

ORAL HISTORY INTERVIEW

LESLIE B. GRAY



STATUS OF INTERVIEW:  
OPEN FOR RESEARCH



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



Interview desktop published—2015  
By Andrew H. Gahan, Historian

Oral History Program  
Bureau of Reclamation  
Denver, Colorado

SUGGESTED CITATION:

**GRAY, LESLIE B. ORAL HISTORY INTERVIEW.**

Transcript of tape-recorded Bureau of Reclamation Oral History Interview conducted by Donald B. Seney. Edited by Donald B. Seney and desktop published by Andrew H. Gahan, historian, Bureau of Reclamation. Repository for the record copy of the interview 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.

**Table of Contents**

Table of Contents..... i

Statement of Donation..... iii

Editorial Convention..... v

Introduction..... vii

Oral History Interview..... 1

    Education and Start on a Legal Career..... 1

    Military Service in World War II..... 3

    Family and Early Life..... 7

    Working as a Lawyer and Being Involved in Politics  
    ..... 10

    Working in Water Law..... 11

    The Washoe County Water Conservation District..... 14

    Changing Attitudes Toward Indian Rights..... 23

    Problems for TCID..... 29

    Doing Legal Work *Pro Bono*..... 32

    The Participants Struggle for Truckee River Water  
    ..... 35

    Sierra Pacific Power..... 41

    The Endangered Species Act..... 45

    The Preliminary Settlement..... 50

    A First Amendment Petition..... 54

Complicated Problems on the Truckee River. . . . 57  
The Issue of Water in Nevada Politics..... 62  
The Role of the Courts..... 68

---

## Statement of Donation

### STATEMENT OF DONATION OF ORAL HISTORY INTERVIEW OF LESLIE B. GRAY

1. In accordance with the provisions of Chapter 21 of Title 44, United States Code, and subject to the terms, conditions, and restrictions set forth in this instrument, I, LESLIE B. GRAY, (hereinafter referred to as "the Donor"), of RENO, NEVADA, do hereby give, donate, and convey to the National Archives and Records Administration (hereinafter referred to as "the National Archives"), acting for and on behalf of the United States of America, all of my rights and title to, and interest in the information and responses (hereinafter referred to as "the Donated Materials") provided during the interview conducted on AUGUST 3, 1994, at RENO, NEVADA and prepared for deposit with the National Archives and Records Administration in the following format: tape recording and transcript. This donation includes, but is not limited to, all copyright interests I now possess in the Donated Materials.
2. Title to the Donated Materials remains with the Donor until acceptance of the Donated Materials by the Archivist of the United States. The Archivist shall accept by signing below.
3.
  - a. It is the intention of the Archivist to make Donated Materials available for display and research as soon as possible, and the Donor places no restrictions upon their use.
  - b. The Archivist may, subject only to restrictions placed upon him by law or regulation, provide for the preservation, arrangement, repair, and rehabilitation, duplication, and reproduction, description, exhibition, display, and servicing of the Donated Materials as maybe needful and appropriate.
  - c. For Donated Materials with restrictions, the National Archives will provide access to the Bureau of Reclamation, if the Bureau of Reclamation presents written permission of the Donor specifying the types of information and proposed uses of said information.
4. Copies of the Donated Materials that do not have Donor restrictions on their use, may be deposited in or loaned to institutions other than the National Archives, including the Bureau of Reclamation. Copies of unrestricted Donated Materials may also maybe provided to researchers. The Bureau of Reclamation may retain copies of tapes, transcripts, and other materials if there are no Donor restrictions on their use, and Reclamation may obtain copies of tapes, transcripts, and other materials at the time that Donor restrictions on the use of the materials ends.
5. The Archivist may dispose of Donated Materials at any time after title passes to the National Archives.

Date: AUGUST 3, 1994

Signed:   
LESLIE B. GRAY

INTERVIEWER: DR. DONALD B. SENEY

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

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

Signed: \_\_\_\_\_  
Archivist of the United States

### **Editorial Convention**

A note on editorial conventions. In the text of these interviews, information in parentheses, ( ), is actually on the tape. Information in brackets, [ ], has been added to the tape either by the editor to clarify meaning or at the request of the interviewee in order to correct, enlarge, or clarify the interview as it was originally spoken. Words have sometimes been struck out by editor or interviewee in order to clarify meaning or eliminate repetition. In the case of strikeouts, that material has been printed at 50% density to aid in reading the interviews but assuring that the struckout material is readable.

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

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

“planning;” the Reclamation Projects Authorization and Adjustment Act of 1992, as opposed to “the 1992 act.”

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



## **Introduction**

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

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

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

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

Questions, comments, and suggestions may be addressed to:

Andrew H. Gahan  
Historian  
Environmental Compliance Division (84-53000)  
Policy and Administration  
Bureau of Reclamation  
P. O. Box 25007  
Denver, Colorado 80225-0007  
FAX: (720) 544-0639

For additional information about Reclamation's history program see:

[www.usbr.gov/history](http://www.usbr.gov/history)

**Oral History Interview  
Leslie B. Gray**

**Education and Start on a Legal Career**

Seney: My name is Donald Seney, and I'm with Mr. Leslie Gray. Today is August 3, 1994, and we're in his home in Reno, Nevada. Good afternoon Mr. Gray.

Gray: Good afternoon.

Seney: Why don't you start by telling me when you were born, and where you were born, and something about your family and your early life?

Gray: Alright. I was born in Sparks, Nevada, November 10, 1915. I'm coming up on seventy-nine. I went through the Sparks schools, the University of Nevada, and then I went to law school at the University of California at Berkeley, Boalt Hall, in 1937, and graduated in 1940. [I] passed the Bar in August of '40, I believe, and was admitted immediately, and then went into the firm of Price and Merrill, which was vitally involved in *all* of the

water matters that started with the Orr Ditch case<sup>1</sup>, the start of the Newlands Project, I believe—at least back to 1906 and around in there. Mr. Price wrote the Orr Ditch Decree. Mr. Price wrote the Truckee River Agreement in 1936.<sup>2</sup> When he died in 1940, Charles M. Merrill succeeded him. And Charles M. Merrill and I were familiar with it somewhat in my brief period of about a year-and-a-half before I went in the service, which was a great benefit to me; because a lot of my classmates were, gone in the service. I was able to get a year-and-a-half of familiarity with the Bar and the

---

1. "The Orr Ditch decree was entered by the U.S. District Court for the District of Nevada in 1944 in *United States v. Orr Water Ditch Co., et al.* The decree was the result of a legal action brought by the United States in 1913 to fully specify who owned water rights on the Truckee River and had rights to storage in Lake Tahoe." For more information see, Truckee-Carson Irrigation District, "What is the Orr Ditch Decree and Why is it Important," [www.tcid.org/support/faq-detail-view/whatistheorrditchdececeandwhyisitimportant](http://www.tcid.org/support/faq-detail-view/whatistheorrditchdececeandwhyisitimportant) (Accessed April 2015).

2. The Truckee River Agreement of 1935, through which water users from the Truckee River system sought to conserve the waters of Lake Tahoe and the Truckee River and its tributaries, established regulations for the maintenance of minimum rates of flow in the river during winter months, provided for development of pondage for reregulating fluctuations in streamflow occasioned by the operation of privately owned hydroelectric powerplants, and provided for development of a minimum of 40,000 acre-feet of supplemental storage on the Little Truckee River by the Washoe County Water Conservation District.

people and the judges. As a matter of fact, when I went in [the army], in 1942, January, Judge William McKnight adjourned the courts in my honor. I was the first lawyer [to go]<sup>3</sup>. And incidentally, I did not divulge that I was a lawyer. I shouldn't have had to think this way, because I learned later, you had to have three years' experience before you got into judge advocate. I did not want to be in the "chairborn." I did not divulge that I was a lawyer until Europe.

### **Military Service in World War II**

Seney: What did you do in the military?

Gray: I was in anti-aircraft. I was an Adjutant Intelligence Officer in a 40 mm [forty millimeter] outfit, which was scheduled for "D" day, and because of all hell breaking loose—and I won't go into that—we didn't get in until the next day. But we went in "D" plus one.

Seney: Actually, why don't you tell me about "all hell breaking lose." What happened? Why didn't you go on "D" day?

---

3. Clarification provided by Mr. Gray

Gray: Well, if you saw the anniversary, I'm one of the few that says this, but there were two mistakes made at "D" day: One, there was supposed to have been saturation bombing at Omaha. Instead, it went to Utah and they had no problem getting in there, as you may read. When we got there, about one-thirty in the afternoon, there was such a jam-up, and finally a white launch came along and said, "Pull back, pull back." Well, you didn't have to say it twice to us to pull back. We had two Limey boys operating our lot who had been at Salerno and Dieppe, and they wanted to go back all the way. (Seney: Chuckles) So we sat there and watched the dive bombers come in and take out these eighty-eights [88 millimeter guns] that were in bunkers being rolled out, as soon as they get on the shore, bang! they had them! Their eighty-eights are at them. I just read later—I didn't know this, I don't remember it—but there were one-five-five [155 millimeter guns] even behind *them* that were giving us hell. Well, listen, we could see—*all hell* was breaking out on the beach.

So we pulled back, it got dark, three Kraut planes came in, they got two out of three of them, the other one went straight up in the air and took off, but that was from ship batteries; the *Nevada* and the *Texas*. I think the *Texas* was the one that

really got them. But we got in the next day about the same time we were supposed to, in the afternoon. It wasn't bad, we did have some problems getting in, but we got in. As a matter of fact, as the adjutant, I told everyone—we had about 600 people scaled-down from 832. I said, "No casualties! I don't have the blanks." We had *no* casualties! Would you believe that? We went through five major battles, got decorated for them, shot the last plane down with one round, we decorated the whole crew. It's fantastic.

