

ORAL HISTORY INTERVIEW

JOHN SARNA



**STATUS OF INTERVIEW:
OPEN FOR RESEARCH**



Interview Conducted and Edited by:
Donald B. Seney in 2005
California State University-Sacramento
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Editorial Convention

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

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

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

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

Introduction

In 1988, the Bureau of Reclamation created 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 undertook this work. The Newlands Project, while a small- to medium-sized Reclamation project, represents a microcosm of issues found throughout Reclamation:

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

Questions, comments, and suggestions may be addressed to:

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www.usbr.gov/history

Oral History Interview
John Sarna

Sarna: As this. Very embarrassing. All righty.

Seney: This is Donald Seney, and I'm with Mr. John Sarna of the California Department of Water Resources, in his office in Sacramento, California. Today is May 27, 2005. This is our first session and our first tape. I'll spell Mr. Sarna's name. S-A-R-N-A.

Good morning, John, let's try again and see if we can—it's—the needles are bouncing the way they should now. Go ahead.

Sarna: Good morning, Don. Go to the first question again?

Seney: Sure. Just, just tell me how, you know, a little bit about your background, where you were born, and where you went to school, and how you got to the Department of Water Resources?

Department of Water Resources

Sarna: Okay. First, I wanted to start out with my position (Seney: Sure.) with the Department of Water Resources. I'm a Senior Engineer, Chief of the Watershed Cal-Nevada Assessment Section, and . . .

Seney: Go ahead.

Sarna: Okay. I do this. I need to stop and think every now and then. I need to go back and—I'll guess I'll start and feel free to cue me too (Seney: Sure.) at times.

I was born on November 24, 1949, in Chicago, Illinois. You know, from there I went through, you know, through school, through grammar school and high school there. I attended Illinois Institute of Technology and continued on. Then I went to Vietnam for a couple years. Actually, I went only seven months in Vietnam, but I was in the Army for a couple of years. And from there I went on to graduate from the University of Illinois. I got a Bachelor-of-Arts, I think it was, in mathematics. Went on from there, took a couple of years off and went to work as a computer, computer technician I guess you might want to call it. And, after that I went to University of Massachusetts in Amherst, and I got my M-S in electrical and computer engineering. Went and worked for Motorola—Actually from there I went, from Massachusetts I

went out to Arizona. In Arizona I worked there for Motorola for three and a half years as a[n] electrical engineer. Got interested in environmental work, and I transferred. And, after three and a half years I went to a program at U-C-L-A [University of California, Los Angeles] in, what is it called, it's called environmental science engineering. And it took me, oh gees, that was in eighty, uh I guess it was '83 I went there. And I continued. I was going to—it was a P-h.-D, it was a doctoral program. (Seney: Uh huh.) It was a P-h.-D program, a doctoral program. And, as part of the doctoral program I had to do an internship and I came up to Sacramento to do the internship for the state, the California State Water Resources Control Board. And from, and during that time while I was working for the board, I completed my final report and got my doctorate in environmental science engineering. And, then a couple of years later, and when I was working for the State Water Board, I was working on water quality issues, primarily California's groundwater protection strategy. But then, I went to—I hope this isn't taking too long?

Seney: No. No. No. Go right ahead.

Sarna: (Laugh) Okay. Then, I went, from there I went to the Department. About '92 or '93 I found this, the position I'm—well, I found a position with the Department of Water Resources, and it was working on these interstate water issues (Seney: Right.) which I thought was fascinating at the time. And so, I came over here as an associate engineer, and worked on, and I started working on the TROA [Truckee River Operating Agreement]¹ E-I-S/E-I-R [Environmental Impact Statement/Environmental Impact Report].

Seney: That's all right. I'm just wondering if it's working. That's okay.

Sarna: I started working on the TROA E-I-S/E-I-R, which I worked on for two or three years. And, then I got more, as time went on, I got more interested—well, I guess I got involved in the negotiation process. (Seney: Right.) And, at first, I was basically just supporting it through technical work. But then, I got involved in the negotiation process, found that fascinating too. So, I said—by, I guess it was '98 or '99 they, I got

1 “More than 27 years in the making, the Truckee River Operating Agreement (TROA) now guides use of the river that winds nearly 120 miles from the mountains of Lake Tahoe to Pyramid Lake and is the primary water source for Reno and Sparks. The long-pursued plan brings the Truckee River's management into modern times, protects the area from protracted droughts and offers a promising future for the region....

“The agreement brings an end to historic uncertainty between Nevada and California over distribution of the river's water, allocating 90 percent to Nevada. Beyond enhanced drought storage for the Truckee Meadows community, it modifies the operation of federal and selected non-federal reservoirs in the river system to protect and improve water quality and enhances conditions for the endangered Pyramid Lake cui-ui and the threatened Lahontan cutthroat trout. By retaining more water in upstream reservoirs, TROA also expands the range of recreational opportunities, including boating and fishing.” See, Truckee Meadows Water Authority, “Truckee River Operating Agreement,” http://tmwa.com/water_system_settlement/ (Accessed 2/2019)

appointed the Chief of this section. And so, I . . . I'm probably, I guess you'd call me the primary technical support person, or technical representative for TROA negotiations at this time. And I work with two other people, Carol Hammond [spelling?] and John Kramer.² Carol Hammond's our policy representative for the TROA negotiations and John Kramer is our legal representative for TROA negotiations.

Seney: How would you—I take it these TROA negotiations are probably the first ones like this you've been involved in?

Sarna: That's correct. Yes.

Seney: Yeah? Given that, how would you characterize, what's been your reaction overall to the negotiating process, and the pace of it, and the content of the negotiations? It's taken a long time.

Negotiating Process

Sarna: Uhm-hmm. I guess I'm trying to understand your question as to what . . .

Seney: Well, I've—you know, you've taken part in the day-to-day business for TROA, (Sarna: Uhm-hmm.) but overall, how does it seem to you? Is it taking too long? Is it too complicated? Uhm . . .

Sarna: Uh, I think it's very complicated. I think it's taking about as much time as is necessary. I don't think we could have moved any faster, if that's the question. (Seney: Right.) In fact, I think we've moved very fast, as it is, for solving issues that we have been working on. (Seney: Right.) I mean, in a way my, and maybe this gets into my picture of TROA, which is what you're looking for too, (Seney: Right. Right. Exactly.) which is, you know, I kind of see TROA, and I've used this example before, as a big Christmas tree that has a lot of ornaments on it. And, with an ornament, and these different ornaments each satisfy different interest groups. And so, what's happened is we've gone through the TROA negotiations, we've come up to different issues that people had in the Truckee River basin, in the basin, involving water. So, any issue water related on the Truckee River basin that was unresolved, we'd get to that issue, and we'd begin. And we'd realize that we couldn't have a comprehensive settlement of the issues, TROA itself, without resolving it. So, we'd

² John Kramer participated in Reclamation's Newlands Series oral history project. See, John Kramer, *Oral History Interview*, Transcript of tape-recorded Bureau of Reclamation Oral History Interview conducted by Donald B. Seney, edited by Donald B. Seney and desktop published by Andrew H. Gahan, historian, Bureau of Reclamation, 2016, <https://www.usbr.gov/history/oralhist.html>.

start to work on that issue. Some issues took a few days to resolve. Other, other issues took years to resolve. (Seney: Right.) But what we'd do is resolve those issues. Sometimes there's be a separate agreement beforehand that would take effect. Other times not. But that, those particular resolutions would be put into the document, which is why TROA has become such a complex document.

Seney: Can you give me some examples of those issues (Phone rings) both the ones that have taken a little time?

Sarna: Excuse me. [Tape Paused] Sorry.

Seney: Don't be sorry. Those things happen. So, for some examples of both the easy things to solve and the more difficult ones? Maybe we could start there. Or, however you'd like to start telling me about the California view and the way you guys proceed on the TROA and those things that you've done. (Sarna: Uhm-hmm.) Or maybe this would make sense as a way.

Donner Lake

Sarna: It's one way. It's easy to remember the tough issues. (Laughter) (Seney: Yeah. Right.) It's hard to remember the easy issues, (Seney: Yeah. Yeah.) believe it or not. Like the, well I guess that's obvious. But anyway, like let's take, I guess it was the three-party agreement between Donner Lake—between the Donner Lake interests, the Sierra Pacific Power Company, and—who was the other party involved? Oh, Truckee Carson Irrigation District [TCID], (Seney: Right.) actually. And, what happened is that we were at a meeting and there was, and we realized at this meeting—we were at a meeting with Sierra, California and Sierra Pacific Power Company. We're at a meeting. Gordon De Paoli,³ their attorney, said something and we said, "Well, you know, we disagree with this position." He set a position regarding what Sierra Pacific's position was on water rights as to who had the right to water that was going into Donner Lake. Who could take that water. (Seney: Right.) And, you know, the current system was working all right, but what was happening is Donner Lake was slowly building out. And as part of the TROA negotiations it became obvious that there was a difference of opinion that was basically, could evolve into a legal dispute. (Seney: Right.)

And so, we talked about it through several meetings. We, and then John Kramer suggested we do what was called a "physical solution," which is we just—and I'm

3 Gordon De Paoli participated in Reclamation's Newlands Series oral history project. See, Gordon De Paoli, *Oral History Interview*, Transcript of tape-recorded Bureau of Reclamation Oral History Interview conducted by Donald B. Seney, edited by Donald B. Seney and desktop published by Andrew H. Gahan, historian, Bureau of Reclamation, 2013, <https://www.usbr.gov/history/oralhist.html>.

uncertain exactly what that means—but the physical solution was, instead of going, you know, arguing about the legal, you know, who had the legal right to do it (Seney: Right.) then what we do is solve it by deciding what’s going to happen physically. And the way it worked—and so, what we did is—this took two or three years—we went over to, I guess, I think it was Del Oro Water District, who was serving water to the residents of Donner Lake, and talked to them, and made them understand that there was a conflict over what they anticipated that they could get to be able to serve their residents. They may not be able to get the right to all the water that they (Seney: Right. Right.) had anticipated. And so, they got involved in negotiations. And this, it took a couple years, but at the end of that they reached a three-party agreement between—and T-C-I-D signed on, though, I think the Sierra Pacific and De Oro Water District were the primary people who were negotiating it.

I was involved. I started off not being involved in, you know, hardly at all. I was involved in other parts of negotiations. But, then things kind of stagnated and somebody left. I think maybe the person I was working for left, or something, and so then I got involved in it and we came up. And we came up with what I thought was a fairly reasonable agreement (Seney: Right.) that certainly Del Oro Water, they decided what their build-out would be (Seney: Ah.) and Sierra Pacific said, “Okay. We can live with that. If you don’t, if you, if you just provide water for your predicted build-out, your planned build-out,” (Seney: Right.) “and don’t take any more water, which, we could live with that.” And, the interesting thing, they presented the, they presented that to T-C-I-D and my understanding was that T-C-I-D’s position was that, “Well, it’s okay as long as they don’t take, their planned build-up doesn’t allow them to take more than 1,000 acre feet of water per year.” Well, what they came out with their planned build-out, coincidentally, was 990 acre feet. (Laughter) So, that was a number that was used (Seney: Yeah.), went into the three-party agreement. That agreement is in effect right now. It will be incorporated into TROA as part of the (Seney: Ah.) in the future. So, TROA will recognize that and continue that agreement.

Seney: Well, both Sierra Pacific and T-C-I-D have rights to some water out of Donner, don’t they, 5000 acre feet after September 15?

Sarna: Yes. Well, this was water, (Seney: Each?) see this was water that was going into Donner, and what happens is Del Oro Water District they have what I guess they call “littoral rights,” where they can take water out of Donner Lake, or they can take water, they have wells, or they may have taps going into Donner Lake itself. So, (Seney: Ah.) it’s how much water is going into Donner Lake. (Seney: Right.) So, T-C-I-D and Sierra Pacific has the right to the water in Donner Lake (Seney: Yeah.) after it gets there. (Seney: Right. Right.) But they want to make sure that (Seney: It

gets there?) gets there. Yeah. (Seney: Yeah. Yeah.) So, they don't want Del Oro to just keep on taking more and more.

Seney: Right. Right.

Sarna: Okay. I mean, even this issue has evolved somewhat because what's happened is that Del Oro Water District, the water district was put under some kind of an order by the Department of Health Services which told them, because they—a boil-water order I think it was—(Seney: Yes, I remember that.) because the water was, now they said the water was—Department of Health Services said the water was contaminated and they, it was like a clean-up order or something. And so that, and that evolved into a dispute over who should be maintaining that water company. And, Del Oro, and subsequently, what is it, the Truckee-Donner Public Utilities District has taken responsibility for that system since then. And so, they are now serving water to those residents (Seney: Ah.) and by default they are, they inherit that agreement. So, they, they become the (Seney: Oh.) those that, I don't know . . .

