mean, but I knew, I see that sort of turning, where it's harder for me to get money for a little general improvement district than it used to be, because the bulk of the money is going to Las Vegas, which makes sense. (Seney: Right. Right.) You know, I can't even argue with it. (Seney: Right.) But, we've been extremely successful in northern

Nevada dealing with those issues, as far as, I mean you know building water treatment plants and sewer treatment plants, and you know, infrastructure needs. You know, we've been really, really successful in getting federal funds for that. So, you know, knock on wood. I hope that continues.

Seney: Well, the Senator had been on the Appropriations Committee for some time, hasn't he?

Conelly: Yes.

Seney: What rank is he on that on the Democratic side?

Conelly: He is the, in *that* part of the Appropriations Committee that deals with energy and water he's the ranking member.

Seney: He's the ranking member?

Conelly: He's the ranking member. He's not the ranking member in the *whole* Appropriations Committee (Seney: Right.) but he is on energy and water.

Seney: Well that, that still counts no matter where he sits on that committee right?

### **Senator Reid's Seniority in the Congress Is Important**

Conelly: It does. (Seney: Yeah.) You know, I mean somebody explained it to me once is that—and I'm trying to remember if this had to do—yeah. Even if you discount the leadership value, which apparently you should never do because that's where the real juice comes in, (Seney: Right.) but like, you know, since the Republican, it would be a Republican chair of that committee, he gets most everything he asks for. And then instead of going to the next Republican, then it's the Democratic and we're the ranking committee member so he gets, (Seney: Ah.) Senator Reid gets most everything he asks for. And then whatever is left they filter down. The Republicans get their fair share and then the Democrats get theirs. And so, I mean, you know it *matters*. I mean, seniority *matters* (Seney: Yeah.) in that whole committee system.

Seney: In the Senate it does still, doesn't it?

Conelly: It really matters.

Seney: Yeah. Now, this would be, but this would be different in the House, wouldn't it? I mean, the House doesn't operate that way anymore?



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Conelly: I don't, you know . . .

Seney: You don't know?

Conelly: I don't know.

Seney: Yeah. I think . . .

Conelly: I mean, I've certainly seen people who, you know, they put people on committees for all sorts of bizarre reasons, (Seney: Right.) Not that they don't do it in the Senate, but (Seney: Right.) I mean they do make bizarre appointments.

Seney: Brief ones just to (Conelly: Uh huh.) through a vote now and then?

Conelly: Yeah. Interesting things they (Seney: Yeah.) do.

Seney: Right.

Conelly: Yeah.

Seney: How is it, how is it different now that the Senator is the Minority Leader?

Conelly: Well, (Laugh) well your timing is interesting. We had a poll come out this weekend that showed the Senator's negatives way up. So, let me tell you what my take is on it.

Seney: A Nevada poll?

Conelly: Yeah.

Seney: Yeah.

**“ . . . there is a price you pay to be in the leadership, that because you are the spokesperson for your party, whether it's the Democrats or the Republicans, that that opens you up to huge criticism, some valid, some not, from your State. In that, there is a perception that Senator Reid is focused on national issues. . . . But, anybody who knows Senator Reid knows that Nevada comes first. . . .”**

Conelly: It was a horrible poll. I believe that there is a price you pay to be in the leadership, that because you are the spokesperson for your party, whether it's the Democrats or the Republicans, (Seney: Right.) that that opens you up to huge criticism, some valid, some not, from your State. In that, there is a perception that Senator Reid is focused

on national issues. And the truth of the matter is there is some truth to that. (Seney: Right.)

### **Senator Reid Becomes Minority Leader of the Senate**

But, anybody who knows Senator Reid knows that Nevada comes first. That's a delicate balancing act, and you know, being the target of your opposition, when you're in the leadership, I think comes with the job. *I* think that it's taken us—there will be people that won't like this—that it's taking us a while to adjust. You know, we did, I think, kind of an amazing job because you know we weren't expecting to become the Minority Leader. Nobody expected Tom Daschle to lose. So, you know, from when we found out that he lost to when the Senator took over was a *very* short period of time, and . . .

Seney: By the way was there any doubt that the Senator would take over?

Conelly: No. There wasn't. That actually went pretty smoothly. I mean, he had to decide (Seney: Right.), and then he had to . . .

Seney: Right. And then he had to run for it, clearly?

Conelly: He had to contact all his colleagues, and (Seney: Right. Right.) you know but it was pretty clear early on that he was going to get the support.

Seney: Right.

### **The D.C. Office of Senator Reid Had to Gear up to Take on the Responsibilities of the Minority Leader**

Conelly: So, I think we did a *really* good job of *gearing* up our D.C. operation to deal with that. I mean, we've tweaked it and, you know, we continue to tweak it. But, you know, it's huge. It's, you know, the Democratic Policy Committee, the Democratic Leadership Committee, the Democratic Senatorial Campaign Committee, all of those kind of fall under the leadership, plus just plain being the leader, you know. So, we did, I think, an amazing job of getting up to speed on that *pretty* quickly, you know, considering how, what a big role that is.

**“ . . . our Nevada . . . operations suffered . . . it's been . . . interesting . . . getting us back to where . . . everyone back there *understands* that's the priority. Because . . . we hired an amazing group of people . . . the best of the best. But . . . have never been to Nevada . . . They're working . . . for Harry Reid because he's the**

**Minority Leader. Not because he represents Nevada. . . .”**

But I think we sort of, I think Nevada, our Nevada kind of operations suffered as a result of that and so, you know, it’s been an interesting kind of getting us back to where that’s the priority, at least, you know, everyone back there *understands* that’s the priority. (Seney: Right.) Because, you know, we hired an amazing group of people who, you know, they’re the best of the best. (Seney: Right.) But, you know, have never been to Nevada, and you know, don’t get it (Seney: Right.) or probably care. I mean, you know. They’re working, they’re working for Harry Reid because he’s the [Minority] Leader. (Seney: Right. Right.) Not because he represents Nevada. (Seney: Right.) And so, I think we’re now, you know, kind of figuring out how to, how that’s going to work.

Seney: Have you been able to augment the Nevada staff at all?

**Additional Staff Members Have Also Been Hired in Nevada**

Conelly: We have. We’ve hired, I hired one extra person here. We hired three down in Las Vegas. I think we’re going to hire some more. I think we need to hire more in Las Vegas.

Seney: Do you run the Las Vegas operation too?

Conelly: I’m the State Director and that person is responsible to me.

Seney: Reports to you?

Conelly: *But*, I have been lucky. The last couple of years I’ve had somebody down there that’s fabulous, (Seney: Right.) and frankly does a better job than anybody I can imagine. So, you know, this isn’t anybody that requires much oversight.

Seney: Right. Right. You know their instincts are right?

Conelly: Yeah. They, (Seney: Yeah.) frankly sometimes I call this person to get advice which is really good.

Seney: Well, that’s helpful too, you know. Yeah.

**“ . . . the pressures on us in Las Vegas are *much* greater than here. . . . just a different lifestyle. . . . they have to have two or three people answering the phones. . . . a different pace and, you know, they have much greater needs just in**

**the constituency . . .”**

Conelly: So. Yeah, I love that. And so, you know, she’s doing a fabulous job. And, you know, just, I think the pressures on us in Las Vegas are *much* greater than here. (Seney: Right.) Number one, you know, it’s just a different lifestyle. (Seney: Right.) It’s the, it’s entirely different.

Seney: More fast-paced?

Conelly: Very much so.

Seney: High—more money?

Conelly: Yeah.

Seney: Yeah.

Conelly: So, like, how long have you been here?

Seney: In this area?

Conelly: No, today. Right now.

Seney: Oh, today? Yeah, with you, right an hour and a half. I mean . . .

Conelly: Our phone hasn’t rang. I don’t know if you’ve noticed that?

Seney: Yeah. I have, I guess.

Conelly: The phone hasn’t rang. And so, you know, that’s kind of unusual, especially when we’re on the front page of the paper in a negative way. (Laugh) But, you know, down there it’s just, you know, they have to have two or three people answering the phones. So, it’s just sort of a different pace (Seney: Right.) and, you know, they have much greater needs just in the constituency alone. You know, they just need some (Seney: Right.) help. So.

Seney: What did the, what did the poll say?

Conelly: Well, (Laugh) well, I happen to have it. (Moves away from mike) [inaudible] (Laugh)

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Seney: Is it a poll that you can, you feel you can rely on? Is this an organization that . . .

### **Issues Related to a Recent Media Poll in Reno**

Conelly: Well, it was done by the newspaper and one of the TV stations here in town. I have some *questions* about who their sample was (Seney: Right.) but basically they, the numbers for “Do you approve or disapprove of the job Harry Reid is doing as United States Senator?” . . . Forty-eight percent approve, which that’s not horrible. (Seney: Right.) Forty-one percent disapprove. That’s pretty horrible. (Seney: Yeah.) So, the *negatives* have gone way up. And so, you know . . .

Seney: Are they issue-specific at all?

Conelly: No. There are some questions about, “Do the Democrats under Harry Reid’s leadership have a workable agenda?” We didn’t do well. And, “Does Harry Reid possess the leadership qualities to guide the Democrats to gain control of the Senate in 2006?” Not so good. So, I mean it’s an interesting story, but . . .

Seney: And this is the, oh, *Reno Gazette and Journal*?

Conelly: Yeah. They polled six hundred people, which is a fairly large sample.

Seney: It is, right. Right.

Conelly: But, if it’s a statewide sample I’d like to know how many came from northern, how many came from southern, (Seney: Right.) and how many came from the rurals?

Seney: Right. Exactly. You need to know those kinds of things.

Conelly: Yeah.

Seney: And it would be interesting if they were more issue-specific. That is, I would be interested to know what impact immigration has had?

### **Immigration as an Issue for Senator Reid**

Conelly: Well, actually that was, I sent a memo to the Senator over the weekend and that’s what I said. I think we got hit pretty hard on the immigration issue.

Seney: I’ll bet you did, yeah.

**“ . . . I am recommending that we do our own poll and we’ll see how we do. But, you know, there is a perception . . . that this is just part of the price you pay for taking the leadership role. . . .”**

Conelly: So, I’ll be interested, I would be interested to see, you know—I am recommending that we do our own poll and we’ll see how we do. But, you know, there is a perception and I think this is true, that this is just part of the price you pay for taking the leadership role.

Seney: Oh, absolutely yeah. Right. Well, I remember last time—let me turn this over.

END SIDE 2, TAPE 1. MAY 30, 2006.

BEGIN SIDE 1, TAPE 2. MAY 30, 2006.

Seney: My name is Donald Seney. I’m with Mary Conelly in her office in Reno, Nevada. Today is May 30<sup>th</sup>, 2006. This is our third session and our second tape.

So, you said you sent a memo to him about the . . .

Conelly: No, I just said that I think we need to do our own poll, and I would be interested to see what kind of impact immigration is taken on his negative . . .

Seney: We spoke about this on the phone, and about what an emotional issue immigration is.

Conelly: Yeah, and, you know, I don’t mean to be flippant, but it isn’t like twelve million people came into this country last week. (Seney: That’s right. That’s right.)

**“ . . . I’m . . . very suspicious of why this is such a large issue now. . . . we’ve seen this administration, and . . . others look for a polarizing issue to get their voters to the polls. . . . last election used gay marriage, and . . . the sanctity of marriage . . . At least here in Nevada . . . I’m just curious about why this is such a huge issue today and it wasn’t a year ago. . . . are we being manipulated into making this an issue that’s very divisive. . . .”**

I mean, you know, they’ve been here for a very long time, and although you hear about it, you know, in the course of our, you know, day to day sort of activities, I’m so very suspicious of why this is such a large issue now. I mean, we’ve seen this administration, and, frankly, others look for a polarizing issue to get their voters to the polls. I mean, I think, the Republicans in the last election used gay marriage, and, you know, (Seney: Right.) the sanctity of marriage, you know, all of those sorts of things to get their voters to the poll. At least here in Nevada they did. Fairly

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successfully, and I'm just sort of questioning, you know, although I could look out my window and see thousands of people demonstrating for immigrants rights and immigration reform which I actually believe that we totally need. I'm just curious about why this is such a huge issue today and it wasn't a year ago. (Seney: Right, what's the urgency now.) You know, I mean no matter what your beliefs are about, you know, folks coming or not coming or having a path to citizenship or not having a path to citizenship, it isn't like they all came last week. Most of these people have been here for years and years and years, and so I am just wondering are we being manipulated into making this an issue that's very divisive. I'm just curious. I'm suspicious, I guess.

Seney: Have you seen the numbers—the recent numbers on gay marriage. (Conelly: I haven't.) Well the number of people disapproving has really gone down. (Conelly: Well, that's encouraging.) The number of people who think that this isn't really a problem is somewhere around 62 percent now.

Conelly: Well I sort of feel about gay marriage exactly that way. I mean . . .

Seney: I guess what I'm suggesting is this may be a helpful issue. Although there's this gay marriage amendment coming up.

**“. . . you've got to wonder about these folks that . . . swear by the constitution until they want to change it to fit their own political agenda. . . .”**

Conelly: I think they'll kind of bring that up to kind of juice the issue. (Seney: Right.) But, I mean, you know Senator Reid took a ton of heat for the English as a second language position which he said we do not need a constitutional amendment. Senator Reid does not believe in gay marriage, but he also doesn't believe we need a constitutional amendment. I mean, you've got to wonder about these folks that, you know, swear by the constitution until they want to change it to fit their own political agenda. I mean, every time they talk about constitutional amendments now *I'm* taking the *old* Republican stance “Leave it alone.”

Seney: Yeah. Isn't it interesting.

Conelly: You know, what are you doing? So I just kind of wonder about immigration and, you know, I mean, I do think that there are . . . I think there's lots of things we can do basically, you know, dealing with just even I-N-S works. You know, I had *lots* of people tell me that why don't these folks just come here legally. Well, “Do you realize that could take twelve to fifteen years and it's not a sure deal.” I mean there's things we can do to improve that or folks that are here that are trying to do everything

right, and it takes two years to get an appointment. I mean, for heavens sake, that's a system that's broke. I get that. But I also wonder if this isn't just, you know, a political strategy of the Republicans to get their voters to go to the polls. I worry about that.

Seney: Yeah. I think you may be right. Does this poll, this kind of thing, if its confirmed in other polls, does this make it harder for Senator Reid to pressure people on the TROA settlement?

### **Reaction to Senator Reid's Work on Water Issues after the Election of 1994**

Conelly: What a great question? I doubt it. I mean, even though, you know, I worked for Senator Reid in 1994 when the Republicans took over the House and, you know, we had this big Republican revolution and, you know, there were some folks in Fallon and had relationships with T-C-I-D who basically sent the message to us "You know, we don't have to do anything you say any more, and they didn't get any help at all [from the Republicans], and so, you know, I doubt it.

### **Informing Constituents Reid's Work Affects Them is Difficult**

He still is the Senator; we have four and a half years to go in his position; he's still the leader; we still have tons of juice; I mean, I don't think so. I worry less about those folks than I do about just the average guy on the street. I mean, and what *I* think we need to do a better job of and, you know, TROA's kind of an interesting example of that. I mean, make people understand what being in the leadership means to them. I mean, I can explain that to someone who's always asking for appropriations. To somebody who's, you know, just paying a lot of money for their gas or stuck on the freeway, or, you know, dealing with a higher water bill, you know, that really doesn't relate to them unless we give them a way to relate. And, you know, TROA is sort of an example in that, you know, once this is past, this *will* make a difference to this community, and so, you know, it's an interesting concept of how do you let folks know that it matters.

Seney: Yeah. That won't be easy for the average person to see.

Conelly: No, it's a very difficult concept, you know. (Seney: Right.) I mean, how do you let people know that . . . I mean, you look at, what was the guy's name in Oregon that got beat who was the . . . [Mark] Foley, or was he Washington?<sup>36</sup> (Seney:

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36. Democrat Tom Foley was a Member of Congress from 1965 until 1995, and he served as Speaker of the House of Representatives from 1989 to 1995. He represented the 5<sup>th</sup> Congressional District of the State of

(continued...)



Washington State, Tom Foley, former Speaker, right.) Yeah. I mean, those people, I mean I was *mortified* that they didn't return (Seney: Cut off your nose to spite your face.) but clearly they didn't understand what it meant to them and their everyday life.