And see, I go ahead to say I was with the captain from "Ole Miss." [University of Mississippi], and he's a professor and a writer in the Southern Writers' Group, we wrote an article, "The Mistake of Ending the War the Way We Did." We could have gone to Vienna in a day. We had a battery on the Elbe that could have gone to Pilsen and Prague in less than a day. Oh no, we had to wait for the Communists, and they were something else. Finally, in occupation, I told them—well this is funny, a kid from Sparks, Ph.D. from Cal [University of California at Berkeley], good friend of mine, a couple years older, writes me from [University of] Michigan, from Ann Arbor, Michigan—"put in for military government

Far Eastern Civil Affairs and we'll come here and we'll study Japanese and then we'll go back to Sparks, because the war would be over." I did. I then revealed I was a lawyer. I won't go into the problems I had with my colonel, but in ten days, I was in the Third Army War Crimes Branch. And we put on the first trial in the world on war crimes. And supposedly, we hung the bastard. But, I don't know what ever happened.

I came back finally and, as I say, another friend of mine, a lawyer friend, a year behind me at Boalt [Hall, University of California, Berkeley], was also in the military government. He was at my house. My mother said, "You'll have to sleep on the porch because that nice Homer Angelo is here." We talked. "What should we do?" He went to Columbia and studied international law under [Philip] Jessup. I said, no, I'm going to start at the bottom rung, and if I can get in a policy-making place *some* day, *that's* where it's made. *That's* where the mistakes were made. Really it's true. I still believe it. So, I went that route and he went the other route. McCarthy ran him off (Seney: Senator Joe McCarthy?) Yeah. He said Jessup was a secret admirer of the Communists, and so he studied under Jessup. He was counsel for Senator Warren Austin—who is he? Vermont, I



believe. Doesn't make any difference, he was up in there, and he was then the U.S. Representative to the United Nations. Now they call them Ambassador. But he was a representative, and Homer Angelo was right in his office. When McCarthy started his [campaign against "communists;" he quit].<sup>4</sup>

### **Family and Early Life**

Seney: I want to ask you about your mother and father, and were they native Nevadans? I expect not, (Gray: No.) but when did they come, and why, and what did they do?

Gray: My father was virtually an orphan, [he was] born in Louisiana. His older brother went to Little Rock, Arkansas, and became a doctor. He brought my father there with a sister who kept house for them, and he graduated from the University of Arkansas Law School. He and a buddy of his who worked for the railroad, had malaria and they were up one week, and down the next, popping quinine and having a hell of a time. And his friend disappeared. He went down to the

---

4. Clarification provided by Mr. Gray.

railroad and said, "What happened to Joe?" "We don't know, he just quit, took off." My dad got a penny postcard, "Dear Harry, am in Beowawe, Nevada, busting broncos. Haven't had a sick day since I got here." He looked up in the atlas and couldn't find Beowawe on the map. He picked out Elko—Indian name; Beowawe—Indian name. And his firm, the firm he was in—not *his* firm, he was just working for them—represented the railroad, and he pulled this old bull, "Now when I represent a client, I like to see what I'm representing, and I'd like to look over your line and your connecting line." This guy must have been a hell of a nice guy. He said, "One way, Harry?" (laughter) Isn't that something? He lit in Elko.

Well, the story's too long, because eventually, he got admitted [to the bar] in California, he was *offered* to be admitted in Elko. E-J-L Taber was the district judge. The D-A [district attorney] was—and he was later a supreme court justice, I knew him very well, and he was on there when I started. Edward P. "Ted" Carville was the district attorney, later, U-S attorney, later, governor, later, senator. And they said, "Come on to Carson. You just show your ticket and your in." "No, I got to see California." Well, he met my mother in Oregon, and he said to her, "Now as

soon as we're married, we'll go back to Sparks," where he was by then, working for the railroad too, "and I'll hang out my shingle." My mother said, "Are you a lawyer?" And he said, "Why, I thought you knew I was a lawyer?" She said, "Get back on the train, I'm not marrying a lawyer." She had two bad experiences in their family. One lawyer went to South America with *everything*. So we're all crooks, see? So he never practiced, but he was a sharp little guy.

Seney: What did he do, work for the railroad?

Gray: Yes, he was a ticket agent at the railroad [depot]<sup>5</sup> at the Seventeenth Street Depot, which is turned around now downtown and faces the other way, but it was at Seventeenth Street, And he and a fellow worker started a store. It was called Signal Sales Company down at Ninth and "B" Street, in Sparks. They did a great job. Signal Sales was the semaphore signal for the railroad. And they'd come pouring out of the [Southern Pacific]<sup>6</sup> gate and cash their checks and buy something. Then, they later disposed of the store and he stayed with what he'd had already too there—real estate and

---

5. Clarification provided by Mr. Gray.

6. Clarification provided by Mr. Gray.

insurance. He bought key lots in Sparks from the original sub-division. The guy that bought them was a doctor and he left for Freeport, Illinois, and my dad said, "Now you don't have to worry about a title, I can take care of the title search." He didn't say, "I'm a lawyer." And they did very well. My mother helped him, and when I wanted to go to law school, she said, "Oh, please don't. Stay with Sierra Pacific." I was working for them even in college. "Stay with them. I'd rather you dig ditches than be a lawyer." The old man would say, "Go! go!" So that's the background. They were wonderful people.

### **Working as a Lawyer and Being Involved in Politics**

Seney: Well, when you get back from the war, do you go back to work for the same law firm, right?

Gray: Yeah, I went right in it, as an associate [and a partner].<sup>7</sup>

Seney: When did you start working on water matters, right away?

Gray: A little bit, but not as counsel. Charlie Merrill was

---

7. Clarification provided by Mr. Gray.

counsel. [He got the Orr Ditch Decree finalized in 1944. Mr. Price who had negotiated it died in 1940. When I graduated in 1940, my constitutional law Prof. had made a Republican out of me by strongly supporting F-D-R's court packing plan. I joined the party and spoke for [Wendell] Willkie in 1940. After the service, I was elected in 1946 to the Nevada Assembly. After the session, against my better judgement, I was railroaded into taking Washoe County Republican Chairman. The story of the debacle of 1948, the reform of 1950 and 1952 is told in my book, soon to be published—I hope.]<sup>8</sup>

### **Working in Water Law**

- Seney: Let me get you back to the law firm, because I'm curious, obviously this law firm has been involved in water matters up to its ears for years and years.
- Gray: Always. Well, as a matter of fact when the government started that case in '73 to establish water rights for a fishery, they [the Department of

---

8. This material was added by Mr. Gray. As well, he deleted two pages of text dealing with Nevada politics during the later 1940's and early 1950's.

Justice]<sup>9</sup> led the way. And then the tribe was permitted to join. But it was their money and an awful nice guy by the name of Doug King in the Department of Justice, Attorney General's Office—*good* guy—and he had Mike Thorp as his assistant, who later became assistant to [Robert] Pelcyger<sup>10</sup> with the tribe. When they filed that lawsuit, they didn't file against the [Washoe County] Conservation District. The county manager who just passed away, Russ McDonald, Rhodes scholar, wonderful guy, one of the brightest men we ever had, had public meetings because they served 13,000 at the outset, and then the attorney from Sierra Pacific forced them to add four [thousand]<sup>11</sup> more—17,000 defendants were water users, joined. They hadn't joined all those in T-C-I-D [Truckee-Carson Irrigation District] down at Fallon. They thought that T-C-I-D itself

---

9. Clarification provided by Mr. Gray.

10. Robert S. Pelcyger was the legal counsel for the Pyramid Lake Paiute Tribe. Mr. Pelcyger also participated in the Bureau of Reclamation's oral history program. See Robert (Bob) S. Pelcyger, *Oral History Interviews*, Transcript of tape-recorded Bureau of Reclamation Oral History Interviews conducted by Professor Donald B. Seney for the Bureau of Reclamation, in 1995 and 2006, in Reno, Nevada, and Boulder, Colorado, 1995 interviews edited by Donald B. Seney and all interviews further edited by Brit Allan Storey, senior historian of the Bureau of Reclamation, 2013, [www.usbr.gov/history/oralhist.html](http://www.usbr.gov/history/oralhist.html).

11. Clarification added by Mr. Gray.

would be adequate. The court ruled they had to join the individual water rights' owners. When they started that [case, the Conservation District wasn't] ~~we weren't~~<sup>12</sup> served. Later [Robert S.] Pelcyger said, "Why didn't we sue you?" I said, "Shut up, don't think about it." They had public meetings—Russ McDonald had public meetings, first when I was in California, second one, I couldn't get in. There were more people—you just couldn't get in there. And there were guys like John Bartlett of Vargas and Bartlett, which is one of the big firms here, *still*. Bartlett and Vargas are gone. It's called Vargas and Bartlett. They got up and talked and Clel Georgetta, a former judge, got up and talked. Maybe he was a judge then, I can't remember. Several other real prominent lawyers got up and talked. "We're going to help you." I called Russ and I said, "Look, I'll be glad to help, *pro bono*." That's what they were after.<sup>13</sup>

So I got into it anyhow, and all these guys who were talking, John Bartlett said, "Come on, help me." He said, "Jesus, Les, I represent Standard Oil. I can't go *pro bono*." Well, they

---

12. Clarification provided by Mr. Gray.

13. At this point Mr. Gray deleted two paragraphs unrelated to the question.

were involved a little. They had water rights.

### **The Washoe County Water Conservation District**

Seney: Can you give me a kind of history of the Washoe County Water Conservation District, and how it came into being, and what role it plays in all the kind of water politics around the Truckee River?

Gray: Yes.

Seney: Good.