Seney: The legal term is, yeah?

Sarna: I forget what the legal term is. (Seney: Yeah.) Anyway, the successors in interest. That's it. (Laugh) (Seney: Yeah.) I got it. Anyway, they become the successors in interest as TMWA [Truckee Meadows Water Authority] has become the successor in interest for Sierra Pacific Power Company. Del Oro, the last—and there's still one twist in it.

Seney: When you said – who has become the successor of interest to Sierra Pacific?

Sarna: Truckee Meadows Water Authority.

Seney: And you called them?

Sarna: TMWA (*pron.* tum-wah).

Seney: TMWA?

Sarna: We all call them TMWA now. (Seney: Yeah.) That's because . . .

Seney: Drop the "R" there?

Sarna: (Laugh) And, I mean, the one, it's still, it's somewhat of an issue because the parties have said, "Well, in order, since this agreement becomes part of TROA, we need to have the representatives, all the members of that agreement sign on." Now, Truckee

-
- Meadows Water Authority is going to be signing on the—who else? Oh, actually T-C-I-D is not going to be signing on. So, I don't know how that's going to play out.
- Seney: Yeah. They're not going to sign it are they?
- Sarna: They're not going to sign on. So, I don't know how that, somehow we have to recognize that. Or maybe, you know, I was just looking for that in TROA, because this is, TROA is still ongoing.
- Seney: Right. Right.
- Sarna: I was looking for this particular thing in TROA. And, at one time it was recognized in TROA, and I couldn't find it. And it may be that it was taken out once it was determined that T-C-I-D was unlikely to sign TROA.
- Seney: Ah, John, your tapping is going to (Sarna: Oh. I'm sorry. Okay.) drive the transcriber nuts, (Laugh) (Sarna: Okay.) and she'll be all over me.
- Sarna: Okay. A nervous habit.
- Seney: That's all right.
- Sarna: Okay. So, the . . .
- Seney: Aha. So now, maybe it has worked and maybe it hasn't? But there, can there not be a side agreement?
- Sarna: Oh yes.
- Seney: Can't this thing stand on its own?
- Sarna: Now, a side agreement . . .
- Seney: [Inaudible]
- Sarna: Yeah. Now, there is part of TROA that talks about, in fact we just discussed this one TROA—do I have it? Anyway, there's one TROA issue that says, "TROA shall supersede all agreements regarding operations of the Truckee River." But, you know, this is not an operation.
- Seney: Right.

Sarna: So.

Seney: This has nothing to do with releases?

Sarna: Releases.

Seney: Yeah.

Sarna: So, this agreement would probably, which should remain in place, (Seney: Yeah.) I would think. And, I forget why it has—there was some reason. This was negotiated back in the '90s. There was some reason why everybody felt, at the time, that it had to be in TROA. So, and I forget now, maybe it was taken out subsequently, or maybe it's still in there and they treat T-C-I-D and just treat—and make it between—I don't know how they, I don't know how it's worked at this point. But anyway, the result is that—I've been—is that we made the Del Oro Water District was supposed to be a signor of TROA, was supposed to sign TROA. Now the result is, in my work, is to get—what is it—Truckee-Donner P-U-D, who is part of that agreement, to (Seney: To sign?) sign TROA. (Seney: Uh huh.) So, we're still, I, we've told them that we expect them to sign TROA. I've told them right over the phone, but we're going to have to do some work in order to make a presentation to their board, etcetera, (Seney: Uh huh.) if indeed they do, are required to sign TROA. But they are listed as one of the signatory parts of the TROA at this time, and that's the reason why.

Seney: Ah. Interesting.

Sarna: Yeah. This is—I mean, it's all tied together. I've kind of digressed here. (Laugh)

Seney: No. No. No. That's fine. That's fine. You know, there, some of these complications are not going to be of importance to the Nevada interest. They won't even know about them or discuss them with me. So, that's why I come to see everyone, (Sarna: Okay.) to get all these other—what else can you think of? This is fascinating. This is exactly what we want.

Sarna: Okay. Let's see. Let me get my copy of TROA. I mean if you just go through it there's all kinds of things like that.

Environmental Quality Water

Well, the water quality credit water, that's a Nevada issue. Cal—I mean, Article VI, we could all talk about. There's California M & I [Municipal and Industrial] Credit Water, California Environmental Credit Water. Those are parts of the TROA negotiations themselves, but you know like each of those came up in different

contexts.

Seney: Do the environment let's go back to the Environmental Quality Water, because this has to do with, with Sierra Pacific wanting, essentially, more water because the Tahoe-Truckee Sanitation Agency was doing too good a job at treating the water, and they were worried about the return flows to the river? Is this the one I'm thinking of? Maybe I haven't put it . . .

Sarna: No, that's, that's something, that's something else, but I, no, we could reflect on that if you want.

Seney: Right. Go ahead.

Sarna: What was the—okay, what . . .

Seney: Either way.

Sarna: What was the situation again?

Seney: Well, I'm thinking now and I'm trying to—it's the question of how much water is getting back into the Truckee River? You've got the 90/10 split between California and Nevada. And, Sierra Pacific is saying on the allocations to the upper Truckee [River] interests that that 25-30,000 allocation, the numbers, it's favorable for them.

Sarna: Okay. So, the, well the allocation, and that in Public Law 101-618⁴ is off in the Truckee Basin, it's 32,000 acre feet per year, (Seney: Right. Right.) of which 10,000 acre feet can be groundwater. In the public law it also requires that the T-T, the Truckee, with the Sanitation Agency, the Tahoe Truckee Sanitation Agency continue

4 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 Tribal Settlement Act
- Interstate Allocation of water of the Truckee and Carson rivers.
- Negotiations 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/lboa/public law 101-618.html](http://www.usbr.gov/mp/lboa/public%20law%20101-618.html) (Accessed December 2011).

to discharge in the river. There were what are probably problems involved in that. And let's see, how did that—well, the plant was expanding and the—So, they were actually getting more water. I think, see, I think it works in TMWA's or Sierra Pacific's interest (Seney: Right.) for the plant to expand and they get more water because they basically, most of the California Basin uses groundwater. And so, that groundwater goes in the, to the Sanitation Agency, which is discharged in the river. So, it tends to even out the flow. (Seney: Right. Right.) In the, right here, and provides a more consistent flow, which is good for the, you know, Sierra Pacific Power Company, or TMWA at this point. I'm trying to figure out. There was a water quality concern there. I'm trying to remember how that, how that played out. Do you remember any, do you have many more detail?

Seney: You know, I don't—it's CEQA, the California Environmental Quality Act, requires that a certain amount of water, and damn if I can remember now accurately, requires that—well, the problem was that if you're going to have say a grey water system, (Sarna: Uh huh.) which CEQA would help to mandate. There was a question on whether or not that would then return to the, to the river. The Sierra Pacific raised that point. And there was a question about return flows. And I'm not using the right term.

Sarna: Oh, maybe it's depletion?

Seney: That's what I'm thinking.

Sarna: Is that the depletion question?

Seney: Yes. I'm sorry.

Fork in the Road

Sarna: Oh. Okay. Well, that's, that is a good one. That's another one we (Seney: Yeah.) can cover. I mean, maybe I should write these down. (Laugh) I mean, these are the really (Seney: I'm sorry. It's my . . .) Okay, depletion. Cal M & I Credit Water, and then there's the Cal Environmental Credit Water. (Seney: Great.) All different. (Seney: Okay.) All major issues that we (Seney: Right.) tackled and had to solve, and every one of them—these are all ones that took years to solve. I mean, and there's even a “fork in the road,” which people have—I don't know if you've heard about that before?

Seney: No.

Sarna: That's a—we were all involved in that, especially the U.S., and it involves instream

flows. It took, that stopped the negotiations for like two years. The fork in the road. I mean, I remember Rod Hall [spelling?] was getting up there at one time—and that was a very unusual situation because we had almost reached agreement on all the issues. Rod Hall got up and he was saying, “Oh,” it was a guy on the board and he was explaining how certain types of water gets accumulated and who has the right to accumulate so much water. And he got up there and was putting it down and somebody from the federal team says, “Well, that’s not our understanding of how it is.” And, Rod says, “Well, that’s the way I put it in the model.” And they say, “Well, no, that’s not our understanding of how it should work.” And that’s, and we—and so it took like, for the next couple of meetings we discussed it and we realized that we had a major difference of opinion on how TROA would be implemented. We had all agreed on a TROA probably pretty close to what’s right there, but we realized that one of us, one group, basically U.S., had looked on it as being implemented one way. TMWA, the Sierra Pacific Power Company, had looked upon it as being implemented another way. And the question became, “How?”

And so, we had to go and resolve that issue. That, after about two years, and the first thing we did was we did a lot of model runs, and then we went, we worked on that issue for, like I say, months and months. We got involved because it affected our instream flows. We have an interest in maintaining instream flows in California (Seney: Right.) and what it turned out is that how it would affect our instream flows, TMWA is—TMWA, I believe—let’s see, I think I’ve got this right. TMWA believed that when you could accumulate water and basically dewater the streams down to the minimums, as a result of, as part of the—yeah, dewater basically—well, what’s happening is the instream flow that’s, the minimum instream flow out of Stampede [Reservoir]⁵ is 30 c-f-s [cubic feet per second]. We, our Fish and Game, Department of Fish and Game wants to see 45 c-f-s as a minimum coming out, and we realized that TMWA, the way it was written and the way TMWA was interpreting it, was that they could accumulate water and hold water back so that that got down to 30 c-f-s. (Seney: Oh.) And so, it went below what we were, our Fish and Game was recommending. (Seney: Ah.) So, our part in that in the end was that we asked for 45, that they not drop it down below 45 c-f-s. And eventually did agree to that. (Seney: Right.) The problem, it was, that wasn’t as much of an issue, it seemed. That only took a few meetings to resolve, whereas the issue between releases out of Lake Tahoe was a much larger issue, which was resolved. I think that it was like, I’d have to go back, go back there. It’s like—I think they split the difference in terms of how well

5 Stampede Reservoir is the body of water behind Stampede Dam, a major feature of the Washoe Project. Stampede Dam, completed in 1970, is a rolled earth and rock-filled structure is 239 feet high and 1,511 feet long. The water storage capacity is 226,500 acre-feet which is reserved by court decree for fishery enhancement, primarily for the spawning of the endangered cui-ui, along the Truckee River downstream from Derby Dam and facilities operation of the Pyramid Lake Fishway.

they could drop these releases and not accumulate, because the, I think it was U.S. Fish and Wildlife Service was interested in seeing, protecting L-C-T [Lahontan cutthroat trout]. They have responsibility for protecting endangered species.

Seney: Lahontan cutthroat trout?

Sarna: Yeah. And, you know, how, and what I'm saying here, I should put a caveat on this is, I'm recollecting things that happened five years ago (Seney: Right. Right.) and I hope I'm not mixing this issue up with another issue. (Laughter) I think this is how the fork in the road came out. (Seney: Right.) And but, you know I'd have to look at, look at it in detail. These are things that (Seney: Right.) if I had a, if a question came up again on that particular thing and another interpretation issue, I'd go back and I'd spend hours, basically, pouring over (Seney: Right. Yeah.) TROA to determine if this is really, if my recollection is accurate. Because, it isn't always, it isn't necessarily accurate. But, this is, this is the best I can do.

Seney: Well, you, you'll have a chance to look at it and make corrections if you like.

Sarna: Okay.

Seney: If there's something. Can you give me a better idea what the difference in understanding was between Sierra Pacific and the feds on this question of instream flows?

Instream Flows

Sarna: That's—hmm. It involved the accumulation of credit water. Basically, it involves when TMWA wants to accumulate credit water and store it they can hold back water upstream.

Seney: And they can do this in Tahoe? Lake Tahoe?

Sarna: They can do it in Lake Tahoe or any reservoir. TROA is very, you know, it provides a lot of flexibility, (Seney: Yeah.) and that's the way we designed it. (Seney: Right.) We just didn't anticipate all the different, you know, ways that flexibility could be exercised. (Seney: Ah.) And that was one of the misunderstandings about how that flexibility could be exercised. I mean, I'm probably more familiar with how that flexibility, you know, came up. It's the way we got to solve our instream flow problem. I mean, that's another big issue that we may wish to talk about too.

Seney: How did the flexibility business come up, making it more flexible?

