

ORAL HISTORY INTERVIEW

ERNEST C. SHANK



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Interview Conducted and Edited by:
Donald B. Seney in 1994, 1995, and 2004
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Statement of Donation

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INTERVIEWER: DONALD B. SENBY

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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 (now emeritus and living in South Lake Tahoe, California) undertook this work. The Newlands Project, while a small- to medium-sized Reclamation project, represents a microcosm of issues found throughout Reclamation: water transportation over great distances; three Native American groups with sometimes conflicting interests; private entities with competitive and sometimes misunderstood water rights; many local governments with growing water needs; Fish and Wildlife Service programs competing for water for endangered species in Pyramid Lake and for viability of the Stillwater National Wildlife Refuge to the east of Fallon, Nevada; and Reclamation's original water user, the Truckee-Carson Irrigation District, having to deal with modern competition for some of the water supply that originally flowed to farms and ranches in its community.

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www.usbr.gov/history

**Oral History Interviews
Ernest Schank**

Seney: Today is April–April. (Laugh) August 19, 1994. Let me say that again. August 19, 1994. My name is Donald Seney and I'm with Ernest Schank at T-C-I-D [Truckee-Carson Irrigation District] headquarters in Fallon, Nevada.

Good afternoon, Ernie.

Schank: Good afternoon, Don.

Seney: I want you to, you're a native Fallon person, right?

Schank: Yes. I was born almost forty-four years ago. August . . .

Seney: Give me your birthday.

Schank: August 31, 1950.

Seney: Well, an early happy birthday to you. And, your father, obviously, is a farmer here?

Schank: Yes.

Seney: Was and is?

Schank: My father was also born here. He was born in 1930, December 7th, Pearl Harbor Day. My grandfather, and incidentally you're going to be visiting with my father (Seney: Right.) late next Monday, my grandfather is originally from Providence, Utah. He's the offspring of pure Swiss immigrants. Both his grandparents and his parents were Swiss. He grew up in the Providence area, was educated in, at Utah State University. It was called the Utah A-C, Agricultural College, in those days. He, for a short time, spent, or he spent a year teaching in New Mexico, two years in Virgin Valley, and then in 1929, he was teaching vocational agriculture, in 1929 got the opportunity to come to Fallon. And because of the Reclamation project and it was in its early days in 1929, he felt that it would be a wonderful place to come because of his desire to teach vocational agriculture, and it would also be a wonderful place for him to raise his family. So, my dad is native and I am native.

Seney: Are you a Mormon family?

Schank: Yes. We are.

Seney: Is there much of a Mormon presence, still, in the—because, there was a fair Mormon colony here in the beginnings, back in the mid-1800s, wasn't there?

Mormon Presence in Western Nevada

- Schank: Yes. It's, the Mormon population in the Fallon and Fernley area is probably twelve to fifteen percent.
- Seney: But this was, should I say, a major Mormon outpost?
- Schank: Well, I don't know that it ever . . .
- Seney: In those early days?
- Schank: I don't know that it was ever major. Your major L-D-S colonies were over in eastern Nevada: Lund, Mesquite, Bunkerville, Overton, even Las Vegas. The only major Mormon community in those days was Genoa, and when Johnston's army came to Utah, Brigham Young called the settlers back from the Genoa area. So this wasn't, in the early days of the project anyway, it wasn't what I would call a stronghold, as far as the Latter Day Saint people?
- Seney: No. I mean to go back earlier, as you have been. Did Brigham Young call all the Mormons back?
- Schank: Yes. There was . . .
- Seney: [Inaudible]
- Schank: There was a few. There was a few that stayed. In fact, a few of your older families, I believe, you can trace back to Mormon roots in the Carson Valley area. (Seney: Yeah.) And, even Washoe Valley area. But, to a large extent they, they all left.
- Seney: Yeah. You know, the Mormons I know, Mormons tend to know their own history very well. I mean, it must be taught as you (Schank: Well, we . . .) receive your religious instruction?
- Schank: Well, well we do a lot of genealogy. And so it's . . .
- Seney: Sure. I understand that.
- Schank: It's more of a self-taught thing when you start looking into your ancestors and into the stories that have been passed on, etcetera, etcetera, you, you know, you become pretty familiar with it.
- Seney: My understanding, and correct me if I'm wrong, is that the Mormons did fan out a little bit from Utah in this direction?
- Schank: Oh, yes. Oh, yes.
- Seney: In those, in the mid-1800s?
- Schank: Oh, yes. They loved to colonize the valleys where there was water supply. Of course, irrigation, if you study reclamation, there was a fellow by the name of John

Tallmadge, who really pioneered reclamation and that was in the Utah Valley area. And, of course, it spread to the valleys of southern Idaho, down into Arizona, New Mexico, and even down into Mexico. A lot of colonies sprung up on what is now the border of Utah and Nevada. (Seney: Yeah.) But they, there was one thing, there's one thing in common in almost all of those little Mormon settlements, even today as you go through, is they're agricultural communities. Most of them have some kind of an irrigation project, not Bureau of Reclamation, but it's little irrigation projects that they started and have been functioning since, you know, the 1850s, 1860s.

Seney: When you said that Brigham Young called the Mormons home from Genoa, why was that? What was the impetus to say, "Come back to Utah"?

Schank: Well, if you're familiar with Mormon history at all, you realize that every place they settled they were soon chased out by mobs because of their religious beliefs. And mostly . . .

Seney: Just too successful, often?

Schank: Mostly it wasn't because of their religious beliefs it was, as you look at L-D-S history, it was because they started to grow and prosper.

Seney: They were too successful?

Schank: And, yes. (Seney: Yeah.) And, the people became highly jealous. So when they, of course, they were chased out of both the Jackson County area of Missouri and also the Independence area of Missouri, out of Kirkland, Ohio, and out of what is now known as the Nauvoo, Illinois area. When they finally left Illinois, Brigham said he was going to take them to a place where they would not be disturbed. And, of course, at that time the area of Utah was not a part of the United States. It was a part of the Mexican Territory. And, that was where they came. And . . .

Seney: It was also very bleak?

