

ORAL HISTORY INTERVIEW

WAYNE E. MEHL



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Interview Conducted and Edited by:
Donald B. Seney in 1995

California State University-
Sacramento

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By Brit Allan Storey, Senior Historian

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**STATEMENT OF DONATION
OF ORAL HISTORY INTERVIEW OF
WAYNE E. MEHL**

1. In accordance with the provisions of Chapter 21 of Title 44, United States Code, and subject to the terms, conditions, and restrictions set forth in this instrument, I, WAYNE E. MEHL, (hereinafter referred to as "the Donor"), of WASHINGTON, D.C. do hereby give, donate, and convey to the National Archives and Records Administration (hereinafter referred to as "the National Archives") acting for and on behalf of the United States of America, all of my rights and title to, and interest in the information and responses (hereinafter referred to as "the Donated Materials") provided during the interview conducted on NOVEMBER 7, 1995, at WASHINGTON, D.C. and prepared for deposit with the National Archives and Records Administration in the following format: tape recording and transcript. This donation includes, but is not limited to, all copyright interests I now possess in the Donated Materials.
2. Title to the Donated Materials remains with the Donor until acceptance of the Donated Materials by the Archivist of the United States. The Archivist shall accept by signing below.
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Date: Nov 7, 1995Signed: 
WAYNE E. MEHL

INTERVIEWER: DONALD B. SENEY

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

Date: _____

Signed: _____
Archivist of the United States

Introduction

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

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

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

- water transportation over great distances;
- limited water resources in an urbanizing area;
- three Native American groups with sometimes conflicting interests;
- private entities with competitive and sometimes misunderstood water rights;
- many local governments with growing urban areas and water needs;
- Fish and Wildlife Service programs competing for water for endangered species in Pyramid Lake and for viability of the Stillwater National Wildlife Refuge to the east of Fallon, Nevada;
- and, Reclamation's original water user, the Truckee-

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

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

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

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For additional information about Reclamation's history program see:

www.usbr.gov/history

**Oral History Interview
Wayne E. Mehl**

Seney: My name is Donald Seney, and I'm with Wayne Mehl. Today is November 7, 1995, and we're talking in Washington, D.C. This is our first tape.

Good afternoon, Wayne.

Mehl: Hi.

Seney: Why don't we begin by telling me a little bit about your background, a kind of brief biography, your date of birth included somewhere in there, and how you got to work for Senator [Harry M.] Reid.

Born in 1941 and Raised in Southeastern Ohio

Mehl: Okay. Well, I was born on June 24, 1941, in southeastern Ohio, and grew up there. When it got time to go to college, I applied, as most of my peers did, to the biggest institution in the state, which was Ohio State.

Took a Degree in History at Ohio State University

Effect of the Vietnam Conflict on Ohio State University

I completed my undergraduate work there in history, and was about to think about what I was going to do in the way of a possible career, whether I was going to go to law school or go into business or do whatever I wanted to, and it turned

out that we were at that point in time, in the late sixties, in the middle of the heat of the Vietnam War. Because of deferment procedures, Ohio State was all of a sudden drawing a lot of students. To be quite honest, the faculty and department, most of the departments, history included, simply didn't have enough bodies to put in the classrooms to fill up, to deal with the required student/teacher ratio for these students.

Offered a Full Ride Teaching Fellowship at Ohio State University

Received Ph.D. in 1970 and Taught at Ohio State until 1974

So I got invited to go to graduate school in history, which I had never expected to do, but they gave me a fellowship which was a free full ride as long as I was willing to teach at that time, so I took it, and got my Ph.D. in 1970, and began to teach there, and taught four years until 1974. In 1974, those of us who were coming up in that year were due for tenure consideration.

Did not receive tenure in 1974 because “. . . they ended the draft, and in 1975 they ended the Vietnam War, and all of a sudden the enrollment dropped about 35 percent because it was no longer a requirement to get a 2S deferment to stay out of Vietnam. . . .”

However, in 1974, they ended the draft, and in 1975 they ended the Vietnam War, and all of a sudden the enrollment dropped about 35 percent

Bureau of Reclamation History Program

because it was no longer a requirement to get a 2S deferment to stay out of Vietnam. As a result, a large number of us did not make the tenure cut; now they didn't have the students for us.

Going to Work for Senator Vance Hartke

After searching around for another teaching job and finding that the situation was pretty much the same all over, a friend of mine's father knew then former Senator Vance Hartke from Indiana, and his father suggested that I contact the senator's office and see if there were any opportunities for someone with my background. As it turned out, he was going into a campaign period and was looking for a speech writer who also had some knowledge of American political history, which is basically the area that I worked in.

“ . . . spent the next twenty years with four different senators, concluding my career in the Senate in 1992, after having worked for Senator Reid from Nevada for the last six years. . . . ”

So I signed on with him and spent the next twenty years with four different senators, concluding my career in the Senate in 1992, after having worked for Senator Reid from Nevada for the last six years.

Senator Reid Hired Him Because He Had Senate Experience and None of His Other Staff Did

Seney: How was it you got the job with Senator Reid?

How did that work?

Mehl: I got the job with Senator Reid because by the time Senator Reid was elected, I had fourteen years' experience in the Senate. Senator Reid has told me, is why I can relate it, that his interest was to get off to a fast start in the Senate. Most of his staff were either from Nevada or had been with him in the House of Representatives. In fact, he had really no one with any significant experience in the Senate, and he wanted to be able to, as I say, get off to a fast start, and he felt that that would be easier done with someone with more experience in the Senate perhaps, and less experience in Nevada.

Had Western Experience Because of Work for Senator John Melcher of Montana

I was at the time working for the senator from Montana, John Melcher, which was a Western state, and I had experience in some of the Western issues.

Had Interviewed with Senator Paul Laxalt for a Job and Laxalt Suggested Him to Reid

A few years earlier, I had actually been interviewed by Senator [Paul] Laxalt from Nevada for a possible job, so my name had gotten to Senator Reid that way.

Seney: Does it matter, by the way, that Laxalt was a Republican and that Reid was a Democrat?

“ . . . I didn’t seriously consider the job with Senator Laxalt, because . . . if you were going to work in a body like this, you have to stay consistently with one party to maintain your credibility. . . . ”

Mehl: Well, it does. It does, because that was the main reason that I didn’t seriously consider the job with Senator Laxalt, because while it wasn’t for any ideological purity on my end, but if you were going to work in a body like this, you have to stay consistently with one party to maintain your credibility. (laughter) You can’t flip back. Some people have tried it. A few people have gotten away with it, but it’s a tough job. It’s better simply to stay on one side or the other. It doesn’t much matter which side you start on, but stay there.

Seney: And you’d been on the Democratic side?

Legislative Director for Senator Reid

Mehl: I’d been on the Democratic side the whole time. But when Senator Reid’s offer came along, I was ready at that point in time, and I thought that the one thing left in my career after fourteen years was really to take over a legislative office, which was what the offer was, was to be legislative director, and run it and try to see if I could make it work as well as I thought I could. So that’s how I ended up with Senator Reid.

Seney: He tells me, and I know from other sources, that on election night someone asked him in Reno,

“What’s your top priority?” and he said, “Settling the northern Nevada water wars.” He said to me in the interview yesterday that he really didn’t know anything about it.

Senator Reid and Truckee-Carson Water Controversies

Mehl: He didn’t. In fact, it came up. As I say, Senator Reid was a Searchlight boy, born and raised in southern Nevada, he served in the House from Clark County. When he was elected to the Senate, he received over 60 percent of the vote in Clark County, while only 35 percent of the vote in Reno, primarily because he just wasn’t known up there.

Nevada is like a lot of states. If you took Montana, it was similar. The East was conservative farm interests, the West was more environmental, timber, things like that. They’re really two states in one. If you look at Nevada, southern Nevada and northern Nevada, have much the same kind of split, the issues simply aren’t the same.

So he was talking to, as I understand it, some members of the editorial board of the *Reno Gazette*, and they said, “Now you’re representing the whole state. What the hell are you going to do about our big problem?”

And he said, “What is your big problem?”

They said, “Water.”

Assigned to Work on Truckee-Carson Water Problems

And he, being the astute politician he is, he said, "I've got just the guy to come and talk to you about it," and so I received a telephone call that night from Harry saying, "Pack your bags. I want you to come up here and talk to these people about the problems on the Truckee and Carson River."

I said, "The what?" (laughter) Because I knew nothing about it at that point in time.

Seney: Where was this in relation to the election?

Mehl: Immediately afterwards.

Seney: Even before he'd been sworn in?

Mehl: Yes, I think. They hadn't even gone into session yet, hadn't even sworn in the new senators.

Seney: Because he pretty much immediately then hired you. Was he talking to you before the election occurred?

Mehl: Yes. Well, no. He started talking to me in November after the election, and I came on at the first of the year, the beginning of the new session.

Seney: It's a commonplace arrangement, isn't it, for Senator Reid to do what he did in your case, and that is to hire an experienced Senate hand to come in and make sure he's not going to trip himself

up?

**The Senate is Different Because There Is a Larger
Constituency and There Are More Issues than in
the House**

Mehl: Yes. Once you reach a certain level of experience and ability in the Senate, you're in some demand, because when a new senator comes in, much more so than the House, because it's got a larger constituency to worry about, more issues, he really needs someone with some experience, and also because the procedures in the Senate are so much more "catch is as catch can." In the House, the leadership pretty much determines what's going to happen, the rules and so forth set that up that way.

"In the Senate, you've got 100 independent spirits. That's the best way to describe them. And the rules allow them great latitude in what they can do. . . ." So, senators often hire experienced staff who understand the rules.

In the Senate, you've got 100 independent spirits. That's the best way to describe them. And the rules allow them great latitude in what they can do. So, if you don't have someone who understands the rules and how to make them work to your benefit, you can spend the first two years of your term just trying to find out what the hell's going on. So it's not uncommon for a senator, a new senator, to come in, to bring with him, or, no, to hire into his shop someone who has as much as possible experience in the Senate in previous

years.

Seney: Senator Laxalt had tried at the end of 1986 to get the interstate compact between California and Nevada passed.

Senator Paul Laxalt and the Interstate Compact

Mehl: That's right.

Seney: As powerful as he was, and he was reputed to be extraordinarily powerful, given his tenure in the Senate, apparently he was respected personally . .

Mehl: Very much so.

Seney: . . . and liked personally, which makes a big difference, as I understand it, and as well as he had very close relationship with then President [Ronald] Reagan, he failed in that attempt. Were you at all involved in that?

Looked at Laxalt's Attempt to Ratify the Interstate Compact in Order to Make Sure the Same Mistakes Were Not Made

Mehl: I was not involved in that. The only thing I knew about that is what I picked up retrospectively from the parties that were involved in it at the time, because I wanted to know why it failed, because obviously you didn't want to attempt to reconstruct something which was going to find the same fate. So while I have great hesitancy about speaking about what people do or say second-hand, I had to find out what went on on

this.

“ . . . it came down to . . . that there were certain parties that had to be included in any agreement that involved these two river systems, the Truckee and the Carson. . . .”

Ultimately, when I analyzed it from the best perspective I could get, it came down to the effect that—and it colored the way we started into this—was that there were certain parties that had to be included in any agreement that involved these two river systems, the Truckee and the Carson. You had to have, for obvious reasons, the states of California and Nevada. You had to have the federal government involved, and you had to have the tribe involved.

Seney: Pyramid Lake Tribe.

“The settlement that was envisioned by Senator Laxalt had the two states involved, tangentially the federal government, and the tribe not at all, but what I found out was each of these four entities had what I considered to be veto power over any agreement. . . .”

Mehl: Pyramid Lake Tribe involved. The settlement that was envisioned by Senator Laxalt had the two states involved, tangentially the federal government, and the tribe not at all, but what I found out was each of these four entities had what I considered to be veto power over any agreement. So unless all four of them were acceptable, you really weren't going to get

anywhere, because any one of the four could stop it all by themselves.

Seney: They had enough credibility, enough political clout.

In Addition to Credibility and Political Clout, the Essential Participants Had the Law on Their Side

Mehl: And the law on their side. For example, I mean, the tribe had, and still has, a federal court decision on the Endangered Species Act allotting them a certain amount of water, and nobody can take that away from them unless they overrule that court decision, and that's not often done.

The state of California had a Supreme Court decision, the *Alpine* decision, on the Carson River. The states of Nevada and California obviously have veto power, as does the federal government, because the river system itself was under the control of federal watermaster.

Seney: Meaning veto power, that in the way that the Senate would work is that the senators themselves would not go along unless all of these parties had signed off in agreement.

Mehl: Exactly. Exactly. For example, if the federal government had not been amenable to this agreement, you could never have gotten Senator [Bill] Bradley as chairman of that committee [The Sub Committee on Water and Power of the Senate Committee on Energy and Natural Resources],

who was responsible for protecting federal rights in this area as well as other things. You'd never have gotten him to be willing to take this up and pass it, because he would not have done that over the objection of the Department of Interior.

Seney: Now you've jumped ahead maybe to talk about [Public Law] 101-618, that settlement, or the interstate?

“ . . . the original Laxalt effort on the interstate failed, primarily . . . because they did not have the tribe on board and only tangentially had the federal government. . . . ”

Mehl: All I'm saying, though, is that's why the original Laxalt effort on the interstate failed, primarily, was because they did not have the tribe on board and only tangentially had the federal government. When the tribe pushed the federal government, they objected, as well.

“It actually had a hearing . . . but one of the senators who thought very favorably of the tribal position blocked any further consideration of it, and that's the way it can happen in the Senate . . . ”

It actually had a hearing and went through the process of having a hearing within the Interior committee, but one of the senators who thought very favorably of the tribal position blocked any further consideration of it, and that's the way it can happen in the Senate, and that's why it didn't ultimately get approved. There was no way to

ever force this kind of settlement through over the objection of, as I say, one of the four groups that I mentioned.

Learning about Water Problems on the Truckee and Carson Rivers

Seney: So you come in now on behalf of Senator Reid.

Mehl: Right.

Seney: With this [the interstate compact]¹ dead and gone,

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

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

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

The convention with acronyms is that if they are pronounced as a word then they are treated as if they are a word. If they are spelled out by the speaker then they have a hyphen between each letter. An

buried, never to be resurrected. That's the consensus, I'm sure.

Mehl: Right.

Seney: A new approach is now required, I take it.

“My first entry into this thing, which was very early in January of 1987, was to make a survey trip. . . .”

Mehl: A new approach is what was required, as I understand it. My first entry into this thing, which was very early in January of 1987, was to make a survey trip.

Seney: Tell me about that trip. What was your reaction to running into this policy area?

Mehl: Well, it was interesting. I admit freely, and admitted at the time we started in these negotiations, I did not know anything about the problems up here. I did not know anything about the river system. So I spent ten days initially just talking to people about what their viewpoint was on all of this and where they felt the problems were, and what they thought the needs were.

Learned There Was a Deficit of about 100,000 Acre Between Water Availability and Demand in a Normal Water Year

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.