Sarna: Okay. And I think that's—I'm more, I'm on better terms with that than fork in the road, (Seney: Okay.) because I just related what our interest was (Seney: Sure.) in fork in the road. That's how it turned out. (Seney: Right.) And all that, the things that went behind the scenes beforehand, between the U.S. and TMWA, all those negotiations, I can't, I wasn't privy (Seney: Right. Right.) to a lot of them.

Okay. So, let me talk about the instream flows, how that came out. (Seney: Okay.) And, let me start off with what the, the base, one of the things that happened even before TROA was signed is called this P-S-A, the Preliminary Settlement Agreement. (Seney: Right.) And that was, we were, and TROA is required to include the Preliminary Settlement Agreement. And that's an agreement between Sierra Pacific, Sierra Pacific Power Company and the U.S., that they could store—and the tribe, Pyramid Lake Paiute Tribe—that they could store a certain amount of water in, uhm, let's see, out of, out of . . .

Seney: Stampede?

Sarna: It was in Stampede and that that water could be converted. Basically, Stampede was all fish water (Seney: Right.) but Sierra Pacific could use some of that water at certain times. And they would designate a certain amount of water that they could use for their drought supply if they provided the Pyramid Lake Paiute Tribe and the U.S. other benefits in wet years. (Seney: Right.) So, in dry years, Sierra would benefit, and in wet years the tribe and the U.S. would benefit. So, it was really a, it made a bigger piece of, a bigger pie for everybody (Seney: Right.) there. And so, and we looked at, and the other thing that was kind of a predecessor to it was back in the, oh a long, back in the woods, the '50s or '60s, the Tahoe-Prosser Exchange Agreement that allowed, that made for improved instream flows coming into Tahoe.

Basically, Lake Tahoe just shut off so you couldn't have any water, instream flows. The whole, anything below Lake Tahoe dried up because the rule was, you know, all that water was behind the dam. They didn't have to release any water. (Seney: Right.) And, and that was not very good for fish. (Laugh) So, the, the agreement that was made that when the Prosser Reservoir⁶ was built that some of that water would be reserved and the water would be released out of Lake Tahoe and flow down at a minimum of 50 or 70 c-f-s, at a time of year, would flow into the Truckee River and maintain that reach. And, the water, whoever had that water was losing that water would gain water in Prosser Reservoir. So, that's the trade. The water

⁶ Prosser Creek Reservoir was the initial feature of the Washoe Project. Prosser Creek Dam and Reservoir are located on Prosser Creek approximately 1.5 miles above the confluence of Prosser Creek and the Truckee River. The dam is an earthen structure 163 feet high and 1,830 feet long. It is capable of storing 29,800 acre feet of water for flood control, recreation and improvement of fishery flows in the Truckee River. Storage began in January 1963.

would be held, would be released from Tahoe, but that same water would be built up in Prosser Reservoir. (Seney: Right.)

Okay. Now, this is, this is background on how we solved the instream flow problem, because I'm going to go back to the instream flow problem in California, which was that when California—actually, I should, I'm going to go back a little bit more even—is that, we really hadn't taken a large part in the negotiations up to about '93 or '94. We were listening in, (Seney: Right.) and we had a lot of issues. And people kept saying, “Well, what are your issues? What are your issues?” And, what happened is that Carol Hammond [spelling?] came on board and we said, “Well, you know, we need to get this, get our act together here. Put all our issues, let's put all our issues down into one issue paper.” And so, we worked feverishly for about three or four months, came up with—this is when I first got involved in negotiations. And, it was a very interesting time, because we worked on it, and we got all our issues listed. And I've got that paper that has about, I think it's about seven or eight different major issue categories, one of which was we want to, we want to increase the minimum instream flows from releases for each of the reservoirs in the Truckee River basin.

And there were other ones. I don't know if Cal M&I Credit Water was—I think Cal M&I Credit Water was in there too. Anyway, that—and so we presented it to the other parties. And, then I remember there was a—the other party says, “Oh my God, we have, we need to discuss this. And we'll need three days to discuss it.” So, I remember going to Nevada and over three days we went into meeting after—no. We met with group after group about each of these different issues that we had brought up. Each, you know, I'd call them, I don't want to say they were California's wish list, they were what California really wanted. (Seney: Right.) Our objectives in this negotiation, what we wanted to see and what we would gain—in order to get our signature on there—what we wanted. So, instream flows was one of them, and that's why I got there. There were several other ones that were important to us too. And I'll just tell you the—but maybe this is of interest too. Because I remember those three days were really intensive. And I remember going in there and going in and having Nevada, now meeting and having a side meeting with Nevada, and we say, “Okay. Well, one of the things we want, you know, is the instream flows. We want increased instream flows.” “Well, you can't do that. You're taking water away from us. You know, if you increase the instream flows, you're releasing water that we need for other things. (Seney: Yeah.) The timing is all that's important. (Seney: Yeah.) The timing's what's important (Seney: Right.) to us.” And, they said, “It just won't work out.” Now, they were probably the, the most vehement (Laugh) against us in saying in terms of, you know, disagreeing with our position. (Seney: Right.) But, the other parties, I don't think the, the U.S. didn't have a problem with instream flows. You know, they have some mandates to increase instream flows, you know, for Fish and

Wildlife themselves. And TMWA was fairly, pretty close, to the Nevada on this, and the tribe basically . . .

Seney: Now, you're saying, saying TMWA, but it would have been Sierra Pacific?

Sarna: It was Sierra Pacific at the time. Yeah.

Seney: Right.

Sarna: Yeah. I'm interchanging the two. The tribe was—I don't know what we—the tribe probably had both. The tribe is supportive of instream flows, because they like to see, you know, fish. (Seney: Right.) They like to support fish. At the same time, they're interested in preserving the cui-ui down there.

Seney: Right. So, timing is an issue for them?

Sarna: Timing is an issue for them, too. So, they were both. They had interests in both ways. But certainly, we could tell them our interests in protecting, in increasing instream flows were directly opposed to that of the Sierra Pacific Power Company and the State of Nevada. So, that issue took a long time. We talked about it and talked about it, and we said, "This is our position. We want to see an increase in flows." And finally, we said—we got to some meetings, we had some meetings and we said, "Well, how, we got to figure out some way around this. We got to figure out some way to solve our problem." And I forget how it came about. But I think when we were in meetings with Truckee Meadows—or not—of Sierra Pacific Power Company, we came up and we realized that these other two things had happened before, these "exchanges" I guess you'd call them. (Seney: Right.) Was that the Tahoe-Prosser Exchange was one way of solving the instream flow issue coming out of Tahoe, (Seney: Right.) and also the P-S-A [Preliminary Settlement Agreement] was a way of changing. And I said, "Well, one way to do it is to have exchanges where instead of, instead of saying Tahoe is releasing water and we want, in Tahoe instead of 50 c-f-s we want 25—let's say we want 75 c-f-s. And that's the case, we want 75 c-f-s out of Tahoe just about all the time, instead of 50 c-f-s in the winter." And so, we said, "Well, what if we release, if one of the other reservoirs, say at Boca [Reservoir]⁷ is releasing a lot of water, (Seney: Yeah.) and this water coming out of

⁷ Boca Dam is owned by Reclamation and operated and maintained by the Washoe County Water Conservation District. The dam sits on the Little Truckee River and creates Boca Reservoir, which has a capacity of approximately 40,000 acre-feet. Boca Dam was completed in 1939 and has a height of 116 feet and a crest length of 1,630 feet. It provides flood protection for Reno and Sparks, Nevada. The reservoir is used to regulate the Truckee River and provide water for irrigation, recreation, fish and wildlife benefits, power generation, and drought supplies for municipal and industrial users in the Truckee Meadows area.

Lake Tahoe is only 50 c-f-s what we'll do is we'll release an extra 25 c-f-s from Lake Tahoe and we'll take Boca Reservoir and release less from Boca Reservoir and then give credit in Boca Reservoir for that. Similar to what the Tahoe-Prosser Exchange does." (Seney: Yeah.)

And they said, "Well, let's start doing—and let's do this for all, we'll do this for all the reservoirs, and we'll do model runs to see what we get out of it." (Seney: Yeah.) And, how often? You know, because there's limitations on how often. Instead of having the absolute mandatory minimum, you would have, you know, increased from 50 c-f-s to 75 c-f-s, you would have this series of exchanges, but you wouldn't, exchanges wouldn't happen all the time because sometimes other reservoirs wouldn't be releasing any water. So, we did model runs and this came—this took years. Again, a couple years. (Seney: Uh huh.) We came to the conclusion that about two-thirds of the—no. If we looked at how often it could be met with required, our minimums could be met, our new minimums could be met with required, with mandatory increases in minimums versus this other system of exchanges, we'd get it about two-thirds of the time. So, we went, we said, "Well, that's not bad." (Seney: Right.) Because you're never going to make it all the time. (Seney: Right.) Sometimes there's just not going to be enough water to provide any water coming out. The reservoir, you know, it just gets dry.

Seney: With drought conditions in Tahoe, there won't be water.

Sarna: That's right. Sometimes it goes below the rim. (Seney: Yeah.) So, when it goes . . .

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BEGIN SIDE B, TAPE 1. MAY 27, 2005.

Sarna: Okay. Continuing. So, what we did is we put into place the system of exchanges that would get, get for California two-thirds of what we wanted Fish and Game to—well, we went to Fish and Game, and we had a long—at first our Fish and Game says, "No. We want the mandatory minimums here." "Really, it's going to be a very difficult thing. (Seney: Yeah.) You want to go to the Supreme Court, you know, and argue this before the Supreme Court? (Laugh) You know, we may have to go there in order to get this." "Well, maybe . . ." and the, so eventually, you know, and there were a lot of discussions within Fish and Game, and I think eventually they bought into it. And, I just thought, "Well, this is interesting that we have—I don't think they've done it anyplace else." (Seney: Right. Right.) And that was another reason for reluctance on their part to accept it. But they said, "Well, maybe we should do it. Maybe we should give it a shot." And eventually we got to the point where they were accepting of it. And we had some qualifications that we went around about. We had to juggle around the details some as to how it would work. (Seney: Right.) But we

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- eventually got to the point where we would do this system of exchanges which would get us the instream flows that we wanted. As I say, it was two-thirds, about two-thirds of the time that we'd see with the mandatory instream flows.
- Seney: Let me, let me ask you. If the Fish and Game had not been willing to go along with this, and had insisted that seventy-five was the minimum flow, who then would have resolved that question?
- Sarna: Well, okay. There is a way, there is a part of the California Water Code that says that they have to produce—anybody—well, see they could, they could have taken it before the California State Water Resources Control Board. It's 59-37, which says that—is that it? Maybe that is. Anyway, there's a part of the Water Code that says they have to maintain, they have to release enough water to maintain fish. And they could have went to the State Water Resource Control Board and said, "Well, you know, under Tahoe (Seney: Uh huh.) we want you to force Nevada to release it." Well, the question is, "Is the State Water, what is the California, what is the State Water Board going to do? Because can they go to Nevada and force . . .?" You know, Nevada says that that water belongs to them. Now, the Water Board could force—because the reservoir is in California and they could say, they could mandate that they do that, but the, the, I guess the question is—now, this is a legal question. (Seney: Right. Sure.) So, I'm just guessing. (Seney: Yeah.) The, I think that Nevada could come back and say, and go take them to court and say, "No. You don't have jurisdiction."
- Seney: Right. I guess I'm asking more of a policy, political sort of thing, (Sarna: Yeah.) and that is, would this go to the governor to say (Sarna: Oh.) in that route to say, to the governor, "Gee, we need a, we need you step in here and . . ." (Sarna: Uh huh.) I guess this would have been Pete Wilson at that time here?
- Sarna: Well, in this case it would not go to the governor, because we're both under a Resources Agency. Because both of us, the Department and the, the Fish and Game are under the Resources Agency, it would have went to the Resources Agency's Secretary. But it could go to, it could go to the governor's level. If we, if the Department felt strongly enough about it, (Seney: Right.) usually we try to resolve it without going, (Seney: Sure. Sure.) going to that level. But things like that, I assume they do happen. (Seney: Yeah.) I mean, I'm at, I'm not at that policy level where I see that very much. But my assumption is that that's where it would go to.
- Seney: Right. Right. But they were willing to go along with you after discussions (Sarna: Yeah.) and what not?
- Sarna: After discussions, and discussion of the pros and cons. I mean, they're still

concerned about it.

Seney: Sure. Of course, they are.