Schank: Oh, yes.

Seney: Yeah.

Schank: Yes. And, they literally made that desert blossom. And, of course, they spread out and colonized, and later this part of the country became, or was acquired by the United States from the Mexican Government. And, the United States Government really desired to—I won't say desired—but there was, politically they said the Mormons were, were fighting against the government, that they were, that there was a major uprising, which was not true. And so, the President of the United States at that time—I don't remember, it was [James] Buchanan, I believe—sent what is known

as Johnston's army out to settle the Saints down, quell the uprising.¹ When they got here they found that there was not a problem. But the Saints, because of their prior, the prior problems that they had had as far as mob action, being chased out of areas, decided that they were not going to again be chased away. Brigham Young felt that they would be more vulnerable if they were spread out. And so a lot of the far flung settlements, such as the Genoa area, the Saints in those areas were called back so that they could add strength to the body.

Seney: All the way to Utah?

Schank: Yes. And, as far as resettling Genoa, they did not come back in, at least in great numbers, to the Genoa area.

Seney: Okay. Good. So, in other words, taking part in irrigation, or being on irrigation projects is nothing new to Mormon farmers?

Schank: No. No.

Seney: It's something they know.

Schank: No.

Seney: Yeah.

Schank: No. My grandfather grew up with irrigation in the Providence area. He's often told me that, that they raised more rocks than anything else. (Laugh) But, that was where he learned to farm and learned the value of work, and of course he's tried to instill that in, in the generations that have followed. And, I have a son, who is now twenty, well he'd be twenty-one this year, in December, he's currently serving a mission for the church in Japan. But he will be third generation, actually fourth generation on the ranch, third generation native Nevadan in our family.

Seney: Now, your granddad came and taught, I take it, here?

Family Settled in the Lahontan Valley

Schank: Yes. He taught vocational agriculture.

Seney: In the high school?

Schank: In the high schools. Yes.

Seney: Okay.

Schank: He taught for, from, in the Fallon area he taught from 1929 to 1957. He retired from being an active teacher in '57, took a job with the State Department and went

1. The Mormon War occurred in 1957-1958 under the administration of President James Buchanan.

over to Iraq. That's a familiar area to us. In those days it wasn't really too familiar. (Seney: Yeah.) But he took a job and the purpose was to teach the agricultural teachers over there how to teach. He was only there six months because they had coups in those days and the State Department, after six months, evacuated him, and released him from his assignment. He came home for five years, taught, or didn't teach, but he was the vocational agricultural supervisor for the State Department of Education here in Nevada.

Seney: Uh huh. Now, your dad is a farmer (Schank: Yes.) and has been for years?

Schank: Yes.

Seney: At what point did, did you all, in the Schank family, begin to accumulate land and start to farm here?

Schank: Well, my grandfather had a daughter, who was born shortly after they arrived here, and then had three sons. There was four children in the family. And, he had been here for ten years. He became very close friends with a man by the name of Royal Crook. Royal was also a member of the church and that was where they, I'm sure, developed their friendship. Royal was the county extension agent. Grandpa was the, and incidentally his name was Roy Schank. He was known, actually it was Leroy Christian Schank, but he was known by the name of Roy. He used the initials L-C. Anyway, Royal and Grandpa Schank became very good friends. Royal had seven children in his family, six daughters and one son. But, they would get together and talk and they decided that being that they were both in very influential jobs in agriculture in the community, and in those days it was just exclusively agriculture here, so they probably, as far as visibility, were the two most visible people in the community. They decided that if they were going to teach others to do it they needed to do it themselves, and they also needed to have something for their children. And so they bought, in 1939, 760 acres. It was known in those days as the Morehouse Ranch. They bought it. Royal took a portion of it. My grandfather bought 160—well, they divided it up and my grandfather took 160 acres. And then, Royal sold another little piece to a brother, one of his brothers, whose name was Howard Crook, and that was the way the farm was divided up. And since that time, we've acquired more property, but basically our family has been actively involved in farming since 1939. We, like I say, we've expanded the original place. We, a few years ago, bought back the portion that Royal sold to his brother Howard. And so, we have a sizeable portion of the original ranch. A good share of the water rights on that ranch were vested back in 1886, both by the Lofthouse Family and the Harmon family.

Seney: So, those are, predate, obviously, (Schank: Yes. Yes.) the project?

Schank: They predate the project.

Seney: Now, I know you've got two other brothers.

- Schank: I have three other brothers.
- Seney: One's a veterinarian?
- Schank: One's a veterinarian.
- Seney: One farms?
- Schank: No. I'm the farmer.
- Seney: You're the farmer.
- Schank: I'm the oldest.
- Seney: Okay.
- Schank: My, the second child in the family is a sister. She lives in Reno. The third is a brother, who is the veterinarian, Craig. The fourth is another sister, Eileen, who is a school teacher. She lives in Benjamin, Utah. The fifth is a brother who sells insurance here in Fallon, Donald. And, the sixth is a brother, Mark, who is into computers. He develops software for one of the major computer companies. And, I'm sorry, I can't tell you what the name is, but he lives in Champlain, Illinois.
- Seney: Now you, I know I'm going to be seeing your dad on Monday, and you guys live very close to one another?
- Schank: Yes.
- Seney: And, your brother, who is the veterinarian lives nearby?
- Schank: Yeah. I actually live in the old original house that was built shortly after the family acquired the farm. I, we, when I was born I lived in a little house that my mom and dad built shortly after they were married, and I lived there until I was twelve years old. We outgrew it. We were going to add on and my grandfather, at that time, it was just he and grandma, they said, "Well, let's just trade houses." And so, we took the big house. And, after I completed university, my university studies at B-Y-U, 1973, I came home and helped my dad build a new house and then I moved into the old original house. We've since done some remodeling. We're still in the process of that.
- Seney: How many children do you have?
- Schank: I have four children.
- Seney: Four children? And, you and your dad farm together, do you?
- Schank: Yes. Yes.

