

ORAL HISTORY INTERVIEW

Joseph (Joe) H. Ely



STATUS OF INTERVIEW:
OPEN FOR RESEARCH



Interview Conducted and Edited by:
Donald B. Seney in 1996
California State University-
Sacramento

For the Bureau of Reclamation's
Newlands Project Oral History Series



Edited and desktop published—2011
By Brit Allan Storey, Senior Historian

Oral History Program
Bureau of Reclamation
Denver, Colorado

SUGGESTED CITATION:

ELY, JOSEPH (JOE) H., ORAL HISTORY INTERVIEW. Transcript of tape-recorded Bureau of Reclamation oral history interview 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.

Record copies of this transcript are printed on 20 lb., 100% cotton, archival quality paper. All other copies are printed on normal duplicating paper.

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real low threshold for boredom. I
usually progressed very fast and I’d
go from the bottom to somewhere in
a management position fairly
quickly. . . .” 30

“. . . once I’d get to a certain point, I’d run
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out what was going on. . . .” 37

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 that issue . . . Energy was being
 focused on that issue. . . . nothing
 left for anything else. . . . if we could
 resolve this one issue . . . we could
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“ . . . if you want to go to court and be a real adversary against your opponent, then you have to pay for that yourself. And so there was a real drain there. We had to continue in adversarial mode to gain any kind of respect and to keep us in the ball game, because without it, we would have just been bounced out of the game . . . ” 45

“When I was elected to the council? . . . I had a fairly significant margin. . . . I think I was awakened, that, ‘Now, oh, shucks, I got it.’ . . . when you get elected, then all of a sudden, now you have to put up. And so there was a realization, an awakening, now I actually have to do something. . . . ” 46

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difference because our premise was
there will not be a compact . . .”
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were going to kill this compact. . . .
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and Anne Wexler, they were the two
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Pyramid Lake and let the lake speak
for itself, what it was and who we
were and our relationship to the lake

- and then what the compact would do to the lake. . . .” 103
- “We wanted to lead the senator into a place where he either had to withdraw the bill or we could find some benign way to let him out that wouldn’t harm us. . . .” 104
- “. . . we realized that . . . he was concerned about the substance, but he was more concerned that his place in history be recorded that he had passed the California-Nevada interstate compact. We also realized that he was obsessed with the compact, that he wanted it so bad that he was willing to do a lot of things to accomplish it, and so we sort of took this ‘judo’ approach to it. We let the momentum of his desire and obsession with this to carry it to a point where we could manipulate it. . . .” 104
- “I’m not altogether sure whether we’re as brilliant as we think we are . . . But suffice it to say it ended up that way . . . but we knew this, we had to kill the compact, and in order to kill the compact we had to attack his integrity. And we had to gain support, and so we did. . . .” 105

Used a Slide Show of the Lake to Educate
Congress and Its Staff 106

“. . . Bob Pelcyger and I went around and
talked to everybody about the
compact and about what it was doing
to Pyramid Lake . . . We sat down
with maps and we went through it
and passed out fliers. I mean, we
just beat the halls. . . .” 106

“It’s interesting because this is very
expensive and we didn’t have much
money. So we had a rock concert . .
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money. . . .” 107

“We had all this litigation going on, we
continued to try to negotiate and we
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stopped at this one, they said, ‘Oh,
don’t worry, they’ll get it up there.’
When you stopped at this one, they
said ‘Oh, they’ve already gotten it
down here.’ So nobody took any
money. And there was very few
people there, and the reason . . . is
because they set a date and then they
canceled the date a week before it
was going to happen and set it for a
week after. . . .” 111

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about fourteen thousand people.
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people. . . .” 112

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Well, but the Tribe Collected its
Money and Used it in the Campaign
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“. . . the lobbyists put together the packet,

they did it very professionally. . . .
We actually were able to hire those
guys at a cut rate, because they sort
of needed something to cleanse their
soul. They said, ‘You know, we ran
through so much bad legislation that
we would like to have something
good, you know. For once we want
to be on the little guy’s side, the
right guy’s side.’ . . .” 114

“ . . . Laxalt got one of these packets, and he
was *furious*. Actually, he went
personally over to the Bureau of
Indian Affairs, to Ross Swimmer, to
ask them, “Who in the heck is giving
these people money? . . .” 115

“ . . . Swimmer told him, ‘They didn’t have
to take any money from us to do it.’ .
. . he wanted to stop the funding . . .
But he had no place to attack,
because the entire effort that we took
when we took him on was financed
by us . . . our own money
independently. . . .” 116

Joe Gremban of Sierra Pacific Power 116

Ross Swimmer 116

“ . . . it was because of the OCAP and the
criteria that really worked against T-
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District] also was a major factor in

getting this settlement to proceed
and that would have never occurred
without Ross Swimmer. . . .” . . . 117

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Pyramid Lake 118

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designed to be deceptive. There was
a lot of language that said that it
recognized Pyramid Lake and it
recognized different things, but it
didn’t recognize particular beneficial
uses. One was fisheries. And it
allocated water away from Pyramid
Lake to California. . . .” 118

“ . . . when you looked at it from a legal
standpoint . . . it was very clear that
when it [California-Nevada compact
on the Truckee and Carson rivers]
was complete, Pyramid Lake was not
going to get any of that water. . . .”
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in the Compact 119

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actually believes that Laxalt is the
most genuine person in the world, is
not going to believe you. You have
to show it to them and then you had
to take the time to say, ‘Well, see

what it says here, and see what it
says here, and see what it says here.’.
..” 120

“The second reason we needed to kill it is because
there would never be a settlement, ever,
unless the compact went away, because that
was, in their opinion, the settlement between
California and Nevada. And without a
settlement between California and Nevada,
now that whole thing was left wide open,
which would cause both of those states to
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discussion about . . . our belief in
Jesus Christ. . . . it was just him and I
and then he brought in one of his
staff people and we prayed about a

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 “In the end, we presented him with a
 proposal, because we realized that he
 wanted to have the compact’s title
 next to his name, and so we decided,
 ‘Let’s give it to him, but let’s not
 give it to him in a way that will hurt
 Pyramid Lake.’ . . .” 128

 “. . . we just told Laxalt, ‘Here, we’ll make a
 deal. You can have the compact by
 title, but everything in it that harms
 Pyramid Lake, we want out of it. If
 you do that and you give us \$50
 million, we will support it and we’ll
 help you get it passed.’ . . . And he
 said, “You’ve got a deal.”” 129

 “. . . either we get a compact that was benign
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 Because of Opposition 130

Joe Ely Is Reelected Tribal Chairman by Two Votes
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 chairman where water wasn’t
 controversial. But it was this court

situation that almost got me. Not only that, but I was a fairly aggressive chairman. . . .” 132

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“ . . . during this time were also fighting over the OCAP. . . .” 134

“ . . . so we started to go to work in . . . the Department of Interior. We tried to reduce the numbers of how much water would go to Truckee-Carson Irrigation District via the OCAP, the Operating Criteria and Procedures, and all that was to tighten up the rules and make sure that they enforce the rules and reevaluate this. . . .” 134

“Now they had to evaluate it in terms of the Endangered Species Act, because the *cui-ui* was on the endangered species list. . . .” 135

“We finally got them in a position now where they revised their OCAP. When they revised their OCAP, T-C-I-D effectively lost 100,000 acre-feet of water. . . .” 135

The Struggle over Stampede Reservoir 136

“Stampede Reservoir . . . is really the life support system for the *cui-ui*. . . .” 137

“It was built initially to provide water to T-C-I-D and also a drought year’s supply for Reno and Sparks. . . .”

..... 137

“Reno and Sparks does not grow without a drought-year water supply. . . . it doesn’t build houses. Therefore, they don’t turn on lights. Therefore, Sierra Pacific Power Company can’t sell them power. Therefore, they don’t increase in profits. . . .” . . . 137

We fought and argued that Stampede Reservoir “. . . should be used solely for the purpose of holding water in storage for release in the spring for the *cui-ui* during the spawning run, and we won. . . .” 138

“. . . we had the compact defeated. We had the OCAP reducing the amount of water to T-C-I-D, the Newlands Project, and we had Reno/Sparks held in check . . . this was happening at a rapid pace . . .” 138

“. . . then on top of it, we entered the first year of what turns out to be one of Nevada’s worst droughts in history. That was very helpful. Nothing like trying to negotiate a water settlement in the middle of a drought. All of a sudden, everyone is worried about water. . . so you have these elements, political, climate-driven elements. . . .” 139

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Joe Gremban Called 142

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“. . . Joe Gremban was one of the first to come forward and break out of the pack. . . .” 149

“. . . at first—I was a little bit concerned, because I didn’t know if he was sincere. I’ve come to find out,

throughout the process, that he was very sincere . . .” 149

“He says, ‘Well, let’s start talking about this. We need storage.’ We said, ‘Well, we have storage, but we don’t have any water.’ I said, ‘You’ve got the water, so let’s try to work a deal where you give us some of your water and we give you some of our storage.’ And really that’s how it worked out. . . .” 151

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we needed about seven years out of ten years that there had to be a successful spawn . . .” 152

“ . . . those years where it was a drought, then they would be able to use that water for drought-year supply for Reno and Sparks, because it didn’t make any sense to send it down the river and sort of trick the *cui-ui* into coming up with no water to spawn. . . . So we used the biology . . .” . 153

The *Cui-ui* Are Protected Even If the Endangered Species Act Expires or They Are No Longer Considered Endangered 156

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Other Parties Begin to Join Negotiations 158

“ . . . we have all these people now coming into play . . . Senator Reid had been very interested in the process all along, and wanted to help facilitate it. . . . We needed a facilitator, we needed somebody to sit down and really keep our nose to the grindstone and keep

things going. That’s when Wayne Mehl
came in. . . .” 159

“Up to this point we were making this deal
with this guy, this deal with this
[other] guy, but we knew that when
it all came together, we still had to
go through Congress, so we needed
somebody back there, and Reid was
the guy to do it. . . .” 160

“. . . toward the end Wayne would be
present at every one of them. But
prior to that, we would negotiate and
then we would come together as a
group and solidify what we’d
negotiated. Wayne Mehl would
write it down and get language back
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“It’s two years and three years of hard
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Why TCID Couldn’t Arrive at an
Agreement 164

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an irrigation project out there, but it
has to be substantially smaller scale
than what it is now, and if you don’t
agree with that, then we’ll just try to

- do our best to destroy the entire irrigation system.’ . . .” 165
- “Our choice was, ‘Look, we don’t have anything now. We’re going to try to get as much as we can.’ They had everything and they were either going to have to give a big portion of it up or face the fight, and they just sat down, I think, and thought, ‘Perhaps we ought to take our chances in the fight.’ . . .” 165
- “I thought it was a bad decision, because the writing was already on the wall. They’d lost in the OCAP. They were losing in the negotiations, and, to me, I’d already recognized that agriculture was dying . . .” 166
- “We’re not talking about a small piece, we’re still talking about a large irrigation project, but smaller than what they had in the past. I thought that they would settle for that, but I was wrong. They wanted either all the marbles or none of it. . . .” . . . 166
- “I think it has a lot to do with history. . . . the . . . more that I work with irrigation companies and . . . agricultural districts across the West, the more I see that attitude. I mean, it’s just kicking and screaming and

gouging their way into the twentieth century, and just hating every moment of it. . . .” 167

“ . . . there’s also this Western mind-set. . . . that the Federal Government doesn’t tell us what to do– period. . . . and I think they viewed us as a branch of the Federal Government because that’s who was working on our behalf on the OCAP in that case. I don’t think they realize that almost all of our lawsuits were against the Federal Government. . . .” 168

“I think it’s a mistake that’ll be the demise of that project . . . We were on the opposite spectrum of the very same mind-set. We were willing to kick and scrap and whatever it took to maintain part of our heritage. The thing is that the times were more on our side . . . than it was on theirs. . . .” 168

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“ . . . that project is doomed. . . . It’s sort of like being dead and held in state, and at some point it’s going to be buried.

. . . the negotiations now allowed us to not have to focus on fighting four other adversaries, but just fight one, who has really been abandoned by those four others. And not only that, but now T-C-I-D has to look at these others as an . . . adversary as well. . . .” 170

“ . . . we got the best of both worlds. We got a deal, we got water, we got money, we got storage and water in that storage, and timing of the river. We’ve got all of that that we needed and we didn’t have to give up our major lawsuits. . . .” 171

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“ . . . they chose not to, and in choosing not to, they didn’t remain neutral, they went after us. . . . they then took on the role of adversary again. . . . And

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beat them. . . .” 174

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Recoupment Was Added to Public Law 101-
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“I think everyone was very upset that T-C-I-
D had first off, abandoned the
process, and then after they
abandoned it, had sat down and said,
‘Okay, we’re going to abandon it
under these conditions.’ And then
after that and seeing that it may
succeed without them, then
completely forgot about those
conditions and completely forgot
about the deal that they had made,
and decided that they were going to
do whatever they could to harm the
settlement. And I think that made
everyone upset. . . .” 179

“. . . the answer was then simple, at least
from our standpoint, and that was to
put whatever provision we could get
in there, based upon everybody’s
anger, whatever provision we could
get in there, so that we had a leg up
when the time came. . . .” 179

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Senator Daniel Inouye 186

“Senator Inouye . . . was really very pro-Indian, and the Fallon Shoshone Tribe, of course, attached to him and he to them, and we had to spend time convincing him that we weren’t harming the Fallon Tribe as a result. . . .” 187

“One of the tougher things when you get back into the Senate and back into Congress is that when you’re an underdog, it carries a little bit of weight, but when you gain a few successes back there, then you’re viewed as the big guy. . . .” 187

“Fallon Shoshone was playing the underdog role . . . Inouye was their champion. But he’d been working with us for a while, so he tried to work out an equitable deal between both of us. . . .” 188

“Our interests didn’t have to be contrary in this. The Fallon Tribe really saw this as a point of opportunity. The Fallon Tribe, of course, had a settlement before and had various things happen before and they were never able to get Congress to actually carry through . . . we really didn’t want to harm them in any way. But then the Fallon Tribe decided that they were going to jump in on the side of T-C-I-D and really came after the Pyramid Lake Tribe on behalf of T-C-I-D . . .” 189

“We were the underdog being beat up by all these big white guys, and we were going to find some way to win . . . And along comes the Fallon Tribe, who is even a smaller guy, and wasn’t only being beat up by all these big white guys, but was now being beat up by this big brown neighbor of theirs, Pyramid Lake. And they went after us pretty hard. . . .” 190

There Was Controversy at Tribal Council Meeting Because of Relatives of the Fallon Tribe, and Pyramid Lake Tried to Talk to the Fallon Tribe 191

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Several old women from Pyramid Lake “. . . had gone down for a funeral. It was a hot day and they were thirsty and they wanted just a glass of water, and somebody said, “You’ve got all the water, go home and get it.” And I got word of that, and I didn’t like that at all. . . . we had tried very hard to address the Fallon problems . . . come up with some sort of mutual arrangement so it didn’t harm us. But they continued to go against us, and then when I heard about this, and then at that time there was also these public meetings that we were having and people were jumping up on behalf of the Fallon Tribe, this became a new issue for the dissidents. . . .” 193

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“Now we looked at the Fallon Tribe as just an extension of T-C-I-D, and they decided that they wanted money

more than water, and so we decided that . . . somehow we could find some way to allow the Federal Government to give them money in exchange for water, and that means that they wouldn't develop beyond what they are already . . . And they were quite happy and content with that as long as they were able to receive money. . . ." 195

"I don't think that they fully understood what they were doing. In fact, I know they didn't fully understand what they were doing. They had very poor consultants and legal advice at that time. But they were adamant . . ." 196

"My understanding is that about three years ago, they realized what they did. . . . We could have helped them. We, in fact, tried to help them. They chose to harm us . . ." 197

Wetlands Restoration and the Support of the Environmental Community 198

". . . in the very beginning we had very little respect for ducks or wetlands or any of that. . . . But we realized in the middle of negotiations that there was no way we were going to get beyond the environmental community or

- gain any environmental support
unless we also supported the
wetlands. . . .” 198
- Wanted to Work with the Environmentalists
Instead of Opposing Them 199
- “ . . . we had this huge, deep pool of water
out there called the Newlands
Project, and as long as we get our
water and there’s still water left so
they can take their water from this
deep pool to . . . the wildlife refuge,
then why not facilitate that? . . .”
. 199
- “ . . . we were able to work that through, and
it was uncomfortable for the
environmentalists, too, because here
they were taking water away from
fish who they’re also supposed to be
in support of on behalf of the ducks,
so we were both uncomfortable, so
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we could both live with . . .” . . . 200
- “ . . . the *cui-ui* restoration plan, if there’s
water necessary over and above
what’s allocated in the bill, it
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from the Newlands Project for the
fish. . . .” 200
- “ . . . we came up with an X amount water
that would be purchased from the

Newlands Project to go out to the ducks. Up until that time, the Stillwater Wildlife Refuge was in bed with the farmers . . .” 201

“ . . . when the drought came along and there was less and less water, more and more concentration of toxins in that water, and the result was all the fish and dead ducks out at Stillwater, they started to realize that what they needed was not more return flow, they needed more fresh water. . . .” 201

“ . . . I think it’s going to be a fairly small project when it’s all over. . . .” 202

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“I think the only difference that exists between the Bureau of Reclamation today that didn’t exist there in 1905 was that they don’t have nearly as much power in the Department of Interior as they used to. But the

mind-set, I haven't seen a difference.
I don't think a difference exists. I
work with them all the time. . . ." 206

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the Process 209

Other Important Elements in the Passage of Public
Law 101-618 210

TCID “. . . fought until the very end to try to
get the thing killed. They didn't
stop. I mean, they certainly lived up
to their billing about trying to be
obstructionists. . . ." 211

“. . . they need to get this thing
implemented. And as far as I'm
concerned, it should be implemented
right now, 100 percent. It should be
fully implemented at this point, and
it's not. And it needs to be
completed. . . ." 211

“. . . the tough parts were the hearings, the tough
parts were the process, the tough parts were
getting people to the table. . . ." 212

“. . . I think it's a good settlement. I think it
provides the tribe with a water source for the
fish. It provides for timing of the fish. It
provides economic development money. I
think it provides partnerships with the
outside that they didn't have before. . . ." 213

“I think the tribe now has all of the tools that I talked about earlier . . . all of the tools that’s necessary to build its future. . . . the *cui-ui* are going to be delisted soon. I mean, that should be is the next process. The next thing, there should be economic development on the reservation. . . . There should be prosperity out there. I mean, the tools are there to make it happen, and rather than spend now the next ten, fifteen years on Settlement Two and Settlement Three and Settlement Four . . .” 213

The Need to Now Implement Public Law 101-618 215

“It was funny that when we were negotiating this, we hardly ever had any Federal representative, except for USBR But as soon as it was passed, and then the smell of money, you know, filtered its way down through the Department of Interior, I remember the last meeting that I attended in regard to the settlement before I left being chairman, there were about fifty Federal representatives at that meeting. . . .” 216

Fred Disheroon 216

“But when it was all passed, you know, they all showed up, and I just thought, “Look at this. It’s a free lunch, and

everybody’s on the bandwagon now, and this is almost a guarantee that it will never be implemented,” because you get too many of these guys in the room, and they’ve got all their papers and policies and processes. . . .” 217

“ . . . during the process, the Federal Government had just passed their criteria for settlement and negotiations, and we slipped in underneath it. So we didn’t have to abide by, you know, where you have the Federal negotiating team, and you have to go through that whole process. . . . And it hampers the process substantially. . . .” 218

“And the whole idea behind the criteria was to limit the amount of exposure, in other words, the amount of money the Federal Government had to pay. . . .” 219

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The Tribal Council’s Role in the Settlement Legislation 223

“I think that the Tribal Council did a good job during this process. They were very supportive. It was tough. They made tough decisions. And one thing that’s real important is the council made some very tough and difficult decisions, and ones that

weren't popular. . . . because in that last election, a lot of them lost. . . ." 224

“. . . about a year after I left office, they did have a vote on it. They had a referendum, and it passed by over two-thirds. And so we obviously delivered what they wanted, and they obviously paid attention . . .” 225

Success of the Settlement Legislation 226

Views on What a Negotiated Settlement Is about 226

“. . . you have to realize that there's compromise, and that people have to be happy with it. The tribe has to be happy with it. The states have to be happy with it. All the elements—all the Reno and Sparks, and Sierra Pacific—they have to be happy with this particular piece, because if they're not, it'll unwind. At some point, it'll unwind. We always approached it from that standpoint. . . .” 227

“I don't know of anybody who's gone through the settlement, with the exception of the Fallon Tribe, who is now unhappy with it. And even from their side, they had so many warnings, and they walked into it with both eyes open . . .” 227

“I think the only one who wasn't happy was

T-C-I-D, but they're not part of that agreement. I don't think they'll ever be happy. . . ." 228

"As far as my dissidents were concerned, they weren't happy all the way up to the very end. They were very happy to see me go. They were never happy. If I had to lay a paycheck on it, I doubt that they'll ever be happy. . . ." 228

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Introduction

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

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

In the case of the Newlands Project, the senior historian consulted the regional director to design a special research project to take an all around look at one Reclamation project. The regional director suggested the Newlands Project, and the research program occurred between 1994 and signing of the Truckee River Operating Agreement in 2008. Professor Donald B. Seney of the Government Department at California State University - Sacramento (now emeritus and living in South Lake Tahoe, California) undertook this work. The Newlands Project, while a small- to medium-sized Reclamation project, represents a microcosm of issues found throughout Reclamation:

- water transportation over great distances;
- three Native American groups with sometimes conflicting interests;

- private entities with competitive and sometimes misunderstood water rights;
- many local governments with growing 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.

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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Oral History Interview
Joseph (Joe) H. Ely

Seney: My name is Donald Seney. I am with Joseph Ely. Today is May 20, 1996, and we're in his office in Mesa, Arizona.

Good morning, Joe. What we want to know about is your own life. Why don't you give us not-too-brief a biography. You were born on the Pyramid Lake Reservation?

Born in Reno, Nevada and Raised on the Pyramid Lake Paiute Tribe Reservation

Ely: I was born in Reno.

Seney: That would be the Indian hospital, wouldn't it?

Ely: No, I was born in Reno, I think it was at Washoe Medical. And then I was raised on the reservation. I spent most of my youth there.

Seney: What's your first memory of the reservation?

Ely: Probably clearing willows off of the field that my dad was trying to put in. [Laughter] That's about it. Pretty uneventful or nothing out of the usual type of childhood, just hanging around the river bottoms fishing and chasing critters, things of that

nature, the usual things with friends, you know, taking bicycles down hills as fast as you can go, those types of things, but not much beyond that. I spent most of my time on the river.

Seney: Did you get a sense that growing up on the reservation was different, say than, growing up in Fernley, the closest small town to you?

“... when I grew up it was even more rural than it is now, of course, there were a lot less houses, and there were not a lot of modern amenities that people are used to. I still remember going to the outhouse in the middle of the night . . .”

Ely: Well, the reservation is a lot more rural, and when I grew up it was even more rural than it is now, of course, there were a lot less houses, and there were not a lot of modern amenities that people are used to. I still remember going to the outhouse in the middle of the night and things of that nature. So there wasn't a lot of running water, and electricity was pretty new to the area, those types of things, so it was rural from that standpoint. Also, it was kind of a ranching area so everyone got around on the back of a horse, so we did a lot of that, walking around, those types of things. So I imagine it was a lot more rural than the Fernley area, that was considered “town” to us.

Seney: I should ask you, how old are you? When were you born?

Born in 1957

Ely: I was born July 3, 1957. I'm thirty-eight.

Seney: But things have changed considerably on the reservation now in terms of electricity and indoor plumbing.

“ . . . by the time I was in . . . first grade . . . the modern era was coming in . . . ”

Ely: It's very modern, in fact, I would say by the time I was in school, first grade, just about everybody had electricity. Running water was still pretty much a luxury because Indian Health Service had put in pumps outside of the houses and people would go out and pump water into the bucket and then bring it into the house for water, but the modern era was coming in with a vengeance.

Seney: What I am trying to get at, I guess, is it different growing up as an Indian? Did you feel a difference? And if so, how?

“ . . . I spent most of my time at the river when I wasn't working. I was raised on a ranch and so we had a lot of ranch work to do . . . ”

Ely: Well, I really don't know whether anyone is aware that they are a particular race when they are only growing up around their race, so we did the same thing I imagine that everybody else did off the reservation. We just tried to find a way to occupy our days and have some fun, and it just happened that I lived very close to the river, so I spent most of my time at the river when I wasn't working. I was raised on a ranch and so we had a lot of ranch work to do, but everything else was pretty much the same, we banged on top of the TV to make it work and hoped that the good shows came on, the usual.

“I was always aware that I was Indian . . . but I wasn't aware that there was anything terribly different between us and anybody else until I left the elementary school. . . . junior high, I had to go to Fernley . . . at that point we mixed in with non-Indians, and I became acutely aware that I was Indian. . . .”

I was always aware that I was Indian because our dad was very strong on that, my mother was as well about teaching us about our background, but I wasn't aware that there was anything terribly different between us and anybody else until I left the elementary school. Our elementary school went from first grade

through sixth grade, and seventh grade, which was junior high, I had to go to Fernley, that was the closest, and then at that point we mixed in with non-Indians, and I became acutely aware that I was Indian. [Laughter]

Seney: Talk about that a little bit.

“I think the biggest difference was that they seemed to be at least more gentle in the way that they played and conducted themselves. . . . and it was a lot more diverse. . . . We were a little more down-to-earth . . .”

Ely: Oh, it was different. I think the biggest difference was that they seemed to be at least more gentle in the way that they played and conducted themselves. We were more rough and tumble, and growing up in the elementary school, we spent a great deal of our time wrestling and playing tackle football and things of this nature, whereas when we went to the non-Indian school, we found that you weren't allowed to do that and everybody had different interests and it was a lot more diverse. That was probably the biggest difference, and they just seemed to live different. They just seemed to do things different than we did. We were a little more down-to-earth and a little more earthy people, I think.

Seney: By the way, your father is not a Pyramid Lake Indian, am I right about that?

Dad Is Winnebago and Mother Is Pyramid Lake Paiute

Ely: My Dad is a Winnebago, from Nebraska.

Seney: But your mother is a Pyramid Lake Indian?

Ely: Yes.

Seney: And as a result of her, you belong to a certain lineage, a group of Indians as a family?

Very Proud of His Family's Lineage Which Traces Back to Chief Numaga and Sarah Winnemucca

Ely: Yes, my mother's mother, who is my grandmother, Josephine Natchez, is direct lineage from Numaga who was the chief. In fact, he was the chief during the 1860 wars, which were pretty famous. And the name has changed over the years, Numaga to Winnemucca to Natchez, there are various changes in names, but we are a direct lineage back to that particular family, so we have always been pretty proud of that. Sarah Winnemucca is the great, great, great grandmother, I believe, and you continue it back, and Chief Newmagga would be several greats on

the grandfather's to Sarah side. So, yes, we are part of that family, part of that heritage.

Seney: And it doesn't matter that your father is from another tribe, is a Winnebago Indian? I mean, there is no prejudice about that kind of thing on the Indian reservation, or is there?

Issues about Having Mother and Father from Different Tribes

Ely: None that I want to talk about.

Seney: Okay. Let me see if I can get you to talk about it in another way. [Laughter] See if I can weedle something out here. I am only asking because I have talked to other members of the tribe and I know that your situation is not unique, that there are those where one parent is a Yurok, so it is not unique, I mean, the supply of full-blooded Indians is limited.