**“ . . . Senator Reid was on the Conference Committee for the transportation bill. We got tons of stuff in the transportation bill. . . .”**

I mean, Senator Reid was on the Conference Committee for the transportation bill. We got tons of stuff in the transportation bill. You know, which, if you think about, does impact your daily life (Seney: Absolutely.) but, you know, it's a tough thing to sell.

Seney: How much was he able to do for the new freeway between here and Carson City.

### **Issues Regarding Finishing the Freeway Between Reno and Carson City**

Conelly: Well, we've been working on that—that's a twenty year project, if you can imagine. We've been . . . the E-I-S on that project is twenty years old—which I'm kind of concerned someone might figure that out and sue, but anyway, you know, that's a old EIS. But, yeah, we've been working on that, you getting money to the Nevada Department of Transportation for twenty years. (Seney: Yeah.) Yeah, they spent years and years and years buying up right of ways. You know, that's the big deal with highway construction if you're not . . .

Seney: Yeah. Very time consuming, yeah.

Conelly: Very difficult, you know.

Seney: You've got to make sure you've got enough of it. You can't just get a couple of miles and start, and . . .

Conelly: Well, and the other problem is, you know, like, its one of those hit and miss situations where you get, you know, fifteen miles here and twenty miles down the road another fifteen miles, but you still got to *link* it all up. (Seney: Yeah, that's right.) I think it's got to be *horrible* work.

Seney: You don't want people to know.

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36. (...continued)  
Washington.

Conelly: Yeah, because then the price will go up.

Seney: Yeah, absolutely. Right

Conelly: Yeah, I think that'd be horrible work.

Seney: So what's in the immediate future that you have to do in terms of TROA and to try to push things along. You think the Fernley thing is going to get set aside.

**“ . . . if we can't take the Fernley out of this [TROA] process and deal with it in some other way . . . Then I think that we're in trouble. . . . And . . . as we come down to the very end there are probably people who would like to see it fail. . . . ”**

Conelly: I think if it doesn't we're in big trouble. I think if we can't take the Fernley out of this process and deal with it in some other way, and, you know, I don't even know what the right answer is there, yet, I'm hoping I hear it. Then I think that we're in trouble. Only in that too many people have drawn a line in the sand. Not that we can't get them to move, but it will be difficult. And, you know, because it's a very polarizing sort of process in general, it's always been sort of us against them, that I think that as we come down to the very end there are probably people who would like to see it fail. I've always felt that way. And, as we get to the end, if we have these polarizing things pulling against each other it could be a problem. I worry about that.

### **Allocation of Water Between California and Nevada Has Brought Some Nevada Parties to Agreement**

You know, just the State, which, I do believe Allen Biagge gets this, the State has really been brought kicking and screaming to the party, and at this meeting we were at a couple of weeks ago with the board members of the Truckee Meadows Water Authority, before the board members came I said to Lori Williams,<sup>37</sup> if all else fails, Lori, talk to them about the interstate allocation. I've found over the years, I mean, I think that I understand about 50 percent of TROA. You'd think I understand more, but my knowledge sort of is I get about 50 percent of it where I could explain it to anybody. (Seney: Right.) The other 50 percent I'm like “Okay, sort of get that.”

**“The one thing I found *everyone* understands, and that you can explain it in terms that . . . somewhat horrify, is the interstate allocation. . . . ”**

The one thing I found *everyone* understands, and that you can explain it in terms that, you know, that somewhat horrify, is the interstate allocation. And, so, I said to Lori, I

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37. See footnote on page 111.

said, “If you can’t get them to come along, you know, based on that we really need to for all these other reasons, mention the interstate allocation.” So we’re in the meeting, and we’re talking and Dave Iazzi, who’s a Reno City councilman, he said, “Well, if all else fails, we can’t lose this interstate allocation.” And I was just, like I said, I was very all impressed that they knew so much. They were good. And Lori and I kind of looked at each other, and I said, “See, they all get that.” So, I think . . .

Seney: That’s true, that ninety/ten<sup>38</sup> is hard to miss

**“ . . . if we don’t do TROA, and we have to renegotiate that, we’re *not* going to get ninety/ten. . . . And there’s no reason to believe we’re not going to get significantly less. ”**

Conelly: You know, because there, I think, I don’t know that this is true, but I think its easy for me to say so because it probably is true, if we don’t do TROA, and we have to renegotiate that, we’re *not* going to get ninety/ten. (Seney: Yeah, I don’t think so.) We’re *not* going to get ninety/ten. And there’s no reason to believe we’re not going to get significantly less. (Seney: Yeah.) And so, if for no other reason, and I’ve used this with the State legislature many times. If for *no* other reason, although there’s plenty of other real benefits, (Seney: Right.) you *have* to guarantee that allocation, and this is the only way to do it.

Seney: Well, I must say I find that kind of stupefying that the ninety/ten . . .

Conelly: I do too. I was shocked.

Seney: You have to kind of roll your imagination back to the 1950s when there was *nothing* at Tahoe, and Reno was still significant (Conelly: It’s mind boggling.) by comparison in terms of population (Conelly: Or Truckee or any of that . . .) yeah, right.

Conelly: . . . just like. So, I mean, you know, why would they give you that again. That would be absurd. (Seney: Right.) And so, you know . . .

Seney: Well, the upper Truckee interests are too well organized now to put up with that.

### **Allen Biagge from Nevada Understands the Importance of the Interstate Allocation**

Conelly: Oh yeah. I mean, you know, it would be . . . so my answer would always be . . . but I think Allen Biagge, from the State, understands the interstate allocation. I think he

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38. Referring to the allocation of Truckee River water: 90 percent to Nevada and 10 percent to California.

*gets* that.

### Fernley May Be a Problem in the Negotiations

And so, you know, if we can keep the tribe, and, you know, they tell me they've drawn a *line* in the sand on the Fernley issue, and, you know, the only people that are going to be able to get them to change their mind is Harry Reid. And, so, I worry about that (Seney: Yeah.) because if they don't, really, God help us. (Seney: Yeah.) Really, God help them.

Seney: They really haven't understood, have they, how far off the reservation, so to speak, they are, the Fernley people on this issue.

**"I worry about Fernley . . . They're our constituents, too. I'm *not* interested in rolling them. . . . they have some serious issues related to their infrastructure . . . and we want to be a part of the solution . . . We've always had money on the table for Fernley. . . . I just don't think that they have the expertise on board to help them understand . . . And . . . I just think there's some decisions being made out there for all the . . . *really* the wrong reasons. . . ."**

Conelly: I don't think they do. (Seney: Yeah.) I don't think they do. I worry about Fernley, and I told Allen Biagge this, you know, where I was kind of giving him my little speech. They're our constituents, too. I'm *not* interested in rolling them. ***I am not.*** I mean, I recognize that they have some serious issues related to their infrastructure, guaranteeing their municipal water supply. All of those things are valid, and we want to be a part of the solution on all of those things. (Seney: Right.) We've always had money on the table for Fernley. They just . . . I think there's two things going on in Fernley. One is that I just don't think that they have the expertise on board to help them understand where they are and how they improve their situation. I just don't . . . and, you know, that's not uncommon for a small community, but, you know, they're growing so quickly they need to kind of get up to speed. And they just haven't done that. So that's the first thing, and then the second thing, I just think there's some decisions being made out there for all the wrong reasons, you know, ***really*** the wrong reasons. And so we'll see what happens, but, you know . . .

Seney: Is there any way . . . you mentioned last time there was complaints to the Attorney General's office about some of the things that have gone on in Fernley. Is there any way to kind of move that along.

Conelly: Well it's not something I'd want to touch with a ten foot pole. (Seney: Yeah.) You know, I mean, . . .

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Seney: I'm just thinking in tactical terms. I mean, if . . .

### **Citizen Concerns in Fernley May Result in a Change of Elected Leadership in the November Elections**

Conelly: There are folks out there, lot of them actually, who have decided that one of the ways they can solve *these* issues and others they have is by changing the leadership. And so, you know, as a result, the mayor has significant opposition this time, and I think a couple of the people running against him will be well bankrolled by a variety of folks.

Seney: And when will that election be?

#### **Davey Stix**

Conelly: November. November. Yeah, I wish it was sooner. But that'll be interesting to see, and, you know, Fernley, they might be successful in knocking . . . the current mayor is a gentleman named Davey Stix—was an *old*-time Fernley family, kind of one of the good old boys, you know. I think that they . . . the growth in Fernley may have tipped the scale in favor of newer folks moving there who aren't part of the good old boy system who are questioning their traffic and their parks and , I mean, sort of just the quality of life issues out there. And he's sort of still protecting ag. Now kind of what we used to see in Fallon. And he's out there protecting ag and folks are going "Well, I don't really care about ag, but I'm sick of sitting at this stoplight for twenty minutes" you know, kind of thing. So, it may be, we'll see, that this is the time. I don't know.

Seney: You taking an interest in that election out there? Smiling that Cheshire smile.

Conelly: You know, it's interesting to watch. (Seney: Yeah.) Yeah. Interesting to watch.

Seney: I can understand why you want . . . Well you know, there are all kinds of ways of skinning a cat, and (Conelly: There is isn't there.) right, exactly, and someone who knows what they are doing pursues as many as can be pursued.

Conelly: You know you solve problems in a variety of ways.

Seney: That's right.

Conelly: Yeah. Yeah. There's a gentleman running for the mayor out there, his name is Tod Cutler. He is the principal of the elementary school. He's working on his doctorate. He's probably mid-thirties, very attractive. Used to be a motivational speaker. *Very*

well spoken. Who has decided he wants to be mayor. And is interested in running his campaign based on quality of life. And, I'll be interested to see how he does. He's going to be well-supported by a lot people in the community. He's going to work like a dog. I'll be interested to see how he does.

Seney: These are not partisan elections are they.

Conelly: They are not.

Seney: You know, some states have, you know, truly partisan, some are non-partisan but everyone knows what . . .

Conelly: We have that here. This gentleman is not a registered Democrat or Republican. He's an independent, which I personally think is not a bad place to be in a community like that that's changing so quickly. (Seney: Right.) You know, I mean, if I was advising someone running for mayor in Reno, I would tell them "You're going to have to be a Republican." (Seney: Right. Right.) You know, if I was advising somebody running for mayor in San Francisco, I'd tell them "You have to be a Democrat." But in Fernley being an independent might be an asset, you know. It will be most interesting.

Seney: Yes. Well, I'll keep an eye out for that.

Conelly: Yeah, me too. I'm watching it.

Seney: Anything else you want to add?

Conelly: I don't think so.

Seney: Alright, well, I'm going to . . . this lasts long enough I'm going to come see you again because I enjoy talking to you.

Conelly: I enjoy talking to you. I'm hopeful that we can resolve this Fernley issue. (Seney: Right.) I'm *fearful*, my *fear* is that it's the tribe that's a problem. (Seney: Ah.) That puts us in *such* a difficult position. (Seney: Yeah, I can understand that.) I mean, after being their benefactor for long before I was around, you know, since the early eighties, '86 and '87, I think is when Senator Reid started taking this on. So, for over twenty years . . . I worry about what will happen if we are on opposite sides at the end.

Seney: I understand you were kind of the fly in the ointment in the so called fork in the road,

as well. (Conelly: Yes.) So that can't be helpful either, to see this kind of, I suppose the less charitable would say, obstructionism.

Conelly: Well, you know, I think what's interesting to me . . . and, I actually was going to call Wayne Mehl, in fact, I need to do that.

**“ . . . the tribe wants the commitment from Fernley, and . . . all of the other parties, that the Truckee Canal will be closed. . . . that's not contemplated in the legislation. . . . we've been pretty vocal about not supporting it. . . . so I'll be interested to see when it gets right down to it if they're going to walk away from TROA because it doesn't address the canal. ”**

If you boiled it down to the absolute basic where we are right now, the tribe wants the commitment from Fernley, and by virtue of agreeing to that, all of the other parties, that the Truckee Canal will be closed. You know that's not contemplated in the legislation. It never was contemplated in the legislation. But as we've progressed these many years, for these last three or four years, everything that the tribe has done, that has been the *basis* of their negotiations. And, you know, there's nothing in the legislation that addresses that or contemplates it. And we've been pretty vocal about not supporting it. So, I've never missed a chance to tell them we don't support that. And they just sort of laugh at me and go “Yeah, so we're taking care of it.” Well, you know, they're not. And so I'll be interested to see when it gets right down to it if they're going to walk away from TROA because it doesn't address the canal. When, in fact, the legislation is silent on that issues, and so, you know, they've taken a stand that I think is contrary to what the legislation says.

Seney: You know, I interviewed Tom Jensen<sup>39</sup> (Conelly: Oh yes.) yes. (Conelly: Yes, wonderful person.) You know he is so (Conelly: So good!) able, just really impressed with him. (Conelly: I very impressed with him too.) And we went through the point by point by point by point why this, why this, why this. And there was nothing on closing the canal.

**“ . . . the Senator carries the constitution; I carry, you know, Public Law 101-618 . . . ”**

Conelly: There's nothing in there. I've read the legislation many times. I have a copy I carry with me pretty much everywhere. We make jokes about it. You know the Senator carries the constitution; I carry, you know, Public Law 101-618, but there's nothing in there that contemplates that. I was going to call Wayne Mehl, but Tom Jensen would be a good person because, you know, that was all sort of done, you know, like

39. As indicated, Tom Jensen participated in Reclamation's oral history work on the Newlands Project.

was it left out on purpose or, you know, I mean why did this occur this way. (Seney: And Tom was very clear about things being slipped in that didn't necessarily benefit T-C-I-D because {Conelly: Did he talk about recoupment?} yes, he did. And also the prohibition on the lawsuits for a period of time because T-C-I-D had come around trying to kill things, and they were angry at them after all the work that had gone into it, and so, I mean he was very candid (Conelly: Candid about that.) and very blunt about what . . . why this was there and that was there, and, again, he never mentioned anything about (Conelly: There's nothing in there.) the canal.

### **Part of the Truckee Canal Is on the Pyramid Lake Paiute Reservation, and There Is No Right of Way**

Conelly: I mean, you know, it was, I mean, I think, well he said it to me, so I'm sure he would say the same thing to you. Senator Reid is frankly surprised that the tribe hadn't done something about the construction . . . like blow it up or something. You know, it does cross the reservation without any right of way. (Seney: Yeah.) You know, somebody said "Well, if their're going to do that they should blow up the dam. But, I mean, I can't imagine them actually doing anything like that, but there's *nothing* in the legislation that addresses this, and I know that that's important to them and it may happen some day, but I don't think we stop TROA now, for that. They say they see it differently. I guess we'll see.

Seney: Alright. Well, Mary, thank you, again.

Conelly: Thanks. Good to see you.

Seney: Alright

END SIDE 1, TAPE 2. MAY 30, 2006.  
END OF INTERVIEWS.



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 Appendix 1: Assembly Bill 380

Assembly Bill No. 380—Committee on Natural Resources, Agriculture, and Mining

## 1. CHAPTER 515

AN ACT relating to water; revising the provisions establishing the priority of certain water rights; providing that certain evidence may be considered to show whether a water right has been abandoned; declaring that certain water rights are not subject to a determination of abandonment; clarifying the circumstances under which water becomes appurtenant to land; providing that certain surface water rights are not subject to forfeiture for failure to use water pursuant to that right within a certain period; establishing the Newlands Project Water Rights Fund and a related program for the acquisition of certain surface water rights; making an appropriation; and providing other matters properly relating thereto.

[Approved June 8, 1999]

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

**Section 1. Chapter 533 of NRS** is hereby amended by adding thereto a new section to read as follows:

1. The priority of a water right acquired by a person for use in a federal reclamation project is determined according to the date on which the United States appropriated water for initiation of the project. Notwithstanding the fact that the water right so appropriated and acquired may ultimately vest in the name of the person at a later date, all such water rights so acquired are governed by the applicable law of this state in effect on the date on which the United States appropriated water for initiation of the project, unless the water rights vested under the law in this state before the time the United States first appropriated or otherwise acquired the water for initiation of the project. If the water right vested under the law in this state before appropriation or acquisition by the United States, the date of initiation of the water right is determined according to the date on which the water was first diverted under that appropriation or acquisition by the United States.