Gray: Alright. In the 30s, we were suffering a drought similar to this. Dust was blowing down the streets, tumble weeds were blowing. I mean, this place was worse than it is right now, and they *had* to do something about storage. [The Bureau of] Reclamation by its very terms, its mission, *used* to be to reclaim the desert, right? And incidentally, I'll show you something that might be helpful to you. It was called Orr Ditch because that was the principal *big* name, big ditch. We're on the Orr Ditch. But it was called Orr Ditch as the defendant. That started in 1913, because the government realized, *everyone* realized, that they were going to have to fix water rights, and so the government started that case, *The United States*



*v. Orr Ditch, et. al.* They went for *years* with people proving their water rights. This little ranch, it's one of the big original ranches, P-J Kelly—180-200 acres hidden here. When I bought it, it was twenty-two acres that was left of P-J Kelly sub-division—not too much sub-division but it was broken up into small pieces. But everybody had to prove their water rights, and they went to court and did that with a [water] master, I believe.

And then, as they were going along in that, the drought hit and this in the mid-30s, and the [U.S. Department of] Interior, the old curmudgeon . . . (Seney: Harold Ickes<sup>14</sup>) Ickes! Harold Ickes! One of *our* representatives from our outfit—I say "our," I wasn't in it, but I knew him. He worked with the Washoe County Water Conservation District, and they formed that district because they realized they were going to have to have storage and they were working on Ickes and Roosevelt, and everybody they could work on, to get a dam, so Boca Dam was built.<sup>15</sup> And I

---

14. Harold Ickes was Secretary of the Interior under the administration of President Franklin D. Roosevelt, 1933-1945.

15. Completed in 1939, Boca Dam is a primary feature of the Truckee Storage Project to provide a supplemental supply of irrigation  
(continued...)

believe, about in the same time that they finally got around to finalizing the Orr Ditch Decree, which was 1944. Mr. Price not only did that, but he did *all* the negotiations on the Truckee River Agreement. And John Evans Robinson, who had taken over from Merrill, my partner—I just have to tell you, he was very wealthy in his own right, from the family. His dad was a doctor. He didn't *want* to be a doctor, so his dad forced him to be a lawyer, and he didn't want to be a lawyer *either*, so he never had his heart in this water. And I used to help him in our little firm.

END SIDE 1, TAPE 1. AUGUST 3, 1994.

BEGIN SIDE 2, TAPE 1. AUGUST 3, 1994.

Gray: We elected Charlie Merrill to the [Nevada State] Supreme Court in '50, which is what I did, and I take credit for that, and he would say so. Then John Robinson and I continued, and John was really the one that went with the [Washoe County

---

15. (...continued)

water to approximately 29,000 acres of land in the Truckee Meadows surrounding Reno and Sparks, Nevada. Boca Dam and Reservoir, the major feature of the Truckee Storage Project, was constructed by the United States and is operated by the Washoe County Water Conservation District. For more information, see Carolyn Hartl, "Truckee Storage Project," Denver: Bureau of Reclamation History Program, 2001, [www.usbr.gov/history/projhist.html](http://www.usbr.gov/history/projhist.html).

---

**Bureau of Reclamation History Program**

Water Conservation] district, while I did everything else, including (chuckles) politics.

Seney: Let me ask you, the Boca Reservoir was paid for by the Washoe County Water Conservation District, but built by the Bureau of Reclamation. (Gray: Yes.) Why was that arrangement done? Why didn't the District just go build it? Did it not have the right to do that?

Gray: Oh, they could have, but nobody had any money. This is Depression era and everybody was, "Please, government; please, Reclamation; please build us a dam. We'll pay for it."

Seney: Over time. You didn't have the money up front, in other words?

Gray: Oh, hell no.

Seney: Or couldn't sell bonds, didn't have the ability to sell bonds for it.

Gray: I suppose we *could* have, but in those days, I don't think that was even thought of, and I can't say that I really know. I was just going to tell you, one of the great advantages we had was John

Robinson didn't practice very much, and if he practiced at all, it was with this water, so when we got into this lawsuit, I get all counsel together: the State of Nevada had two or three lawyers, the Deputy Attorney General, Bob Pelcyger—the whole works. I happened to have Mr. Price's files. I have *his files*. I have his correspondence where the lawyer representing the B-I-A [Bureau of Indian Affairs]—I can't think of his name, but I'll find it for you. He was in Denver. B-I-A got him to represent the B-I-A—the tribe. I had his correspondence. He asked for more water for Pyramid [Lake], for irrigation. Pyramid was established to get the Indians off the main routes and to make farmers out of them. And of course that never—there were a few of them out there, cattlemen, and some of them were good, too—but especially they like to sit back and say, "We're fishermen." And so they sued for fishing rights, or they asked for fishing rights—very little though. I'm getting ahead of myself, in the '73 case is when they were after fishing rights.

Seney: That's when they wanted to declare the fish a beneficial use; to go beyond agriculture as the sole beneficial use.

Gray: Yes, yes, yes. And I put in evidence the letter

from this attorney. He asked Mr. Price to give them 1,200 more rights—some really good-sized amount. He gave it to them. And here's the response he got. "Dear Mr. Price, we *deeply* appreciate your consideration and your fairness," and the closing sentence went something like this, "I suppose we can take care of the fish later." See, he just made a real boo-boo. Nobody was thinking that they were going to cause the cutthroat [trout] to be extinct, which they did. No doubt about it.

Seney: Now, was Price the watermaster.

Gray: No, no. He never was the watermaster. He was the attorney.

Seney: Why were they making pleas to him, and having him distribute the water out?

Gray: He was the lead attorney.

Seney: I see.

Gray: And he drew the agreements.

Seney: Ah! the Truckee River Agreement and the Orr

Ditch Agreement Issue.

Gray: Yes, the Orr Ditch Decree. Yes. They had to go to him.

Seney: So he was the lead attorney who was actually divvying these things up?

Gray: And he wasn't the *only* attorney. There was one attorney that was opposed to giving the Indians *anything*. The last hearing they had, was Charlie Merrill presenting the Decree, and Bill Kearney objected on behalf of some Italians. "Why do they need it? They won't use it anyhow." He didn't want them to have a drop, but Price got it through and got credit from the B-I-A attorney (chuckles) saying, "What a wonderful man you are!" And everybody was happy.

Seney: Of course the thinking has really *changed* over the years, in terms of what kind of water allocation the Pyramid Paiutes are justified in receiving. I mean it's been a complete change, has it not?

Gray: Well, yeah, but the only thing that's really changed now, and you'll see in here the case of *Nevada v.*

*The United States.*<sup>16</sup>

Seney: Right. I'm familiar with it. Why don't you describe for me, in your view, how the attitude toward the Pyramid Paiutes has changed over the years in terms of what sort of water rights they ought to have?

Gray: Well, let me say this. In the '73 case. We tried it in '76, I think it was. Forty-four days, but roughly, twenty-two [days] one time, and then we broke up for several weeks, then Judge Blaine Anderson

---

16. "This case stems from a suit over Truckee River water that began in 1913. In 1913, the federal government asked the District Court to settle all water claims on the river. A decision, known as the Orr Ditch decree, was finally issued 31 years later, in 1944. Significantly more water was allocated to the irrigators than to the tribe. In 1973 the US and the Pyramid Lake Paiute tribe went back to court to claim additional water rights. They argued that the 1944 agreement only determined the tribe's right to irrigation water, not to the water necessary to maintain the river and lake's fisheries. By this time the Lahontan cutthroat trout was extinct, and another species, the cui-ui, was near extinction. The US Supreme Court decided that the original 1944 settlement should remain in force. It argued that the government had gone to court in 1913 to settle water claims on the Truckee once and for all, and with the 1944 decree, got what it asked for. Therefore under the doctrine of *res judicata* it had no right to come back and reopen the case." For more information, see Focuswest, "Nevada v. United States (1983)." [www.focuswest.org/law/nevada.efm](http://www.focuswest.org/law/nevada.efm) (Accessed June 2014).

came back from Idaho.

Seney: They had to get an outside judge, didn't they?  
(Gray: Yeah.) Because there was some question as to whether any of these local guys, as good a judges as they might be, could be neutral on this, right?

Gray: Judge Bruce Thompson, the best judge we ever had, had water rights. I was representing him.

Seney: I knew that the local guys just couldn't do it.

Gray: They were *all* disqualified. Most of us were gentleman ranchers. Bruce Thompson had a little acreage in town. (Seney: He's another federal judge.) Great federal judge, best one we ever had. He passed away a year or so ago. One of my closest friends. He and I did more *pro bono*—I had never heard *that* phrase, but we represented a professor at the university—a couple of them, academic freedom; represented the superintendent of the mental hospital; did a lot of things by ourselves. We used to work together like a tandem.

Seney: So Anderson has to come in from Idaho to handle this?



Gray: Yeah. You should have heard Pelcyger. We were in a chambers conference with Anderson, and he says, "Mr. Gray?" "Yes, sir?" "Do you remember when you came to Idaho?" (Seney: This is the judge speaking?) Yeah! I was on the committee to formulate the Rules of Civil Procedure, and we had done that. Idaho had thought about it, but they had some resistance, a *lot* of it. And I was sent up there to speak to them at their annual Bar meeting on this. Well, when Judge Anderson is—he was from Idaho. What town? It's called Black . . . (Seney: Blackfoot?) Blackfoot or something like that. Wonderful guy. I met him at this time. He wasn't a judge then, he was a lawyer, and he said in front of Pelcyger, and all the other ones, "You remember when you came up to explain these rules to us?" Pelcyger says, "You know him?!" He said, "You better believe it!" (laughter) Pelcyger was about ready to disqualify him, but we were good friends, always were. We had about eight of us [lawyers] that spoke. He'd always say, "And now let's hear from the caboose." That was me. (Laughter)

### **Changing Attitudes Toward Indian Rights**

Seney: I want you to talk a little bit more about the

changing attitudes of the Indians.

Gray: Oh, alright, fine.

