

ORAL HISTORY INTERVIEW

Rebecca Ann Harold  
Town Attorney, Town of Fernley,  
Nevada

October 9, 1995  
Fernley, Nevada



Interview Conducted by:  
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## Table of Contents

Table of Contents.....	i
Statement of Donation.....	iii
Introduction.....	v
Editorial Convention.....	vii
Coming to Fernley, Nevada.....	1
Becoming Town Attorney of Fernley.....	2
How the Town of Fernley is Governed.....	3
Fernley as Part of the Truckee Diversion of the Newlands Project.....	4
The Federal Government’s Changing View Towards the Newlands Project.....	6
Fernley’s Perspective of the Newlands Project.....	7
The Impact of Recent Drought Years on Fernley.....	8
The Impact of Public Law 101-618 on Fernley and How that Law was Agreed Upon.....	11
The Question of the Cui-ui.....	15
Working as a Vista Volunteer at the Pyramid Lake Reservation.....	17
Relations between Fernley and the Pyramid Lake Tribe .....	19
The Motives of the Federal Government.....	21
The Lahontan Valley Environmental Alliance.....	22
The Alliance and the Settlement II Negotiations.....	24
The People on the Newlands Project.....	27
The Proposal from LVEA at the Settlement II Negotiations to Retain 43,000 acres of Prime Agricultural Land on the Project.....	30
The Non-Agricultural Interests in Fallon and Fernley....	34
More on the Settlement II Negotiations.....	39
How the Negotiations Proceeded.....	43

What Kept the Settlement II Negotiations from Succeeding  
..... 45

The Role of Farmers as the Negotiations Proceeded. . . . 48

When Did It Seem the Negotiations Would Fail?. . . . . 49

Why Didn't the Negotiations Fail?. . . . . 50

Current Discussions on Matters  
Raised at the Negotiations. . . . . 52

Keeping the Fernley Community Aware of Issues  
Related to Water . . . . . 54

The Need for Municipal Water Supplies  
in the Newlands Project. . . . . 56

The Impact of the November, 1994 Elections  
on the Settlement II Negotiations. . . . . 59

Are Long Term Trends Running Against  
the Newlands Project?. . . . . 61

What Are the Federal Government's Intentions?. . . . . 66

The Use of Lawsuits by the Pyramid Lake Tribe. . . . . 70

Acting as Town Attorney for Fernley. . . . . 71

Similarities and Differences Between Fallon and Fernley  
. . . . . 72

Reasons for Water Shortages. . . . . 75

The Recoupment Issue. . . . . 75

There Is a Lot of Emotions Over Water Issues. . . . . 77

Decisions Need to be Made Locally. . . . . 80

Dealing with Federal Officials. . . . . 81

Preserving the Record. . . . . 82

The Impact of Environmentalists on the Negotiations. . . . 84

Sierra Pacific Power. . . . . 85

Disappointment that an Agreement was not Reached. . . . 85

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## Introduction

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

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

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

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

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

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



### 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 struck out material is readable.

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

In an effort to conform to standard academic rules of usage (see *The Chicago Manual of Style*), individual's titles are only capitalized in the text when they are specifically used as a title connected to a name, e.g., "Secretary of the Interior Gale Norton" as opposed to "Gale Norton, the secretary of the interior;" or "Commissioner John Keys" as opposed to "the commissioner, who was John Keys at the time." Likewise formal titles of acts and offices are capitalized but abbreviated usages are not, e.g., Division of Planning as opposed to "planning;" the Reclamation Projects Authorization and Adjustment Act of 1992, as opposed to "the 1992 act."

The convention with acronyms is that if they are

pronounced as a word then they are treated as if they are a word. If they are spelled out by the speaker then they have a hyphen between each letter. An example is the Agency for International Development's acronym: said as a word, it 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.

Oral History Interview  
Rebecca Ann Harold

**Coming to Fernley, Nevada**

- Seney: This is Donald Seney, today is October 9, 1995. I'm with Rebecca Ann Harold, the city attorney of the city of Fernley, in her law office in Fernley, Nevada.  
Good afternoon.
- Harold: Good afternoon. And it's *town* attorney. We're an unincorporated town.
- Seney: Okay, good, that's an important distinction. Let me start by asking you a little bit about your background. Are you a native Nevadan?
- Harold: No, I'm not. I was born in Pennsylvania and graduated from law school at the University of Colorado and then I came out here.
- Seney: What brought you to Fernley?
- Harold: I came out here as a Vista volunteer to Pyramid Lake, to the tribe, and worked for them for a year when they were establishing a tribal high school. After the year was up, I just stayed on in the area. So I've been here sixteen years now.

- Seney: So you were a Vista volunteer as a law school graduate? (Harold: Uh-huh.) Did you do legal work for them up there?
- Harold: Yes, uh-huh. I wasn't licensed yet, I passed the bar exam after I worked for Pyramid Lake.
- Seney: What made you stick around? I mean people drive past here—I find it a lovely country, I mean it's very desolate and desert-like.
- Harold: Yeah, I like it. It's big and open. I like the country, I like the people, and there was, at the time, opportunity here. I didn't have any contacts in Colorado, I had only gone to school there. I just felt that this was a good place to start a career, and it's worked out that way.

### **Becoming Town Attorney of Fernley**

- Seney: How soon did you become Town Attorney? How did that come about?
- Harold: A couple of years after I passed the bar exam, I became a lawyer in the fall of '83 I guess, and in '84 . . .
- Seney: By then you had your license, in other words?

Harold: Yes, in Nevada. I was here in Fernley, I hung out my shingle and just sort of started on my own. We were, at that time, looking at forming a town board form of government. Up until then, the county commissioners had been acting as the governing body for the town. So I was involved with a group of people, we were interested in getting some home rule and we did that.

So the district attorney at the time was Bill Rogers and he hired me on a part-time basis to work as a deputy district attorney but on the behalf of the Town of Fernley and that was in 1984, I think, in the fall. Then by '85, we had the Town Board government going and then, I think in July of '85, is when I officially started as Town Attorney. Before then, I was just a deputy D-A. working for the town.

### **How the Town of Fernley is Governed**

Seney: So do you have a kind of charter here as a town, or is it defined by the county board of supervisors?

Harold: The town went through a petition process back in the 1930s that made them a town, and that's why Fernley is different from Dayton or Silver Springs or other areas. They are unincorporated areas that have

advisory committees that report to the county commissioners. Fernley, on the other hand, went through the petition process, became an unincorporated town, which is a technical term under the statutes, and so it has the ability for home rule. And, in many ways, it's a little bit different from an incorporated city but it's different from the areas that don't have the town board.

Seney: Well you have elected town council (Harold: Yes.) and an elected mayor.

Harold: We don't have a mayor, we have an elected town board of five volunteers, they're not paid for their time or efforts, and they are the town board. They serve staggered four-year terms.

Seney: I've heard Mr. [Robert] Kelso described as the mayor of Fernley. (Harold: No.) Is that not an accurate description?

#### **Fernley as Part of the Truckee Diversion of the Newlands Project**

Harold: That's not. (Seney: Okay.) There is no mayor; never has been. He is the chairman of the town board.

Seney: Okay, right. Sort of the equivalent, but not really. (Harold: Uh-huh, right.) Alright.

How did you get drawn into the water question here?

Harold: (chuckles) It's how did Fernley get drawn in to the water question.

Seney: I guess, right, yeah.

Harold: Fernley is in the Newlands Project. It's part of the Truckee Division of the Newlands Project, and some years ago the Pyramid Lake Tribe, the federal government, different interests, began trying to do something different with management of the Truckee River and the diversions at Derby Dam. Trying to cut down those diversions affects Fernley. We were concerned about our ground water, water quantity, water quality—all of those issues—as well as the wetlands here, the wildlife, just a myriad of problems that it would cause. So we didn't join it voluntarily, we were *forced* into it because these other parties were trying to make changes here.

Seney: Does this begin with the *Pyramid Lake Tribe v. Morton*, the first OCAP [Operating

Criteria and Procedures] case.<sup>1</sup>

Harold: That's one of it. This has been going on for ninety years. (laughs)

Seney: That was well before your time. (Harold: Right.)

### **The Federal Government's Changing View Towards the Newlands Project**

Harold: There have been problems and contentions pretty much ever since the Newlands Project started. Good, bad, or indifferent, it was started at the turn of the century and for ninety years it's been here. There are people who are fourth and fifth generation in this area because they came here at the request of the federal government, they built their farms and communities at the request of the federal government, and now the federal government is saying, "Oops, sorry, we made a mistake, we need to rethink this." Well, that's a little late, generations and time

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<sup>1</sup> In *Pyramid Lake Paiute Tribe v. Morton, 1974* "a federal district court ruled that the allocation of water by the Interior Department violated the government's trust responsibility toward the Indians," see Steven L. Danver, "Pyramid Lake Paiute v. Morton," ABC-CLIO, 2008, [www.historyandtheheadlines.abc-clio.com/ContentPage.aspx?entryId=1171824&currentSection=1161468](http://www.historyandtheheadlines.abc-clio.com/ContentPage.aspx?entryId=1171824&currentSection=1161468) (accessed 10/25/2012).



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and money and heartache and investments later.

Seney: Are you a water right holder, by the way?

Harold: No, I'm not.

Seney: Many of the property holders in Fernley are.  
(Harold: Uh-huh.) Do you live in the town of Fernley?

Harold: Yes, I do.

### **Fernley's Perspective of the Newlands Project**

Seney: Give me the perspective. I mean, you hinted a little bit about the way you see it. I mean obviously the people in Fernley fell strongly about it (Harold: Certainly.) and you do too. (Harold: Of course.) Give me a little history of the project and the problems with it from the point of view of Fernley, if you could.

Harold: Well, the history is, is the Truckee River is a river in a desert. It flows from [Lake] Tahoe to Pyramid [Lake], and at the turn of the century there were not as many competing interests for that water, but growth and development and natural evolution have changed things over the course of ninety years, and now there are simply a lot of competing interests who want the water.

And, as I say, Fernley is dependent solely on the Truckee Canal. The canal comes out at Derby Dam, that is *the* lifeblood, *the* only source of water for Fernley. Fallon can rely mostly on the Carson River, but Fernley has no alternative source.

Seney: Well, that's not only for meeting the irrigation duties here, but that's also for ground water recharge (Harold: That's correct.) and for M&I [municipal and industrial] use, isn't it? (Harold: That's correct.) What was the effect—this year of course there's been a bumper crop of water . . .