Sarna: And, I still get phone calls about, you know, how, how this thing's going to work out. (Seney: Yeah.) And they're worried about certain things happening. They're worried about, right now they're concerned that we're putting something into place that is, we're not going to be able to change in the future. (Seney: Yeah.) By signing this agreement we're not going to be able to go increase them in the future, using 59-37. (Seney: Ah.) Now, even that, we don't know if that's the case. We have a dispute, we have a disagreement by our, between California, the California folks and the TMWA folks as to whether or not that is the case. And, we've said, we've both said—we believe, this is what we believe. And, we've said, “Well, we're not going to solve that one now. (Seney: Yeah.) If we want to try and solve that we'll save that for some future time, and let some future generation, I guess, (Laugh) argue about it.”

Seney: I guess the first step would be the Orr Ditch court, wouldn't it, for some dispute on that?

Sarna: I don't, I don't know. (Seney: Yeah.) I don't know where the, which courts handle that. I'm not that familiar with them.

Seney: Right. My understanding was, once the TROA was put in place it would be the Orr Ditch court which would then supervise it?

Sarna: Yeah. It would supervise the implementation of TROA, but this is outside of TROA. This is whether or not by signing the TROA agreement California has committed to not taking (Seney: Ah, I see.) out that 59-37 action.

Seney: I see what you mean. Right. Right.

Sarna: So, it goes, it's outside of TROA. And I, I don't know how it would, how it would play out. So, that's how, I mean that's how we got to these instream flows. I mean, there's a lot of other details I didn't mention. The Fish and Game had also preferred flows. We tried to get those, you know, some mandate in TROA (Seney: Right.) to get, to make people to go more toward the preferred flows. But the other parties just would not go there. We eventually agreed that we could propose voluntary transfers of water that would meet these preferred flows, but they would always have a veto authority over those.

Seney: So, you might, you might work something out on the spot, (Sarna: Yeah.) if there was a difficulty?

Sarna: Yeah. And I think that's a possibility. I mean, as some people have said, "Well, you know, TROA is going to work if we all work together. (Seney: Yeah.) If we start fighting again, (Laugh) it's probably not going (Seney: Yeah. Yeah.) to work very well."

Seney: Yeah. Yeah. It is going to require a high level of cooperation, (Sarna: Yeah.) isn't it? Yeah.

Other Truckee River Interests

Sarna: So, I think we have to maintain—and I've been encouraged by the cooperation we've seen up to now, in terms of working with other, other folks. I mean, we currently have a group that we meet regularly with, our Truckee River Basin Water Group which meet and represent California interests, and also as TROF, Truckee River Operations Forum, which provide, you know, is a meeting of people who have water and how they plan to use it this year. And, we keep, and we try to integrate those two to get the objectives of the Truckee River Basin Water Group to the TROF and get what the TROF is doing to the Truckee River Basin Water Group so they understand what's, (Seney: Right. Right.) what it is. And, the other parties have been, you know, there's, there's certainly a limit, you know. (Seney: Yeah.) You know, there's the limit. The bar isn't very, isn't very high. You know, it's still pretty high, but they're willing to accommodate us at times, especially if they don't see any harm to, if they don't see any harm to themselves, they've always been willing to accommodate (Seney: Sure.) us.

Seney: Who is, who is negotiating on behalf of TMWA?

Sarna: On behalf of TMWA, was it, John Irwin is the policy person, and is it, Sue Oldham is a consultant. And we, Sue Oldham has been working on it for a long time.

Seney: I know she has. Right.

Sarna: Yeah. So, she, and she's the person we primarily deal with, you know, if we have any questions.

Seney: So, she's still, (Sarna: Yeah.) she has seceded from her position at Sierra Pacific Power (Sarna: Yes.) and has continued to negotiate?

Sarna: Yes.

Seney: Is Gordon De Paoli still involved?

Sarna: And, that was the third person (Seney: Yeah.) I was going to mention. That, in fact, it used to be, well before John Irwin was there, there was Janet Carson.⁸ (Seney: Right.) And she was representing them. And, she was kind of a, the policy—No. I guess Sue was kind of a—I don’t know. It was between Sue and Janet as to who was the policy (Laugh) person. But there was four of them that were always arguing, you know. And they’d argue among themselves sometimes (Laugh) of what they’d like to see. (Laugh) It was Ralph [Inaudible], Gordon De Paoli, Sue Oldham, and Janet Carson. And now John Irwin has been coming to meetings. And also, oh, what, I’ve got to remember his name. There’s the other person who is more into operations now. I can’t remember his name at this point. Well, I’ll remember him.

Seney: Yeah. That’s fine. So, go ahead. Down the list.

Water Exchanges

Sarna: Okay. So, that’s the instream flow one. And that’s what, and by doing all those exchanges—now and that’s why we said we had exchange—Well, the exchanges played into how the credit water accumulates and that was kind of how the fork in the road came into place, (Seney: Right.) is there was a conflict between when you accumulate credit water you could lower those instream flows. And, we wanted, what we have, what are, what we call our “new minimums”—I guess, in TROA, we call them the “enhanced minimum flows” – so, and Tahoe went from 50 c-f-s, or 70 depending on the time of year, up to 75 c-f-s. And, the question was, “When people accumulate water coming out of Lake Tahoe,”—and basically that’s the other part of TROA that really is critical to it —“when they accumulate water coming out of, coming out of Tahoe they basically lower the release. So, the fork in the road was, “How much can they lower the release?” (Seney: Yeah.) And that, it got to be very complicated. The other thing, I should mention it and it’s very, it was a critical part, is this is how Article VIII came into place. And it regards instream flows. Well, when we talked about exchanging water it was, you know, we talked about it. And it’s all good in concept, but there’s a lot of practical things involved, like once you store, once you start moving water and relabeling it in reservoirs, like this water that’s coming out of Tahoe, so whoever’s water in Tahoe is being released now appears in Boca because that’s where the release is being held back. (Seney: Right.) So, they own that water in Boca, but what’s the priority of that water with respect to other people’s water in that system? Who can release their water first?

Seney: Oh yeah.

⁸ Janet R. Carson participated in Reclamation’s Newlands Series oral history project. See, Janet R. Carson, *Oral History Interview*, Transcript of tape-recorded Bureau of Reclamation Oral History Interview conducted by Donald B. Seney, edited by Donald B. Seney and further edited and desktop published by Brit Allan Storey, senior historian, Bureau of Reclamation, 2011, <https://www.usbr.gov/history/oralhist.html>.

Sarna: Whose water spills when it spills? (Laugh) And, once we got to there we realized, “Gees there’s a whole new set of problems to be solved.” (Seney: Yeah. Yeah.) And I remember one of the critical things we were determining right at the beginning was, “Okay, should, when, should we give them the priority of, you know, should each of us have . . .” There were two ways to go. One, should each party have the same priority in that reservoir as they have in all reservoirs?” or “When you move their water from one reservoir to another should their priority change now then, because they—maybe it should be a lower priority? Or maybe, is there another system? Now, what is the system?” (Seney: Yeah.) And I mention the first one, the first one is how it came out. There’s many ways that you can set priority (Seney: Yeah. Yeah. Sure.) and which one works best? And I remember looking at this issue and trying to think, “What is best for California?” You know, we want to promote exchanges, (Seney: Right.) because exchanges are good. The more exchanges you have the more you can, you know, get instream flows, improve instream flows. (Seney: Right.)

And really, we do exchanges for two reasons. One, we do exchanges for instream flows but also to improve reservoir levels. If you could move water from Stampede to, say, Boca in certain years you can keep, Boca is more, is better. There’s a lot of water in Stampede. You move 10,000 acre feet from Stampede to Boca, Stampede is not going to see hardly any impact at all. Boca may see a huge increase (Seney: Right. Right.) in recreational opportunities. (Seney: Yeah.) So, that’s the other reason to do exchanges. So, I remember thinking about this and decided, “Well, you know, the best, the best approach is probably so that everybody maintains the same priority in each of their reservoirs. Wherever your water is, it maintains the same priority, and it’s going to encourage people to exchange it more.” (Seney: Sure. Sure.) And so, but it was hard to get there. And so, we eventually came about and talked about, I guess we talked about this. And, I remember talking to Gordon, Gordon De Paoli about this. And we argued with TMWA for a while, but then I think they saw some benefit for themselves, too, in doing it that way. And, eventually, so that was the way the system evolved. And, we went, and we spent, again, a couple years trying to determine how each party, how each party’s water in each reservoir what are the rules regarding spill; regarding, you know, who could release water, if there’s competing releases; who can accumulate water, if there’s competing interest for accumulation? (Seney: Right.) And that’s all, that’s how—and Article VIII, I remember Gordon drafted up like a three-page, you know, Article VIII on how that occurred. And it expanded. I mean, eventually, it got to be like twenty or thirty pages.

Seney: Yeah.

Sarna: So, that’s, and so that was the other critical part of negotiating, you know, the

exchanges. So, I think—and then that was a critical part, and then the fork, after that, it got to be the fork in the road. Again, and that was the competition between accumulation and, you know, and I guess its releases or whose water is released for and how much water can be accumulated which is adverse to instream flows. So. Okay. Anyway, that's instream flows.

Seney: Great. That's great. Yeah.

Sarna: No, it was a very complicated issue (Seney: Yeah.) and I think it's been an important one. I think we tried something different (Seney: Right. Right.) that I think may, I think will end, I think we won't know for sure on until it actually plays out and we see TROA into effect. That's, you know . . .

Seney: Well, the whole point of TROA is to improve the operation of the river, isn't it?

Depletion

Sarna: Yeah.

Seney: To take advantage of all those reservoirs?

Sarna: Yeah. And what it does is all those—its changes. I mean, they now promote instream flows, they produce these other things like recreational pools, it makes people's water feel more secure. They have the option—I mean, it's like a free-market system for where their water (Seney: Yeah.) evolves. So, I think it has a lot of potential for solving, you know, the water problems. And people believe it. What the trade-off is, the difficulty for it, is that it's, it's going to be very complicated to keep track of all these different categories of water. And I remember talking to Rod Hall, and we, when talking to Rod Hall and some of the others, and Chet, we felt that it could be done, and you could either have a giant spreadsheet. But what's evolved is now we have this river water system that is going to be, supposed to be able to do that. So, this is in a computer system that's supposed to be able to take care of all this, and we're hoping that that works (Seney: Yeah.), and it comes up. But, I mean, we'll only see, you know, how it works out in the future. (Seney: Yeah.) Because I don't, I don't recall anyplace else that we do—I'm not familiar with anyplace else where this system of exchanges is done. Okay. And so, that's the instream flow issue. (Seney: Okay.) And probably the most complicated from our point of view.

Uhm, let's see. The depletion issue. Okay that, the—and let me see if I can sort of remember how that came about. The depletion—I mean, basically it comes out of

California's allocation and, ah, it was Bob–Bob Pelcyger⁹, at one time, represents the tribe. You know, we were talking about California's allocation, and we were in a meeting, and you know Bob sometimes just brings this stuff, issues, up. (Laugh) That's just his style. And, I remember at a meeting he says, "Well, you know, at this, we were, during the negotiations on the, not the Compact, but on the Settlement Act, there was an agreement that California, even though California was allowed to take 33,000 acre feet per year of groundwater, of which 10,000 acre-feet could be surface water, even though they were granted allocation there was no—you know, there was an agreement that they wouldn't be, they really wouldn't be able to use all of it up." Because—I guess, yeah. And, the question—I don't know how it—He was the one who brought it up originally, but I think, now that I think back on it I think it came out of probably discussions between him and the U-S because they, what they probably saw is that if California took all of the, not only took their allocation but didn't return any of it to the river, basically took and used it all up, (Seney: Yeah.) through reuse—and that's where your grey water comes in—(Seney: Right.). Okay, turn it into grey water and basically recycled it until all of it was gone, (Seney: Right.) and they had used their entire 32,000 acre feet it would have quite an impact, much more impact on them, on the downstream, basically on the cui-ui, and the Pyramid Lake than anticipated. And, so I think they, it probably was good for them to bring up because I, you know, given that they may not have, the U-S may have been, the tribe may not have been able to sign TROA if they had that in there. (Seney: Right.) So, they brought—but, I remember Bob brought it up, and I, the California team went back and went, "Wow," you know. (Laugh) "Well, first of all, show us where it said that." Bob mailed us something and we read it. "Does this really show us anything? (Laugh) Is this really in here?" Well, it didn't matter because that was the, you know, Bob's position. And we found out the U-S (Seney: Yeah.) had a similar position. They were concerned about that. So . . .

Seney: Something had to give, in other words?