-
- Seney: Yeah.
- Schank: Well, actually, we—yes.
- Seney: Yes and no?
- Schank: Technically, a year and a half ago he officially retired.
- Seney: Well, so he tells me, but it doesn't . . .
- Schank: He still, (Seney: Yeah.) he still helps me out. And, I think if you understand farming and know very many farmers you'll know that if they retire and quit completely they usually die. (Seney: Yeah.) And so he, he basically is an employee now. I do lease a little bit of ground that he did retain, but technically, not technically, officially now I am a sole proprietor. But yes, we have farmed together since, well I guess since I started farming shortly after I was born, as soon as I could drive a tractor.
- Seney: How many acres do you farm?
- Schank: We, right now, farm almost 600 acres.
- Seney: That's a pretty good sized farm on this project, isn't it?
- Schank: Yes. It is. Especially since we don't hire anyone. My dad and I, and then my boys, my oldest boy helped tremendously, and we miss him.
- Seney: I'm sure you do.
- Schank: But, the second boy is, is fifteen now, and the third boy is eleven, and they can get out and drive most of the equipment, and are very good helps.
- Seney: When did you, you've been on the board at T-C-I-D. When did you start out on the board?

Elected to the TCID Board

- Schank: I was elected in 1978. And so . . .
- Seney: You would have been twenty-eight years old at the time?
- Schank: I would have been twenty-eight. And, as far as I know, and you probably could double check this, but I've been told that I was the youngest person ever to be elected to the T-C-I-D Board.
- Seney: How do you account for that? How do you, how were you elected? What was, what was the . . .

- Schank: Well, I, there was . . .
- Seney: So, your dad, (Schank: No.) did you succeed your dad?
- Schank: No, I didn't. I succeeded a fellow by the name of Ray Nigren [Spelling?], and Ray's a very good friend out in the Harmon District. Since the '70s, and I'm sure you'll get into this more later, but since the early '70s there's really been a lot of turmoil in this area over the water rights, with the Pyramid Lake Tribe, etcetera. And in those days I guess the battle, the battle was really heating up. And, not only has there been a battle with those outside the district who are trying to take away our water, but there has also been a certain battle going on within as to how we ought to handle the situation. There's, was a lot of old timers whose basic philosophy . . .
- Seney: By the way, let me say, I'd like you to tell me as much about this, the internal conflicts as you can so we can get (Schank: Okay.) a good picture of what's gone on (Schank: All right.) inside the district.
- Schank: All right. But, there was a lot of the old timers who basically had a philosophy, and I'm not a swearing person, but to emphasize their philosophy it was, "To hell with the government." And, I would have to say that given some of the things that have happened over the years, they were probably justified in that kind of a philosophy. But I, I guess being young and wanting to have some kind of a stable living, and I've always been the kind of person that desired stability. I really wanted to be involved in helping to, to find an end or to come to some kind of a conclusion whereby we could guaranteed the opportunity to farm and not be harassed. And, at that time . . .
- Seney: By "harassed" you mean, not to have the question of water rights and amounts (Schank: Exactly.) constantly (Schank: Exactly.) on the table and under (Schank: Exactly.) discussion?
- Schank: Exactly. Exactly. At that time, there was a manager by the name of James Wood, who had been a manager. Well, he had been with T-C-I-D for many years, was very knowledgeable, and there was some internal conflict between he and the board. I did not get involved in all of those kinds of things, because Mr. Wood left before I actually come onboard.
- Seney: Do you know, though, what the issues were that were (Schank: Well, I . . .) between Mr. Wood and the board?
- Schank: I really don't know specifically, and I didn't ever get into them. Other than a lot of it was the turmoil. He had a very strong philosophy as to how he wanted to handle things. And, I think there was just some internal conflicts. You would have to really speak with somebody like Ted, or somebody who was on the board at that time to probably (Seney: Sure.) understand that, that part. But, he left. He left the employment of the T-C-I-D and there was a lot of—and, I want to be a little bit careful, because I don't want to, to make anybody think that I had hard feelings or bad feelings towards anyone on the board—there was a lot of what I would call the old timers, and I just desired to get involved at that time. And, I guess, took the

chance. Didn't know whether I would be elected or not, but I took the chance and run for the seat, and was elected (Seney: Yeah.) by a, by a large majority.

Seney: So, it was a contested election?

Schank: Oh, yes. Yes.

Seney: You ran against Mr. Nigren [Spelling?], did you?

Schank: I ran against Mr. Nigren [Spelling?]. Yes. That's right.

Seney: How did, tell me a little about how you campaign to become a (Schank: Well . . .) board member.

Schank: That's been a long time ago. I was thinking (Seney: Uhm-hmm.) today, before I come out to visit with you, that's been sixteen, a little over sixteen years ago.

Seney: Yeah.

Schank: And although things, some things seem to stay in your memory quite vividly, maybe I'm reaching the age where (Laugh) old age is setting in and I'm forgetting some of those specifics. But, I do remember that I, I felt, and I campaigned at that time. I could, I should have dug up the old letter. I printed up a letter. That was the days when you'd go down and find a mimeograph machine, and it was done in, well if you paid a little you could get it done in the black ink. Otherwise it was, was it a ditto machine, where they did it in the kind of blue-purple ink. But anyway, I printed up some, some little flyers. It was in letter form, explaining to the people that I was young and I wanted to try to approach this, these problems, in a new way, and asked for their support. And, I must say my grandfather taught me that a good name is valueless. And, I would have to say that I think a lot of people probably voted for me because of the good name that my grandfather established.

Seney: Do you mean to say it was valuable?

Schank: In this—pardon?

Seney: Did you mean to say "invaluable"?

Schank: Well, I mean invaluable in the fact that you cannot attach a price to it.

Seney: Nothing is worth more than a good name?

Schank: Nothing is worth more than a good name. That's, (Seney: Right.) yes. That's the point I'm trying to make.

Seney: I think when you said "valueless," when we read that on the paper it's not going (Schank: Okay.) to come out sounding the way you want it.

Schank: Okay. Well, let's, maybe we better correct it now, then.

Seney: Yeah. (Laugh) Okay.

Grandfather's Influence

Schank: When you get the paper you can correct it. But, you cannot attach a price to a good name. And, he taught me that my whole life. I'm running off on another channel.