2. No water rights, in addition to those allocated under applicable court decrees, are granted, stated or implied by the determination of the date of priority pursuant to subsection 1.

Sec. 2. **NRS 533.040** is hereby amended to read as follows:

533.040 [All]

1. Except as otherwise provided in this section, any water used in this state for beneficial purposes shall be deemed to remain appurtenant to the place of use . . . ; provided:

1. That if for any reason it should]
2. If at any time [become] it is impracticable to use water beneficially or economically at the place to which it is appurtenant, the right may be severed from [such] the place of use and be simultaneously transferred and become appurtenant to [other place or places] another place of use, in the manner provided in this chapter, [and not otherwise,] without losing priority of right . [heretofore established; and

2. That the]

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ê1999 Statutes of Nevada, Page 2631 ([Chapter 515, AB 380](#))ê

3. The provisions of this section [shall] do not apply [in cases of] to a ditch or canal [companies which have appropriated] company that appropriates water for diversion and transmission to the lands of private persons [at] for an annual charge.

4. For the purposes of this section, a surface water right acquired by a water user in a federal reclamation project may be considered appurtenant to an entire farm, instead of specifically identifiable land within that farm, upon the granting of a permit for the change of place of use by the state engineer which designates the place of use as the entire farm. The quantity of water available for use on that farm must not exceed the total amount determined by applicable decrees as designated in the permit granted by the state engineer.

5. As used in this section, “farm” means a tract of land under the same ownership that is primarily used for agricultural purposes.

**Sec. 3. NRS 533.060** is hereby amended to read as follows:

533.060 1. Rights to the use of water [shall] must be limited and restricted to [so much thereof] as much as may be necessary, when reasonably and economically used for irrigation and other beneficial purposes, irrespective of the carrying capacity of the ditch. [All the] The balance of the water not so appropriated [shall] must be allowed to flow in the natural stream from which [such] the ditch draws its supply of water, and [shall] must not be considered as having been appropriated thereby.

2. [~~Except as otherwise provided in subsection 4, if the owner or owners of any such ditch, canal, reservoir, or any other means of diverting any of the public water fail to use the water therefrom or thereby for beneficial purposes for which the right of use exists during any 5 successive years, the right to so use shall be deemed as having been abandoned, and any such owner or owners thereupon forfeit all water rights, easements and privileges appurtenant thereto theretofore acquired, and all the water so formerly appropriated by such owner or owners and their~~

~~predecessors in interest may be again appropriated for beneficial use the same as if such ditch, canal, reservoir or other means of diversion had never been constructed, and any qualified person may appropriate any such water for beneficial use.~~

3. No] Rights to the use of surface water shall not be deemed to be lost or otherwise forfeited for the failure to use the water therefrom for a beneficial purpose.

3. A surface water right that is appurtenant to land formerly used primarily for agricultural purposes is not subject to a determination of abandonment if the surface water right:

(a) Is appurtenant to land that has been converted to urban use; or

(b) Has been dedicated to or acquired by a water purveyor, public utility or public body for municipal use.

4. In a determination of whether a right to use surface water has been abandoned, a presumption that the right to use the surface water has not been abandoned is created upon the submission of records, photographs, receipts, contracts, affidavits or any other proof of the occurrence of any of the following events or actions within a 10-year period immediately preceding any claim that the right to use the water has been abandoned:

(a) The delivery of water;

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ê1999 Statutes of Nevada, Page 2632 ([Chapter 515, AB 380](#))ê

(b) The payment of any costs of maintenance and other operational costs incurred in delivering the water;

(c) The payment of any costs for capital improvements, including works of diversion and irrigation; or

(d) The actual performance of maintenance related to the delivery of the water.

5. A prescriptive right to the use of [such] the water or any of the public water appropriated or unappropriated [can] may not be acquired by [adverse user or] adverse possession . [for any period of time whatsoever, but any] Any such right to appropriate any of [such water shall] the water must be initiated by [first making application] applying to the state engineer for a permit to appropriate the [same] water as provided in this chapter . [and not otherwise.]

[4.] 6. The State of Nevada reserves for its own present and future use all rights to the use and diversion of water acquired pursuant to chapter 462, Statutes of Nevada 1963, or otherwise existing within the watersheds of Marlette Lake, Franktown Creek and Hobart Creek and not

lawfully appropriated on April 26, 1963, by any person other than the Marlette Lake Company. [No such right may] Such a right must not be appropriated by any person without the express consent of the legislature.

**Sec. 4.** 1. There is hereby appropriated from the state general fund to the Newlands Project Water Rights Fund, created by section 5 of this act, the sum of \$3,300,000 as the state’s contribution to the fund for the protection and preservation of the natural resources of this state. All interest generated from this appropriation accrues to the benefit of the Newlands Project Water Rights Fund.

2. The Carson Water Subconservancy District shall not commit for expenditure any amount of the appropriation made by subsection 1 until the District determines that:

(a) There is and will continue to be substantial compliance with the “Joint Testimony of Truckee-Carson Irrigation District, Pyramid Lake Paiute Tribe of Indians, City of Fallon, Churchill County and Sierra Pacific Power Company,” dated by the parties thereto on May 6, 1999, and submitted to a hearing of the Senate Standing Committee on Finance on May 24, 1999; and

(b) The City of Fallon and Churchill County have withdrawn all administrative protests and have sought to dismiss all legal actions initiated by the city and county, respectively, relating to applications for changes in the point of diversion, place of use or manner of use of water rights pending before the State Engineer on the effective date of this act as required by that joint testimony.

3. The Carson Water Subconservancy District shall not commit for expenditure during the next biennium more than \$1,600,000 of the appropriation made by subsection 1.

4. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, 2004, and reverts to the state general fund as soon as all payments of money committed have been made.

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**Sec. 5.** 1. The legislature hereby finds and declares that a general law cannot be made applicable to the purposes, objects, powers, rights, privileges, liabilities and duties provided in this section because of the number of atypical factors and special conditions relating thereto.

2. The Newlands Project Water Rights Fund is hereby established to be administered by the Carson Water Subconservancy District. The money in the fund may only be used:

- 
- (a) For the support of the program established pursuant to subsection 4; and
- (b) To provide for the payment of an amount to offset revenue from operation and maintenance charges lost as a result of water rights retired and abandoned pursuant to the program.
3. The District may accept gifts and grants for deposit in the Fund and shall make every effort to secure money for the Fund from:
- (a) The Federal Government;
- (b) The State of Nevada;
- (c) Sierra Pacific Power Company or its affiliates;
- (d) Carson Water Subconservancy District;
- (e) Carson-Truckee Water Conservancy District; and
- (f) Any other interested parties.
4. The Carson Water Subconservancy District shall establish a program for the acquisition of surface water rights to assist in the resolution of legal and administrative challenges in existence on April 1, 1999, regarding water rights for the Newlands Reclamation Project. The District shall:
- (a) Adopt criteria for the administration of the program, including, without limitation, criteria to determine the fair market value of the water rights to be acquired;
- (b) Acquire surface water rights appurtenant to not more than 6,500 acres of land in the Newlands Reclamation Project at an amount not to exceed the fair market value of the water rights;
- (c) Acquire these water rights from willing sellers with the execution of a suitable binding contract for sale in which the seller acknowledges that, upon completion of the sale:
- (1) His right to the water sold is retired and deemed abandoned; and
- (2) He waives any right to claim further compensation for the water rights so acquired by the District;
- (d) Retain reasonable fees for the administration or operation of the program;
- (e) To the extent that legal and administrative challenges in existence on April 1, 1999, result in a final determination that all or any portion of a surface water right appurtenant to land in the Newlands Reclamation Project has been forfeited or abandoned:

- (1) Pay to the party who procured that final determination an amount equal to the amount that would have been paid to acquire the water right pursuant to the program; and
- (2) Consider the forfeited or abandoned water right as having been acquired pursuant to the program; and
- (f) Complete an annual report on the program and make it available for public review.

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1999 Statutes of Nevada, Page 2634 ([Chapter 515, AB 380](#))

**Sec. 6.** The 71st regular session of the Nevada Legislature shall review the manner in which the appropriation made by section 4 of this act has been expended and determine whether there has been substantial compliance with the “Joint Testimony of Truckee-Carson Irrigation District, Pyramid Lake Paiute Tribe of Indians, City of Fallon, Churchill County and Sierra Pacific Power Company,” dated by the parties thereto on May 6, 1999, and submitted to a hearing of the Senate Standing Committee on Finance on May 24, 1999.

**Sec. 7.** The amendatory provisions of sections 1, 2 and 3 of this act:

- 1. Do not apply to water rights that are under challenge in any legal or administrative proceeding which is pending on or before April 1, 1999; and
- 2. Do not constitute a legislative declaration that the law to be applied in any such pending proceeding is different from or the same as set forth in this act.

**Sec. 8.** 1. This act becomes effective upon passage and approval.

- 2. Section 5 of this act expires by limitation on July 1, 2004.

Source: <http://www.leg.state.nv.us/statutes/70th/Stats199916.html#Stats199916page2630>  
accessed on January 29, 2013, at about 2:00 in the afternoon.

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Appendix 2: Public Law 101-618

101st CONGRESS

2d Session

**S. 3084**

**AN ACT**

To provide for the settlement of water rights claims of the Fallon Paiute Shoshone Indian Tribes and for other purposes.

S 3084 ES

101st CONGRESS

2d Session

**S. 3084**

**AN ACT**

To provide for the settlement of water rights claims of the Fallon Paiute Shoshone Indian Tribes and for other purposes.

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

**TITLE I--FALLON PAIUTE SHOSHONE TRIBAL SETTLEMENT ACT**

**SEC. 101. SHORT TITLE.**

This Act may be cited as the 'Fallon Paiute Shoshone Indian Tribes Water Rights Settlement Act of 1990'.

**SEC. 102. SETTLEMENT FUND.**

(A) There is hereby established within the Treasury of the United States, the 'Fallon Paiute Shoshone Tribal Settlement Fund', hereinafter referred to in the Act as the 'Fund'.

(B) There is authorized to be appropriated to the Fallon Paiute Shoshone Tribal Settlement Fund \$3,000,000 in fiscal year 1992, and \$8,000,000 in each year for fiscal years 1993, 1994, 1995, 1996, and 1997 for a total sum of \$43,000,000.

(C)(1) The income of the Fund may be obligated and expended only for the following purposes:

(a) Tribal economic development, including development of long-term profitmaking opportunities for the Fallon Paiute Shoshone Tribes (hereinafter referred to in the Act as 'Tribes') and its tribal members, and the development of employment opportunities

for tribal members;

(b) Tribal governmental services and facilities;

(c) Per capita distributions to tribal members;

(d) Rehabilitation and betterment of the irrigation system on the Fallon Paiute Shoshone Indian Reservation (hereinafter referred to in the Act as 'Reservation') not including lands added to the Reservation pursuant to the provisions of Public Law 95-337, 92 Stat. 455;

(e) Acquisition of lands, water rights or related property interests located outside the Reservation from willing sellers, and improvement of such lands;

(f) Acquisition of individually owned land, water rights or related property interests on the Reservation from willing sellers, including those held in trust by the United States.

(2) Except as provided in subsection (C)(3) of this section, the principal of the Fund shall not be obligated or expended.

(3) In obligating and expending funds for the purposes set forth in subsections (C)(1)(d), (C)(1)(e) and (C)(1)(f) of this section, the Tribes may obligate and expend no more than 20 percent of the principal of the Fund, provided that any amounts so obligated and expended from principal must be restored to the principal from repayments of such amounts expended for the purposes identified in this subsection, or from income earned on the remaining principal.

(4) In obligating and expending funds for the purpose set forth in subsection (C)(1)(c), no more than twenty percent of the annual income from the Fund may be obligated or expended for the purpose of providing per capita payments to tribal members.

(D) The Tribes shall invest, manage, and use the monies appropriated to the Fund for the purposes set forth in this section in accordance with the plan developed in consultation with the Secretary under subsection (F) of this section.

(E) Upon the request of the Tribes, the Secretary shall invest the sums deposited in, accruing to, and remaining in the Fund, in interest-bearing deposits and securities in accordance with the Act of June 24, 1938, 52 Stat. 1037, 25 U.S.C. 162a, as amended. All income earned on such investments shall be added to the Fund.

(F)(1) The Tribes shall develop a plan, in consultation with the Secretary, for the investment, management, administration and expenditure of the monies in the Fund, and shall submit the plan to the Secretary. The plan shall set forth the manner in which such monies will be managed, administered and expended for the purposes outlined in subsection (C)(1) of this section. Such plan may be revised and updated by the Tribes in consultation with the Secretary.

(2) The plan shall include a description of a project for the rehabilitation and betterment of



the existing irrigation system on the Reservation. The rehabilitation and betterment project shall include measures to increase the efficiency of irrigation deliveries. The Secretary may assist in the development of the rehabilitation and betterment project, and the Tribes shall use their best efforts to implement the project within four years of the time when appropriations authorized in subsection (B) of this section become available.

(3) Upon the request of the Tribes, the Secretary of the Treasury and the Secretary of the Interior shall make available to the Tribes, monies from the Fund to serve any of the purposes set forth in subsection (C)(1) of this section, except that no disbursement shall be made to the Tribes unless and until they adopt the plan required under this section.

(G) The provisions of section 7 of Public Law 93-134, 87 Stat. 468, as amended by section 4 of Public Law 97-458, 96 Stat. 2513, 25 U.S.C. 1407, shall apply to any funds which may be distributed per capita under subsection (C)(1)(c) of this section.

### **SEC. 103. ACQUISITION AND USE OF LANDS AND WATER RIGHTS.**

(A) Title to all lands, water rights and related property interests acquired under section 102(C)(1)(e) within the counties of Churchill and Lyon in the State of Nevada, shall be held in trust by the United States for the Tribes as part of the Reservation, provided that no more than 2,415.3 acres of such acquired lands and no more than 8,453.55 acre feet per year of such water rights shall be held in trust by the United States and become part of the Reservation under this subsection.

(B) Any lands acquired under section 102(C)(1)(e) or (f) shall be subject to the provisions of section 20 of the Act of October 17, 1988, 102 Stat. 2485.

(C)(1) Total annual use of water rights appurtenant to the Reservation which are served by the Newlands Reclamation Project, including Newlands Reclamation Project water rights added to the Reservation under subsection (A) of this section, whether used on the Reservation or transferred and used off the Reservation pursuant to applicable law, shall not exceed the sum of:

(a) 10,587.5 acre feet of water per year, which is the quantum of water rights served by the Newlands Reclamation Project appurtenant to the Fallon Paiute Shoshone Indian Reservation lands that are currently served by irrigation facilities; and

(b) the quantum of active Newlands Reclamation Project water rights currently located outside of the Reservation that may be added to the Reservation or water rights which are acquired by the Secretary and exercised to benefit Reservation wetlands.

(2) The requirements of section 103(C)(1) shall not take effect until the Tribes agree to the limitations on annual use of water rights set forth in subsection (1) of this section.

(D) The Secretary is authorized and directed to reimburse non-Federal entities for reasonable and customary costs for delivery of Newlands Reclamation Project water to serve water

rights added to the Reservation under subsection (A) of this section, and to enter into renewable contracts for the payment of such costs, for a term not exceeding forty years.

(E) Subject to the limitation on the quantum of use set forth in subsection (C) of this section, and applicable state law, all water rights appurtenant to the Reservation that are served by the Newlands Reclamation Project, including Newlands Reclamation Project water rights added to the Reservation under subsection (A) of this section, may be used for irrigation, fish and wildlife, municipal and industrial, recreation, or water quality purposes, or for any other beneficial use subject to applicable laws of the State of Nevada. Nothing in this subsection is intended to affect the jurisdiction of the Tribes or the State of Nevada, if any, over the use and transfer of water rights within the Reservation or off the Reservation, or to create any express or implied Federal reserved water right.

(F)(1) The Tribes are authorized to acquire by purchase, by exchange of lands or water rights, or interests therein, including those held in trust for the Tribes, or by gift, any lands or water rights, or interests therein, including those held in trust, located within the Reservation, for any of the following purposes:

- (a) Consolidating Reservation landholdings or water rights, including those held in trust;
- (b) Eliminating fractionated heirship interests in Reservation lands or water rights, including those held in trust;
- (c) Providing land or water rights for any tribal program;
- (d) Improving the economy of the Tribes and the economic status of tribal members through the development of industry, recreational facilities, housing projects, or other means; and
- (e) General rehabilitation and enhancement of the total resource potential of the Reservation: *Provided*, That any water rights shall be transferred in compliance with applicable state law.