Ely: That is true, and it's not unique that there are reservations with either the father or the mother from a different reservation. And it is pretty well accepted, there is usually no difficulty. There's political differences, of course, you don't have the same privileges because you're not a member of that tribe.

“There are underlying prejudices as well, but you would have to be there for a while to understand what they are and know what they are. . . .”

There are underlying prejudices as well, but you would have to be there for a while to understand what they are and know what they are. That’s the way it is for many places. If you happen to be a kid who’s from Brooklyn and some kid moves in from Queens, you’re never quite thought of as quite of the same stature. So I don’t know if it is so much a racial difference or just a cultural difference. My dad is well accepted and well respected on the reservation.

Seney: Was he ever elected to Tribal Council? Could he be?

Ely: No, he couldn’t be.

Seney: He couldn’t be, but there’s no problem with your being elected?

Ely: No, I am a tribal member.

Seney: Because your tribal membership comes through your mother?

Ely: That’s correct.

Seney: If your mother had been the Winnebago and your father a Pyramid Lake Indian, would that be the same thing? Would your standing be exactly the same?

Ely: It would be the same. It would just depend on where you enroll at.

Seney: Enroll meaning?

“At Pyramid Lake it is more of a political designation than a racial designation. You have to prove direct lineage. If you are a direct descendant of an individual who is already a member, then you are automatically a member. You just go through the paperwork process. . . .”

Ely: Where you’re enrolled as a member, which tribe. At Pyramid Lake it is more of a political designation than a racial designation. You have to prove direct lineage. If you are a direct descendant of an individual who is already a member, then you are automatically a member. You just go through the paperwork process.

Seney: I see. So your children could be members, or maybe they are members?

Ely: Yes, my children could be members, and their children and their children. And it doesn’t matter

whether you are 100 percent Pyramid Lake Paiute, or you are 100th Pyramid Lake Paiute, as long as you can prove direct lineage. So it is a political lineage.

Seney: Linked by blood?

Ely: Linked by blood.

Seney: Your wife could not be a member.

Ely: No.

Seney: Because there is no blood tie.

Ely: No.

Seney: Okay. Talk a little more about the reservation. How long did you live on the reservation?

Ely: I lived there . . .

Seney: As you know, what I am trying to do here is get you to convey to us a sense of what it means to be a Native American.

Ely: That's funny, I'm a Native American this week,

Seney: I'm sorry, maybe I'm using the wrong term.

Ely: No, you're not using the wrong term, I just think it's ridiculous how the terms change every week. [Laughter]

Seney: Yes, well you know, in my position you have to tread very lightly with these terms.

Ely: What are we called this week? [Laughter]

Seney: But, you know, we've talked about this before the tape was on, what I am trying to get you to convey is the type of cultural perspective of the tribe toward the water and toward the fish. We need to work that in at someplace. If this is the right place, then that's fine. If later on you think it makes more sense, that's all right, too.

The Controversy over Water for the Pyramid Lake Paiute Tribe

Ely: I don't know exactly how to work it in. For me personally, the water controversy has always been there from the time I was a kid. This controversy goes on much longer than my life, and so it has always been there. The water controversy has always been there.

“ . . . I remember standing outside a few of the council meetings when I was a kid, and hearing them *screaming* inside about water, and so I knew

that the controversy was always there. I wasn't sure why. . . ."

For whatever reason, I remember standing outside a few of the council meetings when I was a kid, and hearing them *screaming* inside about water, and so I knew that the controversy was always there. I wasn't sure why.

I was raised on a ranch, so from our perspective, somehow the lake existed and we never questioned that. Water came down the river and it went to the lake, and I wasn't around when it was very high so I didn't know how far it had dropped. I didn't know all of those situations, all I knew was that the lake was there and we appreciated it, it existed, we used it, and it was our lake. But water, from the youngest age, from my perspective, was water that you diverted from a ditch and you put on a field and you didn't grow your crops unless you had water on that field.

"I think that helped later on, because I understood . . . when the ranchers and the farmers . . . who . . . didn't care about fish, about water for those purposes, I could understand what they were talking about. . . ."

I think that helped later on, because I understood that, when the ranchers and the farmers [on the

Newlands Project]¹ who didn't care about fish from off the reservation, they didn't care about fish, about water for those purposes, I could understand what they were talking about.

1. 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.

In an effort to conform to standard academic rules of usage (see *The Chicago Manual of Style*), individual's titles are only 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." 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 would appear as AID but spelled out it would appear as A-I-D.

Importance of the *Cui-ui* to the Pyramid Lake Paiute

But from our standpoint, there were several things that were important. One is that the lake is extremely important from the standpoint that it was there, it existed just for its own existence and from the fact that anyone could go out and use it.

“ . . . once a year we had the *cui-ui* run, and that was the time that everybody talked about. . . . there are particular times of the year where people get together and that is the part of the year that they look forward to. . . . ”

But it was also important because once a year we had the *cui-ui* run, and that was the time that everybody talked about. I don't know what you would equate that to today, but there are particular times of the year where people get together and that is the part of the year that they look forward to.

Well, part of the year that we looked forward to was the running of the *cui-ui*, and people would look for certain things to say, well it looks like spring is here, the flowers are starting to bloom, and the water is running down the river, and now the *cui-ui* should be coming up pretty

quick, and everyone would watch, and then you'd hear news, and you'd ask people "Are the *cui-ui* running?" My dad would come home, or my uncle would come over and say, "Somebody caught some *cui-ui* last night," so you knew that the run is on. And you had to get your act together, because it lasted only a few weeks.

Seney: The *cui-ui* are deep dwelling fish normally, are they not?

The *cui-ui* "... hold out in the lake, in the deep recesses of the lake, and you only see them once a year and that's when they spawn. . . ."

Ely: They're deep and they hold out in the lake, in the deep recesses of the lake, and you only see them once a year and that's when they spawn.

"There wasn't a lot of discussion about, you know, this is our mainstay fish, and this is our tradition, and all of that. A lot of that you just accumulate over the years. . . . it's just what you did, you waited for the *cui-ui* to run. And everybody got excited so you got excited, too. . . ."

There wasn't a lot of discussion about, you know, this is our mainstay fish, and this is our tradition, and all of that. A lot of that you just accumulate

over the years. And at certain points you ask, well, is this significant or is this not significant? But for us it just was, it's just what you did, you waited for the *cui-ui* to run. And everybody got excited so you got excited, too.

“ . . . people would go down to the mouth of the river and fish, and there'd be various fisherman along the lake and the river would come in and all along the two sides of the Delta there would be fisherman. Some of them would be using fishing poles and some would just be using a line. . . .”

And so people would go down to the mouth of the river and fish, and there'd be various fisherman along the lake and the river would come in and all along the two sides of the Delta there would be fisherman. Some of them would be using fishing poles and some would just be using a line. Some would use the parachute cord with the big treble hook at the end of it and swing it out like a rope and throw it out there and then just jerk it back in and roll it around their hands and jerk it back in and roll it around their hands. I remember that because I remember that in those days a lot of the men wore khaki pants and wore the Fedora-type hats, and you'd see the khaki pants and the Fedora-type hats and the work shirts rolled up, and they'd all be wet because the water would be halfway up their thighs as they were

wading out in the water trying to catch *cui-ui*, and they'd just drag them in and they would throw one on the shore.

“The shoreline was full of old women who would be in little groups and they would filet the fish and clean them and put them in gunny sacks or plastic bags and get them ready to transport back to the house. It would just be a festive time . . .”

The shoreline was full of old women who would be in little groups and they would filet the fish and clean them and put them in gunny sacks or plastic bags and get them ready to transport back to the house. It would just be a festive time, very festive, and people would get together, and those who didn't get along—because not everybody got along, but they'd get along during that time and they would have their groups that they'd be with, and they'd be talking, and you'd get tired of fishing and put down your pole and go by the fire and warm up and then go back out there.

Sometimes there were fires and sometimes there weren't, and the old ladies would be gossiping or whatever is it that they do, and it would just be a real joyous time. It would last for about two or three weeks and then it was gone. And during that period you ate a lot of *cui-ui* and

you saved as much as you could. And so that was always a big event, so that was the big encounter with the lake. That was the big significance of the lake.

Trout at Pyramid Lake

Then the rest of the year, of course, people fished out there and they swam at the lake, but from the time I was young there wasn't a lot of trout in the lake—there were some.

“ . . . I remember trout fishing one year when the fish ran up the river and we saw the big fish . . . jumping over the [Numana] dam . . . ”

And I remember trout fishing one year when the fish ran up the river and we saw the big fish in the river, we'd go to the dam by our house. Numana Dam is about two miles from where I was raised on the river, and we'd walk up to the dam. It was our usual haunt. We loved to walk up to the dam anyway to find whatever critter we could to capture or do something with, usually kill and eat

But we went up there one day and we saw these fish jumping over the dam and they were big trout, oh, I don't know, two to three feet, yes, about twenty-five inches, and they would jump and hit the top of the dam and they would try to

swim up and some would make it and some wouldn't and we said, "You know there's trout there, so we might as well catch them," so we would go home and either get worms, or, I remember by dad would smoke a pipe, so he would give us his pipe cleaners and we'd wrap them around a hook, but before we would wrap around a hook, we'd put horse hair we'd pull off the fences, from the horses rubbing on the fences, and their tail and all that stuff would be there, and we would tie that onto the hook and then we'd wrap the tobacco pipe cleaners around it. We'd take those down and we'd catch trout, catch two or three of them, and that run wouldn't last very long. We'd catch those fish, so that was going on at I'm not sure exactly what time in comparison to the *cui-ui*, because that only happened one or two years that I remember when I was a kid, the *cui-ui* run happened every year.

And so for me and a lot of the boys that were around there, and I assume it must have been carried on for generations, there was a real tie to the lake in terms of fishing and a real tie to the river. The river, we'd spend the rest of our time just catching minnows and things of that nature.

"The first real indication that I had that something was wrong on the river was when there was a hepatitis outbreak. . . ."

The first real indication that I had that something was wrong on the river was when there was a hepatitis outbreak.

“ . . . up until that point we drank out of the river. We didn't know that Reno was dumping their sewage in the river . . . ”

And up until that point we drank out of the river. We didn't know that Reno was dumping their sewage in the river, we didn't know that. As far as we were concerned, as far as we could walk, there weren't any towns, and we never made the connection, even though Reno was on the river. People just didn't do that you know, but obviously they were. So we used to drink water out of the [irrigation] ditch and out of the river, we'd get tired, and no one carried water. You just stuck your mouth in the water and drank water out of the river.

And there was a hepatitis outbreak one year and I'm not sure what it was caused from, cows dying in the river or something upstream, but we realized that year that, I don't know how old I was, nine or ten, we realized at that time that the river could transport bad things and that it wasn't good to drink out of it anymore and it wasn't clean. So I think that was our first

memory that something was wrong with the river, that it was just dirty. So after that, nobody drank out of the ditches, but we still were in it all the time, we were grey all the time from being in the river. [Laughter]

I think everyone had that sense of the necessity of water and the necessity of the river, all for different reasons except for the communal reasons. The community reason for it was for the *cui-ui* and the fishing that happened during that particular time, and then the rest of the time it was a place for all the kids to go and people to go. As far as my involvement in all of this . . .

Seney: Before we get to that, why don't you tell me a little more about your own life as you progressed and left the reservation, and then came back to the reservation to take part in all of this.

Leaving the Reservation, Starting a Family, and Going to Work

Ely: Well, I left the reservation just prior to getting out of high school. I went to high school, which would have been my last year of high school, in Reno, but I didn't finish.

Seney: Why was that?

Did Not Finish High School

Ely: I went to work. I never saw much point in it. I always thought school was pretty boring and I never liked the confinement of the classroom. I always thought that it was a little bit redundant, and I just didn't get the point. The things that I wanted to learn I learned, and if I wanted to learn it any further, I'd go to the library and I'd read about it and then I'd go out and try it out and learn by experience. But most of the stuff that was in high school, I just didn't care for, it just didn't do anything for me, so I was just bored. And it was easy, I made honor roll a couple of times when I was at Fernley High, and it wasn't hard, you just applied yourself and you got your homework in, you participated in class and, boom, you were on the honor roll, and big deal. The rest of the time it was pretty boring so what was the point?

I moved to Reno and started to finish high school there and I left high school and went to work, and then I met my wife and we started a family.

Seney: How old were you when you got married?

Ely: I was eighteen. I started a family and moved back to the reservation for a while and I started

working in the fisheries for a while. I left the reservation again and moved back to town and I worked in town for a while doing maintenance work, just different types of work, whatever I could get. That was another thing, work was wherever I could get it. I had other things to do. Work was a means of obtaining an income, but beyond that it wasn't anything, I wasn't thinking of a career or anything like that.

Worked as a Cowboy

Then I moved up north for a while, cowboied for a while.

Seney: You liked that, I know

Ely: Yeah. I was in Paradise Valley for a while and cowboied up there for a while and buckarooed up there. I liked it, but my kids got older and they needed to go to school, and we needed to get into a place that was closer, and also it just didn't pay very well. It still doesn't pay very well. It's a good way to make a living. I really thought that I was going to stay in that for the rest of my life. I was very happy with it. I thought that I'd stay just buckarooing. I liked the work and we liked living on the ranches, and you know, you don't have the responsibility of owning the business, you just worked and did a good job and they

rewarded you fairly well for it.

The way ranches work is you don't get a lot of money in your pockets. You get room and board and all those things that they can provide you, and then they give you a certain amount of money on top of that, but it is just barely enough to raise a family on.

Applied for a Home on the Pyramid Lake Paiute Reservation

We were actually thinking of moving to another ranch when we found out that we had—we applied for a home, because everybody applies for a home on a reservation. You put your name on a list and eventually your name comes up and you get a house. We were thinking about moving to another ranch in Idaho or Oregon, and we got a letter from the Tribe saying that I had a house on the reservation.

Moving Back to the Reservation and Working for the Tribe Making a Language Glossary

So we called and confirmed it and found out what our house payment would be. So we moved back to the reservation.

Seney: I'm trying to get a time sense. How old were you

at this point, when you moved back?

Ely: Twenty-two or twenty-three, somewhere in there. Maybe twenty-three. We moved back to the reservation and moved in the house, and I immediately went looking for work at the local ranches. I wanted to go continue cowboying for a living, but they paid a whole lot less than they paid up north, and there was just no way I could make a living at that, and so I went back to work for the tribe.

Seney: What did you do for the tribe?

Ely: At that time I went to work for the high school.

Seney: Did the tribe have its own high school now?

“ . . . they wanted somebody to put together a glossary for them. I had done this type of work when I was in Reno, I had done a lot of research and I had a real good rapport with a lot of the older folks on the reservation. . . . I worked on a history project two years prior to that. . . . ”

Ely: The tribe had its own high school at this time, and they were trying to preserve the language, the Pyramid Lake Paiute language, and they wanted somebody to put together a glossary for them. I had done this type of work when I was in Reno, I

had done a lot of research and I had a real good rapport with a lot of the older folks on the reservation. I had grandmothers and grandpas and extended family, and I got along real well with them. I'd always taken notes about the language and different things and I worked on a history project two years prior to that.

“ . . . the high school was looking for somebody and they came by and they asked me if I'd do the work. I was very reluctant . . . didn't want to sit behind a desk . . . but there was just limited amount of work out there. So I met with them one day and laid out some terms and conditions. I really thought they'd tell me to take a walk after they heard my terms and conditions, but they said 'Okay.' . . . ”

So the high school was looking for somebody and they came by and they asked me if I'd do the work. I was very reluctant, I didn't want to do it.

Seney: This was quite a switch from buckarooing, isn't it?

Ely: Right, and I didn't want to sit behind a desk and I didn't want to do any of that. I just wanted to stay outside, but there was just limited amount of work out there. So I met with them one day and laid

out some terms and conditions. I really thought they'd tell me to take a walk after they heard my terms and conditions, but they said "Okay."
[Laughter] It was pretty simple. I just said, "I don't want anybody bothering me, I don't want anyone asking me about my time, I don't want anyone to keep my time. You tell me when you want a product and I will deliver a product, and I want my payment on time, period. And if you don't like that, and if you can't handle the gossip and controversy that's going to be surrounding that, because everybody is going to wonder where I'm at, and why isn't he at work today, and all that kind of stuff, then don't bother hiring me."

Quit Work after a Year and a Disagreement with the Principal

Well, they hired me. So I went about putting together a glossary for them, and I think it was about a year later I finished it, surprised them, in fact. [Laughter] I finished the glossary. I had an argument with the principal at that time, who really didn't think that I was going to finish the product, and the year prior to finishing it and the time it took me to do it, I had many discussions about copyright and I said, "I want to discuss the copyright with you," and they said, "We'll talk about it later, we'll talk about it later."

Copyrighted the Language Glossary in His Own Name

So just before I sent it off to Library of Congress, I said “Let’s discuss this copyright,” and they said “Ah, we don’t care, you go ahead and have the copyright done.” So I said “Okay,” so I sent it on in and I got the copyright. I produced the amount of books they wanted on their contract and gave it to my boss who took it in front of them, “Here they are,” and about three days later they came back and wanted more books, and I said, “Fine. Now you’ll buy them from me.” [Laughter] And they said, “Well, wait a second, we paid for this whole process, and it should be ours.” And I said, “Well, I tried for a year to talk to you about the copyright and you didn’t want to talk about the copyright, and finally you blew me off and said, ‘Go ahead and take it,’ and so I did.”

“Because I had years of research prior to coming there. I figured I’d make a fifty-fifty split. . . .”

Because I had years of research prior to coming there. I figured I’d make a fifty-fifty split.

So he threatened to make some copies and told me I could sue him, and so I decided I didn’t want to work for him anymore.

Seney: Was he an Indian or non-Indian?

Working for the Tribe's Planning Department

Ely: He was a non-Indian. So I was out of a job, and I did some construction work for a while, and after I finished with that, the tribe was hiring somebody to work in the Planning Department, so I went to work for them.

Seney: What does it mean to work in the Planning Department for the tribe?

Ely: Well, I came on for very specific reasons. They needed somebody to do the leg work in the Planning Department. In other words, they had a planner and I was to be the planner's assistant and supervise some of the small jobs that they had and things of that nature.

Variety of Work Experience When Away from the Reservation

Prior to that, I worked as a police officer in Reno for a while, too, so I had gone to the U.S. Police Academy during this period of time, so I had a little bit of education and I had a little bit of work out there, and I also did some work, I managed a parts department of a large auto parts store, and I also managed their service

department. So I had accumulated all these little things, types of work and experience, I didn't think it amounted to much, I just did it.

Seney: Let me turn this over.

END SIDE 1, TAPE 1, SESSION 1. MAY 20, 1996.

BEGIN SIDE 2, TAPE 1, SESSION 1. MAY 20, 1996.

“So I did work in other areas . . . so I'd worked for different places and done different things, and some of the places lasted ten months and some of them lasted three months, and some of them lasted a year . . . but I had a real low threshold for boredom. I usually progressed very fast and I'd go from the bottom to somewhere in a management position fairly quickly. . . .”

Ely: So I did work in other areas, I guess is what I'm trying to say, because I'd been working. Prior to getting married, I quit school, so I worked, and so I'd worked for different places and done different things, and some of the places lasted ten months and some of them lasted three months, and some of them lasted a year, and those types of things, but I had a real low threshold for boredom. I usually progressed very fast and I'd go from the bottom to somewhere in a management position fairly quickly. I guess I was just ambitious. I didn't know I was ambitious, I just figured that's

what you did. You went to work and you delivered a product.

“ . . . once I’d get to a certain point, I’d run smack into the wall of no more progress without a degree, so I’d become bored with whatever it was and I’d quit and do something else. . . .”

But anyway, once I’d get to a certain point, I’d run smack into the wall of no more progress without a degree, so I’d become bored with whatever it was and I’d quit and do something else.

“I started out putting together an irrigation project. . . .”

So when I went to the Planning Department, I had all these snippets of experience, a little bit of management, a little bit of this, a little bit of that, and so they asked me to do some work there. I started out putting together an irrigation project. At that point, the tribe had an irrigation project that was run by the Bureau of Indian Affairs, and I thought it was run pretty inept, and the Bureau did, too, they didn’t think it was being run very well, and they wanted another one, and the ranchers wanted to have another program that was better. So we said, “Hey, we can do it. We’ll do it better.”

So the planner said, “All right, Joe, you do it, put it together,” so we did. We got all that put together, and put together an irrigation system in it, the management for it and the whole thing, and had it on the ground and running that same year. So I did that.

“ . . . we had just had a big flood and the flood had taken a lot of acreage away from the ranchers . . . eroded a lot of that land away, and I wanted to find out how we could stop that erosion . . . ”

While I was doing that, the issue of water came up again and it came up mostly in terms of the river. The river at that time, we had just had a big flood and the flood had taken a lot of acreage away from the ranchers because it had whipped back and forth during the flood and eroded a lot of that land away, and I wanted to find out how we could stop that erosion.

Talked to Experts about the River and How to Correct Problems with it

So I spent a lot of time with the Bureau of Indian Affairs and their engineers trying to figure how to do that.

Channelization of the River by the Corps of Engineers Caused Problems on the Reservation

While I was doing that, I learned about the other aspects of water, why it was doing that and it was doing it as a result of the Army Corps of Engineers coming in the early sixties and straightening out a river channel which is a meandering bends. I started talking to geomorphologists to figure out why rivers ran the way they did run and why if you have a stretch of river that's five miles long because of a meandering bend and you reduce it to three miles because you make a straight channel, that it's only a matter of time that it's five miles long again because that energy has to go somewhere.

Lowering the Vista Reefs to Protect Reno and Sparks Resulted in Problems on the Reservation

I also found out that they did it as a result of lowering the Vista Reefs. They call them the Vista Reefs, which is just outside of Sparks, out of the city of Reno-Sparks. They lowered those reefs so that the water would drain through Reno more quickly and wouldn't flood downtown Reno, since Reno is built on a flood plain, and the result was they would send this big torrent of water down to the reservation which would flood out the reservation. So in order to eliminate the flooding on the reservation, they made a straight channel so it would go straight to the [lake.] ~~river.~~

Seney: So it would go straight to the lake.

Ely: Straight to the lake. Now, with the fact that the water that the lake was receiving was half of what it received at the turn of the century, or at least around the 1930s—actually it was the turn of the century because that was when Derby Dam was built—that that resulted in the lake’s elevation dropping, so now you had water unrestricted flowing through Reno-Sparks as fast as it could go, going to a lower level so you had this big river coming down which created a siphon, and when there was any water in the river at all, it would just whip because you had it shooting down into the lake and it was causing all these farmlands to erode.

Asked Attorneys about Water Issues

Well, in the middle of all of that, I started to ask questions about other water. I got to be a real nuisance, in fact.

“ . . . I’d ask them, ‘What’s the problem with the water? Why don’t we have this thing solved? This couldn’t be that complicated.’ . . . I mean, until the day the bill was signed, I was still convinced that this was not that big a problem. . . .

I would go to attorneys who worked for the tribe

before, or attorneys that were working there currently, and I'd ask them, "What's the problem with the water? Why don't we have this thing solved? This couldn't be that complicated."

[Laughter]

Fortunately, I was naive throughout the entire process. I mean, until the day the bill was signed, I was still convinced that this was not that big a problem.

Seney: You mean Public Law 101-618.²

2. Public Law 101-618 became law on November 16, 1990. The law contains two acts: The Fallon Paiute-Shoshone Tribal Settlement Act and the Truckee-Carson-Pyramid Lake Water Rights Settlement Act. The main topics of the legislation are:

- Fallon Paiute-Shoshone Tribal Settlement Act
- Interstate allocation of waters of the Truckee and Carson rivers.
- Negotiation of a new Truckee River Operating Agreement (TROA)
- Water rights purchase program is authorized for the Lahontan Valley wetlands, with the intent of sustaining an average of about 25,000 acres of wetlands.
- Recovery program is to be developed for the Pyramid Lake cui-ui and Lahontan cutthroat trout
- The Newlands Project is re-authorized to serve additional purposes, including recreation, fish and wildlife, and municipal water supply for Churchill and Lyon Counties. A project efficiency study is required
- Contingencies are placed on the effective date of the legislation and various parties to the settlement are required to

(continued...)

“The water was there, the engineering was there, the technology was there. All it was was these people who didn’t want to get along, that were causing these problems. . . .”

Ely: Right, that this could be resolved. The water was there, the engineering was there, the technology was there. All it was was these people who didn’t want to get along, that were causing these problems.

Seney: Well, if you hadn’t believed that, it wouldn’t have gotten resolved.

Ely: Right. So I always thought we could get this done. We’d do this, this, this and this. It was sort of like, I don’t know if you ever played high school basketball, but I was always astounded that I’d be in a game where were eight points down, and there was a minute left, and our coach would call a time out and call us over there and say, “All you’ve gotta do, is when they pass the ball, you steal it. It takes five seconds. You steal the ball, you go down, you make a basket. Then when they pass the ball again, you steal it again, you get the ball. Now you’re only four points down. This

2. (...continued)
dismiss specified litigation.

Source is: http://www.usbr.gov/mp/lbao/public_law_101-618.html
accessed on December 7, 2011, at about 2:00 in the afternoon.

time, even if you let 'em go all the way down, you get the rebound, you bring it back up, and we call a time out and we've got forty-five seconds."

And they would map out the whole thing for you and say, "You've got plenty of time, just do it."

And I was always amazed that if we did what he said and things fell into place, we played the right defense, we would win the ball game.

"... I was always convinced that ... if you just did this, and did this ... you'd solve it. ... I worried attorneys because I would ask a lot of questions, and I just wanted to figure out what was going on. ..."

And I was always convinced that this was certainly the same way. Well, if you just did this, and did this, and did this, and did this, you'd solve it. I was told by everybody that that was far too complicated, to have a resolution that quickly. I worried attorneys because I would ask a lot of questions, and I just wanted to figure out what was going on.

"Somehow ... I all of a sudden started to write memos for the chairman. It started on the irrigation side, and before long ... on the water settlement side ... I started to assist the chairman in doing those types of things. ..."

Somehow, and I'm not sure exactly how the transition was made, I all of a sudden started to write memos for the chairman. It started on the irrigation side, and before long, I was writing memos, starting on the water side, the water settlement side, and that particular portion of it. I started to do that type of work. I started to assist the chairman in doing those types of things.

Seney: How old would you have been at this time?

Ely: Now I'm twenty-four. And so I got involved in that aspect of it, and then I became increasingly more irritated with how things were operating out there, not just in terms of irrigation, but other things, too. I just thought that there were simple answers to things and that if we just didn't let politics get in the way, all we had to do was just take the course and get it done. I was in a planning office, so I kind of knew all that was going on with the tribe, and those types of things.

Decided to Run for Tribal Council

And so I decided one day that I'd make a good councilman, so I ran for council.

Seney: How large is the tribe? How many enrolled members are there?

Ely: Right now there about twenty-two hundred, I think. I don't know how many enrolled members.

Seney: Maybe I'm putting it the wrong way. How would you count them if I asked you how big was the tribe, what would you say?

Ely: I'd say there's two thousand to twenty-two hundred enrolled members right now. At that time there was probably sixteen hundred, something like that.

Seney: What's it like, what's a campaign like for Tribal Council?

Ely: Mine was easy. I had turned twenty-five.

Seney: Do you have to be twenty-five?

Campaigning for Office

Ely: You have to be twenty-five. And it just happened that an election was coming up, I said, "Well, I think I'll do this." I was kind of a "Put your money where your mouth is" kind of guy. [Laughter] Challenged myself, "Okay, quit whining about it. Do something about it."

So I showed up and put my name in. No one had really campaigned at that time. There's a

different way of campaigning out there. One is that you don't necessarily go out and make stump speeches and you don't send out a lot of flyers and those types of things.