Seney: That's all right.

Schank: But, I was very close to my grandfather. My dad was very busy. We had a dairy in those days. He was very busy. I was the first child and the oldest grandson. My grandfather spent a lot of time with me, and I appreciate him for that.

Seney: When did, when did he pass away?

Schank: He passed away in 1980. But, we were very, very close. And, I'm close to my own dad. But, I was very close, at a young age, to my grandfather. He spent a lot of time. Of course, he was a school teacher, but he tried to teach not only the value of work but he always had little sayings that he would throw in, and he always talked about the value of a good name.

Seney: What were some of those sayings that you remember?

Schank: Well, he always taught us that it was important to "repair the corral before the cows got out," "A stitch in time saves nine." He, one of, one of his more amusing little statements that he liked to say was, "When you get married it's just as easy to fall in love with a girl that has a little money as it is to fall in love with one that doesn't have any." (Laugh)

Seney: Which kind did you fall in love with?

Schank: I kid my wife, because my wife was also born and raised in Fallon. She's a Sorenson, was raised across the valley from where I live, but she was a young lady that was in much the same circumstances as we are, and that's not very rich. (Laughter) But, I love her and that's what counts. But, my grandfather was a very wise man and I appreciated the fact that he did teach the value of a good name. And, like I say, I think I was probably, if I were to be completely honest, I was probably elected because of my name, because my dad and my grandfather had kept that name untarnished in this area and people respect the Schank name, still up to this day. And, I only hope that when I leave this earth that I can leave the same respect, or that people will have the same respect for the Schank name, so that my children, if any of them choose to stay here, will have the same benefits that I've had.

Seney: What does that mean to you when, as a man and as a person in the community, you are particularly concerned about your good name, and the legacy it represents for

your children?

Schank: Well, just an example, I can walk into almost any business in town—it isn't a hundred percent this way anymore, because this area has really grown. I remember my grandfather used to say, when he moved here, he knew, could call everybody by name as he walked downtown. Well I can remember when I knew nearly everybody. I had a little experience one time. I had a cousin who came to visit and as we were driving across town I guess he finally had had enough and he finally said to me, "Is there anybody you don't know?" And I said, "Why do you say that?" And he said, "Well, everybody that's gone by you you've either called them by name, or you've waved at them." And, I got to thinking about it, and yeah, I do know a lot of people. But, I can go into almost any business and have a charge account. My name is good enough, because they know we'll pay our bills. When you are called to testify for court or something to that effect in the community, or somebody needs information, they know that they can trust you. When you do business, I still do a whale of a lot of business, probably more than I ought to, with a handshake, because I trust people and people trust, trust the family. And, I think you'll find that's pretty universal in this community amongst the old-time families.

Seney: Let me ask you, when you, when you got elected to the board you said you won pretty handily?

First Impressions Joining the Board

Schank: Yes. I don't, I don't remember the numbers, but it was . . .

Seney: You do remember it was a good victory?

Schank: Oh, yes. (Seney: Yeah.) It was very large. Of course, I was defeated by about the same majority (Laugh) four years later.

Seney: Well, that's what I want to talk to you about. What was it like going on the board? What was your impression? I mean, obviously you must have been to board meetings, (Schank: Yes. I . . .) And, you're familiar with board politics and so forth?

Schank: Well I, no. I'll have to say, to be honest, I was not really familiar with board politics. I, when I figured out that I wanted to run I, I did spend several months at board meetings.

Seney: What was your impression? Do you remember?

Schank: I learned quickly how the board operated. And, yes, I remember the first impression that I had.

Seney: I'll just stop you here.

Schank: Okay.

Seney: Because, you learned quickly how the board operated. (Laugh) What did that, what does that mean?

Schank: I learned that they spent too much time doing things that a manager ought to do. And, well they spent far too much time trying to be involved in the day-to-day operations. Instead of setting policy and letting the manager carry out the policy, and then overseeing and making sure that that took place. They were basically running the day-to-day operations of the district. If somebody wanted a takeout or somebody needed a drain cleaned, it all had to come before the board. And so, probably the first thing that I desired, and this didn't happen a hundred percent, but the first desire I had was to try to really make the board and the T-C-I-D more the kind of business operation I felt it ought to be. I felt at the time, when the board was involved in the day-to-day operations, like it probably had been from the early, or from 1926 when T-C-I-D was first established, I felt really that that time needed to pass and we needed to get along with the modern techniques of business.

Seney: Let me, let me stop you to ask you, does it surprise you that a lot of farmers, who are, they're all farmers of course, who are used to running their whole operations from top to bottom, are going to, when they sit on a board like this, want to do the same thing?

Schank: No, it doesn't. But . . .

Seney: What's different about your thinking that makes you see this as a policy-making entity?

Desire to Change How the Board Operated

Schank: Well, I guess, and I would have to think back, I know there was at least one other board member who had a, who had a four-year college degree.

Seney: See, that's what I want to get at. Yeah.

Schank: But, but I think, I had been away for four years. Actually, I had been away for six years, because I spent two years in New Zealand, as I mentioned—oh, maybe I didn't mention that.

Seney: You didn't say that. That was your mission trip?

Schank: I served a two-year mission in New Zealand. So, I went to one year of college, two years on a mission, and then three years to finish up. Actually, I went to summer school, so I wasn't, I was a little less than six years that I was not living here in the area on a continuous basis. I was here off and on. But, I think when you have an opportunity to go away like that to school, and you're young, you have some college professors who are into economics and management, and that sort of thing, I think you take a new approach (Seney: Yeah.) as to how things ought to operate. And, of

course, you come back gung-ho thinking you can conquer the world, and that doesn't always happen. My father, however, was enough of a visionary man to realize that if he, if he wanted to get the kind of work out of me that I've, that he probably figured I was capable of performing, he had to give me some responsibility. And, so as far as our farm, our farm operations, he allowed me to incorporate some of these things that I had learned. And, I guess I had that same desire with the T-C-I-D.