Local Interests Concerns

Sarna: Something had to give. And, we had to—so, what we did is we started talking about depletion. This is another issue that took two or three years to solve. (Seney: Right.) We started talking, "Well, can California restrict its depletion? And can we limit?" Well, first we took the issue to our local interests. And, our local interests said,

9 Robert S. Pelcyger participated in Reclamation's Newlands Series oral history project. See, Robert (Bob) S. Pelcyger, *Oral History Interviews*, Transcript of tape-recorded Bureau of Reclamation Oral History Interviews conducted by Professor Donald B. Seney for the Bureau of Reclamation, in 1995 and 2006, in Reno, Nevada, and Boulder, Colorado, 1995 interviews edited by Donald B. Seney and all interviews further edited by Brit Allan Storey, senior historian of the Bureau of Reclamation 2013, <https://www.usbr.gov/history/oralhist.html>.

“California, you’re giving up, you know, you’re giving up”—well, let’s see.

Seney: This would be the upper Truckee [River] interests, though, when you said the local interests?

Sarna: The local interests would be in the Truckee River. I wouldn’t call it the upper Truckee. upper Truckee, to me, is above Lake Tahoe. Is the upper Truckee River to the south of Lake Tahoe?

Seney: Oh, I see what you mean.

Sarna: This is the Truckee between Lake Tahoe and, this is . . .

Seney: Nevada border?

Sarna: And the Nevada border, yes. (Seney: Okay.) And, you know, I don’t know when we took it to our local interests, but I remember they were just all, you know, really upset about it. (Seney: Right. Right.) Because they felt that they had negotiated, as part of the Settlement Act, they had negotiated to get 32,000 acre-feet per year. Now, the practical fact of the matter is that you look at the Truckee Basin they’re never going to go and start reusing the water and use it all up. (Seney: Yeah.) You know, it’s very, you know, it’s just very unlikely that that would ever—I mean, I guess I could say, I shouldn’t say “never.” But it’s so unlikely that it’s just, really speculative, implausible, I guess, is the proper term. So, our, first of all we had to negotiate with the other interests on how much, on how much water, what was “depletion?” And I remember we, and Nevada got very actively involved in that. And I remember getting together with Nevada and we said, and we said, “We got to resolve this. We got to come up with something and negotiate something.” And the other party’s position was that we could only, what Bob had said is that we could “only deplete half of that. We had to return half of it back to the Truckee River, (Seney: Right.) or the surface water. We couldn’t deplete more than half of it, 16,000 acre feet per year.” We said, “No, we shouldn’t have to deplete any of it.” But we met with Nevada, and we sat down, and California came to Nevada and said, “Okay. What can we live with?” And I remember—well maybe I should just say the outcome. The outcome was fifty-five percent. Instead of fifty percent the outcome was fifty-five percent. And, I’m not going to say what happened in that meeting, (Laugh) but there was a lot of serious discussion, and hand wringing, (Laugh) and etcetera.

Seney: What do you mean when you say—you had a big smile on your face. The tape won’t see that. What do you mean this was a “serious discussion?”

Sarna: Oh sure. I meant that people were, felt very strongly about their positions. We didn’t

want to go down to, we certainly wouldn't go down to fifty percent. (Seney: Yeah.) And we wouldn't accept that. We wanted something more than fifty percent. It just, it just seemed too much. We wanted to come out with something more. And so, fifty-five percent is what we came out with.

Seney: And that would be what, about 18,000 acre-feet?

Sarna: 17,600.

Seney: 17,600.

Sarna: Instead of 16,000, 17,600.

Seney: And that's a lot of water for that area isn't it, in terms of if it built out to all of that? (Sarna: Sure.) That would be . . .

Sarna: And, to quote, to quote, I mean right now they only use about 6,000 acre feet of water for M&I, and 3,000 acre feet of water per, this is all per year, for different other uses. (Seney: Yeah.) So, they're about 9,000 acre feet now. They're not even using, that's the total they use, and if you look at it, and we did some estimates which I'll talk about, you know, a little later is that the estimates were that most of that returns to the Truckee River now (Seney: Right. Right.) through T-T-S-A. (Seney: Yeah.) So, that was the first part. The first part of it was negotiating a number that we felt, you know that we, that California could live with, and felt we had done our best in negotiation, and that we could live with. I knew, basically I knew, if we got anywhere near 20-22,000 acre feet, that's where the model runs kicked in that showed that was, you know, some difficulties for California. (Seney: Right.) Difficulties for the downstream interests in terms (Seney: Yeah.) of getting what they wanted out of the settlement. They may just bail at that point, and it may be worse for them. So, what was a number in between that we could agree to? Well, you know, 17,600 was the number that we came up with (Seney: Right.) in that intensive meeting with Nevada.

So, the next step was selling that to our local interests. And now that's where I think, I think that's where we first went to our local interests and that's where they says you know, "What did you do, California? You just negotiated away our, you know, what we had achieved in the Settlement Act, (Seney: Right.) which is 32,000?" you know. And "How could you have done that to us?" And the local interest—and so we said, "Well, you know, we had to go there. You know, there's, we couldn't, you know, it wasn't, we weren't getting anywhere without having some kind of depletion (Seney: Right.) allowance." And we tried to explain it to them, and then so after a couple months of discussions like that where, again, we were facing some very

unhappy people. We finally, we finally said, “Well, let’s get, what we should do is look at what the actual consequences are of this. Is this going to impact you?” (Seney: Right.) And so, we went, and we did a few, we went and did our own studies. The local interest eventually hired a consultant at their own expense, which we contributed like, I don’t know, twenty percent to study it. And we came to the conclusion that we would—if the, I don’t know, it was much less than fifty-five percent that would ever, that would deplete under any, you know, any anticipated scenario, (Seney: Right.) build-out scenario in that area. Basically, it’s been, the rationale is that most of it’s going to be M&I. (Seney: Yeah.) Most M&I water, I mean, returns to the system, (Seney: Yeah. Sure. Sure.) now most of its used indoor. You don’t use a lot of outdoor water (Laugh) out there. There’s not a lot of landscaping. (Seney: Yeah.) Most of its indoor use, and most of the indoor use is going to go back to T-T-S-A, get treated, and it’s going to go out to the river again.

Seney: Right. The local interests did say to me, and I’m sure you’ve heard this too, that they felt they were, one of the reasons they were sold out was that California’s real interest was in Southern California and Colorado River water. (Sarna: Hmm.) And, that there was somehow a more flexibility on California’s part dealing with their 32,000 acre feet because there was going to be some payoff when it came to Colorado River water, dealing with Nevada on that issue?

Sarna: No. I don’t believe that at all.

Seney: Yeah.

Sarna: My own personal opinion—I did not have any feeling about that. If that occurred, it was above my level (Seney: Right.) and I was privy to most of the discussions. (Seney: Right.) Now, it’s possible that, you know, some of the policy people here, at a high level, the director or the deputies, may have talked to somebody in Nevada. (Seney: Right.) And, that discussion may have occurred. I doubt it. (Seney: Right. Right.) I really doubt it because the directors, in order for the directors to do that, and the deputies, they, we’d have to brief them. (Seney: Right. Right.) In other words, there were—and during this process we briefed them, you know, intermittently, but we didn’t brief them on, you know, we briefed them on depletion and told them about, you know, the concerns, (Seney: Right.) but I don’t think—I didn’t see that level of interest (Seney: Right.) on that much.

Seney: Well, I raise it only because they have said it. (Sarna: Interesting.) and I want you to be able to respond to it.

Sarna: And, as I said my response (Seney: Yeah.) is that, “Not to my knowledge at all.”

Seney: Right. Right.

Calculating Depletion

Sarna: And I would think that I should have been aware of it. Usually, I'm aware of things like that. (Seney: Right. Right.) But I would not, not aware of anything, at this time, like that. (Seney: Okay.)

So, I mean, that was the problem, and what it actually came down to is this, you know, and then it came down to "How are we going to . . ." the other problem was "How are we going to calculate depletion?" (Seney: Right. Right.) Because that's, again, the devils in the details. (Laugh) You know, we've agreed upon a depletion number, 17,600 acre-feet per year, but you know how were we going to calculate that? And so, we went through—Rod Hall and I were talking. We were the technical representatives, (Seney: Right.) and we talked, and talked, and figured it out. And, finally we said, "Well, let's just use a linear equation, and with a lot of variables in it." And so, we put together—I drafted up the first draft of that equation. I sent it out to people, and we talked about it, and then we talked about what the factors were. And the linear, so the linear equation gave—it really didn't solve the problem, but it gave focus on what the, what the arguments were. (Seney: Right.) And so, each of the factors became—each of the factors in that linear equation, each of the constants, and you know, the, I guess they're multipliers, whatever you call them, in front of them. The variables, each of those became a matter of discussion, and we spent a lot—we went and met with our local interests, the Sierra Pacific Power Company. Rod Hall was representing them on a lot of this. And we, and battled out for each of those. Roger Johnson was with the State Water Board at the time, and he was representing them. He took a large part in that too. Unfortunately, he died a year or so ago. But we finally worked out each of those constants.

And then, once we had those constants down, this huge equation, you know, the equation is long. It was about, that was, it goes across an entire—it goes, it's like three or four lines in a page, and then you have about three pages worth of explanations of what each of those linear constants means. And then, at the end, is a list of the constants. (Laughter) So, it's a very, we solved it through a very complicated mechanism, but it's something that you can program into a computer and just solve. Or it's very easy, it's something that, it doesn't lend a lot of (Seney: Yeah.) you know—what am I trying to say? It's, it's very specific. It's very easy to calculate. You know what you're calculating, what each of the variables are. So, it shouldn't be hard just to calculate. There should not be a lot of disagreement about how we calculate, you know, how we make that calculation, and what the constants are. And there's a whole difficult process for changing those constants too, which will

probably never take place (Laugh) I think, because we got to get everybody's, we got to get several people to agree on that. (Seney: Yeah. Right.) But, looking at those constants, how it calculates, that also helped, again, our local interests understand how it would be implemented. And that when you plugged the constants in how much that that, under any—again, convinced them that under any feasible alternative future that the, that depletion is not going to come into play. It's not going to restrict their water use. (Seney: Right.) And we really, based upon what I've seen, we believe that, or I believe that, and I think we've convinced them of that. And, with the study that was done, I think that helps. So, that was how that depletion issue worked out.

Seney: Uh huh. So, in other words, the Upper Truckee is going to be able to use 17,600 acre feet of water per year, and that's it?

Sarna: Well, they're going to be able to use 32,000—the use is, they're going to be able to divert 32,000, or divert or extract via groundwater, 32,000 acre feet per year for their use, it's just that only, that thirty-two minus 17,600, or forty-five percent of it, has to return (Seney: Ah.) back to the river.

Seney: And this, this will measure it, this long . . .

Sarna: And this equation—Well, there's no way to measure it directly, as to how much you return. (Seney: Right.) It's just that, using this linear equation you say, "Okay, there's so much M&I." (Seney: Right.) For M&I, you assume that, you know, I don't know what it is, fifty percent returns back to the river. (Seney: Right. Right.) Or, you know, sixty-percent returns back to the river. (Seney: Right.) You know, if it's used for ag use, you know, if that even incurs, this much returns back to the river. (Seney: I see.) For golf courses, this much returns back (Seney: Yeah.) to the river. So, that's the linear equation (Seney: Ah.) that tells you how to calculate how much returns back to the river. And, we have to, and if we're at—So, the amount that has to return I guess is, well anyway the, so we can divert 32,000 acre feet per year, but of that forty-five percent of—how does that work? I have to remember the—Well, we can't deplete more than 17,600. (Seney: Yeah.) So, that's how it works, (Seney: Okay.) is that there's two limits. One is a 32,000 acre feet diversion, and of that whatever is diverted, 17,000 acre feet is the limit on how much can be depleted and used up.

Seney: Yeah. And, your point is that won't happen?

Sarna: Yeah. We don't believe that will ever happen.

Seney: Yeah. Right. Right.