Bureau of Reclamation History Program

I met with every entity I could think of over that period of time, to get their point of view. Several things came out of that study. One of the earliest was that I kept very careful track of what people said they needed in the way of water, and then got the best information I could from the U-S-G-S [United States Geological Survey] in terms of what was available, on average, in terms of river flows in the two systems, and realized very quickly that this discrepancy was about 100,000 acre feet. It was not something where you could turn a tap here or turn a tap there or finagle around the edges. I mean, it was one-fifth of the total flow of the river system in a normal year.

So obviously there was a major problem. This is what scared a lot of people off. I wasn't the first person to have done this. A lot of people looked at that and they said that there was no reason to pursue it any further, because there simply was no way you could make up that difference.

“The second thing . . . there was a group that needed to be involved in any final settlement if it was going to be successful, and it was the four major parties that I mentioned, plus . . . Sierra Pacific Power Company . . .”

The second thing that came out of this was that there was a group that needed to be involved in any final settlement if it was going to be successful, and it was the four major parties that I mentioned, plus one more, and that was the Sierra

Pacific Power Company, because the Sierra Pacific Power Company really was the root of what was bringing this to a head. They had to develop a plan which would show that they could provide water under all conditions, including drought conditions, to the estimated future size of the Reno metropolitan area in order to be approved by the Public Service Commission (PSC) to be the water purveyor.

There's a very unique situation there. There aren't many situations left in the country, I don't believe, where you have a private utility as a water purveyor. I mean, that's one of the things that got me. I was an Eastern boy, and I came out there and I said, "What do you mean, you have a private water company? Doesn't the city supply or the county supply the water?" That's what we do back here. Out there, no. And the main reason is because you own water rights. We don't own water rights back here. And Sierra Pacific owned the water rights. Therefore they had a right to purvey the water.

But nevertheless, they had to be approved by the PSC that they were operating within guidelines that were going to ensure an adequate supply of water in the foreseeable future. They couldn't do that under the system. Therefore, they had to have some changes in the system, and they had to be a party of this.

They also had veto power over the whole structure, I discovered, because if they wanted, they could invoke certain decrees that they had

out of [the Federal District] court, primarily the Truckee River Decree [known as the Orr Ditch Decree] from the 1930s, which allotted them a certain amount of water and set certain flow rates and things like this that would have to be changed if any agreement was going to be worked out.

Deciding Whether or Not to Begin Settlement Negotiations

So we finally settled on a group, a negotiating group. We talked to everybody and there were lots of other interests.

“My decision was to start with as small a group as made any sense, and that meant including those parties which had veto power . . . and we included the Truckee-Carson Irrigation District (TCID), even though they, in and of themselves, do not have the ability to veto or to defeat any agreement that might be reached . . .”

My decision was to start with as small a group as made any sense, and that meant including those parties which had veto power, which were the two states, the federal government, the tribe, and Sierra Pacific Power, and we included the Truckee-Carson Irrigation District (TCID), even though they, in and of themselves, do not have the ability to veto or to defeat any agreement that might be reached, because really they were subject to the federal government’s allocation of water to them. So if the federal government agreed to something, Truckee-Carson Irrigation District couldn’t really do anything about it, so

they had to work through the federal government, but we included them because they were easily one of the three or four largest users of water in the system.

Bringing the Group Together to Begin Negotiations

So basically that was the start of this: the definition of the problem and then the coalition of this group, and talking to each one of them, “Are you willing to sit down to see whether or not we can, through negotiations, find an alternative for supplying water to what we’re doing today?” And the answer from all of them was yes.

“ . . . politically speaking, there was a lot to lose. If we couldn’t come to an agreement, it could reflect poorly on him [Senator Reid]. You just don’t want to leap into these hopeless situations. . . .”

I took that back to Senator Reid and I said, “My judgment is you have to negotiate a completely new water delivery system agreement if you are going to settle this problem. The parties are willing to sit down and start discussing it. Do you want to take the next step?” Which was to commit ourselves to try to come to an agreement, because politically speaking, there was a lot to lose. If we couldn’t come to an agreement, it could reflect poorly on him. You just don’t want to leap into these hopeless situations.

Seney: Expand a little on that, if you would. Clearly he

would, I suppose, lose among the participants, but would he have lost some credibility in the Senate if he had tried this?

Mehl: Not so much in the Senate. This would have been a state political problem. Here's a man who is not well known in northern Nevada, who is trying to make his imprint up there and show how much he cares about this, but he's not well known, he's not completely trusted yet, and if he were to throw his name and stature behind a very public—which it was—negotiation and then have it fail, collapse on itself in a short period of time, this would have fairly severe political repercussions on his image in northern Nevada.

“ . . . at several key points where there was an option of going ahead or backing off, and things were fairly dicey . . . to his credit, I think, in every instance he pushed forward, and that's what kept it going. . . . ”

In fact, as we progressed through this process, at several key points where there was an option of going ahead or backing off, and things were fairly dicey about how it was going to come out, I kept giving him the option, “Do you want to withdraw from this?” And to his credit, I think, in every instance he pushed forward, and that's what kept it going.

Seney: Was it at this point when you come back after your trip to look at things, talk to the people and discuss it with the senator, he says, “Yes, let's go ahead,” is that the point at which you send the

letter out to the participants, inviting them to [the table].

Negotiations Begin

Mehl: Right. [We] sent a letter out to the participants inviting them to the table, and we had a very preliminary discussion. At the first discussion we made it very clear that we were going to talk about the kind of things we would have to look at if we were going to solve this problem, and if there wasn't acknowledgment at the end of that meeting, that everyone was willing to try to look at these items and make use of them and solve this problem, then we would simply admit that it was beyond us at this point in time and give it up.

The Key to the Problem of Not Enough Water in the System

“Basically . . . we were 100,000 acre feet short . . . if you took all the demand and all the supply and added it together. But . . . two or three interesting things involved in this . . . gave us a glimmer of light. . . .”

Basically, as I said, we were 100,000 acre feet short, simple as that, if you took all the demand and all the supply and added it together. But there was an interesting thing involved, two or three interesting things involved in this, that gave us a glimmer of light.

There Needed to Be Enough Water in the Truckee River to Permit Endangered Species in Pyramid

Lake to Spawn in the River, but the Fish Didn't Need to Spawn Every Year

One was that you needed a certain amount of water for the endangered species in the Pyramid Lake to be able to spawn, and that was the key. They had to be able to get into the Truckee River and to spawn, and you had to have a minimum of water flow, a minimum level of water flow, to allow them to do that, and it was substantial.

The key was, though, that these were not like a lot of freshwater fish. They did not have to make this spawning trip every year. Their average life span, or not even life span, they had an average reproductive span of about eighteen years, which meant that if you could spawn as little as six out of eighteen years, it was felt by the biologists in the Fish and Wildlife Service that you could maintain a viable population of this endangered species within Pyramid Lake.²

So basically what we came up with was an understanding that, one, we didn't have to supply that water every year. Two, you had to supply a minimum amount of water, and a minimum amount of water was about 150,000 acre feet in a period of several weeks, to allow the flow to be big enough in the river, to allow the fish to get into the river and spawn. The key was that if you couldn't supply that amount of water, that minimum amount of water, it didn't matter whether you supplied any water or not. The river

2. Referring to the cui ui (*Chasmistes cujus*).

could be dry, because the fish were either spawning or they wouldn't. There was no in between, if you had 50,000 acre feet, you could run it down the river into the lake, but it wasn't going to make any spawning run.

So what we began to develop was that we had a situation where you had to have a lot of water in the river for the fish to spawn. However, the biggest problem for the utility was that in drought years when there wasn't a lot of water available, they couldn't supply water to the residential and business users.

So the result was, we came up with a sort of counterbalance. When you had a lot of water in the system, the power company could agree to allow more of their water to flow into the Pyramid Lake rather than holding it upstream or doing something else with it, in order to augment the flow to make sure we had the minimum amount for the fish to spawn. And in drier years, when there wasn't going to be enough water for the fish to spawn no matter what happened, then the tribe, which I haven't gotten into yet, it's hard to keep exactly lineal on this in time.

Seney: I understand that.

How the Pyramid Lake Paiute and Sierra Pacific Power Could Complement One Another's Water Needs

Mehl: But the tribe's claim to fame in all this is that they had sole use of Stampede Reservoir, which was a

huge reservoir that, to the best of my knowledge, I'm not sure has ever been full, but they had all the water in that dedicated to the fish. So when you had a dry year, no matter how much water they released out of Stampede, you weren't going to get a spawning run, but yet you could augment the power company's ability to supply water and then the power company could pay that back, you see. In full-water years, the power company provided water to the fish or to storage for the fish, and in dry years water was traded back to the city or loaned to the city for their use.

“So what we had was a situation where we were 100,000 acre feet short, but only if you tried to supply everybody all the time, and what we really found out was we didn't need to supply everybody all the time. . . .”

So what we had was a situation where we were 100,000 acre feet short, but only if you tried to supply everybody all the time, and what we really found out was we didn't need to supply everybody all the time. There were certain years we wanted to make sure that those fish spawned, but those were years when there was plenty of water to meet the power company's distribution needs anyway. And then in years when there weren't enough fish, then the water that would ordinarily be released would just go downstream or held in Stampede could be released for use by the power company to meet their requirements. So that there was this mechanism that allowed us to trade water back and forth and meet both needs.

California and Nevada and the Problem of Certainty of Supply

Avoided an Interstate Compact in Order to Permit the Entire Process to Be Federal

There was one thing that was required before this could ever work, and that was the certainty of supply, and that's where we get into the California/Nevada issue. We wanted to have a solid compact. We didn't use the term "compact," because we didn't want to get into the requirements of getting a compact.

Seney: That term had been discredited, hadn't it, in a sense?

Mehl: Well, it had been discredited, but also compacts had to be approved by the state legislature, and we didn't want to get into state legislatures doing this, so we just came up with an agreement which was blessed by the federal government.

Seney: Calling it an allotment.

“ . . . we stayed out of the compact trap . . . But . . . both California and Nevada had an interest to assure certainty of supply. . . . ”

Mehl: Yes, calling it an allotment. So we stayed out of the compact trap where you had to get into local politics in the California Assembly. But the point was, both California and Nevada had an interest to assure certainty of supply.

California wanted to make sure that they had sufficient water available. Since both rivers sourced in California, they wanted to make sure that the Endangered Species Act, for example, couldn't reach into California, which it might have possibly done. So they wanted something. Both sides wanted certainty.

So we sat down. First thing we did was work out the compact arrangements, basically simply taking the Supreme Court decree [known as the Alpine Decree] on the Carson River and legislating it into law, and then writing an agreement on the Truckee River which met everybody's needs. That was, in a sense, the easiest, but also the most interesting of all the things that came up, because you literally got down to very, very small amounts of water. We wanted to get that done first, because we knew there was no sense negotiating the rest of it unless we got that, because whatever we did, we didn't have agreement.

Debate over How to Count the Water Used for Snow-making at a California Resort

So we had several interesting points of negotiation. I'll mention one, and that was, we're sitting there going through all of this and dealing with hundreds of thousands of acres, acre feet of water in most instances, and we got into an argument between the tribal attorney and the California water attorney about how we would count the water use for snow-making in one of these resorts in California, whether it would be

against the allotment or it wouldn't be against the allotment.

I remember it was a Saturday morning, and this discussion went on for over two hours. I can remember sitting there. I'll repeat this, even though it's a little off-color. (laughter) But history is history. I can remember sitting there and finally saying, "How much water are we talking about?"

They kind of looked at each other and said, "Oh, about 600 acre feet of water." And we'd just spent two and a half hours.

And I said, "Do you guys know I can pee more than that after a Friday night football game with a six-pack of beer?" And at that point in time, I just simply said, "It's not going to count," and waited to see if anybody left the room, and they didn't. (laughter)

Seney: So that's the agreement about snow making—because the notion is that it returns.

Mehl: It returns. Right.

Seney: Melts off and returns, and it doesn't count against California's allotment.

“. . . we did get an agreement between California and Nevada, and that was very key, because that really added momentum. . . .”

Mehl: And not only that, we were talking about, I mean I

thought, minuscule quantities of water. So at any rate, we did get an agreement between California and Nevada, and that was very key, because that really added momentum.

Seney: Let me stop for a second. The agreement that you came to was very much like the agreement that had been negotiated in the compact.

Mehl: Very, very much the same.

Seney: There were some minor details.

Mehl: The only real exchanges on it were updated, the changes needed to update the situation, things that happened since 1985. Was it 1985? Yeah, the compact. Over that two years or so, things happened.

Seney: So there was some momentum behind it, in other words, that made it easier for you.

“What we really accomplished there more than anything else was to get all sides to agree to formalize the existing ad hoc arrangement. . . .”

Mehl: Yes, yes, yes. And clearly, though, also the other thing that made it easier were both states felt that this was something they wanted very badly. I mean, this had been 100 years they'd been struggling over this, over the allocation of that water.

Seney: And hadn't they been voluntarily going along with the allocation that they'd come to agree on in

the compact?

Mehl: Very much. I don't want to make this sound like we did more than we did. What we really accomplished there more than anything else was to get all sides to agree to formalize the existing ad hoc arrangement.

Seney: I think you did plenty. I'm just trying to point out, to buttress what you're saying, that they very much wanted agreement, so bad that they went along with an agreement that hadn't really been put in to have the effect of law, but simply through mutual agreement.

Mehl: Exactly. Exactly. But it really kicked things into gear. I give the people from California a lot of credit on this. They could have been harder to get along with, but I think you had some very enlightened people in the Water Authority in California, at least in those years. I don't know how it is now. But they really indicated that they wanted to try to get things cleaned up and get their situation solidified, just as everyone else's was. They were very cooperative. They really didn't have a lot to get out of this.

Seney: Right. But it was certainty of supply.

Mehl: Certainty of supply.

Seney: "Whatever we're going to get, we're going to get."

"Both sides realized that . . . As long as they got

certainty of supply, the rest of this was somebody else's problem . . .”

Mehl: That's right. Both sides realized that that was the key, as far as the state was concerned. As long as they got certainty of supply, the rest of this was somebody else's problem, is basically what it came down to.

After a Few Months the Truckee-Carson Irrigation District Withdrew from the Negotiations but Stayed as an Observer

So we were able to get that, and that really kick-started, I think, the whole operation. But before we were able to make a lot of progress, even before we were able to complete the interstate agreement portion of this, we had what I consider today to be the major failure of the entire negotiation, and that is that the Truckee-Carson Irrigation District, after listening for about six or seven months to what we were doing—and it started getting pretty clear which direction we were looking and we were hoping to go in terms of broad outlines.

Seney: Now we're into, if I may, 1988?

Mehl: 1988. Right. Early 1988. The Truckee-Carson Irrigation District, amongst themselves, decided that the direction we were going was not something that they were going to be able to support, so to their credit, rather than sitting there for another year and letting us dangle things around and then telling us that it was

unacceptable to them, they said that they didn't think that we could come up with anything that would be acceptable to them, and that they wanted to withdraw from the negotiations, they wanted to stay on as an observer because this would impact them no matter what, but that they did not want to be considered to be a participant in the sense that they would have to give their seal of approval on this.

Seney: What was your reaction to that?