Harold: Yeah, this has been a good one. (Laughs)

### **The Impact of Recent Drought Years on Fernley**

Seney: More than anyone knows what to do with in some cases. But last year things were *so* very different, when we were well into the drought. What was the impact at that point on the ground water in Fernley?

Harold: Fernley farmers got what is called a twenty-eight percent year. They got twenty-eight percent of their entitlement, of the water that they are allocated by law. You can imagine trying to grow a crop or do anything with only twenty-eight percent of the water

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you're suppose to have for it, in an *average* year, not a good year, but in an average year.

Seney: And the water was cut off the twelfth or thirteenth of June, something like that last year, wasn't it?

Harold: Yes, yes, very early.

Seney: So after that there was no more irrigation?

Harold: No, there was[n't]. And this was not after several years of good years, this was after eight years of drought. (phone rings, comment about answer machine).

Seney: What was the implication of last year on the ground water and on the municipal and industrial supplies for Fernley?

Harold: Well, it was a reduced year. I can't give you an exact figure of how much, but twenty-eight percent of a normal recharge. In fact, *less than* twenty-eight percent because the natural recharge is from the canal itself from seepage and just the fact that the water's passing through, but also from the irrigation. Being such a low water year, a lot of farmers never did irrigate, there was no point starting a crop and watching it burn up. So there was even less than twenty-eight percent irrigation.

Seney: What about the impact on the municipal and industrial supply? Could you water your lawns, for example?

Harold: With town water, yes, we did allow that. The town wells are deep enough and our supply was alright last year. So yes, we were able to do that.

Seney: As I read about the Fernley water supply, (Harold: Uh-huh.) the bulk of it, something around 23,000 acre-feet is figured to come out of seepage from the Truckee Canal, is it not?

Harold: I don't think so. I'm not sure of the exact figure, but it's a combination of the canal and the irrigation, it's not all seepage.

Seney: But natural rainfall . . .

Harold: Natural rainfall is practically nil. (Seney: Right.) The U-S-G-S [United States Geological Survey] did a survey or a report back in the 1970s and they said there's something like 600 acre-feet per year of natural recharge. (Seney: Right.) Virtually everything else is the canal and the irrigation from the fields.

Seney: So one way or the other, (Harold: Uh-huh.) it's from the canal.

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Harold: Right, but it's not seepage from the [canal], it's the use of the water. The canal is just the delivery system.

Seney: So the Truckee Division Project and the canal itself are absolutely essential to the town of Fernley?

Harold: Oh, yes, yes.

**The Impact of Public Law 101-618 on Fernley  
and How that Law was Agreed Upon**

Seney: Right. I want to talk to you about what went on in the Settlement II negotiations and so forth. But I'd like to talk to you about what led up to that. I don't know exactly where to start here, so if I don't ask the right questions, don't be embarrassed to tell me that I haven't (Harold: Okay.) asked the right questions here. Because my ego is not the point; we want the record to be complete. (Harold: Okay.)

From your point of view, what was the impact of Public Law 101-618 on Fernley? How do you see that legislation?<sup>2</sup>

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<sup>2</sup> Fallon Paiute Shoshone Indian Tribes Water Rights Settlement Act of 1990; Truckee-Carson Pyramid Lake Water Rights Settlement Act.

Harold: Well, we felt that it didn't help us, that it was damaging to us and to all of Lahontan Valley. We consider ourselves part of the Newlands Project; the Lahontan Valley area. And we're *also* part of the Truckee River area, we are geographically in the middle. We're caught between both, we're really part of both systems.

We felt that the law didn't help a lot; it put a lot of emphasis on the *cui-ui* at the expense of water rights and water uses down here. In the events that led up to that legislation, we tried to get some language in there about mitigation, taking care of things. There's *some* language that refers to the federal government *may* mitigate but there's no requirement. They didn't put much in that would help us.

Seney: Mitigate what?

Harold: The damages that would be done by the removal of large quantities of the irrigation water from the project.

Seney: What form would that mitigation take?

Harold: Well, we hadn't clarified it at the time—I mean we didn't know what we would need to mitigate. Of course a lot of it would depend on what the impacts turned out to be. Was it a shortage of supply? Was it a

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change in water quality? There were a number of things that we would of had to evaluate. The mitigation could have taken the form of water treatment, alternative water supplies, whatever would need to be done.

Seney: Did you take part in any of the negotiations that preceded 101-618? (Harold chuckles) Why do you chuckle?

Harold: Well, we find it ironic and a misnomer to call it “the Negotiated Settlement.” It was a private agreement that was done between the federal government, the Pyramid Lake Tribe and Westpac [Utilities] in Reno. The Newlands Project was kept out of those negotiations: they—being the upstream people that I named—claimed that the farmers walked out. We know better, we know that we were *forced* out and not allowed actual and effective participation, and those negotiations were mostly private deals between those entities.

Seney: How were you forced out?

Harold: They simply wouldn’t let us attend. They had meetings, they had negotiations, they cut deals with each other, and we only found out about them after the fact. People from our town board went to meetings and were told

they weren't allowed in. That's how strong it was. That's how blatant it was.

Seney: The Preliminary Settlement Agreement, which I guess precedes the Negotiated Settlement, (Harold: Uh-huh.) was really a deal between the Pyramid Lake Tribe and Sierra Pacific Power, (Harold: Uh-huh.) over—among other things—primarily the use of Stampede Reservoir water (Harold: Uh-huh.) and what water could be put in there and when it could be used and so forth.<sup>3</sup> That is then followed by the Negotiated Settlement which is . . .

Harold: The *so-called* Negotiated . . .

Seney: So-called, alright, (Harold: Yes.) which really results in Public Law 101-618. (Harold: Right.) And you know and I know that the farmers and the people on the project, and I guess by implication, the town of Fernley, too, and the Truckee Division as well, have kind of been tarred by the other participants as being unwilling to compromise and unwilling to negotiate. I

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<sup>3</sup> For information on the Preliminary Settlement Agreement see Westpac Utilities, *Analysis of Preliminary Settlement Agreement between Pyramid Lake Paiute Tribe of Indians and Sierra Pacific Power Company Utilizing Truckee-Carson Negotiations Model* (Westpac Utilities, 1989).



take it you have a very different perspective on that? (Harold: Certainly.) Give me your perspective on that.

### **The Question of the Cui-ui**

Harold: Well, there was no compromise on the *other* side. There was an agenda ahead of time before those negotiations that basically this was all about reducing diversions at Derby Dam. It was already preconceived that they were going to take water away from the Newlands Project, put it in Pyramid Lake, and yet, things were not done, in *our* mind, that justified that. The *cui-ui* recovery plan—I'm sure you're familiar with that—that document is still being revised.<sup>4</sup> Somebody dreamed up the idea that they needed these hundreds of thousands of acre-feet of water without the scientific justification for why that was truly needed.

So this became a water grab, just like a land grab, that's what this was about. And we tried to come up with negotiations, with plans that would allow the farmers, the ranchers, the irrigators, the municipal and industrial users—everybody down here—to

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<sup>4</sup> For information on the Cui-ui Recovery Plan see U.S. Fish and Wildlife Service, Region 1, *Cui-ui (Chamistes cujus): Recovery Plan* (Portland, Oregon: U.S. Fish and Wildlife Service, 1992).

survive, and we had to address the shortages that would result and a lot of other factors, and *we* feel it was the other interests who wouldn't compromise. They played with the figures, they had people running model runs repeatedly and changing factors and yet not plugging-in the *important* factors, but running them so that they would come up with water for Pyramid Lake.

Seney: Do you quarrel with the idea that the *cui-ui* is an endangered species still?

Harold: Yes, I do.

Seney: Why is that?

Harold: (sigh) There's a number of reasons. We don't have the scientific, unbiased evidence that would prove that it is.

Seney: Let me stop you there. (Harold: Okay.) As you know, there's been this *cui-ui* recovery team (Harold: Uh-huh.) made up of a number of individuals from various federal agencies with scientific backgrounds, to some extent in all of this, but you don't feel it's credible?

Harold: To some extent, but they put something down in writing without citing their sources, without proving or verifying the results of

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tests. Once they put it in writing, they think that makes it gospel. Well, I'm sorry, but some of us are more skeptical than that; that just doesn't cut it.

Seney: Do you feel in your mind and in your heart that this is a manipulation on their part (Harold: Yes.) to get more water without really needing it?

Harold: Yes, I do. There are tribal members of Pyramid Lake who've indicated that the *cui-ui* have survived, they spawn in the lake, all this business about getting them upstream isn't as critical as it's made out to be. The federal government and the tribe refuse to do the fixing of the lower river—they just want to pour more water into it, they don't want to spend the money or the effort on scientific approaches that would give the same results. That's my opinion.

Seney: When you mean, "fix the lower river," replant the trees that were taken out.

Harold: Part of it, the canopy, but fixing the fishway into the river itself: the delta problems, fixing the delta.

**Working as a Vista Volunteer at the  
Pyramid Lake Reservation**

Seney: When you said that you had come out and worked as a Vista volunteer at the Pyramid Lake Tribe, what was that like for you to work there?

Harold: Oh, it was interesting, I enjoyed it. I didn't know much about them. I took a water law course and an Indian law seminar when I was in law school, so I had read one of the Pyramid Lake cases as a textbook study, but that was about all I knew. When I worked for the tribe I wasn't involved in the water issues, it was simply the high school, things like that. So I didn't have much contact with or knowledge about the water issues at the time.

But being a Vista volunteer was interesting. It was tough; the tribe never came up with the housing they were supposed to, so they had me living with an elder for a while. When she had relatives visit then they kicked me out, then they had me in an old house in Little Nixon with no heat, no running water, no facilities whatever. I'd have to hike to somebody else's house to take a bath or use the bathroom, and this was in the middle of winter. That was a lot of fun. (chuckles) So it was tough.

Seney: You know, frequently when people work in that way, they become sympathetic (Harold:

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Uh-huh.) with the people that they're working with. Did you find you did that?

Harold: Oh, yeah. I *liked* the people out there, I liked the people I dealt with. Well, most of them. Like anyplace else, there's some people you think are not the best in the world and others you just love dearly.

Seney: Even though you didn't really work on the water issue, there must have been talk about it around you. Did you absorb anything about it?

Harold: I suppose. I mean of course, naturally, you would some, but . . .