Seney: You know what else comes through in all of this—and I know from my reading, but I'm really getting a sense of it from you—and that is how important all this water business is here in Nevada, and how *many* important people are involved in these questions of water, so I want to talk about both of those things, but maybe if you could tell me how you think the view about the Pyramid Paiutes has changed. I'm not so interested in the [Fallon] Shoshone Paiutes, because they've had essentially the same issues for years.

Gray: Yeah, and I couldn't tell you. I've talked to them one time on their treaty obligations, and I told them I'd help them, but they never came back, and I don't know who—somebody out of state represented them. But during and before the litigation, one of my closest friends, Reverend H. Clyde Matthews, was a Baptist missionary to the local colony—the Reno-Sparks Indian Colony, and one of the finest men I've ever known, and I worked with him all those years in *everything*, and I was even on his board in the colony. And all my life I had a sympathy for the Indians. I've got that

wonderful book by Helen [Hunt] Jackson about the treatment of the Indians [entitled, *A Century of Dishonor*]<sup>17</sup>. Well, I won't go into that. You can't read it without almost sitting down and crying because of the way they were treated. And Clyde and I testified to several investigations. I think the one when Teddy Kennedy and the California Senator, John Tunney. They came out here and had a hearing. *We* testified.<sup>18</sup> We both testified that they had the original rights on this water. My God, let's be fair with them. I begged. Incidentally, during this trial, Pelcyger said, "I have a transcript here I'd like to introduce into evidence." I said, "*Do it!*" Well then Anderson wouldn't let him do it! (chuckles) (Seney: It was your sympathetic testimony?) Yes!

Seney: Do you still feel that way.

Gray: Of course I do! But I feel they're not exercising the same sense of fairness. One time Pelcyger said to me, "Les, if it was between you and me, we'd settle this, wouldn't we?" I said, "Yes, that's right."

---

17. Clarification provided by Mr. Gray.

18. "I'm wrong on this 1972 hearing. We testified *before*, but it doesn't make any difference. The gist of your feelings was the same." Notation by Mr. Gray on manuscript.

During the intermission between the forty-four days, I got them all together, and I think Pelcyger was there—if he wasn't, he was back in Colorado. But I know the local Indian [counsel, Bob Stitser was there].<sup>19</sup>

Seney: This is the tribal chief, the Pyramid Paiutes Tribal Chief?

Gray: Well, no, he was a lawyer. He represented the Indians locally, and he did some good things for them. But anyhow, I had them all there. The State of Nevada, Ed Reed—he's now a federal judge—was the lead Deputy Attorney General—I had them all there. T-C-I-D, Jim Johnson, a wonderful guy. What's the fellow that did the main argument in the Supreme Court? Fred Girard from Sacramento top lawyer.<sup>20</sup>

Seney: Who did he represent—Mr. Girard?

---

19. Clarification provided by Mr. Gray.

20. Frederick Girard participated in the Bureau of Reclamation's oral history program. See Frederick W. Girard, *Oral History Interview*, Transcript of tape recorded Bureau of Reclamation Oral History Interview conducted by Donald B. Seney, in Sacramento, California, on July 20, 1999, edited by Donald B. Seney and desktop published by Andrew H. Gahan, historian, Bureau of Reclamation, 2014, [www.usbr.gov/history/oralhist.html](http://www.usbr.gov/history/oralhist.html).

Gray: T-C-I-D. I showed them how I thought it could be settled. There were several things I had in mind. I would have been willing to change their water rights to fish rights—to water for fishery rights.

Seney: Declare that a beneficial use?

Gray: Yeah. Now let me tell you something. Even my own people resented me. And you know what they said? "You're premature." You know what that meant? "We haven't made a million yet." And they were making money, *all* of them—except me, I was the only one that wasn't making any money.

Seney: You're talking about the attorneys.

Gray: The *attorneys*! I don't think their clients ever heard about it. They said, "You're premature." They figured they could wring it out and maybe come out with something fair, but "not now, because we've got twenty-two more days to go, and all these briefs."<sup>21</sup> So, I'll tell you, our sympathy, my sympathy—and I can't say that for my board of directors . . .

---

21. At this point three sentences unrelated to the question were deleted by Mr.Gray.

Seney: At the Conservation District?

Gray: The Conservation District. But the principle obstacle, I couldn't talk T-C-I-D into being reasonable. Do you remember the *Morton* case back in Washington? It was the tribe against Morton wasn't it? Yeah, and of course [Gerhard] Gesell was the judge.<sup>22</sup> He had no jurisdiction over ~~these people~~ [TCID]<sup>23</sup>, and that was what was eventually ruled. As a matter of fact, Blaine Anderson wouldn't let them put that in evidence, but ~~he~~ [Judge Gesell]<sup>24</sup> went all out for the Indians. (pause) Oh, what was I going to think?

---

22. In 1972 the Pyramid Lake Paiute Tribe filed a suit against the Department of the Interior over the Secretary's order for operating the Newlands Project. The tribe argued that water diversions through the Truckee Canal to the Truckee-Carson Irrigation District was more than the district was legally entitled to and "improperly diverts water that otherwise would flow into nearby Pyramid Lake located on the Tribes reservation." The court agreed and limited the amount of water delivered to the district for agricultural purposes shall "not exceed 288,129 acre-feet." The court also ruled that "Stampede Reservoir shall be operated by the United States to provide flood control, fish and wildlife, and recreational benefits and to store water for possible agricultural use by the Truckee-Carson Irrigation District." For more information, see *Pyramid Lake Paiute Tribe of Indians v. Morton*, [www.legal.com](http://www.legal.com) (Accessed June 2014).

23. Clarification provided by Mr. Gray.

24. Clarification provided by Mr. Gray.

Seney: In terms of sympathies? You were talking about sympathies in your board.

### **Problems for TCID**

Gray: Well, particularly in Fallon, those people had the most to lose, but they never thought that they would change the OCAP [operating criteria and procedures], that they would ever lose control. Of course they're going to lose control now. Ed Solbos [Area Manager, Bureau of Reclamation] is going to run them.

Seney: Is this the effect, do you think, of this new agreement that's gone through, (Gray: Yeah.) and the legislation that's gone through?

Gray: Yeah, I think that's going to happen, yeah.

Seney: That it will be the Project Manager's Office that'll run T-C-I-D. Since the courts have resolved the question that in fact, the Bureau *can* take over the district if it wants, and run the project if it wants. (Gray: Yeah.)

Gray: And that's too bad. You know *if* in '73, or if when *Morton* had been filed, all they had to say was,

"Bring it out here, and we'll be reasonable." But no, they said, "Oh, let it go. They can't touch us." And that's been their attitude *all* along. As a matter of fact, the thing that I resent *very* much from T-C-I-D is in recent years, they have said, "*We* are doing an efficient, good job, but it's those water wasters up the river in Truckee Meadows." I said to one of them, "Why would you do that? We're supporting you, we're trying to help you, and then you blame us? You have absolutely no right or justice to do that. If it weren't for the fact that I believe implicitly that you're going to get hurt, and you shouldn't get hurt this bad, I would just dump you like you're trying to dump us. We're *all* going to lose eventually," and cattle raising and agriculture is going out of this valley. There's no two ways about it, it's all done. I can show you the recent study I got that my fields will not come back. I think they've been over-grazed right now. They'll never come back. I'd have to replant them. And there'd be no point in planting them, because God knows, you never know whether you're going to get your water. But if they had been reasonable, *reasonable* and not hang on some technicality.

Seney: Let me stop you for just a minute. By "reasonable," you mean if they would have said to



the Pyramid Paiutes, "Okay, we'll be a little more efficient, we'll give you some of this water, (Gray: Sure.) and let's calm things here. (Gray: Right!) Let's end the litigation, (Gray: Right.) let's make an agreement, (Gray: Right.) let's make a deal. (Gray: Right.) And they never would? (Gray: No! Adamant!) Because they didn't think they had to.

Gray: Of course not! That's *exactly* their attitude.

Seney: Now let me say, as I look at this stuff, I don't know if it's Pelcyger or who it is, but the Pyramid Paiutes have *excellent* representation. Their legal representation seems to be very imaginative to me. (Gray: Oh, no doubt about it.) Here they've gone down into the Newlands Project, they've looked at the old maps, they've seen these sand doughnuts in the middle of these quarter sections that weren't supposed to be irrigated, these old farmers in the beginning said, "Well, we can't irrigate that four acres, we won't take the water right for it, we'll take seventy-six instead of eighty acres." Now over the years, they've leveled that out, they're *taking* the four acres, and they don't have a right to it, and Pelcyger and whomever it is, have found all of these little pieces and bits, and they add up!

Gray: Well, Pelcyger—in here, I think I show one year his fee was \$189,000, and his Iranian hydrologist, Ali Shahroody<sup>25</sup>, he's one sharp guy. In this implementation they're doing, he and Pelcyger are running it. And, as I say, they're turning it around. They're running the whole system. We broke ourselves—or *they* did, not me. Pelcyger one time said, "The way I figure it, you're making three dollars an hour." I said, "You're a liar. I'm losing twenty!" He laughed, because I was not getting paid.

#### **Doing Legal Work *Pro Bono***

Seney: Why did you do all this and not get paid for it, or not make money? What was in your heart here? What was in your mind as you undertook all this?

Gray: Well, I've always believed that a good lawyer has an obligation to help, and where there is hardship, he should do it for nothing. And I've always felt that way. Would you be interested to know that I

---

25. Mr. Ali Shahroody participated in the Bureau of Reclamation's oral history program. See Ali Shahroody, *Oral History Interview*, Transcript of tape-recorded Bureau of Reclamation Oral History Interview conducted by Donald B. Seney, edited by Donald B. Seney and desktop published by Brit Allan Storey, senior historian, Bureau of Reclamation, 2013, [www.usbr.gov/history/oralhist.html](http://www.usbr.gov/history/oralhist.html).

have offered to act *pro bono* for the Nevada Judicial Disciplinary Commission?