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- Sarna: But I mean it's, well I mean, unless there's really—I mean, you could import, you could export—well you can't export out of the basin in TROA.
- Seney: Unless they're boiling it all away?
- Sarna: Unless they're boiling it. (Laugh) I mean, I could look at the equation, and the equation could tell you how much, I mean—maybe I should give you an example. I'll just look at the equation here. And, I'll try to—one of the, an outlandish scenario by which it may . . .
- Seney: No. That's all right. Yeah, go ahead if you like.
- Sarna: Yeah, let me. I have the, I have the old version. I don't know where I picked that one up from. There it is. Okay. Oh, here's the equation. D-11. Okay. So, D-11. So, I think if it's irrigation, if we would irrigate with all that water, we'd have seventy-five percent depletion. If we took all the 32,000 acre feet and used it for irrigation then—I'm going to have to find out what D-I-1 is here. D? Here it is. Oh, D-I-1. Yeah, for I-A [Irrigated Agriculture] purposes. Oh, irrigated agriculture. Well, we can't do much irrigated agriculture. But, if by some reason we would use all that water for irrigated agriculture then seventy-five percent would be depleted. (Seney: Yeah.) That's one scenario. (Seney: Right.) However, TROA limits irrigated agriculture to—now, it places significant restrictions on new irrigated agriculture. So, it only, whatever is out there now is going to stay out there. And that may be that may well be bought out in the future (Seney: Right. Right.) to serve higher usage. Or, if it was all golf courses. Probably if it was, if it all became golf courses—S-I-2. Yeah, golf courses. If it's all golf courses, that would also. If we could divert it all for one huge golf course, (Laugh) that would do it. Okay. That's, I mean. (Seney: Right. Right.) So, under those kind of scenarios, you see it. You'll see it. But I don't think, again I don't, those are the kind of things I don't know if it's [Inaudible].
- Seney: Well, one giant golf course is much more likely (Laugh) than the agriculture.
- Sarna: That's it. Yeah. (Laughter) Especially in the Truckee Basin.
- Seney: Yeah. Right. Right. Let me put in another tape.
- END SIDE B, TAPE 1. MAY 27, 2005.
BEGIN SIDE A, TAPE 2. MAY 27, 2005.
- Seney: My name is Donald Seney and I'm with John Sarna, I should say, in his office in Sacramento, California. Today is May 27, 2005. This is our second tape, and our

first session. Go ahead John, with anything you want to talk about.

Environmental Credit Water

Sarna: Okay. Well, we've done, we've talked about depletion, and instream flows, (Seney: Right.) and the three-party agreement with Donner Lake. I guess, what else? There's a couple other ones. Cal M & I Credit Water, Cal Environmental Credit Water. (Seney: Sure.) We could talk about those issues? (Seney: Right.) Or, I'm trying to think if there were any issues that were resolved in a, you know, a very, very briefly. Because we had talked do you want to hear the ones that were easily resolved, too?

Seney: Yeah, give us a couple of easy ones. Those are the ones . . . (Laugh)

Sarna: Yeah. Those are the ones I need to think about because I just don't remember any (Seney: Right.) off hand.

Seney: But you could talk about these others if you want, and (Sarna: Yeah.) maybe as you do something will come to mind.

Sarna: Something to come to mind, or if you give me, or if you give me a few minutes to think and just look through TROA I might be able to figure out one.

Let's go on to California Environmental Credit Water, as to how that issue came about and how we resolved that. And that came up—let's see. That came about because our interest in the, again our local interest—We try to work closely with our local interests in the Truckee River Basin also, or often. So, what happened one time is that, I guess, we were working with them. They have, they have this, they have the issue that really is a concern to them. It has always been a concern to them is, "What happens if we don't, if TROA doesn't turn out? You know, we have all these exchanges and these model runs (Seney: Right.) that predict, hey things are going to be a lot better than they are now, or let's say significantly better." I don't know what "a lot" means, but it's going to be significantly better than it is now, in terms of instream flows and reservoir levels. "What happens if that actually doesn't play out? Do we have any recourse?" And, the answer has always been from the other parties, and us too, is we really can't guarantee anything. (Seney: Right.) If you, because if we guarantee something to us, we have to guarantee something to the other parties too, (Seney: Right.) and there's no guarantees for anybody. We all are taking a risk that we're going to see benefits come out of this.

And, if they, and so we, so their, so out of that they raised the issue to—they were concerned—They raised the issue to our Resources Agency, and our Resources Agency, at the time, you know, was fairly receptive. And they came up and they had

a series of meetings, and we had discussions and we'd meet with the Resources Agency representative. I think that was Wright [spelling?]. What's his . . .? He just was in Cal-Fed and he just dropped out. Uhm . . . His last name is Wright [spelling?], and I forget his first name. (Laugh) In any case, I met with him. The local interests, they came up for a couple of meetings and we tried to figure out, and we went through all of TROA to say, "What, let the local interests explain what their concerns," I mean, this was their major concern, but they had other concerns too. And then, at one meeting, I remember, it was Linda Ackley [spelling?] I think it was, who actually came up with this idea of California Environmental Credit Water, which is, "Why not . . ." she said, "Why not have some Environmental Credit Water like Cal-Fed has, you know, that would, you know, if there's something wrong we can then allow, if we put Cal Environmental Credit Water in TROA then allow this category of water to be created then we would be able to buy water rights in Nevada," at the time, "store California Environmental Credit Water upstream, and then release that to make up for any difference or any problems (Seney: Right.) that we didn't see in terms of not going to receive benefits out of TROA?" And that, that came up and it, as John Kramer said, "That one issue, that concept had legs," in that it walked, you know, that actually got—you know, as we talked about it more and more it looked better and better. And so, we eventually, we worked with our local interests. They liked the idea, you know. The Resources Agency liked the idea.

We finally, "Okay," the California team went, and we presented it to the other parties. Well, the other parties, "Well, you know, other people's been getting credit water. You know, there's the Water Quality Credit Water, the [Inaudible] Credit Water, you know. The other kinds of credit waters still exist." (Seney: Right.) And maybe I should go back for a second (Laugh) on TROA. What happened with TROA is that, you know, that, we, I talked about this P-S-A water, the, Preliminary Settlement Agreement water. And, after that there was, other people got on and said, "We would like to be able to store credit water too." And so, one of us, Cal M&I Credit Water was what we wanted. We wanted some for M&I. And I just mentioned [Inaudible] Credit Water, and Water Quality Credit Water. There's Fish Credit Water. And, what happened with TROA is that is each party brought up what they would like to see in terms of getting credit water that they were added to the—we established that category of credit water. (Seney: Right.) In the order, and with the priority in the order of which it was brought up. So, the P-S-A, basically, establishes two kinds of credit water, Fish Credit Water and Firm and Non-Firm, basically Sierra Pacific's credit water. They have several names for it. "Form and Non-Form," and they have "Emergency Credit Water." So, those ones had the highest priority.

We came next with Cal—you know, we, we, I haven't talked about this but we yet next proposed Cal M&I Credit Water. So, we had the next highest priority. Not very

much storage and, you know, but, you know, I think it's 3,000 acre feet per year we had, but they figured that, you know, again we figured that was adequate for our needs. We had that much credit water then. What's the next one? I think it's Water Quality Credit Water and [Inaudible] Credit Water kind of came up at the same time. And so, they were given the next higher priority. And then, we came up with this concept of California Environmental Credit Water. So, we were given the next priority in the system. I shouldn't say "highest," it was the next lowest priority, (Seney: Yeah.) because the first one had the highest priority for, you know, spill, for avoiding spill, for releasing, and for accumulation. (Seney: Yeah.) The latter ones had lowest priority. So, Cal, they said, "Okay, we'll put you on the list." And then, there was some discussion as to how we fit. I mean, and then the issue became of how we fit into the priority system. Because some, some of the ones—there was also Newlands, Newlands Project Credit Water. And, I think we may have even come after that one, but we realized that there could be a large amount of Newlands Project Credit Water and that may just freeze us out of any kind of an (Seney: Yeah.) environmental credit waters whatsoever.

So, there was some negotiation over that priority, and we resolved that by a discussion of where we'd put it in the system. I think for some operations we were put above Newlands Project Credit Water. Others would have put it below Newlands Project Credit Water. And then, we'd have this other thing called "Other Credit Water," which would be additional California Environmental Credit Water. We'd get, oh what is it? I guess we'd get 3,000 acre feet per year and would share the space with Cal M&I Credit Water. And then, we'd, at the lower end of the priority would be—you know I can, I should look and see what the priorities are because I've forgot. At the lower end of the scale, we put "additional." We wanted, we would get a small amount of California Environmental Credit Water which would have a—oh it, they gave us a fairly high priority. They put it in the space with Cal M&I Credit Water, but then the additional California Environmental Credit Water had the low, much lower priority, except for Newlands Project Credit Water. That's how it went. Now I remember. So, we actually, we were able to get into a higher priority with it, but our decision, internally, was that we would give preference to Cal M&I Credit Water over California Environmental Credit Water. And then there was—oh wait, then we had a discussion. We realized that, "Well, sometimes we may want to be able to switch between California Environmental Credit Water and Additional California Environmental Credit Water," and then we had a, it took a couple months to resolve that because we had to talk, figure out a way to be able to switch between those two labels without injuring other parties. So, that's how Cal, that's how Cal Environmental Credit Water got into place.

Seney: And that will be used for upstream?

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- Sarna: Basically, it's restricted in that it has to be used for, I think, it's instream flows in California.
- Seney: Say, for the fish?
- Sarna: Yeah. For fish. For fish benefit. I mean, there's a list of what it can be—but it's basically, yes, it's for fish. (Seney: Yeah.) And, TROA has all that exactly in them. And again, I'm, like all this I'm just stating, you know, I'm summarizing it. And all the words in TROA are what really governs. (Seney: Right.) I'm just saying what my recollection is.
- Seney: Right. Right. That's fine. Yeah, that's fine. We don't expect you to—people can read TROA (Sarna: Yeah.) (Laugh) if they want.
- Sarna: And you can read, in Article VII it says specifically what that can be used for. And it, I think it actually includes water quality purposes too. (Seney: Right.) It's like in situ water uses, you know, to promote water quality, fish needs, and etcetera, in California. So, that was a, that was a good—that was actually a rather short one. It was short compared to other ones. (Seney: Yeah.) I remember getting a, I remember the critical meeting, when it occurred, and actually we were up there and I remember we were, all of our, several of our local interests were there. And I remember getting up at a blackboard and the other parties had said, "Okay, we're willing to give you this. And now this." And our local interests really didn't understand (Seney: Yeah.) you know, what was meant by that. So, I actually went up the blackboard and I drew lines, and I went, and I put the different categories of credit water. And I says, "Okay. This is where we fall in the scheme, under these different circumstances." (Laugh) (Seney: Yeah.) I had to do a little matrix up there. And then after, I think after they understood that they said, "Oh, you know, this looks like this will work for us."
- Seney: Right. Right. Do you have that list of seven things that you guys were interested in when you got involved in the TROA (Sarna: Yes, I do.) negotiations?
- Sarna: Yeah.
- Seney: It would be interesting to hear you talk about some more of those, and what all those were.
- Sarna: Well, the other—I think Cal M&I—well, let me look. Let me look and see what it is. It was 1996. If you want to stop the tape for a while . . .

Seney: Yeah. [Tape paused] All right. You have that list now?

Sarna: Yes. And this is the Cal—I'm looking at the January 19th, California Proposal for Resolution of TROA Issues. And, what that is, is it's like about a . . .

Seney: January 19 of . . . ?

Sarna: 1996. (Laugh)

Seney: 1996.

Sarna: And that's a list, as I had mentioned earlier, that's what the California team did at the time is we went, we presented all the, we worked out all the issues that we felt were important to California and we presented them to the other parties. And this is how we presented, in this, it looks like a thirteen-page, you know, document. (Seney: Right.) And so, the first one, the first—there's really like about seven different categories. The first one is priority and storage of California apportionment of Truckee River water. The second is design of water wells in the Truckee River Basin in California.

Seney: And, you said that was a big issue?

Designing Water Wells

Sarna: Designing water wells was and it still is, we're still discussing that, you know. And they're still trying to work with, now with current water wells. It has gotten down to where we reached agreement on most of the principles, but we're still—that still may be one of the current modifications to TROA. We're still proposing. We still have a modification to TROA we're still trying to make regarding these water wells.

Seney: What's the issue there?

Sarna: Okay. Well, the issue is—let me start the—do you want me to go through these first?

Seney: Well, no, why don't we just do this? Why don't we go through them and you can comment on them as we go through them.

Sarna: Oh. Okay. That's fine. Okay. The, that came out of the Settlement Act, and there's a, one sentence in the Settlement Act that says, "All wells shall be designed, in California," I guess it's "in the California Truckee River Basin shall be designed to minimize and shorten impacts the surface water flows to the maximum extent feasible." So, I memorized that because it came up again and again, and that was

what the objective was. The objective is that the other parties don't want to see California drilling into the, drilling wells near surface water and taking surface water. (Seney: Right.) Now, our State Water Board, actually calls that, if the well is taking surface water—First of all, our Department of Health Services has a problem with that, because it's a water quality problem with that. (Seney: Right.) And this will often stop people from doing it unless they treat it. And the other thing is the State Water Board considers that a diversion. If you take, if the well takes surface water it considers it a diversion. But the other parties were, but the other parties were very concerned that we were doing that. So, the—let's see how that—And I'm trying to think back as to how that, the beginning of that issue. Because I know how it resolved in our, in TROA Article X, which started out again as one or two pages, to clarify how that would work. And it got to be, it's now about twenty-five pages long. And I recall, oh, I recall, again it was an exchange. The California team would ask me to—well, we were—The California team got together, and we decided upon a way to address the other parties' concern with this. And, our way of addressing it was that we would put in that “all wells that were built more than twenty-five—that all wells . . .” and the people either had to comply and be able to demonstrate that, who built wells in the Truckee River basin, or if they, or else they could build in special areas where, if they built in certain areas, then they wouldn't have to show any, that they did, there was no burden, burden on them to show that they were properly designed. (Seney: Right.) And we decided initially that our areas would be anything that was more than 500 feet away from the Truckee River, 200 feet away from perennial streams, 50 feet away from intermittent streams.