“I was very disappointed, because I had come to the conclusion long ago that the only salvation for the Truckee-Carson Irrigation District would be to be part of this agreement, that without it, it was pretty clear what was going to happen. . . .”

Mehl: Very disappointed. I was very disappointed, because I had come to the conclusion long ago that the only salvation for the Truckee-Carson Irrigation District would be to be part of this agreement, that without it, it was pretty clear what was going to happen. The pressures of the Endangered Species Act, the attitudes of the Bureau of Reclamation and the Fish and Wildlife Service were to squeeze [TCID].

END SIDE 1, TAPE 1. NOVEMBER 7, 1995.

BEGIN SIDE 2, TAPE 1. NOVEMBER 7, 1995.

Seney: The tape ran out on us. A little bit of what you just said did not get on tape, probably starting with the fact you were disappointed.

Reasons it Would Have Been Good for TCID to Continue to Participate in Negotiations

Mehl: Right. I was very disappointed with the Truckee-Carson Irrigation District folks leaving the negotiations as active participants, because I felt very strongly that this was their only salvation, that given the direction of the Endangered Species Act and the court decrees on that, given the feelings of the Bureau of Reclamation and the Fish and Wildlife Service in terms of what their mandate was to deal with the federal responsibilities on the river, it was clear that unless TCID was part of an agreement, I felt they would be squeezed and squeezed more than anybody else on the river, and that they would lose more, they had much more to lose. However, it didn't work out the way I had hoped.

Seney: I know you had many meetings, I'm sure, with Senator Reid concerning this, but do you recall when you chatted with him about TCID's decision?

Mehl: Oh, yeah. That was one of the points. That was one of the points where I came back from a meeting . . .

Seney: You offered him an out?

Though Senator Reid Did Not Want to Lose TCID in the Negotiations, it Was Decided to Proceed

Mehl: . . . and I offered him an out. I said, "TCID's going to walk." That's what I basically said.

“They’re going to walk. They told us they’re going to walk. We either try and pursue this without them,” and that was not a real comfortable situation for him, because this was one of the major constituent groups out there that were involved. Even though, as I said, they didn’t actually have a veto power, this was a relatively large group of people that the last thing in the world he wanted to do was shut out of the process.

So I came back to him and I said, “Well, you know, we have to make a decision. They’re going to walk. Either we pursue this with the parties that are left and we’re going to receive criticism, I’m sure, from TCID on what we do, and we try to make the best of it, or we simply say, ‘Well, here we are at an impossible impasse and we’re going to have to give it up.’”

Seney: At that point you could have said, in terms of political cover, that, “ TCID has refused to negotiate further, and we have concluded that . . .”

“He said this was too important, that he didn’t want to see them leave, that he wanted them to be part of this, but that we had to go on even without them. . . .”

Mehl: We could have just blamed it on them and walked away. He said no. He said this was too important, that he didn’t want to see them leave, that he wanted them to be part of this, but that we had to go on even without them.

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- Seney: I've talked to a lot of people out at TCID, the farmers and so forth, and their view is that they were really thrown out of those negotiations. Others, like yourself, have said they walked out. Can you comment a little about that difference in perspective and how they might think of themselves as having been thrown out?
- Mehl: No, I really can't. (laughter) I can tell you exactly what happened. I remember we were on the tribal lands at the [Pyramid] lake. We moved these meetings around. We'd meet at TCID one time, then we'd move to the tribe, then we'd move into Reno. We'd move them around, try to keep things going.

Suspects There Was a Hard Line Element in TCID That Forced the Board of Directors to Withdraw from the Negotiations

That morning we were at the lake, and what seemed to be the breaking point for TCID—although I will say that I honestly believe that the board of directors of TCID, had they had a free hand, would have stayed to take part in the process. I really believe there was some political problems within the Truckee-Carson Irrigation District. There were a faction of real die-hards out there that said, “Not one drop of water is leaving this place and going to Pyramid Lake.” And really the board, probably, had they not walked, might have been voted out and a new board might have been put in simply because there was going to be a fight within TCID over this, I think, had they stayed. So I think that

political problems were fairly serious in TCID.

Seney: May I say just one thing there? Are you aware that in 1982 the board members were voted out?

Mehl: Oh, yes.

Seney: You knew that history?

Mehl: [I] knew the history of that. I had no doubt in my mind because I had worked with these people fairly closely for over a year, and I respected all of them and I thought that they had the best interests of the Irrigation District at heart, but I also could see, as time went on, more and more reticence on their part in terms of being actively involved.

The Problem of Carryover Storage in Lahontan Reservoir

But that morning I remember when it sort of came to a head, and it was a surprise to everyone. No one expected them to come in and do this. But we were talking about what was probably the crux for TCID more than anything else. The Bureau of Reclamation had laid down certain criteria for the operation of the Irrigation District, and one of those criteria was that there was a maximum amount of water you could hold in Lahontan Reservoir, the reason primarily being for that was so when you had an abundant water year, that you weren't running water over the dam down into Stillwater, that you kept this low enough, you actually only put in the reservoir a

minimum of what was required to meet the water rights of the [district]—you had no carryover, no storage.

And this is a problem, because you put the minimum in there, you meet those water rights, the next year you have a drought, you don't have any water to meet the water rights. So that was a real problem. We tried to get around that by saying, "Let us store the water in Stampede Reservoir."

Seney: The objective here is to minimize diversions off the Truckee.

Mehl: Minimize diversions off the Truckee is the point. That's what federal court decrees and federal law required at that point, was minimize diversions. So you wanted to give them just the amount of water that they required to meet their obligations to their water-right holders.

So the idea was, we said, "Well, we understand your problem with a drought-year situation. You can't supply and you can't meet your needs, and there's no place for you to get it. But there is if you put it in Stampede Reservoir."

The gain of putting it in Stampede Reservoir was that then if you had an abundant water year and it flows over the dam at Stampede, it's going to come to Lahontan. Still you're going to catch it before it gets away. So you have that drought-year protection. But they just didn't trust putting it in Stampede. They felt because of the

Endangered Species Act that they might never get it back again.

So I remember we argued and argued and argued over the question of storage in Lahontan and storage in Stampede, and the tribe would not go with the additional storage in Lahontan, and the federal government would not go with the additional storage. They absolutely drew a line. Fred Disheroon³ was representing in the Department of Interior there, and drew a line and said, “This is beyond the federal OCAP, or operating criteria and procedures for Lahontan, and we’re not going to do that.”

So that was sort of the straw that broke the camel’s back for them. I think they felt they really couldn’t go back and suggest that. And without that, there was no assurance they were going to have drought-year supply, so there was really no reason for them to be part of the agreement.

TCID Leaves the Negotiations

So they literally went into the hallway where we were at, the board members that were present, and I should have known something was up, because we usually had a couple of board members and the attorney representing TCID negotiating. That morning seven of them showed up. I should have known something was up, I

3. Fred Disheroon contributed to Reclamation’s oral history work on the Newlands Project.

guess. (laughter) But we just [said] fine, if they want to sit in. That's fine. But they all adjourned to the hallway, I guess took a vote, I don't know, but came back in and simply told us that they felt that they could not participate actively anymore, and they said they wanted us to go on.

“ . . . I think that . . . TCID thought at that point in time we were never going to get an agreement. . . . and I think they felt that they probably risked nothing by walking away from this . . . ”

Now, I think that afterwards—I'm not trying to diminish anyone's judgment in this thing—I honestly believe that TCID thought at that point in time we were never going to get an agreement. There were a lot of people for a long time that really thought there was never going to be an agreement, and I think they felt that they probably risked nothing by walking away from this simply because it was the same situation without an agreement that they were in at that time.

“ . . . it became important later on, when it became obvious that we were likely to get an agreement, that they [TCID] didn't appear to walk away. . . . ”

When we got an agreement, I think it became important that they didn't walk away. Because then you're going to have some people, I'm sure, second-guessing that attitude. So it became important later on, when it became obvious that we were likely to get an agreement, that they didn't [appear to walk away].

Seney: To characterize it as being thrown out.

“ . . . we sat down after that particular meeting and ran all the . . . scenarios that we could come up with, and we couldn’t find a way to accommodate them other than what we had already suggested. . . .”

Mehl: To characterize it as being thrown out and not walked away. I think they probably made the only judgment they could at that time, the board of directors. As I say, it’s *the* failure of the whole process, as far as I’m concerned. If I thought that there was any way to have kept them in, I would have, but we sat down after that particular meeting and ran all the numbers and ran all the scenarios that we could come up with, and we couldn’t find a way to accommodate them other than what we had already suggested. There was just nothing else to do. So we went off without them.

Seney: Maybe I’m going to ask you to speculate here, but would an agreement, do you think, have been reached had they stayed in, or even if you’re disappointed that they left, did their leaving make an agreement among the other parties possible, do you think?

The OCAP, Drought Year Supply and Lahontan Reservoir

Mehl: I think that they could have reached an agreement. I think had they been willing to settle for the federal operating criteria and procedures, with the

ability to store drought-year supply in Stampede. And with another provision which we were prepared to offer them, which was to allow them to water bank, in a sense the federal government actually was willing to consider buying water rights upstream on the Carson River and holding those in a water bank and put those in Lahontan Reservoir.

One of the other things about Lahontan Reservoir, is that so many things become important. One of the problems with the OCAP level, minimum level, minimum pool, was that it eliminated all recreational use of the system, which is a fairly significant use of the system down there. We attempted to get by that by suggesting that water rights could be purchased upstream by the federal government, by the state of Nevada, by TCID, and then that water could be held in Lahontan legitimately, because it was not a Truckee River diversion. Therefore you could raise the level of the reservoir, you could have upstream storage.

“Short of changing the actual allocation of water, we could do quite a bit to make sure that they [TCID] didn’t suffer drought-year losses any greater than anybody else, and that they had recreational use of their water system. . . .”

Short of changing the actual allocation of water, we could do quite a bit to make sure that they didn’t suffer drought-year losses any greater than anybody else, and that they had recreational use of their water system. Plus, they would have been part of this. Whatever allocation they

received would have been locked in for all time. It's not that way today. They are still annually facing the federal government squeezing them down more and more.

The Problem for TCID of How Much Water Is Actually Needed to Meet the Farmers Water Rights

I don't know how much you've gone into this with other people, but what has to be understood is there is an allocation of water. People own water in the Truckee-Carson Irrigation District, but they do not own the water that is involved in the transportation and maintenance of the system.

“ . . . the federal government can squeeze them. It's not that they can take away my acre foot of water that I own, but they can take away the amount of water, or reduce the amount of water that's going to be allowed TCID to deliver that acre foot of water to me. . . .”

So that's why the federal government can squeeze them. It's not that they can take away my acre foot of water that I own, but they can take away the amount of water, or reduce the amount of water that's going to be allowed TCID to deliver that acre foot of water to me.

If TCID releases an acre foot of water from Lahontan and I'm down on the end of the system, by the time I've got leakage in the canals and evaporation and everything else, I might not

get more than half or two-thirds of an acre foot. So they supplement this and release literally an acre foot-plus in order to deliver an acre foot to me. They're not guaranteed that. There's no guarantee that they're allowed to divert water to make up those losses; they're only allowed to divert water that's actually required to meet the water rights of the system.

Seney: This gets us into the question of the efficiency of the system.

Issues Around Efficiency of the TCID System Could Have Been Locked in in an Agreement

Mehl: The efficiency of the system. And the efficiency of the system would have been locked in. That was one of the things we talked about. Whatever we agreed on as being legitimate, and we didn't necessarily say it had to be the federal efficiency levels, whatever we agreed on as the legitimate efficiency of the system would have been written into law, and they could not have been subsequently squeezed out of additional water because of the government coming in and saying, "We're going to increase your efficiency level from 65 percent to 75 percent," which can happen today. So this is where they lose.

Seney: Were they aware of this?

Mehl: Oh, yeah. They were aware of this, I think. I think that they understood that there was something to gain, but I think partially to a large extent the primary thing was I don't think they

thought we were going to get an agreement, because they'd been through this time after time after time.

The second thing was, I think that they felt that they were going to come under political heat from within their own organization if they seemed to be agreeing to something which was very controversial. So at any rate, they were out, and we moved on without them, basically is what happened at that point in time.

Negotiations Moved Forward Without TCID

Seney: What happens next?

Mehl: What happens next is another key point in this whole process. I'm skipping some time, but basically the next major event is we start losing momentum.

Seney: What dates, can you recall?

Summer of 1988 Not Much Was Happening in the Negotiations

Mehl: We're talking about now the summer of 1988, and we're kind of spinning our wheels. We've gotten an agreement put together in draft form between California and Nevada, but we haven't gotten much farther from that. There was a real three-corner triangle developing between the federal government and the tribe and the power company, and they were kind of circling each other and not much was happening.

**Sierra Pacific Power Company's Joe Gremban
and the Pyramid Lake Tribe's Joe Ely Negotiated
an Agreement**

So again, here you had an act of great statesmanship, I think. Secretly, without anyone's knowledge, including, to a large extent, mine—I knew what was going on because I always knew what was going on. Somebody was always going to tell me. Nobody ever kept anything totally secret. But largely secretly, the power company and tribe got together and they negotiated.

Seney: This is Joe Gremban [President of Sierra Pacific Power] and Joe Ely [Tribal Chairman of the Pyramid Lake Tribe].

“They negotiated out the outlines of the mechanism for the transfer of water back and forth between the power system, supply system, and Stampede Lake. . . .”

Mehl: Right. They negotiated out the outlines of the mechanism for the transfer of water back and forth between the power system, supply system, and Stampede Lake.

Seney: Who initiated that?

**Believes Sue Oldham and Bob Pelcyger May Have
Managed to Get Sierra Pacific and the Tribe
Together**

Mehl: I think it was probably joint. I think it was Sue Oldham and Bob Pelcyger, Bob being the lawyer

for the tribe and Sue being a lawyer for the power company. I think the two of them, probably over lunch, decided they were going to give this a try, and were able to succeed.

Things Slowed Because More and More Groups Wanted to Participate

Part of the reason why we had slowed down, I suppose, not only this three-corner mechanism, but also as time went on, we started getting pressure from more and more diverse groups wanting to be part of this thing. That was a step backward, not a step forward.

Seney: Who was this?

Mehl: You could have the conservation districts, the local governments, city governments of Reno and Sparks, Washoe County government, and these were people that had interests, but their interests were often contradictory to everything we were trying to do, and they were acting in good faith and wanted to be part of this, but, nevertheless, it was not moving things ahead, it was stagnating things, because we had to kind of go all the way back and try to bring them in, to a certain extent, and then when they disagreed with things, then we had to try to get around that.

So I had complained pretty vociferously to the inner core, "We're going to lose this thing if something doesn't happen," and I think Bob and Sue understood that, saw that. They went out and they negotiated what is essentially a private

agreement, saying, “We’re going to do this.”

Seney: This is known as the preliminary settlement [agreement].

Mehl: Preliminary settlement [agreement]. “We’re going to do this. We can do this without anything else. It will only take care of one element of all of this, but we can do this and we’ll do this. We’ve reached a private agreement.” That was never the intent, though. The intent was to jumpstart the negotiations back on track again by saying, “Here’s a real breakthrough,” and it was a real breakthrough.