Seney: Let me ask you about something, going back to being a Mormon. Now, I've known a lot of Mormons and I know a little bit about the Mormon Church, not a great deal, but I regard it as a conservative organization, and I regard Mormonism as a kind of conservative society, socially conservative. And yet, you have this practice of sending off the young men to places like Japan and New Zealand for a couple of years to do missionary work, to do religious work. What influence does that have on your thinking, do you think, as you come back? You say, you'd been to college, but you had been in New Zealand.

Mormon Influences in Seeing Multiple Perspectives

Schank: Again, I think, it broadens, it broadens your view and your horizons. Because you, you get the opportunity to see not only different lifestyles and different cultures, but different values. And, going to New Zealand was like going twenty years back in time. I experienced what my parents talked about in their growing-up days, because New Zealand was literally twenty years behind. However, I saw something very interesting there. New Zealand, New Zealand's economy was built entirely upon their agricultural exports. And so, the government, knowing the value of the exports, subsidized the farmers quite . . .

END OF SIDE 1, TAPE 1. AUGUST 19, 1994.

BEGINNING OF SIDE 2, TAPE 1. AUGUST 19, 1994.

Schank: The agriculture in New Zealand is, is very important because it was their only method of getting foreign money back into the country. New Zealand's money, the New Zealand dollar is really not worth very much on the market. So they needed to have the foreign money so that they could afford to buy the commodities that they had to buy, as far as cars, and equipment, etcetera, was basically all shipped in. A lot of it was assembled there, but they had to bring it in from other countries. In the process, they also realized that they had to feed their people at a relatively, you know, inexpensive cost, and so a lot of things were subsidized, such as their milk, butter, meats, cheese, and that sort of thing. I remember when I first went there that you could buy a pint, and that was an Imperial pint, of milk for four cents. A pound of butter was twenty-eight cents. You could eat relatively, you know, inexpensively at that time. And, I don't know what's happened since. But, the farmers there were the rich people. And I always used to—I mean, we struggled all our lives.

Seney: And, the politically important people?

Schank: Yes. Yes. Exactly.

Seney: Yeah.

Schank: Growing up, we struggled here. I mean, we ate good and my parents always provided clothing, and I had a, I won't say a "luxurious" shelter, but a nice home. But, we were never what I would say comfortable. We struggled just to make ends meet. And so . . .

Seney: I have to stop here to say I've never met a farmer who didn't say exactly the same thing that you're saying. I think farmers, as a class of people in this country, are very modest about these things and tend to say what you would say. Even though, I expect that, that if, you know, if one were to look at your bank balance you're probably doing okay. And, now you're looking at me . . .

Schank: Well, I don't know, I'd have to . . .

Seney: You're looking me in a very distant fashion. (Laugh) And I'm not asking you to tell me.

Schank: I, I wish, oh I know. (Seney: Okay.) I wish, I wish I could tell you yes, (Laugh) but I still have to borrow every year (Seney: Yeah.) in order to keep things going. And, I'm sure that, at least in the present situation with the drought and stuff, that will continue for a few years.

Seney: Well, I only bring this up because I want you to talk, too, as you're telling me about New Zealand, about the outlook of farmers. Because, I mean, you're dealing with a kind of business enterprise that does require debt, that does require risk, that will make you conservative, and make sure you're spending that money in the right way. So, you're dealing with a certain kind of outlook when you're dealing with an agricultural enterprise.

Schank: That's right. And, I guess that's what really amazed me about New Zealand is really the rich people over there, and the influential people, were the farmers, and people looked up to farmers. I guess, as I grew up, even though this was a farming community, to some degree it was always "the dumb farmer." You know, the dumb farmer drives slow down the road. The dumb farmer, you know, spends all night irrigating, and those kinds of things. And, and in a sense I grew up with the attitude that if I really want to be a success in life I need to get into something other than farming. But, I just, I had such a love for it that . . .

Seney: There was never any question in your mind?

Schank: I had, I had, yes, I had to come back. And, perhaps my experience in New Zealand reinforced that, because I saw how the people there valued farmers, because they realized that not only were they their lifeblood, as far as bringing other money into the country, but they were the lifeblood as far as food and sustenance, and that sort of thing. Of course, wool down there was very important. They raised a lot of

sheep.

Seney: Am I right in thinking, based on what you're saying here, that that experience in New Zealand's had a lifelong impact (Schank: Oh, yes.) on your thinking?

Schank: Yes. Yes. Yes, it has. But, as I mentioned a few moments ago, even though farmers over there were treated the way I explained, they were twenty years in practice behind, behind our practices in a lot of respects. And so I was able, I guess, maybe to see progressiveness in action. And, perhaps that influenced me a lot when I came home after having my experience at the university, to the fact that if we were going to stay in agriculture, if I was going to come in with my father and we were going to make a living where one family had struggled we were going to have to make some improvements, besides growing, in order for two families to exist and be able to, you know, make a good living.

Seney: Were you married by this time?

Schank: Yes. I was married. I married in 1973. I was twenty-one years old. And, our first child, actually, was born in Provo, Utah, but I had graduated and we had paid up front for the birth. He was supposed to be born in November. He was a ten-month baby. He was almost eleven pounds when he was born. So, we had to wait for him to be born. (Laugh) So, he was born in Provo. Three days later we traveled, on New Year's Day, we traveled 500 miles to home. (Laughter)

Seney: So, what we're talking about is, what I initially started to ask you about—it's okay if we range around, because this is a conversation.

Schank: Well, I got to, I got to tell you something (Seney: All right.) kind of interesting.

Seney: Sure. Please do.

Schank: Because you talked about the conservatism of Mormons, (Seney: Sure.) and that's true. My grandfather was a lifelong Democrat, and I always wondered, because as I grew up I tended to, to maybe have the philosophies more of the Republicans. I was always inquisitive as to why he was a Democrat, and very active in the Democratic Party. In fact, he served a term in the State Legislature in the Assembly here in Nevada. But, in those days, when the political parties as we know them, the Republicans and Democrats, became prominent the church leadership in Utah realized that to make the two-party system work that they had to figure out how to divide people up fairly evenly. And so, the bishops of the wards in those days would appoint the members to be either Democrats or Republicans, and my grandfather's family was appointed to be Democrats. (Laugh) So, he was a Democrat from the time he was, you know, old enough to vote until he died, although he confided in me one time that he had voted for far more Republican presidential candidates than he had Democratic (Laugh) candidates.