And so, what we did is we got a big map, and we drew all the different streams, etcetera, and I got a big map about the size of three foot by five foot. We drew all the different areas on it where it would be, what we considered, right now we call them “safe zones,” I guess. (Laugh) And even that doesn't seem like the right term. And TROA considered them different terms. Anyway, these would be places where our local interests could put in a well and it would not be subject to, you know, this having to be designed to minimize surface water impacts to the maximum that's then feasible. And so we went, we presented this to the party, and I remember getting up there and showing it on a map, and putting the map on the wall and saying, “Oh, this is what we want to do, you know. And this is good because it encourages our local interests to put wells away from surface water supplies, which is what we want to do.” (Seney: Right.) And then, I remember Bob getting up and says, and saying, Bob Pelcyger got up and says, “Well, you know, I feel like it's Christmas and, you know, somebody has brought me something. And I open the package, and instead of a, you know, the big shiny new fire truck that I wanted, what I got was this, you know, article of clothing.” (Laugh) That wasn't his exact words, (Laughter) but, you know, he made that example. And I thought it was funny. And so, we realized that wasn't,

what he was saying it really wasn't what he wanted. (Laugh) (Seney: Yeah.) And the, what we did then is we went through some negotiations, and I guess we learned, we learned at that meeting that they wanted to see much more limited safe zones. They wanted to limit it to certain areas.

So, we went to our different—So, we went back to our local interests and said, “Okay, this is what we would like to—We need to get, get these down.” And the, so we went to each of the counties, and each of the water purveyors. Each of the water purveyors gave us a[n] area in which they would, that they felt they would be drilling wells in the future. (Seney: Right.) And we also included—So, we included those areas on top of staying in this 500-feet away from the Truckee River etcetera, we included these other areas on the map. And so, the next time we went there we showed him a map with these areas. And that was what they wanted. They no longer saw the whole basin as open to well drilling. They saw (Seney: Right.), you know, one-fourth or whatever part of it open, (Seney: Sure.) open to well drilling and staying away from these creeks and water bodies. And so, after that it was a matter of negotiating the boundaries.

It got down to some, the details again. And then we spent, you know, a couple months, just working out the solution, which that was a solution. But then, it took years to go through and each of us had to get the boundaries. And I remember there was a meeting on May 1, 1996. And, on that meeting, each of the water purveyors came in and they said, “This,” oh, yeah, they said, “this is our boundaries,” and they said, “but this is the conditions we'd like,” because they didn't all accept our, “Well, you need 500 feet away from the Truckee River,” and you know, (Seney: Right.) each of them felt that they had special needs. (Seney: Yeah.) So, and so we arranged for each of them to come in and talk to—and I remember the tribe set up there. It was Bob Pelcyger representing the tribe, Sue Oldham representing Sierra Pacific at the time, and I think there was probably somebody from Nevada. I don't recall who it was. They kind of set up there like a three-panel judge and each of them came up before them and said, “This is my plan.” (Seney: Yeah.) and “This is what I'd like to do in my special zone.” And they said, “Well, this is going to work, but this isn't going to work.” And, they argued back and forth, and they came, and they said, “Okay, well this is where . . .” and they reached agreement. I was surprised, every one of the parties, each one of the water purveyors, representatives of the water purveyors, (Seney: Yeah.) came and reached agreement on what the conditions would be for their special zones. We took that, the California team took that. We wrote up that into Article X, and then it became—still we had to refine the details.

Some people weren't happy the way it was. Alpine Meadows, in particular, was unhappy with what had been negotiated at that meeting, because they came back and they took a look at it, and says, “Uhm, this doesn't really work for us. We're doing

something else.” (Seney: Yeah.) So, we went. We renegotiated that one. We renegotiated things for—I think Dave Antonucci¹⁰ was working for Tahoe City P-U-D. We renegotiated a special zone for him. He wanted something else. And then, we worked on the boundaries. We worked on refinements. And, after we got that, we got that, within a couple years we got that pretty well down, and then we fought about words, editing it, so that we all, it all meant something (Seney: Yeah.) and there was no ambiguities in it. So, that was how the design of well, well issues came up and was resolved in the Truckee River basin. (Seney: All right.) Okay. So, that’s, and that was a tough one.

Oh, I didn’t mention that we’re still working on that. And, what we did is we said, “Okay, let’s see, Article X provides that, not only . . .” Well, the problem became what to do with wells in the past that had been built already. We decided, first of all, the public law automatically grandfathered in anything built before 1990. And, we said, “Well, this really didn’t come up until May 1, 1996. We never really reached agreement.” (Seney: Right.) “So, anything up to May 1, 1996, we’re going to grandfather those wells in.” But, all of the water purveyors should have been aware, after May 1, 1996, they should have been aware that these requirements were in place. So, we want them to start abiding by those as of (Seney: Yeah.) May 1, 1996. And that was brought up at the meeting, the people, you know, the other parties asked, said to water purveyors, “We want you to start honoring these now.” Well, we figured TROA was going to be signed. (Laugh) I mean not in a few months, but very shortly afterwards. And, a year, you know, a year’s went by. Years went by, and they said, “Well, what are we going to do about all these wells that are still—We want to make sure people aren’t drilling wells out there, that they’ll abide by this.” (Seney: Yeah. No.) So, we put in a process in TROA, and we said, “There’s going to be a process by which, before TROA is signed, we’re going to submit wells. We’re going to inventory wells in the area, that have been drilled, and we’re going to submit those to the other parties. Wells that are there or being planned. We’re going to submit those to the other parties. The other parties can either approve or disapprove them. If they disapprove them, we don’t know what we’re going to do. We’re going to have to negotiate. If they approve them, they go in and they’re listed as grandfathered in to TROA.” (Seney: Right.) Okay?

And that’s what we’re doing now. (Seney: Ah.) We’re currently, we did an inventory about a year ago. It took the longest time for us to get this inventory. We finally got a letter out to all, to, we did it, we found all the water well owners that we

10 David C. Antonucci participated in Reclamation’s Newlands Series oral history project. See, David C. Antonucci, *Oral History Interview*, Transcript of tape-recorded Bureau of Reclamation Oral History Interview conducted by Donald B. Seney, edited by Donald B. Seney and desktop published by Brit Allan Storey, senior historian, Bureau of Reclamation, 2009, <https://www.usbr.gov/history/oralhist.html>.

were aware of in the area, sent them a letter trying to describe what the issue was, and that they should try to get themselves in, and grandfathered in because it works to their benefit. And then, we asked them to—So, we asked them to provide us with information so we could go through this process. Well, we probably got—we got one well in about two years, a year and a half or two years ago, and then we started getting more. I think last October we got, you know, a half dozen more. And so those, you know, we're supposed to get in. (Seney: Right.) And that's what I said we just have to, and those went through the approval process. We're editing TROA right now. I have to go to a meeting in one week from today, and ask them again to put those wells in. I asked them about a month ago. This is what happens though. We went through this editing process about a month ago. We agreed on a lot of things. And I'm almost certain, I'm certain we agreed that we'd put these wells in. (Seney: Yeah.) Ninety-five percent of the updates were made, they forgot to put the wells in. So, I've got to go to the editing meeting next week and ensure that these wells get in. (Seney: Right.) I mean, that's kind of what I've been doing in this process (Seney: Right.) is making sure that everything that needs to get in, get in, gets into it. (Seney: Right.) So, that's been a large part of my role is, you know, making sure that the agreements made are actually preserved in writing in the TROA. So, yeah, and there's currently some wells that are currently in the process too. We submitted one. We submitted them probably about a month ago, and they have like ninety days to object. So, after those ninety days are up, we're going to have to go back to TROA and include those as being grandfathered in. (Seney: Right.) So, this is, but now these are minor compared to the things we've already negotiated and discussed. Okay. So, that completes the design of water wells. (Seney: Okay.)

Snow Making

Now, the snow making. Snow making in California, and the question there is that we, our local interests, had studies that supported—Well, it had to do with interstate allocation in Lake Tahoe and in the Truckee River basin, is that well a lot of water is used to make snow. And, the Settlement Act said that, “While not all the, because you make snow, basically you make snow with it, and the water doesn't, you don't lose the water, it all just runs off (Seney: Right.) the slope, (Seney: Right.) or ninety-nine—well, most of it runs off the slope.” The question is, the Settlement Act recognized that some of it can be, that only some of it is depleted. And the question is, “How much is depleted?” Our local interests, the snow making interests up there, and actually all kind of said, “Well, the number's now five to ten percent of the water gets depleted and the rest runs back, and so we should only be charged for five or ten (Seney: Right.) percent of it.” Whereas, the tribe, I remember, Al Shahroody¹¹ in

11 Ali Shahroody participated in Reclamation's Newlands Series oral history project. See, Ali Shahroody, *Oral History Interview*, Transcript of tape-recorded Bureau of Reclamation Oral History Interview conducted by Donald B. Seney, edited by Donald B. Seney and desktop published by Brit Allan Storey, senior historian, Bureau of

particular quote some studies, and other folks, you know, supported him, saying that, “Oh, the number could be, you know, as high as twenty-six percent,” I think Ali said at one time. Maybe it was twenty-seven percent, but he, the number he quoted. Well, there’s quite a range between those numbers. (Seney: Yeah. Yeah.) So, what number do we use? The Settlement Act—I guess this was an issue way back in the Settlement Act, because my understanding is that they didn’t resolve it then. The Settlement Act says, “a number shall be determined” (Seney: Yeah.) during TROA negotiations. So, it became up to us to determine what that number is. And so we went, I remember there was a meeting up in South Lake Tahoe, and we discussed how the—And so we went, we said, “Well, how are we going to solve this? We have to solve this. And we’ve got to put some number in. So, let’s get something in the middle.” So, I think we got down to, you know, we were saying fifteen percent. They were saying twenty percent. Okay? Well, maybe it was, not it was, maybe it was that. Or it was something like that. But then, it got down to sixteen to seventeen percent. And we kept negotiating the number. Maybe it wasn’t fifteen and twenty, but it was some numbers. (Seney: Yeah.) We kept on closing it in closer and closer until it got to sixteen or seventeen percent. I said, “Gees, this is so close.” But they wouldn’t budge off seventeen percent. We wouldn’t budge off sixteen percent. “How were we going to solve this issue?” And that, that led to the—you’ll probably hear this from others, but maybe (Laugh) it’s been the first time, the infamous coin toss. (Seney: Right.) And the coin toss was, “Okay, let’s, we’re Nevada.” We weren’t Nevada. We were in California. Somebody made the comment, “Well, let’s just toss a coin and we’ll abide by the result.” (Seney: Yeah.) And I mean it wasn’t a big difference, but between sixteen and seventeen percent, (Seney: Right.) but they said it. The coin was tossed, and we won the toss, and it came up sixteen percent.