(2) Title to any lands or water rights, or interests therein, acquired by the Tribes within the counties of Churchill and Lyon in the State of Nevada under the authority of this subsection shall be held by the United States in trust for the Tribes.

#### **SEC. 104. RELEASE OF CLAIMS.**

(A)(1) The Secretary of the Treasury and the Secretary of the Interior shall not disburse any monies from the Fund until such time as the following conditions have been met--

- (a) the Tribes have released any and all claims they may have against the United States resulting from any failure of the United States to comply with section 7 of Public Law 95-337, 92 Stat. 457;
- (b) the Tribes have dismissed with prejudice their claims in Northern Paiute Nation v. United States, Docket No. 87-A, United States Claims Court;

(c) the Tribes have agreed to accept and abide by the limitation on use of water rights served by the Newlands Reclamation Project on the Reservation, as set forth in section 103(C);

(d) the Tribes have dismissed, without prejudice, their claims in *Pyramid Lake Paiute Tribe of Indians v. Lujan*, No. R-85-197 (D. Nev.) and their objections to the Operating Criteria and Procedures for the Newlands Reclamation Project adopted by the Secretary on April 15, 1988, provided that such dismissal shall not prejudice in any respect the Tribes' right to object in any administrative or judicial proceeding to such Operating Criteria and Procedures, or any revisions thereto, or to assert that any Operating Criteria and Procedures should be changed due to new information, changes in environmental circumstance, changes in project descriptions or other relevant considerations, in accordance with the requirements of all applicable court decrees and applicable statutory requirements;

(e) the Tribes agree to be bound by a plan developed and implemented by the Secretary in accordance with section 106 of this title; and

(f)(1) the Tribes agree to indemnify the United States against monetary claims by any landowners who may hold water rights on the Reservation as of the date of enactment of the Act and who may assert that the provisions of section 103(C) of this title effect an unlawful taking of their rights: *Provided, That--*

(i) the United States shall defend and resist any such claims at its own expense;

(ii) the Tribes shall be entitled to intervene in any administrative or judicial proceeding on such claims; and

(iii) the United States shall not compromise or settle any such claims without the consent of the Tribes.

(2) The provisions of this section shall not be construed as:

(i) implying that section 103(C) unlawfully takes any water rights;

(ii) conferring jurisdiction on any court or other tribunal to adjudicate any such taking claims;

(iii) waiving any immunities of the United States or the Tribes; or

(iv) otherwise establishing or enhancing any claims to water rights or for the unlawful taking of such rights.

(2) If the appropriations authorized in section 102(B) are not appropriated by the Congress, it shall be deemed that the conditions set forth in this Act have not been satisfied, and the Tribes may rescind their release of claims under this section and its agreement under subsection (c) of this section.

(3) Upon the appropriation of monies authorized in section 102(B) of this Act, and the allocation of such monies to the Fund, section 7 of Public Law 95-337, 92 Stat. 457, shall be repealed.

#### **SEC. 105. LIABILITY OF THE UNITED STATES.**

(A) Except with regard to the responsibilities assumed by the United States under section 102(E), and those set forth in section 1301 of the Act of February 12, 1929, 45 Stat. 1164, as amended, 25 U.S.C. 161a, the United States shall not bear any obligation or liability regarding the investment, management, or use of funds by the Tribes.

(B) Except with regard to the responsibilities assumed by the United States under section 102(B), section 102(F)(3), section 103(A), section 103(D), section 103(F)(2), section 104(A)(1), and section 106, the United States shall not bear any obligation or liability for the implementation of the provisions of this Act.

#### **SEC. 106. PLAN FOR THE CLOSURE OF TJ DRAIN.**

(A) The Secretary, in consultation with the Tribes and in accordance with applicable law, shall develop and implement a plan for the closure, including if appropriate, modification of components, of the TJ drain system, including the main TJ drain, the TJ-1 drain and the A drain and its sublaterals, in order to address any significant environmental problems with that system and its closure.

(B) The plan shall include measures to provide necessary substitute drainage in accordance with Bureau of Reclamation standards for reservation lands in agricultural production as of the 1990 irrigation season that are served by that system, unless the Tribes and the Secretary agree otherwise.

(C) Implementation of the plan shall not interfere with ongoing agricultural operations.

(D) The United States shall bear all costs for developing and implementing the plan.

(E) There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

#### **SEC. 107. DEFINITIONS.**

For purposes of this title, and for no other purposes--

(A) the term 'Fallon Paiute Shoshone Tribal Settlement Fund' or 'Fund' means the Fund established under section 102(A) of this Act to enable the Fallon Paiute Shoshone Tribes to carry out the purposes set forth in section 102(C)(1) of this title;

(B) the term 'income' means all interest, dividends, gains and other earnings resulting from the investment of the principal of the Fallon Paiute Shoshone Tribal Settlement Fund, and the earnings resulting from the investment of such income;

(C) the term 'principal' means the total sum of monies appropriated to the Fallon

- Paiute Shoshone Tribal Settlement Fund under section 102(B) of this Act;
- (D) the term 'Reservation' means the lands set aside for the benefit of the Fallon Paiute Shoshone Tribes by the orders of the Department of the Interior of April 20, 1907, and November 21, 1917, as expanded and confirmed by the Act of August 4, 1978, Public Law 95-337, 92 Stat. 457;
- (E) the term 'Secretary' means the Secretary of the Department of the Interior;
- (F) the term 'tribal members' means the enrolled members of the Fallon Paiute Shoshone Tribes; and
- (G) the term 'Tribe' means the Fallon Paiute-Shoshone Tribe.

## **TITLE II--TRUCKEE-CARSON-PYRAMID LAKE WATER SETTLEMENT**

### **SEC. 201. SHORT TITLE.**

This title may be cited as the 'Truckee-Carson-Pyramid Lake Water Rights Settlement Act'.

### **SEC. 202. PURPOSES.**

The purposes of this title shall be to--

- (a) provide for the equitable apportionment of the waters of the Truckee River, Carson River, and Lake Tahoe between the State of California and the State of Nevada;
- (b) authorize modifications to the purposes and operation of certain Federal Reclamation project facilities to provide benefits to fish and wildlife, municipal, industrial, and irrigation users, and recreation;
- (c) authorize acquisition of water rights for fish and wildlife;
- (d) encourage settlement of litigation and claims;
- (e) fulfill Federal trust obligations toward Indian tribes;
- (f) fulfill the goals of the Endangered Species Act by promoting the enhancement and recovery of the Pyramid Lake fishery; and
- (g) protect significant wetlands from further degradation and enhance the habitat of many species of wildlife which depend on those wetlands, and for other purposes.

### **SEC. 203. DEFINITIONS.**

For purposes of this title:

- (a) the term 'Alpine court' means the court having continuing jurisdiction over the Alpine decree;
- (b) the term 'Alpine decree' means the final decree of the United States District Court

for the District of Nevada in United States of America v. Alpine Land and Reservoir Company, Civ. No. D-183, entered December 18, 1980, and any supplements thereto;

(c) the term 'Carson River basin' means the area which naturally drains into the Carson River and its tributaries and into the Carson River Sink, but excluding the Humboldt River drainage area;

(d) the term 'Fallon Tribe' means the Fallon Paiute-Shoshone Tribe;

(e) the term 'Lahontan Valley wetlands' means wetland areas associated with the Stillwater National Wildlife Refuge, Stillwater Wildlife Management Area, Carson Lake and Pasture, and the Fallon Indian Reservation;

(f) the term 'Lake Tahoe basin' means the drainage area naturally tributary to Lake Tahoe, including the lake, and including the Truckee River upstream of the intersection between the Truckee River and the western boundary of Section 12, Township 15 North, Range 16 East, Mount Diablo Base and Meridian;

(g) the term 'Lower Truckee River' means the Truckee River below Derby Dam;

(h) the term 'Operating Agreement' means the agreement to be negotiated between the Secretary and the States of California and Nevada and others, as more fully described in section 205 of this title;

(i) the term 'Orr Ditch court' means the court having continuing jurisdiction over the Orr Ditch decree;

(j) the term 'Orr Ditch decree' means the decree of the United States District Court for the District of Nevada in United States of America v. Orr Water Ditch Company, et al- in Equity, Docket No. A3, including, but not limited to the Truckee River Agreement;

(k) the term 'Preliminary Settlement Agreement as Modified by the Ratification Agreement' means the document with the title 'Ratification Agreement by the United States of America,' including Exhibit '1' attached thereto, submitted to the Chairman, Subcommittee on Water and Power, Committee on Energy and Natural Resources, United States Senate, by the Assistant Secretary for Water and Science, United States Department of the Interior, on August 2, 1990, as may be amended under the terms thereof. A copy of this agreement is included in the report of the Committee on Energy and Natural Resources as Appendix 1 to the Committee's report accompanying S. 1554;

(l) the term 'Pyramid Lake fishery' means two fish species found in Pyramid Lake, the cui-ui (*Chasmistes cujus*) and the Lahontan cutthroat trout (*Salmo clarki henshawi*);

(m) the term 'Pyramid Lake Tribe' means the Pyramid Lake Paiute Tribe;

(n) the term 'Secretary' means the Secretary of the Interior;

(o) the term 'Truckee River Agreement' means a certain agreement dated July 1, 1935 and entered into by the United States of America, Truckee-Carson Irrigation District, Washoe County Water Conservation District, Sierra Pacific Power Company, and other users of the waters of the Truckee River;

(p) the term 'Truckee River basin' means the area which naturally drains into the Truckee River and its tributaries and into Pyramid Lake, including that lake, but excluding the Lake Tahoe basin;

(q) the term 'Truckee River General Electric court' means the United States District Court for the Eastern District of California court having continuing jurisdiction over the Truckee River General Electric decree;

(r) the term 'Truckee River General Electric decree' means the decree entered June 4, 1915, by the United States District Court for the Northern District of California in United States of America v. Truckee River General Electric Co., No. 14861, which case was transferred to the United States District Court for the Eastern District of California on February 9, 1968, and is now designated No. S-643;

(s) the term 'Truckee River reservoirs' means the storage provided by the dam at the outlet of Lake Tahoe, Boca Reservoir, Prosser Creek Reservoir, Martis Reservoir, and Stampede Reservoir; and

(t) the term '1948 Tripartite Agreement' means the agreement between the Truckee-Carson Irrigation District, the Nevada State Board of Fish and Game Commissioners, and the United States Fish and Wildlife Service regarding the establishment, development, operation, and maintenance of Stillwater National Wildlife Refuge and Management Area, dated November 26, 1948.

## **SEC. 204. INTERSTATE ALLOCATION.**

### **(a) Carson River-**

(1) The interstate allocation of waters of the Carson River and its tributaries represented by the Alpine decree is confirmed.

(2) The allocations confirmed in paragraph (1) of this subsection shall not be construed as precluding, foreclosing, or limiting the assertion of any additional right to the waters of the Carson River or its tributaries which were in existence under applicable law as of January 1, 1989, but are not recognized in the Alpine decree. The allocation made in paragraph (1) of this subsection shall be modified to accommodate any such additional rights, and such additional rights, if established, shall be administered in accordance with the terms of the Alpine decree; except that the total amount of such additional allocations shall not exceed 1,300 acre-feet per year by depletion for use in the State of California and 2,131 acre-feet per year by depletion for use in the State of Nevada. This paragraph shall not be construed to allow any

increase in diversions from the Carson River or its tributaries beyond those in existence on December 31, 1992.

(3) If, on or after the date of enactment of this title, all or any portion of the effluent imported from the Lake Tahoe basin into the watershed of the Carson River in California is discontinued by reason of a change in the place of the disposal of such effluent, including underground disposal, to the Truckee River basin or the Lake Tahoe basin, in a manner which results in increasing the available supply of water in the Nevada portion of the Truckee River basin, the allocation to California of the water of the West Fork of the Carson River and its tributaries for use in the State of California shall be augmented by an amount of water which may be diverted to storage, except that such storage:

(A) shall not interfere with other storage or irrigation rights of Segments 4 and 5 of the Carson River, as defined in the Alpine decree;

(B) shall not cause significant adverse effects to fish and wildlife;

(C) shall not exceed 2,000 acre-feet per year, or the quantity by which the available annual supply of water to the Nevada portion of the Truckee River basin is increased, whichever is less; and

(D) shall be available for irrigation use in that or subsequent years, except that the cumulative amount of such storage shall not exceed 2,000 acre-feet in any year.

(4) Storage specified by paragraph (3) of this subsection shall compensate the State of California for any such discontinuance as referred to in such paragraph: *Provided*, That the augmentation authorized by such paragraph shall be used only on lands having appurtenant Alpine decree rights. Use of effluent for the irrigation of lands with appurtenant Alpine decree rights shall not result in the forfeiture or abandonment of all or any part of such appurtenant Alpine decree rights, but use of such wastewater shall not be deemed to create any new or additional water rights. Nothing in this title shall be construed as prohibiting the use of all or any portion of such effluent on any lands within the State of California. Any increased water delivered to the Truckee River shall only be available to satisfy existing rights under the Orr Ditch decree or, as appropriate, to augment inflows to Pyramid Lake.

(5) Nothing in this title shall foreclose the right of either State to study, either jointly or individually, the use of Carson River surface water, which might otherwise be lost to beneficial use, to enable conjunctive use of groundwater. For purposes of this paragraph, beneficial use shall include the use of water on wetlands or wildlife areas within the Carson River basin, as may be permitted under State law.

(6) Nothing in this title shall preclude the State of Nevada, agencies of the State of Nevada, private entities, or individuals from constructing storage facilities within the



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Carson River basin, except that such storage facilities shall be constructed and operated in accordance with all applicable State and Federal laws and shall not result in the inundation of any portion of the East Fork of the Carson River within California.

(7) The right of any water right owner to seek a change in the beneficial use of water from irrigation to storage for municipal and industrial uses or other beneficial uses, as determined by applicable State law, is unaffected by this title. Water stored for municipal and industrial uses may be diverted to storage in a given year and held for municipal and industrial uses in that year or subsequent years. Such changes and storage shall be in accordance with the Alpine decree and applicable State laws.

(8) Interbasin transfers of Carson River water shall be allowed only as provided by applicable State law.

(b) Lake Tahoe-

(1) Total annual gross diversions for use within the Lake Tahoe basin from all natural sources, including groundwater, and under all water rights in the basin shall not exceed 34,000 acre-feet per year. From this total, 23,000 acre-feet per year are allocated to the State of California for use within the Lake Tahoe basin and 11,000 acre-feet per year are allocated to the State of Nevada for use within the Lake Tahoe basin. Water allocated pursuant to this paragraph may, after use, be exported from the Lake Tahoe basin or reused.

(2) Total annual gross diversions for use allocated pursuant to paragraph (1) of this subsection shall be determined in accordance with the following conditions:

(A) Water diverted and used to make snow within the Lake Tahoe basin shall be charged to the allocation of each State as follows:

(i) the first 600 acre-feet used in California each year and the first 350 acre-feet used each year in Nevada shall not be charged to the gross diversion allocation of either State;

(ii) where water from the Lake Tahoe basin is diverted and used to make snow in excess of the amounts specified in clause (i) of this subparagraph, the percentage of such diversions chargeable to the gross diversion allocations of each State shall be specified in the Operating Agreement; and

(iii) the provisions of paragraph 204(b)(1) notwithstanding, criteria for charging incidental runoff, if any, into the Carson River basin or the Truckee River basin, including the amount and basin to be charged, from use of water in excess of the amount specified in clause (i) of this subparagraph, shall be specified in the Operating Agreement. The amounts of such water, if any, shall be included in each State's report

prepared pursuant to paragraph 204(d)(1) of this title.

(B) Unmetered diversion or extraction of water by residences shall, for the purpose of calculating the amount of either State's gross diversion, be conclusively presumed to utilize a gross diversion of four-tenths of one acre-foot per residence per year.