Seney: There's a point to these questions in a minute, (Harold: Okay.) we'll get to that. What I'm trying to suggest is that I guess maybe I'm thinking that you might have become sympathetic, kind of, to the tribe as you're out there in that first year. Then you move to Fernley and you kind of have to shift gears. Did you take on a different perspective?

### **Relations between Fernley and the Pyramid Lake Tribe**

Harold: Well, I don't think it's fair to assume the people in Fernley are not sympathetic to Pyramid Lake Tribe. We are, were

connected here. People in Fernley have relatives on the reservation, their kids come to school here, they play together. We work together. There are Indian and tribal members working in Fernley. We all shop at the same stores. I mean, they're our neighbors. People here love the lake, they want to see Pyramid Lake survive, but they don't feel they should have to sacrifice their own livelihoods.

And that's what this all boils down to, is the tribe and the federal government want to take water by regulation, but they don't want to condemn it and pay for it. Well, you can't have it both ways. If you want to take it, then you pay for it—you do the fair and the honest and decent thing. But this playing games and manipulating and regulating to accomplish those ends are just—in my opinion—unfair. So it *is* tough, I'm sympathetic to the people of Pyramid Lake, I'm sympathetic to the people in Fernley and Fallon.

Seney: I take it you don't see this, though, as a kind of a straightforward piece of business.

Harold: No, I don't.

Seney: Tell me why you don't. We've covered the fact that you don't really trust the *cui-ui* numbers (Harold: Uh-huh.) and whether or

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not the *cui-ui* is really in danger—and frankly, others have said this to me on the project as well.

Harold: Oh, sure. You have the Lahontan cutthroat trout. The tribe, look at the billboards they've put up in the area. They're trying to get people to come to the lake. They're not trying to preserve the lake for *cui-ui*, they're trying to make a fishery and economic development out of it. Well, (ironic chuckle) I'm sorry, but you can't try to protect an endangered species by encouraging boaters and fisherman and everybody else to come on top of them. It just doesn't make sense. So it's all those factors.

Seney: This would mean for the Lahontan cutthroat trout as a sport fish?

Harold: Right, uh-huh.

### **The Motives of the Federal Government**

Seney: And I take it you don't really trust the federal government's motives here?

Harold: I'm puzzled by the federal government's motives. I always thought the federal government worked for *all* of us and the Bureau of Indian Affairs watched out for

Indian interests; and the Bureau of Reclamation looked out for irrigators' interests; and Fish and Wildlife looked out for *all* of us as the public for our interest in wildlife, and it just doesn't seem to be that way. It seems that there's collusion, that there's not that balance. The BoR [Bureau of Reclamation] often times seems to be watching more out for perceived tribal interests than they are for anything else. So it *does* seem slanted, it's not a level playing ground and you have the federal government, with its virtually unlimited money, manpower, resources—all of *those* things—and here *we* are a bunch of small-time farmers and citizens in a couple of small areas and it's hard to fight that.

### **The Lahontan Valley Environmental Alliance**

Seney: Let's talk about how the Lahontan Valley Environmental Alliance [LVEA] got started. (Harold: Okay.) How did that come about? I know Mary Reid was involved, but tell me about your involvement?

Harold: Well, there were a number of people. A group of people got together and said, "We need to be united." We are being picked at and bites taken by all of these different interests and if we're going to defend ourselves in any effective way, we need to



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do it in a united way, and we have similar interests. We have a lot of people here who aren't being heard because they don't have a forum for expressing their views. So a group of people said, "Well, we need to get together an alliance. We need to be united on this and to make sure that all of our interests are heard and evaluated in the process." So the Alliance was formed.

Seney: Now, this is in part a judgement that the Truckee-Carson Irrigation District [TCID] couldn't really represent everyone's interests, I take it?

Harold: No, TCID is an irrigation district and they are certainly *greatly* involved but there are more to us. There are a lot of people in the Fernley and Fallon areas who don't have land that have water rights on them, they're not irrigators, but they still have to drink and they still have to survive. So the interest goes far beyond just the irrigators.

Seney: Was some of this a tactical judgement, do you think, too, that given what we were talking about a few minutes ago, that is, that TCID had kind of been seen as unwilling to compromise, however others may see this? (Harold: Uh-huh.) That they kind of got a reputation for this? (Harold: Uh-huh.) Was it, do you think, a kind of tactical judgement

on the part of yourself and others that maybe if we're going to be effective we need to present ourselves in a different way in these negotiations?

Harold: Tactical?

Seney: Use another word if you like, I mean that one might not have been the best choice.

Harold: I think there was an element of that, but I don't think it was formed just because TCID had a bad rap and we wanted to start with some new organization. I don't think that was the primary goal. The goal was, we have so many diverse interests, we have people interested in the wetlands, we have people interested in the fish and wildlife and Stillwater [Wildlife Refuge]. We have the M&I users, we have the local governments. There were just so many diverse interests in this valley, and yet, if you read the Reno paper or you talk to anybody from upstream, they simply refer to them as "Fallon farmers," like that covers the whole run. Well, it's oversimplification. So the Alliance was formed, as I have said, and as I feel, it was more to get everybody's interests involved—not just to come up with a new entity for the sake of having a new entity.

### **The Alliance and the Settlement II Negotiations**

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- Seney: Did the Alliance have enough time to get itself formed before the Settlement II negotiations began?
- Harold: Not really, it was done very quickly. The negotiations did not give us much time. It was a rush-through job by the powers that be, and we had to react as quickly as we could. Try to picture it in Carson City or somewhere, getting all of those diverse interests together in an organization. I don't know that we succeeded one hundred percent but I think it turned out pretty well. I like the Alliance. I respect the people in it and the way it's been formed, and I think it's done a good job. I've been proud to be associated with it.
- Seney: Are you going to continue with it?
- Harold: Oh, certainly.
- Seney: When you said it was sort of a rush-through job—the negotiations—that's how you feel about it I take it, that this came about way too quickly?
- Harold: Oh, yeah. It took ninety years to create these problems, and there was this arbitrary, "we've got to solve it and if you don't come up with something, we're going to ramrod legislation through," and they gave us a few

months, not years, not any effective time, but a few months to try to come together and respond.

Seney: My understanding is that you were a regular participant in the meetings that led up to defining the position for the Alliance in terms of the negotiating position.

Harold: Right, yes.

Seney: Describe for me how you saw that. How do you think that worked out in terms of a mechanism for the community to kind of resolve its differences and present a united front?

Harold: Well (chuckles), we had an awful lot of meetings. And keep in mind, most people were working as volunteers. They were farmers, ranchers, people like me, part-time employees of local governments. There were *all* kinds of people involved who had *real* lives and *real* jobs that they had to do, and this was something they had to give their time to voluntarily. It's not like the federal government employees who were *paid* to put their time into it. These people volunteered it—most of them did, only a few were paid. I was one of the fortunate ones, I was paid for most of my time in it.

But there were a lot of meetings and

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the Alliance decided early on to act out of consensus that it wasn't going to be "the tyranny of the majority" or whatever your want to call it, that everybody agreed, that we had to reach agreements that everybody could live with and could support. And that took an awful lot of talking, it took an awful lot of exchange of information, exchange of viewpoints, debates, using each other for sounding boards—all crammed into a short amount of time.

Seney: Let me turn this over.

END OF SIDE 1, TAPE 1.

BEGINNING OF SIDE 2, TAPE 1.

### **The People on the Newlands Project**

Seney: Mary Reid had a series of meetings after the negotiations failed down in the Lahontan . . .

Harold: Well, wait, stop right [there], the negotiations didn't fail.

Seney: Okay, however you feel, I just want to get to the meetings for a second, (Harold: Okay.) and you can tell me what you think happened to them? (Harold: Alright.) They didn't work out at any rate, I don't know exactly what happened but we'll get to that.

She was good enough to loan me those video tapes (Harold: Okay.) so that I could have a look at them, and I saw you speak to the group, and whatnot, and I formed a judgement about the people in Fallon in terms of watching these video tapes. I've formed it already because I've spent a lot of time in the community interviewing people (Harold: Uh-huh.) for this, and I'm curious as to what general impression have you developed about the people in Fallon—and I suppose it would apply to Fernley as well—in terms of these water rights issues as you've observed them? Clearly you had a lot of meetings, and I know this was volunteer on their part, (Harold: Uh-huh.) and they came night after night to these long meetings and exchanged their views. But what general impression have you formed of the people on the project?

Harold: I think they're people who are fighting for their lives. That's the way they perceive it. This is not about just reducing the amount of water they get, this is taking away enough water where's it's really going to damage the community, the environment. It's a drastic thing that they're facing, and it's not a one-time hurricane blowing through that they can fix themselves up afterward, it's devastation that will result in *permanent* damage and I guess you can think of it kind of as a siege

mentality. So it's like any crisis, it brings out the absolute best in some people—and I'd say in *most* people. In a few it brings out some of the bad traits, the paranoia and those things. But for the most part, its made people work together, cooperate, compromise, do whatever it takes to come up with viable solutions.

I think that the people in Fallon and Fernley living in the project have a better perspective and understanding of what this water means, than somebody in Reno, or a federal bureaucrat who doesn't live here and doesn't *know* the difference between a wet year and a dry year. These people live with the cycle, they live with the weather, the nature, the circumstances here, and I admire them. I think most of the people in Lahontan Valley are wonderful people, and they're in a tough spot.

Seney: Are they pretty knowledgeable, do you think, about these issues?

Harold: Um, that's a mixed bag. Some are very knowledgeable, some have thrown themselves into it and become knowledgeable in an extremely short time. Others are not. Some people simply have to farm and milk the cows and raise the hay and do whatever it takes, and they haven't *had* the time to get as knowledgeable as they

would like to be. And, like any community, there are people who simply don't know what's going on, there are some who don't care. They'll care when the water stops coming out the tap, but they don't understand quite all of it. Some people rely on other ones to—they figure, “Okay, there's a group of people who are involved, let them handle it. We'll support them, we'll help them with money and whatever we can do,” but they simply don't *have* the time or the ability to get as knowledgeable as they would like to be or as *we* would like them to be.

**The Proposal from LVEA at the Settlement II  
Negotiations to Retain 43,000 acres of Prime  
Agricultural Land on the Project**

Seney: You know, I know that one of the elements you came up with to present was the retention of 43,000 acres of prime agricultural land on the project. How was that figure arrived at?