And that wasn’t, that wasn’t the end of it, because we actually did, I mean everybody did agree to sixteen percent. (Seney: Right.) But there were still some detail, there were still some other details to be clarified as to, you know, we just started splitting hairs quite a bit with TROA. (Seney: Yeah.) And that is the, like the incidental water use. Basically, they say, “Well, snow tends to blow in from out of basin, or it blows out of basin,” and there was some questions about, “How much water should be (Laugh) you know, should be accounted to that?” (Seney: Yeah.) And we’re talking about a few acre-feet here. (Seney: Right. Right. Right.) And maybe we were starting to argue for the sake of argument at that point. But anyway, it became to be a big issue between, you know, the other parties and some of our snow making interests. Because, in Tahoe they’re very concerned about (Seney: Right.) being close to the allocation. So, it’s important to them, you know. And, I forget how that, I forget how that—I just remember the arguments and that we spent a lot of time discussing it. Jim Markle [spelling?] was working for us at the time, as an

attorney, you know. And he, he came up with, you know, we met, I remember him being involved in the discussions, carefully. And, then I remember this, again, we came up with, we came to an agreement, and I remember spending, you know, a few months going back and forth just writing the agreement down trying to figure out—and it became so convoluted as to how it was written. I mean, I think I had to go through and I actually proposed revisions to my own language, like three different times, because it was unclear and things wouldn't work the way (Seney: Yeah.) I anticipated them after I took a fresh look at it. So, we circulated that language back and forth and I think we finally came to—and, if I had to read it again I tell you it would probably take me a day or two to figure out and work it all out and understand, exactly, how it's going to work, (Seney: Yeah.) how it's going to play, you know, who gets charged to what. But I think we're finally there where it's, you know, it's as the agreement was. (Seney: Right.) So that was, that pretty much was the end of it. Was there any . . .? Oh, there was another—even the snow making got down to like another, you know, some hundred, there was a few acre-feet, maybe 180 acre feet, or twenty acre feet, or ten acre feet that was reserved for certain types of, for some kind of snow making that Alpine Meadows had. Oh, maybe it was—There was a question, oh, between snow making in the Truckee River and the Tahoe Basin. But, no, I'm, I'm getting to the point where I can't remember these things (Seney: Yeah.) as to how, what the negotiations were and what the issues were even. So, maybe that was enough. I think that generally describes the snow making.

Seney: Okay. That's good. Yeah.

Sarna: Okay, next is instream flows in recreation in California. And I talked about the exchanges and how we got to those. There were a number of other things Fish and Game wanted, that I mentioned, preferred flows, maximum flows, ramping, special purpose releases. Again, those were made voluntary, where the other parties could voluntarily release their water to meet those needs, but we could get those to. And we did negotiate something where, if we really wanted something we would send them a letter and ask, and they had to tell us why they wouldn't do it. If we felt (Seney: Yeah.) strongly enough about something, they'd have to send us a letter why. But that's about as far as we got.

Operational Guidelines

The other thing I should mention are these operational guidelines, which is, came up initially during this proposal. And again, this is something that I think had legs in that “operational guidelines” it was that the other parties were interested—They wanted to know what we want, what our objectives were, you know. They would hear from different interests. We have a lot of different interests. And they wanted us to come up with one set of guidelines as to how we'd like to see, what we'd like to

see instream flows and recreation pools in the different reservoirs be. So, what we did is, we suggested that we put, we suggested we put together operational guidelines. They supported that, and then our locals supported it too because they felt, as we explained to them is that if we all come to the different, if we go to, go to say the Watermaster, or Truckee Meadows Water Authority, or somebody who has water and saying–If five different people approach them and say, “This is how we’d like to see you, you operate your water, release your water,” they’re going to get confused and they’re not going to know who to, what we want. (Seney: Right.) The best thing for California is to put together one set of what we’d like, one proposal of what we want, and say, and go to the other party and say, “This is what we want.” And then, if they’re, if they’re cooperative they’re going to do their best to meet it. It’s a lot better than going with, you know, ten different people going and saying (Seney: Right.) ten different things. So, these guidelines took place, and we actually came up with a set of guidelines. We have a set of guidelines in place. The other parties want to see it. And so, we distributed the guidelines. We currently meet, as I mentioned, this Truckee Basin Water Group, we meet with them consistently, you know, monthly during every spring, and we go over the guidelines and try to get the other and using the guidelines as a . . .

END SIDE A, TAPE 2. MAY 27, 2005.

BEGIN SIDE B, TAPE 2. MAY 27, 2005.

Environmental Impacts

Sarna: Continuing. Next is promoting flexibility through exchanges. We started out talking about that, and instream flows, we spent a lot of time talking about that. Next one is responding to reservoir modifications. I don’t even know what that is at this point. I’d have to look that up. The last one is problems due to high water levels in Lake Tahoe: shoreline erosion and the endangered Yellow Cress. This was addressed in the environmental impact statement and environmental impact report that came out. We brought this up periodically saying these were concerns that we had. And the concerns were that with high water levels in Lake Tahoe there can be–You know, Lake Tahoe is a high quality water body, and sometimes waves can wash up on shore, and if it washes up on shore it can erode the–It wasn’t erosion per se, but it was that minerals and nutrients could be washed into the lake, (Seney: Right.) which would, you know, create a problem so the visibility in the lake would be lower. So, that was something–The decision was made to address that E-I-S/E-I-R. And, I think we have addressed it. And we have, and the California Guidelines do promote lower levels in Lake Tahoe. They recommend lower levels in Lake Tahoe, or that Lake Tahoe be kept lower to prevent shoreline erosion at certain times. The same with the endangered Tahoe Yellow Cress. That’s a plant, endangered plant, endangered in

California, not recognized as endangered by the federal government. But California recognizes it as endangered. So, there's certain times of the year when it's better to keep Tahoe low, although there's a lot of ambiguities there, we're uncertain of exactly, you know, what is, what's needed for that plant. But that is addressed in the E-I-S/E-I-R, too, and we've, and so basically there, it was making the other parties aware that we were concerned with it, and their reaction was, "We'll, look at the E-I-S/E-I-R. If that presents any problems, we'll address them then." (Seney: Right.)

And, the E-I-S has come out. It has not shown any significant adverse impacts for either of these. So, I think, I don't think they're going to be addressed further, except endangered Tahoe Yellow Cress, through this process, the TROA process, we've—I think the, or I should say concurrent, and with some encouragement, you know, things working both ways, they came out with something for the endangered Yellowcress, and that's some kind of a plan. Fish and Game as a plan now (Seney: Right.) as to how to address the concerns with the endangered Yellow Cress. And, I think that was tied to the last E-I-S/E-I-R, where people, they had a lot of comments on it. So, I think that's where the plan started to come out, but I'm uncertain of how that is, but I think it did come out of that.

Let me just look at, the only other one is the responding to reservoir modifications.

Seney: Sure.

Reservoir Modifications

Sarna: Let me just see if I can—want to start it? I'll just speak ad hoc here. The other issue is respond to reservoir modifications. The next thing was to accommodate future changes in reservoir structure or flood control operations, that could be a way to improve coordination of releases of instream flows from reservoirs. So, the idea is that, if the Army Corp of Engineers makes a change in flood control requirements, and actually there's a good example now is that the Bureau [of Reclamation] has required that Boca Reservoir be kept 10,000 acre feet lower because of security concerns. They won't say what security concerns, but we all assume it's associated with 9/11. So, if that's, there should be some kind of mechanism in place to improve coordination of releases, if those things occur. And, you know, I don't think we've followed up on that. I think the flexibility of TROA itself, the flexibility in TROA allows for that. I mean, and that's what's happening right now with Boca is because we're—Well, they're actually, currently operating to provide more, they're keeping the water in Boca up at Stampede, as long as they can store it there, and then releasing it from Stampede back to Boca as soon as they can. So, they were using it to

accommodate their own, you know, need to preserve Floriston¹² rate water to the extent possible. For instream flows, we're working with them.

We are working with them in that part of the Truckee Basin's Water Group and trough to, currently to provide, to try to get those, when they make those releases, between exchanges. It's another kind of an exchange between Stampede and Boca, to get those and do it in an environmentally friendly, environmentally friendly manner, (Seney: Right.) and to improve instream flows and not do it all at once. The flows might be too high. So, we're doing that just sort of like a pre-TROA operation, to consider it. TROA would provide a lot more flexibility to do that and if, and so I don't know what to say about that except we really didn't follow up on that very much, but there's probably a few, a few places in TROA that say what's going to happen if reservoir modifications. But I think the flexibility inherent in TROA itself that we did through these exchanges accommodate that issue. (Seney: Okay.) And so that, that pretty much completes all these issues.

Seney: All right.

Sarna: Do you want me to go into anything else?

Seney: Well, do you have something else you want to go into?

Small Issues in the TROA

Sarna: The only thing is I would like to think about—I don't know—I'd like to think up maybe one or two small issues, (Seney: Right.) that we addressed as part of TROA. And maybe if I went through—if you want to turn it off I'll look through TROA.

Seney: Okay. [Tape paused.]

Sarna: Okay, for the small issues, and maybe I should—yeah there was a, no there's a lot of small issues that I just forget about. I mean, one of them I just opened up TROA and

¹² "Floriston rates are the rates of flow of the Truckee River at Floriston, California, as actually measured at the U.S. Geological Survey stream gaging station near Farad, California. Floriston rates currently vary between 300 cubic feet per second (cfs) and 500 cfs depending on Lake Tahoe elevation and season. The Floriston rates required that there be a mean flow of water in the Truckee River near Floriston of 500 cfs during the period from March 1 to September 30, and 400 cfs between October 1 and the last day of February. This agreement required that if there was insufficient flow from the remaining portion of the Truckee River system to meet the Floriston rates, water would be released, if possible, from Lake Tahoe to maintain those specific rates of flow." See Summary of Truckee River Operations, www.waterboards.ca.gov/waterrights/water_issues/programs/water_quality_cert/docs/farad/deir/appendixb.pdf. (Accessed 1/2019)

we started, and I realized that they're talking about its these reservoir modifications. And, the modifications, what happened, gees, it was when Betsy Rieke¹³ came on board a couple, you know, three or four years ago.

Seney: As head of the Newlands Project Office?¹⁴

Sarna: Yeah. Yeah. The Carson City Bureau of Reclamation Office.

Seney: Right.

Sarna: And the question came up as to what would happen if the Bureau—Now, “Did the Bureau have the right under TROA to make modifications to their own reservoirs to, you know, for safety, or for other reasons that they deemed appropriate?” And so, she brought that up at a meeting, and we all wondered, well, you know, well the typical thing is, “Okay, you’ve got this concern, how do you propose to solve it?” (Seney: Yeah.) And she said, “Well, to give us the ability to, you know, make reservoir modifications.” “Well, give us some language.” So, she sent out some language. We looked at it. Now, we spent a couple of meetings arguing about what the language was, what the implications—Well, a little bit about the implications (Seney: Yeah.) but mainly about the words and to prevent the Bureau from doing things arbitrarily. And then, that language got into TROA. Okay, that’s one.

Another is, let’s see, I was thinking about the L-C-T [Lahontan Cutthroat Trout]. There’s, this is something that the Fish and Wildlife Service had a concern about, and that is, well and our Fish and Game too, is there’s a population of L-C-T in Independence Reservoir, and there’s a delta up there. If the lake gets too low the fish can’t go up the delta to spawn. So, this was a concern. We brought, I think the Fish and Wildlife Service brought it up and the question is, “Well, in very dry times how do we get water into Independence Lake to keep that level up?” (Seney: Right.) And I think there was some private prior agreement between Sierra Pacific Power Company and Fish and Game regarding that they would take some remedial action if that, if the lake fell that low. And I think both things occurred as that—We decided, we took our, we allowed fish water and, our fish credit water and joint program fish credit water, our water and U.S. Fish and Wildlife Service, to be moved up. We said, “Under certain circumstances, when that lake got low, we would move our water, exchange it up into Independence Reservoir to try to, to the extent possible, prevent that delta from being exposed (Seney: Right.) to not allow the fish to get up there.”

13 Elizabeth (Betsy) Rieke participated in Reclamation’s Newlands Series oral history project. See, Elizabeth (Betsy) Rieke, *Oral History Interview*, Transcript of tape-recorded Bureau of Reclamation oral history interview conducted by Donald B. Seney, edited by Donald B. Seney and further edited and desktop published by Brit Allan Storey, senior historian, Bureau of Reclamation, 2013, <https://www.usbr.gov/history/oralhist.html>.

14 Dr. Seney is referring to the Lahontan Valley Area Office in Carson City, Nevada.

And the TMWA and the U.S. Fish and Wildlife Service, and us to a small degree, negotiated something where TMWA would take some—and that was Sierra Pacific at the time—(Seney: Okay.) but Sierra Pacific would take some responsibility for mitigating that and doing, taking some action to allow better passage for that fish. And that took, you know, a few weeks to negotiate. (Seney: Right. Right.) And that, that got into TROA. So, there's a lot of small things that, small concerns that came up. (Seney: Right. Right.) And that, that's just two of them.

Seney: Great. Well, that's good. That's exactly what we want. And anything else you want to add in a general way about the negotiations?

Sarna: I can't think of anything, (Seney: Okay.) at this time.

Seney: All right.

Sarna: I'll print, I'll go ahead and print out a copy of the, you know, public draft of that for you.

Seney: Okay. Great. Well, I think you on behalf of the Bureau for doing this.

Sarna: Okay. Sure.

Seney: Right. Thank you, John.

END SIDE B, TAPE 2. MAY 27, 2005.
END OF INTERVIEW