Seney: I was aware that the church had done that, to make a kind of partisan division, that

they felt they had to do that. That's interesting. Well, when you got on the board and you noticed them interfering with day-to-day management a little too much, you obviously must have tried to change that?

Attempts to Turn the Board Toward Policy Making

- Schank: Yes. And, in the end that was probably some of the reason that, that I was defeated. Although, there was some great changes made. We were able to, to get a policy book, which had never been in existence, so that we could compile the policies so that there was something written down, and more . . .
- Seney: That must have been a fairly large departure?
- Schank: Well, I think it was. I think it was. We . . .
- Seney: Well, I can just hear them talking. "Well, what's Cyril's boy doing getting on the board (Laugh) and trying to change everything?" Because, you're probably still "Cyril's boy" right?
- Schank: Oh, yes.
- Seney: Yeah.
- Schank: I suppose I am. (Laughter) Although, that's interesting. There's only twenty years, twenty years difference between us, and actually a little less than twenty years. I think he was nineteen when I was born. A lot of people, since we've worked together these last few years, you know, that don't know us well, oft times think we're brothers. So, either he's extremely young or I'm extremely old looking. (Laugh)
- Seney: Well, you don't look that old. So, he must look young. (Laugh) I'm looking forward to meeting him. But, so a policy book? What other kinds of things did you, did you do?
- Schank: Well, we tried to, the best we could, and of course I was only one of seven, and those meetings would sometimes last all day, and I think they still do, and sometimes we would have to have extra meetings, or carry the meeting on to continue the business. But, I think in the end there was a lot of areas that were streamlined, such as budgets, and the internal departments.
- Seney: How had budgets been handled that you changed them?
- Schank: Well, well I just think the methods, of course. That was, when I became a member of the board it was all done by hand, largely, still, and that was, I guess, in the time when computers and calculators and things started to come out. And, there was just, there was practices, more modern practices of bookkeeping and accounting that the district began to enter into. And, division of accounts so that all the money was not, you know, in one account. They would, the budgeting process was divided up.

And, I don't remember all the specifics, but I remember that, and it was kind of interesting because not very many of the board members understood the budget and understood the accounting process. I had enough hours in accounting in college to minor, although I didn't get a minor in it. But, I did have enough to do so, and I was interested. And I, I've always been the kind of guy, I think back of at least two of my children, the appliance repairman will come out and as little boys they'd pull a stool up and drive him nuts by saying, "What's that? What's that? How does that work?" And, I guess I was probably that same way. I really had a desire, not only to get an answer from someone, but I wanted to understand it. And I, I remember Doris Moren [Spelling?], who was the secretary, I guess she was the secretary/treasurer, I believe, was her official title, I remember many times I probably made her mad. I know I did. Because, I'd keep questioning and questioning, and then I'd say, "Do [you] mean this? And, do you mean that?" Because, I truly wanted to figure out how it worked. And, by the time I got off the board I think I had a pretty good handle on the different accounts and how they were handled, and that sort of thing.

Seney: So, besides budgeting what sort of . . .

Schank: And, let's see, I guess our biggest, I think our biggest accomplishment, in fact you can't see it on the tape but I brought a little book here, because I wanted to . . .

Seney: You've got a very thick book. It's several inches.

Schank: To refresh myself.

Seney: Yeah.

Schank: It's mostly minutes, but it's also some notes and other things that took place. I've got one that's about three times that high, also.

Seney: About a foot thick? Uh huh. Yeah.

Settling the Carson Lake Controversy

Schank: Yes. But, I guess our biggest accomplishment, at the time I come on the board, and you asked what some of the problems were, I recall now one of the major problems was there was a war, I guess, for want of a better word, between the cattlemen and the hunters in the Carson Lake area. Now, the Carson Lake is the original terminus to the south fork of the Carson River. And if you study flood history that was the main fork before some of the floods, I believe, in the late 1880s or 1890s, which opened up the channel that we know now as Old River, which goes north. But, the main body of water, in those early days, went to the south through the south fork and the terminus was the Carson Lake Pasture. We call it Carson Lake Pasture now, but it was the Carson Lake, and it was a large body of water, a marshland area. And then, it had an overflow through the Stillwater Slew, which goes out to the general area now where the Stillwater Wildlife Area is. However, I guess in those

days the largest part of what we would call the marsh now was in Carson Lake, and also the terminus of the Old River. But, there was a large battle. There was those who wanted to basically use the Carson Lake area just for grazing. They wanted to dry up the swamps and put a lot of cattle out there. And then there were those who wanted to maintain it as a, as a marshland area. And, I guess, being the practical type of person that I am and, as you said, conservative, it . . .

Seney: Well, you didn't argue with me when I said that. (Laugh)

Schank: No. No. And, I am. I'm very conservative, very, very conservative. But, I could see both points of view. But, in my little mind, my pea brain, I could see that we could work together. Why exclude one when you could have both work together and get the best of both worlds? And, I was appointed by the chairman at that time, who I believe was Elbert Mels [Spelling?]. I served, as I recall, all four years as vice chairman. Elbert was the chairman for the first two years and he appointed me to be the chairman of a committee to look into Carson Lake, to study it, to study the management practices, to study the accounting and financial part of it, to study the hunting potential and history, and to put together some kind of a report. Ted de Braga² served on that committee, as did George Lott [Spelling?], a fellow by the name of Johnny Miller, Mike Macadon [Spelling?], who is presently the city attorney. And, I don't recall—Norm Sakey [Spelling?], I believe, was on it. There was a representation of wildlife people, cattle people, T-C-I-D, and also some people from the Department of Wildlife. I believe they called them the Department of Fish & Game in those days.