When they came forward with this and announced it, all of a sudden, I mean, the federal government, the states of Nevada and California, everybody was revitalized, and we went back to the table, then started putting together the remainder of the things that had to be worked out. There was quite a bit yet, but the core was there.

Seney: And the momentum.

“ . . . by the summer of 1989, we had an outline of an agreement. . . . ”

Mehl: And the momentum was there. And within a relatively short period of time, by the summer of 1989, we had an outline of an agreement.

Seney: And an outline of what, by you saying an agreement, what you wanted to go into the legislation.

“ . . . the agreement is easy. The legislation . . . gets tough, because then everyone has to be sure that what we say is what we mean and want to say. . . . ”

Mehl: What we wanted to go into legislation. As I told people, now we were starting the next significant phase, because the agreement is easy. The legislation—you’ve got to put it into words—gets tough, because then everyone has to be sure that what we say is what we mean and want to say.

Seney: Were there any other points in here that you gave the senator a chance to get out of this again, or once the preliminary settlement agreement had been agreed to . . .

The City of Reno and Peter Sferrazza

Mehl: No, there had been other points along the way. For example, the city of Reno went so far as to suggest that they would have a referendum on what we were doing.

Seney: Would this be the water meters part of it?

Mehl: Ostensibly the element was the water meter portion of it, but it would have been on the whole agreement. I mean, had they voted down water meters, we could have gone ahead without water meters, and eventually that’s how that was diffused, was the tribe said, “We don’t demand water meters.”

Seney: But conservation on the part of . . .

Mehl: Conservation was required.

Mehl: . . . West Pac [Utilities] was critical to the tribe.

Mehl: Oh, yeah. The tribe wanted absolute conservation, maximum conservation. They felt water meters was the best way to do it. The city of Reno was totally—I mean, we knew how that referendum was going to come out, and it was going to really hurt the agreement.

So the tribe, on their own, Joe Ely, made a statement saying, “Here’s our conservation needs. We don’t care how you do it.” So it took the fire out from under that. But that was more than just a fire on water meters. That was a question of really rising testosterone levels by the government of Reno there, wanting to be more actively involved in all this.

Seney: Was this Peter Sferrazza’s [Mayor of Reno] kind of reaction to being cut out of this, a kind of threat to do this?

Mehl: Yes. This was Pete. I like Pete a lot and he was very helpful when it was all said and done, but in the beginning he felt that he wasn’t being given a large enough role in this, I believe, and reacted not well.

Seney: Did you, for want of a better word, schmooze him a little more after this?

Mehl: [I] schmoozed him a lot more after this.
(laughter) Schmoozed him a lot more.

Seney: What form does that take? Phone calls?

Mehl: Phone calls.

Seney: Letters?

Mehl: Stopping by for lunch when I'm out there. I mean, even if we didn't have particularly anything to talk about, just to make sure that if he had any questions, he was in the loop. Continued to assure him that the senator needed his help on this thing.

Seney: Have the senator call him?

Mehl: Have the senator call him, things like that. Right.

Seney: Did that work?

Mehl: It worked. It worked. It generally works. I mean, if what you're doing isn't of benefit, and then we felt it was in the benefit of Reno, because they were ultimately the water-users on this process, so they needed the water, or else they were going to have water shortages. But the schmoozing, on top of the legitimate interests that they have, works. It usually does in politics; that's part of what you have to do.

Seney: Was that a smart way for him to play it, to get your attention and to get you to pay attention to what he wanted and so forth?

Mehl: Could well have been. I personally feel that there were other ways that he could have handled that

that would have been less stressful on everyone, because I mean, it was a real threat. He had to then withdraw the referendum, and once you make that threat, it's very hard. And other groups who had not the positive attitude that Pete had toward wanting a settlement, he really wanted a settlement, he just wanted to make sure he was part and parcel of the settlement, there were other groups that didn't necessarily want a settlement, and they then picked up on the water meter thing and would never let it go away. So I mean, he opened the door for negative groups to use that same tactic to attempt to scuttle the negotiations. Even TCID at one point attempted to use water meters to scuttle the agreement. So there were points like this along the way where I would go in and say, "Now, I can make exit stage left here if you want."

Seney: Because your obligation is to give him political advice as well as policy advice.

Senator Reid Always Opted to Keep the Process Going

Mehl: Yes.

"My obligation on this was to constantly tell him, to make sure that he understood the situation and the political risk. . . ."

My obligation on this was to constantly tell him, [to] make sure that he understood the situation and the political risk. As I say, much to his credit, he never walked away from it. I suppose the

reason that Senator Reid and I are such good friends today is that he evidenced total trust in me the whole process. He said, "I want you doing what you think is right on this thing." That made it more important for me that nothing go wrong for him.

Seney: As long as you've opened that door, that perspective, I want to get you to talk a little more about that. Because, of course, I've been out and interviewed, as you know, as I said before, people out on the district, and they have a lot of suspicion toward Senator Reid, a lot of antagonism toward Senator Reid.

“ . . . in 1986, Senator Reid was elected to the Senate. His vote in Washoe County, . . . was 35 percent. In 1992, when he was reelected . . . he received 51 percent of the vote from Washoe County, so not everyone reacts to him with hostility and suspicion. . . .”

Mehl: Let me just say before we start here, there's a caveat to that, was that in 1986, Senator Reid was elected to the Senate. His vote in Washoe County, which is the area we're talking about, was 35 percent. In 1992, when he was reelected, primarily everyone feels as a result of his activities in connection with the water, he received 51 percent of the vote from Washoe County, so not everyone reacts to him with hostility and suspicion.

Seney: I'm not talking about Washoe County. I'm talking about Churchill County, where I expect

his vote went down.

Mehl: His vote went down there, yes.

Seney: So I want you to address a little more his kind of motive and his kind of perspective here, because aspersions have certainly been cast that he's beholden to Sierra Pacific Power, who are beneficiaries here, that the real interest, of course, is simply votes in Washoe County, where he clearly, and understandably, improved his standing. But if you could talk a little bit about the motives of the senator here.

Reno, the Threat of Drought, and Why Senator Reid Pushed for a Settlement

Mehl: Sure, sure. I mean, I've heard this and I've always wondered how you arrive at that position. Of course, these people don't know a lot about the early stages of this and how it got started. It wasn't Joe Gremban or it wasn't Sierra Pacific who came to Harry Reid and said, "We need your help to work this out." It was the editorial board of the *Reno Gazette*, and they were reacting to the fact that you had a situation there at that time which was devastating in 1986.

One of the things we didn't talk about in this is just to understand why this situation is such a problem. 1983 was a max water year; all the reservoirs were full, water was going over the spillway. So at the beginning of 1983, you had every ounce of water that the system could hold, with the possible exception of Stampede

Reservoir.

By 1986, every reservoir was dry. So basically what you had, without some kind of an agreement on water use, was a three-year supply of water, not one drop more. If you went into drought, didn't get any rain at the end of three years, you were done. So people don't really understand that that's how critical that was out there, and there were no more places to build dams. There aren't going to be any more dams built out there, no more reservoirs built out there.

“ . . . Reno was stuck. You're not going to have any more growth in the city of Reno or in Washoe County to amount to anything unless you supply the water to them. . . . at the end of 1986, it showed that you had a max three-year supply of water with the existing population. . . . ”

So basically Reno was stuck. You're not going to have any more growth in the city of Reno or in Washoe County to amount to anything unless you supply the water to them. You're not going to be able to supply the water to them because at the end of 1986, it showed that you had a max three-year supply of water with the existing population. So if you increased the population, you were just going to squeeze down how much water. In other words, you're only going to be able to supply water for two years in a drought pretty soon if the population goes up.

“ . . . Reno's very lifeblood was dependent on this water settlement. . . . ”

So Reno's very lifeblood was dependent on this water settlement. As a result of the drought that had taken place from 1983 to 1986, remember he's coming into this in the middle of this drought, at that point in time you had business interests, in terms of the Chamber of Commerce; you had just ordinary people who couldn't water their lawns, were losing their lawns because of the water restrictions; you had a major outcry, "Somebody do something." And that outcry was translated, in a sense, by the editorial board, because the newspaper was covering these stories, they know what's going on, and when he said, "What is your major problem?" they said, "Water."

“. . . he got involved in this thing because he felt he was responding to a call from a legitimate interest in northern Nevada to do something to help them . . .”

And so he got involved in this thing because he felt he was responding to a call from a legitimate interest in northern Nevada to do something to help them, because now he's their senator, he just isn't the senator from Las Vegas.

“Someone who says he did this because he wanted to enhance his political stature doesn't understand that nobody—I mean nobody—at the beginning of this process thought it was ever going to be successful. . . .”

Now, he could have walked away from

that and said, “I got elected without you guys. I don’t need any of this. I can go and concentrate all my efforts in Las Vegas as long as I maintain my political base there—Las Vegas is growing a lot faster than Reno—I’m going to keep getting elected.” But he didn’t do that. This was a major risk for him. Someone who says he did this because he wanted to enhance his political stature doesn’t understand that nobody—I mean nobody—at the beginning of this process thought it was ever going to be successful. Anybody tells you they weren’t surprised that that negotiation was successful is not being candid, because there was nobody who thought it was going to make it.

“It just doesn’t make sense, because if you had measured the benefit/risk ratio, it would have all been, ‘Forget that. Walk away from it and deal with something else.’ . . .”

So at any rate, that’s the way I react to that. It just doesn’t make sense, because if you had measured the benefit/risk ratio, it would have all been, “Forget that. Walk away from it and deal with something else.” And he didn’t. So it makes no sense, and it wasn’t Sierra Pacific Power Company. Sure, Sierra Pacific Power Company is a major player, but what can you do? It’s like I said; you can’t ignore them. You’d like to maybe, because they’re a private company and you want to deal with government entities, but they own the water. So you can’t ignore them. You have to deal with them. And if they don’t like it up there, they ought to change the system.

“ . . . I really believe that there are a lot of people in TCID that have hard feelings because things didn’t work out the way they had hoped, and they look for a scapegoat, and . . . Senator Reid is always going to be their scapegoat because he didn’t stop the process when they walked away, and it succeeded, and they got left out, and they’re hurting more today than they would have been in the process. . . . ”

But, no, I really believe that there are a lot of people in TCID that have hard feelings because things didn’t work out the way they had hoped, and they look for a scapegoat, and I’m afraid Senator Reid is always going to be their scapegoat because he didn’t stop the process when they walked away, and it succeeded, and they got left out, and they’re hurting more today than they would have been in the process.

“ . . . the massive effort they showed at the very end of the process when this bill was going towards passage in Congress to change it and/or scuttle it shows that they realized finally that they were on the losing end of this. . . . ”

So that’s just the way it works. I think the massive effort they showed at the very end of the process when this bill was going towards passage in Congress to change it and/or scuttle it shows that they realized finally that they were on the losing end of this.

Seney: Let me turn the tape.

END SIDE 2, TAPE 1. NOVEMBER 7, 1995.
BEGIN SIDE 1, TAPE 2. NOVEMBER 7, 1995.

Seney: My name is Donald Seney, and I'm with Mr. Wayne Mehl in Washington, D.C., and today is November 7, 1995. This is our second tape.

Why don't we go to [the point at which] the negotiations have been completed, you've got the bill ready to go in. This is August of 1989.

Mehl: Right.

Seney: Should we go there or is there a better place?

TCID Tries to Kill the Legislation

Mehl: I was going to say, I think it's important to understand that it was not as difficult to draft the bill as it was to complete the negotiations, but neither was it automatic. There was great machinations over the language of the bill. I mean, words at this point become very important, and we had probably six different drafts of this bill.

Seney: Is that a lot, by the way?

“We negotiate an agreement. Now we have to negotiate the language of the bill. . . .”

Mehl: That was a lot. That was a lot, from my experience, because we're negotiating. We negotiate an agreement. Now we have to negotiate the language of the bill. We just can't

simply write it and say, "Okay, here's the agreement." There were people out there saying, "I don't know about that language. I'm not sure that means what we thought it meant."

We had also one other problem come up. You may or may not have heard about it. Immediately when we started drafting the bill, we got a commitment from Senator [Bill] Bradley for a hearing. I believe this was probably the first time that the Truckee-Carson Irrigation District folks really thought, "Well, maybe this thing is going to go somewhere." And they pulled out the stops and went to the governor's office.

Seney: Governor [Richard] Bryan at this time?

TCID Got Nevada Governor Bob Miller to Oppose a Hearing on the Legislation

Mehl: No, no, Governor [Bob] Miller. This is 1989. They went to the governor's office, and through his staff, went to his staff, basically, and were able to convince some people on his staff to suggest to the governor that we were moving way too quickly and that the hearing ought to be called off because it wasn't appropriate to have a hearing on legislation that TCID had not had an opportunity to look at and that the state had not had an opportunity to look at.

Senator Reid took the only tack that he could, and that was to oppose that publicly. In other words, he made it a public issue that we might lose this because of the governor's

objection. Governor Miller and Senator Reid are very good friends. (laughter) But this was a problem. Governor Miller was new, [his] first year really in office after Governor Bryan became Senator Bryan at the end of 1988. So he's new to this, he has not been in the process, and we are on a very short time frame at this point in time in order to get something done, because the sense was we wanted to finish it in that Congress, and we were just getting started and we were already in July of the first year.

So having done that, [Governor] ~~Senator~~ Miller very quickly withdrew his objections to our proceeding, after discussing it with Senator Reid. But that was definitely an effort that came right out of TCID to try to get the state government to create roadblocks for this because TCID was unhappy with it moving forward.

Seney: Why would Senator Reid do this publicly instead of just giving Governor Miller a call?

Mehl: Well, we didn't have time, is what it amounted to.

Seney: And even more pressure would be generated?

Mehl: More pressure, and was. I mean, it became a front-page story and very quickly had the effect that was desired.

Seney: The effect being, I suppose, to mobilize those who now had an interest in this.

Mehl: That's right. Everybody that had an interest in

this called Governor Miller.

Seney: The state of California, the state of Nevada, the Conservation Department there who negotiated the agreement, the Sierra Pacific Power Company.

Mehl: Well, the Conservation Department who negotiated the agreement was primarily advising him to slow it down, but what we needed was the business interests in Reno and Carson City and the general public and environmental groups. By this time now you've got environmental groups involved in this, because they see the ability to do some good for their interests as well.

Seney: They'd been brought in for some time now.

Environmental Groups

Mehl: They'd been brought in, and they had been sitting in for some time. They were not, as I say, an active negotiator, but they provided us with what they were looking for out of this, and there was going to be every effort to try to meet their needs. They were observers of the negotiations.

Seney: Was the wetlands restoration in this first bill?

“ . . . we had made a commitment to the environmentalists . . . make sure that the fish would be saved.. . . try and save Stillwater National Wildlife Refuge. . . .”

Mehl: It was. From the very beginning, we had made a commitment to the environmentalists that there

were two things that we would try to do for them. One was, of course, the fish, make sure that the fish would be saved.