Harold: After a lot of study and discussion and investigation of the financial picture in the area, that seemed to be the figure that would support the communities, that would allow Fallon and Fernley to continue to exist as communities and survive and allow people to survive economically and financially and



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yet be enough of a reduction that would call for reduced water.

Seney: [Public Law] 101-618 calls for 25,000 acres, on average, of wetlands. (Harold: Right.) Carson Pasture, the Stillwater Wildlife Refuge, a little bit on the Fallon Indian Reservation. They don't count what you regard as wetlands up here, in the calculation to do that.

Harold: No, they actually left the Fernley wetlands out of it: the Fernley Wildlife Management Area.

Seney: How many acres is that?

Harold: I don't know the answer to that.

Seney: Okay. Of course, that's 125,000 acre-feet of water, on average, (Harold: Uh-huh.) to satisfy the needs of that. Now 101-618 also mandates the *cui-ui* recovery plan, (Harold: Uh-huh.) which we spoke about earlier. That has been done, at least there's a revised one out, and apparently that's not the final word on it.

Harold: Oh, no, they're working on the revised one. They had a draft out, but even the federal officials will tell you they're still working on revising it.

Seney: That calls for 100,000 acre-feet of additional water for Pyramid Lake. Am I right about that?

Harold: That last version, yes.

Seney: So when you add those two together, you come up with 225,000 acre-feet that's got to come from somewhere. (Harold: Uh-huh.) And I've heard it suggested that 101-618, if it's applied the way the law is spelled out, that that's pretty much the end of the project, that there's not going to be 43,000 acres of prime agricultural land.

Harold: That's correct. If you took the full amount, yes, we'd be gone, we'd be history.

Seney: That must put you in a very tough position I would think.

Harold: (chuckles) Yeah, you could say that.

Seney: (chuckles) I'm very sympathetic, (Harold: Uh-huh.) I mean I've certainly talked enough to the farmers and sat at their kitchen tables and recorded their comments and so forth, and I can appreciate how the farmers feel about this. But that's a very tough bind, I would think, to be in.

Harold: Sure it is.

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- Seney: I guess I say that asking, what did you really practically hope to achieve out of the negotiations? Did you think really that you could maintain 43,000 of prime agricultural land?
- Harold: Yes, we did. Take one example, the *cui-ui* recovery plan. That's 100,000 acre-feet or the equivalent of that. So that's what I'm saying. There were a lot of equivalents that could have been, should have been investigated. There's a lot of work that could be done that would decrease the amount of water they felt is necessary.
- Seney: Be specific about those equivalents.
- Harold: The things we talked about before. (Seney: Okay.) The improving the delta, taking care of that, fixing up Marble Bluff [Dam] and all of its problems. The restoration of the river.
- Seney: What are the problems of Marble Bluff, do you think in this regard? I know the fish ladder's a problem.
- Harold: Uh-huh. I don't know, it's a lot of engineering and technical things. I don't know. But I mean that's the bulk of it, is the fish can't get through it or over it. So it's a matter of fixing it, but I guess I don't know

how to explain that in any better detail.

Seney: That's alright. Then the canopy, the replanting the trees along the bank to shade and cool the water.

Harold: It's the trees, it's the shape of the river, it's the nature of the vegetation, the shape of the banks. It's a whole lot of things, it's more than just planting some trees in, but it's actually restoring that whole lower area of the river.

Seney: How much water did you figure that that would save? Did you have a number for that?

Harold: (sigh) We looked at various numbers on different proposals. I couldn't tell you off the top of my head what those were, I don't know.

### **The Non-Agricultural Interests in Fallon and Fernley**

Seney: You know, I know that there are other interests in the Lahontan Valley: there's the town of Fernley, certainly, and the nonagricultural people within Fallon itself. Both of these communities are growing, aren't they?

Harold: Oh, certainly.

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- Seney: Tremendously, the population is what here? about 8,500 now in this area?
- Harold: Right, that's all of Fernley, right.
- Seney: That's all of Fernley. (Harold: Uh-huh.) And what are the projections for the next, say, twenty years for Fernley?
- Harold: Anywhere up to 30,000 people.
- Seney: Right, very few of whom will be involved in agriculture, right?
- Harold: Oh, right, less and less all the time.
- Seney: This will become a bedroom community, do you think for Sparks and Reno?
- Harold: It already is, and to some extent it always will be, but no, not only a bedroom community. Fernley *has* industry, we have a new industrial area being developed now. Fernley's at the verge of the Interstate, the road to Las Vegas, Highway 50 to the east. It's got the potential, it will have a lot of its own industry, it's not just all people commuting into Reno.
- Seney: Right. I guess what I'm getting at, is over time as Fernley grows, is it likely to be less committed maybe to the interests of Fallon

and seeing itself as part of the Lahontan Valley and more concerned maybe with obtaining its own water maybe at the expense of Fallon do you think?

Harold: Well, again that's an oversimplification. The key word there is "over time." There's a natural growth and evolution that will happen anyway. What all of these federal programs for acquiring water rights do, is they accelerate that. They're talking about *major* impacts, *major* devastation and changes without the mitigation and without the time to adjust to those changes and to absorb them. So that's part of the problem.

The other problem is, how do you define agriculture? Certainly there aren't going to be the larger ranches, many of them will be subdivided and paved over. But Fernley and Lahontan Valley both have a lot of areas where people have the *smaller* farms and ranches, and they raise their own steers for beef for the winter to keep in the freezer and feed their families. They raise enough hay to *keep* horses or to supplement their income. Many people are part-time farmers; they don't have the land or the ability to rely *solely* on that, but they do that in addition to some other job. So I guess, to some extent, it's a matter of degree as to what is agriculture. But certainly an area like Fernley, even a town of 30,000 people is

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not going to be the same as Reno. It's a different lifestyle, it's a different community, it's a different *way* of living.

Seney: I guess what I'm trying to get at, is over time I wonder if the consensus that was achieved recently over water with the Environmental Alliance, will begin to breakdown as there are natural demographic changes.

Harold: I don't see it breaking down. As long as we need water to survive, we're going to have an interest in the canal and in the project. However, it might be changed or modified.

Seney: Well, I'm not saying not having any interest in the water—obviously you're going to have an interest in the water . . .

Harold: Well, but we're also going to have the same interests. I mean the same thing I said about Pyramid Lake is even *more* true about Fallon: we have relatives, the kids marry, the families are interrelated, we do our shopping in each other's towns. There's just a whole number of ties between Fernley and Fallon that are always going to be there. The size of the schools, the kids' leagues in football or whatever, that are going to keep ties there that we're never going to have with the Truckee Meadows area, with Reno as such a major city.

Seney: Let me put it another way. You could want the water without necessarily having the agriculture.

Harold: Well, then that goes back to what I said about how you define agriculture. Its not a matter of just providing us with enough drinking water to survive. That's essential, that's a *big* part of it. But there's also the lifestyle, the agricultural support to our income, the industry, and there's just so much involved there. I don't think it's fair to say we're going to sacrifice our agriculture for the sake of municipal tract-type housing growth. I don't see that happening. Fernley will become larger and larger, but the demographic evolution of a small town into a larger town is still a lot different from the kind of growth or the kind of evolution that you have in Reno.

Seney: Okay, I just wanted you to speculate a little about the future for a minute.

Harold: (chuckles) Right, yeah. I mean certainly, some of the fields are going to be gone, some of the agriculture is going to be gone, but there's going to be a lot of agriculture here for a lot of years to come. That's not something you just suddenly decide and overnight walk away. I mean unless the federal government wants to buy it out like



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Dixie Valley or somewhere, and pay a fair value for it, people can't just walk away from the land that they do have. There are lives at stake here.

### **More on the Settlement II Negotiations**

Seney: Well, let's go back and talk about the Settlement II negotiations. I must tell you that I thought it was kind of peculiar too, a couple of things, one that the upper Carson [River] interests weren't at first involved in the negotiations. Did that seem to you like a group that ought to have been involved in the negotiations?

Harold: Yes, Lahontan Valley Alliance was instrumental in asking that they be included, that they be brought in. Yes, we've said that from the beginning that they need to be involved.

Seney: And then the time limit that was imposed, (Harold: Uh-huh.) did that strike you as odd?

Harold: Of course it did. They told us that if we didn't come up with something, that they would go ahead and impose legislation. And so this was our last chance to try to reach some kind of an agreement, but that they were going to make a decision with or

without us.

Seney: Did you think these negotiations were for real, or did you think that maybe Senator [Harry] Reid was saying, “Well, we’ll go through this business of a purported negotiation . . .”

Harold: Well, it was better than lip service. There was a chance that they could, but (exasperated sigh) everybody feels that the other side wouldn’t compromise enough, and I guess I feel that way too. I felt that we were honestly committed to trying to reach a compromise that would work for everybody, and it didn’t seem that all of the other parties were willing to do that. There were some who were still trying to do their politicking and their power plays and their (exasperated sigh) “business as usual” based on their economic and political power.

Seney: My understanding is that the Alliance made a presentation and had proposals to make that the Fallon Tribe did, though they were limited in what they wanted (Harold: Uh-huh.) I think primarily a district of their own. Which, as I understand it, has been achieved, that that’s a side agreement that will be going through. That the Pyramid Lake Tribe did not really appear to be serious in terms of the position it presented. It wanted the

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rivers decoupled. (Harold: chuckles) And let me go through and then we'll come back. (Harold: Sure, okay.) And then Sierra Pacific Power didn't really have a position, except it was there—as it probably should have been; I mean, it's a major player on the river, there's no question about that—but maybe to look after the preliminary settlement agreement that had been negotiated and make sure that wasn't done in—that the federal government had some proposals about what could be done in terms of OCAP and the contract [with TCID] and so forth, primarily aimed at the District as much as anything else. And that the upper Carson people really didn't have any proposals to make, that they were there mostly as observers and to add their knowledge and their point of view, but they did not have a proposal. Do I have that about right? What am I missing here?

Harold: No, that's about right. As you said, there are two major components of the water acquisition program. One is, let's just oversimplify it again, the 125,000 acre-feet for Stillwater and the wetlands, and then the other 100,000 or whatever it would turn out to be, for Pyramid Lake. The upper Carson interests were brought in because you can't service the wetlands, the wetlands can't be watered, in effect, just by the Newlands

Project. A component of that water source needs to come from the whole Carson River, or whatever areas that it can come from. (Seney: Right.) So the upper Carson was being looked at as a contribution toward that source of water or other contributions, whatever it might take, to support *their* part of the wetlands. So it wasn't really expected that they would come in with a proposal. It was more expected that the other parties should try to find a way to figure out, with Carson's participation, what *is* a fair contribution of them toward the water needed for the wetlands?