Yeah. Can they find another lawyer? Not another *one*. [But they have; the State provided additional money and a lawyer has been hired for over \$100,000 per year.]<sup>26</sup>

Seney: Nobody wants to take that, do they?

Gray: Well, they don't want to take the bull con from the court.

Seney: That's right. Sure.

Gray: But it doesn't worry me anymore. I'm impervious to them. And I don't mind that they know what I think of them. But when the administration at the university went after a *totally* innocent professor—five of them at the outset—we said, "We'll help you." Bruce Thompson, Ralph Wittenberg, Bert Goldwater, and myself.

Seney: Was this in the 50s over loyalty questions?

---

26. Clarification provided by Mr. Gray.

Gray: Fifties. It was loyalty oath. Cal had the loyalty oath. They supported us. It was academic freedom. Hundreds of professors at Cal signed petitions for us. You think Frank Richardson who was making \$4,700 a year, could pay for that kind of representation? Un-uh. Sidney Tillim at the mental hospital—I don't know what he made, but it was damn little. Of course in those days, it's *shocking* to what it is now. But we *helped* them. We *helped* them. We felt it was our *duty*. We didn't have *pro bono* public defenders and so on.

Bruce and I defended two of the worst killers in the world one time. He said, "I'm busy, you go interview them." A friend of ours on the bench said, "I'm going to give you the two best criminal defense lawyers in all of Nevada, Bruce R. Thompson and Leslie B. Gray." Bruce says, "Oh well, you go interview them." I came back and I said, "Those are two of the coldest blooded killers I have ever had the displeasure of meeting." I'd been through one murder—court appointment. "We are going to get even with our friend, Judge Harold O. Tabor. We're going to plead them guilty, and let *him* execute them!" And Bruce says, "Oh, no, we'll give them a fair trial." Okay, that's what we did. It was the most error-free conviction ever. (laughter) We feel that. I feel

that today. I think I'm kind of rare.

### **The Participants Struggle for Truckee River Water**

Seney: You characterized T-C-I-D in all of this, and there are a number of players of course—the Pyramid Paiutes and to some small degree, the Shoshone Paiutes, T-C-I-D, the Water Conservation District, Sierra [Pacific] Power, the landowners around Lake Tahoe, the Bureau of Reclamation—I probably left one or two out—but the way you characterized T-C-I-D, how would you characterize the Bureau of Reclamation? What view have you come to have over the Bureau over these years in terms of all these water questions?

Gray: Well, let me . . .

Seney: Because I'm going to ask you about each of these in turn. I'm just starting with the Bureau.

Gray: You're starting with the Bureau?

Seney: Yeah.

Gray: I have come to the conclusion that the Bureau should be abolished, and I'll tell you why. It

started with [Secretary of the Interior Donald] Hodel. He was right after "Foot-in-the-mouth" [Secretary of the Interior James] Watt.<sup>27</sup> Right? And he announced that they were changing their mission. They were no longer reclaiming the desert, they were no longer building dams for storage—all they were going to do, primarily, was manage their projects. And that meant "go after every project that's in existence *now*, and *really* put the screws to them." And that's what they've done, and that's what they're going to do, and they take great credit for cutting down their budget because they're changing their mission.

Seney: How would you say they put the screws to the Washoe Project and the Newlands Project here in this area?

Gray: Well, I wish I could remember the fellow's name, but in the 40s, there was a fellow in Interior, *very* able young fellow, and he just kept writing, and writing, and writing. To make a long story short, the tribe—the Indians, *period* . . .

---

27. Donald Paul Hodel was Secretary of the Interior under the administration of President Ronald Reagan, 1985-1989. James G. Watt was Secretary of the Interior under the administration of President Ronald Reagan, 1981-1983.

END SIDE 2, TAPE 1. AUGUST 3, 1994.  
BEGIN SIDE 1, TAPE 2. AUGUST 3, 1994.

Seney: Today is August 3, 1994. My name is Donald Seney, and I'm with Mr. Leslie Gray at his home in Reno.

Go ahead, Mr. Gray. We talked briefly about Mr. Pelcyger.

Gray: We lost the first settlement. When was that? In '84, '85? (Seney: Somewhere in there, right.) We called that the Laxalt Settlement. (Seney: That was over the Interstate Compact trying to get an agreement, wasn't it?) Well, that was the second; the first one, we had a settlement, and Mike Thorpe, their lawyer, agreed, and so did the tribal chief, and *all* believing that it was settled and *all* having made statements in newspapers.<sup>28</sup>

Seney: And then the federal government shot it down, the

---

28. For more information about the California-Nevada Compact, see Donald J. Pisani, "The Strange Death of the California-Nevada Compact: A Study in Interstate Water Negotiations," *Pacific Historical Review* 47: 4 (November 1978): 637-58; Leah J. Wilds, *Water Politics in Nevada: A Century of Struggle* (Reno: University of Nevada, Press, 2010).

Department of Interior, didn't they?

Gray: Well, I'll never know. I think Pelcyger shot it down, but one time in the *last* go around, we were going to tour and I was taking my time lagging way back, and Bob Pelcyger lagged back with me and he said, "Les, I just want to say something to you. I know you think I sabotaged the Laxalt Settlement. I did not, so help me God I did not." "Well," I said, "it's hard for me to believe that you didn't." Because I remember the *last* negotiating session we had, he was there. I sat right next to him, and I said to him, "Bob, what do you think the Bureau of the Budget will do with this?" And he said, "Oh, I have no idea. I haven't followed this at all." I came to the conclusion right there, this guy's laying in the weeds, and going to sink us. But believe me, Thorp announced, "We're signing." The tribal chairman was a *nice* guy. He said, "Well, we would have liked a little more but . . ." And our settlement was something like thirty-seven million, and when we got back there, somebody—or maybe before we got back there—but there was some effort to raise the settlement figure. And Bob Broadbent<sup>29</sup>, who was Reclamation [commissioner] at the time, under

---

29. Robert N. Broadbent was the commissioner of the Bureau of Reclamation, 1981-1984.



Laxalt, said, "I cannot get any more." I thought that that may have been the reason it was shot down.

Seney: On this point, the *Carson River Atlas*, published by the California Department of Water Resources, and on Page 80, talks about the Compact and the attempt to solve what was going on here and it says here, "One Compact provision particularly troubling to Federal agencies was the statement that, quote,'the use of water by the United States of America, or any of its agencies, instrumentalities, or wards, shall be charged as a use by the state in which the use is made,' end quote." And it says this is a common statement in earlier interstate compacts, but the federal government had some kind of problem with that. Does that make sense to you?

Gray: No.

Seney: It doesn't make sense to me either.

Gray: I know this—one of the professors who teaches on Indian affairs [in Oregon]<sup>30</sup>, he was here for a

---

30. Clarification provided by Mr. Gray.

bicentennial thing, and he bragged that the Oregon senators told Laxalt to get that off the board. Now they're both Republicans.

Seney: All those guys were.

Gray: But these were all—the fellow that said this, they are *very* partisan towards the tribes, and particularly this tribe.

No, I don't know. We all thought—I don't think I went back for that hearing. We all thought that that should *at least*—it had been sitting there for all these years, but we knew or suspected that the tribe was opposed to it, but both states wanted it. And there was a great study done during [Ronald] Reagan's gubernatorial [terms]. It was a bi-state study—I've got it downstairs, a very good one; Laxalt's [Nevada] governor. (Seney: Reagan's governor. They were good friends.) Good friends. And they both signed the Compact and sent it back again, and it just sat there. That, to me, doesn't make sense. And I never did know what really sunk us, and Pelcyger told me he didn't do it.

Now they've got powerful lobbying people back there. Of course none of us have any; the

power company did have [lobbyists].

### **Sierra Pacific Power**

Seney: Well, let me ask you about the power company, because Sierra Pacific Power is a player in all of this too. (Gray: Oh yes.) They have Floristan rate rights to generate electric power, and in all of the things I've read where *they* have taken part, they seemed to have done very well in all of these agreements, and they seem to come out pretty well usually. How would you describe them as a player in the Truckee River water questions?

Gray: Well, let me tell you this. I think it was after we lost the Laxalt Settlement and Compact, we had a big meeting out at Sierra Pacific, and it was presided over by Joe Gremban, who was then the president, and we were all to contribute to it. And he said, "I'll tell you one thing," he opened up with. "I'm not going to deal with the God damn lawyers, and that includes, *particularly*, Pelcyger." Because he felt he'd turned on them, and I think he had. When he got to Washoe Conservation District, I was supposed to be the spokesman and I said, "Well, I'm going to have our engineer, Claude Hunter," who was a good man, very

knowledgeable, "I want to let him speak because I know you don't want to talk to lawyers and don't want to have lawyers talk to you. So, as far as I'm concerned, I'll pass." And what did he [Joe Gremban] do? He turned right around and settled with Pelcyger. Reversed himself *completely*, the power company did.

Seney: When you say "they settled with Pelcyger," what did they settle? What kind of an agreement did they come to?

Gray: They started this legislation.

Seney: He got on board on the legislation and began the settlement act.<sup>31</sup>

---

31. 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-
- (continued...)

Gray: Let me go back and say, during the forty-four day trial, their chief counsel was sitting in the jury box. He didn't participate, but Dick Blakey was their lawyer. At a recess, Dick Campbell, chief counsel—he's retired mostly, nice guy—he says, "Les, I got a way." He was really teed-off because Pelcyger had discovered that they had no federal power permit. *All* these years, Reno Light and Power, and *all* of these plants, they never secured a federal power permit. So Pelcyger, while we were all involved in this other stuff, the main case, he goes after the Federal Power Commission to jerk their permits, or jerk their doing business. Dick Campbell said, "Les, I'm going to get even. We're going to sue him to enforce the Stampede [Reservoir] power

- 
31. (...continued)  
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 dismiss specified litigation.