Seney: The cui-ui and the cutthroat.

Mehl: The cui-ui and the cutthroat, make sure they would be saved. Secondly was to try and save Stillwater [National wildlife Refuge], because Stillwater had all but disappeared during the drought, and that we would, in effect, create a program to buy water and dedicate it to Stillwater so that it could survive as the wonderful wildlife refuge it is. And that's essentially their interest.

Seney: Why was the state--and I take it we'd be talking about Roland Westergard probably here at this point?

Mehl: Roland Westergard and Pete Morros.

Seney: Why would they be opposed to it? Was it over the minimum pool in Lahontan?

Mehl: Opposed to the wetlands?

Seney: Well, not to wetlands. I'm not saying this right. You said that they were advising the governor.

State of Nevada's Interest in the Legislation

"They were advising the governor that Nevada . . . should be defending TCID in this process. . . ."

Mehl: They were advising the governor that Nevada had

obligations towards TCID, that they should be defending TCID in this process.

Seney: That would again have been Mr. Westergard⁴ and Mr. Morros⁵ would have been doing that?

Mehl: Right.

Seney: But the governor backed down once you had mobilized?

“ . . . not something you like to do, but we . . . felt that we had been blindsided by . . . some people within the state government . . . in a short time frame . . . Senator Reid felt that the quickest way to get a reaction would be to simply make it a public issue. . . . ”

Mehl: As I said, it's not something you like to do, but we kind of felt that we had been blindsided by the actions of some people within the state government, not Governor Miller particularly, but some others within the state government had taken this action on their own, knowing full well what the result would be, which would be to kill the bill. And our reaction was such that, as I say, in a short time frame we were trying to get a hearing on this. I mean, this was within a couple of weeks of the scheduled hearing. Senator Reid felt that the quickest way to get a reaction would be to simply make it a public issue. And there

4. Roland Westergard participated in Reclamation's oral history work on the Newlands Project.

5. Peter (Pete) Morros contributed to Reclamation's oral history work on the Newlands Project.

was nothing wrong with that. I mean, it was a formal letter from Governor Miller to Senator Bradley.

Seney: And once you had decided to do this, that is, to go public with this, I expect you must have taken the trouble to make some phone calls.

Mehl: Governor Miller and Senator Reid are very good friends and always have been and always will be. This did not create more than probably five minutes of disagreement.

Seney: And what you're doing, really, for the governor and the other interests, too, is you're demonstrating to them that there's a very powerful political coalition behind this.

Mehl: That's right. As I said, it was very difficult for the governor's position, because he was getting advised by his staff on one thing. He had not been there to see the coalition that had been put together on this, and this was really the easiest way to bring it to his attention.

Seney: And to forestall, probably, any further problems.

“ . . . there were some very committed people by this time to scuttling this. . . . spearheaded by TCID all the way through the process.”

Mehl: Forestall all that, because that's another thing. You could have solved this one privately and you could have had another one come up, because there were some very committed people by this

time to scuttling this.

Seney: TCID?

Mehl: TCID. Within TCID.

Seney: Particularly.

Mehl: Yes.

Seney: You're referring pretty much only to TCID at this point?

Mehl: At this point, yes. They had gained some allies in the city of Fallon and some of the other small urban areas around there that were dependent upon . . .

Seney: Fernley.

Mehl: Fernley and others that were dependent upon groundwater, by basically misrepresenting what the settlement would do, but this would continue to be spearheaded by TCID all the way through the process.

Seney: In these hearings—these are the February 1990 hearings before Senator Bradley's committee that you're talking about?

**Drafting the Legislation and the Hearing Before
the Senate Sub-committee on Water and Power**

Mehl: Yes.

Drafting Was Done 1989-1990

I was going to say we start drafting in the summer of 1989 and we draft throughout the summer and into the spring of 1990 'til we've reached a point where we feel like we have a document.

Some Disagreements Still Remained

Basically what happens at this point in time is we reached a critical point sometime in the spring of 1990, where we had done just about everything we could do, and yet there were these outstanding disagreements that continued to plague us, from relatively small things like, what lawsuit's going to be dropped and what lawsuit isn't going to be dropped if this goes through? Did the bed and the banks of the Truckee River within the Pyramid Reservation belong to the tribe or did it belong to the state of Nevada? Some of these same questions were still out there.

“ . . . we reached a point where Senator Reid instructed me to write it in the best that I thought, the fairest that I thought it could be, and we wrote it in, and we said, ‘We’re going with this, and if you don’t like it, come and testify against it.’ . . . ”

Basically we reached a point where Senator Reid instructed me to write it in the best that I thought, the fairest that I thought it could be, and we wrote it in, and we said, “We’re going with this, and if you don’t like it, come and testify against it.”

“The only people that chose to do that was TCID. . . there were things in there . . . that the tribe didn’t like . . . the state of Nevada didn’t like . . . Sierra Pacific didn’t like, and others, they came in in support of it. . . .”

The only people that chose to do that was TCID. Even though there were things in there at that point in time that I wrote in that the tribe didn’t like, there were things I wrote in there that the state of Nevada didn’t like, there were things I wrote in there that Sierra Pacific didn’t like, and others, they came in in support of it.

Seney: These were then the February 1990 hearings.

Mehl: Correct.

Seney: In the introductory remarks that Senator Reid made, he made reference to TCID’s continuing opposition.

Mehl: They opposed this right on through the vote. I mean, the wee hours of the morning of the last day of the Congress—I suppose Senator Reid told you--this was the next to last bill to pass the Congress. The lobbyists for TCID were still trying to find people to stand in the way of it.

Congressman Gary Studds’ Committee Considered Looking at the Bill

I can remember at one point getting a call from Gary Studds’ office, Congressman Studds, who was then Chairman of . . .

Seney: Merchant Marine.

Mehl: Merchant Marine and Fisheries Subcommittee, but had to do a lot with endangered species. They challenged us as to whether or not we were doing enough to protect the fish. They had been put up to this. I mean, they knew very little about what was going on.

I mean, it's not their fault, but they had never been asked to look at this, because there had been no question, the federal government had said that we'd met all the requirements of the Endangered Species Act, but they had been put up to this, and this was an effort, a last-minute effort. This was three or four days before the end of the session, to try and get them to demand jurisdiction, which would have killed the bill, or had a good chance of killing it. This was an effort to kill the bill; it wasn't an effort by the environmentalists to help the fish. It was an effort by people who were trying to create mischief at that point in time.

We went over and had a meeting with them, sat down. Harry said, "Gary, I'm saving the damn fish." (laughter) "That's it." And again, Congressman Studts asked for proper portion of the bill to review, he did, and accepted that that was sufficient, and that was the end of it. But I mean, there were efforts right up to the very end.

Seney: And this was TCID's efforts.

“It was TCID’s lobbyist that was making the rounds and trying to create the problem. Actually, it was kind of ironic, because it was former Congressman James (Jim) Santini who Harry defeated for the U.S. Senate in 1986. . . .”

Mehl: It was TCID’s lobbyist that was making the rounds and trying to create the problem. Actually, it was kind of ironic, because it was former Congressman [James (Jim)] Santini who Harry defeated for the U.S. Senate in 1986. (laughter)

Seney: Was their lobbyist who was handling this?

Mehl: Yes.

Seney: My understanding is that they even succeeded at getting someone in the House to temporarily put a hold on the bill for a couple of hours. Are you familiar with that?

A Member of Congress Briefly Put a Hold on the Bill

Mehl: I’m trying to think. Yes. I’m not sure I can remember who it was. I don’t think I can. The last thing that happened was this hold, and I’m not sure, to be honest with you.

Seney: It lasted only a couple of hours.

“Had this bill not passed, it would never have passed. No one would have gone back in a new Congress and tried to start this. . . . my final

action in this thing was to write in language that had not been agreed to . . . We got to the point where we made decisions that either the people that want this want it, or they don't want it, and this is the way it's going to be. And had it not made it, it would have started unwinding. . . ."

Mehl: A couple of hours. As soon as he found out who it was, he was able to get it lifted, but they were pulling out all the stops. They thought if they could just get [it stopped] and I think they were right. Had this bill not passed, it would never have passed. No one would have gone back in a new Congress and tried to start this. It would unravel. I mean, as I said, my final action in this thing was to write in language that had not been agreed to; minor language, admittedly, but, nevertheless, language. I mean, we made some decisions. We got to the point where we made decisions that either the people that want this want it, or they don't want it, and this is the way it's going to be. And had it not made it, it would have started unwinding. It's one of those kind of things that was much too complex.

Seney: Let me ask you about that, because this is one of the things that the people out in TCID have said to me, that Section 206 gets added. Here are the hearings. Section 206 is not in the original bill that's discussed during the hearings. Section 206 then gets added, which they see as kind of punitive and kind of a punishment exacted on them for their attempts to kill the bill.

Adding Section 206 to Public Law 101-618⁶

“ . . . Section 206 was an initiative by the federal government. . . . Senator Reid had blocked putting that into the bill . . . but . . . maybe he lost his enthusiasm for blocking it after what he thought were some very, very unfortunate shenanigans on the part of TCID to try to kill the entire bill. . . . they essentially alienated the people that were looking out for them. . . . ”

Mehl: Basically what it was, was that Section 206 was an initiative by the federal government. That’s all stuff that the federal government had always thought should be in this bill as it applies to

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

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

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

TCID. Senator Reid had opposed putting that into the bill and then blocked putting that into the bill. It's not punitive, but let's put it this way, maybe he lost his enthusiasm for blocking it after what he thought were some very, very unfortunate shenanigans on the part of TCID to try to kill the entire bill. And that's what it amounts to. I mean, they essentially alienated the people that were looking out for them.

Seney: Section 206⁷ deals with—let me refer to an explanation in a report that explains some of this, because I can't always remember exactly.

Mehl: You're getting this from my memory now.
(laughter)

Seney: You're doing very well. Section 206—and I'll have the page in just a minute here—deals with the wetlands business; that is, the 25,000 acres of primary wetlands on average.

Mehl: That certainly was not punitive to TCID.
(laughter)

Seney: No.

Mehl: It's a benefit to TCID.

Seney: But it deals with some other matters here, some of the Navy lands, but there is some other language in here. I'm sorry I didn't make a note of it

7. Section 206 is included in Appendix 1 of this oral history interview.

beforehand. I thought I would remember it.

Mehl: Talking about the recoupment?

Seney: I'm talking about recoupment and the lawsuits, the barring of the certain lawsuits and so forth that was put into it. I know we kind of shift around; it's impossible not to. I want to go back to the hearings, talk about the hearings.

How the Issue of Recoupment Came to Be Included in Public Law 101-618

Mehl: I can tell you a little bit about recoupment if you want to fill that in.

Seney: Sure.

Mehl: Recoupment dealt with the issue of the level of Pyramid Lake. The tribe had always contended that there had been 100,000 acre feet of water wrongfully diverted by TCID.

Seney: A million fifty-eight thousand.

Mehl: What am I thinking? A million fifty-eight thousand. I said 100,000, but a million is what we usually used. Wrongfully diverted by TCID. You work for the government long enough, you get your billions, millions [mixed up]. (laughter) But we had worked out an arrangement which, barring recoupment of that 1 million acre feet of water, would still allow the fish to spawn and survive.

What that million-acre-feet, the

importance of that was that that would raise the level of Pyramid Lake to a level that the tribe felt would be more appropriate for their use of Pyramid Lake as well as for the habitat for the fish.

“ . . . if TCID had been part of this, there would not have been anything in this legislation that dealt with recoupment; it would have been simply left for them and the tribe to sort out in court. . . . ”

But one of the agreements that we were attempting to do all through this process was that the recoupment was outside any agreement, and if TCID had been part of this, there would not have been anything in this legislation that dealt with recoupment; it would have been simply left for them and the tribe to sort out in court.

What happened was that ultimately, as I said, when it became obvious that TCID was doing everything they could to scuttle this agreement, the federal government, if anybody was upset, it was the federal government and the tribe, so the federal government basically said, “Well, we’re going to put language in there that says we’re going to do everything we can to assist the tribe to recoup this water. It’s their water, it’s always been their water, they were good enough to leave this outside the bounds of the negotiation and not include it in anything that they were going to deal with in terms of the federal government getting involved, but to hell with that. If there’s no interest in this agreement, then we should be going after what we legitimately think is the

obligation of TCID.” And that’s how 206, in terms of that portion of it—and that’s what I think they believe is punitive.

Seney: Yes.

Senator Reid Did Not Propose Inserting Section 206 in the Legislation

Mehl: That’s how it ended up in there. It wasn’t Senator Reid. In fact, that’s why it wasn’t in the original version was because he felt that you should not be punitive to TCID on that. That was beyond the scope of what we were trying to accomplish. That was purely a question between the tribe and TCID.

Seney: There are a number of interlocking parts to this legislation. One thing can’t happen until something else happens. In this case, until recoupment is resolved, water banking can’t take place.

The Bill Specified That Water Banking Couldn’t Occur until after Resolution of the Recoupment Issue

Mehl: That’s right. That, again, would not have been the case under the original version of the bill. Water banking would have been available to them immediately on the passage of the bill, but it got locked into recoupment now because the sense was, “If you’re not part of this, then you’re probably going to have to fend for yourself.”

Seney: Now let's go to the hearings, because I want to get into this. They're very interesting to read. I know you know Bill Bettenberg⁸ well.

**Hearing on Public Law 101-618 before Bill
Bradley's Committee**

Mehl: I know Bill quite well.

Seney: He urged me to read these particularly for Assistant Secretary of the Interior John Sayre's testimony, which was regarded as highly deficient, I guess, to put it charitably.

**Initial Department of the Interior and Navy
Testimony Before Senator Bradley's Committee
Was a Disaster**

Mehl: This is an interesting process. This is another little side process, very important, but happened aside. We had this set of hearings called for this, and the first panel that appeared involved Assistant Secretary of the Interior for Indian Affairs.

Seney: [Eddie F.] Brown.

Mehl: Brown. Involved . . .

Seney: [Constance] Harriman.

Mehl: --Harriman, Fish and Wildlife. It involved

8. Bill Bettenberg contributed to Reclamation's oral history work on the Newlands Project.

Secretary Sayre. And there was a fourth, I thought.

Seney: A person from the Navy, an admiral [Read Admiral Steven R. Briggs].

Mehl: Somebody from the Navy. Right. Well, at any rate, they started asking questions, and it was so obvious; I mean, not only were they not knowledgeable of what was going on in the settlement, but they began to fight with each other. In other words, [Assistant] Secretary Brown was picking on Sayre, Sayre was picking on Harriman, Harriman was picking on . . . (laughter) I mean, what was so obvious was, I mean, I have never seen a group of senators just kind of look at each other like, "What is this?" I mean, "deficient" is a kind word.

Ultimately Bill Bettenberg and Fred Disheroon Were Chosen to Represent the Federal Government's Position on the Legislation

The result of that was that Bill Bettenberg was chosen and given a mandate to represent the federal government, along with Fred Disheroon, Fred Disheroon being the lawyer, Bill Bettenberg being the substantive person on this issue to try and coordinate a federal response, because they clearly had none at the time they came in and testified. (laughter)

Seney: And they were opposed to the bill.