Seney: You wouldn't put up signs along the roadside?

Ely: No. People know who they want to vote for and they talk with each other and that type of thing. And we don't have political parties. There's no Democrat or Republican out there. We have families, which is . . .

Seney: Which is worse.

Ely: Which is . . .

Seney: Better?

Posted a Flyer as His Campaign Activity

Ely: Which is the same. [Laughter] And what I did is I did, in fact, campaign. I wrote a flyer and said why I wanted to be a councilman, and I posted it everywhere, and got a lot of people writing graffiti on it. [Laughter]

Seney: What did you say? Do you remember?

Ely: I just said that I was concerned about the way

things were going out there, and that we needed to step into the future and bring our traditions with us, but step out of the past and into the future and try to do things. And I was sincere about it and I was honest about it, and I would give it my best shot. It was really not much more than that. And I didn't think that I'd win.

Seney: Everybody knows everyone. Everyone knew you.

Ely: Yeah. They knew me at that time. I don't know what they thought about me, but they knew me.

Seney: That's what I was going to ask you, what you thought your reputation at that point might have been.

Ely: I don't know. I think they knew that I was fairly aggressive in my work, that if I was assigned to do something, that I got it done. I think that was probably what they knew about me the most. They knew that, you know, like any kid, I wasn't absolutely perfect, and that I could relate to them on various levels. I don't know exactly what they thought about me. I think I had a few people who voted for me just because they wanted somebody new in there, and they wanted somebody else to try it. I think a few voted for me because they thought that I might get the job done. I'd done fairly well at the other things that I did since I

came back to the reservation. But I really don't know.

Seney: You said they knew you weren't perfect. What do you mean by that?

Ely: Just that. [Laughter] And so I put up my campaign letters.

Seney: You're not going to amplify that, are you?

Ely: No, I'm really not. [Laughter] And so I went ahead and ran, and I won.

Seney: Let me ask you one other thing. You were now in the midst of learning about water, taking from your irrigation study, and that opened your eyes to these other matters. Did the average, typical tribal member, if you can say that about a tribal member, did they know much about the water controversy?

The Difficulty and Costs of the Water Issues

Ely: They knew about the controversy, but I don't think a lot of them really understood the intricacies of it.

Seney: So you weren't alone in that. I mean, you would have been like most of them. You knew there

was a controversy, but you didn't really know the details until you started to look at it.

“ . . . our reservation's fairly diverse . . . different people who use different water for different reasons. . . . that one jelling factor that brought people together . . . concern for the lake and the river that fed it, and the fish, and the well-being of the fish. . . . ”

Ely: Right. There was an interest on everybody's part about it, for varying reasons. Again, our reservation's fairly diverse, too, and you have different people who use different water for different reasons. And again there was that one jelling factor that brought people together, which gave them an overall concern for the lake and the river that fed it, and the fish, and the well-being of the fish.

There was always that concern, but there was a reliance on the council to understand that and to move it forward, and that they were doing what they were supposed to do in that area. And we had good attorneys who were doing that. So there wasn't a whole lot of really looking in depth into it. And I was intrigued by it. I was intrigued by the whole situation, and I was intrigued also by the fact that it had gone on for so long, when I thought that it could be resolved.

“I was also intrigued by the fact that it was doing so much damage to our people . . . this issue had tied everything up. All of our money was being put into that issue . . . Energy was being focused on that issue. . . . nothing left for anything else. . . . if we could resolve this one issue . . . we could focus our energy elsewhere. . . .”

I was also intrigued by the fact that it was doing so much damage to our people, that we were getting further and further behind everyone else as far as developing our future, because this issue had tied everything up. All of our money was being put into that issue, everything was. Energy was being focused on that issue. So there was nothing left for anything else. And so I thought if we could resolve this one issue, not only do we have this issue behind us and a solid foundation, our lake is in place, the fishery is safe, the river will be taken care of, but then we could build on that, we could focus our energy elsewhere.

Seney: Those legal costs were significant for the tribe.

“. . . if you want to go to court and be a real adversary against your opponent, then you have to pay for that yourself. And so there was a real drain there. We had to continue in adversarial mode to gain any kind of respect and to keep us

in the ball game, because without it, we would have just been bounced out of the game . . .”

Ely: Oh, they were very, very significant. We didn't make a lot of money to begin with. And the Federal government, although they pay for litigation and they do pay, to some extent, for negotiations, if you want to be a real adversary, I mean, if you want to go to court and be a real adversary against your opponent, then you have to pay for that yourself. And so there was a real drain there. We had to continue in adversarial mode to gain any kind of respect and to keep us in the ball game, because without it, we would have just been bounced out of the game, and that would have been it.

Seney: How is that paid for? Are tribal members assessed?

Ely: No, it's just, the tribe has businesses, from selling boating and fishing and camping permits, and had a gravel pit, and we sold minerals and those types of—you know, gravel and that type of thing. We had a smoke shop. We had various businesses. And that money went into a general fund, and from that general fund a good portion of that went to litigation.

Seney: We were talking about getting elected to the

Tribal Council. So were you surprised at the outcome that you got elected?

Ely: I was surprised to some extent.

Seney: Do you remember how many votes you won by?

Ely: When I was elected to the council? I don't remember. I had a fairly significant margin. I think four of us ran, and I was one of the top two vote-getters, or something like that. I did fairly well.

Seney: But it's not uncommon for these elections to be quite close, is it?

“When I was elected to the council? . . . I had a fairly significant margin. . . . I think I was awakened, that, ‘Now, oh, shucks, I got it.’ . . . when you get elected, then all of a sudden, now you have to put up. And so there was a realization, an awakening, now I actually have to do something. . . .”

Ely: It's not uncommon. When I ran for chairman, they were very close. Except for when I lost, I didn't lose by a close margin at all. I don't know if I was surprised or not. I think I was awakened,

that, "Now, oh, shucks, I got it." [Laughter] Well, it's easy, it's easy to say, "Well, I tried, and nobody wanted me, so now I can go on babbling and spewing as much wrath as I want because I don't have to be responsible for it." But prior to that, but when you get elected, then all of a sudden, now you have to put up. And so there was a realization, an awakening, now I actually have to do something. So there was that realization. But I kind of thought that I would win. I had a feeling that I'd win. I was a lot cockier them days, and figured that, yeah, if I did it, I could do it.

Seney: You'd sort of been around the Tribal Council a lot by now, but was it a big difference to be a member? Did it seem very different now, being on the council?

**Felt There Was a Conflict of Interest Between
Being on the Tribal Council and Working for the
Planning Department**

Ely: Oh, yeah. It was a lot different now. For one thing, I had to leave the Planning Department, because I was always in conflict. I worked for the Tribal Council, and I opposed them on many issues that they assigned me to do. I mean, they would say, "You do this and bring it back to us." And I'd show up there as a planner. Now I was

involved in a lot of the issues, and I'd show up and say, "Here, I'm putting this proposal in front of you, not because I want to, or because I think it's any good, but because you directed me to do it. Now I'm going to do my best to kill it." And so there was obviously a conflict.

Going Back to Work for the Tribe's Fish Hatchery

So I left and went to work for fisheries. I'd worked for fisheries before on two other occasions, but I went back to work for them.

Seney: Meaning fisheries, this is the tribe's fish hatchery?

Ely: The tribe's fish hatchery, yeah.

Seney: That sees to the maintenance of the *cui-ui* and the restoration of the trout.

Ely: And the trout, yeah. I went back and worked for the fisheries.

Seney: Which belongs to the tribe?

Ely: Which belongs to the tribe. So it was just like a transfer, even though you have to leave one job and go to another. I went to work for the fisheries. Then I was no longer in conflict with

the Tribal Council. And I worked at the lake operations there. We were the ones who were responsible for bringing in the fish and spawning them, and taking the eggs and all of that. And then we'd send it up to the hatchery, and then they were responsible for hatching them.

Then eventually when they got to be long enough, three or four inches, and they'd bring them back down to us, and then we'd rear them and then put them back in the lake. So that was my operation, was the lake operation.

Seney: Was it interesting?

Ely: Oh, I thought it was interesting. It's interesting when you're dealing with the fish. The rest of the time it's sort of, you know, you're maintaining things, and I was always trying to build something new. I kept myself busy doing that. But it was fairly interesting. I enjoyed the fish part of it. I enjoyed working at the lake. I'm an avid fisherman, so I'd always have my pole there, and at lunch breaks and before work and after work, I was always down there fishing.

“ . . . I spent a lot of time working on aspects of the council. . . . ”

But I spent a lot of time on the Council. I

think I spent a lot of time working on aspects of the council.

Seney: At this time you're twenty-five.

Ely: I'm twenty-five.

Seney: So we're talking about 1982?

Ely: I guess that's close enough. I don't know. I'm not a date guy. I used to hate dates. You know, I mean, when I was in high school, they'd tell us, "You've got to remember the date of this war," or this thing, and I didn't care what date it was.
[Laughter]

Seney: I'm just trying to give this a time sense.

Ely: Right, I understand that you need it for that, but I've always had difficulty with dates. But I'd guess it was '82, '83.

"I was on the council for a year, and I was still very dissatisfied. I was a terrible thorn in the other councilmen's side, because I always asked a lot of questions. . . ."

I was on the council for a year, and I was still very dissatisfied. I was a terrible thorn in the other councilmen's side, because I always asked a

lot of questions. You had to prove to me why you had to pass a law, or why you had to do this, or why you wanted to do that, and I asked a lot of questions. And a lot of times, I was the only opposing vote, or the only vote in favor of [a motion]. I also thought that the meetings took too long, because the chairman didn't pay enough attention to keeping the meetings flowing, so I spent a lot of time sort of quasi-conducting the meeting from my place. I was an overbearing character, and that didn't set well with a lot of folks.

Failed to Win Election as Chairman of the Council

And so at the end of the first year, the chairman's position came up, and I decided, "Well, I can do much better as chairman, so I'll run for chairman." So I did, and I ran against Wilfred Shaw and Mervin Wright, and, I think, I'm not positive, but I think Elwood Lawry ran, too, but I'm not positive. But I ran against those guys, and I just got stomped. They beat me, so I was the last of a field of four, I think. I did very poorly.

Seney: But you still had your Tribal Council seat.

Ely: I still had my council seat. And so that year began with a new chairman, Wilfred Shaw, and

for one reason or another, even though we argued a lot on the council and we weren't always seeing eye to eye, for some particular reason he had a certain amount of confidence in me, and I don't know why, I really don't know why, but he would call me from time to time and say, "Well, Joe, what do you think about this?" And I'd always tell him what I thought about it.

I took several trips with him and I continued to work and assist him. Before the end of that first year that he was in office, that's when all the water controversy came up. How much of this has [Bob] Pelcyger³ told you?

Seney: Some of it, but he takes a different tack.

One Attempt to Settle the Water Controversies

Ely: We had another settlement that was going on at that time, and I was on the council, and Mike Thorpe was attorney for the tribe then. We had hired a guy by the name of Bill Byler out of Washington, D.C., and he was a lobbyist in D.C. He and Mike Thorpe, along with the chairman, spent a lot of time meeting and trying to negotiate a deal. So there was this group of individuals who were negotiating.

3. The Pyramid Lake Tribal attorney. Reclamation's oral history program includes interviews with Robert Pelcyger.

Seney: Let me ask you, what had brought this move toward a settlement about? What was behind this?

**Decided to Fight the Orr Ditch Decree in Court
Using the Winters Doctrine**

Ely: Well, there were a couple of things. One is that the [U.S.] Supreme Court was getting ready to rule, and you are going to have to check the dates on this with Pelcygar, but we had, as you are aware, been living under the Orr Ditch Decree, which was put into place in 1934⁴, I believe, and what it amounted to was giving us a very small amount of water—thirty thousand acre-feet of water, or thirty-one thousand acre-feet of water, for the purpose of irrigation, and nothing was there for the fish.

Prior to that, we had been receiving four-hundred-fifty, five-hundred thousand acre feet of water, that's what we had traditionally received and so during our dry years we would receive almost no water, just what was there for the ag[riculture] and whatever was left over after everybody had taken their water.

We decided in the sixties that we would go

4. *United States v. Orr Ditch Water Company*, Equity No. A-3 (D. Nev. 1944).

to court and try to assert our Winter's [Doctrine]⁵ rights, and we did, and we based it on a fishery claim rather than agriculture. We just essentially said, "Hey, we have an ag claim here, but the Feds screwed up. They thought we were farmers, and we're not, we're fisherman." And as a result, the purpose of the reservation is for fish, therefore we need "X" amount of acre-feet for fish. And so we took it, and we won and we lost, and we won and we lost and then we finally ended up in the Supreme Court and we lost.

Seney: It was 1983, the *Nevada v. United States*.⁶

Ely: Right. So we lost that, but prior to that, we thought that we wouldn't want to miss any opportunity to try to settle, and I'm not sure exactly how we got anyone motivated to try to settle. I think it was a result, again, of [Senator Paul] Laxalt⁷ at trying to get the California-Nevada interstate compact approved, and we wanted to tag onto that and try to get a settlement.

So I think it's real important to realize for history's sake that at this time the water had been

5. *Winters v. United States*, 277 U.S. 564 (1908).

6. 463 U.S. 110 (1983).

7. Reclamation's oral history program does not include an interview with Paul Laxalt. Reclamation asked to interview him for its Newlands Project oral history program, but he chose not to participate.

such a problem for so long that it had become too common. The problem had become too common. And so we [the Tribal Council] would discuss water as the last item on the agenda. It was the attorney's report, and by that time we had done battle for seven, eight hours on all kinds of other issues. Sometimes we'd get to water at two-thirty, three o'clock in the morning.

And so decisions were made with some real haste and they were also made almost solely based on the recommendations of the attorney. We, of course, questioned things that were obviously wrong, but there wasn't a tremendous amount of participation and interest. A lot of interest, but [not] a tremendous amount of participation on the council's behalf in regard to the settlement that was going on.

The California-Nevada Interstate Compact

And so one day we were presented with a package that was going to go back to Congress, and the package essentially said that the tribe would agree to the California-Nevada interstate compact and that it would also agree that there would be a mechanism to settle [outstanding issues]. It was an agreement to agree. Mike Thorpe was there with Bill Byler, and they were presenting it to the Tribal Council and asked for

our approval, and we discussed it to some extent and we said that we had some real problems with California-Nevada interstate compact and we wanted it out of there and that we would probably take that battle up in front of Congress, but the rest of it was okay, it was benign, it didn't do anything.

After a lot of convincing from the attorney and from Byler and from the chairman, who was also, I think, a little bit aside from the process—there's a lot of things that tribal chairmen have to do other than just water, you know. You can't equate a [tribal] council to a city council. Because the city council shows up at parades and throws candy and waves at people and they show up to cut a ribbon every once in a while, but they don't have any power. They have power to make policy occasionally, but the power base is where the money is, and the money is in the private sector who builds and makes businesses. That's where the money is and that's where the power is.

On the reservation, it's different. You have a socialist society, not a capitalist society. So the council there is the business. It runs the commerce of the reservation. It decides every factor, so it's a very different job than what a city council has, or even a state legislature. It can't be compared, because the power base, again, is

where the money is, and the money is at the tribal council level. Name for me one state-owned business. Does any come to mind?

Seney: No.

Ely: They don't, do they? But on a reservation, all the business are owned by the tribe, which is a state-owned business essentially, the state being the [tribal] government there.

Seney: And the tribal Council members essentially administer these businesses.

Ely: Right. So that's where the power base is. So they have a lot of things to do, and the chairman has a lot of things to do. I want to make it very clear, it's not through neglect that this type of thing went on.

Seney: It's just kind of human nature, you come to rely on the attorneys and other advisors.

Ely: Right, you come to rely on all these people that you've delegated work to. And so this particular package came to the tribe, and I started to become very nervous about it. I remember thinking at one of the council meetings where we were discussing this that we have to become more involved in this process, because a lot is lying on this and we have

to become more involved and we have to play a greater role in this. But we didn't get the chance because we were smashed into it about three weeks later. [Laughter]

Opposition to the Agreement on the Reservation

Word got out that we had approved for this thing to go forward, and it hit the newspapers everywhere.

Those Opposed to the Agreement Did Not Understand the Tribal Council's Position

A group of individuals on the reservation who were very concerned about this issue came forward and took on the council and didn't really understand what the council's position was. The council's position was to move this piece of legislation through Congress, but at the hearing to get the California-Nevada interstate compact removed from it and then discuss the particulars of the bill and shape it in a way that would be beneficial to the tribe, and if it wasn't beneficial to the tribe, then to kill it.

This group believed that we were pushing the whole thing, which included the California-Nevada interstate compact.

Seney: How did that get in the papers, do you suppose?

Ely: Oh, it was big news.

Seney: You mean someone leaked it? Or was it just an ordinary piece of business

Ely: We were making an agreement with the state of Nevada and California and Reno. I mean, there were people there they were talking to. And so it was big news. We had this big settlement and everybody . . .

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BEGIN SIDE 1, TAPE 2, SESSION 1. MAY 20, 1996.

Seney: Joe, some of that didn't get on. You were saying that finally they think that the water wars is over.

Ely: Right. It was in the papers. They assumed that eighty years of water war was over and they sensationalized it. It was big news. And so there was a group of individuals on the reservation who took offense at this.

Seney: Can you describe them a little more? Was this the farmers?

Ely: No, no, no. And that is where I wanted to describe this further. It's real important that you

understand who this group was. First off, they were made up of people who were disgruntled about everything. You know how some people are just unhappy with life—period—and they're just disgruntled and they need an issue to attach to? They had that trait, many of the people in this group.

Also, this group wanted power. I mean, really wanted power and would do anything that it would take to gain power, and this group also had elements within it, not the core group, but elements on the periphery that belonged to this group who were very concerned about the water. And now they had an issue. They had a way to harm the existing council and perhaps gain power. They had something that they could legitimately scream and holler about to cleanse their soul and be unhappy about, whatever it is that cleanses those folks' souls, I just assume it's being as unhappy as possible.

Three, they had a legitimate gripe, they really did. The council had not paid enough attention to this. The council was right in what they did. I think that they handled it correctly in that they said, "Now let's do this, and here's the steps that we're going to take to do it, and we're going to fix this as we go." I think that they handled that correctly, but I think that because

they hadn't paid an extreme amount of attention to it prior to that, it was perceived that they were not paying attention to it.

Also, there was this perception that the attorneys were too much in control.

Seney: There's some sensitivity to that kind of thing, I would think.

Ely: Right. There was this big mix of things that took place at this one time that empowered this little group of people, and they could grab onto it and they had a legitimate gripe. One is that they said that, "You shouldn't play around with this, you should just kill it. First off, the proposed settlement is just an agreement to agree, so you get nothing anyway. It doesn't settle anything. And then you attach this California-Nevada interstate compact to it, and it's just entirely too dangerous to take that up there and perhaps have it go through the process and get passed, so just kill it."

"The core of this group took that point and then built around it, but smothered it with their hatred and mistrust and being disgruntled and all of those things, and their need for power. And so they were never really listened to legitimately because they came out so offensively. . . ."

And I think that they were right, but you'd have to run through a maze of things to get to that point, and that point was what was held by the periphery of this group, not the core. The core of this group took that point and then built around it, but smothered it with their hatred and mistrust and being disgruntled and all of those things, and their need for power. And so they were never really listened to legitimately because they came out so offensively. They came hard at the council.

“ . . . they woke up in the community and on the reservation that constant simmering concern about the lake, about the fish, about all of that . . . ”

So they came at the council and they woke up in the community and on the reservation that constant simmering concern about the lake, about the fish, about all of that, and they took a message out there and they said, “Look what the council is doing. We're in a place now where the opportunity is to solve this problem and the council, instead, is going to destroy you and destroy the fish and destroy the lake.”

And it was a message that was alarming enough to get people to now focus on what the

council was doing, and not focus on this group, not sit back and say, “Well, wait a second. This is the same group who was mad about this last year, and mad about that the year before, and always disgruntled and always full of hatred, because they focus now, and sort of panic-stricken, focused on what was going on with the water.”

So they signed a petition. Our Constitution allows that if an action or a resolution of the council or a proposed action of the council is disagreed to in writing in a petition by one-third of the voting members, then that action will stop until the voters take it to a referendum and decide whether or not they want to continue with the actions of the council. They can overturn an action of the council. That provision has been in our Constitution for years, but it was the first time it had ever been acted on. There were enough signatures this time.

And this power base now that was building around this group of people, probably the main core group of people was probably fifteen people, but now they had muscle. They had the membership behind them. They had this petition behind them and they wielded it. I mean, they came in with muscle and they came in intimidating as much of the council as they possibly could. They presented the petition to the

council right about the same time that there were hearings being held on this piece of legislation.

He Had Determined He Wanted to Leave the Tribal Council

I remember the meetings. Now I had been on the council a year and eight months, nine months, something like that, and I was on a two-year term, so I had about three months left before I was ready to go, and I wanted to go. This was the last I ever wanted to deal with politics. I hated the entire time I was on the council. I got nothing accomplished. All I did was one vote against eight or nine every time we went up. I just didn't like it, and I didn't want anything to do with it anymore, and I said, "Well, I've given it my shot. All I've been is opposed at every juncture. Every time I try do this, I'm opposed. I ran for chairman, I just got my butt kicked. I mean, I don't want any of this. I've tried it and I don't want it." And so I was trying to figure out a way to peacefully have my last three months on there and get away.

Seney: A graceful exit.

Ely: A graceful exit. I also took on some tough things. I took on the stipends. Our council at Pyramid Lake, bless their souls, is probably the

lowest-paid Tribal Council that I have ever worked with. They are not full-time councilmen, they're volunteers, it's a volunteer council. The chairman is paid, he's a full-time position, but the rest of them, the vice chairman and all the other eight councilmen, are volunteer. They get paid a stipend each time they come to a meeting, which amounted to about \$75 a month.

I, not realizing the amount of work that they put into it, got in the council and said that they shouldn't receive a stipend anymore, that it should be completely volunteer, and that way we'd weed all these guys out and the only reason they were here was because they wanted their seventy-five bucks a month. And that was very silly and stupid of me.

Seney: This was right out of the gate?

Ely: This was right out of the gate. The first meeting I had, I tried to pass a resolution to drop the stipends. And I didn't make any friends, as you realize, and so one of them told me to put my money where my mouth is, so at every meeting I voided the check. I got a \$75 stipend and they'd pass it down, and I'd take a Magic Marker and write "Void" on it and I'd send it back down the line and give it away and as the councilmen all laughed at me.

After about eight months into my first term, I realized that I was very silly and stupid, but I'd made a commitment and so I stuck with it. And I figured I would stick with it 'til the end of this term, which I did.

“ . . . there was a lot of different things that led me to the point where I didn't want anything to do with this anymore, and so I was ready to leave . . . ”

But there was a lot of different things that led me to the point where I didn't want anything to do with this anymore, and so I was ready to leave, and all of a sudden this controversy came up. I remember the very first meeting that we had they presented the petition and the membership along with this group was angry. They managed to get a lot of the members to come to that meeting. They filled the council chambers. The chairman was very uncomfortable. It was a very uncomfortable situation.

The Opposition Group Forces a Referendum on the Interstate Compact

There were a lot of people there that were very concerned, and this group was very angry and hollering at the council, and it was hard to maintain order and there were policemen there.

They wanted us to stop what we were doing. I tried to explain to them—I mean, there were very few councilmen that were responding to them. There wasn't a lot of response.

The attorney at the time was being very quiet and he was trying to respond, but he was getting shouted down and they wanted to hear from us. I explained to them what we were doing, and I said, "Here is the process," and as I'd explain it to them, I could see what their point was. The whole group, the membership—not this group, I knew what this group wanted. But the membership, I understood what they were after and I understood that we're really a steward over this lake and that perhaps we weren't careful enough. We just reaffirmed that we would go back and kill the California-Nevada compact portion of it and that it would not proceed without it—period.

And they said, "Well, we're going to have this petition and now we have to do something with it, and it requires you have so many days and then you have to have a referendum and they have to vote and all that. So we're going to go through that process."

That meeting adjourned, and it was a very tense, nervous meeting. A lot of the councilmen

didn't know quite how to react and were just quiet. There was a lot of reluctance to take on this group by trying to rationalize them because they weren't reasonable.

Seney: Let me ask you this about this. I take it this was a whole different tone than normal Council business.

Ely: Oh, yeah.

Seney: The whole matter had changed when you came to this interstate compact.

Ely: Yes, it did change. And prior to that, the Council meetings would be, you'd have heated debates, but it would be light. You'd take a break, and then somebody would crack a joke, and there wasn't this tension.

Seney: And sparsely attended, probably.

Ely: And sparsely attended. Very few people there. And now all of a sudden, it was packed! And there were people outside in cars, you know, and tossin' back some brewskies, and waiting for the Council meeting to end, and there was a lot of discussion out there, and there were just people milling around the buildings.

So we ended the meeting with the resolve to go back and really do as—we tried to convince them that [we] were doing just what they wanted. But they wanted more than that. I mean, that's what's important to remember is that this core group of people didn't want just see this water thing settled in their favor, they wanted this Council destroyed.

Seney: But you indicated that this was kind of an important moment for you, too, because you really now appreciate just how intense the feelings are, and maybe legitimately because maybe the Council hadn't done what it should.

Ely: Right. I understood a couple of things. One was that there was a real concern for this whole issue of water. There was also this silent majority that every once in a while gets mad. It isn't just on the reservation, it happens here in the United States. All of a sudden they get upset, and they show up. I think the last election [U.S. Congressional elections, November, 1994] was one where they sort of said, "Okay." [Laughter] Or they show up. And they're respectable people that you know all the time, who don't say a lot, who don't talk a lot of politics, who don't come and spend a lot of time, they're out working and doing things. But they were stirred, and they were concerned, and they were a majority here. And they wanted

something resolved. I saw no one stepping forward to do something with this. I was willing to see how this played out, and I thought, “Well, I’m not chairman, and I’ll help whatever way I can.” But even at this point I was hoping to just finish out my three months, and get out of there, probably two months by this point.

A Dissident Faction at Pyramid Lake

And so we adjourned the meeting and we went back to work, and I had a lot of people then calling me, asking me, “Well, what are we going to do?” And we started this “us against them” mentality, and there was a split on the reservation of those people who were dissidents—and that’s what I’ll continue to call them from this point forward—that’s what they were called, were the dissidents. And they called themselves the Ad Hoc Committee. And there was this group there.

There were these other people who had signed a petition, but were now very concerned. Some of them showed up at that meeting, and they didn’t like the tenor of the meeting. They didn’t like the way that they had empowered these people. And they didn’t like what they were saying. But they’d already signed, and there was nothing they could do now. It was going through the process.

Tribal Chairman Died of a Heart Attack

And so it was only a week or two after that, I got a telephone call when I arrived at work, and they told me that the chairman had had a heart attack and died—a massive heart attack and died.

Seney: This was Mr. Shaw.

Ely: This was Mr. Shaw. Then what was really a very tense situation became ominous. It's like you took a light and you turned it down half, to dim. I mean, that's what the pall, the reservation just had this cloud over it now, and it was ominous. You had these very violent-talking individuals who were this Ad Hoc Committee, who were against the council, and had been empowered by these individuals who had signed the petition, who were now wondering what they should do, and this group was not going to stop. They were relentless. They were going to continue forward. Their goal—it was close now. They were close. Now they had a chance to seize, actually seize some power, because the chairman was gone. And in the midst of this, you had a death, which made it even worse. It took it from the verbal to an actual person being dead, to a tangible thing. You could feel it now. You could now feel the oppression.

There were many on the side of the chairman who were saying, "These people were directly responsible for killing this man." Whether they did it by gunshot, or whether they just pushed him, pushed him, and pushed him until he had a heart attack, they were responsible. So now we had a reservation that was very split, very divided and tense.