Seney: And that would not be an easy contribution (Harold: Oh, no.) because the Carson's a hundred percent appropriated, isn't it? Maybe more?

Harold: Oh, yes, I'm sure it is, right.

Seney: Yeah, right.

Harold: Well, so is the Truckee but that's the issue. (Seney: Right.) The appropriations are there, this whole thing is about changing, trading, buying, doing whatever to change those appropriations so that you find enough of the legal rights to support the wetlands and the wildlife that you're trying to support.

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Seney: Did you take the Pyramid Lake Tribe's proposal seriously?

Harold: Well, not the decoupling. I mean they have mentioned that, especially their attorney, Bob Pelcyger, has repeatedly talked about decoupling, but *they* know that its not realistic, at least not right now. Decoupling would take--again, that's basically a buy out. If you want to condemn the river, if you want to condemn the canal, shut it off, then you have to pay the fair market value of what those water rights down here are worth, and that's what nobody wants to do, so they're trying to find a way to take the water rights without paying for them. So decoupling was never realistic, nobody ever wanted to pay for decoupling--even the federal government. Maybe I should say *especially* the federal government said no to decoupling. So the idea was to find a way to make it work without actually closing the canal.

### **How the Negotiations Proceeded**

Seney: You mentioned when I talked to you on the telephone that there were what, sixty people in the room?

Harold: Uh-huh, in the negotiations.

Seney: You weren't actually at the table, you were one of the back-up people?

Harold: Right. Each team had up to three people at the front table, and then the rest, they had their support team behind.

Seney: Give me a sense of what the negotiating sessions were like—I mean pick the first one, pick any one—so that in the future when people read this they can get, as best we can, a flavor of what these were like.

Harold: Well, (chuckles) there was a lot of discussion. There was a lot of back and forth. All of the parties voted ahead of time not to make it open to the public and the press. And so it was creative.

Seney: That was helpful, do you think? That was a good idea?

Harold: Yes, it was. I firmly believe in that. I know that its tough, nobody wants to be excluded and everybody wants to participate, but that's why we have representative government instead of true democracies, you just can't have thousands of people making a decision, you've got to narrow it down and let a few work out some of the details. So it was creative in those ways.

A lot more time was spent on

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presentations of information than I felt was necessary. The federal government would bring in people, the BoR or the U-S-G-S [United States Geological Survey] to explain something, and it would go on for hours. Some of it was helpful, some of it was overkill, and some of it took time away from the true basic sit-down horse trading back and forth negotiation. That, I think would have been a little more helpful.

Seney: Were the negotiations well-run, do you think?

Harold: In general, yes. They weren't perfect. I mean, like anybody else, I'd have done it differently, you'd have done it differently (chuckles) but they were well-run, yes.

Seney: Were you optimistic that there was going to be a settlement?

Harold: Optimistic? I don't know, I was hopeful. I was hopeful throughout that we'd work out something that everybody, not [just] us, but all parties could live with. I was hopeful that it would. I wasn't optimistic *or* pessimistic, I was just waiting to see if we could truly accomplish that.

### **What Kept the Settlement II Negotiations from Succeeding**

Seney: What were the primary hang-ups, from your point of view, that kept a settlement from being reached?

Harold: (sigh) The failure to reach agreement about the figures, because of misunderstandings about what the figures were.

Seney: Which figures?

Harold: The figures on like the 43,000 acres of irrigation, and this many acre-feet of water to the lake, and this many acre-feet of diversion in the canal. There were so many different models run with so many figures, they'd be several pages long and they'd have a couple of hundred line items, and they were just so detailed and so technical, and they were constantly changing. And they started from different bases, if you will, from different starting points. So they'd be *your* figures and *our* figures and *his* figures and *her* figures. There were different models depending on *who* ran them and *when* they ran them and what factors they plugged in. We just never could narrow it down and reach accord on the numbers. The concepts were there, the ideas were there to try to reach the agreement, but the numbers never worked out.

Seney: I mean, to say that we're going to have



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43,000 acres of viable agriculture and we're still going to have this 25,000 acres of wetlands.

Harold: Yeah, and then the issue is, okay how much water does that mean would be delivered? What are the shortages? How does that rate over ninety years of weather history? How many years will that leave the farmers without enough water to keep their crops going? Those kind of things.

Seney: Are you much of a modeler?

Harold: No, no, that's not my area at all. I will admit, I didn't understand all of it, I got lost at times, I think most of us did. (chuckles) But no, that's not my area.

Seney: And there's no other way to address these problems without doing this kind of modeling exercise, is there?

Harold: I don't know. (big sigh) I'm not sure. It didn't work using the models, so to my way of thinking, there must have been an alternative. What that is, or whether we could have done it without the modeling, I don't know. Its difficult for me not being a computer modeler and working and playing with those figures the way some of those people did. I don't know if we could have

done it a different way.

Seney: And there were no numbers that everyone would accept? I have heard it said in the past that people generally go along with Sierra Pacific's numbers, even though they have a point of view in all this.

Harold: Yeah, they [Sierra Pacific] have a particular interest. They had their models and so the federal government and the Pyramid Lake Tribe would rely on their models simply because they had been doing it longer, they were the so-called experts in it. But the problem was, we didn't know how they arrived at those figures, we didn't know what they were based on, there was no verification of them. And when we showed them specific errors, like the amount of acreage or whatever, then they'd refuse, or not be able to plug in *our* figures that we felt *were* valid and accurate. So it just didn't seem to work.

### **The Role of Farmers as the Negotiations Proceeded**

Seney: Other people have told me, who were at the negotiations, that over the course of the negotiations, the farmers became more decisive in the Lahontan Valley Environmental Alliance's presentation. That is, that over time it became more of, almost

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TCID negotiating, again I've heard it said.

Harold: I didn't see that.

Seney: You didn't see that?

Harold: No. The farmers were always there, they were a part of it, just as we were there as Fernley, we were always a part of it. There were certain times when it came down to trying to figure out this bottom-line figure "what is it that you could survive with?"—certainly on that we had to defer to the farmers and ranchers in some parts (Seney: Right.) and say, "Okay, what is the bottom line you can live with?" But once we had those, then we'd have to be plugging in our M&I and what was the bottom line some other portion or interest could live with. So I mean certainly they were always a vital aspect, but it wasn't a TCID or an irrigators' negotiation, it was still the Lahontan Valley Alliance—always was and still is.

### **When Did It Seem the Negotiations Would Fail?**

Seney: At what point did you pretty much consider that it wasn't going to work?

Harold: The last day when we walked out. I was, as I say, hopeful right up to the end, that people

would say, "Yes, let's do this." But it didn't.

Seney: What was it that went on the last day? I mean there was no breakthrough on these numbers in other words?

Harold: No, and we ran out of time. They said, "This is it." If we had had more time and more financial ability to continue the negotiations, but they were expensive, we were paying for the mediator, we were paying for everybody's time who had all these people who flew in all of these federal people from out-of-state and whatever. It was a costly process, and finally, they just said, "This is it, we're not coming back anymore." I feel *we* would have continued. We still *are* in some ways. We're all still negotiating—just in a different forum. But the Alliance would have continued and tried to reach a solution, but in my opinion the other parties said, "No, this is it, we're at an end."

### **Why Didn't the Negotiations Fail?**

Seney: A few minutes ago I said the negotiations failed and you rebuked me for that word. (both chuckle) Why do you quarrel with that word?

Harold: Well, because they didn't fail in my opinion

in two ways: One is they accomplished a lot. We did compare figures. They worked a lot of good for the Alliance because we did get people together, we did come together as a community, and so a lot was accomplished there. And that work is still going on. We are still negotiating with these different parties to try and come up with some solutions. Its just a more piecemeal approach now. Its looking at OCAP, looking at wetlands, instead of trying to do the comprehensive settlement we were *trying* to accomplish, now it's been piece-mealed off again. Which, in my humble opinion, isn't the best way. I would rather spend the time and keep doing the comprehensive ones and get a comprehensive settlement, and I'm sorry its not working that way. But they brought the players together. Like any group of meetings, you make personal contact with each other. It's a lot easier to negotiate with somebody you've laughed with and have eaten lunch with and joked with after a meeting, than it is with a perfect stranger. So a lot of good was done that way. An awful lot of information was shared among these different parties. We know a whole lot more than we did a year ago—so do they, so does each of the parties.

END OF SIDE 2, TAPE 1.

BEGINNING OF SIDE 1, TAPE 2.

Seney: Today is October 9, 1995, my name is Donald Seney and I'm with Rebecca Ann Harold, the town attorney of the town of Fernley, in her private law office in Fernley. Some of this got cut off, so you were saying that you now know each other better and you have more information?

Harold: Yes. We were talking about why the negotiations didn't fail. They're still going on and we all know a lot more and we know each other a lot better than we did a year or two years ago, so they accomplished a lot.

**Current Discussions on Matters  
Raised at the Negotiations**

Seney: Tell me a little about what's going on now. What's going on in terms of the wetlands?

Harold: Well, Lahontan Valley Alliance has continued its work through its various working groups or committees, but working groups is what we call them. Studies are still being done, figures are still being tried to work out. You have "separate negotiations," if you will, going on as to OCAP and other things, but they all tie-in with each other and are related. You have the various EISs [environmental impact

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statements] coming out on the wetlands, on the water acquisition programs. Those are all being reviewed, studied, evaluated to determine whether we can accomplish some good for the wetlands.

Seney: Are you part of the working team that's negotiating on the wetlands?

Harold: Not directly. There is an L-V-E-A working group on that and . . .

Seney: Have you been going to the meetings?

Harold: No, no, not for some months now.

Seney: Are you a member of any of those specific working groups, because I know its been broken down into (Harold: Uh-huh.) things on OCAP, the new contract, (Harold: Right.) wetlands . . .

Harold: Bob Kelso and I have tried to cover some of those. Its difficult to run over to Fallon constantly. Frankly, we got burned out over the last year of doing that.

Seney: Well, its very costly, (Harold: It is.) I mean, even though you were paid for it and, as you pointed out . . .

Harold: For part of it, a lot of my time was donated

too and of course, all of Bob's time.