Mehl: They were opposed to the bill.

Seney: They picked different things to be opposed to. And one of the things they had not done—and you could certainly tell me if this is a big blunder on their part, is they hadn't gotten their written testimony in to the committee.

“They had not supplied any written testimony. I mean, they were clearly totally unprepared to deal with this . . .”

Mehl: They had not supplied any written testimony. I mean, they were clearly totally unprepared to deal with this, and this was not a surprise.

Seney: And Bradley was very unhappy.

“. . . at this point in time, there was still a huge amount of doubt [in the Federal agencies] out there about this thing ever becoming a reality . . . we didn't have anybody [in the negotiations] . . . because they didn't offer to send anybody. . . .”

Mehl: It's the same thing. I keep going back. It's the same thing. Even at this point in time, there was still a huge amount of doubt out there about this thing ever becoming a reality, because they kept thinking, “Well, sure they've got an agreement. They haven't got Congress on board.” All these things.

And I'll be honest. The initial portions of the discussion that we had in our negotiations, we didn't have anybody, a Bill Bettenberg, there, because they didn't offer to send anybody. They didn't even care enough to take part in these

discussions, so how could they possibly testify intelligently on it?

Seney: My feeling, reading this and then the little knowledge I have subsequently, is that this really was an advantage to you, though, that the Interior Department was in such disarray.

The Assignment of Bill Bettenberg Was a Big Advantage

Mehl: (laughter) I think it was a real advantage. The biggest advantage was getting Bill Bettenberg.

Seney: Because he's very committed to these kind of things.

Mehl: He was given this as literally a full-time job, which we could have never gotten anybody else's attention at that level. So that was a big, big benefit, a big plus for us to get Bill.

Seney: And he's committed to these kinds of things, restoration of wetlands.

Mehl: He believes in what we're doing.

Seney: And fisheries and Indian trust responsibilities and so forth.

“ . . . that's the point . . . you kind of look at the big picture . . . what we did more than anything else was prove that you can solve these problems . . . by bringing in the interested parties and negotiating them out sentence by sentence,

phrase by phrase, period by period. . . .”

Mehl: And he also believes in negotiated settlements. Really, that’s the point, you know, that you get to ultimately when this is all said and done and you kind of look at the big picture, is it’s nice that we solved that problem up there, but what we did more than anything else was prove that you can solve these problems without being federally mandated to do something that no one thinks makes any sense, that these problems can be solved by bringing in the interested parties and negotiating them out sentence by sentence, phrase by phrase, period by period.

The Importance and Difficulty of a Negotiated Settlement

It’s a lot more work—four years. I spent four years of my life on this thing, basically. There were times when I saw those people in Reno more than I saw my wife over that period of time. But it proves you can do it if you have the key elements involved, one of which is patience.

“. . . it’s like pushing a worm; it doesn’t work. You’ve got to let them move and just try to nudge them in the direction that clearly they and everybody else knows they have to go. . . .”

I used to try to tell Harry or anybody who wanted to talk about this, it’s like pushing a worm; it doesn’t work. You’ve got to let them move and just try to nudge them in the direction that clearly they and everybody else knows they have to go.

I mean, this is one of those situations, my role in this thing was everybody knew where they had to go, but they didn't always want to go there. (laughter) So I had to convince them that it was less painful to go there than to go someplace else. And to do that, the only way you can do this, you've got to let the participants do it, but you've got to be able to give them some guidance, and just enough guidance so they don't feel like they're being forced, but yet they know that they really don't have this direction to go anymore if they want something to happen.

I always considered my greatest success is I have no enemies from this process. (laughter) I mean, even people at TCID, the directors at TCID, I don't think to this day a one of them will say that I did anything in this process that wasn't appropriate. They may not agree, but they . . .

Seney: No, they all speak highly of you.

Mehl: But I don't think they ever felt that I stabbed anybody in the back, but that's the process. That's the way it works. It's the only way. I think our bigger picture is, we showed that you can go out there and do this and get something that everybody's happy with when it's over with. I mean, we've had so many many water settlements, Indian water settlements, in the early 1980s where there was just animosity on all sides when it was done? And it carried over into all kinds of other activities.

Administrative Branch of the Federal Government

**Newlands Project Series
Oral history of Wayne E. Mehl**

Begins to Participate Actively

But anyway, getting back to the hearings, the best thing that came out of that was Bill Bettenberg, because he then immediately, in cooperation with Fred Disheroon, we had the federal government there, participating actively and positively, trying, as you said, to settle this thing.

This also changed a whole lot of other things. For the first time really it gave an indication that the federal government's mission, if you want to call it, in terms of these kind of things, has changed. It's no longer just irrigating semi-desert, you know. No matter how much you like—and Fallon is a beautiful place when they've got a lot of water, and there's nothing nicer than Stillwater. I don't know if you've ever seen it or not in full bloom, but it's a wonderful place. But it's not natural and there's no way that you can ever make it natural. While it's good that we were able to protect some of this in the process of negotiation, I think it also made everybody knowledgeable that you just can't do this anymore. Don't have the resources available.

Seney: I want you to talk about Senator Bradley's role in this. I've watched videotapes of the hearings that were held, the oversight hearings, that were held, and he mispronounced "cui-ui." I don't know if he learned subsequently to say it. It brought some laughter and scorn from quarters that would not surprise you, of course. But I was very impressed in the hearings, in the 1990 hearings, with how

knowledgeable he was about the project.

The Role of Senator Bradley and His Committee Staff

Mehl: He was a very quick study.

Seney: Talk a little bit about his role in this, if you will.

Mehl: To talk about his role, I have to back up and talk about the whole role of the staff as well.

Seney: Sure. Absolutely.

Mehl: Here we were in a situation where I thought that we were going to have a lot of trouble with the committee, not necessarily because they might not like the direction of where we were going in this thing.

Seney: Now you're talking about the Subcommittee on Water and Power.

Mehl: Right. But because we were doing things that probably weren't good, sound, established policy, I mean, we were breaking new ground, and I just expected that just from perspective of not necessarily congressional committees being the most creative bodies in the world, committees are always worried about setting a precedent, and we were definitely going to set some precedents in this thing. (laughter)

I just expected that we would get a lot of static about that, but the staff on both sides was

surprisingly accommodating. I mean, the Republican staff was very accommodating on this thing. They could have probably scuttled this if they'd wanted to, and they never did. Partially this was because I'd had the good fortune of working with the Republican staff.

Seney: Jim Beirne?

Mehl: Jim Beirne. Many times, on wilderness and things like this. So we knew each other personally and we had a good personal relationship, and we were able to talk on a personal level. I think Jim trusted that I had been around. He knew me. I had been around long enough that he knew I wasn't going to toss over the prerogatives of the Senate and the procedures of the Senate in order to try to do something silly.

“ . . . the staff on the Democratic side, had to prepare Senator Bradley in a very, very short period of time. This was a complex piece of legislation . . . ”

But primarily our staff, the staff on the Democratic side, had to prepare Senator Bradley in a very, very short period of time. This was a complex piece of legislation that had basically gone through three and a half years of negotiation, and there still weren't a lot of people who could sit down and tell you what was involved in this, who would even take a part in those three and a half years of negotiation.

“He basically had to get up to speed in a little

more than a few weeks, and I think he did great. . . . Senator Bradley took it up as a good example of sound government policy that was beneficial to all the interests involved. . . .”

He basically had to get up to speed in a little more than a few weeks, and I think he did great. If he mispronounced “cui ui,” he’s probably not the only person in the country to do that, but he understood what was happening and he took it upon himself, literally, to go out and convince the rest of the Senate that this was a good idea.

“It saved Senator Reid having to go out there and fight this battle with the rest of the Senate as just somebody trying to do something for his state. . . .”

It saved Senator Reid having to go out there and fight this battle with the rest of the Senate as just somebody trying to do something for his state. Senator Bradley took it up as a good example of sound government policy that was beneficial to all the interests involved. He took that stand, and once he took that stand, that greased the skids.

Seney: Gave a lot of credibility among the other members.

“ . . . I give Senator Bradley nothing but credit . . . essentially an Easterner . . . he learned a lot quickly. He trusted us a lot that we had done a good job, and his staff was excellent in preparing him. . . .”

Mehl: Gave a lot of credibility among the other members. I mean, I think Senator Reid could have done it, but it would have taken him much, much longer. So I give Senator Bradley nothing but credit on this, and again you have a man who was essentially an Easterner and, I'm sure, not completely familiar with all the machinations that you go through in terms of Western water. So he learned a lot quickly. He trusted us a lot that we had done a good job, and his staff was excellent in preparing him.

Seney: Let me turn this over.

END SIDE 1, TAPE 2. NOVEMBER 7, 1995.
BEGIN SIDE 2, TAPE 2. NOVEMBER 7, 1995.

Seney: During the hearings, Senator Bradley essentially opened the door to TCID again for another ninety days, wanting to include them and get them to come in. What happened then?

Senator Bradley Offered TCID Another Opportunity to Join the Process

Mehl: Well, they were offered the opportunity to try to find language that could be added to the bill that could be of some benefit to them, even if it wasn't everything they wanted. He offered them this period of time to get involved.

Seney: What were the things that might have been added?

Mehl: The things that might have been added might have

been water banking, could have been upstream storage.

Seney: Funds for municipal water system?

Mehl: Funds for municipal water system, funds for efficiency improvements, things like this. These were all things that could have been added at that point in time.

Seney: And probably would have been added.

Mehl: Probably would have been added had they taken the opportunity.

“ they drafted a piece of legislation and submitted it for inclusion, which essentially unwound the OCAP, and that . . . we couldn’t do. . . . it simply would just tear the agreement apart. . . .”

However, they drafted a piece of legislation and submitted it for inclusion, which essentially unwound the OCAP, and that was the one thing that we couldn’t do. We could not unwind the operating criteria and procedures. If you did that, then you changed the water allocation on the entire river, and it simply would just tear the agreement apart. They had to know that at that point in time. I mean, that’s why they weren’t in it in the first place, because we couldn’t unwind the OCAP.

And so there was no sense coming back at that point in time with that proposal, but that’s what came back, and it was pretty disappointing.

“When that was essentially turned down, that was when they essentially moved to starting to simply attempt to delay and defeat the bill . . .”

When that was essentially turned down, that was when they essentially moved to starting to simply attempt to delay and defeat the bill, hold it over ‘til the next Congress, where they could get another shot at it.

Seney: What was Congresswoman [Barbara] Vucanovich’s role in all of this? She actually put in another bill, did she not?

Member of Congress Barbara Vucanovich

Mehl: She did. She did.

Initiated Another Bill Which Clarified Her Support of Benefits for TCID but Ultimately Agreed to Support P.L. 101-618 Having Made Her Points

She put in another bill, and one of the provisions in her bill involved—oh, I can’t do it off the top of my head now, but it involved some money for efficiency improvements and things like that, which Harry told her that he was fully supportive of and would have supported if it could have been worked into the bill.

What she basically did was that she said that given the fact that there were further changes that she felt were needed, further benefits for TCID, that given the fact that she could make her position clear what those ought to be in her bill,

then she could support, and did support, the larger settlement.

Seney: So she didn't really push her bill?

Mehl: She did not really push her bill. It was a statement of policy, I think, on her part. Much of what she proposed were things that could have been done through the Appropriations Committee and things like that. I honestly can't tell you whether those have been done or not, since I haven't been active in this thing for three years now, so I don't know whether she's taken that step.

“ . . . it was her effort to say, ‘Here is what I believe needs to be done in addition to the settlement, and I will try to do this if I can, but I will not oppose a settlement in the process . . .’ ”

But it was her effort to say, “Here is what I believe needs to be done in addition to the settlement, and I will try to do this if I can, but I will not oppose a settlement in the process, because I believe that as far as they went was appropriate.”

Seney: The senator must have met with her, talked with her.

Mehl: He did.

Seney: Did you deal with her or her staff?

Mehl: I dealt with her staff on this, and he dealt with her,

and once we had an outline of an agreement, we brought her in and attempted to keep them fully informed of everything in that process from there on.

Seney: Because as you look out to potential trouble spots, she most certainly could have been one.

Mehl: Oh, yes. It would have been one of those situations, had Mrs. Vucanovich taken a position in opposition to the essential tenets of the bill when it was first provided and presented to her, it probably wouldn't have gone any further.

Seney: She could have killed it, you think?

“ . . . I don't think it's the kind of thing that could have passed without full support of all the delegation plus the governor. . . . ”

Mehl: Well, I think we would have had to certainly respect her position, and I don't know if it would have come to trying to roll it past her and making her kill it or not, but I don't think it's the kind of thing that could have passed without full support of all the delegation plus the governor. I think everybody had to be on board.

Seney: And obviously they were in the end.

Mehl: Yes.

Seney: And this is Senator Reid's part of the process, is it, to make sure these political people are lined up?

**He Provided Information, but Senator Reid
Worked with the Politicians to Work out Their
Support**

Mehl: Yes. I didn't have to do that; that was his responsibility, was to work with them and make sure that they were satisfied with what we were doing. If there were questions or information was needed, I'd supply it, but he was the one who basically sat down with each of them and worked out their support.

Seney: That's a matter of protocol, I suppose.

Mehl: That's a matter of protocol.

Seney: These elected people deal with one another.

**When a Bill Benefits a State, Particularly a Small
One, You Want the Entire Delegation in
Agreement**

Mehl: That's right. All the time. When it's a state issue like this. I mean, if it's a national issue or something, they all vote, take their vote, and whatever happens, happens. But if it's something to benefit the state, then you generally, particularly when you only have a small delegation like we do, you want everybody on board.

Seney: And the Senate kind of expects that, do they not?

Mehl: They do.

- Seney: When the state people all agree . . .
- Mehl: Had Barbara wanted to go to the Republican leadership in the Senate and complain that she was being mistreated on this, she would have gotten some attention.
- Seney: I'd like you to comment on the role of individuals in this process. You've said something about some of them already, but what about Bob Pelcyger, on the whole?

Bob Pelcyger and His Work for the Pyramid Lake Paiute Tribe

- Mehl: Bob Pelcyger⁹ is probably the best advocate for an Indian tribe that I've ever run into, and also one of the smartest people I've ever run into. I think that he absolutely can control a situation with his experience and his knowledge. He did well by that tribe.

Bob's only shortcoming that I feel is he can get bogged down in argument beyond the point where it's useful, and sometimes you have to kind of shake him a little bit and get him refocused on, "Let's move on. Let's get off of arguing." Like I said about the 600 acre feet of water. I mean, to Bob, his position was right; therefore, he was prepared to advocate that and argue it until he prevailed, if possible, when really he may have been right, but it didn't matter

9. Bob Pelcyger contributed to Reclamation's oral history work on the Newlands Project.

because it wasn't enough to argue about and there were bigger fish to fry. Once you can get that across to him, then he refocuses and you're okay. That's the only problem that I've had. He's a tremendous lawyer, but sometimes he doesn't know when to quit being a lawyer. (Laughter)

Joe Ely

Seney: What about Joe Ely?