Source is: [http://www.usbr.gov/mp/lbao/public\\_law\\_101-618.html](http://www.usbr.gov/mp/lbao/public_law_101-618.html)  
(Accessed December 2011).

[purchase]<sup>32</sup> rights [of municipal and industrial water]<sup>33</sup>." That's what the Carson-Truckee Conservancy District was created for, to buy the power [water]<sup>34</sup> from the government, from Stampede, and sell it to a power company, or anyone that needed M&I [municipal and industrial] water. Well, I didn't pay too much attention to him, but I did say this—"I wouldn't do that. I wouldn't do that. We've got enough trouble right where we are. We're going to win this, but we're going to have to work at it." We got reversed on one as far as T-C-I-D was concerned in the Ninth Circuit.

Anyhow, I'm not going to claim that I foresaw what was going to happen, *but* the state of Nevada, the power company, and the Carson-Truckee Conservancy District filed suit. They went down to San Francisco and got the most expensive lawyer they could find and it cost them millions. And you know what happened. Judge Solomon from Oregon—see, that was supposed to be tried here but he was the only judge they could find, and he did a hell of a job. He divided it in half. His first decision was—and I think I got that in

---

32. Clarification provided by Mr. Gray.

33. Clarification provided by Mr. Gray.

34. Clarification provided by Mr. Gray.

here too—that Carson-Truckee Conservancy District was *the* legal constituted agency to buy Stampede water. Second, *but* until the endangered species are recovered, that is the *sole* use of Stampede water. They're still sitting there with that prohibition.

### **The Endangered Species Act**

Seney: Priority goes to Pyramid Lake on that water.

Gray: Right, yeah. I asked one of them one time—oh, I'm not going to say this. He told me if I said it, he'd call me a liar, but they spent a lot of money. The State Conservancy District and the power company, man, it cost them a bundle, and they lost, and that was the predicament they found themselves in. I don't know why Pelcyger didn't see this before, but the Endangered Species Act hadn't been too old. God, when they pounced on that, when they won that, that was it. The wrong *there* is they've put that in this act and almost put it in concrete. I had a meeting of the whole bunch, and I said, "Hey fellows, get on the Endangered Species Act."

There are two things wrong here. In all the

years that the Endangered Species Act has been applicable to our situation, the Secretary of the Interior has *never*, repeat, *never* reviewed the status of the fish as he is required *every five years*, right?, in the Endangered Species Act. He *never* did it, *never* did it. You ask the [U.S.] Fish and Wildlife guy out there. Well, I'm getting a hell of a time with names, but he's a nice guy. He's in charge of Fish and Wildlife. Good guy. I ask him every time, "What's the status of the fish, Chester [Chet Buchanan]?" "Well, we don't quite know yet." Well, I said, "Look at your brochure. This is the greatest cutthroat trout fishery in the world. Are they still endangered?" (remembering name) Buchanan, Chet Buchanan! "Well how about the cui-ui?" You ought see the headlines when they took all our water just recently. Best run they ever had!

Seney: Is that when the watermaster closed down the flows out of Boca and what not?

Gray: Yeah. And that ended us. June 12, we were done, there was no water left. Nothing in the Endangered Species Act says that a fish, to be recovered, has to be able to naturally spawn. They have at least four hatcheries. Where do you think they've gotten all these cui-ui? They've had



some. The last time they had a good run of natural spawning, and the irony—it breaks your heart. Do you know why the lower river, which is the spawning area for the qui-ui has been destroyed? Do you know who did that? The Corps of Engineers went in there and took the shade out, took the greenery out, took everything, cleaned that river just like a bathtub. And I said to Chet Buchanan one time, "Get Fish and Wildlife to put it back." "Well, they don't want it." I'll tell you, there are people who believe that they *know* under their construction, they'll never recover the fish; all they'll do is take money. And one time during these implementations, [I said to] Chet Buchanan, "What's going to happen if we have a drought and you don't get any water?" "Oh," he says, "you can mitigate." You know what that means? *Pay, pay*, for our loss of the fishery. *Pay*. I don't give a damn if it's a drought, no matter, you're going to pay. Mitigation! yeah.

But you see, I got everybody together, and I got T-C-I-D, because they know more than I do about it, and they hired an independent fishery expert from Los Angeles. Well, the first thing that happened, when they tried to get information, they

were told they had to go to [Fred] Disheroon.<sup>35</sup> Did you ever hear of him? Oh, he was an imperious son-of-a-gun. He's the one that handles [litigation on the Truckee-Carson for] the Department of Justice. He said, "You'll get no information—don't you give them any information—they come to me." And he won't give them information. They finally got a little. It took them about a year to give us preliminary study. The study didn't mean anything. We were all there. Each of us was paying his share—their shares, each of them, we were too. They were charging. I said, "You haven't answered this question of what is the *status* of the fish?" You know what he said? "Oh, that's a political issue." I said, "Would you repeat that? You are a fish expert, and we want an answer from you! Don't tell me it's a political issue. I've been in politics all my life."

Seney: Because a lot of this hinges on whether those fish are there, right?

---

35. Mr. Disheroon participated in the Bureau of Reclamation's oral history program. See Fred Disheroon, *Oral History Interviews*, Transcript of tape-recorded Bureau of Reclamation Oral History Interviews conducted by Donald B. Seney, edited by Donald B. Seney and desktop published by Brit Allan Storey, senior historian, Bureau of Reclamation., 2010, [www.usbr.gov/history/oralhit.html](http://www.usbr.gov/history/oralhit.html).

Gray: Well sure! My engineer and I got up and walked out, we never paid them another dime. And they worked a little while and never did anything, as far as I know. We had the city of Reno, the city of Sparks, Washoe County, I think even Desert Research [Institute of the University of Nevada] was helping, I can't remember. We were all kicking in to get the status. They've got us where the hair is short.

Seney: Because they claim the fish are down, and you can't find out different.

Gray: Oh, yeah. One time recently, they've got a lot of bright, young Indians out there too, young kids coming along, and that Joe Ely<sup>36</sup> who was there, the tribal chief, during all of this negotiation, was sharper than a tack.

Seney: Would he be a good one to talk to about this from their point of view?

---

36. Joe Ely participated in the Bureau of Reclamation's oral history program. See Joseph (Joe) H. Ely, *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, 2010, [www.usbr.gov/history/oralhist.html](http://www.usbr.gov/history/oralhist.html).

Gray: I don't know where he is. I think he's got a federal job somewhere. Yes, he would, if you could get a hold of him. I don't know where he is. One of my lawyer friends said, "Joe, you're not an Indian." You know what he said? "I *am* half Scotch." (laughter) He's a real sharp guy. And what I was going to say, the young Indian on TV not too long ago, and I've seen him at these meetings, he says, "You got to remember, the level of the lake has to be up so high, or we're never settled with." And the level of the lake *is* important to them. No doubt about it.

### **The Preliminary Settlement**

Seney: I was asking you about Sierra Pacific. Can you tell me the story about the president settling with Pelcyger? I don't know if you meant to suggest, but it kind of sounds to me like Sierra Pacific is opportunistic or how would you characterize them in these things?

Gray: They've sold out.

Seney: Because that's the way they see their interest going, obviously, in that direction?

Gray: Oh yeah. They're in tall clover now. They're

where they best should be, by stabbing us in the back.

Seney: How did they stab you in the back?—meaning the Washoe County Water Conservation District—by settling with Pelcyger?

Gray: They didn't let us participate in anything.

Seney: So they worked out the decision between them and you're stuck with it?

Gray: Right.

Seney: And that decision is essentially how much water is going to flow into Pyramid Lake. And I guess the power company doesn't *care* how much flows in, as long as it flows through their pen stocks and turns their turbines. They're going to put it right back in, and they're not going to grow alfalfa or melons with it.

Gray: And they've got storage rights [at Stampede Reservoir], which will take care of their growth, and their requirements for M&I water. And, as a matter of fact, Stampede is M&I and the tribe's [water].

Seney: So, in other words, they make the tribe happy; they're going to get access to that Stampede water eventually.

Gray: Yeah, yeah. And the settlement, the re-negotiated settlement, eliminates this Carson-Truckee Conservation District to *buy* from Stampede. They might as well shut down, but they've got a lot of money and they don't *want* to shut down.

Seney: So in other words, they're not the intermediary anymore on this water—the Carson-Truckee Conservancy District.

Gray: I don't think so, no. That Conservancy District; they don't realize what hit them. I begged them. I said, "You're going to be eliminated." And Ed Pine was director and he did try to go to the settlement, but he really wasn't up to it. But they don't know what's hit them. However, they're like the Secretary of the Interior, "we're changing our mission." As a matter of fact, they've done a lot of things with the money they had, and they *could* help the ditches. The ditches are in terrible shape. Well, and help them maintain them, and some of them are in bad shape. Some people have had to pay a tremendous amount, and they got a little bit out of the government, but for some inexplicable

thing, the water was breaking down a cement wall up at the head, about where it comes in, and they had to re-wall. And there's a lot of expense that all the ditches have had to go to, and one project director, the one just before Ed Solbos—I've tried to think of his name. He's a nice guy, but Jesus, boy! He's the one that told us in here, "Don't you oppose this. They won't listen to you." Of course they didn't.

Seney: The settlement you mean? Yeah.

Gray: Yeah. And I asked him, "In all of this, couldn't you give the ditches some help?" He said, "No, I'm sorry it's not in there." So Wayne Mehl<sup>37</sup> had a final big to-do out at the convention center and I got up and asked him, I said, "I realize I can't oppose your settlement, but there's a lot of money involved here going to help the tribe and power company—could you help our ditches?" "Oh yes," he said, "fine." "Well," I said, "I was told it wasn't

---

37. Wayne Mehl was the legislative director for Senator Harry Reid and participated in the Bureau of Reclamation's oral history program. See Wayne E. Mehl, *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, 2013, [www.usbr.gov/history/oralhist.html](http://www.usbr.gov/history/oralhist.html).

in the settlement." He said, "Who told you that?" I pointed to this project director. He said, "Well, I didn't know it was there." I said, "Tell him it's there, will you?" But then of course, it wasn't there and they won't help the ditches. Actually, when you read this, take a look at this, you'll see that I predicted that they were going to run the whole system, and they are.