Seney: But its emotionally exhausting, isn't it?  
Don't you find it that way?

Harold: Sure, oh yeah, it is. Sometimes its uplifting, sometimes its challenging. But yeah, over the long haul, it is. But I haven't been as active in going *to* the actual meetings. A lot of what we do is review things, and then Bob and I send our comments over to them to be incorporated or whatever. But no, I haven't been too active lately in the actual meetings.

#### **Keeping the Fernley Community Aware of Issues Related to Water Problems**

Seney: Now, do you work mostly with Bob Kelso on this? Is he the designated guy on the town board?

Harold: He's the most involved from the town board. Bob also attended the negotiations, as I did, and so he is the one who's been most active and involved in it.

Seney: What do you do here in Fernley besides dealing with Bob to keep the community aware of what you're doing and what you think are important issues that the community ought to know about?



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- Harold: Well, I try to report on those things to the town board at the town board meetings. Those are open [meetings].
- Seney: You must be at every meeting, I would think?
- Harold: Mostly, yeah. I occasionally miss one, but yes, virtually all of them. The meetings are open to the public so we try to keep the public informed. I try to keep the public informed as well as the town board. We have the press there, the *Fernley Leader Courier* usually has somebody there at Town Board meetings. I must say they've done an *awful* good job of putting a lot of it in the paper, so we've had some good press coverage there.
- Seney: Do you have a local water users' group here, as opposed to, say, the Newlands Water Protective Association [NWPA]? Or would they also belong to that?
- Harold: No, they belong to N-W-P-A.
- Seney: Right. (Harold: Right.) It would cover their interests up here too?
- Harold: Uh-huh. Once in a while we have meetings—they're not formal I guess. The Truckee Division is a separate division from

the Carson Division of the project, so once in a while there are meetings of just the Truckee Division water users. Certainly anybody from the Carson is welcome to come over, but if its meetings of interest or geared specifically to some issue in Fernley and Hazen and Swingle Bench, then it tends to be just the Truckee Division water users. But there's not a formal group or organization, its just that those people who happen to belong to that division.

#### **The Need for Municipal Water Supplies in the Newlands Project**

Seney: I know one of the things that was hoped for by the water users on the project, out of the negotiations, was a municipal water supply for Fernley and Hazen and Swingle Bench, and then obviously, a different one for the city of Fallon. That didn't come to pass. Did it come even close?

Harold: It came close, I don't know how close. The federal government talked about supporting it, the Pyramid Lake Tribe talked with us, and we still do, we still have meetings, we talk about the possibility of a joint supply. Part of the issue with Hazen, Swingle Bench, do they tie into Fernley? Do they tie into Fallon in Churchill county? That's never been clear. But we *are* still talking

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and trying to come up with that. The federal government said they were going to help and we talked about the studies that would be needed. There's a *great* deal of information we need about the hydrology and things, and those never came through, the federal government never came through with the help to do the technical assistance to do that.

Seney: Is the town talking about it independently at all saying, "Well, we better push ahead with this anyway, even if the federal government's not . . ."

Harold: Well, we already have a municipal water system, we're *always* trying to improve it. I mean yes, with or without the federal government, we're always looking to protect and to take care of our water supply, our water quality. We have a well-head protection program in place. As I say, we're talking with Pyramid Lake about possible joint systems for Fernley and Wadsworth. New development comes in, we're always looking at new sources, new storage tanks, new transmission, whatever it takes. So that's just an ongoing process with us.

Seney: If tomorrow the water were to stop flowing through the Truckee Canal and the seepage from the canal and the irrigation were to cease here, where would you get your water

from?

Harold: We wouldn't, we'd be out.

Seney: There isn't any nearby sources you can tap into?

Harold: No. The nearest is the Truckee River. I mean if its not the canal, you'd have to find some other transmission line to get it over here. We pump underground water--there's where our town, our municipal wells [are], half of the people in town, say, are on private wells, half of the people are on the municipal system. So the municipal wells would keep pumping for some time. I don't know, that's part of what we don't have the studies, we don't have the information on. I don't know when they'd run out. I honestly don't know the answer to that. (Seney: Yeah.) Kirk Cramer, [phonetic spelling] our Utilities Manager, would have a better grasp (chuckles) of that, or George Balder, our consulting engineer. But at some point they're going to run out of water. I don't know what that point is. Where you'd see it first though, would be all those people on individual private wells. Certainly they'd dry up much more rapidly if there were no irrigation here.

Seney: So there really isn't an alternative approach

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from the Truckee River?

Harold: No, there isn't. The Truckee River is *the* only source other than whatever water is underground and might be there for a few years.

**The Impact of the November, 1994 Elections  
on the Settlement II Negotiations**

Seney: Let me go back to ask you something about the Settlement II negotiations—and it sort of gets into this subject as well—I'm told—and I thought, by the way, at the time—that the election last November might have made a difference in terms of the negotiating outlook by the people on the project. Was that true, do you think?

Harold: No, it was considered, it was debated a lot but the bottom line was we don't trust politics; you can't predict, you just don't know. I mean just because some of the players in Washington changed doesn't mean national policy is going to change overnight. We were cautiously optimistic it might help a little bit that people were finally taking—not just us, but people all over the country—people were taking a better look at the Endangered Species Act [ESA], what its supposed to accomplish and how much damage it can perform in trying to

accomplish these good goals for the public. So we were hopeful that it might help a bit, but I don't think anybody relied on it or counted on it to make all the difference in the world, and it didn't.

Seney: Given Public Law 101-618, would a change in the Endangered Species Act without a change in 101-618 make any difference?

Harold: Probably not. Insofar as its purpose is to be implementing the Endangered Species Act, I mean they'd go hand-in-hand.

Seney: Right, right. I guess my understanding is that 101-618 is really independent of the Endangered Species Act. So even if tomorrow the Congress repealed the Endangered Species Act, 101-618 is still sitting there mandating the recovery of the *cui-ui* and the cutthroat trout.

Harold: Its still a law, but perhaps it would be looked at again. And 101-618 says a lot of things have to be accomplished. Paragraph "A" has to be done before Paragraph "B" kicks in, and so it's the implementation of those things that would change, based on what happened with E-S-A.

Seney: Right. I've been told that Congresswoman [Barbara] Vucanovich, who of course *is* a

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Republican, a member of the new majority in the House of Representatives, has told the people on the project, "Don't depend on 101-618 being changed, because its not going to be changed." Are you aware of that?

Harold: I don't know, I'm not aware of it.

Seney: The reason being that they are too many interests who are satisfied with 101-618: California and Nevada among them are happy about the way the water was distributed and allocated between the two states.

Harold: Barbara knows a lot more about politics than I do. (chuckles)

### **Are Long Term Trends Running Against the Newlands Project?**

Seney: And Sierra Pacific Power is happy, who is a very powerful player in all of this. So I mean even though there's a change in the political climate, it may not necessarily translate to the advantage of the people on the project. And I'm trying to get to something else here, and it was something that I tried to get at before, and that is, do you think the long-term things are running against the project? That the trend is against

the project?

Harold: Huh, the trend . . . I guess I don't know how to answer that.

Seney: Maybe if I asked a little better, it might make more sense. For a long time, of course, things were running against the Pyramid Lake Tribe and the Fallon Tribe, to some extent. The project took tremendous amounts of water, I mean they just diverted as much as they could get out through the Truckee Canal.

Harold: No, I don't think that's accurate; I don't believe that.

Seney: Well, people say there was winter power generation when it wasn't needed for irrigation, that was taken during the winter.

Harold: Well, people say. I'm not aware of that; I don't believe that.

Seney: Well, before 1967 of course, the water continued to be diverted after irrigation season in order to generate winter power. You're unfamiliar with that?

Harold: I've heard different claims about that. I'm familiar with the issue; I'm familiar with some of the arguments *for* that and against



it. I don't know enough to know whether that's true. I don't believe that its *all* true the way the popular perception in the Truckee Meadows would have you believe it.

Seney: I guess some people who would now point to the fact that things have just changed, that you have *very* different constellation of forces that in the long run are simply going to shrink the project, agriculture, back down to what it was before the Newlands, about 20,000-22,000 acres, give or take, that was there naturally before the project was put in place. Do you agree with that? Do you see it that way? Is that your nightmare that that's going to happen?

Harold: No, I don't see it happening that way. You can't go back to the way things were in 1900. I mean Fernley's here, like it or not, we exist and there's 8,500 people here and you can't just blow them out of the water overnight. Either you pay for it to do that to relocate them all and move them, but I don't think you can just waltz in and destroy 8,500 people in this day and age. I don't think even the federal government can get away with that. I *hope* not.

Seney: Does Fernley have a right to the water that seeps out of the Truckee Canal?

Harold: (exasperated sigh) The town has certain water rights. The water rights owners and users have certain water rights. It's a combination, but yes, there are water rights here.

Seney: I don't mean to be argumentative.

Harold: I know. And the argument's made that somehow this is all free water that we are stealing (Seney: Right, the excess water.) the excess or somehow. Well, I guess I don't believe that. (Seney: Right.) I think that we have permits for the underground water we use, the surface water rights users have *their* legal rights, and some of that water that seeps goes to support wetlands and the environment and natural habitat and wildlife, so I mean there's a lot of us, yes, living off of the water here.

Seney: But on the whole, you're fairly optimistic in terms of being able to maintain the water for Fernley in an amount necessary for the community?

Harold: Yeah, I'd say I'm optimistic. I guess, if I didn't believe it was worth continuing this effort, I wouldn't be here, I wouldn't be doing it. I believe that people will generally do what's right. I guess it comes down to that. I think most people will do the right

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thing, and I'm hoping we can steer each other and guide each other into doing the right thing for *all* of us.

Seney: You know, if I were on the town board and were town attorney maybe, I would maybe want to think about the future in the sense that “Well, the more people we get here, the more voters we have here. The more voters we have here, the less likely it is that we’re going to lose access to this water.” Do you think that way?

Harold: No, because voters have nothing [to do with it]. Even if you have 20,000 people here, that’s not much in terms of voting in Nevada. They’re always going to be outvoted by Reno, Las Vegas, the large cities. So I don’t look at it that way. I look at how many people do we have to support? How do we use our natural resources? But I guess I don’t think of it in terms of voters. Our power is not going to come from politics. We don’t have the money to fight a political fight. If we survive, it’ll be because other people, the majority and the government, do the right thing—not because we’re powerful enough to make them, but because somehow they end up doing the right thing: for whatever reasons, whether they’re selfish, whether they’re noble, but because its fair and it’s right.