Seney: Had this happened before?

Ely: No. This is the first time that this type of situation had happened. And the Council was really on the verge now. They were starting to teeter just a little bit, because you had the leadership who wasn't there anymore.

I remember burying the chairman, and a lot of people came, and there were a lot of people who came to the funeral who had signed the petition who were very sorry. They could now see where this was going. It's like selling nuclear arms to Iran, you know. You thought it was a good idea at the moment, but now they've got it. [Laughter] This group now has it. This now had some power.

And for whatever reason, the vice chairman, along with some other folks, decided to call a meeting the night of the funeral, to appoint

a new chairman. So everyone had been grieving that entire day, and the chairman that was there had been chairman before at different times. He'd been on the council for decades, a well-respected leader in the community, highly regarded individual. This was a person that people respected, that people loved, and he was dead as a result, as many saw it, as a result of political activity.

Seney: Did you see it that way?

Ely: I don't put any blame on anybody for this. Circumstances perhaps may have been a cause of some of this. I see it differently because I see it as something that you decide before you become chairman, and when you become chairman, you understand going in that this is going to be a tough job, and that things are going to be very difficult. And this individual was a chairman before. And so it was something that goes with the job. No one could be responsible if [President] Bill Clinton had a heart attack tomorrow and died. It's part of the job. And that's how I viewed it. Obviously this was the situation that caused this to come about, but you certainly can't blame anyone for it, so I didn't.

Mervin Wright Sr. Is Appointed the New Tribal Chairman

So we had this death now and we buried our chairman, and there was a day of grieving for the reservation, and then that night we had a meeting to appoint a new chairman. And now we had a very tense, even more tense situation, because now the news media was there. The settlement was going, it became big news. The petition was filed. This group who filed this petition who wanted us to now kill the deal were in front of cameras as often as they could, so now it's "The deal is almost dead" situation. It's playing out all over the newspapers. It's in the TV, and now the chairman's dead. I mean, they showed up. They had coverage at the funeral on TV, and now the chairman's dead. And now we're going to have this meeting to appoint a new chairman. It's a very critical time for our tribe.

So I remember showing up to the meeting and the cameras were there already set up in the Council chamber. I went in there with a couple of folks and said, "You're out of here, get out of here."

And they said, "The public has a right to this."

And we said, "No, the public doesn't."

And they said, "The state of Nevada law is open meeting rule applies."

And we said, "Well you're not in the state of Nevada, you're on the Pyramid Lake Indian Reservation. Those rules do not apply and you'll need to leave."

And they quit arguing and they went outside, and they set up cameras outside. There was a crowd of people outside willing to talk to them. We sat down to the meeting and the vice chairman, who was Fred John at that time, called the meeting to order, and this time the room was packed, even more so than before. People were angry and tense and there were people who were laying blame on individuals for this death and for this controversy and on the council for even starting it and allowing it to happen and all of that.

The room was so full that there were only a few people sitting, almost everybody was standing. There were people standing behind the council. And the council usually sat like this [gestures] along a wall, and there was about three or four feet of space behind them where the council would walk back and forth and go out to get coffee or go the restroom or whatever. There were people in behind there about a third in here

and a third in this way along the wall sitting and standing. It was a loud crowd and they were somewhat disrespectful. They convened the meeting, and we were there to only discuss one thing and that was to appoint a chairman.

Earlier in the day, I tried to have the meeting postponed because I just thought that it was very bad protocol to have a meeting on the same day that your chairman was buried, and I also thought it was very bad in terms of political timing. It was horrible. Something bad could happen at that meeting that night. So as soon as the meeting was convened, I went to work trying to get it taken care of and get it over with, so I immediately made a motion that the vice chairman be put in the position as chairman, and he declined. He said he didn't want the job. So that left it wide open.

And now the dissidents, who were prepared, had their candidate. They stepped forward and suggested that Mervin Wright, Sr.,⁸ become the chairman. One of the councilmen made a motion to appoint him, and I stopped him and said, "Wait, what are we doing, guys? We have nine councilmen here. We have one who has declined. But I would suggest you pick

8. Reclamation's oral history program includes an interview with Mervin Wright, Jr.

somebody off the Council.”

Seney: Mervin Wright was not on the Council?

Ely: No, he was part of this group and he was their individual that they wanted to appoint.

Seney: And if the Council had chosen to, it could have done that, it could have appointed him had it wanted to, legally?

Ely: Yes, they eventually did. They made a motion to appoint him, and I said, “No, we can’t do this. For one thing, I don’t think he’s qualified. And I think we should pick somebody off this Council here.” I certainly didn’t think me, but I think that’s how it came across. So there was some discussion, loud discussion about that.

Finally, somebody seconded the motion to appoint this guy, and they took a vote and he was appointed to the Council with a vote of eight to one, and I was the dissenting vote. There might have been a couple abstain. No, I think it was eight to one.

Then there was discussion then about the petition and the process that we needed to go through for that, how many days were left, and we discussed that for a few minutes and then we

adjourned.

But it was a very nasty meeting and people wanted to talk to you on camera and all that. I don't remember if I said anything. I just remember being very, very disappointed, because I thought that we were really in trouble now, because now they had, in fact, grabbed power.

About a week into the temporary chairman's term, the Council met again, because now we had to approve who was going to run for election, because an election was going to take place at the same time the referendum was taking place, because now it's December and it's time for the elections to come on, and the guy who made a motion to put in the chairman at that meeting now had been able to observe him for a week and saw what he was doing, and he wasn't doing things correctly, he was just going crazy in there.

He wanted to limit the powers of the chairman. I said, "Wait a second, you can't eliminate the powers of the chairman. The powers are set by the Constitution. That's what I was trying to say, that you can't just willy-nilly think about who you're going to appoint for chairman. You have to be careful. This is a real position."

And so they wanted to control the chairman, and I voted that you couldn't, because our Constitution said that you couldn't. We had some discussion about that, and finally that meeting adjourned, and then I was asked a couple of days later if I would assist with putting together the public meetings that we needed to have for the referendum, and then I became involved in that, so I said okay.

Seney: Had Mervin Wright Sr. ever served as tribal chairman before?

Ely: Yes, he was tribal chairman before. In fact, Mervin Wright Sr. was instrumental in having the hatcheries built. Mervin Wright Sr. deserves a lot of credit for restoring the fisheries. He was the one who sat with a friend, a biologist, along the creek near Pyramid Lake in Sutcliffe, and said "Why don't we build our own hatchery? Why do we let the state do all of this? Let's do it ourselves, let's take it over."

And when they did, when they found the funding and did that work, they're the ones who brought it back to the point of where it is. So there was a tremendous amount of vision that Mervin had, but he didn't have it now. That was fifteen years ago.

Seney: So did your role increase at this point?

**Another Important Meeting to Discuss the
Referendum and Other Matters**

Ely: Well, I was asked to help facilitate the meetings and help guide the meetings, and so I did. I helped organize them and I helped not so much with . . .

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BEGIN SIDE 2, TAPE 2, SESSION 1. May 20, 1996.

Seney: Bringing Bob Pelcyger in as General Counsel, did that indicate a shift now more toward water problems?

Ely: No. I just think it was a vacancy that had to be filled. Here now is Mike Thorpe leaving, for whatever his reasons were that he left, and Mike did a good job for the tribe, he really did. And then Bob had taken his place.

There were three meetings of significance: the meeting where the petition was presented and I have already given you that; the meeting where the chairman was to be appointed, that was right after the chairman's death, and I've given you

that; there was another meeting in between that of significance with the same type of crowd and same group of people. And that meeting was a special meeting called by members of the council to explain the bill that was now going into Congress. That was a meeting prior to going back and testifying. So the sequence is: petition, this meeting, testimony, death, meeting, appointment of another chairman. So at this second meeting that we had, that's when Mike Thorpe announced his resignation and when Bob Pelcyger stepped in to that position.

That meeting was called as a result of three councilmen signing a letter requesting—I don't know if it was three or two. Our Constitution says that, first off, the chairman calls the meetings and only he can call a meeting. And a special meeting can be called, I think, if three councilmen sign a sheet requesting the meeting, then that compels the chairman to call a meeting.

I was concerned that people were concerned, and I thought we better 'fess up here, guys, we'd better stand in front of the membership and tell them what we know, and we'd better get this out so we can eliminate these problems and start the process of trying to put this referendum together. So I was one of the individuals who signed that, and when I signed it,

it was presented to the chairman and he called me immediately and said, "Joe, what are you doing? Are you against me on this?"

And I said, "No, I'm not against [you] me on this. In fact, we need to work this process through, but we do have to sit in front of the membership, and we have to explain to them."

Seney: This is Mr. Shaw, who has not yet died.

Ely: This is Mr. Shaw, not yet died. "We have to come forward and discuss it with them."

And he said, "Right, I realize that. Okay. I'm going to call the attorney to be there to explain it to them."

I said, "Okay."

And before I hung up the phone, I said, "Wilfred, we need to understand what we're talking about tonight. I've got a hunch they're going to want to hear it from us. And so we need to really make sure that we know what's going on here."

And he goes, "I know. I know. I understand that." And he hung up the phone.

We met two or three days later, the Council met, and the attorney was there, and Mike resigned, and Bob Pelcygar jumped into place. They wanted an explanation—the membership wanted an explanation. And when it was turned over to the attorney to explain it, they said, “We don’t want to hear it from you. We want to hear it from the Council. You explain it to us.”

And they did what we anticipated, they wanted to hear it from us. And so I started to explain it. This wasn’t quite as tense a meeting as some of the others, and we explained it, and they asked hard questions, and we tried to explain it to them. Where we couldn’t explain it, the attorneys would chime in there. But you could also see, in the first meeting where everyone was upset and concerned, now you could start to see a little bit of a split between those who signed the petition of those who thought, “Well, wait a second, maybe there’s a different explanation than what this ad hoc group had been telling us.” So you could start to see a little bit of a division there.

Deciding on the Referendum and the Questions to Be Presented to the Tribe

And then by the third meeting, when the chairman had died and a new one had taken place, you could see a real division in that group of

individuals. The public meetings then started, and we had those public meetings, and we went through them and we explained at each place.

But prior to having the public meetings, we had decided at a council level what we would present. Should we just present a “yes” or “no”? Or should we present an alternative? So we decided that we would present both. “Yes or no, do you support the California-Nevada interstate compact? Yes or no, do you support this bill that is now in Congress?” And then we put, “Yes or no, should the tribe continue to negotiate?”

And then we put together a negotiation package, and said, “These are the things that we will obtain in negotiations.” And then in part of that package, we said that, “If you approve for us to go through this and obtain these things, and we will also bring it back to you for a final referendum, where you will decide whether or not it’s a ‘yes’ or a ‘no’ on this package.”

Seney: Do you remember what was in the package, the general points.

Ely: The California-Nevada interstate compact would be killed. The tribe would obtain at least enough water to maintain a lake level, so that the fish would be able to be get over the Delta, and spawn,

for the *cui-ui*. Those types of things were in there. That we would limit the amount of water that the Truckee-Carson Irrigation [District] system would get, those types of things.

So we went through the referendum process, and at this time, the tribal council started to gain more support, because, I think, a couple of things happened. One is that they gathered their resolve, and they decided to approach this thing with some dignity. They decided to approach it being reasonable and not lashing back at those individuals, and that they conducted the meeting and went through the process, and it wasn't chaotic, and the government stayed together. It stayed together.

Seney: Did you feel like you were kind of a leader in this response? That is, a more reasonable response, seeing the dissidents had some points, and handling it in the way it was done?

Ely: I don't know if I saw myself a leader in this response, but that was the lead that I took. That was the track that I took, that, "Wait a second. If you wash away this group of people and get them out of your face . . ."

Seney: The core group?

Ely: Yes. "Then there is some concern out there and they do have the right to know what is theirs." And we started to make this switch. We started to say, "The tribe is not the tribal council. *They're* the tribe. We're servants of them. And so let's approach it from that aspect. They've passed a Constitution, they've passed these rules. Let's just go by the book and go through it, but let's not let them off the hook. Let's not relieve them of their responsibility. Let's let them understand."

So we took a very realistic and, I think, honest approach to it and I think that was the key to the thing, is we took an honest approach, and we said, "This is what is really happening, and this is where we are really going, and this is what we need to do. You have taken it out of our hands. Now you're going to do it. And when you tell us what to do, then we'll do it from there."

Outcome of the Referendum

And so we went through the referendum process, and they passed the referendum and they voted "no" to those things. But then they said, "We want you to continue to negotiate, and we want you to negotiate within these parameters."

Seney: Was it a pretty decisive vote?

Ely: It was a pretty decisive vote.

Seney: So you felt like you had a pretty good platform to do this.

“ . . . when the dissidents came back . . . because their goal was not to obtain more water for the lake, their goal was to obtain as much power for themselves . . . ‘You’re not supposed to negotiate, you’re not supposed to do this,’ and we would always bring up the referendum and say, ‘We have a mandate to negotiate.’ . . . ”

Ely: Right. And I think that was instrumental because throughout the negotiation process, when the dissidents came back—and they never left—because their goal was not to obtain more water for the lake, their goal was to obtain as much power for themselves, so they never left.

They, on several occasions, would say, “You’re not supposed to negotiate, you’re not supposed to do this,” and we would always bring up the referendum and say, “We have a mandate to negotiate.” And when we sat at the negotiating table, we could tell the other parties very clearly, “Not only do we have a mandate to negotiate, but we have a perimeter that we can’t step outside of. And you’re not going to push us out of this little bubble. And if you push us out of this perimeter,

we're going to go home, we're finished, we'll pick up our marbles and go home, because we're not allowed to go outside of this parameter." So we had to negotiate within that parameter.

Seney: So this referendum turned out to be quite advantageous, then.

Ely: Oh, yes. Oh, yes. It was very significant. And that's a key, I think, in all things, is that you take a situation and you don't just say, "How am I going to survive this situation?" but, "How am I going to use this situation to make it better?" And that's the track that we took, and each time throughout the process of the time that I was chairman, whatever situation we got into, we didn't say, "Oh, no, we're going to fall apart," and, "Oh, no, look what's happened to us again." We said, "This is part of life. You just get setbacks. And how you deal with that setback is whether you're going to be successful or whether you're going to be a failure."

And that's what we dealt with. We said, "Okay, how do we use this now to make it better?" And I think that's why we succeeded in a lot of things, other than the fact that I just felt that the good Lord blessed this entire process.

Seney: That, may I say, is a strong part of your personal

beliefs, isn't it, that what you just sort of cast off, that is that the good Lord has blessed the whole thing, that's a strong part of your personal beliefs, isn't it?

Ely: Yes. That is the key reason this thing passed. I'm not going to say any more about it, but I believe that is extremely important.

Seney: I think we'll get to that maybe later on.

Senator Laxalt and the Interstate Compact

Ely: It's extremely important. But we now had a referendum, we had a mandate, and we had to go back to Washington again, because now the bill had fallen apart and now we had this interim chairman who had chosen not to go back and take on the struggle.

Seney: Had you run for reelection at this point?

Ely: No, we're still in this interim. I mean, a lot happened in that three months, it was just compressed action. [Laughter]

We went back, and now Senator Laxalt wanted to visit with us, of course, because as part of killing the bill, you killed the compact again. And it was his last year or two in office, and he

wanted his swan song and he was the first friend and all of that. His swan song was the California-Nevada interstate compact. That's what he wanted.

Seney: When you say he was the "first friend," you allude to President [Ronald] Reagan, his relationship with President Reagan.

Ely: Right. He had a close relationship with him. In fact, the compact was negotiated when Laxalt was governor of Nevada and Reagan was governor of California. So they had some history between them on this particular issue. And Laxalt had been in the Senate for years, this was his tenth year, and he had two more years to go and he wanted to "go out" with this compact.

So we went back to Washington and he had a meeting with his delegation. Myself and Bob Pelcyger sat on this side of the table. It's always interesting at Congress, you know everything is wood and leather. They took us into this room and had this long table, and we sat on one side and he showed up and he sat on the opposite side right across from me. I was just a councilman at that time, a reluctant councilman at that. We had just gone through all this war. But, you know, that had gained a little momentum because it's hard now to just quit. [Laughter]

And so [Congresswoman] Barbara Vucanovich⁹ was there, and [Senator] Chic Hecht was there, and Harry Reid¹⁰ was there, and he was a congressman.

Seney: So this is the entire Nevada congressional delegation.

Ely: The whole delegation was there. And Laxalt, of course, being the senior member, was leading it. He sat across the table and led a somewhat tense meeting. He told me that he wanted the Nevada-California compact passed, and I broke in a couple of times and said, “Well, that’s not acceptable to us. It would harm the lake, and we’d be willing to negotiate some other deal to put this together that would replace the compact and it would be more equitable and more fair.”

Joe Ely Resolves to Run for Tribal Chairman and Kill the Interstate Compact

He says, “No, I want that compact passed.”

Seney: You’re waving your finger when you’re quoting

9. Reclamation’s oral history program includes an interview with Member of Congress Vucanovich.

10. Reclamation’s oral history program includes an interview with Senator Reid.

him.

“... I’ll remember that finger ‘til the day I die. Not a lot of people put their finger in my face. And he said, ‘We’re going to get this compact passed. Do you understand me?’...”

Ely: Yeah. You can’t quote this meeting without waving your finger, because I’ll remember that finger ‘til the day I die. Not a lot of people put their finger in my face. [Laughter]

And he said, “We’re going to get this compact passed. Do you understand me?”

Seney: You’re now pointing your finger at me, as he must have been doing to you.

Ely: Yes, he leaned over the table and says, “We’re going to get that compact passed, do you understand me?” And I looked at him, and he says, “Do you understand me? We are going to get it passed. Do you understand me?”

Seney: Pointing his finger in your face all the while?

Ely: Yes. And I looked at him. We were looking each other in the eyes during this process, and I said, “Yes, I understand.” And that was the end of the meeting. And we got up and left.

I remember leaving the room and we walked down to the—they have these, I don't know what you call them, it was like an underground transportation system between the congressional buildings. We walked down there and I talked to Pelcyger and I said, "I have to run for chairman now. And we're going to kill that California-Nevada interstate compact. No way is that going to pass now." We looked at each other and we both had the resolve, then, to kill that. And we knew that it was damaging to the tribe, but we also knew there would never be a settlement unless that thing was killed. And that provided the motivation that I needed to then run for chairman. I didn't think I could get it done as a councilman. I didn't want to see anybody else in that position. I just didn't think that anyone who would step forward that was going to take the position that could get it done. And now I had a reason, I had a real reason to get this thing passed. I had reasons before, and I was concerned before about the water, I was concerned about that. I started to gain even more reason when I saw so much concern come forth from the people about that. But still, I had an overwhelming desire to leave it all behind.

Seney: Now this would have been about—forgive for me for wanting to know when the dates are, but this would have been 1984?

Ely: Yeah, I think so. Yeah, '84. I believe so. '84 or '85.

Seney: You were born in '57.

Ely: '85.

Seney: You were elected when you were twenty-five.

Ely: Yeah.

Seney: So that would have been the first time you were elected was '82 or '83. Do you remember?

Ely: It was '83. And I believe this is now '85.

Seney: '85. Okay. All right.

Ely: Because I had served out my two-year term.

So we went back to the reservation, I put my name in. And it was an "all or nothing" proposition. I think I could have easily been reelected to council. But the councilman's position was not the one that was going to get to sit across the table from Laxalt, and the councilman's position was not the one who was going to get to negotiate this, and it was not going to make this thing happen.

**“In order to make it happen, I needed to be
chairman. . . .”**

In order to make it happen, I needed to be
chairman.

Elected Tribal Chairman

So we went back, and elections were held,
and I won by nine votes. I was sworn in as
chairman and we went to work.

Seney: Why don't we stop there.

Ely: Okay.

Seney: Want to take a break?

Ely: Sure.

END OF SIDE 2, TAPE 2, SESSION 1. May 20, 1996.
BEGIN SIDE 1, TAPE 1, SESSION 2. May 20, 1996.

Seney: Today is May 20, 1996. My name is Donald
Seney, and I am with Joe Ely in his office in
Mesa, Arizona. This is our second session and
our first tape. Go ahead, Joe.

Ely: I was elected chairman.

Seney: Was that a pretty hard election? You said you won by nine votes. Did Mervin Wright run for chair?

Ely: Yes, he ran and he came in third out of a field of three. The one who came in second was Elwood Lowrey, who succeeded me later when I finally decided to retire. He became chairman. But I won by nine votes and then we had our referendum that was complete.

Seney: So you are twenty-eight years old at this point.

Ely: Yes.

Seney: Okay. Is that about right? '85, was this?

Ely: Yes, I'm twenty-seven or eight, I'm not positive, one of those. And we went to work doing this. There was a lot of other stuff, but let me just deal with the water. We went to work now trying to get a settlement.

Seney: This previous settlement's been killed off, the Laxalt interstate compact is in abeyance for the moment, and you are now trying to get a settlement.

New Negotiations and the Effort to Kill the Interstate Compact

Ely: Right. Well, it was in abeyance for about a minute, and then Laxalt started another bill, just the compact, to get that passed.

Senator Laxalt Sent People to Negotiate with the Tribe about the California-Nevada Compact

And he sent out some people to negotiate with us regarding that, and it was sort of what other provisions along with the compact would be part of this negotiation, or settlement.

Seney: What will it take for you to swallow the Compact?

Ely: No, no. Remember, his instructions were, "I am going to have a compact." So it was more of what can you gain in the process of passing the compact.

Mike Clinton from the Bureau of Reclamation Came to Negotiate

So they sent some folks out from D.C., and that's what Mike Clinton was head of that. He was then working for the Bureau of Reclamation back in D.C., what was it called, Water and Science, I guess—Department of Water and Science, I guess. And he came out on behalf

of Laxalt to start that process, and we negotiated with him for about three or four months.

“ . . . their basic premise was there will be a compact. And regardless of what we tried to negotiate, it didn’t make any difference because our premise was there will not be a compact . . . ”

But their basic premise was there will be a compact. And regardless of what we tried to negotiate, it didn’t make any difference because our premise was there will not be a compact, and theirs was, and we had a lot of discussion on that.

“Finally, we just broke off discussions and spent our time figuring out how we were going to kill this compact. . . . we went back to D.C., and hired some people to help us with that. . . .”

Finally, we just broke off discussions and spent our time figuring out how we were going to kill this compact. We decided we needed some help, so we went back to D.C., and hired some people to help us with that.

Seney: Why did you decide you needed help and who did you hire?

Hiring Lobbying and Public Relations Firm to Help Oppose the Interstate Compact

Ely: Well, we needed help because we were taking on the first friend, who was loved by everybody in Congress, who was very powerful, and who wanted one last thing before he left, and everyone was ready to give it to him.

Seney: That being the approval of interstate compact?

“ . . . we hired Wexler, Reynolds, Harrison & Schule, and it was Nancy Reynolds and Anne Wexler, they were the two leading people there . . . ”

Ely: That’s right. So we needed some help. We needed to find out politically how we could defeat this. We knew for sure that we wanted it defeated, but we just didn’t know how to go about the process.

“ . . . Anne Wexler was leading the charge at that point, because we were trying to get some Democratic help and we also needed some Republican help, so Nancy Reynolds helped on that side of it. . . . ”

So we hired Wexler, Reynolds, Harrison & Schule, and it was Nancy Reynolds and Anne Wexler, they were the two leading people there, and I guess Anne Wexler was leading the charge

at that point, because we were trying to get some Democratic help and we also needed some Republican help, so Nancy Reynolds helped on that side of it. She was a very close friend of Ronald Reagan. She had access to him. Anne Wexler had worked for Jimmy Carter and had access to the Democrats. And they were one of the top firms in Washington, D.C. And then we hired another guy . . .

Seney: How much does it cost, by the way, to hire someone like that?

The Cost, at That Time, of Hiring Washington, D.C., Assistance

Ely: An immense amount of money. (laughter)

Seney: Would you say how much?

Ely: Yes. Now, this was years ago, so it would be much more now than it was then. But at that time we were paying one hundred fifty, two hundred dollars an hour for a staffer to do the work. And when we actually got either Ann Wexler or Nancy Reynolds to do it, then we were paying her upwards of two hundred fifty, three hundred some-odd dollars an hour. And we hired them.

Seney: Do you remember what the total bill was from

that?

Ely: Eighty thousand dollars, I think, to defeat the compact, for their services. Something like that, I'm pretty sure that's what it was. We also hired another guy . . .

Seney: But it was money well spent.

Also Hired Burton Wides to Deal with the Edward M. Kennedy Side of the Issues

Ely: It was money well spent. I can't think of his name [Burton Wides], darn it, I can see his face, but he was a staffer at one time for Senator [Edward M.] Kennedy, a high-ranking staffer.

“ . . . we needed to remind Ted Kennedy that he was a honorary member of the tribe . . . Ted showed up at one point a long time ago, and the tribe put on a ceremony for him and the whole thing, and made him a honorary member. And he said he would never do anything to harm Pyramid Lake, so we decided it was time to remind him of that and his honorary membership. . . . ”

And we hired him to handle some of the Kennedy side of the deal, some of that, and we needed to remind Ted Kennedy that he was a honorary member of the tribe and all these things.

See, Ted showed up at one point a long time ago, and the tribe put on a ceremony for him and the whole thing, and made him a honorary member. And he said he would never do anything to harm Pyramid Lake, so we decided it was time to remind him of that and his honorary membership. Burton Wides—that was his name. We hired Burton Wides, and he handled that end of it. So we had one good firm and an individual that was good, and we went back to try to nail the compact.

It was a difficult battle, and I think I went over most of that with you in our previous interview, and I think you still have that.

Seney: Well, why don't we do it here, because that's really separate and we need to do it on one piece of tape.

Laying out the Campaign Against the Interstate Compact

Ely: Okay. We decided to hire these guys to try to kill the compact. When we met with the political advisors, the lobbyists, we laid out a way to do it, and what we tried to do was two or three things.

“ . . . we had to go after the integrity of Senator Laxalt . . . ”

One is we had to go after the integrity of Senator Laxalt, for one, because everyone just thought the world of him back in Congress. They just thought he was the greatest thing since chocolate. He was a man of high integrity, that he was loved by everybody, helped everybody get their bills passed, and therefore they owed him something. So we had to attack that end, because we knew that he was misleading them in this regard.

“ . . . a more positive attack . . . to show Pyramid Lake and let the lake speak for itself, what it was and who we were and our relationship to the lake and then what the compact would do to the lake. . . . ”

And then we also had to have a more positive attack, and that positive attack was to show Pyramid Lake and let the lake speak for itself, what it was and who we were and our relationship to the lake and then what the compact would do to the lake. And then finally, the final part of that strategy was to try to—with those other things attacking his integrity, saying how great Pyramid Lake was and why we needed to protect it.

“We wanted to lead the senator into a place where

he either had to withdraw the bill or we could find some benign way to let him out that wouldn't harm us. . . ."

We wanted to lead the senator into a place where he either had to withdraw the bill or we could find some benign way to let him out that wouldn't harm us.

“. . . we realized that . . . he was concerned about the substance, but he was more concerned that his place in history be recorded that he had passed the California-Nevada interstate compact. We also realized that he was obsessed with the compact, that he wanted it so bad that he was willing to do a lot of things to accomplish it, and so we sort of took this 'judo' approach to it. We let the momentum of his desire and obsession with this to carry it to a point where we could manipulate it. . . ."