But we, we worked for nearly two years on that project before we finally compiled a report. It ended up, we ended up working with the Fleischmann Foundation. The Fleischmann Foundation was going out of existence at that time and had some monies that they needed to use in some worthwhile areas. The Fleischmann Foundation had always been actively involved in wildlife, and those sorts of things, and some of the people on their board, Sessions Wheeler³ for instance, who was working in closing down the Fleischmann Foundation, worked with us very closely and we received, as I recall, a million dollars and we used that money. Some of it we used out north on the D-Line in order to enhance the Indian Lakes area. But, the bulk of that money we used down in Carson Lake area to put in some new dikes, to repair old dikes, to undershoot drain ditches so that the area that was designated to be wildlife had a fairly stable flow of water; to fence off the very sensitive areas. During my time I did not see the towers, which are now down there for people that want to go down and look at the wildlife. I did not see the towers built by the time I left. When I left they had not been completed. But, I guess I would have to say that's probably one of the greatest accomplishments. And, I think, after sitting over these past few years and listening to some of the wildlife

2. Mr. Ted de Braga participated in Reclamation's oral history series on the Newlands Project. For more information, see Ted de Braga, *Oral History Interviews*, Transcript of tape-recorded Bureau of Reclamation Oral History Interviews conducted by Donald B. Seney, Bureau of Reclamation, August 5 and 11, 1994, in Fallon, Nevada, edited by Donald B. Seney, www.usbr.gov/history/oralhist.html.

3. Sessions S. Wheeler authored a biography of Max Fleischmann, who founded the foundation. See, Sessions S. Wheeler, *Gentleman in the Outdoors: A Portrait of Max Fleischmann* (Reno: University of Nevada Press, 1985).

people accuse us, accuse when I say "us" I mean the Fallon area farmers and T-C-I-D, of not caring, I'd have to say that that's not true, because we did care and we were actively trying to do something.

Seney: Now, this was to make both pasture and wildlife area (Schank: Exactly.) coexist together?

Schank: Exactly.

Seney: Yeah.

Consensus Building

Schank: Exactly. Use it as a multipurpose area. And, it worked out very well. By the time we were completed, where there had been great animosity there was good feelings. Part of that, I think, happened just because we were able to sit here, in fact around this table in this very room, and communicate one with another, and learn first hand that the cattlemen, or the hunters, or the wildlife people really had the same interests. It was just a matter that we had to sit down and verbalize them and then say, "Now, how can we work together?" And, it worked very, very well.

Seney: You found that satisfying?

Schank: Yes. I found that very satisfying.

Seney: Is that kind of compatible, you think, with your character and personality that you get something solved and get some kind of concrete . . .

Schank: Well, I like, I like to think that. Some days in my family raising, we had three teenagers at one time, I sometimes wondered if that was really my forte, (Laughter) because it seemed like . . .

Seney: I think every parent wonders that.

Schank: It seemed like, it seemed like I wasn't too successful in solving some of the problems. But yeah, I like to, I like to think that in the things I've been involved in, in both church and community, and family. I like to think that instead of being a problem maker I'm a problem solver, and I've tried to be fair and to look at both sides of issues.

Seney: Yeah. You're active in the church too?

Schank: Yes, I am.

Seney: Yeah. You know, another impression I gained of the Mormon Church is that there are a lot of opportunities for Mormons to be active in the church, the way the church is administered. It gives the members—there are not only opportunities, but you're

expected to, (Schank: Sure.) to take part in these things? And, I've always kind of considered that as kind of training ground in part. Not only does the church run better, probably, that way. I think the Mormon Church would certainly think so, rather than having a separate church bureaucracy, separate from the members. The members are essentially the church administration.

Schank: Yes.

Seney: If I understand it correctly?

Schank: Yeah. That's right. That's correct.

Seney: Yeah. And, that seems to me to be a very valuable training ground for going out into the community, which I think you're also expected to do, are you not?

Schank: Well, I think, there's two things that, that I would have to credit—and I don't know that I'm by any means successful as far as, you know, leadership in the community, but at least there's two things that have given me the desire to be an active part of the, of community, and the community government, and to feel somewhat—I don't know whether the word is "secure." That's not really the word I want to use. But, but feel as though I can stand up and express myself in public and not be so nervous and afraid that I allow that anxiety to keep me in my seat. But I, those two things would be I was very involved in the Future Farmers of America in my high school years, and 4-H. And, of course, both of those agriculturally-oriented organizations, which now have turned to, I won't say have turned from agriculture, but are more typical of a society in which we live in, which is more urban. But in those days, they were almost completely agriculturally-oriented. But, I had a lot of opportunity in those two organizations to, to, I guess, develop leadership skills, to learn to stand on my feet and somewhat make sense.

I was a state officer in the Future Farmers and that gave me another horizon to look at as I traveled around the state of Nevada and learned that even though the main highways seem very desolate, because they go through mainly just desert area, you get off of some of the beaten, some of the beaten paths, onto some of the rutty roads, and you go over a little hill and you find yourself in a beautiful valley where there are some beautiful ranches. And, I didn't know that that existed in Nevada. And so, that expands my horizon. But, the opportunities from the Future Farmers of America and also from the church, and as you said, we, in the church, to a large degree are the leadership, and different people have different opportunities at different times of their lives, depending on their abilities and also their availability to serve in leadership positions, and I've had that opportunity. In fact, currently I'm serving in State Presidency as First Counselor. And so I, I have a lot of opportunity to work with people, to counsel with people, and yeah it has helped me tremendously in, in my desire, and also, I guess, ability, if that's the word you want to use, and I use that somewhat modestly, to be involved in the community and community problems.

Seney: Let me go back to the board again, if I can?

Schank: Sure.

Seney: Now, there were—was there anything you wanted to discuss in terms of the way the board was running, what you were doing in that four-year period you were on the board?

Schank: Well, I . . .

Seney: Because, I want to talk about your defeat here in a minute.

TCID Board Politics

Schank: Sure. At this—(Laughter) the agony of . . .

Seney: Defeat.

Schank: What is it? What do they say on A-B-C Sports? The . . .

Seney: Something of victory.

Schank: Something of victory and . . .