(C) Where water is diverted by a distribution system, as defined in clause (iii) of this subparagraph, the amount of such water that shall be charged to the gross diversion allocation of either California or Nevada shall be measured as follows:

(i) where a water distribution system supplies any municipal, commercial, and/or industrial delivery points (not including fire hydrants, flushing or cleaning points), any one of which is not equipped with a water meter, the gross diversion attributed to that water distribution system shall be measured at the point of diversion or extraction from the source; or

(ii) where all municipal, commercial, and industrial delivery points (not including fire hydrants, flushing or cleaning points) within a water distribution system are equipped with a water meter, the gross diversion attributed to that water distribution system may be measured as the sum of all amounts of water supplied to each such delivery point, provided there is in effect for such water distribution system a water conservation and management plan. Such plan may be either an individual, local plan or an area-wide, regional, or basin-wide plan, except that such plan must be reviewed and found to be reasonable under all relevant circumstances by the State agency responsible for administering water rights, or any other entity delegated such responsibility under State law. Such plan must be reviewed every five years by the agency which prepared it, and implemented in accordance with its adopted schedule, and shall include all elements required by applicable State law and the following:

(a) an estimate of past, current, and projected water use and, to the extent records are available, a segregation of those uses between residential, industrial, and governmental uses;

(b) identification of conservation measures currently adopted and in practice;

(c) a description of alternative conservation measures, including leak detection and prevention and reduction in unaccounted for water, if any, which would improve the efficiency of water use, with an evaluation of the costs, and

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significant environmental and other impacts of such measures;

(d) a schedule of implementation for proposed actions as indicated by the plan;

(e) a description of the frequency and magnitude of supply deficiencies, including conditions of drought and emergency, and the ability to meet short-term deficiencies;

(f) an evaluation of management of water system pressures and peak demands;

(g) an evaluation of incentives to alter water use practices, including fixture and appliance retrofit programs;

(h) an evaluation of public information and educational programs to promote wise use and eliminate waste;

(i) an evaluation of changes in pricing, rate structure, and regulations; and

(j) an evaluation of alternative water management practices, taking into account economic and non-economic factors (including environmental, social, health, and customer impact), technological factors, and incremental costs of additional supplies.

(iii) As used in this subparagraph, the term 'water distribution system' means a point or points of diversion from a water supply source or sources, together with associated piping, which serve a number of identifiable delivery points: *Provided*, That the distribution system is not operationally interconnected with other distribution systems (except for emergency cross-ties) which are served from other points of diversion. An agency serving municipal and industrial water may have more than one water distribution system.

(iv) If a program for the review of water conservation and management plans as provided in clause (ii) of this subparagraph is not in effect in that portion of the Lake Tahoe basin within a State, all gross diversions within such State shall be measured at the point of diversion.

(D) For the purpose of this subsection, water inflow and infiltration to sewer lines shall not be considered a diversion of water, and such water shall not be charged to the gross diversion allocation of either State.

(E) Regulation of streamflow for the purpose of preserving or enhancing instream beneficial uses shall not be charged to the gross diversion allocation

of either State.

(3) The transbasin diversions from the Lake Tahoe basin in Nevada and California identified in this paragraph may be continued, to the extent that such diversions are recognized as vested or perfected rights under the laws of the State where each diversion is made. Unless otherwise provided in this subsection, such diversions are in addition to the other allocations made by this subsection. Such transbasin diversions are the following:

(A) diversion of a maximum of 3,000 acre-feet per year from Marlette Lake for use in Nevada;

(B) diversion of a maximum of 561 acre-feet per year from Lake Tahoe for use in Nevada as set forth in Nevada Permit to Appropriate Water No. 23017, except that such diversion shall count against the allocation to Nevada made by this subsection;

(C) diversion of water from Echo Lake for use in California, pursuant to rights vested under California law; and

(D) diversion of water from North Creek as set forth in the State of Nevada Certificate of Appropriation of Water No. 4217.

The transbasin diversions identified in subparagraphs (A), (C), and (D) of this paragraph may be transferred, for use only in the State where the recognized transbasin diversion exists, by lease of the right of use or by conveyance of the right, to the extent to which the right is vested or has been perfected. Any such transfer shall be subject to the applicable laws of the State in which the right is vested or perfected. The transbasin diversion described in subparagraph (B) of this paragraph may be transferred in accordance with State law. With the exception of the transbasin diversion described in subparagraph (B), all water made available for use within the Lake Tahoe basin as a result of any such transfer shall not be charged against the allocations made by this section, and such water may be depleted.

(c) Truckee River-

(1) There is allocated to the State of California the right to divert or extract, or to utilize any combination thereof, within the Truckee River basin in California the gross amount of 32,000 acre-feet of water per year from all natural sources, including both surface and groundwater, in the Truckee River basin subject to the following terms and conditions:

(A) maximum annual diversion of surface supplies shall not exceed 10,000 acre-feet; except that all diversions of surface supplies for use within California shall be subject to the right to water for use on the Pyramid Lake Indian Reservation in amounts as provided in Claim Nos. 1 and 2 of the Orr Ditch decree, and all such diversions initiated after the date of enactment of this title shall be subject to the right of the Sierra Pacific Power Company or

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its successor to divert forty (40) cubic feet per second of water for municipal, industrial, and domestic use in the Truckee Meadows in Nevada, as such right is more particularly described in Article V of the Truckee River Agreement;

(B) all new wells drilled after the date of enactment of this title shall be designed to minimize any short-term reductions of surface streamflows to the maximum extent feasible;

(C) any use within the State of Nevada of any Truckee River basin groundwater with a point of extraction within California shall be subordinate to existing and future uses in California, and any such use of water in Nevada shall cease to the extent that it causes extractions to exceed safe yield;

(D) except as otherwise provided in this paragraph, the extraction and use of groundwater pursuant to this subsection shall be subject to all terms and conditions of California law;

(E) determination of safe yield of any groundwater basin in the Truckee River basin in California shall be made by the United States Geological Survey in accordance with California law;

(F) water shall not be diverted from within the Truckee River basin in California for use in California outside the Truckee River basin;

(G) if the Tahoe-Truckee Sanitation Agency or its successor (hereafter 'TTSA') changes in whole or in part the place of disposal of its treated wastewater to a place outside the area between Martis Creek and the Truckee River below elevation 5800 NGVD Datum, or changes the existing method of disposing of its wastewater, which change in place or method of disposal reduces the amount or substantially changes the timing of return flows to the Truckee River of the treated wastewater, TTSA shall:

(i) acquire or arrange for the acquisition of preexisting water rights to divert and use water of the Truckee River or its tributaries in California or Nevada and discontinue the diversion and use of water at the preexisting point of diversion and place of use under such rights in a manner legally sufficient to offset such reduction in the amount of return flow or change in timing, and California's Truckee River basin gross diversion allocation shall continue to be charged the amount of the discontinued diversion; or

(ii) in compliance with California law, extract and discharge into the Truckee River or its tributaries an amount of Truckee River basin groundwater in California sufficient to offset such reduction or change in timing, subject to the following conditions:

(a) extraction and discharge of Truckee River basin

groundwater for purposes of this paragraph shall comply with the terms and conditions of subparagraphs 204(c)(1) (B) and (D) and shall not be deemed use of Truckee River basin groundwater within the State of Nevada within the meaning of subparagraph 204(c)(1)(D); and

(b) California's Truckee River basin gross diversion allocation shall be charged immediately with the amount of groundwater discharged and, when California's Truckee River basin gross diversion allocation equals 22,000 acre-feet or when the total of any reductions resulting from the changes in the place or method of disposal exceed 1000 acre-feet, whichever occurs first, the California Truckee River basin gross diversion allocation shall thereafter be charged with an additional amount of water required to compensate for the return flows which would otherwise have accrued to the Truckee River basin from municipal and industrial use of the discharged groundwater. In no event shall the total of California's Truckee River gross diversions and extractions exceed 32,000 acre-feet.

(iii) For purposes of this paragraph, the existing method of disposal shall include, in addition to underground leach field disposal, surface spray or sprinkler infiltration of treated wastewater on the site between Martis Creek and the Truckee River referred to in this subsection.

(iv) The provisions of this paragraph requiring the acquisition of water rights or the extraction and discharge of groundwater to offset reductions in the amount or timing of return flow to the Truckee River shall also apply to entities other than TTSA that may treat and dispose of wastewater within the California portion of the Truckee River basin, but only if and to the extent that the treated wastewater is not returned to the Truckee River or its tributaries, as to timing and amount, substantially as if the wastewater had been treated and disposed of by TTSA in its existing place of disposal and by its existing method of disposal. The provisions of this paragraph shall not apply to entities treating and disposing of the wastewater from less than eight dwelling units.

(H) All uses of water for commercial, irrigated agriculture within the Truckee River basin within California initiated after the date of enactment of this title shall not impair and shall be junior and subordinate to all beneficial uses in Nevada, including, but not limited to, the use of water for the maintenance and preservation of the Pyramid Lake fishery. As used in this provision, the term 'commercial, irrigated agriculture' shall include traditional commercial

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irrigated farming operations but shall not include the following uses: irrigated golf courses and other recreational facilities, commercial nurseries, normal silvicultural activities other than commercial tree farms, irrigation under riparian rights on land irrigated at any time prior to the date of enactment of this title, lawns and ornamental shrubbery on parcels which include commercial, residential, governmental, or public buildings, and irrigated areas of two acres or less on parcels which include a residence.

(I) Water diverted within the Truckee River basin and used to make snow shall be charged to California's Truckee River allocation as follows:

- (i) the first 225 acre-feet used in California each year shall not be charged to the gross diversion allocation;
- (ii) where water from the Truckee River basin is diverted and used to make snow in excess of the amounts specified in clause (i) of this subparagraph, the percentage of such diversions chargeable to such allocation shall be specified in the Operating Agreement; and
- (iii) the provision of subparagraph 204(c)(1)(F) notwithstanding, criteria for charging incidental runoff, if any, into the Lake Tahoe basin, including the amount and basin to be charged, from use of water in excess of the amount specified in clause (i) of this subparagraph, shall be specified in the Operating Agreement. The amounts of such water, if any, shall be included in each State's report prepared pursuant to paragraph 204(d)(1).

(J) Unmetered diversion or extraction of water by residences, shall, for the purpose of calculating the amount of California's gross diversion, be conclusively presumed to utilize a gross diversion of four-tenths of one acre-foot per residence per year.

(K) For the purposes of this subsection, water inflow and infiltration to sewer lines is not a diversion of water, and such water shall not be charged to California's Truckee River basin allocation.

(2) There is additionally allocated to California the amount of water decreed to the Sierra Valley Water Company by judgment in the case of United States of America v. Sierra Valley Water Company, United States District Court for the Northern District of California, Civil No. 5597, as limited by said judgment.

(3) There is allocated to the State of Nevada all water in excess of the allocations made in paragraphs 204(c) (1) and (2) of this title.

(4) The right to water for use on the Pyramid Lake Indian Reservation in the amounts provided in Claim Nos. 1 and 2 of the Orr Ditch decree is recognized and confirmed. In accordance with and subject to the terms of the Orr Ditch decree and applicable

law, the United States, acting for and on behalf of the Pyramid Lake Tribe, and with the agreement of the Pyramid Lake Tribe, or the Pyramid Lake Tribe shall have the right to change points of diversion, place, means, manner, or purpose of use of the water so decreed on the reservation.

(d) Compliance-

(1) Compliance with the allocations made by this section and with other provisions of this section applicable to each State shall be assured by each State. With the third quarter following the end of each calendar year, each State shall publish a report of water use providing information necessary to determine compliance with the terms and conditions of this section.

(2) The United States District Courts for the Eastern District of California and the District of Nevada shall have jurisdiction to hear and decide any claims by any aggrieved party against the State of California, State of Nevada, or any other party where such claims allege failure to comply with the allocations or any other provision of this section. Normal rules of venue and transfers of cases between Federal courts shall remain in full force and effect. Each State, by accepting the allocations under this section, shall be deemed to have waived any immunity from the jurisdiction of such courts.

(e) FORFEITURE OR ABANDONMENT- The provisions of this section shall not be interpreted to alter or affect the applicability of the law of each State regarding the forfeiture for nonuse or abandonment of any water right established in accordance with State law, nor shall the forfeiture for nonuse or abandonment of water rights under the applicable law of each State affect the allocations to each State made by this title.

(f) Interstate Transfers-

(1) Nothing in this title shall prevent the interstate transfer of water or water rights for use within the Truckee River basin, subject to the following provisions:

(A) Each such interstate transfer shall comply with all State laws applicable to transfer of water or water rights, including but not limited to State laws regulating change in point of diversion, place of use, and purpose of use of water, except that such laws must apply equally to interstate and intrastate transfers.

(B) Use of water so transferred shall be charged to the allocation of the State wherein use of water was being made prior to the transfer.

(C) Subject to subparagraph (A) of this paragraph, in addition to the application of State laws intended to prevent injury to other lawful users of water, each State may, to the extent authorized by State law, deny or condition a proposed interstate transfer of water or water rights having a source within the Truckee River basin where the State agency responsible for administering



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water rights finds, on the basis of substantial evidence that the transfer would have substantial adverse impacts on the environment or overall economy of the area from which the use of the water or water right would be transferred.

(D) Nothing in this paragraph shall be construed to limit the jurisdiction of any court to review any action taken pursuant to this paragraph.

(2) The jurisdiction of the Alpine court to administer, inter alia, interstate transfers of water or water rights on the Carson River under the Alpine decree, pursuant to jurisdiction reserved therein, including any amendment or supplement thereto, is confirmed. Each State may intervene of right in any proceeding before the Alpine court wherein the reserved jurisdiction of that court is invoked with respect to an interstate transfer of water or water rights, and may report to the court findings or decisions concerning the proposed change which have been made by the State agency responsible for administering water rights under any State law applicable to transfers or change in the point of diversion, purpose of use, or place of use of water.

(3) This subsection shall not be construed to authorize the State of California or the State of Nevada to deny or condition a transfer application made by the United States or its agencies if such denial or conditioning would be inconsistent with any clear congressional directive.

(g) USE OF WATER BY THE UNITED STATES- Use of water by the United States of America or any of its agencies or instrumentalities, or by any Indian Tribe shall be charged to the allocation of the State wherein the use is made, except as otherwise provided in subsection (f) of this section.

(h) COURT DECREES- Nothing in this section shall be construed as modifying or terminating any court decree, or the jurisdiction of any court.

(i) PLACE OF USE TO DETERMINE ALLOCATION- Water diverted or extracted in one State for use in the other shall be charged to the allocation under this section of the State in which the water is used, except as otherwise provided in subsection (f) of this section.

(j) APPLICABILITY OF STATE LAW- Nothing in this section shall be construed to alter the applicability of State law or procedures to the water allocated to the States hereunder.

## **SEC. 205. TRUCKEE RIVER WATER SUPPLY MANAGEMENT.**

(a) Operating Agreement-

(1) The Secretary shall negotiate an operating agreement (hereafter 'Operating Agreement') with the State of Nevada and the State of California, after consultation with such other parties as may be designated by the Secretary, the State of Nevada or the State of California.

(2) The Operating Agreement shall provide for the operation of the Truckee River reservoirs and shall ensure that the reservoirs will be operated to:

- (A) satisfy all applicable dam safety and flood control requirements;
  - (B) provide for the enhancement of spawning flows available in the Lower Truckee River for the Pyramid Lake fishery in a manner consistent with the Secretary's responsibilities under the Endangered Species Act, as amended;
  - (C) carry out the terms, conditions, and contingencies of the Preliminary Settlement Agreement as modified by the Ratification Agreement. Mitigation necessary to reduce or avoid significant adverse environmental effects, if any, of the implementation of the Preliminary Settlement Agreement as modified by the Ratification Agreement, including instream beneficial uses of water within the Truckee River basin, shall be provided through one or more mitigation agreements which shall be negotiated and executed by the parties to the Preliminary Settlement Agreement as modified by the Ratification agreement and the appropriate agencies of the States of Nevada and California;
  - (D) ensure that water is stored in and released from Truckee River reservoirs to satisfy the exercise of water rights in conformance with the Orr Ditch decree and Truckee River General Electric decree, except for those rights that are voluntarily relinquished by the parties to the Preliminary Settlement Agreement as modified by the Ratification Agreement, or by any other persons or entities, or which are transferred pursuant to State law; and
  - (E) minimize the Secretary's costs associated with operation and maintenance of Stampede Reservoir.
- (3) The Operating Agreement may include, but is not limited to, provisions concerning the following subjects:
- (A) administration of the Operating Agreement, including but not limited to establishing or designating an agency or court to oversee operation of the Truckee River and Truckee River reservoirs;
  - (B) means of assuring compliance with the provisions of the Preliminary Settlement Agreement as modified by the Ratification Agreement and the Operating Agreement;
  - (C) operations of the Truckee River system which will not be changed;
  - (D) operations and procedures for use of Federal facilities for the purpose of meeting the Secretary's responsibilities under the Endangered Species Act, as amended;
  - (E) methods to diminish the likelihood of Lake Tahoe dropping below its natural rim and to improve the efficient use of Lake Tahoe water under extreme drought conditions;

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- (F) procedures for management and operations at the Truckee River reservoirs;
  - (G) procedures for operation of the Truckee River reservoirs for instream beneficial uses of water within the Truckee River basin;
  - (H) operation of other reservoirs in the Truckee River basin to the extent that owners of affected storage rights become parties to the Operating Agreement; and
  - (I) procedures and criteria for implementing California's allocation of Truckee River water.