We just sat down and tried to count out what was important, and we realized that early on in the process that Senator Laxalt wasn't real concerned about the substance of the California-Nevada interstate compact. I mean, he was concerned about the substance, but he was more concerned that his place in history be recorded that he had passed the California-Nevada interstate compact. We also realized that he was

obsessed with the compact, that he wanted it so bad that he was willing to do a lot of things to accomplish it, and so we sort of took this “judo” approach to it. We let the momentum of his desire and obsession with this to carry it to a point where we could manipulate it.

“I’m not altogether sure whether we’re as brilliant as we think we are . . . But suffice it to say it ended up that way . . . but we knew this, we had to kill the compact, and in order to kill the compact we had to attack his integrity. And we had to gain support, and so we did. . . .”

I’m not altogether sure whether we’re as brilliant as we think we are, or this sort of came out as we went along, you know, and over the years after we’re finally finished, I went back and re-evaluated it and sort of made up a strategy around it, so I’m blurred in that. But suffice it to say it ended up that way, because I’m not altogether sure that we were that strategically brilliant [laughter], or circumstances led that way and we moved it in that direction and not really articulating what we were trying to do, but we knew this, we had to kill the compact, and in order to kill the compact we had to attack his integrity. And we had to gain support, and so we did.

Used a Slide Show of the Lake to Educate Congress and Its Staff

We had the Fisheries people go back to D.C. and they showed a slide show of the lake, and it was a very professionally done, well-made slide show, and we answered questions. We showed any congressman or senator who was willing to look at it. Whenever they needed to look at it, we showed it to them. We got it in a hearing that we could make it public and we showed it to them. We got staff together and bought them lunch, and showed it to them. I mean, we just carried this thing around and showed it to everybody. That group of individuals did that.

“ . . . Bob Pelcyger and I went around and talked to everybody about the compact and about what it was doing to Pyramid Lake . . . We sat down with maps and we went through it and passed out fliers. I mean, we just beat the halls. . . . ”

Meantime, Bob Pelcyger and I went around and talked to everybody about the compact and about what it was doing to Pyramid Lake and what it would do to Pyramid Lake. We sat down with maps and we went through it and passed out fliers. I mean, we just beat the halls.

“It’s interesting because this is very expensive and we didn’t have much money. So we had a rock concert . . . because we were really out of money. . . .”

It’s interesting because this is very expensive and we didn’t have much money. So we had a rock concert, which was sort of entertaining. We had a concert in the middle of this, because we were really out of money. We were getting close.

“We had all this litigation going on, we continued to try to negotiate and we couldn’t get anybody to negotiate with us. . . .”

We had all this litigation going on, we continued to try to negotiate and we couldn’t get anybody to negotiate with us. We were passing out this negotiating position to try to get people to talk with us, and we’d beat on doors, leave it on their doors, no one would call us. As far as they were concerned, we’d lost in the Supreme Court. We couldn’t be relied upon because we killed the last deal, even though we said we were going to go with it, you know, it was just this rag-tag group that nobody could trust and here we were trying to do this, so we had all these battles brewing.

Rock Concert on the Reservation Helps Pay the Expenses for the Campaign Against the Compact

We were running out of money, and I was really worried about that. And, you know, pennies from heaven, here it comes again, on our doorstep, we run into these two producers who want to produce a concert.

**Two Producers Wanted to Do a Rock Concert
Honoring Jerry Garcia, of the Grateful Dead, Who
Was in the Hospital at the Time**

Jerry Garcia, the late Jerry Garcia [leader of the Grateful Dead], at that time was in the hospital. This was his first bout with his liver problem, or whatever it was, and so the band wanted to put on a concert for him, and it was members of his band who all have their own bands, like Mickey and the Daylights, and Kingfish, and each single member of the band had their own band. So they were going to have all these five bands show up and put on a concert.

They were supposed to do it somewhere in Washoe County or Alpine County or somewhere, I don't remember exactly. It was supposed to go up in the Sierras, and those folks were tired of the Grateful Dead concerts because they had a lot of people coming along that they didn't want around. So they decided that they would have it at Boreal Ridge. Do you know where that's at?

Seney: Right.

Concert Promoters Asked to Hold the Concert on the Pyramid Lake Paiute Reservation

Ely: They decided they weren't going to have it. So now these people, the promoters of the concert, had no place to go, and they still wanted to have this concert. There was a boyfriend/girlfriend team, and the girl was just in tears because this was the right thing to do and it was Jerry Garcia, and there will always be people, and don't worry, we'll make all kinds of money, and she came to our office and asked us. And we said, "Well, maybe. How many people do you expect to be there."

Promoters Proposed a Payment of \$10,000 up Front and 10 Percent of the Proceeds

And they tallied it up and said, "We'll give you ten thousand dollars in advance. We know there will be this amount of people and you're going to get 10 percent of the take and if you multiply that out that's going to be sixty-five thousand dollars and that is the bottom line."

I called Bob Pelcyger, and he turned me over to one of his attorneys in his office and he says, "Well, if they're so sure about it, let's have

them pay that amount.”

So I thought, “Well that’s a good idea.”

So I got back in touch with these folks, and I said, “Okay, we’ll let you come out here. I have to get it approved by the council, but we’ll let you come out here and you can have a concert and we’ll let you have free camping for three days, we’ll give you an area and all that. How many people do you think we’re going to get?” I let them go through the whole thing all over again. I said, “How much does that equate to? Are you sure?”

Tribe Counter-proposed a Flat Fee of \$65,000 Backed by a Bond

And that girl was just absolutely positive that they were going to get that amount, and so I said, “Well, okay. Why don’t we structure the agreement this way. We won’t ask for percentages, you just pay us sixty-five thousand dollars, due at the end of the concert, and we’ll let you have it. And not only that, but you back it up with a bond.”

And they said, “Okay.” Her boyfriend was really nervous, because he was the one with money, he had money, she had nothing. She was

just the sentimental part of the operation, and he obviously was in love with her. (laughter) So we had them sign a bond, and I mean, we made this bond just airtight, I mean, it was just incredible.

I went to the councilmen and said “Hey, I’ve got this guy in my office and he wants this and we’re going to make a quick sixty-five thousand dollars and we can use it for this. We’ve got the security worked out, we’ve got this thing in contract. We have pages of contract where they’re not going to harm us. They’re going to do this.” So they said okay.

“So we did it, and they had the concert. Man, they lost their shirts. . . .”

So we did it, and they had the concert.
Man, they lost their shirts.

“There were two checkpoints on the same road selling tickets. . . . When you stopped at this one, they said, ‘Oh, don’t worry, they’ll get it up there.’ When you stopped at this one, they said ‘Oh, they’ve already gotten it down here.’ So nobody took any money. And there was very few people there, and the reason . . . is because they set a date and then they canceled the date a week before it was going to happen and set it for a week after. . . .”

There were two checkpoints on the same road selling tickets. What a terrible thing to do. The road went like this, this group was selling tickets, this group was selling tickets. When you stopped at this one, they said, “Oh, don’t worry, they’ll get it up there.” When you stopped at this one, they said “Oh, they’ve already gotten it down here.” So nobody took any money. And there was very few people there, and the reason for that is because they set a date and then they canceled the date a week before it was going to happen and set it for a week after. So they had all these Deadheads who were ready to fly in, but now said, “The heck with it. We’re not going to do it. We’re not going to show up.”

“ . . . they had this concert, and there was about fourteen thousand people. They estimated over sixty thousand people. . . .”

And so they had this concert, and there was about fourteen thousand people. They estimated over sixty thousand people. So it was overprotected. There were more security guards than there were people there. (laughter) And then this group, these promoters, were really kind of cruddy with us. They wanted us, they needed us to have the place and to approve all of it, but as soon as we approved it, they jumped in bed with

the dissidents, and they gave the dissidents the microphone when we got there.

Relations with the Promoters Didn't Go Well, but the Tribe Collected its Money and Used it in the Campaign

Now, you have fourteen thousand people who have nothing to do with Pyramid Lake, they got up, they are the ones who did the welcome speech, they're the ones who laid out their propaganda and all of that kind of stuff. And we were all sitting there thinking, "Jeez, these guys, they just turned on us when we showed up." They had it contractually. We went up to them and asked them about it, and they said, "Well, here's your contract, it doesn't say anything about we couldn't bring these people up to essentially say bad things about you."

We said, "Okay."

About two-thirds the way through the concert, the promoter came over to me and she says, "Joe, we've got a problem. The people at the bottom thought the people at the top were taking the tickets and the people at the top thought the people at the bottom were taking the tickets, and there's no way in the world we made any money on this."

And I said, “We don’t have a problem. You have a problem.” I said, “By the way, we’re having a good time. Thanks.” And we went back to the concert.

And a month later we collected our sixty-five thousand dollars. They had to call in the bond because they couldn’t pay us. But we used that money then to pay for the lobbying efforts and all of that.

The Money from the Concert Is Put to Use Defeating the Compact

“ . . . the lobbyists put together the packet, they did it very professionally. . . . We actually were able to hire those guys at a cut rate, because they sort of needed something to cleanse their soul. They said, ‘You know, we ran through so much bad legislation that we would like to have something good, you know. For once we want to be on the little guy’s side, the right guy’s side.’ . . . ”

This is interesting, because when the lobbyists put together the packet, they did it very professionally. It was a big lobbying firm. They printed it in gold, their name, and then Pyramid Lake Paiute Tribe, and it was really a pretty package with maps, and it was just well laid out.

We actually were able to hire those guys at a cut rate, because they sort of needed something to cleanse their soul. They said, “You know, we ran through so much bad legislation (laughter) that we would like to have something good, you know. For once we want to be on the little guy’s side, the right guy’s side.” So they did it at a very low rate for us. Normally, that thing would probably cost twice or three times as much to have it done. That’s the kind of services they provided.

“ . . . Laxalt got one of these packets, and he was *furious*. Actually, he went personally over to the Bureau of Indian Affairs, to Ross Swimmer, to ask them, “Who in the heck is giving these people money? . . .”

In the middle of it, Laxalt got one of these packets, and he was *furious*. Actually, he went personally over to the Bureau of Indian Affairs, to Ross Swimmer, to ask them, “Who in the heck is giving these people money? What funding is this coming out of to do this against me? Who is paying for these people?”

“ . . . Swimmer told him, ‘They didn’t have to take any money from us to do it.’ . . . he wanted to stop the funding . . . But he had no place to attack, because the entire effort that we took when we took him on was financed by us . . . our own

money independently. . . .”

And Swimmer told him, “They didn’t have to take any money from us to do it.” So it must have made him even more furious that it was independent, that we were paying for this all out of our own pocket, because he wanted to stop the funding and he was the senator, he could have easily said, “Freeze it, those people don’t get another penny.” But he had no place to attack, because the entire effort that we took when we took him on was financed by us, by ourselves, our own money independently.

Joe Gremban of Sierra Pacific Power

In the meantime, and I think this is real important. You know, I’ve named unsung heroes in this whole thing, Joe Gremban¹¹ [President of Sierra Pacific Power] being one of them, and we’ll get to that in a little bit. But before I forget, Ross Swimmer was a real unsung hero.

Seney: Was he the Commissioner of Indian Affairs?

Ross Swimmer

Ely: He was the Assistant Secretary of Indian Affairs

11. Reclamation’s oral history program includes an interview with Joe Gremban.

at that time, and a very honest man and tough. He wasn't afraid of losing his job. He didn't walk in anywhere with his hat in his hand. He was very smart and he understood it and he understood that we were right, and he understood that the Federal Government had an obligation to make this thing work. There were many times that he would beat on the table on our behalf, and that was real important, very important.

“ . . . it was because of the OCAP and the criteria that really worked against T-C-I-D [Truckee-Carson Irrigation District] also was a major factor in getting this settlement to proceed and that would have never occurred without Ross Swimmer. . . . ”

A little later on we'll talk about the OCAP [Operating Criteria and Procedures]. I'm sure Bob has talked to you about that, but it was because of the OCAP and the criteria that really worked against T-C-I-D [Truckee-Carson Irrigation District] also was a major factor in getting this settlement to proceed and that would have never occurred without Ross Swimmer. Never. We needed somebody strong at that time and he was strong at that time.

Seney: What was it, Joe, about the compact that was so deleterious and detrimental to the tribe?

How the Compact Would Have Adversely Affected the Tribe by Taking Water Away from Pyramid Lake

Ely: Well, in a nutshell, it just took water from Pyramid Lake. The water that was given, Nevada got all the water that it needed, and the balance of water should have come to Pyramid Lake. But instead, to make California whole, the balance of water went to California.

“ . . . it was written very carefully and was designed to be deceptive. There was a lot of language that said that it recognized Pyramid Lake and it recognized different things, but it didn't recognize particular beneficial uses. One was fisheries. And it allocated water away from Pyramid Lake to California. . . . ”

And it was written in a way that—and this was the worse thing about the compact, and I don't have it in front of me to go through it, but it was written very carefully and was designed to be deceptive. There was a lot of language that said that it recognized Pyramid Lake and it recognized different things, but it didn't recognize particular beneficial uses. One was fisheries. And it allocated water away from Pyramid Lake to California. But the way it did it and the deceptive language was very well crafted, so if you looked

at it at face value, you would scratch your head and say, “Well, what’s the problem? There’s no problem here.”

“ . . . when you looked at it from a legal standpoint . . . it was very clear that when it [California-Nevada compact on the Truckee and Carson rivers] was complete, Pyramid Lake was not going to get any of that water. . . .”

But when you looked at it from a legal standpoint, you could see how this section dovetailed into this section and this section dovetailed into this one, and it was very clear that when it was complete, Pyramid Lake was not going to get any of that water.

Seney: That’s why you had to do such a thorough selling job, from your point of view, to the Congress.

The Difficulties Involved in Pointing out the Flaws in the Compact

Ely: Right.

“ . . . a congressman or a senator who actually believes that Laxalt is the most genuine person in the world, is not going to believe you. You have to show it to them and then you had to take the time to say, ‘Well, see what it says here, and see

what it says here, and see what it says here.’ . . .”

Because you couldn’t just sit there and explain, like I just did to you, a congressman or a senator who actually believes that Laxalt is the most genuine person in the world, is not going to believe you. You have to show it to them and then you had to take the time to say, “Well, see what it says here, and see what it says here, and see what it says here.” And we’d ask, “Well, go ask the senator. If that’s true, why don’t we just change this word and we’ll change this word and change this word, and if they’ll change those words, then we’ve got a deal.”

But each time they would go back and ask, maybe not the senator, but other people on that, they realized that if they changed those key words which were deceptive, that it would change the whole structure of the compact. But as it was written, it would harm Pyramid Lake by taking water away from Pyramid Lake and essentially giving it to California.

“The second reason we needed to kill it is because there would never be a settlement, ever, unless the compact went away, because that was, in their opinion, the settlement between California and Nevada. And without a settlement between California and Nevada, now that whole thing was

left wide open, which would cause both of those states to have to renegotiate it. . . .”

So we needed to have the compact killed. That’s one reason. The second reason we needed to kill it is because there would never be a settlement, ever, unless the compact went away, because that was, in their opinion, the settlement between California and Nevada. And without a settlement between California and Nevada, now that whole thing was left wide open, which would cause both of those states to have to renegotiate it. When they renegotiated it, there we would be sitting at the table. So we needed to create the vacuum and we needed to kill this thing that was going to harm us.

Seney: And you weren’t at the table when the compact was negotiated.

Defeating the Compact

Ely: No, no, we were not. So we went after the compact. And to make a long story short, we defeated it. We finally were able to get into a position where it looked like its defeat was imminent, but Senator Laxalt was very tenacious. He did not want to let go of it, and we couldn’t convince anybody to really pull it without him wanting to let go of it. We were counting votes.

That's how close we were. We were sitting there counting votes and thinking, "Well, who can we rely on to actually kill this?"

It was pretty straight. And we thought at this point that we might have enough people to actually kill it, but the margin was two or three votes, and we were just afraid that if it went to a vote, that we might not be able to.

Seney: Let me get you to be not too short here, because it goes to the Judiciary Committee, the compact, and Laxalt is a member of the Judiciary Committee, is he not?

Ely: Yes, I think so. I'm not positive.

Seney: And Laxalt is in favor of it, and on the California side, [Senator Pete] Wilson is a member, and he's in favor of it. Hecht, who apparently agrees with pretty much whatever Laxalt wants him to agree with.

Ely: That's correct.

Seney: But [Alan] Cranston does not—Senator Cranston of California, was on your side in the Judiciary Committee.

Ely: Right. He was on our side in the Judiciary

Committee.

Seney: So that stalls it out in the Judiciary Committee, right?

Ely: He's got it stalled out and he is the one who is out there trying to recruit votes for us on that side.

Seney: Right.

Senator Alan Cranston Opposed the Compact

Ely: And Cranston was invaluable. I'm glad that you brought that up. There are so many players in this thing. It's hard to keep track of it. Cranston was very important in this and he was really bucking the tide on this, because it was difficult for him to go against a compact that his state had agreed to. It took a tremendous amount of courage on his part, but he was unwavering. He just was absolutely unwavering. He was opposed to this compact because it would hurt Pyramid Lake. Not for any other reason, but because it hurt Pyramid Lake.

So that intrigue was going on inside there, so we had it stalled long enough in the Judiciary. In the meantime, we're counting votes. What if it gets bounced out of there and goes to the next committee? I don't know what next committee it

was on, but I know that [Senator Mark] Hatfield was involved.

Senator Laxalt Attached Congressional Ratification of the Compact to an Omnibus Bill

Seney: Well, remember what happened was as a member of the Appropriations Committee, Laxalt attached it to one of these omnibus resolutions, continuing resolutions, with the simple phrase, “The California-Nevada interstate compact is hereby adopted.”

Ely: Ratified, yes.

The Role of Senator Mark Hatfield

Seney: Yes, yes. And you then went to see Hatfield. You went with Pelcyger.

Ely: Yes. Because he was on the Appropriations Committee. He was also a good friend of Laxalt.

Seney: Well, he was the Chair of the Appropriations Committee, Hatfield was.

Ely: Right. Was it a Republican Senate?

Seney: Yes. It was.

“ . . . we went to see him and we talked to him about it. . . . He couldn't believe that the senator had lied to him. . . . ”

Ely: He was. And so we went to see him and we talked to him about it. And he couldn't believe it. He couldn't believe that the senator had lied to him.

Seney: Let me get you to maybe talk about something that you didn't talk about a minute ago, because it's important here. You know, these important decisions sometimes hinge on the strangest things and the strangest coincidences and chance kind of similar interests, and my understanding is that you and Hatfield hit it off and that you hit it off because of your religious sentiments.

Discusses Laxalt and Pyramid Lake with Mark Hatfield

Ely: Well, Hatfield and I, I thought that he was key to this. I just thought that if I had a chance to talk to him face to face, to discuss the legislation and how it harmed Pyramid Lake, but then also to discuss what we might have in common and try to seek a solution to this, that it might be helpful. And so I thought that it was very important that we see him.

We visited with Hatfield one day, who is a very gracious man, very protective of Indian tribes. He was not enamored with Bob Pelcyger at all. He wanted to hear it from me, and he was very distrustful of Indian attorneys and thought that they'd really sold the tribe a bill of goods over the years and he just wasn't happy with them. So he wanted to hear it from me, and we discussed it at length, what had gone on. He couldn't believe it. He just was having a very difficult time. He thought that Laxalt had a lot of integrity and that he was a very honest man. And I don't know Laxalt personally; perhaps he is. In this one instance, in this one instance, he wasn't. And this one instance may be point-five of 1 percent of his entire life. Do you know what I mean?

Seney: Right.

Ely: And you're going to find more than point-five instances where I could be compared with Laxalt in this, so I don't want to take that away from him, because he may have been every bit of what they said he was.

Seney: Let me turn the tape over.

END SIDE 1, TAPE 1, SESSION 2. May 20, 1996.

BEGIN SIDE 2, TAPE 1, SESSION 2. May 20, 1996.

“ . . . and after the meeting . . . we had a discussion about . . . our belief in Jesus Christ. . . . it was just him and I and then he brought in one of his staff people and we prayed about a solution . . . to the problem. . . .”

Ely: So I met with Senator Hatfield, and after the meeting and everybody left, we had a discussion about our common interest, which was our belief in Jesus Christ. It was very interesting, because at that meeting it was just him and I and then he brought in one of his staff people and we prayed about a solution, a solution to the problem.

Seney: Who led the prayer?

Ely: We all prayed. There was just three of us. We talked about a solution to the problem and that he wanted to see a solution to the problem, that he didn't want to see a situation where we just killed something and that there wasn't a solution, and we assured him that there could be a solution. But we also agreed that it was so mired that it would take something more than just human ability to get it done, and so it was just a very simple prayer that “Dear Lord, it's in your hands. We pray for your will and provide us with a solution to this.” And we agreed and we broke up. And I think that was one instance of several, and I'm not going to go into all of them, that were

instrumental in this. And that's why I continue to say that I think that there was a greater hand in this whole thing.

The Final Showdown over the Compact

After that, it was getting fairly close to showdown time. We had met with the lobbyists and we maintained a very straight course through this whole thing. We were only going to say the things that were true. We chose not to stretch the truth in any way, and we would do our best to make this happen, but we would do it honestly, because there were a couple of times where Laxalt left himself open for really the *coup de grace* on his integrity, and all we had to do was stretch the truth a little bit. And we had some very powerful people who were willing to collaborate it, and we chose not to.

“In the end, we presented him with a proposal, because we realized that he wanted to have the compact’s title next to his name, and so we decided, ‘Let’s give it to him, but let’s not give it to him in a way that will hurt Pyramid Lake.’ . . .”

In the end, we presented him with a proposal, because we realized that he wanted to have the compact’s title next to his name, and so we decided, “Let’s give it to him, but let’s not

give it to him in a way that will hurt Pyramid Lake.” So we floated a proposal in front of him and it was really on the rocks at that point.

Seney: You mean the compact?

“ . . . we just told Laxalt, ‘Here, we’ll make a deal. You can have the compact by title, but everything in it that harms Pyramid Lake, we want out of it. If you do that and you give us \$50 million, we will support it and we’ll help you get it passed.’ . . . And he said, “You’ve got a deal.” ”

Ely: The compact was. And we just told Laxalt, “Here, we’ll make a deal. You can have the compact by title, but everything in it that harms Pyramid Lake, we want out of it. If you do that and you give us \$50 million, we will support it and we’ll help you get it passed.”

And he said, “You’ve got a deal.”

“ . . . either we get a compact that was benign . . . or, more likely, we are going to get the Nevada people just coming unglued and killing it themselves, which is what happened. . . . ”

At that point, we knew we won, because either we get a compact that was benign and quite possibly even pick up a powerful friend in the process, or,

more likely, we are going to get the Nevada people just coming unglued and killing it themselves, which is what happened.

I came back. I was in D.C., then I flew back and I had a special meeting [of the Tribal Council] the next day and then had a resolution passed and forwarded it back to Bob Pelcyger, who was there, and they got the resolution that said, based on this agreement, we would have the compact, we would be in favor of the compact. And then that hit the news somehow, not the newspapers this time, but just the news to powerful people in Nevada, Sierra Pacific Power Company, Washoe County, state of Nevada, state of California, and they were all upset because they lost. They would lose under this scenario.

Laxalt Ultimately Withdrew the Bill Because of Opposition

So they all started calling Laxalt and put pressure on him to withdraw the bill, and he called Hatfield and had him remove it from the appropriations package, and it was over. It never resurfaced again. Its champion was gone, that was the end of it for Laxalt, so it no longer had a champion. And we all breathed a sigh of relief and came back home.

Joe Ely Is Reelected Tribal Chairman by Two Votes

Then I faced another election because this took a year, and I ran for election at that time and I ran against Roy Garcia, who almost always won his elections. I don't think he'd lost an election up to this point. Whenever he decided that he was going to become chairman, he became chairman. And I ran against him and I won by two votes.

Seney: I would think that this would have been a high point, here, you were victorious in the defeat of the compact.

Ely: There were other issues. Remember, this is just water. There were other issues at the Reservation. One involved the court, and it was a very volatile issue and it worked very much against me, and he was in favor of the opposite side and so he ran based on that.

Seney: But so far as water was concerned, you were on solid ground with the tribe.

Ely: Well, I was on pretty solid ground. We defeated the compact now, so I was on solid ground with the water. The dissidents were still there, out trying to still get petitions and try to do whatever they could do to dismantle this whole thing. So

there was always controversy, because they always made it up, whether there was controversy or not, it was, “Yeah, he defeated the compact, but he didn’t do it fast enough.” Or, “They cut a deal on the side.” You know, things of that nature. The rumor mill was going, so it was always controversial.

“There was never a point in my tenure as chairman where water wasn’t controversial. But it was this court situation that almost got me. Not only that, but I was a fairly aggressive chairman. . . .”

There was never a point in my tenure as chairman where water wasn’t controversial. But it was this court situation that almost got me. Not only that, but I was a fairly aggressive chairman. I read the Constitution over and over and over, and I read the bylaws over and over and over. I knew how to maneuver them and within them, and I also realized that we had a very clear division of powers, that there was an executive branch and a legislative branch, and I knew how much power I had, and I used it. I removed people from committees and I abolished committees and I started committees, and I did different things that were fairly controversial, and when the council or the legislative branch would come back to nail me on that, I would show them

where they didn't have the power to do it. So there was this struggle going on all the while, because I didn't intend as chairman to sit back and let four years float by or five years float by. I wanted to get something done. And so I was controversial. And to get it done sometimes you have to do things and sometimes that means firing people, and removing politically powerful people. So there were all those things that were going on as well.

Seney: So this is 1987, then, that you have to run for reelection?

Served as Chairman for Five Years—1983 to 1988

Ely: No, it would be '86, because I was serving the last year of the previous chairman's term. See, he had two years and he died in his first year, so I was serving his second year. That was a special election that I was elected to, and it didn't count against me, because you're only allowed to serve two continuous terms which are for two years each. I served for five years because the first year . . .

Seney: You were filling out Mr. Shaw's term.

Ely: Right. So this was an election to elected to my first official term.

Seney: And now it's 1986 and you won by two votes.

Ely: I won by two votes.

Seney: Two votes this time.

Ely: When there's only two people running—at that time there was only two people running, two votes is really one vote, because if you get that other vote, all you do it tie it up. Then you have to run it off again. So you have to have at least two votes to win because if they don't vote for you, then they cast a vote for the other guy, and you've got a tie. But I won by two votes. Then we proceeded.

**“ . . . during this time were also fighting over the
OCAP. . . .”**

Now the compact was out of the way.
And during this time were also fighting over the
OCAP.

**“ . . . so we started to go to work in . . . the
Department of Interior. We tried to reduce the
numbers of how much water would go to
Truckee-Carson Irrigation District via the OCAP,
the Operating Criteria and Procedures, and all that
was to tighten up the rules and make sure that
they enforce the rules and reevaluate this. . . .”**

Pelcyger had finally put people in a position where in the courts it looked like we could tie up this OCAP forever, and so we started to go to work in Congress regarding the OCAP, not in Congress, but the Department of Interior. We tried to reduce the numbers of how much water would go to Truckee-Carson Irrigation District via the OCAP, the Operating Criteria and Procedures, and all that was to tighten up the rules and make sure that they enforce the rules and reevaluate this.

“Now they had to evaluate it in terms of the Endangered Species Act, because the *cui-ui* was on the endangered species list. . . .”

Now they had to evaluate it in terms of the Endangered Species Act, because the *cui-ui* was on the endangered species list. And so they had to come up with a “no jeopardy” opinion and all of this, and we went through the whole process again.

“We finally got them in a position now where they revised their OCAP. When they revised their OCAP, T-C-I-D effectively lost 100,000 acre-feet of water. . . .”