Mehl: Joe Ely was an amazing person to me. Not overly educated, I think he has a high school education, that's about it. He came to fame basically, in connection with the problems of the Laxalt compact issue, was he led an opposition group within the tribe. The tribal leaders had actually agreed to that compact. Joe Ely led an opposition group and defeated it successfully, and in spite of lack of formal education, he developed into a very articulate, sound leader, and he, in fact, was the one person who could control Bob Pelcyger. When I really had problems with Bob, I always went to Joe. (laughter) And Joe would get Bob in line, because he could do it. It was amazing.

I can still remember the first time that I met Joe Ely was on this initial trip that I told you I took out there in January of 1987, in the BIA [Bureau of Indian Affairs] agent's office. He was a young fellow, and I can remember sitting there at the table talking to him, and he was so nervous, his hands were shaking so bad, because he was so nervous because he'd never really, I'm not sure, had done much of this before, and his voice was

quavering. Four years later when he testified in front of that committee, he was the consummate statesman. I mean, the growth that took place, he really just came into full bloom during this process, and at the end was clearly the leader of the process.

The tribe, they have restrictions just like everybody else on how many terms a chairman can serve, I guess, but that tribe would have been well served if they had kept Joe Ely on, because he really had a handle on what was going on out there, and I think had he had this past four years to see this thing implemented, that it would have been done in a very, very fine way. But he was a very impressive individual.

Seney: What about Joe Gremban?

Joe Gremban

Mehl: Joe Gremban was the kind of guy in this process that his major role in this was a lot like Harry's, and that was he gave the authority to the people that had to do the day-to-day work to do it, didn't look over their shoulder. When the crunch time came, you really needed some extra punch, Joe would be there and he'd make sure everybody knew where he was coming from and what he was willing to do, and he was a positive force. I mean, he never wavered in this support for this process all the way through.

Lyman McConnell

Seney: How about Lyman McConnell?

Mehl: Lyman had a very, very difficult job. Lyman was another person, good lawyer, but more than a good lawyer, was very smart, understood water. He may have understood water better than any of us, and understood the law of Nevada at least as well as Bob, and maybe better. He always suffered from being hamstrung, I think, by his ability [to get the support of his constituency].

“He . . . did not . . . have the full faith and support of his constituency. . . .”

He, unlike myself and others, did not, by any stretch of the imagination, have the full faith and support of his constituency. They were looking over his shoulder every minute. He was likely to be second-guessed no matter what he did, and it put him in a very, very difficult position.

“I really believe . . . Lyman wanted a good settlement out of this . . . If Lyman had been given the opportunity to go out and put together the best deal he could have for those folks, they’d be in a lot better shape today than they are. . . .”

I really believe in my heart that Lyman wanted a good settlement out of this, wanted to be part of it, but he just wasn’t able to deal with politics and was never given the opportunity to go out and see what the best deal was he could put together. If Lyman had been given the opportunity to go out and put together the best deal he could have for those folks, they’d be in a

lot better shape today than they are.

Fallon Paiute Shoshone Tribe

Seney: What about the Fallon Tribe? Were they well represented in these negotiations?

Mehl: The Fallon Tribe's representation in these negotiations was primarily the federal government. The Fallon Tribe knew what they wanted. They had a set of goals that they had wanted that had been there for a long time, and the federal government played a very good role in sitting down with them, providing them with guidance, and basically telling them what they could get and what they couldn't get. They were statesmen about this thing. They didn't get \$40 million like the Pyramid Lake Tribe did, but they got what they needed out of this and what was right for them, and they backed this thing 100 percent, even though, as I say, they didn't get everything that they would like to have gotten. But they were good soldiers on this, and I think they had excellent help from the federal government on this.

Senator Daniel Inouye Supported the Fallon Paiute Shoshone Tribe

Senator [Daniel] Inouye in the Senate Indian Affairs Committee really kind of took the Fallon Tribe to heart, because this was just 900 or so individuals down there who really had not for years been considered part of the process and had really been royally shafted over the years. I

mean, I think it was like 25,000 acres of land, water-righted land, that they had lost in this process in just recent years. It just wasn't a good situation. They were on a very small piece of land, the water's not very good, you know, and it's tough for them under the best of conditions. But I was glad to see them stick in there and the federal government do a good job for them. They righted a wrong as much as possible.

Seney: My understanding is that Senator Bradley wanted to make this bill part of an omnibus bill.

**For a Time Public Law 101-618 Was Part of an
Omnibus Bill**

Mehl: He tried that. (laughter)

Seney: And somehow Senator Reid spun it off and got it to the Indian Affairs Committee and out.

Mehl: Yes.

Seney: How did that work?

Mehl: Basically what happened was that Senator Bradley had a proposal to retool the Bureau of Reclamation and really wanted to do this badly. So he came up with an omnibus bill and attached this bill to it, I think to try to give it some cover. Didn't work. (laughter) Harry was very forthright. I mean, he went to Senator Bradley and said, "Look. I just can't afford to go down with this omnibus bill."

Seney: Which did go down.

Mehl: Which did go down, and Senator Bradley, I think, knew it was going to go down. He said, "So I have to go to Senator Inouye and see if we can't do this in another way." Senator Bradley said, "Yes, sure. Go ahead. Don't worry about it." But he had made an ideological commitment to try and pass this omnibus bill, which changed water policy everywhere, and felt that this bill ought to be part of that and pass as part of that. So I mean, he had done all the work, had all the hearings, and drafted all the legislation and everything else.

Moved the Bill over to the Indian Affairs Committee

We just took it en masse and moved it over to the Indian Affairs Committee, and they reported it out as a separate bill.

Public Law 101-618 Passed Both Houses of Congress

Seney: And it passed on unanimous consent.

Mehl: I think it passed in both houses. I'm not sure if it passed the House. I think it did.

Seney: I think it did, too.

Mehl: Passed in both houses without dissent, is my recollection.

Seney: And it went over to the House thirty-six hours

before the session was over, and I understand Congressman [George] Miller's people called you and said, "What is this?"

"They [Congressman George Miller's people] called us and said, 'What is this?' Although to be perfectly candid, we had talked to them in the past before this, but they had not focused on any of it. . . ."

Mehl: (laughter) Yes, that's exactly right. They called us and said, "What is this?" Although to be perfectly candid, we had talked to them in the past before this, but they had not focused on any of it.

Seney: It now had a new name.

Mehl: It now had a new name.

Seney: It wasn't Pyramid Lake.

Mehl: No, we had to change it.

Seney: It was Fallon Paiute Shoshone Settlement Act.

Mehl: ~~Well, we added. The bill that they had looked at earlier did not have the originally . . .~~ The Fallon Paiute Shoshone Bill was a separate bill and we lumped them in together at the end, so it made it somewhat different. We explained to them exactly that these were two previous bills that came through, and they said, "Fine."

Seney: They'd seen it under the old title.

Member of Congress Gary Studds

Mehl: They'd seen it under the old title. Right. As I say, those last thirty-six hours, and it was real nail-biting time because we went through in that period of time dealing with Gary Studds, who had been set off because we were trying to kill all the fish, and we had to deal with that.

“Then there was this mysterious hold that Senator Reid had to deal with, and a hold over there could only be a committee chairman. . . .”

Then there was this mysterious hold that Senator Reid had to deal with, and a hold over there could only be a committee chairman. An individual member could never put a hold on something. So we had to run down the appropriate committee chairman and work out that problem.

Things happened very strangely. There was a lot of give and take and trading, and I'm sure there was some in this. I wasn't involved in all the discussions at that point in time. But I remember sitting there in the office, and it was about a quarter to one in the morning, the last day of the session, and I had almost given up hope, because they had run through the bills that they were doing, and it had been higher up on the list and they passed over it.

Seney: This is in the House.

Mehl: In the House. Harry was over there. I was in the office by myself. Bruce Vento, Congressman

Vento, was working the floor, and there came the bill all of a sudden, and it was the next to the last bill, and it passed.

There Was an Effort to Get President George H. W. Bush to Veto the Bill

Of course, we still had the problem of people trying to—there was, we understood, an effort to get the president to veto the bill.

Getting President Bush to Sign the Bill

Seney: TCID-inspired.

Mehl: TCID-inspired.

Seney: Did you work on getting the president to sign it?

Mehl: We did. We contacted people that we thought had better lines of communication to the president than we did. (laughter)

Seney: Who did you contact?

Mehl: Sig Rogich, for one, who was working in the White House at that time.

Seney: Who's from Nevada.

Mehl: Who's from Nevada. And Senator Laxalt and others. And they all joined in at that point in time and encouraged the president to sign it, and he did.

- Seney: Senator Laxalt supported it then?
- Mehl: Yes, Senator Laxalt was very supportive of it.
- Seney: I understand that Senator [Pete] Wilson, soon to become Governor Wilson, was helpful.
- Mehl: He was. I should have mentioned him. He was very helpful on the California side. They encouraged him to talk to the president, and he did. He also, by the way, helped with the minority side in the Senate and the House, because he made it clear in letters to the leadership.
- Seney: That he was in favor of it.
- Mehl: That he was in favor of it.
- Seney: That's important.
- Mehl: That's very important, because essentially it was a Democratic initiative.
- Seney: And [Alan] Cranston had no problem with it?
- Mehl: He had no problem with it. He had been the primary player in killing the Laxalt bill, but he had no trouble at this point.
- Seney: Was it a hard piece of business to get it past President [George] Bush, or was that fairly routine?
- Mehl: It's always hard to tell, if you're not there, exactly

how serious consideration is being given to doing something like that. I think it would have been a very hard bill for him to veto under any circumstances, but we took it seriously when we heard that he was being encouraged to consider it, and at the end of a session like that, I mean, he doesn't even have to veto it, all he has to do is put it in his pocket. He has to sign it if it's going to become law. Unlike other times, the emphasis was on the positive side. We had to get him to sign it. It would not have become law without his signature.

So we took it seriously, although I think he was probably leaning our direction all the time, because I don't think, with Governor Wilson and others being supportive of it, I don't think he had any reason to particularly want to veto it. I mean, he had just simply gotten a phone call or two from people who had a reason to try and scuttle it.

Seney: How did you feel when the word came that he'd signed it?

Feeling of Personal Accomplishment When the Bill Was Passed and Signed

Mehl: Personally, twenty years I worked in the Senate, and the one thing that you can be sure of when you work those jobs on the Hill is that you very seldom ever get to see the product of your work. There are things ~~I started up there~~ that Senator Reid ~~is still working on, that he~~ started when I was there, that he's still working on. And there are things that will never come to fruition in just

that way. There aren't many times when you get the fulfillment of actually having been on something from the beginning to the end, and so that clearly was my greatest satisfaction came from working on that bill than anything I did up there, the greatest sense of accomplishment, because you really do something. I mean, it really makes a difference.

Many other things, even if you work on them and they get passed into law, you don't know if they're going to make a difference or not. We pass budget deficit-cutting bills and we still get budget deficits. But here was something that was a concrete piece of work and very fulfilling to get to take part in.

Seney: What haven't I asked you that I should have asked you about?

Mehl: Boy, we've talked a lot about it. I'm not sure that there's much more that I can add at this point in time. I guess the one thing that I'd like to add on this that would be worthy of being part of this is to give appropriate credit to the people in the local entities that were involved in this, from Pete Sferrazza, mayor of Reno, to some of the people that we worked with in the environmental movement.

David Yargas

For example, we haven't talked about this, but this became a larger environmental issue. I'm not just talking about the wetlands now; I'm

talking about the whole process, the fish and everything else. It became a larger environmental issue just than that; it became almost a national environmental issue. I'm not sure whether you've talked to the young man from National Wildlife . . .

Seney: Graham Chisholm?

Mehl: No, no.

Seney: David Yardas?

Mehl: David Yardas.¹⁰

Seney: Yes, I have.

Mehl: David Yardas did yeoman work in this. His name is hardly ever mentioned in connection with this, but he did a lot of work night and day. He was a calm personality in the room. Whenever anything got wild, he was able to settle it down, and he always gave good information. You never had to question his information. There were people like that involved in this that really haven't gotten much limelight on them, but that were essential elements to this and were committed. David is one of those people who was committed 110 percent, not only to solving the Nevada problem, but the process of the way we were doing it and trying to work these things out. This was his approach to things. He was there because he

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

wanted to see water issues in California, which is where they're home-based, worked on this way, where people were able to sit down and negotiate with your neighbors about how you're going to do these problems. So I think that's important.

This Settlement as a Model for Other Settlements

The other thing that I would add is that a lot of people have talked about this maybe becoming a model, a paradigm, for future negotiations like this. In fact, I've sat through a number of things. I sat through one meeting with tribal leaders from a tribe in Idaho that were negotiating coal rights. They had coal on their property, and they were trying to negotiate coal rights. But they were interested in how we did it.

“ . . . the key to this whole thing was . . . firm patience. . . . You have to narrow the focus. Sometimes it's like herding cats . . . try to get them moving in more or less the same direction, and then have the patience to let them get there all by themselves. . . . ”

All I have to say to somebody who's going to get involved in that is the key to this whole thing was patience, what I call firm patience. You can't let people spin around in whatever direction they want to. You have to narrow the focus. Sometimes it's like herding cats; it's not very easy. But you have to narrow the focus, try to get them moving in more or less the same direction, and then have the patience to let them get there all by themselves.

The tendency is to want to leap to the conclusion. There were times where I knew where we were going. I knew that was the only place we could ever get to, and it might take three or four weeks to get there, but the minute--and I did it a few times--the minute you applied a little bit too much pressure, you would start losing the cohesiveness. Things would start splitting off. So you had to have the patience to let them find it as a group, and they always did. I don't remember one instance where sooner or later they didn't all arrive at the same conclusion enough to get an agreement on something.

But it's not easy to sit back and just watch sometimes, but as I say, it's not just patience. You just don't sit back and watch. You have to put the parameters around these things and always, in a position like I was in, make sure that they understood that anybody at this table can get up and walk and we can try to work around it. If I get up and walk, nothing happens. (laughter) And that's my only leverage in this situation. You don't want to chase me away from the table because then you can't do anything.

“ . . . let them get where they were going to go so that they found it by themselves, because that way they're committed to it. . . . ”

And using that to just simply try, as I say, firm patience, let them get where they were going to go so that they found it by themselves, because that way they're committed to it. Probably we could have written this up a year, year and a half

sooner, and even gotten the language down there that was pretty much the same as what we got down, but people weren't committed to it.

“The things that jumped out at me were like getting stuck and trying to find a way out . . . and then all of a sudden, on their own, have Sierra Pacific and the Pyramid Lake Tribe come up with a preliminary settlement . . .”

The things that jumped out at me were like getting stuck and trying to find a way out of it, and hunting and hunting and pecking and pushing, and then all of a sudden, on their own, have Sierra Pacific and the Pyramid Lake Tribe come up with a preliminary settlement, these people were at each other's throats a year prior to this. They were ready to do anything to get each other's water. And they, on their own, without me—I don't know how they could have done it without me, but they did—they, on their own, without me, went out and worked out the guts of an agreement that moved this thing several paces forward.