(4) To enter into effect, the Operating Agreement shall be executed by the Secretary, the State of Nevada, and the State of California and shall be submitted to the Orr Ditch court and the Truckee River General Electric court for approval of any necessary modifications in the provisions of the Orr Ditch decree or the Truckee River General Electric decree. Other affected parties may be offered the opportunity to execute the Operating Agreement.

(5) When an Operating Agreement meeting the requirements of this subsection has been approved by the Secretary, the State of Nevada, and the State of California, the Secretary, pursuant to title 5 of the United States Code, shall promulgate the Operating Agreement, together with such additional measures as have been agreed to by the Secretary, the State of Nevada, and the State of California, as the exclusive Federal regulations governing the Operating Agreement. The Secretary and the other signatories to the Operating Agreement shall, if necessary, develop and implement a plan to mitigate for any significant adverse environmental impacts resulting from the Operating Agreement. Any subsequent changes to the Operating Agreement must be adopted and promulgated in the same manner as the original Operating Agreement. Any changes which affect the Preliminary Settlement Agreement as modified by the Ratification Agreement must also be approved by the signatories thereto. Judicial review of any such promulgation of the Operating Agreement may be had by any aggrieved party in the United States District Court for the Eastern District of California or the United States District Court for the District of Nevada. A request for review must be filed not later than 90 days after the promulgation of the Operating Agreement becomes final, and by a person who participated in the administrative proceedings leading to the final promulgation. The scope of such review shall be limited to the administrative record and the standard of review shall be that prescribed in 5 U.S.C. 706(2)(A)-(D): *Provided*, That the limits on judicial review in this paragraph shall not apply to any claim based on the provisions of the Endangered Species Act, as amended.

(6) The Secretary shall take such other actions as are necessary to implement the Preliminary Settlement Agreement as modified by the Ratification Agreement and to

implement the Operating Agreement, including entering into contracts for the use of space in Truckee River reservoirs for the purposes of storing or exchanging water, subject to the preconditions that the Sierra Pacific Power Company and the Secretary shall have executed a mutually satisfactory agreement for payment by Sierra-Pacific Power Company of appropriate amounts for the availability and use of storage capacity in Stampede Reservoir and other reservoirs.

(7) As provided in the Preliminary Settlement Agreement as modified by the Ratification Agreement, firm and nonfirm municipal and industrial credit water and the 7,500 acre-feet of fishery credit water in Stampede Reservoir to be available under worse than critical drought conditions shall be used only to supply municipal and industrial needs when drought conditions or emergency or repair conditions exist, or as may be required to be converted to fishery credit water. None of these quantities of water shall be used to serve normal year municipal and industrial needs except when an emergency or repair condition exists.

(8) Subject to the terms and conditions of the Preliminary Settlement Agreement as modified by the Ratification Agreement, all of the fishery credit water established thereunder shall be used by the United States solely for the benefit of the Pyramid Lake fishery.

(9) In negotiating the Operating Agreement, the Secretary shall satisfy the requirements of the National Environmental Policy Act and regulations issued to implement the provisions thereof. The Secretary may not become a party to the Operating Agreement if the Secretary determines that the effects of such action, together with cumulative effects, are likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of any designated critical habitat of such species.

**(b) AUTHORIZATION FOR USE OF WASHOE PROJECT FACILITIES, TRUCKEE RIVER STORAGE FACILITIES, AND LAKE TAHOE DAM AND RESERVOIR-**

(1) The Secretary is authorized to use Washoe Project facilities, Truckee River Storage Project facilities, and Lake Tahoe Dam and Reservoir for the storage of non-project water to fulfill the purposes of this title, including the Preliminary Settlement Agreement as modified by the Ratification Agreement and the Operating Agreement. The Secretary shall collect appropriate charges for such uses.

(2) Payments received by the Secretary pursuant to this subsection and paragraph 205(a)(6) shall be credited annually first to pay the operation and maintenance costs of Stampede Reservoir, then covered into the Lahontan Valley and Pyramid Lake Fish and Wildlife Fund created pursuant to subsection 206(f) of this title, with funds not needed for those purposes, if any, credited to the Reclamation Fund.

(3) The Secretary is authorized to enter into an interim agreement with the Sierra Pacific Power Company and Pyramid Lake Tribe to store water owned by Sierra

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Pacific Power Company in Stampede Reservoir, except that the amount of such storage shall not exceed 5,000 acre-feet on September 1 of any year, such agreement shall be superseded by the Preliminary Settlement as modified by the Ratification Agreement and the Operating Agreement upon the entry into effect of those agreements.

(c) RELEASE OF WASHOE PROJECT REPAYMENT OBLIGATION- The Secretary is released from any obligation to secure payment for the costs of constructing Washoe Project facilities, other than the power plant, including those specified in the Act of August 1, 1956, 70 Stat. 775, and under Federal reclamation laws, and such costs are hereby made non-reimbursable. Authority to construct a reservoir at the Watasheamu site, together with other necessary works for impoundment, diversion, and delivery of water, generation and transmission of hydroelectric power, and drainage of lands as conferred to the Secretary in the Act of August 1, 1956, 70 Stat. 775, is hereby revoked.

## **SEC. 206. WETLANDS PROTECTION.**

(a) AUTHORIZATION TO PURCHASE WATER RIGHTS-

(1) The Secretary is authorized and directed, in conjunction with the State of Nevada and such other parties as may provide water and water rights for the purposes of this section, to acquire by purchase or other means water and water rights, with or without the lands to which such rights are appurtenant, and to transfer, hold, and exercise such water and water rights and related interests to sustain, on a long-term average, approximately 25,000 acres of primary wetland habitat within the Lahontan Valley wetlands in accordance with the following provisions of this subsection:

(A) water right acquired under this subsection shall, to the maximum extent practicable, be used for direct application to such wetlands and shall not be sold, exchanged, or otherwise disposed of except as provided by the National Wildlife Refuge Administration Act and for the benefit of fish and wildlife within the Lahontan Valley;

(B) the Secretary shall select from any water rights acquired pursuant to this subsection those water rights or portions thereof, if not all, that can be transferred to the wetlands referenced in this subsection consistent with subsection 209(b) of this title; and

(C) in implementing this subsection, the Secretary shall consult with the State of Nevada and affected interests. Those water rights or portions thereof, if not all, which the Secretary selects for transfer shall then be transferred in accordance with applicable court decrees and State law, and shall be used to apply water directly to wetlands. No water rights shall be purchased, however, unless the Secretary expects that the water rights can be so transferred and applied to direct use to a substantial degree.

(2) Acquisition of water rights and related interests pursuant to this subsection shall be subject to the following conditions:

(A) water right purchases shall be only from willing sellers, but the Secretary may target purchases in areas deemed by the Secretary to be most beneficial to such a purchase program;

(B) water rights acquired by the Secretary shall be managed by the Secretary after consultation with the State of Nevada and affected interests, except that any water rights acquired for Fallon Indian Reservation wetlands shall be managed by the Secretary in consultation with the Fallon Tribe; and

(C) prior to acquiring any water or water rights in the State of California for the Lahontan Valley wetlands, the Secretary shall first consult with the Governor of California and shall prepare a record of decision on the basis of such consultations.

(3) The Secretary is authorized to:

(A) use, modify, or extend, on a non-reimbursable basis, Federal water diversion, storage, and conveyance systems to deliver water to wetlands referenced in paragraph (a)(1) of this subsection, including the Fernley Wildlife Management Area;

(B) reimburse non-Federal entities for reasonable and customary costs for operation and maintenance of the Newlands Project associated with the delivery of water in carrying out the provisions of this subsection; and

(C) enter into renewable contracts for the payment of reasonable and customary costs for operation and maintenance of the Newlands Project associated with the delivery of water acquired by the Secretary to benefit the Lahontan Valley wetlands. The contracts shall be for a term not exceeding 40 years. Any such contract shall provide that upon the failure of the Secretary to pay such charges, the United States shall be liable for their payment and other costs provided for in applicable provisions of the contract, subject to the availability of appropriations.

(4) Consistent with fulfillment of this subsection and not as a precondition thereto, the Secretary shall study and report on the social, economic, and environmental effects of the water rights purchase program authorized by this subsection and the water management measures authorized by subsection 206(c). This study may be conducted in coordination with the studies authorized by paragraph 207(c)(5) and subsection 209(c) of this title, and shall be reported to the Committees on Energy and Natural Resources, Environment and Public Works, and Appropriations of the Senate, and the Committees on Interior and Insular Affairs, Merchant Marine and Fisheries, and Appropriations of the House of Representatives not later than three

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years after the date of enactment of this Act.

(b) EXPANSION OF STILLWATER NATIONAL WILDLIFE REFUGE-

(1) Notwithstanding any other provision of law, the Secretary shall manage approximately 77,520 acres of Federal land in the State of Nevada, as depicted upon a map entitled 'Stillwater National Wildlife Refuge,' dated July 16, 1990, and available for inspection in appropriate offices of the United States Fish and Wildlife Service, as a unit of the National Wildlife Refuge System.

(2) The lands identified in paragraph (1) of this subsection shall be known as the Stillwater National Wildlife Refuge and shall be managed by the Secretary through the United States Fish and Wildlife Service for the purposes of:

- (A) maintaining and restoring natural biological diversity within the refuge;
- (B) providing for the conservation and management of fish and wildlife and their habitats within the refuge;
- (C) fulfilling the international treaty obligations of the United States with respect to fish and wildlife; and
- (D) providing opportunities for scientific research, environmental education, and fish and wildlife oriented recreation.

(3) The Secretary shall administer all lands, waters, and interests therein transferred under this title in accordance with the provisions of the National Wildlife Refuge System Administration Act of 1966, as amended, except that any activity provided for under the terms of the 1948 Tripartite Agreement may continue under the terms of that agreement until its expiration date, unless such agreement is otherwise terminated. The Secretary may utilize such additional statutory authority as may be available to the Secretary for the conservation and development of wildlife and natural resources, interpretive education, and outdoor recreation as the Secretary deems appropriate to carry out the purposes of this title.

(4) The Secretary is authorized to take such actions as may be necessary to prevent, correct, or mitigate for adverse water quality and fish and wildlife habitat conditions attributable to agricultural drain water originating from lands irrigated by the Newlands Project, except that nothing in this subsection shall be construed to preclude the use of the lands referred to in paragraph (1) of this subsection for Newlands Project drainage purposes. Such actions, if taken with respect to drains located on the Fallon Indian Reservation, shall be taken after consultation with the Fallon Tribe.

(5) Not later than November 26, 1997, after consultation with the State of Nevada and affected local interests, the Secretary shall submit to the Congress recommendations, if any, concerning:

(A) revisions in the boundaries of the Stillwater National Wildlife Refuge as may be appropriate to carry out the purposes of the Stillwater National Wildlife Refuge, and the provisions of subsection 206(a) of this section;

(B) transfer of any other United States Bureau of Reclamation withdrawn public lands within existing wildlife use areas in the Lahontan Valley to the United States Fish and Wildlife Service for addition to the National Wildlife Refuge System; and

(C) identification of those lands currently under the jurisdiction of the United States Fish and Wildlife Service in the Lahontan Valley that no longer warrant continued status as units of the National Wildlife Refuge System, with recommendations for their disposition.

(c) WATER USE, NAVAL AIR STATION, FALLON, NEVADA-

(1) Not later than one year after the date of enactment of this title, the Secretary of the Navy, in consultation with the Secretary, shall undertake a study to develop land management plans or measures to achieve dust control, fire abatement and safety, and foreign object damage control on those lands owned by the United States within the Naval Air Station at Fallon, Nevada, in a manner that, to the maximum extent practicable, reduce direct surface deliveries of water. Water saved or conserved shall be defined as reduced project deliveries relative to the maximum annual headgate delivery entitlement associated with recently irrigated water-righted Navy lands. Recently irrigated water-righted Navy lands shall be determined by the Secretary of the Navy in consultation with the Secretary and the State of Nevada.

(2) The Secretary of the Navy shall promptly select and implement land management plans or measures developed by the study described in paragraph (1) of this subsection upon determining that water savings can be made without impairing the safety of operations at Naval Air Station, Fallon.

(3) All water no longer used and water rights no longer exercised by the Secretary of the Navy as a result of the implementation of the modified land management plan or measures specified by this subsection shall be managed by the Secretary for the benefit of fish and wildlife resources referenced in sections 206 and 207 of this title: *Provided, That,*

(A) as may be required to fulfill the Secretary's responsibilities under the Endangered Species Act, as amended, the Secretary shall manage such water and water rights primarily for the conservation of the Pyramid Lake fishery and in a manner which is consistent with the Secretary's responsibilities under the Endangered Species Act, as amended, and the requirements of applicable operating criteria and procedures for the Newlands Project; and

(B) the Secretary may manage such water or transfer temporarily or



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permanently some or all of the water rights no longer exercised by the Secretary of the Navy for the benefit of the Lahontan Valley wetlands so long as such management or transfers are consistent with applicable operating criteria and procedures.

- (4) The Secretary of the Navy, in consultation with the Secretary of Agriculture and other interested parties, shall fund and implement a demonstration project and test site for the cultivation and development of low-precipitation grasses, shrubs, and other native or appropriate high-desert plant species, including the development of appropriate soil stabilization and land management techniques, with the goal of restoring previously irrigated farmland in the Newlands Project area to a stable and ecologically appropriate dryland condition.
- (5) The Secretary shall reimburse appropriate non-Federal entities for reasonable and customary operation and maintenance costs associated with delivery of the water that comes under the Secretary's management pursuant to this subsection.
- (6) In carrying out the provisions of this subsection, the Secretary of the Navy and the Secretary shall comply with all applicable provisions of State law and fulfill the Federal trust obligation to the Pyramid Lake Tribe and the Fallon Tribe.
- (d) STATE COST-SHARING- The Secretary is authorized to enter into an agreement with the State of Nevada for use by the State of not less than \$9 million of State funds for water and water rights acquisitions and other protective measures to benefit Lahontan Valley wetlands. The Secretary's authority under subsection 206(a) is contingent upon the State of Nevada making such sums available pursuant to the terms of the agreement referenced in this subsection.
- (e) TRANSFER OF CARSON LAKE AND PASTURE- The Secretary is authorized to convey to the State of Nevada Federal lands in the area known generally as the 'Carson Lake and Pasture,' as depicted on the map entitled 'Carson Lake Area,' dated July 16, 1990, for use by the State as a State wildlife refuge. Prior to and as a condition of such transfer, the Secretary and the State of Nevada shall execute an agreement, in consultation with affected local interests, including the operator of the Newlands Project, ensuring that the Carson Lake and Pasture shall be managed in a manner consistent with applicable international agreements and designation of the area as a component of the Western Hemisphere Shorebird Reserve Network. The Secretary shall retain a right of reverter under such conveyance if the terms of the agreement are not observed by the State. The official map shall be on file with the United States Fish and Wildlife Service. Carson Lake and Pasture shall be eligible for receipt of water through Newlands Project facilities.
- (f) Lahontan Valley and Pyramid Lake Fish and Wildlife Fund-
- (1) There is hereby established in the Treasury of the United States the 'Lahontan Valley and Pyramid Lake Fish and Wildlife Fund' which shall be available for deposit of donations from any source and funds provided under subsections 205 (a) and (b),

206(d), and subparagraph 208(a)(2)(C), if any, of this title.