Now we’re lobbying the Department of

Interior. It seems like I spent a lot of time back there. And we had Ross Swimmer ready to lay his job on the line for the tribe and for the fisheries and all of that. We finally got them in a position now where they revised their OCAP. When they revised their OCAP, T-C-I-D effectively lost 100,000 acre-feet of water.

So the writing was on the wall. We had this rag-tag little team there, a year before, who couldn't be trusted, who reneged on an agreement, who were out of money, all of this stuff, now in the span of about a year and a few months, we had defeated the compact. We had now become a force in Washington, because now everybody knew who we were, I mean, we beat on every door. There are very few senators that we didn't walk through their door and tell them about Pyramid Lake. They knew about it. So we had that back there now, and now with the Department of Interior we ended up reducing the amount of water going to T-C-I-D via the OCAP, and all of a sudden we were being taken very seriously, because we were winning.

Seney: And during this time, you also get rights to Stampede Reservoir.

The Struggle over Stampede Reservoir

Ely: That's coming. We have one more piece of the puzzle that has to go into place. In the meantime, Stampede Reservoir.

“Stampede Reservoir . . . is really the life support system for the *cui-ui*. . . .”

Stampede Reservoir, as you already know, is really the life support system for the *cui-ui*.

“It was built initially to provide water to T-C-I-D and also a drought year's supply for Reno and Sparks. . . .”

It was built initially to provide water to T-C-I-D and also a drought year's supply for Reno and Sparks.

“Reno and Sparks does not grow without a drought-year water supply. . . . it doesn't build houses. Therefore, they don't turn on lights. Therefore, Sierra Pacific Power Company can't sell them power. Therefore, they don't increase in profits. . . .”

Reno and Sparks does not grow without a drought-year water supply. It doesn't grow; therefore, it doesn't build houses. Therefore, they don't turn on lights. Therefore, Sierra Pacific Power Company can't sell them power.

Therefore, they don't increase in profits.

We fought and argued that Stampede Reservoir “. . . should be used solely for the purpose of holding water in storage for release in the spring for the *cui-ui* during the spawning run, and we won. . . .”

We had fought to say that the Stampede Reservoir should not be used for any of those purposes, but should be used solely for the purpose of holding water in storage for release in the spring for the *cui-ui* during the spawning run, and we won. It went through the appeals court, and finally the last decision is that we had won, and then it was going to go to Supreme Court, and Supreme Court didn't hear it, and so it was over.

“. . . we had the compact defeated. We had the OCAP reducing the amount of water to T-C-I-D, the Newlands Project, and we had Reno/Sparks held in check . . . this was happening at a rapid pace . . .”

So now we had the compact defeated. We had the OCAP reducing the amount of water to T-C-I-D, the Newlands Project, and we had Reno/Sparks held in check, they could no longer grow because they had no drought-year supply. And I mean, this was happening at a rapid

pace–bang, bang, bang. Why did it all happen in one year and a half? You tell me.

Seney: Is this again you think the hand of Providence?

“ . . . then on top of it, we entered the first year of what turns out to be one of Nevada’s worst droughts in history. That was very helpful. Nothing like trying to negotiate a water settlement in the middle of a drought. All of a sudden, everyone is worried about water. . . . so you have these elements, political, climate-driven elements. . . . ”

Ely: Sure. And then on top of it, we entered the first year of what turns out to be one of Nevada’s worst droughts in history.

Seney: And that was helpful.

Ely: That was very helpful. Nothing like trying to negotiate a water settlement in the middle of a drought. All of a sudden, everyone is worried about water. They don’t care about it most of the time. People don’t care about water. They turn on their faucet and there it is. But now they were worried about water. Places were drying up, farmers weren’t getting to irrigate their fields, golf courses were drying up, there were water restrictions. And so you have these elements,

political, climate-driven elements.

New Players in the Game Including Senator Harry Reid

You have all of these different elements and then on top of that, which I think is an important piece, as well, maybe the most important piece, you all of a sudden have a changing of the guard. You have all these different people who are now falling into place who are coming forward and saying, “Well, wait a second, maybe we don’t have to fight about this.” Now, do those people come into place as a result of all those other conditions? To some extent they do, but a lot of it was just people who came forward and said, “Let’s try to resolve this issue. Let’s see if we can resolve this issue.”

So you had the players in place, and the players had the proper motivation and the players had the proper power that they needed to push this thing forward, so you had all the components.

Seney: Senator Reid was pushing it, wasn’t he?

Ely: Sure, sure. And at this time he is a senator now. Laxalt’s gone, and we have Reid who wants to see this thing happen. He realizes very early that this is a place in history, not only is it a place in

history, but he has something that he can do for 250,000 people who reside in Reno and Sparks. That's a lot of votes. And also I think that he had a certain sense of fairness. He wanted to see this done and wanted to do it.

The Pyramid Lake Tribe Indicates its Willingness to Negotiate

His political career was always in the shadow of Paul Laxalt, and now he had a situation where he could best him. He could prove to the Nevadans that even though he's in the shadow, now he's broken out and now that Laxalt is out of the way, he'll get the job done where Laxalt had failed. And he was willing to do it and wanted to do it. So we had the players in place. So we again started the door-knocking campaign, banging on the doors, dropping off the packets, saying we want to negotiate at this point. We went to the newspapers. We said that we were willing to negotiate with anybody, any time, any place, anybody who wanted to step forward. I was constantly out there. So the whole idea, the whole perception that the papers and the press had on us a year and a half ago was now very different. We were succeeding and we were doing things and we were saying, "We're going to deliver this," and we would deliver it. And so we started to gain some credibility and then we just

said we want to negotiate.

Joe Gremban Called

And that is when I got the call from Joe Gremban.

Seney: Talk about that. When did that happen?

Ely: Well, there had been discussion with individuals prior to this, because we were battling with the compact and we had met these folks, or at least shaken hands, but they were adversaries and no more than that. It was us against them.

“Every time that we took somebody on or took on an issue, it was us against them. It was always the tribe by itself taking on Reno/Sparks, Sierra Pacific Power Company, T-C-I-D, Nevada, California. It was always us against—and they never broke ranks. . . .”

Every time that we took somebody on or took on an issue, it was us against them. It was always the tribe by itself taking on Reno/Sparks, Sierra Pacific Power Company, T-C-I-D, Nevada, California. It was always us against—and they never broke ranks. And so we were always having to combat everybody.

We also decided that during this process

that we were going to continue to fight, that we weren't going to give up, that it was worth it to us to fight. And if you go back and look at some of the old newspaper clips, I was pretty adamant about it. I just said that the *cui-ui* were an intricate part of our heritage, of who we are, we are "*cui-ui-ta-cutta*" and there are three elements that make it up. One is the people, one is the fish, and one is the lake, and if you remove one of those elements, we cease to exist as a people.

I continued to say that we would fight this until there was none of us left, and so we did, and we scrapped. I mean, anything that even remotely related to water, we got in the middle of it. We just became a nasty, mean thorn. But we were always with our hand out, saying, "If you want to negotiate, take our hand and we'll negotiate it." But in the meantime, we wanted to let them know that we were willing to fight this.

Conflicts with the Fallon Naval Air Base

I remember going to the Fallon Naval Air Base, and that was interesting. They have to have a dust abatement and fire control, and so what most Navy bases do is they plant lawns or grass or something that keeps down the dust, and if an engine falls off, then it doesn't burn up the place because it's covered. Well, at the Naval Air Base

in Fallon, instead of doing that, they leased the land out to grow three cuttings of alfalfa every year, which was a terrible use of the water, and it was far and above what they were required to do. And we told them it was far and above.

They also had an obligation, because they were a branch of the Federal Government, to adhere to the Endangered Species Act, so they had no business doing something that would harm the endangered species. But they wouldn't listen to us, and we continued to try to negotiate a deal and they wouldn't listen. We would get their fliers about their land leases, and they decided that we pushed so that they would lease land for only one year instead of ten years, because it takes about ten years to develop and make a profit back after somebody leases the land. And then we were pushing to have it for one year instead of ten years, because we knew that if we made it for one year, that no one would ever go out there and lease.

Got the Naval Air Station to Change from Ten Year Alfalfa Leases to Growing Grass to Hold down Dust

Well, in the middle of all this process, the ten-year rule still applied and we got the notices that those leases were up, and we found out when

their meeting was going to be so they would meet with the farmers to lease that land. Myself and the fisheries director, Alan Rusars, at that time we plotted out a strategy with Bob Pelcyger and the council and said, "Let's go. Let's go and show up at their meeting and tell them that we are going to file a court injunction against those leases the next day and that we're going to try to go from a ten-year to a one-year lease." I am not sure where this all fits in this time frame, but it's somewhere in here, but to just give you an example of how we fought the battle.

We drove out there to the Fallon Naval Air Station, we did some things those days I'm not sure I would do now. (laughter) We went out there and we parked at one of the barrack areas or wherever, and we walked into one of the offices and walked into this little room and there must have been twenty-five or forty, I don't know how many, farmers getting ready to sign up on their leases and there was this naval officer there, and she was telling them where to sign and all of that, and they were all getting ready to sign their leases.

We listened to them for a while, and I raised my hand and I said, "I just want to let you guys know, just to be fair, that before you sign these long-term leases, that tomorrow we're going

to file a court injunction against those leases and take them from ten years to one year. Just want to let you know that, because when you sign that paper, you're going to be obligated for ten years and you're not going to make any money back, one year instead of ten."

The naval officer looked at me and said, "Well, that's a low blow."

I said, "Well, we won't get into any of that, but I just thought you guys would want to know that this is going to be a different situation than it has been in the past." And then Alan and I backed out of the room. (laughter)

Seney: Did they sign the leases?

Ely: There weren't as many leases signed. And one of them said, "You guys have got your hands in the middle of everything, don't you?"

I said, "Yes, and we're going to have our hands in the middle of everything, so I just thought it was fair that we let you know." And we backed out of there and we went back. But I was nervous. That was a nervous time. (laughter) It wasn't so bad once we got back in the car, but when we were standing there, it was nervous.

Seney: And you did file the injunction the next day?

Ely: We filed an injunction.

Seney: What was the outcome of that legal action?

Ely: I don't remember what it was, but we eventually we able to settle with the Navy.

Seney: To get the one-year leases?

Ely: No, to get them to completely change it so that they didn't lease them for alfalfa anymore, but to put in grass and those other things.

Seney: Which takes much less water.

Ely: Much less water. The less water that has to be diverted, the more water stays in the river. And so that was just the beginning of that long-term situation.

Seney: Was part of your thinking here to be such a nuisance that you'd force these people to negotiate?

Trying for Force People to Negotiate

Ely: Sure. Sure. I mean, that was the whole idea. We couldn't keep this up forever. We were willing to

do it. That wasn't a bluff when I said in the papers that we would fight this until there was none of us left. That was not a bluff. That resolve was discussed at the council meeting and that resolve was there. The council and the tribe felt that they were fighting for their very existence. We didn't know how we were going to do it, we hoped that we wouldn't have to do it. We really wanted a settlement. But we just decided that if it was going to happen, then let's do it. So we resolved to do that and we stuck with it.

The tribe determined to file lawsuits “. . . and if it was even remotely related, we filed it. We decided that we would continue to file it and that we would only drop those lawsuits that were explicitly resolved or determined to be dropped as part of the settlement process. . . .”

That was not a bluff. I don't make threats. I don't like threats and I don't make threats. We had determined that whatever it would take to get it done, we would get it done. And we chose to take the best route, and that was settlement. But we were willing to do whatever it took to get it done. We filed a lot of different lawsuits, and if it was even remotely related, we filed it. We decided that we would continue to file it and that we would only drop those lawsuits that were

explicitly resolved or determined to be dropped as part of the settlement process. So that was very real, that was not a bluff.

“ . . . Joe Gremban was one of the first to come forward and break out of the pack. . . .”

So anyway, we continued that, and then throughout this process. So we had all the elements in place, and then we started to gather the people. I think Joe Gremban was one of the first to come forward and break out of the pack. He was the first to come forward and break out of the pack.

Seney: For them the critical matter was really that you control Stampede, and they needed some of that storage, wasn't it?

Ely: Sure it was. Yes. That was theirs.

Seney: What was he like to work with?

“ . . . at first—I was a little bit concerned, because I didn't know if he was sincere. I've come to find out, throughout the process, that he was very sincere . . .”

Ely: Joe Gremban? Well he's very smart, and he's very friendly. And I didn't know at first—I was a

little bit concerned, because I didn't know if he was sincere. I've come to find out, throughout the process, that he was very sincere, that he meant it. You know, I was a little guy, I had been on a horse three or four years prior to this making a living throwing a rope around calves, you know, and sort of rose up through the election process to become the tribe's chairman, and here was Joe Gremban, the President of Sierra Pacific Power Company, which was disputably one of the largest, most powerful corporations in the state of Nevada. I mean, they had direct access.

It was a little intimidating at first, when we'd have a discussion about what we were going to do, and we wanted to know, "Well, how do think the senator will act to this?"

And he said, "Well, let's find out." And he'd go to his phone and dial him up directly on the telephone and talk to him and ask him how it was going to be. So I was a little taken aback at first, and I wasn't sure whether or not I was being played or not, whether there was some ulterior motive other than what we were just discussing. But I come to find out that he was very genuine, and he really wanted to seek a resolution to this problem. I always assumed that their motivation was pure and simple: it was profit. It's an easy motivation to deal with. Far easier than revenge

and some sort of tradition or history or something else that make up the political policies that usually motivate things like this. This was, I felt, was pretty pure: profit. And so we started to talk with him.

“He says, ‘Well, let’s start talking about this. We need storage.’ We said, ‘Well, we have storage, but we don’t have any water.’ I said, ‘You’ve got the water, so let’s try to work a deal where you give us some of your water and we give you some of our storage.’ And really that’s how it worked out. . . .”

He says, “Well, let’s start talking about this. We need storage.”

We said, “Well, we have storage, but we don’t have any water.” I said, “You’ve got the water, so let’s try to work a deal where you give us some of your water and we give you some of our storage.” And really that’s how it worked out.

Negotiations with Sierra Pacific Power Company Moved the Whole Thing Forward and Other Players Began to Come to the Table

Once he started to move forward and started to negotiate, then the other players started to come to the table as well. That was really the

cornerstone of the whole thing, was our discussion and agreement between us and Sierra Pacific Power Company.

Seney: As I understand it, you discovered that in very few years did Sierra Pacific Power really need drought protection, when you went back and looked at it.

Sierra Pacific Power Company Was Looking for Drought Protection During Relatively Few Years

Ely: Right.

Seney: And that's what they wanted out of Stampede, was they wanted water out of Stampede during those years.

“The Stampede agreement was very simple. . . . they had water and with no place to store, and we have storage with no water. . . . we calculated . . . how many years out of ten that they would need storage . . . we also . . . decided how many years out of ten do we need the *cui-ui* to spawn to make sure that they . . . thrive . . . And it appeared to be compatible . . . two out of every ten years that they needed a drought-year supply, and we needed about seven years out of ten years that there had to be a successful spawn . . .”

Ely: Right. The Stampede agreement was very simple. It was based on the premise that they had water and with no place to store, and we have storage with no water. And so what we did, was just put together an agreement where we calculated, based on history, how many years out of ten that they would need storage, based on how many droughts would come along. It was sort of a scientific calculation. And then we also went back and decided how many years out of ten do we need the *cui-ui* to spawn to make sure that they not only survive but thrive and are successful. And it appeared to be compatible, that about one out of every ten years they needed a drought-year supply. And if we doubled that, then it was two out of every ten years that they needed a drought-year supply, and we needed about seven years out of ten years that there had to be a successful spawn, to ensure the survival and rehabilitation of that fishery, and enhancement of it.

“ . . . those years where it was a drought, then they would be able to use that water for drought-year supply for Reno and Sparks, because it didn’t make any sense to send it down the river and sort of trick the *cui-ui* into coming up with no water to spawn. . . . So we used the biology . . . ”

So we said, “Well, we’ve got something

here that will work.” So we just worked out an arrangement where the water—it would be their water—would go into Stampede, and there’d be a determination of whether it was a drought year or not a drought year, and those years where it was a drought, then they would be able to use that water for drought-year supply for Reno and Sparks, because it didn’t make any sense to send it down the river and sort of trick the *cui-ui* into coming up with no water to spawn. The *cui-ui* are pretty smart. They’d come up, and if it didn’t look like there was enough water, they say, “Ah, the heck with it, we’ll do it next year.” And they’d just go back down. So we used the biology and the water and the knowledge of how the . . .

END SIDE 2, TAPE 1, SESSION 2. May 20, 1996.

BEGIN SIDE 1, TAPE 2, SESSION 2. May 20, 1996.

Seney: Today is May 20, 1996. My name is Donald Seney. I am with Joe Ely in his office in Mesa, Arizona. This is our second session and our second tape.

Go ahead, Joe. A little of that got lost off the end, not too much.

Ely: Right.

Seney: You were saying you would figure out the

hydrology of the *cui-ui* to come up and not fake them out.

Ely: Right. We calculated how many years they actually had to spawn, how many years there would be a drought, and we found they were compatible within a ten-year cycle, and so we just agreed that each year Sierra Pacific would hold water back in case there was a drought, and if there was a drought, they would use that water, because we wouldn't need to send it down for the *cui-ui* anyway, during those years. Because there really wasn't enough water to finish out the run anyway. You couldn't just draw the fish up into the river to spawn and then it dry up. That made no sense.

Seney: Right. So in a drought, you don't want them to spawn.

Ely: We didn't need any water for a spawn. We did not want them to spawn during a drought year. And so they would use the water for Reno/Sparks, but in those years where it was a normal or a wet year, that is, as soon as it was determined that it wasn't a drought, you know, there would be a particular month where they would say, "Well, it's predicted, is it going to be a drought, or not." Well, if it's going to be a drought, then they would hold it. But those years where they said

it's not going to be a drought, then that water that they'd saved becomes our water for the *cui-ui*.

Seney: And it's let out when you know the *cui-ui* are going to run.

Ely: Right. So we can then use that to either supplement an average year or just a below-average year, but not a drought year, and so we would have that extra water to ensure that seven or eight years out of ten we would have a successful spawn, and that was good. That was essentially back to the way it was normally. And so that was really the premise of the whole settlement agreement in regard to that aspect of it.

Seney: By the way, let's say that the *cui-ui* are taken off the endangered species list entirely. Does this have any bearing on this agreement?

The *Cui-ui* Are Protected Even If the Endangered Species Act Expires or They Are No Longer Considered Endangered

Ely: No, see that was another important aspect of it. We didn't want to have a continued cause and effect based on whether the law was valid or not, or whether the law was in place, or whether the *cui-ui* started to succeed. What we didn't want was to bring the *cui-ui* to the point of succeeding,

then always make sure that they didn't succeed to ensure the water was there. We said, "We want to reestablish this fishery. And the only way to reestablish that fishery is we need to have an agreement that is in place outside of the Endangered Species Act, to guarantee that Stampede is there for them in perpetuity."

“. . . we were trying anyway, to bring the *cui-ui* around to the point where it would be taken off the endangered species list. That's because we weren't interested in having fish there for the purpose of knowing that there were fish there. We were interested in having fish there so we could eat them. . . .”

So that we can try very hard, as we were trying anyway, to bring the *cui-ui* around to the point where it would be taken off the endangered species list. That's because we weren't interested in having fish there for the purpose of knowing that there were fish there. We were interested in having fish there so we could eat them. (laughter) Remember that gathering I talked about earlier in the day?

Seney: Right.

Ely: Well, that's what we wanted. And so in order for that to happen, they had to be listed less than

endangered.

Seney: At what point does Wayne Mehl¹² get involved in all this? Where is he? He's not in these negotiations. These are kind of bilateral negotiations between the tribe and Sierra Pacific.

Other Parties Begin to Join Negotiations

Ely: These are bilateral. Then we start to see other parties come in. T-C-I-D decides to come in because now they have the OCAP that they're worried about.

Seney: They'd like some negotiations on that.

Ely: Right. California and Nevada don't have a compact, so they need to get in, because now we're dividing up the waters there, the Truckee River waters, and so they need to get in the picture. So they start to get in the picture and we start to negotiate with them, and we start laying out the parameters of a negotiation and where we're going to go, and we find out we have all these parties out there that we have to deal with.

Seney: Who are finally interested in negotiating.

12. Wayne Mehl is legislative director for Senator Harry Reid. The Reclamation oral history program includes an interview with him.

Ely: Who are finally interested in negotiating.

Seney: But it was really Joe Gremban's getting hold of you and breaking the kind of stalemate here and getting the negotiations going on what to do about Stampede that gets the other negotiations going too, to some extent. (Tape recorder turned off)

Ely: Yes. Yes. That's what gets the other negotiations going. What's the old thing that everybody says, "I'm going to tell you this, but I'll deny it."
(laughter)

Seney: Well, I was asking about how the negotiations gets broadened out beyond tribe and Sierra Pacific Power. I think that's the point we were at when we decided to talk for a minute with the tape off.

“ . . . we have all these people now coming into play . . . Senator Reid had been very interested in the process all along, and wanted to help facilitate it. . . . We needed a facilitator, we needed somebody to sit down and really keep our nose to the grindstone and keep things going. That's when Wayne Mehl came in. . . . ”

Ely: Well, we have all these people now coming into play, and it was hard to facilitate everybody, and we weren't quite sure where it was going and so

we asked—and Senator Reid had been very interested in the process all along, and wanted to help facilitate it. So he wanted to become more involved in the process. We needed a facilitator, we needed somebody to sit down and really keep our nose to the grindstone and keep things going. That’s when Wayne Mehl came in.

Plus that gave the negotiations more of an official atmosphere.

“Up to this point we were making this deal with this guy, this deal with this [other] guy, but we knew that when it all came together, we still had to go through Congress, so we needed somebody back there, and Reid was the guy to do it. . . .”

Up to this point we were making this deal with this guy, this deal with this [other] guy, but we knew that when it all came together, we still had to go through Congress, so we needed somebody back there, and Reid was the guy to do it. He wanted to do it. He stepped forward and he provided us somebody who was just absolutely excellent as a facilitator and brought this thing forward, and that was Wayne Mehl.

“. . . toward the end Wayne would be present at every one of them. But prior to that, we would negotiate and then we would come together as a

group and solidify what we'd negotiated. Wayne Mehl would write it down and get language back to us, working on the bill as we went down the road. . . ."

And so the process was real simple. We would negotiate among ourselves and then every so often, in a particular period, whether it be monthly or every two months or whatever it took, and toward the end Wayne would be present at every one of them. But prior to that, we would negotiate and then we would come together as a group and solidify what we'd negotiated. Wayne Mehl would write it down and get language back to us, working on the bill as we went down the road.

He also kept our feet to the fire. He brought the message from the senator what he would agree with and not agree with and what he wanted us to do and not do. It was real instrumental. At times I wasn't sure whether it was necessary, but the more and more I negotiate with other tribes, I realized that there has to be motivation, and sometimes that motivation, when you start to work at it, begins to wane a little bit and in order to keep that motivating factor there, the facilitator is real important because it keeps everybody at the table, keeps them all going in the same direction. It doesn't allow them to slow

down, and reminds us of keeping our eyes on the ball, and that is really what they provided in this.

Plus they were part of it now. The senator was part of it so it becomes his package when it goes back to Congress. It's not just ours, it's his, he has motivation to push it through. So he was involved in that aspect of it. The rest of this is really kind of drudgery.

“It’s two years and three years of hard negotiations . . .”

It’s two years and three years of hard negotiations, making headway, going backwards and going forward, and going backward and going forwards, until we finally had the agreement between us and Sierra Pacific Power Company.

TCID Withdraws from the Negotiations

When that was done and it looked like everything was going to fall into place, and we continued to try to make it fall into place, but then T-C-I-D decided they got cold feet at some point and decided that they no longer wanted to be part of the process, they agreed that if we left them out of the process that our litigation between ourselves would stay in place and they wouldn't do anything to harm the settlement as it made its

way through Congress.

Seney: They don't remember it that way, do they?

Ely: I don't know how they remember it, but they certainly didn't live up to that, because as soon as the bill was introduced, they did everything they could to try to defeat it.

Seney: I've been told by others that there was a feeling on the other side—here's T-C-I-D coming to a meeting that apparently was at Pyramid Lake, that particular meeting happened to be held on the reservation at, I guess, the tribal headquarters, because they went from place to place, did they not, the negotiation meetings that Mehl presided over?

Ely: Well, a lot of them were held at Sierra Pacific Power Company, but we had a couple out there at the Pyramid Lake fisheries.

Seney: And this happened to be one that was at Pyramid Lake when . . .

Ely: I don't remember which one it was at.

Seney: Do you remember when T-C-I-D showed up and said essentially what you did, and that is, "Best wishes, we just don't [think] we can agree to

anything”?

Ely: Yes, I think it was the one that we had at the Pyramid Lake fisheries, but I always thought it was at Sierra Pacific Power Company, so I couldn't say one way or the other. I thought it was at Sierra Pacific Power Company. But regardless of that, they came forward and we made that agreement.

Seney: How had they been, by the way, prior to this in the negotiations? Did they look like they were going to make a deal?

Ely: No, we were making no headway with them.

Seney: How do you see them in this whole business? Why is it they have not been able to make an agreement; you guys have been able to make an agreement. Clearly Sierra Pacific Power has, although they are in kind of a different situation in a way. Why is it, from your point of view, do you think T-C-I-D is not able to make an agreement?

Why TCID Couldn't Arrive at an Agreement

Ely: Well, I think it has a lot to do with the fact that they had everything to lose and we didn't, and we'd already lost. We were standing there with a pocket full of nothing and trying to pick theirs,

and they had a pocket full of everything and they didn't want to give it up. They were not in a "win" situation.

"The situation that we offered them was this: 'We can allow you to maintain an irrigation project out there, but it has to be substantially smaller scale than what it is now, and if you don't agree with that, then we'll just try to do our best to destroy the entire irrigation system.' . . ."

The situation that we offered them was this: "We can allow you to maintain an irrigation project out there, but it has to be substantially smaller scale than what it is now, and if you don't agree with that, then we'll just try to do our best to destroy the entire irrigation system."

"Our choice was, 'Look, we don't have anything now. We're going to try to get as much as we can.' They had everything and they were either going to have to give a big portion of it up or face the fight, and they just sat down, I think, and thought, 'Perhaps we ought to take our chances in the fight.' . . ."

So that was really their two choices. They didn't have a choice like us. Our choice was, "Look, we don't have anything now. We're going to try to get as much as we can." They had

everything and they were either going to have to give a big portion of it up or face the fight, and they just sat down, I think, and thought, “Perhaps we ought to take our chances in the fight.”

“I thought it was a bad decision, because the writing was already on the wall. They’d lost in the OCAP. They were losing in the negotiations, and, to me, I’d already recognized that agriculture was dying . . .”

I thought it was a bad decision, because the writing was already on the wall. They’d lost in the OCAP. They were losing in the negotiations, and, to me, I’d already recognized that agriculture was dying, not just there, but everywhere, and that I would have been happy with at least having a piece of it.

“We’re not talking about a small piece, we’re still talking about a large irrigation project, but smaller than what they had in the past. I thought that they would settle for that, but I was wrong. They wanted either all the marbles or none of it. . . .”

We’re not talking about a small piece, we’re still talking about a large irrigation project, but smaller than what they had in the past. I thought that they would settle for that, but I was wrong. They wanted either all the marbles or none of it. For

whatever reason, they just chose to stay that way and I don't completely understand it.

“I think it has a lot to do with history. . . . the . . . more that I work with irrigation companies and . . . agricultural districts across the West, the more I see that attitude. I mean, it's just kicking and screaming and gouging their way into the twentieth century, and just hating every moment of it. . . .”