Seney: The power company, that is?

Gray: No, the tribe. And the power company's a beneficiary, but if they ever get in a contest with the tribe, they'll have to give in. (Seney: The power company will?) Yes, yes. But they're top dog.

### **A First Amendment Petition**

I want to tell you another thing. You'll get a kick out of this. One of my cattlemen called me and said, "What are we going to do? What are we going to do?!" He planted potatoes here years ago. Nice guy. Big ranching family. I said, "Well, I guess the only thing you can do is file a First Amendment petition. In the First Amendment, in addition to free speech and freedom of religion, the last sentence says, "And the right of the people to



petition the Congress for redress of grievances."  
There's just the one sentence that goes right up  
over everything.

Well, I wrote it up for him a couple months ago, maybe a month ago, but it's been quite a while, and I did all the typing, on my letterhead, too, in the letter, and I typed the petition. I got an I-B-M [International Business Machines typewriter] down there, and I do pretty good. It's got a Selectric, I can erase (laughter) when I frequently need it. It came out pretty good. I told the girls in the [Washoe County Water Conservation] district to send it to our board, and I said, "Send it to the watermaster, and send it . . ."  
And the Carson-Truckee Conservancy District shares offices with us, and I said, "Give it to them too." Well, I just learned yesterday—they had their meeting Tuesday, the first Tuesday of the month is *our* meeting, the Conservation District. I said, "Listen, I got a stemwinder of a letter from Pelcyger." Oh geesh, he's got to read it. He just gave me hell. He said, "I wasn't supposed to have been a recipient", but, and then he proceeds to tell me, where the cow ate the cabbage. (laughter) I laughed! At least I got his attention.

END SIDE 1, TAPE 2. AUGUST 3, 1994.

BEGIN SIDE 2, TAPE 2. AUGUST 3, 1994.

Gray: "Monday," I said, "I got a hell of a letter from Pelcyger." Of course, I know how he got it, because Janet Carson, the power company, she's *on* the [Board]. (chuckles) Apparently she blew her stack when she saw it. They all got it.

Seney: This is the petition having to do with the water rights and what not?

Gray: Well, it's having to do with, for a grievance, redress of a grievance. And she complained about my use of the district's postage. Well, I didn't use any postage. Of course we would have, and I have always said, "I'll pay for the postage." I even give them money every now and then for use of their copy machine. I found out yesterday, she didn't even send it to our directors. I said, "Well, Allen Oppio [a director]<sup>38</sup> told me the other day that he got it and it was terrific and he was working on it." "Well," she said, "how did he get it? I didn't send it to him." Well, I know how he got it. I sent one to the Farm Bureau. The Farm Bureau—I belong to it—said, "What can we be

---

38. Clarification provided by Mr. Gray.

doing?" So I sent them one, "*This* is what you could be doing—inventory your water rights holders."

### **Complicated Problems on the Truckee River**

Seney: One of the things that comes through—and I've turned the tape back on—one of the things that comes through, not only in my reading, but obviously in our discussion too, is how many different groups are involved and how *complicated* (Gray: Yeah.) the water issue is here on the Truckee River with the Newlands Project and all this. To your knowledge, is this common of water distribution, or is this a particularly complicated situation here, do you think?

Gray: No. I think it's unique. As we say in the law, *sui generis*,<sup>39</sup> and I'll tell you why. Ordinary water problems don't have the additional ingredient of the Indians. There was one case they relied on, I wish I could remember it, but even the great Indian lawyer [Felix Cohn]<sup>40</sup> didn't construe it that way, because it held that the tribe was entitled to irrigation water—it had nothing to do with fish. And

---

39. Latin for "of its own kind," meaning constituting a class alone.

40. Clarification provided by Mr. Gray.

I always distinguish that. I said, "Yes, they're entitled to irrigation water, but there's *no* case that stands for the proposition that there's a fishery right to water—no case."

Seney: And if there were no fishery right here, it hadn't evolved into a right for fish, it would be a lot simpler, wouldn't it? (Gray: Oh yeah.) You could satisfy their needs for irrigation with a *lot* less acre feet of water than raising that lake back up ninety feet, which would take it back to where it began.

Gray: Yeah. This is unique. It may have been an anniversary of statehood—we were one of the early states in 1864—but it may have been during the '76 bicentennial of independence. A fellow wrote a book on Nevada and various articles on early-day Nevada, and he asked *me* to write an article, and I wrote it on water. He rejected it because he said it was too controversial. Actually, it was a good article, and it showed my sympathy and understanding of the Indian problem. And, as a matter of fact, I quoted that old book that I have by Jackson, where the Bishop of Minnesota was waiting in the anteroom to see Secretary Stanton. Right in the middle of the Civil War, here's the Bishop of Minnesota. Stanton was going nuts with the war, and he told his secretary, "Please tell the

Bishop that I *understand* his problem, and I understand *too* that the American people will never make it right until they understand—and someday, they will, but not at the present time, there's no use talking about it. They will someday understand."

Seney: Do you think that's happening here with the Pyramid Paiutes, that people are beginning to understand?

Gray: Well, let me say this . . .

Seney: You know, I interviewed one guy who worked for the Bureau of Reclamation, Monte Bianchi<sup>41</sup>, who you may know. (Gray: I just have heard the name.) Right. And he went to work in the watermaster's office when he retired from the Lahontan Project Office over in Carson City for the Bureau of Reclamation. And he said that while he was a bureau employee, it would never have

---

41. Mr. Bianchi participated in the Bureau of Reclamation's oral history program. See M. W. (Monte) Bianchi, *Oral History Interview*, Transcript of tape-recorded Bureau of Reclamation Oral History Interview conducted by Donald B. Seney, edited by Donald B. Seney and desktop published by Brit Allan Storey, senior historian, Bureau of Reclamation, 2009, [www.usbr.gov/history/oralhist.html](http://www.usbr.gov/history/oralhist.html).

occurred to him that the Pyramid Lake Paiute Indians deserved water for their lake. But once he went to work for the watermaster and got to kind of change his perspective, that he now really feels that the Indians were done wrong. (Gray: No doubt about it.) Now that he's become more informed.

Gray: I go back further. Well, there's a *wonderful* book by Wally Stegner, *Beyond the Hundredth Meridian*<sup>42</sup>. It's about old one-armed John Wesley Powell. And he tells how Powell and our first Senator [William M.] Stewart, just *destroyed* each other. Not only did Stewart try to destroy Powell, he destroyed himself. That should have been the *Stewart* Project. It became the Newlands. They just destroyed each other.

Seney: Over these water development questions here on the river.

Gray: Yes. John Wesley Powell dragged his feet on going huckle-de-buck on reclamation. "Do it right," he said. One of his principles was, never take water out of its watershed. Right? And what

---

42. Wallace Stegner, *Beyond the Hundredth Meridian; John Wesley Powell and the Second Opening of the West* (Boston: Houghton Mifflin Company, 1954).

did we do? We took the Truckee out of the watershed, didn't we? Alright, the funny thing is, as near as I can tell, it was John Wesley Powell's engineer that picked Derby [Dam]. And do you know what Pelcyger says now? "The time has come to uncouple Derby." He's willing to drum up—the morning paper, "Fernley is now out of water." Yes, and T-C-I-D said, "We don't have any." So all the crops down there are going.

Seney: Because the prior right is Newlands and not Fernley, not the Truckee.

Gray: Newlands is way down too. I don't think they're getting all—I don't know what they're getting. They're getting part of it, yeah. Some of it.

Seney: Well, Lahontan Reservoir is *very* low.

Gray: But it's *way* low. You know, I got a kick out of present Judge Mario Recanzone in Fallon. He wrote a letter, he was a D-A then. I tangled with him every time I got into a problem down there. But he wrote a letter to the editor. "I'm not responsible. My dad didn't get here until 1918." But they were badly treated. But you know, there was a woman, and there was a man by the name

of Creel, Indian agents and so forth that saw. But the Indian lawyer didn't see it, Price didn't see it. Nobody involved saw what they were going to do, and of course, we had problems too with sawdust, lumber mills, pollution—it just *killed* Pyramid. They lost the cutthroat trout. Those aren't Pyramid cutthroats, they're Walker Lake, planted and restored. I tell you, if I'd have had my way, we'd have had her settled and everybody'd have been happy.

### **The Issue of Water in Nevada Politics**

Seney: Let me ask you of something I mentioned earlier on I was going to ask you, and that is that water is *such* an important issue here, that none of these politicians, the Nevadans in the midst of a gubernatorial race now and . . .

Gray: They don't understand it, they haven't the faintest conception. I helped a Mormon run against [Senator Harry] Reid [who is a Mormon too]<sup>43</sup> in '92. He was doomed because one, he's a Mormon, and right to life. He's the head of the cattleman's—Demar Dahl. Wonderful guy. I told him, I said, "Look, let me *tell* you about this. You

---

43. Clarification provided by Mr. Gray.



don't have to go out and say 'I'm down with the Indians,' you can say, 'let's work it out.'" And I took him to several places. I couldn't get my board to even meet with him. Two of them showed up.

Seney: You mean as important as these water issues are, your feeling is that these politicians—the governor, I don't know what you'd say about Senator Reid, and Senator [Richard] Bryan—they're not knowledgeable on these matters as far as you're concerned?