(2) Moneys deposited into this fund shall be available for appropriation to the Secretary for fish and wildlife programs for Lahontan Valley consistent with this section and for protection and restoration of the Pyramid Lake fishery consistent with plans prepared under subsection 207(a) of this title. The Secretary shall endeavor to distribute benefits from this fund on an equal basis between the Pyramid Lake fishery and the Lahontan Valley wetlands, except that moneys deposited into the fund by the State of Nevada or donated by non-Federal entities or individuals for express purposes shall be available only for such purposes and may be expended without further appropriation, and funds deposited under subparagraph 208(a)(2)(C) shall only be available for the benefit of the Pyramid Lake fishery and may be expended without further appropriation.

(g) INDIAN LAKES AREA- The Secretary is authorized to convey to the State of Nevada or Churchill County, Nevada, Federal lands in the area generally known as the Indian Lakes area, as depicted on the map entitled 'Indian Lakes Area,' dated July 16, 1990, pursuant to an agreement between the Secretary and the State of Nevada or Churchill County, Nevada, as appropriate, for the purposes of fish and wildlife, and recreation. Any activity provided under the terms of the 1948 Tripartite Agreement may continue under the terms of that agreement until its expiration date, unless such agreement is otherwise terminated. The official map shall be on file with the United States Fish and Wildlife Service.

## **SEC. 207. CUI-UI AND LAHONTAN CUTTHROAT TROUT RECOVERY AND ENHANCEMENT PROGRAM.**

(a) RECOVERY PLANS- Pursuant to the Endangered Species Act, as amended, the Secretary shall expeditiously revise, update, and implement plans for the conservation and recovery of the cui-ui and Lahontan cutthroat trout. Such plans shall be completed and updated from time to time as appropriate in accordance with the Endangered Species Act, as amended, and shall include all relevant measures necessary to conserve and recover the species. Such plans and any amendments and revisions thereto shall take into account and be implemented in a manner consistent with the allocations of water to the State of Nevada and the State of California made under section 204 of this title, the Preliminary Settlement Agreement as modified by the Ratification Agreement, and the Operating Agreement, if and when those allocations and agreements enter into effect.

(b) TRUCKEE RIVER REHABILITATION-

(1) The Secretary of the Army, in consultation with and with the assistance of the Pyramid Lake Tribe, State of Nevada, Environmental Protection Agency, the Secretary, and other interested parties, is authorized and directed to incorporate into its ongoing reconnaissance level study of the Truckee River, a study of the rehabilitation of the lower Truckee River to and including the river terminus delta at Pyramid Lake, for the benefit of the Pyramid Lake fishery. Such study shall analyze,

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among other relevant factors, the feasibility of:

- (A) restoring riparian habitat and vegetative cover;
  - (B) stabilizing the course of the Truckee River to minimize erosion;
  - (C) improving spawning and migratory habitat for the cui-ui;
  - (D) improving spawning and migratory habitat for the Lahontan cutthroat trout; and
  - (E) improving or replacing existing facilities, or creating new facilities, to enable the efficient passage of cui-ui and Lahontan cutthroat trout through or around the delta at the mouth of the Truckee River, and to upstream reaches above Derby Dam, to obtain access to upstream spawning habitat.
- (2) There are authorized to be appropriated to the Secretary of the Army such funds as are necessary to supplement the ongoing reconnaissance level study, referenced in paragraph (1), to address and report on the activities and facilities described in that paragraph.

(c) ACQUISITION OF WATER RIGHTS-

- (1) The Secretary is authorized to acquire water and water rights, with or without the lands to which such rights are appurtenant, and to transfer, hold, and exercise such water and water rights and related interests to assist the conservation and recovery of the Pyramid Lake fishery in accordance with the provisions of this subsection. Water rights acquired under this subsection shall be exercised in a manner consistent with the Operating Agreement and the Preliminary Settlement Agreement as modified by the Ratification Agreement and, to the maximum extent practicable, used for the benefit of the Pyramid Lake fishery and shall not be sold, exchanged, or otherwise disposed of except to the benefit of the Pyramid Lake fishery.
- (2) Acquisition of water rights and related interests pursuant to this subsection shall be subject to the following conditions:
- (A) water rights acquired must satisfy eligibility criteria adopted by the Secretary;
  - (B) water right purchases shall be only from willing sellers, but the Secretary may target purchases in areas deemed by the Secretary to be most beneficial to such a purchase program;
  - (C) prior to acquiring any water or water rights in the State of California for the Pyramid Lake fishery, the Secretary shall first consult with the Governor of California and prepare a record of decision on the basis of such consultation;
  - (D) all water rights shall be transferred in accordance with any applicable

State law; and

(E) water rights acquired by the Secretary shall be managed by the Secretary in consultation with the Pyramid Lake Tribe and affected interests.

(3) Nothing in this subsection shall be construed as limiting or affecting the authority of the Secretary to acquire water and water rights under other applicable laws.

(4) The Secretary is authorized to reimburse non-Federal entities for reasonable and customary costs for operation and maintenance of the Newlands Project associated with the delivery of water in carrying out the provisions of this subsection.

(5) Consistent with fulfillment of this section and not as a precondition thereto, the Secretary shall study and report on the social, economic, and environmental effects of the water rights purchase program authorized by this section. This study may be conducted in coordination with the studies authorized by paragraph 206(a)(4) and subsection 209(c) of this title, and shall be reported to the Committees on Energy and Natural Resources, Environment and Public Works, and Appropriations of the Senate, and the Committees on Interior and Insular Affairs, Merchant Marine and Fisheries, and Appropriations of the House of Representatives not later than three years after the date of enactment of this title.

(d) USE OF STAMPEDE AND PROSSER RESERVOIRS-

(1) The rights of the United States to store water in Stampede Reservoir shall be used by the Secretary for the conservation of the Pyramid Lake fishery, except that such use must be consistent with the Preliminary Settlement Agreement as modified by the Ratification Agreement, the Operating Agreement, and the mitigation agreement specified in subparagraph 205(a)(1)(C) of this title.

(2) The rights of the United States to store water in Prosser Creek Reservoir shall be used by the Secretary as may be required to restore and maintain the Pyramid Lake fishery pursuant to the Endangered Species Act, as amended, except that such use must be consistent with the Tahoe-Prosser Exchange Agreement, the Preliminary Settlement Agreement as modified by the Ratification Agreement, the Operating Agreement, and the mitigation agreement specified in subparagraph 205(a)(1)(C) of this title.

(3) Nothing in this subsection shall prevent exchanges of such water or the use of the water stored in or released from these reservoirs for coordinated non-consumptive purposes, including recreation, instream beneficial uses, and generation of hydroelectric power. Subject to the Secretary's obligations to use water for the Pyramid Lake fishery, the Secretary is authorized to use storage capacity in the Truckee River reservoirs, including Stampede and Prosser Creek reservoirs, for storage of non-project water, including, but not limited to, storage of California's Truckee River basin surface water allocation, through negotiation of appropriate

provisions for storage of such water in the Operating Agreement. To the extent it is not necessary for the Pyramid Lake fishery, the Secretary may allow Truckee River reservoir capacity dedicated to Washoe Project water to be used for exchanges of water or water rights, and to enable conjunctive use. In carrying out the provisions of this subsection, the Secretary shall comply with all applicable provisions of State law.

(e) OFFSETTING FLOWS- Additional flows in the Truckee River and to Pyramid Lake resulting from the implementation of subsection 206(c) of this title are intended to offset any reductions in those flows which may be attributable to the allocations to California or Nevada under section 204 of this title or to the waivers in sections 3 and 21 of article II of the Preliminary Settlement Agreement as modified by the Ratification Agreement.

## **SEC. 208. PYRAMID LAKE FISHERIES AND DEVELOPMENT FUNDS.**

(a) Funds Established-

(1) There are hereby established within the Treasury of the United States the 'Pyramid Lake Paiute Fisheries Fund' and 'Pyramid Lake Paiute Economic Development Fund'.

(2) There is authorized to be appropriated to the Pyramid Lake Paiute Fisheries Fund \$25,000,000.

(A) The principal of the Pyramid Lake Paiute Fisheries Fund shall be unavailable for withdrawal.

(B) Interest earned on the Pyramid Lake Paiute Fisheries Fund shall be available to the Pyramid Lake Tribe only for the purposes of operation and maintenance of fishery facilities at Pyramid Lake, excluding Marble Bluff Dam and Fishway, and for conservation of the Pyramid Lake fishery in accordance with plans prepared by the Pyramid Lake Tribe in consultation with and the concurrence of the United States Fish and Wildlife Service and approved by the Secretary. Of interest earned annually on the principal, 25 percent per year, or an amount which, in the sole judgment of the Secretary of the Treasury, is sufficient to maintain the principal of the fund at \$25,000,000 in 1990 constant dollars, whichever is less, shall be retained in the fund as principal and shall not be available for withdrawal. Deposits of earned interest in excess of that amount may be made at the discretion of the Pyramid Lake Tribe, and all such deposits and associated interest shall be available for withdrawal.

(C) All sums deposited in, accruing to, and remaining in the Pyramid Lake Paiute Fishery Fund shall be invested by the Secretary and the Secretary of the Treasury in interest-bearing deposits and securities in accordance with the Act of June 24, 1938, 52 Stat. 1037. Interest earnings not expended, added to principal, or obligated by the Pyramid Lake Tribe in the year in which such

earnings accrue to the fund or in the four years that immediately follow shall be credited to the fund established under subsection 206(f) of this title.

(D) Subject to subparagraph (E) of this paragraph, the Secretary and the Secretary of the Treasury shall allocate and make available to the Pyramid Lake Tribe such eligible moneys from the Pyramid Lake Fishery Fund as are requested by the Pyramid Lake Tribe to carry out plans developed under subparagraph (B) of this paragraph.

(E) The Secretary and the Secretary of the Treasury shall not disburse moneys from the Pyramid Lake Paiute Fishery Fund until such time as the following conditions have been met:

(i) The Pyramid Lake Tribe has released any and all claims of any kind whatsoever against the United States for damages to the Pyramid Lake fishery resulting from the Secretary's acts or omissions prior to the date of enactment of this title; and

(ii) The Pyramid Lake Tribe has assumed financial responsibility for operation and maintenance of the fishery facilities located at Pyramid Lake for the benefit of the Pyramid Lake fishery, excluding the Marble Bluff Dam and Fishway.

(3) There is authorized to be appropriated to the Pyramid Lake Paiute Economic Development Fund \$40,000,000 in five equal annual installments in the 1993, 1994, 1995, 1996, and 1997 fiscal years.

(A) The principal and interest of the Pyramid Lake Paiute Economic Development Fund shall be available for tribal economic development only in accordance with a plan developed by the Pyramid Lake Tribe in consultation with the Secretary. The objectives of the plan shall be to develop long-term, profit-making opportunities for the Pyramid Lake Tribe and its members, to create optimum employment opportunities for tribal members, and to establish a high quality recreation area at Pyramid Lake using the unique natural and cultural resources of the Pyramid Lake Indian Reservation. The plan shall be consistent with the fishery restoration goals of section 207 of this title. The plan may be revised and updated by the Pyramid Lake Tribe in consultation with the Secretary.

(B) The Pyramid Lake Tribe shall have complete discretion to invest and manage the Pyramid Lake Paiute Economic Development Fund, except that no portion of the principal shall be used to develop, operate, or finance any form of gaming or gambling, except as may be provided by the Indian Gaming Regulatory Act, Public Law 100-497 (102 Stat. 2467), and the United States shall not bear any obligation or liability regarding the investment, management, or use of such funds that the Pyramid Lake Tribe chooses to

invest, manage, or use.

(C) If the Pyramid Lake Tribe so requests, all sums deposited in, accruing to, and remaining in the Pyramid Lake Paiute Economic Development Fund shall be invested by the Secretary and the Secretary of the Treasury in interest-bearing deposits and securities in accordance with the Act of June 24, 1938, 52 Stat. 1037. All such interest shall be added to the Pyramid Lake Paiute Economic Development Fund.

(D) The Secretary and the Secretary of the Treasury shall allocate and make available to the Pyramid Lake Tribe such moneys from the Pyramid Lake Economic Development Fund as are requested by the Pyramid Lake Tribe, except that no disbursements shall be made to the Pyramid Lake Tribe unless and until the Pyramid Lake Tribe adopts and submits to the Secretary the economic development plan described in subparagraph (A) of this paragraph, and section 204, the Preliminary Settlement Agreement as modified by the Ratification Agreement, and the Operating Agreement enter into effect in accordance with the terms of subsection 210(a) of this title.

(4) Under no circumstances shall any part of the principal of the funds established under this section be distributed to members of the Pyramid Lake Tribe on a per capita basis.

(5) If, and to the extent that any portion of the sum authorized to be appropriated in paragraph 208(a)(2) is appropriated after fiscal year 1992, or in a lesser amount, there shall be deposited in the Pyramid Lake Paiute Fisheries Fund, subject to appropriations, in addition to the full contribution to the Pyramid Lake Paiute Fisheries Fund, an adjustment representing the interest income as determined by the Secretary in his sole discretion that would have been earned on any unpaid amount had the amount authorized in paragraph 208(a)(2) been appropriated in full for fiscal year 1992.

(6) If and to the extent that any portion of the sums authorized to be appropriated in paragraph 208(a)(3) are appropriated after fiscal years 1993, 1994, 1995, 1996, and 1997, or in lesser amounts than provided by paragraph 208(a)(3), there shall be deposited in the Pyramid Lake Paiute Economic Development Fund, subject to appropriations, in addition to the full contributions to the Pyramid Lake Paiute Economic Development Fund, an adjustment representing the interest income as determined by the Secretary in his sole discretion that would have been earned on any unpaid amounts had the amounts authorized in paragraph 208(a)(3) been appropriated in full for fiscal years 1993, 1994, 1995, 1996, and 1997.

## **SEC. 209. NEWLANDS PROJECT IMPROVEMENT.**

(a) Expansion of Authorized Purposes-

(1) In addition to the existing irrigation purpose of the Newlands Reclamation Project, the Secretary is authorized to operate and maintain the project for the purposes of:

- (A) fish and wildlife, including endangered and threatened species;
- (B) municipal and industrial water supply in Lyon and Churchill counties, Nevada, including the Fallon Indian Reservation;
- (C) recreation;
- (D) water quality; and
- (E) any other purposes recognized as beneficial under the law of the State of Nevada.

(2) Additional uses of the Newlands Project made pursuant to this section shall have valid water rights and, if transferred, shall be transferred in accordance with State law.

(b) TRUCKEE RIVER DIVERSIONS- The Secretary shall not implement any provision of this title in a manner that would:

- (1) increase diversions of Truckee River water to the Newlands Project over those allowed under applicable operating criteria and procedures; or
- (2) conflict with applicable court decrees.

(c) Project Efficiency Study-

(1) The Secretary shall study the feasibility of improving the conveyance efficiency of Newlands Project facilities to the extent that, within twelve years after the date of enactment of this title, on average not less than seventy-five percent of actual diversions under applicable operating criteria and procedures shall be delivered to satisfy the exercise of water rights within the Newlands Project for authorized project purposes.

(2) The Secretary shall consider the effects of the measures required to achieve such efficiency on groundwater resources and wetlands in the Newlands Project area. The Secretary shall report the results of such study to the Committees on Energy and Natural Resources, Environment and Public Works, and Appropriations of the Senate and the Committees on Interior and Insular Affairs, Merchant Marine and Fisheries, and Appropriations of the House of Representatives not later than three years after the date of enactment of this title.

(d) WATER BANK- The Secretary, in consultation with the State of Nevada and the operator of the Newlands Project, is authorized to use and enter into agreements to allow water right holders to use Newlands Project facilities in Nevada, where such facilities are not otherwise committed or required to fulfill project purposes or other Federal obligations, for



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supplying carryover storage of irrigation and other water for drought protection and other purposes, consistent with subsections (a) and (b) of this section. The use of such water shall be consistent with and subject to applicable State laws.