I think it has a lot to do with history. “We were promised this, and we came out and we rolled up our sleeves and we built this project and we worked very hard at it, and now it's because of the changing times that we're going to have to give it up and we're just not ready to do it.” And the more and more that I work with irrigation companies and the more and more I work with agricultural districts across the West, the more I see that attitude. I mean, it's just kicking and screaming and gouging their way into the twentieth century, and just hating every moment of it.

“. . . there's also this Western mind-set. . . . that the Federal Government doesn't tell us what to do— period. . . . and I think they viewed us as a branch of the Federal Government because that's who was working on our behalf on the OCAP in

that case. I don't think they realize that almost all of our lawsuits were against the Federal Government. . . ."

And then there's also this Western mind-set. The Western mind-set is that the Federal Government doesn't tell us what to do—period. And this is worth dying for. I think that was laced in there as well, and I think they viewed us as a branch of the Federal Government because that's who was working on our behalf on the OCAP in that case. I don't think they realize that almost all of our lawsuits were against the Federal Government. I think there was that mentality. "And by god, we're just not going to have a bunch of Indians telling us what to do."

"I think it's a mistake that'll be the demise of that project . . . We were on the opposite spectrum of the very same mind-set. We were willing to kick and scrap and whatever it took to maintain part of our heritage. The thing is that the times were more on our side . . . than it was on theirs. . . ."

I think it was a foolish mistake. I think it's a mistake that'll be the demise of that project, but I can understand it, I really can. We were on the opposite spectrum of the very same mind-set. We were willing to kick and scrap and whatever it took to maintain part of our heritage. The thing is

that the times were more on our side at this particular time than it was on theirs. Given the opposite side, if I was in their shoes, I don't know if I would have done anything different. I really don't.

Seney: Did you think when they withdrew from the negotiations that that would pretty much kill it off?

Ely: The negotiations?

Seney: Yes.

The Deteriorating Political Position of TCID

Ely: No. No. I don't think it would because that was a portion of the negotiations that we could isolate and fight. It was something that we could isolate. A lot of the other issues, California, Nevada, Reno/Sparks, Sierra Pacific, those were all intertwined, and if one of those broke away, then we would lose it because it would take an important component, but we could pretty much keep that in one big ball and this other ball could be moved away.

Seney: Because they are way out on the end of the system.

“ . . . I thought that Pyramid Lake did very well and I think in the end that Pyramid Lake got the best settlement possible. . . .”

Ely: Right. And so I thought that, in the end, I thought that Pyramid Lake did very well and I think in the end that Pyramid Lake got the best settlement possible.

“ . . . that project is doomed. . . . It’s sort of like being dead and held in state, and at some point it’s going to be buried. . . . the negotiations now allowed us to not have to focus on fighting four other adversaries, but just fight one, who has really been abandoned by those four others. And not only that, but now T-C-I-D has to look at these others as an . . . adversary as well. . . .”

I think that the writing is on the wall, that that project is doomed. It’s just a matter of time. It’s sort of like being dead and held in state, and at some point it’s going to be buried. And, shoot, the negotiations now allowed us to not have to focus on fighting four other adversaries, but just fight one, who has really been abandoned by those four others. And not only that, but now T-C-I-D has to look at these others as an enemy now or an adversary as well.

“ . . . we got the best of both worlds. We got a deal,

we got water, we got money, we got storage and water in that storage, and timing of the river. We've got all of that that we needed and we didn't have to give up our major lawsuits. . . ."

So I thought that we got the best of both worlds. We got a deal, we got water, we got money, we got storage and water in that storage, and timing of the river. We've got all of that that we needed and we didn't have to give up our major lawsuits.

Seney: And you got political friends.

Ely: We got political friends.

Seney: Who were bound to you.

The Settlement II Negotiations

Ely: We've got economic friends. We've got all kinds of friends, and in the meantime this one group who through their own inability to see the future, as most of us are unable to see the future, isolated themselves completely. And not only that, but they let us have the tools to destroy them. That's my biggest opposition to the Settlement II [negotiations]. Why? I mean, now you have the tools. Go forth and destroy. Get it over with.

Seney: Wasn't Settlement II sort of one more opportunity to T-C-I-D to come into the fold?

Ely: Sure. Yes, I guess so. It was foolishness.

Seney: Let me tell you that I have gathered an impression, and maybe you'll comment on it, that Senator Reid is no friend of T-C-I-D for a number of reasons.

Ely: Right.

Seney: And that he is really—I want to put this as accurately as I can. I don't want to say that he is committed to destroying them, but he is kind of indifferent to their future, that is, letting these forces that are imbedded in Public Law 101-618¹³ work their way through, because—and we'll get to this—if and when 101-816 is all worked out, the project's down to about 20,000 acres, what it was before Lahontan Reservoir and all the rest of it. But Reid couldn't really do that without giving them one more chance.

Ely: I don't know.

Seney: A chance he knew they probably wouldn't take advantage of.

13. See footnote on page 35.

Ely: I really don't know. To be honest with you, I don't know. I don't know the motives behind it. I thought it was sheer folly from the beginning. I still think it is.

Seney: And you're not surprised it fell apart?

Objectives of the Settlement I Negotiations

Ely: No.

Tried to Keep TCID in the Negotiations and Believed There Was Enough Water for Them, the Lake, and the Fish to Survive

We tried everything that we could to keep T-C-I-D in the negotiations. I tried every persuasive power that I could possibly muster to get them to stay in the negotiations, and they chose to walk away. This was very difficult for me, because I intended, when we started to negotiate this thing, to solve all of the problems. I wanted them all solved. I never had at any time any motivation to harm the Newlands Project. I just understood that there was enough water for both of us to survive, but they would have to survive at a much smaller scale.

"I wanted them to still have an irrigation project. I respected their way of life, like I wish they would

have respected our way of life. . . .”

I wanted them to still have an irrigation project. I respected their way of life, like I wish they would have respected our way of life. I certainly respected their way of life the way I respected our way of life. I thought we just lived differently. I had admiration for people who, the pioneers of this country, have rolled up their sleeves and broke ground and made things happen. I think they should have been amply rewarded for that. So I wanted to see them exist. I had no animosity towards them at all.

“ . . . they chose not to, and in choosing not to, they didn’t remain neutral, they went after us. . . . they then took on the role of adversary again. . . . And you treat adversaries one way: you beat them. . . .”

But they chose not to, and in choosing not to, they didn’t remain neutral, they went after us. By doing so, they then took on the role of adversary again. And as far as I’m concerned, you have friends or you have adversaries. Occasionally there are strangers in the mix, but they didn’t choose to be a stranger. We tried to give them stranger status. We wanted to be friends. They didn’t want to be. So we said, “Okay, at least be a stranger.” They chose not to

be. They chose to be an adversary. And you treat adversaries one way: you beat them.

Dangers of the Settlement II Negotiations for the Tribe

So we tried, from that point forward, to maintain the tools to beat them. It's really pure and simple. And so when Settlement II came along, my biggest question was, "Why? Why? It's a project that's doomed anyway. Why prolong it?" Not only that, but I thought there was a tremendous risk in doing so. Not the risk that they would get more water or anything of that nature, but the risk that while we were focusing our attention on Settlement II, that Settlement I wasn't being implemented, and that has to be implemented, because I think the longer it takes to implement any of these settlements, the greater the chance it is for it to unravel.

The Recoupment Issue

Seney: Well, it did put on hold some of the elements of Public Law 101-618, while the Settlement II negotiations went on. One of the elements that they were trying to negotiate in the Settlement II negotiations was the recoupment issue, which, briefly, is the continuance of T-C-I-D to divert water at Derby Dam, in violation of the 1973

Gessell Court OCAP, which everybody agrees the disputed amount is 1,058,000 acre-feet. Is that an important issue as far as you're concerned?

Ely: Sure, it's an important issue, but it should be a simple issue. That's an issue that can be fought in the courts and enforced in the courts. In the meantime, you implement the settlement that's in place. I think it's extremely important to implement the settlement, to get it put in place as quickly as possible and to start operating under that settlement to get it done. In the meantime, this battle's going to go on for years, but let it go on. The mechanism is now in place for the eventual drying-up of the Newlands Project.

Seney: As I recall 101-618, and you know this law better than I do . . .

Section 209 of Public Law 101-618

Ely: No, I don't know if I do now. (laughter)

Seney: Let me see if I've got it here. This, I think, is the report on it, and we're looking, I think, at Section 209, if I'm not mistaken, for these elements of it. Let me look and see if I can find it quickly here. I'm thinking here that the Secretary of the Interior was obliged under Section 209 to attempt to negotiate with T-C-I-D over the recoupment

issue, and if that was not then successful, to pursue it through litigation.

Ely: I think that's what it says.

Seney: And as you may know, the Interior Department has filed suit against the district now, over the recoupment issue. But, you know, I guess, from my talking to people mostly out on the district area, is that recoupment is not something they were willing to negotiate at all. I mean, I know it's in there, but . . .

**Recoupment Was Added to Public Law 101-618
after TCID Walked Away**

Ely: Yes, well, recoupment was added in there after they walked away.

Seney: Yes, right.

Ely: And there were provisions that were added in there after they decided to become the tribe's adversary.

Seney: This is really section 209.

Ely: There were parts of that settlement where we were happy to let T-C-I-D and the tribe fight on their own turf somewhere else and not make it part of

the bill, but when T-C-I-D willfully, with malice, decided to take on the legislation in Congress, in violation of what they agreed to, we then decided to add provisions into the bill, which gave us a leg up when it was all over.

Seney: Yes. Let's go back to the—unless you'd like to talk about Section 209, and that is these kind of, I don't want to say, punitive measures against Truckee-Carson Irrigation District, but I suppose they were in a sense, were they not, for violating the agreement? Not only did they make you all angry, but my understanding is they made Wayne Mehl angry, and Senator Reid angry, and Senator [Bill] Bradley angry, and Tom Jensen,¹⁴ of Senator Bradley's staff, angry. I mean, clearly, if others hadn't been angry, you wouldn't have been able to succeed at putting that section in there, so wouldn't I be right in thinking that that's a lot of cumulative anger of a lot of the parties?

Ely: I think you're right.

Seney: I mean, I don't want to belittle the inspiration, maybe, that came from your side on this, but that inspiration wouldn't have led to anything if the others hadn't agreed with you.

14. Reclamation's oral history program includes an interview with Tom Jensen.

“I think everyone was very upset that T-C-I-D had first off, abandoned the process, and then after they abandoned it, had sat down and said, ‘Okay, we’re going to abandon it under these conditions.’ And then after that and seeing that it may succeed without them, then completely forgot about those conditions and completely forgot about the deal that they had made, and decided that they were going to do whatever they could to harm the settlement. And I think that made everyone upset. . . .”

Ely: Oh, no, there’s no doubt about that. I think everyone [was] very upset that T-C-I-D had first off, abandoned the process, and then after they abandoned it, had sat down and said, “Okay, we’re going to abandon it under these conditions.” And then after that and seeing that it may succeed without them, then completely forgot about those conditions and completely forgot about the deal that they had made, and decided that they were going to do whatever they could to harm the settlement. And I think that made everyone upset.

“. . . the answer was then simple, at least from our standpoint, and that was to put whatever provision we could get in there, based upon everybody’s anger, whatever provision we could get in there, so that we had a leg up when the time came. . . .”

So the answer was then simple, at least from our standpoint, and that was to put whatever provision we could get in there, based upon everybody's anger, whatever provision we could get in there, so that we had a leg up when the time came. Plus you have to remember, I had to go back to my council and tell that we didn't settle all this. Remembers those perimeters that we had before? This was definitely outside of that perimeter. I was supposed to go back and deliver a settlement that included T-C-I-D. I didn't. So in lieu of delivering that, I needed provisions that allowed us to accomplish the very same thing for litigation after it was all said and done, and that's part of the reason some of those things were in there.

“It was a lot of people that made this work. . . .”

But I am a single player in a multitude of players in the whole thing, and I don't want to leave the impression at any moment that it was by my will, or the tribe's will, that we were able to get all this accomplished, because on our own we were unable to get little of it accomplished, and that there were a lot of smart people, dedicated people, people who had creative ideas who made this whole thing happen. It was really a collective effort, a very collective effort, and not just one

individual or one tribe, or even half a dozen individuals. It was a lot of people that made this work.

Seney: One of the people who was key to making this work was Senator Bradley of New Jersey.

Senator Bill Bradley and Tom Jensen's Roles

Ely: Sure.

Seney: Talk about him a little, how had he gotten interested in this, and how was he useful in the process.

Ely: Senator Bradley was useful in the process because it had to go through his committee the second time around, and I don't even remember the name of the committee.

Seney: The Subcommittee on Water and Power.

Ely: That's right. And he was chairman of that committee. Senator Bradley had always been interested in Pyramid Lake and always been interested in Indian tribes, and he, too, had a very brilliant and fair-minded individual who worked for him, by the name of Tom Jensen. We worked very close with Tom Jensen about this, on this, and he spent, at least it appeared to me, a great

deal of time with Senator Bradley, determining a way to get this through his committee and eventually get it through. So he was very instrumental.

Others Who Assisted with Bringing Public Law 101-618 About

We had some real champions in this. When we started at the local level, we had Joe Gremban, who was a real champion for this whole process and, I think, one of the most courageous because he had to come out against all odds and break out of the pack, and that was very difficult. I think when you go up on a different scale, then you have folks like Senator Reid, who are real instrumental; you have Senator Bradley; you have Senator Hatfield because none of this would have happened if there was still a compact; you have Ross Swimmer, and a multitude of staff people, both in the Department of Interior and in the House and in the Senate, who, you know, sweat blood over this thing and made it happen.

So you had a lot of very important people throughout the process, who made this happen, and that's not to discredit and it's not ignoring those individuals who were actually hired guns

here—the Robert Pelcygers and the Sue Oldhams¹⁵ [of Sierra Pacific Power] and all those folks who to some extent had a longer institutional memory than we did. Bob Pelcyger had been working on this thing for fifteen years before I ever came along, and Sue Oldham had been working on it for years before I came along, and some of the other players. So you just had a lot of people who made this thing happen.

I'm always afraid that I'm forgetting some folks when we do this, but there were some real instrumental people. Bradley was one of them. He definitely was one of those individuals who was important.

Seney: What was he like? How would you describe him in terms of working with him?

Ely: He was a good basketball player. (laughter)

Seney: (laughter) Something you admired.

Ely: (laughter) That's right. I always liked him because he was always easy-going, and he always seemed to be very confident, not overbearing, and he just had the confidence that he would get this thing done, and he certainly had the power

15. Reclamation's oral history program includes an interview with Sue Oldham.

presence to get it accomplished. I liked him. I had only talked to him on very few occasions, but I liked him personally and I thought he did a very good job.

Then I sat in front of him, of course, in a hearing, and I was glad that he was able to keep control of the hearing, because there were a couple of times I thought it was going to get out of hand. (laughter) He did a real good job, and I thought that he was a quick study and took the time necessary to understand the problem, and that's 90 percent of it. I thought he did a real good job. I liked him.

Seney: This 101-618 was actually part of an omnibus bill that Bradley had wanted to get passed.

Ely: My only souvenir.

Seney: I see the whole thing is . . .

Ely: Signed by Senator Bradley.

Seney: I see that, yes. A copy of the—these are reprinted, and given to people who do a critical thing, and he's got a nice long note on there.

Ely: Yes.

Seney: Let me see what it says here. It says, “For Joe Ely. Your vision, leadership, and determination made this enduring achievement possible. It is a great victory for your people and all of us who believe that when people of good will try, with creativity and intelligence, we can solve any problem. Thanks.” Signed, Bill Bradley. This was part of an omnibus bill.

Passage of Public Law 101-618

Ely: Right.

Harry Reid Peeled the Settlement off the Omnibus Bill and Attached it to Public Law 101-618

Seney: And it looked like it was going nowhere, and Harry Reid peeled it off that omnibus bill.

Ely: Yes, and attached it to the Fallon . . .

Seney: The Fallon settlement bill [which became Public Law 101-618]. Were you back there during these final moments?

Ely: I was back there the entire time. I didn’t live back there, but I spent a lot of frequent flyer miles going back to Washington, D.C. But, no, we were involved in that, and we were afraid that the omnibus . . .

END SIDE 1, TAPE 2, SESSION 2. May 20, 1996.
BEGIN SIDE 2, TAPE 2, SESSION 2. May 20, 1996.

Seney: You're saying that they needed another vehicle to attach this to, and along came the Fallon bill, because this is actually called the Fallon Paiute-Shoshone [Tribal] ~~Indian Water~~ Settlement Act, isn't it? And that's Title I. Title II is then the Pyramid Lake part of it, which is really—the Title II is the Truckee-Carson Pyramid Lake Water [Rights] Settlement [Act], and it is by far the bulk of the bill.

Ely: Right. But we had to have something to attach to, and that is what we attached to.

Seney: And that was in the Senate Committee on Indian Affairs at the time, was it not?

Senator Daniel Inouye

Ely: Right, and I wanted to say that before we had a chance to go into that, that [Senator Daniel] Inouye was another one.

Seney: Senator Inouye of Hawaii.

Ely: Yes, he was very, very important. And he had an incredible staff that came out and visited the lake and spent time with us and had been in the wars

against the compact. They'd really been veterans of this whole process, had been in the first settlement, and they knew the process and they knew it, and there were a couple of folks there, Patricia Zell,¹⁶ Virginia Boyland, who were real instrumental in making this thing happen.

“Senator Inouye . . . was really very pro-Indian, and the Fallon Shoshone Tribe, of course, attached to him and he to them, and we had to spend time convincing him that we weren't harming the Fallon Tribe as a result. . . .”

Senator Inouye was just about as honest and gracious an individual as I've met. He did a very good job. He did a good job. He was a little more difficult to keep on track because he was really very pro-Indian, and the Fallon Shoshone Tribe, of course, attached to him and he to them, and we had to spend time convincing him that we weren't harming the Fallon Tribe as a result.

“One of the tougher things when you get back into the Senate and back into Congress is that when you're an underdog, it carries a little bit of weight, but when you gain a few successes back there, then you're viewed as the big guy. . . .”

16. Reclamation's oral history program includes an interview with Patricia Zell.

One of the tougher things when you get back into the Senate and back into Congress is that when you're an underdog, it carries a little bit of weight, but when you gain a few successes back there, then you're viewed as the big guy.

“Fallon Shoshone was playing the underdog role . . . Inouye was their champion. But he'd been working with us for a while, so he tried to work out an equitable deal between both of us. . . .”

Fallon Shoshone was playing the underdog role, so they needed a champion, and Inouye was their champion. But he'd been working with us for a while, so he tried to work out an equitable deal between both of us.

Seney: You know, there are some things in this bill, though, that do not necessarily work to the advantage of the Fallon Tribe, aren't there?

Ely: That's tough luck, isn't it? They wrote it, not me. (laughter)

Seney: Well, I'm not sure that's 100 percent right, brother Ely. (laughter) And I wanted to ask you about that, because, you know, outsiders who don't know anything about this project would tend to think that here you have two tribes and they are going to have the same interests, but as a

matter of fact, you're at opposite—well, not quite opposite ends of the project, but almost, and when water goes to them, it doesn't come to you in a sense, and when water comes to you in a sense it doesn't go to them, so your interests are somewhat contrary in this.

“Our interests didn't have to be contrary in this. The Fallon Tribe really saw this as a point of opportunity. The Fallon Tribe, of course, had a settlement before and had various things happen before and they were never able to get Congress to actually carry through . . . we really didn't want to harm them in any way. But then the Fallon Tribe decided that they were going to jump in on the side of T-C-I-D and really came after the Pyramid Lake Tribe on behalf of T-C-I-D . . .”

Ely: Our interests didn't have to be contrary in this. The Fallon Tribe really saw this as a point of opportunity. The Fallon Tribe, of course, had a settlement before and had various things happen before and they were never able to get Congress to actually carry through on these particular deals that worked, and I don't remember all the intricacies of them, and they saw what was going on in our negotiations and decided that this was a good chance to jump in and have some of their issues heard.

Up to that point, we really didn't think much about what they were doing and we really didn't want to harm them in any way. But then the Fallon Tribe decided that they were going to jump in on the side of T-C-I-D and really came after the Pyramid Lake Tribe on behalf of T-C-I-D, and it created some havoc for us because, first off, we were the only tribe back there at the time playing this game and it's a pretty clean game, and at that particular time it was one that was viewed politically palatable.

“We were the underdog being beat up by all these big white guys, and we were going to find some way to win . . . And along comes the Fallon Tribe, who is even a smaller guy, and wasn't only being beat up by all these big white guys, but was now being beat up by this big brown neighbor of theirs, Pyramid Lake. And they went after us pretty hard. . . .”

We were the underdog being beat up by all these big white guys, and we were going to find some way to win this war despite all odds, and it played very well. And along comes the Fallon Tribe, who is even a smaller guy, and wasn't only being beat up by all these big white guys, but was now being beat up by this big brown neighbor of theirs, Pyramid Lake. And they went after us pretty hard.

Again, they sided with T-C-I-D, and they went after us in several ways. One is, they, of course, wanted their water, and they gave T-C-I-D some new life in times when we thought T-C-I-D was eventually going to go under, they resurrected them.

Seney: You mean gave T-C-I-D cause for optimism that things would go their way?

**There Was Controversy at Tribal Council Meeting
Because of Relatives of the Fallon Tribe, and
Pyramid Lake Tried to Talk to the Fallon Tribe**

Ely: Yes, gave T-C-I-D some more ammo to go after us. Because the Fallon Tribe, of course, was part of the project, their lands were part of the project, to some extent, and so it was a clean issue for them. And so they came after the [Pyramid Lake] tribe. And on the other side, they started the battle internally at our tribe because we have a lot of relatives that are at Fallon and they started to disrupt our council meetings where somebody would stand up and say, "Well, look what you're doing to the Fallon Tribe. You're making a deal here with the non-Indians in Reno and you're harming the Fallon Tribe." And we tried to ignore that for a while, but we couldn't ignore it anymore, so we tried to talk with the Fallon Tribe and say, "Hey, how can we accommodate each

other here so that there isn't a problem?"

“They chose not to listen. . . . we had to have a discussion of that at a council meeting, and we decided on a policy of farmers are farmers . . . regardless of who they are. So it was us against the farming community in the Newlands Project . . .”

They chose not to listen. They chose to come after us and, again, with T-C-I-D at their side. And so we had to have a discussion of that at a council meeting, and we decided on a policy of farmers are farmers are farmers are farmers, regardless of who they are. So it was us against the farming community in the Newlands Project, and the Fallon Tribe was part of that farming community, therefore they would be considered an adversary just like T-C-I-D.

Seney: As you said, there's a good deal of relationship between the two tribes. I know there's intermarriage between the two tribes.

Ely: Yes.

Seney: And my understanding is there was an incident in the midst of all of this where some of the elder women had gone down from your tribe to the Fallon reservation to attend a funeral, and had

asked for a drink of water and they were refused.

Several old women from Pyramid Lake “. . . had gone down for a funeral. It was a hot day and they were thirsty and they wanted just a glass of water, and somebody said, “You’ve got all the water, go home and get it.” And I got word of that, and I didn’t like that at all. . . . we had tried very hard to address the Fallon problems . . . come up with some sort of mutual arrangement so it didn’t harm us. But they continued to go against us, and then when I heard about this, and then at that time there was also these public meetings that we were having and people were jumping up on behalf of the Fallon Tribe, this became a new issue for the dissidents. . . .”

Ely: Yes, they were refused. They had gone down for a funeral. It was a hot day and they were thirsty and they wanted just a glass of water, and somebody said, “You’ve got all the water, go home and get it.” And I got word of that, and I didn’t like that at all. Up to that point we had tried very hard to address the Fallon problems sort of nicely, being genteel. (laughter) And also up to that point, we had tried on numerous occasions to contact the Fallon Tribe and we talked with them and said, “Look what you’re doing. We’re in the middle of this. We’re ready to get it solved, and you’re trying to harm us here. Is there some

other way we can accommodate you?” And we’d come up with different schemes. We tried--I think we went the extra mile, further than we’d gone, certainly than we’d gone with T-C-I-D or anybody else, to try to get the Fallon Tribe to agree or accommodate us, or we can accommodate them, or come up with some sort of mutual arrangement so it didn’t harm us. But they continued to go against us, and then when I heard about this, and then at that time there was also these public meetings that we were having and people were jumping up on behalf of the Fallon Tribe, this became a new issue for the dissidents.

Every meeting we had to hear, “Well, look at what you’re doing to the white people, you’re helping them, Joe. You’re nothing but another one of those guys, and when it comes to that the proof is this, is because when it comes to helping Indian people, look what you’re doing to the Fallon Tribe.” And it got to be quite a discussion there in some of those meetings, and at certain times it became heated because some of the members of our tribe said, “Who the heck cares about the Fallon Tribe?” You know, it was divisive.

Fallon Tribe and Public Law 101-618

So we then started to put together a deal, but now we're looking at it with a different mind-set.

“Now we looked at the Fallon Tribe as just an extension of T-C-I-D, and they decided that they wanted money more than water, and so we decided that . . . somehow we could find some way to allow the Federal Government to give them money in exchange for water, and that means that they wouldn't develop beyond what they are already . . . And they were quite happy and content with that as long as they were able to receive money. . . .”

Now we looked at the Fallon Tribe as just an extension of T-C-I-D, and they decided that they wanted money more than water, and so we decided that we could accommodate them, that somehow we could find some way to allow the Federal Government to give them money in exchange for water, and that means that they wouldn't develop beyond what they are already developing, that means no more water from Pyramid Lake would go to the Fallon Tribe, they couldn't get any bigger than what they were. And they were quite happy and content with that as long as they were able to receive money.

“I don't think that they fully understood what they

were doing. In fact, I know they didn't fully understand what they were doing. They had very poor consultants and legal advice at that time. But they were adamant . . ."

I don't think that they fully understood what they were doing. In fact, I know they didn't fully understand what they were doing. They had very poor consultants and legal advice at that time. But they were adamant about it, and it was sort of like, I don't know, but they decided to go down that track and it was a track that they wanted to go down, so rather than continue to say, "Look what you're doing to yourself. You're really selling your water right here," we realized that they didn't believe us anyway, they thought that they we had ulterior motives and all of that, so we just let them go down that path.

As the language was written, we put in words here and a word there to make the language a little more clear in regard to the fact that they were giving up water for money, and we let them continue down that path.

Seney: It actually puts a cap, doesn't it, the law, Section 103.A, of 2,415.3 acres of land can be irrigated, and no more than 8,453 acre-feet per year of water rights.

Ely: That's right.

Seney: And that's down considerably, from about 6,000 acres that they were irrigating, something in that neighborhood.

Ely: Or that they could irrigate. Yes.

Seney: Yes, right.

“My understanding is that about three years ago, they realized what they did. . . . We could have helped them. We, in fact, tried to help them. They chose to harm us . . .”

Ely: And so they agreed with it. And so we jumped on the bandwagon and supported their bill as well, and they passed it. My understanding is that about three years ago, they realized what they did.

Seney: Yes. So they hitched their horse to the wrong wagon in this case.

Ely: That's right. We could have helped them. We, in fact, tried to help them. They chose to harm us in whatever way they could possibly harm us, and so we didn't necessarily set out to harm them, we just helped facilitate what they already wanted to do, and for some reason they wanted to jump off the bridge, so we found a bridge they could jump

off of.

Seney: One of the elements in this that is very important is the wetlands restoration out at Stillwater, 25,000 acres, plus or minus, depending upon the year, about 125,000 acre-feet. My understanding is that you were instrumental in seeing that that got in there, is that right?