Seney: I guess I asked that question because people on the project have told me that they've been told bluntly that "Well, face it, there are more votes in Reno and Sparks (Harold: Certainly.) than there are in Fallon. (Harold: Uh-huh.) And that in the end, that's going to determine where this very precious resource goes." But you're hoping that they'll do what's right. (Harold: Uh-huh.) Now, I'm smiling. (laughter)

Harold: I am and it's a combination. I mean some people will do the right thing because it *is* right and because they're decent. Some people will do the right thing because they're afraid of getting sued or they're afraid of bad publicity. I mean there's a thousand reasons why people do what they do. So I'm hoping that the combination, the cumulative effect, will be that we *do* work this out and reach some way of living together that where all of our interests are satisfied as best they can be.

### **What Are the Federal Government's Intentions?**

Seney: Do you see another set of these comprehensive negotiations in the offing?

Harold: No. I'm not aware of any and my opinion is the federal government is *refusing* to do it that way.

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- Seney: Well, you're gesturing to a big pile of reports.
- Harold: We have this pile of Environmental Impact Statements and Environmental Assessments and different reports, and it seems to me that the federal government doesn't *want* to spend the energy again in doing a comprehensive and cumulative negotiation, or settlement, or working out of these problems. They compartmentalize them into these separate approaches. Its not the way *I* would do it, but it seems to be the way *they're* doing it.
- Seney: Do you see them doing this deliberately as a way of gnawing away at the project?
- Harold: Yes, I do.
- Seney: So you think its part of their plan to do it in this fashion?
- Harold: Yes, I do.
- Seney: Have you been involved at all in the new contract negotiations between the Bureau of Reclamation and the District?
- Harold: And TCID? No, I have not.
- Seney: What have you heard about them, anything?

- Harold: Not much, just reports of how things are going, I wouldn't give you an opinion on them. (laughs) (Seney: Okay.) You better ask the people who are involved in it. I'm getting it all second- and third-hand.
- Seney: Well, I guess the only reason that I would is because impressions will percolate up and will then be traded around the community (Harold: Uh-huh.) as to what is going on and *why* it may be going on. And I've heard it said that just like all of these reports that you've gestured to, that these contract negotiations are another attempt by the federal government—in this case through the Bureau of Reclamation—to whittle away at the project.
- Harold: Oh, I believe that, *all* of it is.
- Seney: To raise the costs and the fees (Harold: Sure.) and push the marginal farmers out (Harold: Uh-huh.) and secure those water rights for the wetlands. (Harold: Uh-huh.)
- Harold: I agree with that.
- Seney: Despite your optimism. (laughs) I'm having a hard time here, (laughter) despite your optimism that people are going to do the right thing, you still see people doing the *wrong* thing here, that the powerful,

influential federal government, is essentially going after the project in every way it can.

Harold: Uh-huh. Yeah, but not all of them. Some of these attempts are honest attempts. There are different ways: as I say, its not the way I would do it, but it's the way they've chosen to and some people are doing it that way because they think it'll work. And they think that if they can compartmentalize and settle *this* issue, then they can tackle the next issue and do it in a sequential fashion. And maybe it *will* work—I've been wrong once or twice. (laughter) So maybe that *is* a better approach maybe it'll work. I'm willing to give it a shot.

But yes, in general, I believe that (sigh) if the federal government were truly sincere about working this out, that we *would* get back into some form of comprehensive negotiations, however painful they might be. But I think they *are* trying to piecemeal this, and I *truly* think they're doing it with all the environmental [impact statements]. I think they're trying to get around the NEPA [National Environmental Protection Act] process and not do this. As I say, my opinion is they're trying *not* to condemn and *not* to pay fair market value, so they're trying to regulate and manipulate and do all of these other processes to achieve the same

results without paying for it. That's the way I see it.

Seney: In other words, to de-stabilize the situation with one hand, creating anxiety among the farmers, making it more difficult for them to pursue their livelihood: (Harold: Uh-huh.) raising costs with the other hand to add to this (Harold: Uh-huh.) uncertainty, now greater cost and less likelihood of profitable agriculture. (Harold: Uh-huh.) And then I suppose the Pyramid Lake Tribe figures in here with its lawsuit over abandoned and forfeited water rights.

#### **The Use of Lawsuits by the Pyramid Lake Tribe**

Harold: Uh-huh, that's an aspect of it.

Seney: They certainly filed against people here in Fernley, did they not?

Harold: Oh, yes, yes.

Seney: Are you involved in that at all too?

Harold: Yeah, they filed the 2,000 petitions and we have a number of people here in Fernley in that. The town isn't directly involved, they didn't serve any of those on the town of Fernley.



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**Acting as Town Attorney for Fernley**

- Seney: But are you representing any of the private individuals in your capacity as a private attorney?
- Harold: No. As town attorney, no, I'm not representing people on a private basis.
- Seney: By the way, do you limit yourself in terms of what kind of cases you will take as a result of your position as Town Attorney?
- Harold: Sure, yeah. I don't take anything where I think there might be a potential conflict or a conflict of interest or a problem. And there's certain things that I just don't have the expertise in. There are a relatively small, (chuckles) it seems like a vast number of lawyers involved, but its not that all 2,000 people have 2,000 different lawyers. Most of them have a few, they bunch up into being represented by certain lawyers, and its better for those lawyers who have the time, the staff, the facility, the ability, and the expertise to do it, so I wouldn't even try to compete with something like that, its just not my area.
- Seney: What fraction of your time do you spend on it as town attorney?

- Harold: Most of it. It varies depending on what we're doing. I don't know, maybe seventy-five percent of my time.
- Seney: Are you paid a flat amount for that, (Harold: Yes.) or do you bill them for that?
- Harold: No, I'm paid a monthly retainer by them as a contract service.
- Seney: Right. Well, is there anything I haven't asked that you'd like to comment on?
- Harold: I don't think so, you've been pretty thorough about it and covered a lot of ground here.

#### **Similarities and Differences Between Fallon and Fernley**

- Seney: Well, there's not much difference, I think, between Fernley and Fallon, in a way. (Harold: Uh-huh.) You know, I think that the values and the interests are pretty consistent with one another. (Harold: Uh-huh.) Although—and I tried to get you to comment on that, and maybe I'll try again—as an outside observer, I could see differences here where you might take a different tact and a different course.
- Harold: Uh-huh. There are some differences. Fernley's a different kind of community

from Fallon. We *are* closer to Reno, we probably do more shopping in Reno than we do in Fallon, so yeah, there's ties both ways. It's just—maybe I'm a little defensive about it—we've had even parties in the negotiations trying to put wedges between us and Fallon, and I don't like that kind of game-playing. We are in the middle and we should be able to be friends with, and work with both sides. We shouldn't have to pick sides. I will tell you frankly, that's one of the problems we've have with Pyramid Lake, they don't seem to feel we should be able to be friends with both. They say, "You should be allied with us, you should not be part of the Lahontan Valley Alliance." It's like "you have to like us only, you can't like both sides." And we don't play that way, we need to be free to be friends with, and coworkers with whoever.

Seney: Have they made offers to you to entice you to see things their way?

Harold: (hesitantly) Offers? No.

Seney: I guess I'm talking about, "Well gee, we have a community of interest here, we could work out something for municipal water supply system that would suit your interests."

- Harold: Yes, they've tried to talk to us about that kind of thing and basically their approach is . . . (pauses to answer beeper). Anyway, yes, Pyramid Lake's basic approach is they would like to help us come up with a joint M&I supply, they want to help us have municipal water *but* the cost of that is sacrificing all agriculture in Fernley—in effect, decoupling. And that's just not acceptable.
- Seney: You're not ready to do that at this point, if ever?
- Harold: No. We're not willing to give up agriculture overnight. Its going to be changed, its going to be probably decreasing in importance, economically and every which way, but that's not something that happens overnight. And to say, "We'll help you get an M&I system," but that's all it is, is drinking water, "you give up all agriculture in Fernley overnight" is simply not acceptable.
- Seney: Although I expect a couple more twenty-eight percent years in a row and that might sound a little different mighten it?
- Harold: Not to me it wouldn't. (both chuckle)
- Seney: I'm thinking of the farmers. After a while I suppose you lose the economic basis, your

equipment begins to deteriorate and it becomes expensive, I mean it's a reality.

### **Reasons for Water Shortages**

Harold: Yeah, but is the twenty-eight percent because of nature or because of the way the federal government participates in the delivery of water?

We need storage. One of the big issues for the town of Fernley is, we need upstream storage for the Truckee Division. And all these negotiations that are going on with TROA—this Truckee River Operating Agreement—that's part of what we feel needs to be worked out.<sup>5</sup> There just needs to be some storage here, we shouldn't have to face twenty-eight percent years.

### **The Recoupment Issue**

Seney: But the 101-618 says until recoupment is worked out, that there's no permission for upstream storage.

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<sup>5</sup> For information on the Truckee River Operating Agreement see U.S. Bureau of Reclamation, U.S. Fish and Wildlife Service, California Department of Water Resources, *Report on Scoping Comments Truckee River Operating Agreement*, November, 1991; see also u.S. Bureau of Reclamation, *Draft: Truckee River Operating Agreement*, October, 2003.

Harold: Well, until its worked out. So what's worked out? (chuckles) That's another one we feel that the tribe has been less than willing to compromise and to work out something on. They have an inflated claim of millions of acre feet of water they want, and we just feel that's unrealistic. I don't know where that's going.

Seney: There's talk going on now.

Harold: There's talk going on about the recoupment and again; that's not one of my areas.

Seney: Recoupment's a tough issue, isn't it?

Harold: Yes, it is.

Seney: I mean it's not just water, it's a very emotional issue (Harold: Uh-huh.) as far as I'm able to tell. (Harold: Uh-huh.) Not only does the tribe feel righteous about it (Harold: Uh-huh.) but the district does as well (Harold: Certainly.) that this recoupment issues from the OCAP in '73.

Harold: Or were not *allowed* to take part in.

Seney: Yeah, again, it depends on who you talk to.

Harold: Yes, it does. (chuckles)

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Seney: That's the joy of studying something like this! (chuckles)

Harold: Yeah.

### **There Is a Lot of Emotions Over Water Issues**

Seney: Well, you know, one of the things I've learned is that people have very strong feelings about all of these things.

Harold: Sure they do.