(e) RECREATION STUDY- The Secretary, in consultation with the State of Nevada, is authorized to conduct a study to identify administrative, operational, and structural measures to benefit recreational use of Lahontan Reservoir and the Carson River downstream of Lahontan Dam. Such study shall be reported to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives.

(f) EFFLUENT REUSE STUDY- The Secretary, in cooperation with the Administrator of the Environmental Protection Agency, the State of Nevada, and appropriate local entities, shall study the feasibility of reusing municipal wastewater for the purpose of wetland improvement or creation, or other beneficial purposes, in the areas of Fernley, Nevada, the former Lake Winnemucca National Wildlife Refuge, and the Lahontan Valley. The Secretary shall coordinate such studies with other efforts underway to manage wastewater from the Reno and Sparks, Nevada, area and to improve Truckee River and Pyramid Lake water quality. Such study shall be reported to the Committees on Energy and Natural Resources, Environment and Public Works, and Appropriations of the Senate and the Committees on Interior and Insular Affairs, Merchant Marine and Fisheries, and Appropriations of the House of Representatives.

(g) REPAYMENT CANCELLATION- Notwithstanding any other provision of law, the Secretary may cancel all repayment obligations owing to the Bureau of Reclamation by the Truckee-Carson Irrigation District. As a precondition for the Secretary to cancel such obligations, the Truckee-Carson Irrigation District shall agree to collect all such repayment obligations and use such funds for water conservation measures. For the purpose of this subsection and paragraph 209(h)(2), the term 'water conservation measures' shall not include repair, modification, or replacement of Derby Dam.

(h) Settlement of Claims-

(1) The provisions of subsections 209 (d), (e), (f), and (g) of this section shall not become effective unless and until the Truckee-Carson Irrigation District has entered into a settlement agreement with the Secretary concerning claims for recoupment of water diverted in excess of the amounts permitted by applicable operating criteria and procedures.

(2) The provisions of subsection 209(g) of this section shall not become effective unless and until the State of Nevada provides not less than \$4,000,000 for use in implementing water conservation measures pursuant to the settlement described in paragraph (1) of this subsection.

(3) The Secretary is authorized to expend such sums as may be required to match equally the sums provided by the State of Nevada under paragraph (2) of this

subsection. Such sums shall be available for use only in implementing water conservation measures pursuant to the settlement described in paragraph (1) of this subsection.

(i) FISH AND WILDLIFE- The Secretary shall, insofar as is consistent with project irrigation purposes and applicable operating criteria and procedures, manage existing Newlands Project re-regulatory reservoirs for the purpose of fish and wildlife.

(j) Operating Criteria and Procedures-

(1) In carrying out the provisions of this title, the Secretary shall act in a manner that is fully consistent with the decision in the case of Pyramid Lake Paiute Tribe of Indians v. Morton, 354 F. Supp. 252 (D. D.C. 1973).

(2) Notwithstanding any other provision of law, the operating criteria and procedures for the Newlands Reclamation Project adopted by the Secretary on April 15, 1988 shall remain in effect at least through December 31, 1997, unless the Secretary decides, in his sole discretion, that changes are necessary to comply with his obligations, including those under the Endangered Species Act, as amended. Prior to December 31, 1997, no court or administrative tribunal shall have jurisdiction to set aside any of such operating criteria and procedures or to order or direct that they be changed in any way. All actions taken heretofore by the Secretary under any operating criteria and procedures are hereby declared to be valid and shall not be subject to review in any judicial or administrative proceeding, except as set forth in paragraph (3) of this subsection.

(3) The Secretary shall henceforth ensure compliance with all of the provisions of the operating criteria and procedures referenced in paragraph (2) of this subsection or any applicable provision of any other operating criteria or procedures for the Newlands Project previously adopted by the Secretary, and shall, pursuant to subsection 709(h) or judicial proceeding, pursue recoupment of any water diverted from the Truckee River in excess of the amounts permitted by any such operating criteria and procedures. The Secretary shall have exclusive authority and responsibility to pursue such recoupment, except that, if an agreement or order leading to such recoupment is not in effect as of December 31, 1997, any party with standing to pursue such recoupment prior to enactment of this title may pursue such recoupment thereafter. Any agreement or court order between the Secretary and other parties concerning recoupment of Truckee River water diverted in violation of applicable operating criteria and procedures shall be consistent with the requirements of this subsection and the Endangered Species Act, as amended, and shall be submitted for the review and approval of the court exercising jurisdiction over the operating criteria and procedures for the Newlands Project. All interested parties may participate in such review. In any recoupment action brought by any party, other than the Secretary, after December 31, 1997, the only relief available from any court of the United States will

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be the issuance of a declaratory judgment and injunctive relief directing any unlawful user of water to restore the amount of water unlawfully diverted. In no event shall a court enter any order in such a proceeding that will result in the expenditure of any funds out of the United States Treasury.

## **SEC. 210. MISCELLANEOUS PROVISIONS.**

### **(a) Claims Settlement-**

(1) The effectiveness of section 204 of this title, the Preliminary Settlement Agreement as modified by the Ratification Agreement, the Operating Agreement, and the Secretary's authority to disburse funds under paragraph 208(a)(3) of this title are contingent upon dismissal with prejudice or other final resolution, with respect to the parties to the Preliminary Settlement Agreement as modified by the Ratification Agreement and the State of Nevada and the State of California, of the following outstanding litigation and proceedings:

(A) Pyramid Lake Paiute Tribe v. California, Civ. S-181-378-RAR-RCB, United States District Court, Eastern District of California;

(B) United States v. Truckee-Carson Irrigation District, Civ. No. R-2987-RCB, United States District Court, District of Nevada;

(C) Pyramid Lake Paiute Tribe v. Lujan, Civ. S-87-1281-LKK, United States District Court, Eastern District of California;

(D) Pyramid Lake Paiute Tribe v. Department of the Navy, Civ. No. R-86-115-BRT in the United States District Court, District of Nevada and Docket No. 88-1650 in the United States Court of Appeals for the Ninth Circuit; and

(E) All pending motions filed by the Tribe in Docket No. E-9530 before the Federal Energy Regulatory Commission.

(2) In addition to any other conditions on the effectiveness of this title set forth in this title, the provisions of:

(A) section 204, subsections 206(c), 207 (c) and (d), subparagraph 208(a)(3)(D), and paragraph 210(a)(3) of this title shall not take effect until:

(i) the agreements and regulations required under section 205 of this title, including the Truckee Meadows water conservation plan referenced in the Preliminary Settlement Agreement as modified by the Ratification Agreement, enter into effect;

(ii) the outstanding claims described in paragraph 210(a)(1) have been dismissed with prejudice or otherwise finally resolved;

(B) section 204 of this title, the Preliminary Settlement Agreement as modified by the Ratification Agreement, and the Operating Agreement, shall

not take effect until the Pyramid Lake Tribe's claim to the remaining waters of the Truckee River which are not subject to vested or perfected rights has been finally resolved in a manner satisfactory to the State of Nevada and the Pyramid Lake Tribe; and

(C) section 204 of this title, the Preliminary Settlement Agreement as modified by the Ratification Agreement, the Operating Agreement, and subsection 207(d) shall not take effect until the funds authorized in paragraph 208(a)(3) of this title have been appropriated.

(3) On and after the effective date of section 204 of this title, except as otherwise specifically provided herein, no person or entity who has entered into the Preliminary Settlement Agreement as modified by the Ratification Agreement or the Operating Agreement, or accepted any benefits or payments under this legislation, including any Indian Tribe and the States of California and Nevada, the United States and its officers and agencies may assert in any judicial or administrative proceeding a claim that is inconsistent with the allocations provided in section 204 of this title, or inconsistent or in conflict with the operational criteria for the Truckee River established pursuant to section 205 of this title. No person or entity who does not become a party to the Preliminary Settlement Agreement as modified by the Ratification Agreement or the Operating Agreement may assert in any judicial or administrative proceeding any claim for water or water rights for the Pyramid Lake Tribe, the Pyramid Lake Indian Reservation, or the Pyramid Lake fishery. Any such claims are hereby barred and extinguished and no court of the United States may hear or consider any such claims by such persons or entities.

(b) GENERAL PROVISIONS-

(1) Subject to the provisions of paragraphs (2) and (3) of this subsection, and to all existing property rights or interests, all of the trust land within the exterior boundaries of the Pyramid Lake Indian Reservation shall be permanently held by the United States for the sole use and benefit of the Pyramid Lake Tribe.

(2) Anaho Island in its entirety is hereby recognized as part of the Pyramid Lake Indian Reservation. In recognition of the consent of the Pyramid Lake Tribe evidenced by Resolution No. 19-90 of the Pyramid Lake Paiute Tribal Council, all of Anaho Island shall hereafter be managed and administered by and under the primary jurisdiction of the United States Fish and Wildlife Service as an integral component of the National Wildlife Refuge System for the benefit and protection of colonial nesting species and other migratory birds. Anaho Island National Wildlife Refuge shall be managed by the United States Fish and Wildlife Service in accord with the National Wildlife Refuge System Administration Act, as amended, and other applicable provisions of Federal law. Consistent with the National Wildlife Refuge System Administration Act, as amended, the Director of the United States Fish and

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Wildlife Service is authorized to enter into cooperative agreements with the Pyramid Lake Tribe regarding Anaho Island National Wildlife Refuge.

(3) Subject to the relinquishment by the legislature of the State of Nevada of any claim the State of Nevada may have to ownership of the beds and banks of the Truckee River within the exterior boundaries of the Pyramid Lake Indian Reservation and of Pyramid Lake, those beds and banks are recognized as part of the Pyramid Lake Indian Reservation and as being held by the United States in trust for the sole use and benefit of the Pyramid Lake Tribe. Nothing in this subsection shall be deemed to recognize any right, title, or interest of the State of Nevada in those beds and banks which it would not otherwise have. No other provision of this title shall be contingent on the effectiveness of this subsection.

(4) Except as provided in paragraphs (2) and (9) of this subsection, the Pyramid Lake Tribe shall have the sole and exclusive authority to establish rules and regulations governing hunting, fishing, boating, and all forms of water based recreation on all lands within the Pyramid Lake Indian Reservation except fee-patented land, provided that the regulation of such activities on fee-patented land within the Pyramid Lake Indian Reservation shall not be affected by this paragraph. Nothing in this paragraph shall be deemed to recognize or confer any criminal jurisdiction on the Pyramid Lake Tribe or to affect any regulatory jurisdiction of the State of Nevada with respect to any other matters.

(5) The consent of the United States is given to the negotiation and execution of an intergovernmental agreement between the Pyramid Lake Tribe and the State of Nevada, which agreement may also include Washoe County, Nevada, providing for the enforcement by the State of Nevada and Washoe County of the rules and regulations referred to in paragraph (4) adopted by the Pyramid Lake Tribe governing hunting, fishing, boating, and all forms of water based recreation against non-members of the Pyramid Lake Tribe and for State courts or other forums of the State of Nevada or its political subdivisions to exercise civil and criminal jurisdiction over violations of the Pyramid Lake Tribe's rules and regulations allegedly committed by such non-members, except as provided by paragraphs (2) and (9) of this subsection.

(6) The consent of the United States is given to the negotiation and execution of an intergovernmental agreement between the Pyramid Lake Tribe and the State of Nevada, which agreement may also include Washoe County, Nevada, providing for the enforcement of rules and regulations governing hunting, fishing, boating and all forms of water based recreation on fee-patented land within the Pyramid Lake Indian Reservation, except as provided by paragraphs (2) and (9) of this subsection.

(7) Nothing in this title shall limit or diminish the Federal Government's trust responsibility to any Indian Tribe, except that this provision shall not be interpreted to impose any liability on the United States or its agencies for any damages resulting

from actions taken by the Pyramid Lake Paiute Tribe as to which the United States is not a party or with respect to which the United States has no supervisory responsibility.

(8) Subject to the terms, conditions, and contingencies of and relating to the Preliminary Settlement Agreement as modified by the Ratification Agreement, the United States on its own behalf and in its capacity as trustee to the Pyramid Lake Tribe confirms and ratifies the waivers of any right to object to the use and implementation of the water supply measures described in sections 3 and 21 of article II of the Preliminary Settlement Agreement as modified by the Ratification Agreement, and any waivers of sovereign immunity given in connection with that agreement or the Operating Agreement, upon the entry into effect of the Preliminary Settlement Agreement as modified by the Ratification Agreement.

(9) Nothing in this title shall be construed as waiving or altering the requirements of any Federal environmental or wildlife conservation law, including, but not limited to, the Endangered Species Act, as amended, including the consultation and reinitiation of consultation responsibilities of the Secretary under section 7 of the Act, and the National Environmental Policy Act of 1969.

(10) Nothing in this title shall be construed to create an express or implied Federal reserved water right.

(11) Nothing in this title shall subject the United States or any of its agencies or instrumentalities or any Indian Tribe to any State jurisdiction or regulation to which they would not otherwise be subject.

(12) Nothing in this title is intended to abrogate the jurisdiction of or required approvals by the Nevada State Engineer or the California State Water Resources Control Board.

(13) Nothing in this title is intended to affect the power of the Orr Ditch court or the Alpine court to ensure that the owners of vested and perfected Truckee River water rights receive the amount of water to which they are entitled under the Orr Ditch decree or the Alpine decree. Nothing in this title is intended to alter or conflict with any vested and perfected right of any person or entity to use the water of the Truckee River or its tributaries, including, but not limited to, the rights of landowners within the Newlands Project for delivery of the water of the Truckee River to Derby Dam and for the diversion of such waters at Derby Dam pursuant to the Orr Ditch decree or any applicable law.

(14) No single provision or combination of provisions in this title, including interstate allocations under section 204, or associated agreements which may adversely affect inflows of water to Pyramid Lake shall form the basis for additional claims of water to benefit Pyramid Lake, the Pyramid Lake fishery, or lands within the Pyramid Lake Indian Reservation.

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- (15) Nothing in this title shall affect any claim of Federal reserved water rights, if any, to the Carson River or its tributaries for the benefit of lands within the Fallon Indian Reservation.
- (16) The Secretary, in consultation with the State of Nevada and affected local interests, shall undertake appropriate measures to address significant adverse impacts, identified by studies authorized by this title, on domestic uses of groundwater directly resulting from the water purchases authorized by this title.
- (17) It is hereby declared that after August 26, 1935, and prior to the date of enactment of this title, there was no construction within the meaning of section 23(b) of the Federal Power Act, as amended, at the four run-of-river hydroelectric project works owned by Sierra Pacific Power Company and located on the Truckee River. Notwithstanding any other provision of law, after the date of enactment of this title, development of additional generating capacity at such project works that is accomplished through replacement of turbine generators and increases in effective head shall not constitute construction within the meaning of section 23(b) of the Federal Power Act, as amended: *Provided*, That such development may not change the location of or increase any existing impoundments and may not require diversions of water in excess of existing water rights for such project works: *And provided further*, That the diversions of water for the operation of such project works shall be consistent with the Preliminary Settlement Agreement as modified by the Ratification Agreement, and the Operating Agreement. The Secretary shall take into account the monetary value of this provision to the Sierra Pacific Power Company in calculating the storage charge referred to in paragraph 205(a)(6).
- (18) The Secretary is authorized, in accordance with this section and applicable provisions of existing law, to exchange surveyed public lands in Nevada for interests in fee patented lands, water rights, or surface rights to lands within or contiguous to the exterior boundaries of the Pyramid Lake Indian Reservation. The values of the lands or interests therein exchanged by the Secretary under this paragraph shall be substantially equal, but the Secretary is authorized to accept monetary payments from the owners of such fee patented lands, water rights, or surface rights as circumstances may require in order to compensate for any difference in value. Any such payments shall be deposited to the Treasury. The value of improvements on land to be exchanged shall be given due consideration and an appropriate allowance shall be made therefor in the valuation. Title to lands or any interest therein acquired by the Secretary pursuant to this subsection shall be taken in the name of the United States in trust for the Pyramid Lake Tribe and shall be added to the Pyramid Lake Indian Reservation.
- (c) APPROPRIATIONS AUTHORIZED- There are authorized to be appropriated such sums as may be required to implement the provisions of this title.

Passed the Senate October 26 (legislative day, October 2), 1990.

Attest:

Secretary.

S 3084 ES----2

S 3084 ES----3

S 3084 ES----4

S 3084 ES----5

S 3084 ES----6

S 3084 ES----7

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