Wetlands Restoration and the Support of the Environmental Community

“ . . . in the very beginning we had very little respect for ducks or wetlands or any of that. . . . But we realized in the middle of negotiations that there was no way we were going to get beyond the environmental community or gain any environmental support unless we also supported the wetlands. . . . ”

Ely: Well, in the very beginning we had very little respect for ducks or wetlands or any of that. I don't think I completely understood it, and I know that our attorney certainly didn't have any respect. As far as he was concerned, it was water going down the Truckee Canal, and as long as water was going down there, it wasn't coming to the lake, and he was right. But we realized in the middle of negotiations that there was no way we were going to get beyond the environmental community or

gain any environmental support unless we also supported the wetlands.

Wanted to Work with the Environmentalists Instead of Opposing Them

Also I started to realize what they were talking about. You know, some of this stuff is sort of a learn-as-you-go situation, and we realized that we needed the environmental groups who also helped us defeat the compact. Now we were opposed to each other. We sat down and thought about it and we said, “Well, we don’t have to be opposed to each other, we can accommodate both.”

“ . . . we had this huge, deep pool of water out there called the Newlands Project, and as long as we get our water and there’s still water left so they can take their water from this deep pool to . . . the wildlife refuge, then why not facilitate that? . . . ”

The thing is we had this huge, deep pool of water out there called the Newlands Project, and as long as we get our water and there’s still water left so they can take their water from this deep pool to take it to the wildlife refuge, then why not facilitate that?

“ . . . we were able to work that through, and it was

uncomfortable for the environmentalists, too, because here they were taking water away from fish who they're also supposed to be in support of on behalf of the ducks, so we were both uncomfortable, so we came up with an agreement that we could both live with . . .”

So there was a real division there for a while because of the fish versus ducks, but we were able to work that through, and it was uncomfortable for the environmentalists, too, because here they were taking water away from fish who they're also supposed to be in support of on behalf of the ducks, so we were both uncomfortable, so we came up with an agreement that we could both live with, and really that's all it amounted to was that there was this pool of water and that's where we would take it from, us for the fish and them for the ducks.

Seney: Them for the ducks to purchase the water rights?

Ely: To purchase water rights.

Seney: From willing sellers.

“ . . . the *cui-ui* restoration plan, if there's water necessary over and above what's allocated in the bill, it requires a purchase of water rights from the Newlands Project for the fish. . . .”

Ely: From willing sellers. And it's really the same thing for us, the *cui-ui* restoration plan, if there's water necessary over and above what's allocated in the bill, it requires a purchase of water rights from the Newlands Project for the fish. Well, that's dependent, of course, upon what the *cui-ui* restoration plan comes up with.

“ . . . we came up with an X amount water that would be purchased from the Newlands Project to go out to the ducks. Up until that time, the Stillwater Wildlife Refuge was in bed with the farmers . . . ”

But in their regard, we came up with an X amount water that would be purchased from the Newlands Project to go out to the ducks. Up until that time, the Stillwater Wildlife Refuge was in bed with the farmers because they were getting the water that was draining off of the farm lands, return flow, and going out to the Stillwater Wildlife Refuge.

“ . . . when the drought came along and there was less and less water, more and more concentration of toxins in that water, and the result was all the fish and dead ducks out at Stillwater, they started to realize that what they needed was not more return flow, they needed more fresh water. . . . ”

But when the drought came along and there was less and less water, more and more concentration of toxins in that water, and the result was all the fish and dead ducks out at Stillwater, they started to realize that what they needed was not more return flow, they needed more fresh water. And so we helped them obtain more fresh water.

Seney: Now, my understanding is that here you've got 125,000 acre-feet, plus or minus a little, eventually that will get out to Stillwater at the project. The *cui-ui* restoration number is right around 100,000 acre-feet, is it not? I think it's come in at 100,000 acre feet.

Ely: I don't know. They hadn't finished it when I left.

Seney: Yes, and so you're talking now about say 225,000 acre-feet coming out of the Newlands Projects' 385,000 acre-feet, and when you parse it all out, it gets it back down to about 20,000 acres, which was about what was farmed out there naturally. Do you think that's pretty much how it's going to work out?

“ . . . I think it's going to be a fairly small project when it's all over. . . . ”

Ely: I don't know. I don't know where it's all going to

shake out, but I think it's going to be a fairly small project when it's all over.

Seney: The OCAP business is a very complicated piece of business.

Changes in the Fallon Community and the Future of TCID

Ely: Yes, that's long, and that's going to go on forever. Well, not forever, but it's going to go on for a long time, and I think that's all going to be battled out in court. It's just a matter right now, I think, of compelling the Federal Government to enforce the rules that are already on the books, and I don't see any reason why they won't.

“Fallon's whole personality has changed, and it's no longer this huge farming community . . . It's really tied to the Fallon Naval Air Station, and more and more I think it's just becoming a suburb of Reno . . .”

Fallon's whole personality has changed, and it's no longer this huge farming community that it used to be. It's really tied to the Fallon Naval Air Station, and more and more I think it's just becoming a suburb of Reno, so I don't think that that project is going to survive, certainly not in the size that it is right now.

Again, I don't wish to see its demise, but if Pyramid Lake is able to obtain the water that it needs to ensure the success of its fisheries, that's fine for me, and if they are compatible and can survive as well, that's fine for me. I think there's just too many competing interests now, especially when you bring in the wildlife refuge.

Seney: And politically the time for the Newlands Project has passed, hasn't it?

Ely: I think it has.

Seney: Talk about the Bureau of Reclamation a little bit for me, what your view of it is and how it's changed, if it has, or what its limitations and problems are, as you see them.

Views on the Bureau of Reclamation

Ely: Well the Bureau doesn't build as many dams as they used to.

Seney: They don't build any, I don't think.

Ely: They're trying to build two right up here.
(laughter)

Seney: Oh, are they? (laughter)

- Ely: No, that has nothing to do with this, but the . . .
- Seney: Joe Ely was pointing to a map on the wall of his office which has to do with a project in another state and this was just a humorous aside.
- Ely: To be honest with you, I don't know the difference between the old Bureau and the new Bureau. I think the difference is their preamble or the rhetoric that is associated with it. Now they're the more environmentally-minded, environmentally-conscious, wildlife-conscious new Bureau, but I haven't seen it. I think that's all lip service.
- Seney: You still think it's basically an irrigation/engineering construction organization?
- Ely: Absolutely.
- Seney: To the extent that they modified their position, say, in regard to the Newlands Project, they do this kicking and screaming and reluctantly?
- Ely: Sure. They were forced to do it. And the amount of work that we put in to force them on the OCAP was a tremendous amount of work.
- Seney: You mean to force them to come up, they were obliged to draft the OCAP, you were allowed

input in the drafting, I take it?

Ely: Right.

Seney: And to get them to come up with what, from your point of view, looked like an appropriate OCAP was a very difficult proceeding?

“I think the only difference that exists between the Bureau of Reclamation today that didn’t exist there in 1905 was that they don’t have nearly as much power in the Department of Interior as they used to. But the mind-set, I haven’t seen a difference. I don’t think a difference exists. I work with them all the time. . . .”

Ely: A very difficult task and it took a lot of time and a lot of effort and a lot of other agencies having to pound their fist on the table. I think the only difference that exists between the Bureau of Reclamation today that didn’t exist there in 1905 was that they don’t have nearly as much power in the Department of Interior as they used to. But the mind-set, I haven’t seen a difference. I don’t think a difference exists. I work with them all the time.

Seney: Yes, I know your current duties keep you in touch with them and so obviously you’ve said what you mean to say, and that is they haven’t changed.

Ely: That's right.

Seney: Outside of slogans. (laughter) Well, it's very hard to change organizations, isn't it?

Ely: I think it is. It's very difficult. Institutions take on a life of their own.

Seney: Yes, and a personality and a certain culture.

Ely: Right. And if I'm fifteen years old, I'm not looking at going into the Bureau of Reclamation so that I can protect fish. If I'm fifteen years old, I'm thinking about going to U.S. Fish and Wildlife.

Seney: Right.

Ely: And if I'm looking at going to the Bureau of Reclamation, I'm looking at going there so I can build another canal, so I can do a little engineering, pour a little concrete. That's what I want to do. And so by the time I go through school and I'm twenty-five years old and I'm green behind the ears and I show up at the Bureau of Reclamation's office, has my mind-set changed? No. It's the same. I want to pour concrete. I want to build dams. I want to do all that I wanted to do when I was fifteen years old, and not only that, but now you're stuck with me

for forty years, and that mind-set is going to stay there. I don't think it's going to change. I just don't see the evolutionary process. I was told about the new Army Corps of Engineers this entire time I worked at Pyramid Lake. (laughter)

Seney: Haven't seen that either?

Ely: Haven't seen that either. Doesn't exist.

Seney: What haven't you told me about all these things?

Ely: Well, I see my guts all over the floor so I think I've adequately spilled them. (Laughter)

Seney: You know, I really appreciate your being forthcoming, both telling me things that you want me to hear especially about the project and so forth. I'm just wondering if there's any other kind of insights into the process that you gained. By the way, if I may say so, without meaning to blow in your ear, I regard you as very canny in terms of politics. You obviously have an instinct for it, I think. The kinds of things you've done here are not the kind of things you learn in textbooks. They're the kinds of things, for whatever reason, you're born with or you acquire somewhere or other. In that sense, do you have any general insights or other things that we should understand about all this?

General Knowledge and Experience Gained from the Process

Ely: I don't know. I think it's a long process. I don't know if you want to go through the rest of the process before it was finally finalized, but I think you have most of that.

Seney: Which do you mean?

Ely: You know, finally the bill went through Congress and it was passed, and all that, I think you know all that, that's pretty much history. And the process that it took to get it through, I just think it took a tremendous amount of work. I realize more and more, now that I've worked with other tribes and other situations, that timing has a lot to do with this entire process and that you have to have real motivation to get it done, and that these settlements are extremely difficult.

I didn't really appreciate that. To be honest with you, I didn't appreciate that at Pyramid Lake, when I left it. Like I said, I showed up, I was this inexperienced planner, hung around with the chairman a little bit, ran for council, won, got put into a situation where I became chairman for five years, sort of cheerleaded my end of the process and got it done and walked away and said, "So, what's the big

deal?" We got it done.

But since then I've spent some time trying to obtain other settlements that were far simpler than this, and haven't been able to succeed on all of them. In doing so, it's really given me an appreciation for all of the components that were in place at Pyramid Lake to make this happen. These things don't just happen and they don't happen every day. Even when it's a situation where it is just absolutely simple and the division of water is simple, too many intangibles come into play that can just wreck the entire process. And so I think that, for one thing, I'm more appreciative of what actually occurred during this process than I was at the time that I left it. It's just a lot of work.

Seney: You know, you said that there are other elements of the passage that I know. Don't take for granted that I know these things. Were there other important elements that we haven't discussed?

Other Important Elements in the Passage of Public Law 101-618

Ely: Well, I think we got to the point where T-C-I-D had backed out, and now we're in front of the hearings in front of Bradley, and all of that, and we eventually had to have it attached. I mean,

those are mostly . . .

Seney: And Bradley said, "I want to get everybody in if we can. We'll give you another ninety days." There was another ninety-day period. What did T-C-I-D do in that ninety-day period?

TCID ". . . fought until the very end to try to get the thing killed. They didn't stop. I mean, they certainly lived up to their billing about trying to be obstructionists. . . ."

Ely: I don't remember. They fought until the very end to try to get the thing killed. They didn't stop. I mean, they certainly lived up to their billing about trying to be obstructionists. They did their absolute best. They ultimately failed, but this bill just passed by the skin of its teeth. I mean, it was one of the last pieces of legislation to go through. And I was worried about it. It passed about thirty days before I left office. So I think we just barely got it completed.

". . . they need to get this thing implemented. And as far as I'm concerned, it should be implemented right now, 100 percent. It should be fully implemented at this point, and it's not. And it needs to be completed. . . ."

That's why I continue to say that I think it

needs to be implemented, the more and more I appreciate it, and I continue to say that it needs to be implemented, just for the fact that I know that things lose momentum if they're not taken care of, if you don't go out and do it, you don't get it done. But the more and more I appreciate the amount of work that it took to get it done, I really don't think that this is ever going to come this way again in regard to this tribe. And they need to get this thing implemented. And as far as I'm concerned, it should be implemented right now, 100 percent. It should be fully implemented at this point, and it's not. And it needs to be completed.

Seney: Is there anything else you want to add? Do you think we've said it all? We could talk a few more minutes if you like, and then we can wrap it up today.

“ . . . the tough parts were the hearings, the tough parts were the process, the tough parts were getting people to the table. . . . ”

Ely: Yes. I don't know if there's anything else to say. I think that the—you know, the tough parts were the hearings, the tough parts were the process, the tough parts were getting people to the table. I mean, there's no need to go over every little instant that we had sitting at the table and every little aspect of it.

“ . . . I think it’s a good settlement. I think it provides the tribe with a water source for the fish. It provides for timing of the fish. It provides economic development money. I think it provides partnerships with the outside that they didn’t have before. . . .”

But I think it’s a good settlement. I think it provides the tribe with a water source for the fish. It provides for timing of the fish. It provides economic development money. I think it provides partnerships with the outside that they didn’t have before.

“I think the tribe now has all of the tools that I talked about earlier . . . all of the tools that’s necessary to build its future. . . . the *cui-ui* are going to be delisted soon. I mean, that should be is the next process. The next thing, there should be economic development on the reservation. . . . There should be prosperity out there. I mean, the tools are there to make it happen, and rather than spend now the next ten, fifteen years on Settlement Two and Settlement Three and Settlement Four . . .”

I think the tribe now has all of the tools that I talked about earlier, about, “Let’s get this out of the way so we can start building, these

tools to start building our future.” I think the tribe has all of the tools that’s necessary to build its future. I don’t want to see it get derailed in a rehash of this or a dive back into this. This now should be old news. This now should be overshadowed by the fact that the *cui-ui* are going to be delisted soon. I mean, that should be is the next process. The next thing, there should be economic development on the reservation. There should be economic development and businesses that the tribe holds down the reservation.

There should be prosperity out there. I mean, the tools are there to make it happen, and rather than spend now the next ten, fifteen years on Settlement Two and Settlement Three and Settlement Four, they should just get that done and start building their future. That’s what I hope to see out there. And that’s part of what this whole thing was about. You know, when I became chairman, I put all my eggs into one basket. I mean, I spent a lot of time on other issues there, but I bet I spent over 50 percent of my time on this settlement. And when I went forward and decided to make that decision for myself and then brought the council along in the process, it was a calculated risk, because if the settlement had failed, I would have failed. Not only that, but I would’ve had five years of work with nothing to show for it.

Seney: Yes.

The Need to Now Implement Public Law 101-618

Ely: And so it was right under the wire that we got this done. But now that it's done, they ought to get onto other things. Implement it. This should be easy to implement. It's hard to when you've got the Federal Government. Do you know the Federal Government hardly ever showed up at any of the negotiations? As soon as this was over, though, they smelled money.

END SIDE 2, TAPE 2, SESSION 2. May 20, 1996.

BEGIN SIDE 1, TAPE 3, SESSION 2. May 20, 1996.

Seney: Today is May 20th, 1996. My name is Donald Seney. I'm with Joe Ely in his office in Mesa, Arizona, and this is our second session, and this is our third tape.

Go ahead, Joe.

“It was funny that when we were negotiating this, we hardly ever had any Federal representative, except for USBR . . . But as soon as it was passed, and then the smell of money, you know, filtered its way down through the Department of Interior, I remember the last meeting that I attended in regard to the settlement before I left

being chairman, there were about fifty Federal representatives at that meeting. . . .”

Ely: Like I was saying, I just think that the settlement needs to be implemented. It was funny that when we were negotiating this, we hardly ever had any Federal representative, except for USBR, they were there.

Seney: The Bureau of Reclamation.

Ely: Bureau of Reclamation—at the table. But as soon as it was passed, and then the smell of money, you know, filtered its way down through the Department of Interior, I remember the last meeting that I attended in regard to the settlement before I left being chairman, there were about fifty Federal representatives at that meeting. They were called the “Implementation Team.” And when I looked at that bunch, I thought, “This is it.” (laughter) We did this with very few of them. I mean, there are some very good people in the Federal Government—don’t mistake it.

Fred Disheroon

Fred Disheroon¹⁷ from the Justice Department, a real foundation, a real backbone in making this

17. Reclamation’s oral history program includes an interview with Fred Disheroon.

thing happen. And Justice Department attorneys that we had all along through the process, they were real important. But there were some other Federal people that perhaps could have got involved, or that did get involved and were sort of in the way when we finally got to pushing this thing forward.

Seney: Who do you mean by that? If you don't want to mention names, from what elements of the Federal bureaucracy did they come?

“But when it was all passed, you know, they all showed up, and I just thought, “Look at this. It’s a free lunch, and everybody’s on the bandwagon now, and this is almost a guarantee that it will never be implemented,” because you get too many of these guys in the room, and they’ve got all their papers and policies and processes. . . .”

Ely: Higher up in the Department of Interior. I’m not talking about Ross Swimmer; he was very good. And the Bureau of Reclamation. But when it was all passed, you know, they all showed up, and I just thought, “Look at this. It’s a free lunch, and everybody’s on the bandwagon now, and this is almost a guarantee that it will never be implemented,” because you get too many of these guys in the room, and they’ve got all their papers and policies and processes. I don’t know if that’s

true, and certainly that's not what's slowed down the process, but that was just my initial impression. When I saw them walk in, I thought, "Oh, no. Here's the implementation team."

“. . . during the process, the Federal Government had just passed their criteria for settlement and negotiations, and we slipped in underneath it. So we didn't have to abide by, you know, where you have the Federal negotiating team, and you have to go through that whole process. . . . And it hampers the process substantially. . . .”

You know, during the process, the Federal Government had just passed their criteria for settlement and negotiations, and we slipped in underneath it. So we didn't have to abide by, you know, where you have the Federal negotiating team, and you have to go through that whole process.

Seney: I'm not familiar with that. You mean there's now a general framework, no matter what the problem is, into which you have to fit the negotiations?

Ely: Oh yes. Right. And it hampers the process substantially. For one thing, you have a Federal negotiating team which is made up of every agency that could possibly be involved. They do their own work, and then you do your own work,

and they're very secretive about giving you stuff, and they have to approve the settlement, so now you have three or four—if you had two parties to begin with, the tribe and the other party, now you have three parties, because you have to negotiate with them.

Seney: With the Federal Government?

Ely: Right. And this negotiating team who steps in when it decides to, to become your Big Brother.

Seney: I take it you're dealing with them now, in the process now.

Ely: Yes, I deal with them a lot.

Seney: By the way, let me say, the tape won't pick this up, but you get a certain look on your face as you're talking about it. Your eyebrows raise, there's a certain kind of skepticism/hostility there.

“And the whole idea behind the criteria was to limit the amount of exposure, in other words, the amount of money the Federal Government had to pay. . . .”

Ely: Well, I don't know what it is, but they drive me crazy. It's just another party that you have to deal with. And the whole idea behind the criteria was

to limit the amount of exposure, in other words, the amount of money the Federal Government had to pay. But, anyway, in regard to that implementation team, I couldn't believe all the suits that came in that room that day, and I thought, "Look what we did." You know, we put together this settlement, and we had a lot of players out there. But everyone—it was a pretty efficient team, and you had a pretty efficient group who was really concerned and wanted to get this done. And now that it's passed, and now that there's money to be paid to people to be involved in this, and I thought back to that time, I thought back to the concert we had, and how we had to scramble to make funds, and how we had to do this. Well, now that it's done, we've got fifty suits in this room who are now the official implementation team. And I thought, "I wonder what they're gonna do? I wonder how they're gonna screw this thing up?" (laughter) I don't know what they've done. Obviously they're doing a fairly decent job, because I don't hear about them. So, to me, they're doing a fairly decent job. I don't know what they're doing. I certainly can't judge them, but that was my last impression of this whole settlement, was standing in that room, with the fifty government suits thinking, "Oh, jeez. I'm glad they weren't here six months ago, or three years ago, because we would have never got it done."

Seney: Because to the extent that there was anyone from the government, it was from the legislative branch, it was Wayne Mehl from Senator Reid's office.

Ely: Right.

Seney: Who was the probably sole government official, if you want to call him that—I'm not sure you would—who was there. And the legislative branch has quite different M.O. and priorities than the executive branch does.

Ely: And again, we had people in the Department of Interior. We had Ross Swimmer, who was very instrumental. But they, you know, they didn't show up to the meetings, and that was fine, but they were helpful behind the scenes. We had Joe Membrino who worked on it, we had a lot of folks who worked in the Solicitor's Office who worked on it. We had a lot of folks who did that type of work in the Justice Department, and they were very instrumental, very instrumental. But they weren't the same group of people who show up and say, "All right, all right, all right. We know you got it to this point, but now . . ."

Seney: "We'll take over."

Ely: "We'll take over." (laughter)

Seney: Yes. (laughter) That's very interesting.

Ely: That was a lasting impression. And I don't want to discredit any individuals, because there were many individuals who came into that room, in fact, who were very good at what they do, and credible. But it was just the impression that it left, and it was sort a quick breakdown of where we'd come from, and the amount of work and effort that went into it, and the amount of blood and sweat that had been shed in this whole thing, and the very small amount of money that we had to get it done, and how no one was there to necessarily hand you all this, and try to help you, and try to make it happen. But now, you know, it's like the wedding of a rich relative.

Seney: A lot of people show up. (laughter)

Ely: That's right. (laughter) But anyway, that's about it. I'm glad it's done. I hope that the tribe gets it implemented. The sooner the better.

Now out of Tribal Politics

Seney: You don't go back much.

Ely: I go back and visit my family.

Seney: But other than that, you're out of tribal politics

completely?

Ely: I'm out of tribal politics.

Seney: Is that the way it works once you've had your terms of office, you tend to . . .

Ely: I could run for Chair—I mean I could run for council. I could have ran for council while I was there.

Seney: You could be chairman again, could you not?

Ely: I could be chairman again.

Seney: Because it's two successive terms is all you can have. And then if you take a break, you can go back. But you've kind of done that, I take it. You don't see a need for yourself to—maybe someday in the future?

Ely: Maybe someday in the future. I have a lot of people who call me. I can tell you at any given moment what's going on out there.

Seney: I'm sure you can.

The Tribal Council's Role in the Settlement Legislation

Ely: And occasionally I'll make a few telephone calls. Right now, I think they're going to be able to do it. It would be awful arrogant of me to think that this thing all lies upon me being in any kind of position back there.

“I think that the Tribal Council did a good job during this process. They were very supportive. It was tough. They made tough decisions. And one thing that's real important is the council made some very tough and difficult decisions, and ones that weren't popular. . . . because in that last election, a lot of them lost. . . .”

I think that the Tribal Council did a good job during this process. They were very supportive. It was tough. They made tough decisions. And one thing that's real important is the council made some very tough and difficult decisions, and ones that weren't popular. And they did it. And they paid for it. They paid for it, because in that last election, a lot of them lost. And there were very unsavory pictures drawn of them. You know, I'm not talking about actually drawn, but there were . . .

Seney: Right. Characterizations made.

Ely: Characterizations of them. And that isn't true. They actually acted as leaders, and they got it

done. I think that was real important. But I think behind the whole thing were those people, the membership, including those ones who signed their name, because they're the ones who kept after this. They're the ones who laid out the parameter. They're the ones who wouldn't let us off the hook. They're the ones who, when they decided that we were going the wrong direction, who were ready to come the meetings now, who were ready to make sure that they kept our feet to the fire, and who didn't just say no when they had an opportunity. When they had an opportunity, when we flat laid it back on them, and they had an opportunity to just say, "No, don't negotiate," they didn't say that. They said, "Negotiate, but do it like this." And they kept an eye on it.

“ . . . about a year after I left office, they did have a vote on it. They had a referendum, and it passed by over two-thirds. And so we obviously delivered what they wanted, and they obviously paid attention . . . ”

You know, about a year after I left office, they did have a vote on it. They had a referendum, and it passed by over two-thirds. And so we obviously delivered what they wanted, and they obviously paid attention, because they knew what it was there. And it was really to their credit, because although we weren't willing to sell

the farm, when this all started out, we weren't sure what part of that farm was for sale.

Seney: (laughter) Aren't you pretty pleased with the legislation, though, and the preliminary settlement agreement?

Success of the Settlement Legislation

Ely: Oh, I'm very pleased with it.

Seney: Yes.

Ely: I think it's a good deal. I think it's one of the better deals that I've seen out there.

Seney: And you know, it's not a bad deal for a lot of the other elements. Does that please you, too?

Views on What a Negotiated Settlement Is about

Ely: Oh, absolutely. First off, I think one of the critical elements of a negotiated settlement is that it endures, and it doesn't endure if there are disgruntled parties. Litigation is the place for deceit, deception, and treachery. Not in a settlement. In a settlement, you have to have good faith. You have to go forward. You have to lay your cards on the table. You have to be a little bit vulnerable. And you have to say, "Now, if we

put all these pieces together, what kind of puzzle do we come up with?"

“ . . . you have to realize that there’s compromise, and that people have to be happy with it. The tribe has to be happy with it. The states have to be happy with it. All the elements—all the Reno and Sparks, and Sierra Pacific—they have to be happy with this particular piece, because if they’re not, it’ll unwind. At some point, it’ll unwind. We always approached it from that standpoint. . . . ”

And then agree upon it and work it out. And you have to realize that there’s compromise, and that people have to be happy with it. The tribe has to be happy with it. The states have to be happy with it. All the elements—all the Reno and Sparks, and Sierra Pacific—they have to be happy with this particular piece, because if they’re not, it’ll unwind. At some point, it’ll unwind. We always approached it from that standpoint. We weren’t trying to nail anybody in this.

“I don’t know of anybody who’s gone through the settlement, with the exception of the Fallon Tribe, who is now unhappy with it. And even from their side, they had so many warnings, and they walked into it with both eyes open . . . ”

I don’t know of anybody who’s gone

through the settlement, with the exception of the Fallon Tribe, who is now unhappy with it. And even from their side, they had so many warnings, and they walked into it with both eyes open and flashlights in each hand. And even at that, their deal isn't that bad. They just chose money over water, that's all, and that's their sovereign right to do so.

“I think the only one who wasn't happy was T-C-I-D, but they're not part of that agreement. I don't think they'll ever be happy. . . .”

I think the only one who wasn't happy was T-C-I-D, but they're not part of that agreement. I don't think they'll ever be happy.

“As far as my dissidents were concerned, they weren't happy all the way up to the very end. They were very happy to see me go. They were never happy. If I had to lay a paycheck on it, I doubt that they'll ever be happy. . . .”

As far as my dissidents were concerned, they weren't happy all the way up to the very end. They were very happy to see me go. (laughter) They were never happy. If I had to lay a paycheck on it, I doubt that they'll ever be happy. It's just the way it goes.

Seney: Some people you can't make happy.

Ely: You just can't. You can't. So anyway, I think that it turned out okay. We'll see.

Seney: All right. Well, I really appreciate your taking part in the project. As you know, I've relied on you in a number of instances for background information. I want to acknowledge my thanks for that here, too. And I'll be in touch.

Ely: Well, your job is the hard one now. You have to be accurate and you also have to be compelling.

Seney: Yes.

Ely: Because you want people to get beyond the first chapter.

Seney: That's right.

Ely: And to some extent, I'm relying on you to record this history correctly. I think it needs to be recorded. But I had no intention of doing it. I've been asked on several occasions, "Well, why don't you sit down and—" I'm doing something else now.

Seney: Well, I'll do my best, and I'll let you be one of the judges. All right. Well, thank you, Joe.

Ely: You're welcome.

END SIDE 1, TAPE 3, SESSION 2. May 20, 1996.
END OF INTERVIEW