“So you really have to have the faith in the local ability to work this out, and you have to have the patience to let them get there on their own, and the firmness to keep them on the path. . . .”

So you really have to have the faith in the local ability to work this out, and you have to have the patience to let them get there on their own, and the firmness to keep them on the path.

It Was Unpleasant to Have to Tell Groups They

Bureau of Reclamation History Program

Couldn't Participate in the Negotiations, but Subsequently They Still Needed to Be Kept Informed

There were some things I had to do that weren't very pleasant. A lot of the groups wanted to come and sit in, small groups representing the Chamber of Commerce from Carson City or something like that. Well, yeah, it's nice for them to know what's going on, but they had no role in this, no real role in this, at least in the decision making. And I had to say no. I can remember probably the one time that I got the sternest frown from Harry was when there was an editorial in the *Carson City Appeal* blaming Senator Reid for having closed-door hearings, not permitting their Chamber of Commerce people to come in.

It was one of the times where he may have had a little doubt about how I was doing it, but I told him, I said, "If you try to negotiate with 100 people in a room, you won't get anything done." And so we stuck to our guns on that, and we, of course, as you said, schmoozed them, made sure that they were informed, brought them into meetings.

One of the things I tried to do as things went on and as it became evident that we maybe were going to make some progress, and as more people became interested, but the point was, you had to have these hard negotiating sessions, but there were times when essentially what you were doing was simply ratifying the individual agreements you might have reached, four or five

of them over the past several meetings. We'd always have a meeting where we'd bring that up, wrap it up before we ever moved on.

That's another thing. You had to keep tying your knots behind you so that when you moved on, this didn't unravel back here. Well, we would do that. Then we would try to bring in as many people as possible. Essentially, they were then part of the process of wrapping it up and it gave them a sense of participation, I think, that was important, because we wanted everybody possible in this, but it's not possible to do it. But that's about it.

Seney: All right. Anything else you need to add?

Mehl: I think that's it.

Seney: I know there are a million other details.

Mehl: Oh, there are a million details. (laughter)

Seney: Maybe you should write that book the senator is urging you to write.

Mehl: The one thing is there's some wonderful stories. I mean, aside from the details, there are just some wonderful stories in this whole thing that probably I don't even remember all of them myself, but I managed to keep a pretty good pile of information on this and my notes are all stored away and things like that. I know that it'll trigger some of those memories of some of those stories when it comes back, because there were some

interesting times, I mean not the least of which was my initiation into this whole process, because, I mean, I was absolutely totally ignorant of the situation of the river systems and politics and anything you could imagine the first time I walked in there.

Seney: Was that an advantage, do you think, that you brought some fresh thinking to it?

Mehl: I think it was. They really had chewed on this for a long time, and it's hard to believe that they sat there, California and Nevada, for 100 years and not come to an agreement on water. (laughter) But they did. And it was really basically because people came to it with too much baggage. My attitude was, there was nothing that I wasn't willing to consider if it moved the process along. I mean, there were some things. I mean, there were some times when it was strange and wonderful, but the point was, we just kept going and got through it. I give everybody the utmost credit on that. They never backed off. They just kept going forward. There were times when we didn't make a lot of progress, but it kept going forward, and then you'd get a spurt of progress and everybody stuck to it. I mean, we met and we met and we met and we met.

Seney: All right. Thank you very much. I really appreciate you taking the time.

Mehl: My pleasure. Glad you're doing it. I think that they deserve to be remembered.

Seney: Good. There will be quite a record by the time we're finished.

Mehl: It sounds like it.

Seney: Thanks again.

END SIDE 2, TAPE 2. NOVEMBER 7, 1995.
END OF INTERVIEW.

Appendix 1: Section 206 of Public Law 101-618

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SEC. 206. WETLANDS PROTECTION.

I.(a) AUTHORIZATION TO PURCHASE WATER RIGHTS-

(1) The Secretary is authorized and directed, in conjunction with the State of Nevada and such other parties as may provide water and water rights for the purposes of this section, to acquire by purchase or other means water and water rights, with or without the lands to which such rights are appurtenant, and to transfer, hold, and exercise such water and water rights and related interests to sustain, on a long-term average, approximately 25,000 acres of primary wetland habitat within the Lahontan Valley wetlands in accordance with the following provisions of this subsection:

(A) water right acquired under this subsection shall, to the maximum extent practicable, be used for direct application to such wetlands and shall not be sold, exchanged, or otherwise disposed of except as provided by the National Wildlife Refuge Administration Act and for the benefit of fish and wildlife within the Lahontan Valley;

(B) the Secretary shall select from any water rights acquired pursuant to this subsection those water rights or portions thereof, if not all, that can be transferred to the wetlands referenced in this subsection consistent with subsection 209(b) of this title; and

© in implementing this subsection, the Secretary shall consult with the State of Nevada and

affected interests. Those water rights or portions thereof, if not all, which the Secretary selects for transfer shall then be transferred in accordance with applicable court decrees and State law, and shall be used to apply water directly to wetlands. No water rights shall be purchased, however, unless the Secretary expects that the water rights can be so transferred and applied to direct use to a substantial degree.

(2) Acquisition of water rights and related interests pursuant to this subsection shall be subject to the following conditions:

(A) water right purchases shall be only from willing sellers, but the Secretary may target purchases in areas deemed by the Secretary to be most beneficial to such a purchase program;

(B) water rights acquired by the Secretary shall be managed by the Secretary after consultation with the State of Nevada and affected interests, except that any water rights acquired for Fallon Indian Reservation wetlands shall be managed by the Secretary in consultation with the Fallon Tribe; and

© prior to acquiring any water or water rights in the State of California for the Lahontan Valley wetlands, the Secretary shall first consult with the Governor of California and shall prepare a record of decision on the basis of such consultations.

(3) The Secretary is authorized to:

(A) use, modify, or extend, on a non-reimbursable basis, Federal water diversion, storage, and conveyance systems to deliver water to wetlands referenced in paragraph (a)(1) of this subsection, including the Fernley Wildlife Management Area;

(B) reimburse non-Federal entities for reasonable and customary costs for operation and maintenance of the Newlands Project associated with the delivery of water in carrying out the provisions of this subsection; and

© enter into renewable contracts for the payment of reasonable and customary costs for operation and maintenance of the Newlands Project associated with the delivery of water acquired by the Secretary to benefit the Lahontan Valley wetlands. The contracts shall be for a term not exceeding 40 years. Any such contract shall provide that upon the failure of the Secretary to pay such charges, the United States shall be liable for their payment and other costs provided for in applicable provisions of the contract, subject to the availability of appropriations.

(4) Consistent with fulfillment of this subsection and not as a precondition thereto, the Secretary shall study and report on the social, economic, and environmental effects of the water rights purchase program authorized by this subsection and the water management measures authorized by subsection 206©. This study may be conducted in coordination with the studies authorized by paragraph 207(c)(5) and subsection 209© of this title, and shall be reported to the Committees on Energy and Natural Resources, Environment and Public Works, and Appropriations of the Senate, and the Committees on Interior and Insular Affairs, Merchant Marine and Fisheries, and Appropriations of the House of Representatives not later than three years after the date of enactment of this Act.

(b) EXPANSION OF STILLWATER NATIONAL WILDLIFE REFUGE-

(1) Notwithstanding any other provision of law, the Secretary shall manage approximately 77,520 acres of Federal land in the State of Nevada, as depicted upon a

map entitled 'Stillwater National Wildlife Refuge,' dated July 16, 1990, and available for inspection in appropriate offices of the United States Fish and Wildlife Service, as a unit of the National Wildlife Refuge System.

(2) The lands identified in paragraph (1) of this subsection shall be known as the Stillwater National Wildlife Refuge and shall be managed by the Secretary through the United States Fish and Wildlife Service for the purposes of:

(A) maintaining and restoring natural biological diversity within the refuge;

(B) providing for the conservation and management of fish and wildlife and their habitats within the refuge;

(C) fulfilling the international treaty obligations of the United States with respect to fish and wildlife; and

(D) providing opportunities for scientific research, environmental education, and fish and wildlife oriented recreation.

(3) The Secretary shall administer all lands, waters, and interests therein transferred under this title in accordance with the provisions of the National Wildlife Refuge System Administration Act of 1966, as amended, except that any activity provided for under the terms of the 1948 Tripartite Agreement may continue under the terms of that agreement until its expiration date, unless such agreement is otherwise terminated. The Secretary may utilize such additional statutory authority as may be available to the Secretary for the conservation and development of wildlife and natural resources, interpretive education, and outdoor recreation as the Secretary deems appropriate to carry out the purposes of this title.

(4) The Secretary is authorized to take such actions as may be necessary to prevent, correct, or mitigate for adverse water quality and fish and wildlife habitat

conditions attributable to agricultural drain water originating from lands irrigated by the Newlands Project, except that nothing in this subsection shall be construed to preclude the use of the lands referred to in paragraph (1) of this subsection for Newlands Project drainage purposes. Such actions, if taken with respect to drains located on the Fallon Indian Reservation, shall be taken after consultation with the Fallon Tribe.

(5) Not later than November 26, 1997, after consultation with the State of Nevada and affected local interests, the Secretary shall submit to the Congress recommendations, if any, concerning:

(A) revisions in the boundaries of the Stillwater National Wildlife Refuge as may be appropriate to carry out the purposes of the Stillwater National Wildlife Refuge, and the provisions of subsection 206(a) of this section;

(B) transfer of any other United States Bureau of Reclamation withdrawn public lands within existing wildlife use areas in the Lahontan Valley to the United States Fish and Wildlife Service for addition to the National Wildlife Refuge System; and

© identification of those lands currently under the jurisdiction of the United States Fish and Wildlife Service in the Lahontan Valley that no longer warrant continued status as units of the National Wildlife Refuge System, with recommendations for their disposition.

© WATER USE, NAVAL AIR STATION, FALLON, NEVADA-

(1) Not later than one year after the date of enactment of this title, the Secretary of the Navy, in consultation with the Secretary, shall undertake a study to develop land management plans or measures to achieve dust control, fire abatement and safety, and foreign object damage control on those lands owned by the United States within

the Naval Air Station at Fallon, Nevada, in a manner that, to the maximum extent practicable, reduce direct surface deliveries of water. Water saved or conserved shall be defined as reduced project deliveries relative to the maximum annual headgate delivery entitlement associated with recently irrigated water-righted Navy lands. Recently irrigated water-righted Navy lands shall be determined by the Secretary of the Navy in consultation with the Secretary and the State of Nevada.

(2) The Secretary of the Navy shall promptly select and implement land management plans or measures developed by the study described in paragraph (1) of this subsection upon determining that water savings can be made without impairing the safety of operations at Naval Air Station, Fallon.

(3) All water no longer used and water rights no longer exercised by the Secretary of the Navy as a result of the implementation of the modified land management plan or measures specified by this subsection shall be managed by the Secretary for the benefit of fish and wildlife resources referenced in sections 206 and 207 of this title: *Provided*, That,

(A) as may be required to fulfill the Secretary's responsibilities under the Endangered Species Act, as amended, the Secretary shall manage such water and water rights primarily for the conservation of the Pyramid Lake fishery and in a manner which is consistent with the Secretary's responsibilities under the Endangered Species Act, as amended, and the requirements of applicable operating criteria and procedures for the Newlands Project; and

(B) the Secretary may manage such water or transfer temporarily or permanently some or all of the water rights no longer exercised by the Secretary of the Navy for the benefit of the Lahontan Valley wetlands so long as such management or transfers are consistent with

applicable operating criteria and procedures.

(4) The Secretary of the Navy, in consultation with the Secretary of Agriculture and other interested parties, shall fund and implement a demonstration project and test site for the cultivation and development of low-precipitation grasses, shrubs, and other native or appropriate high-desert plant species, including the development of appropriate soil stabilization and land management techniques, with the goal of restoring previously irrigated farmland in the Newlands Project area to a stable and ecologically appropriate dryland condition.

(5) The Secretary shall reimburse appropriate non-Federal entities for reasonable and customary operation and maintenance costs associated with delivery of the water that comes under the Secretary's management pursuant to this subsection.

(6) In carrying out the provisions of this subsection, the Secretary of the Navy and the Secretary shall comply with all applicable provisions of State law and fulfill the Federal trust obligation to the Pyramid Lake Tribe and the Fallon Tribe.

(d) STATE COST-SHARING- The Secretary is authorized to enter into an agreement with the State of Nevada for use by the State of not less than \$9 million of State funds for water and water rights acquisitions and other protective measures to benefit Lahontan Valley wetlands. The Secretary's authority under subsection 206(a) is contingent upon the State of Nevada making such sums available pursuant to the terms of the agreement referenced in this subsection.

(e) TRANSFER OF CARSON LAKE AND PASTURE- The Secretary is authorized to convey to the State of Nevada Federal lands in the area known generally as the 'Carson Lake and Pasture,' as depicted on the map entitled 'Carson Lake Area,' dated July 16, 1990, for use by the State as a State wildlife refuge. Prior to and as a condition of such transfer, the Secretary and the State of Nevada shall execute an agreement, in consultation with affected local interests, including the operator of the Newlands Project, ensuring

that the Carson Lake and Pasture shall be managed in a manner consistent with applicable international agreements and designation of the area as a component of the Western Hemisphere Shorebird Reserve Network. The Secretary shall retain a right of reverter under such conveyance if the terms of the agreement are not observed by the State. The official map shall be on file with the United States Fish and Wildlife Service. Carson Lake and Pasture shall be eligible for receipt of water through Newlands Project facilities.

(f) Lahontan Valley and Pyramid Lake Fish and Wildlife Fund-

(1) There is hereby established in the Treasury of the United States the 'Lahontan Valley and Pyramid Lake Fish and Wildlife Fund' which shall be available for deposit of donations from any source and funds provided under subsections 205 (a) and (b), 206(d), and subparagraph 208(a)(2)©, if any, of this title.

(2) Moneys deposited into this fund shall be available for appropriation to the Secretary for fish and wildlife programs for Lahontan Valley consistent with this section and for protection and restoration of the Pyramid Lake fishery consistent with plans prepared under subsection 207(a) of this title. The Secretary shall endeavor to distribute benefits from this fund on an equal basis between the Pyramid Lake fishery and the Lahontan Valley wetlands, except that moneys deposited into the fund by the State of Nevada or donated by non-Federal entities or individuals for express purposes shall be available only for such purposes and may be expended without further appropriation, and funds deposited under subparagraph 208(a)(2)© shall only be available for the benefit of the Pyramid Lake fishery and may be expended without further appropriation.

(g) INDIAN LAKES AREA- The Secretary is authorized to convey to the State of Nevada or Churchill County, Nevada, Federal lands in the area generally known as the Indian Lakes area, as depicted on the map entitled 'Indian Lakes Area,' dated July 16, 1990, pursuant to an agreement between the Secretary and the State of Nevada or Churchill County, Nevada, as appropriate, for

the purposes of fish and wildlife, and recreation. Any activity provided under the terms of the 1948 Tripartite Agreement may continue under the terms of that agreement until its expiration date, unless such agreement is otherwise terminated. The official map shall be on file with the United States Fish and Wildlife Service.