Seney: I mean it isn't just the facts, it's the emotions (Harold: Uh-huh.) and how they relate to the facts.

Harold: Yeah, it is.

Seney: And I can see it in you, (Harold: Sure) not only in your tone but what the tape *won't* pick up (Harold: Uh-huh.) and that is the look on your face as you talk about these matters.

Harold: Oh yeah, you can't be totally dispassionate. I mean I'm not a hired gun from outside, I *live* here. This is my community and it is, you live with it. (long pause)

Seney: What are you thinking? You're nearly in tears, well, you are. Tell me what you . . .

(tape turned off and on) You were saying it's an emotional issue.

Harold: Well, it is. It's part of your life. This is not just a case that I'm working on. It's not a theoretical or an intellectual exercise: it's our lives, (with emotion) it's how your neighbors survive and how your community survives.

Seney: Well, I can tell you're very much a member of the community—I don't know if the tape can pick this up—but as we're talking, you are a member of the volunteer fire department?

Harold: Uh-huh, oh yes.

Seney: And there's a fire, it's fire season.

Harold: Yeah.

Seney: And this will be a brush fire?

Harold: Of course it's been fire season for several years now. (Seney: That's right.) We don't seem to be getting *out* of season. (chuckles)

Seney: So you take part in all kinds of activities in the community?

Harold: Yes, I do.

Seney: Well, I can understand your strong feelings



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about this. As I say, I've interviewed a lot of people out on the project and it's *very* common. And again, that's something we want to capture here, (Harold: Uh-huh.) is the depth of feeling that people have, (Harold: Uh-huh.) what it means to them personally. (Harold: Sure.) That again, that won't show up in the memos (Harold: Right.) and in the charts and in the model runs.

Harold: Yeah, it's hard to see that.

Seney: Yeah, exactly.

Harold: Yeah, it's hard to see that. You look at L-V-E-A's papers or things we prepared in the negotiations and it is, when it's down in black and white . . .

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BEGINNING OF SIDE 2, TAPE 2.

Harold: . . . it's hard to see those things. But it is, it's the way we live and the way we work. (chuckles) There was one time during the negotiations somebody suggested moving them into Reno, having more sessions in Reno. And even Betsy Reike, who was the assistant secretary [of the Department of the Interior for Water and Science] at the time, even she pointed out, "Wait a minute, these

people from Fallon have to get up in the morning and milk cows or do whatever they have to do on their land, and then you want them to drive for an hour-and-a-half into Reno?! Whereas, these federal bureaucrats are being paid to come in, put up in fancy hotels, *they* can drive out here.” That’s the kind of difference that you see. Its common working people, to that extent on this one side—the *majority* of the people down here are just that, working people, and they’re dealing with a lot of people being flown in at great expense from other states and other places. And that’s part of what’s been so troublesome about these [negotiations]: there’s an issue of local decision-making and self-determination versus all of this federal government dictation of what will be—that’s been at the heart of this.

### **Decisions Need to be Made Locally**

Seney: Well, I know that was another one of the objectives that you had in the negotiations was (Harold: Yes, yes it was.) to bring as much decision-making home here, locally, as possible.

Harold: Sure, right. We’ve talked about there are different figures. “You claim there’s this much water; we claim there’s that much water being diverted.” But once those

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figures are reached, yes, then it should be up to the local people to *use* that water properly. All of the business of the *way* the federal government does what they think is monitoring of the program—it's a problem. (both chuckle)

### Dealing with Federal Officials

- Seney: Yeah. You mentioned Assistant Secretary Reike: Did you find her a positive personality in all of this?
- Harold: Oh, yes. She was. She's one of the people that I would say would do things because it's the right thing, not because she had to, and I admired here for that. I *do* admire her for that.
- Seney: Because there are people on the federal side, the members of the bureaucracy (Harold: Uh-huh.) in both the Justice Department and the Interior Department, about whom, shall we say, the local people don't have such warm feelings.
- Harold: (laughs) Ah, you could say that, sure. That would be a fair statement, yes.
- Seney: Did you see her as an antidote in a way to them?

Harold: To some extent, yes. She wasn't able to make *all* the decisions, but yes, she was a very positive and very helpful force.

Seney: Well, is there anything else you want to add, because I think that's about all I want to ask about?

### **Preserving the Record**

Harold: I can't think of anything, seems like we covered it.

Seney: As I ask that, what we're trying to do is preserve the record of all (Harold: Uh-huh.) of the various points of view on the project for the future. (Harold: Uh-huh.) So as you think about, say, someone a hundred years from now reading these things and trying to understand what went on . . .

Harold: And I do, I was a history major in college, this kind of thing is very important to me. I took my camera in, I was one of the few people who took pictures during the negotiations, but I wanted to get that kind of thing, have it preserved, because it *is* important. What we did *was*, what we're still doing, still *is* important: not just for the Truckee and Carson river systems but it is important in terms of how the federal government deals with these kind of things

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everywhere.

Seney: What were you hoping to capture, and what did you think you captured with those photographs?

Harold: Just the setting, some of the players, and how it was set up. I mean it was a unique situation to have sixty people at tables set up and as best we could form them into a circle, and sixty people sitting there and trying to be able to communicate with each other and work with each other. I felt at the time it was historical. (chuckles)

Seney: Well, I wish there were more complete records kept of it (Harold: Uh-huh.) and maybe there *were*, I'm not sure that maybe some people kept diaries that some day will be available?

Harold: Yeah, I don't know if anybody did. A lot of us took various notes on different topics and all that. I don't know if anybody kept a journal of the proceedings. Have you talked to Gail Bingham?

Seney: I haven't talked to her yet.

Harold: Yeah, I mean she was the facilitator so she might have some of those kind of things.

Seney: Right, and if they make them available (Harold: Uh-huh.) at some point to an archive (Harold: Right.) whether if everyone gave them to the same one (Harold: Yeah, sure.) that would be very nice, the things that historians dream of.

### **The Impact of Environmentalists on the Negotiations**

Let me ask you in this context of what your overall take of the environmentalists' contributions or role in all of this?

Harold: Meaning like the Nature Conservancy and all those type of . . .

Seney: Right, Environmental Defense Fund, Wetlands Coalition.

Harold: They were like us, they're an important piece of the picture. They're an important interest. And at least they had a clear goal. I mean you knew what they wanted (laughs) and they were very honest about, "This is what we want to do, this is what we want to preserve," and yet they were workable. They were willing to compromise, they were willing to work with us on the numbers and figures. They, like anything else, there were individual differences in the personalities, so some people were easier to work with, some

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were more willing to compromise. Some were more devoted to their own modeling and figures, so you had some of those differences. But in general, they were part of the puzzle.

### **Sierra Pacific Power**

Seney: And Sierra Pacific Power again, didn't really play much of a role. Sue Oldham was the primary negotiator for them. (Harold: Uh-huh.) I understand that she . . .

Harold: She was there and Gordon DePauli.

Seney: . . . sometimes sort of helped to facilitate things a little?

Harold: She did. Sue is good at taking the risk of saying something that maybe is not going to work, but trying it. She's good at saying, "Okay, here's an idea, let me throw it out, maybe its not going to work, but let's at least talk about it." She was creative and she was positive in that way. Its like, "Okay, don't close your minds, don't write this off, let's talk about it." And she would do that with her own ideas and she was willing to do it with other people's ideas. So yes, she was helpful in that way.

### **Disappointment that an Agreement was not Reached**

- Seney: Well, you must be personally disappointed that this didn't work out?
- Harold: Yes, yes I was. I mean as I say, I don't think they failed. The negotiations are still going on, but I'm disappointed we didn't reach the comprehensive kind of agreement that we *could* have or that *I* wish we could have.
- Seney: Yeah. (Harold: Uh-huh.) You know, there's a little schizophrenia, I think, about this—for want of a better term—among people on the project, who are very suspicious of Senator Reid's motivations here, (Harold: Uh-huh.) and the reason for the time limit that we discussed. (Harold: Uh-huh.) And thinking that this was maybe not a sincere effort on the part of the primary convener—again, that's Senator Reid. And yet were very optimistic and hopeful that things would work out. (Harold: Uh-huh.) That seems, again to an outsider, an odd attitude.
- Harold: Well, I think the hope was maybe this has gone beyond Harry Reid. If it *is* a group of sixty people, if it *is* negotiations among all of the affected parties, maybe we can reach an agreement and Senator Reid will *have* to live with it whether he personally likes it, whether it's the agreement he would have made or not, once sixty people have made it



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or nine parties have made it, he's probably going to be bound to honor all or most of it. And I think that was the hope, so I don't think there was much dichotomy there. I don't think there was a lot of trust of Harry Reid but there was a hope that the negotiations would work, not *because* of Harry Reid but *despite* Harry Reid.

Seney: Yeah. Alright, well, I think for the forth time . . .

Harold: (both chuckle) Yeah, I guess. We keep saying, "Okay I think we've covered it all." (chuckles)

Seney: But is there anything else you'd like to add?

Harold: Not that I can think of, no.

Seney: Alright well, on behalf of the Bureau of Reclamation, I want to thank you.

Harold: Except that I appreciate this. I'm glad somebody *is* taking the time and the trouble to put together a history. Its been some months, of course, since we've finished up the *formal* negotiations, and I hope it is set down before we all forget, or before it all gets merged. Certainly it's much clearer to hear our recollections now than it would be years from now.

Seney: It's been very difficult to get people to talk specifically about things, even though they don't have any barrier to that (Harold: Uh-huh.) because at this point, people *are* left with impressions. (Harold: Uh-huh.) Those are important to get here on the tape (Harold: Right.) and I hope your notes and the notes of others will survive (Harold: Uh-huh.) and that at some point the actual papers will become generally available.

Harold: Uh-huh. Yeah, maybe it would have been helpful if this had happened six months ago or right after. I'm not good at the numbers, and so it's hard for me to remember exactly what the figures came down to and what the specific differences were. I *might* have been better able to say that a few months ago.

Seney: Well, you sacrifice one for the other. You sacrifice the details for maybe the meaning or understanding.

Harold: But maybe get a better perspective that's true too.

Seney: Exactly. So its hard to know which is right.

Harold: Yeah. (chuckles)

Seney: Alright. Well, once again, on behalf of the Bureau, thank you very much.

Harold:        Okay, well thank you.

END OF SIDE 2, TAPE 2

OCTOBER 9, 1995

END OF INTERVIEW