Gray: Of course Reid is. Reid is knowledgeable from the standpoint as to the way he went.<sup>44</sup> And I can show you from my letters and exhibits here, I wrote to Reid. I wrote these letters, but I had the president sign them. I tried to get him to—"Hey, let's all work *together*." He ignored me. And as a matter of fact, they wouldn't even let us in their session. When Bryan was running for the

---

44. Senator Harry Reid participated in the Bureau of Reclamation's oral history program. See Harry Reid, *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, 2013, [www.usbr.gov/history/oralhist.html](http://www.usbr.gov/history/oralhist.html).

senate—he was governor, and Reid was a congressman at the first hearings. And they both testified in favor of it. Deputy attorney generals who coached Bryan, what to say; he didn't understand it. I don't think he understands today, but maybe he does. I haven't the faintest idea. But they all testified in favor. I have tried to make it an issue, and I can't. I'm helping this guy [Jim] Gibbons run for governor. I don't think he knows diddly-doo about water.

Seney: Of course the Nevada Legislature and the California Legislature have played some small part in this whole question, (Gray: Yes, yes.) but it *seems* like the real decision-making has been in the federal courts here. (Gray: Oh, no doubt about that.) That's where the real game is played, isn't it?

Gray: That's right. And when the tribe took over the Department of Justice, and the Secretary of the Interior . . .

Seney: That's how you feel about the views from those two agencies now, (Gray: Oh yeah.) that they have the tribe's view uppermost in their minds.

Gray: I'd give you this, but it's something I wrote for '92 for the election.

Seney: I'd love to see any of it.

Gray: Do you want to take it?

Seney: Sure, you bet. I'd love to read it.

Gray: Well, start at Page 9 and 10, and you'll see. I tell the story about [William] Bettenberg<sup>45</sup> is the number one man, negotiator, in Interior, right? I hopped on the provision that they had in there—which is still there, I presume—that the tribe has a veto power on the appointment of the watermaster. We pay his salary and we're not even in the thing. So he's going to control everything, really. But there's several of them, and I objected to that. At a recess, I went up to Bettenberg and I said, "Bill, can I ask you a personal question?" "Why sure, Les." I said, "Are you a Democrat or a Republican?" He said, "That *is* a personal question." It's in here. And you'll see in here, and he never answered.

---

45. William Bettenberg participated in the Bureau of Reclamation's oral history program. See William Bettenberg, *Oral History Interview*, Transcript of tape-recorded Bureau of Reclamation Oral History Interview conducted by Donald B. Seney, edited by Donald B. Seney and desktop published by Brit Allan Storey, senior historian, Bureau of Reclamation, 2009, [www.usbr.gov/history/oralhist.html](http://www.usbr.gov/history/oralhist.html).

Anyhow, when they took over, right after that Demar Dahl and I sat at the same table with Manuel Lujan, Secretary of the Interior. I said, "Mr. Secretary, how do I write to you so that you will read it?" He knew what I was talking about. As I say in here, just like the Army, they called them "short-stoppers." If something comes in that they don't like, he never sees it. He said, "You just write, 'Dear Mr. Secretary: At your request, I'm writing you,' and you'll get an answer." I wrote him on about early May of '92. He was out here raising money for Barbara . . .

Seney: [Barbara] Vucanovich you mean, the congresswoman?

Gray: Yeah, and so did Hodel. We gave *him* a charge and he promised to [study the problem. His answer, much delayed, was that Reclamation was changing its mission].<sup>46</sup> Anyhow, I wrote [Secretary of the Interior] Manuel Lujan<sup>47</sup>, it's in here, I think May 5, something like that, [May] 10. My wife and I went to England and Scotland. I'm

---

46. Clarification provided by Mr. Gray.

47. Manuel Lujan was Secretary of the Interior under the administration of President George H. W. Bush, 1989-1993.

a Burns<sup>48</sup>, I'm a Leslie, I love Scotland. [I've got the] Greatest collection of Burns that I got for the university, part of it's there. Makes Nevada the center of Scotch literary studies. Anyhow, we came back about July 7. We were gone from the time I wrote May 10, to 7 July, and it was on my letterhead, here. No answer. I went to the meeting for July. I said, "Did anybody get an answer to my letter?" The secretary said, "No, we didn't get any." Ed Solbos says, "You're going to get one." I said, "How do you know?" "Well," he said, "the secretary gave it to Bettenberg, and Bettenberg gave it to the Commissioner of Reclamation"—I forget who he was—he was a Republican, I think, at that time—no, he couldn't have been—"and he sent it to *me*. I sent it back to him and said, "Hey, he didn't write to *me*, he wrote to you,' so you're going to get an answer." July 14, I think it was, it was dated, and got here [July] 17 or something, I got an answer from Bettenberg! He's the guy I'm complaining *about*! He gushes, "Oh, how nice of you to be interested, and we're sure pleased to have . . ." See, they want us aboard now. Because whatever they do, we're in on it. He says, "We considered that and we've

---

48. Part of the family of the poet Robert Burns.

taken care of it." So I called the drafting man, Gordon De Paoli<sup>49</sup> in the Woodburn firm—very good guy—and he agreed with me. I said, "Gordon, did you change that provision?" "Well," he said, "we talked about it, but we didn't change anything." So I wrote right back to Lujan and I said, "I heard from Mr. Bettenberg, and he claims that you've changed it. The drafting chairman doesn't know that." Then I get a letter from Bettenberg saying, "I stand corrected. Glad you're interested."

### **The Role of the Courts**

Seney: Do you think it would be easier to reach a settlement if the courts weren't so involved?, if the Legislatures and the Congress were more involved?, if you had political people rather than, say, legal people involved? Do you think it would be easier to reach a settlement on these issues?

Gray: Well, I think it would be easier if just the leaders

---

49. Gordon De Paoli participated in the Bureau of Reclamation's oral history program. See Gordon De Paoli, *Oral History Interview*, Transcript of tape recorded Bureau of Reclamation Oral History Interview conducted by Donald B. Seney, edited by Donald B. Seney and desktop published by Andrew H. Gahan, historian, Bureau of Reclamation, 2013, [www.usbr.gov/history/oralhist.html](http://www.usbr.gov/history/oralhist.html).

among the people—not the lawyers—I'm perfectly willing to leave the lawyers out of it—and if you got reasonable people like the late Clyde Matthews—God, he died young! But he was a *great* one. He's the type of guy who could have sat down [and settled this], and there's some around here, that could sit down, I *think*, although, it seems to me now, that the way they've got it on a downhill pull, I don't know whether they'd be willing to even give in at all.

One time when it first started, under [Secretary of the Interior James] Watt, I said just what you're saying. "For God's sake, let's work something out that's sensible, that we can *all* live with, and as far as I'm concerned I'm out." And I started by saying, "We'll divide up Stampede in a reasonable way, because it's got a lot of water." Boca has a lot of water ordinarily. The other storages—several of them—and the power company has Independence Lake, and another one. But anyhow, when I said Stampede, it surprised me. Pelcyger wasn't too far from me. He says, "Wait a minute!" He almost came unglued. He said, "That's *our* water!" I think that was before the Solomon Decision. [I said,] "What the hell you mean, *your* water?!" It's supposed to take care of

fish, that's true, but not solely. He had the idea then, "that's *our* water." But anyhow, in answer to your question, yes, I think reasonable people could work it out, and should be able to work it out.

Seney: Well, it seems that when these political questions turn into legal questions, as political questions almost *always* do in the United States, you know de Tocqueville<sup>50</sup> said that. He said, "Ultimately, all the political questions become legal questions in America." I think he's probably right about that. But it just seems to drag them out. I don't know that it's such a complicated situation (Gray: They all do.) it wouldn't take a long time without the legal process.

Gray: I had Bruce Thompson help me in a *very* big mining case. Mining was my expertise along with water.

Seney: That's a pretty complicated law too, isn't it?

Gray: Oh, yes. And this was a case that had gone on and on and on. I brought Bruce in because he was a hell of a cross-examiner. My client was one of the wealthiest men in the United States, and we were

---

50. Alexis De Tocqueville, *Democracy in America* (New York: New American Library, A Mentor Book, 1956).



opposed by wealthy men—from Cleveland. My man was from Youngstown. He was a sharp man. Charlie Merrill told me he thought he was the best businessman he ever knew, because he represented him too. Bruce (chuckles) later said *I* said this, but that's not true. Now he's dead and I can say *he* said it. "Well, Mr. Beeghly," he said, "We're ready to go in the federal court to try this case. Justice is about to be done." Mr. Beeghly said, "Mr. Thompson, you don't go to court to get justice, you go to court to get things settled, period. And that may not be justice at *all*." Now that's sharp. And then on *top* of that, as you say, the *interminable* delay, and the time that it takes. If you could only keep it from being in court.

I look back on fifty years of court, and let me tell you something, it was a *rare* decision that really settled it and amounted to justice. Rare. God, and when I see some of the things, I wonder why in the hell I've even *bothered* with them. I'm suggesting now, in this judicial discipline thing, forget what they've ruled against you on, and pick up what you have and do it. Because there's hundreds of cases for them to handle. Pick them up and do them.

Seney: Sure. Well, listen, that's about the end of this tape, so let me thank you for talking to me. You've been a big help.

Gray: Well, you know what you've done to me?

Seney: I've taken up your whole afternoon, haven't I?  
(Gray: Yeah.) I hope I haven't wasted *your* time, because you certainly haven't wasted mine!

Gray: No, I enjoyed it.

Seney: Good. Well, it's a very complicated issue, and you've really helped me understand it, and you're going to help the people who read this manuscript, and this will be published in book form and we'll get a copy to you when we're finished with it, and you'll have a chance to edit it first. I'll get you a copy and you can go through and take out the expletives (laughter), if you like, and make any corrections you'd like to. Anyway, on behalf of the Bureau, thanks very much, we appreciate your taking the time.

END SIDE 2, TAPE 2. AUGUST 3, 1994.  
END OF INTERVIEW.