Seney: The agony of defeat. (Laugh)

Schank: The agony of defeat. That's right. I guess, during this time that I served on the board it was when we departed from the, the Democratic presidential, the Democratic presidents, who had served. It would have been Kennedy and Johnson. And, of course, Nixon had his little stint. But then, Carter was back into power. And, Reagan won the presidency in '80, as I recall.

Seney: This all mattered on the board, to the board?

Schank: Well, I think it played a large part as to what eventually caused the defeat of those who were defeated with me. We saw a great opportunity with the change of administrations to hopefully get someone in Washington to see that we were not being treated fairly.

Seney: Now, you're going back to the (Schank: I'm going . . .) '73 Gesell Decision (Schenk: I'm going . . .) and the OCAPs

Schank: I'm going back to the Gesell and the problems that we were experiencing in court at that time.

Seney: Sure.

Schank: We saw a great window of opportunity, at least we thought, to perhaps get someone to, to look at the problems we were experiencing. And, I've always, I've always, and

parenthetically I add this, I've always felt that some of the people in Washington, who were the ones that need to make the big decisions, that they were really not getting all the facts laid before them, that they were sometimes being spoon fed. And I still think that's happening today, the facts that some of the underlings wanted them to see. So, we saw this as a great opportunity and we decided we wanted to go right to the top, and so we wrote a letter to Secretary [James G.] Watt,⁴ who was the new Secretary of Interior to the new Reagan administration.

Seney: When you say "we" do you mean the whole board?

Schank: The whole board. Yes.

Seney: Or half the entire board?

Schank: Yes. And, as we, we got the opportunity to go back and visit him . . .

Seney: Did he respond to your letter?

Schank: Well, it was interesting, and I don't know whether this was a purposeful thing or whether it actually happened, but we had an appointment set up with him. It was three, four of us, four of us that traveled back to Washington, D.C. Dick Latten [Spelling?], the project manager, Rex Workman, a board member, Joe Serpa, who at that time was chairman of the board. During the last two years he served as chairman. And, I was vice president of the board and I also went back to Washington D.C. Got my eyes opened as to the political system.

Seney: What does that mean? (Laughter) You're going to have to tell me what that means.

Schank: Well, I have to tell you.

Seney: You do.

Schank: I think I learned first hand that you can't trust most of the politicians, that they tell you what they want you to hear.

Seney: Who are you talking about?

Schank: Well, I don't—it goes through both parties, and maybe a lot of is maybe they're sincere, but when it comes to delivering they just can't do it.

Seney: Are you talking about Nevada government?

Schank: I'm talking about—Well, I don't think Nevada is quite that bad yet, because we're still quite a small state. But, I remember during that trip we were promised some things. There was just a lot of problems we were having with, about that time

4. James G. Watt served as Secretary of the Interior under the Reagan administration from 1981 to 1983.

Lahontan Dam⁵ was determined to not be safe under the Safety of Dams Program. We felt that it was just a way to not allow us certain diversions so that we couldn't store water so that . . .

Seney: Was one of the things about, say, "Lahontan's not safe enough. We can't store as much water as we used to in there," is that what they told you? "You're going to have to cut down the amount (Schank: Exactly.) of storage?"

Schank: Exactly. Exactly. And so what it, what it did was it caused us to have artificial drought. And, we experienced an artificial drought during the time I was on the board.

Seney: What made you suspicious that, that this wasn't the case, that this wasn't an unsafe situation that these very responsible officials are concerned about Fallon? "My gosh, the dam is breached and the community's going to be flooded." I mean, what made you, what made you think they weren't being straightforward with you?

Schank: Well, they would tell you one thing and then do another for one thing.

Seney: Who are we talking?

Schank: It was always, it was always my, it was always my feeling that, that they would use things such as Safety of Dams, and you know there's a lot of other things we could, we could go into if we have the time today, the efficiency, efficiency standards that are placed upon us, in my mind, are only used as a method to take water from us.

Seney: By efficiency you mean, "How much does the project lose as the water flows through it?"

Schank: Yes.

Seney: Yeah.

Schank: And, the water users being penalized for those efficiency losses in a system that was built by the United States Government. So, to me . . .

Seney: Well, don't you argue too that, I mean, not only you, the water users association, but the farmers generally, that those efficiencies are not necessarily inefficient, because they recharge the local canals?

Schank: Oh, exactly. And when you . . .

Seney: Do a lot of other things?

5. Constructed in 1915, Lahontan Dam is the primary storage facility for the Newlands Project on the Carson River. For more information, see Wm. Joe Simonds, "The Newlands Project," Denver: Bureau of Reclamation History Program, 1996, www.usbr.gov/projects/pdf.php?id=142.

Schank: When you start talking about multiple use, it fits right into the scheme of things. But, multiple use is not a good buzzword nowadays.

Seney: Let me turn this over.

END OF SIDE 2, TAPE 1. AUGUST 19, 1994.
BEGINNING OF SIDE 1, TAPE 2. AUGUST 19, 1994.

Schank: Follow up too, and I'll try to answer your questions. But, we were talking about Secretary Watt.

Seney: Right. Exactly. Let me—and that, that got on the tape, but that's no problem. Today is August 19, 1994. My name is Donald Seney and I'm talking with Ernest Schank at the T-C-I-D office in Fallon.

So, we were talking about a number of threads here, Ernie, and I don't know where you want to start.

Board Trip to Washington, D.C.

Schank: Well I, we were talking about a trip to Washington D.C. (Seney: Right.) and you were asking me some thoughts and feelings. We were, we had made arrangements to see Secretary Watt and when we arrived in Washington, D.C., we learned that he had an emergency meeting and was called out of Washington. I never did find out what that emergency meeting was. And so we did not, we did not . . .

Seney: Do you think that was legit?

Schank: I don't know, (Seney: Yeah.) and I never looked into it to find out.

Seney: How did, who arranged this, the appointment with the secretary for you? How that come about?

Schank: It was arranged—well, we made, as I recall, and some of this I guess we really need to look back on the record to make sure that I'm recalling properly, (Seney: Sure.) but as I recall we went directly, wrote a letter directly to him, but I think the actual putting together of the meeting was arranged by Senator [Paul] Laxalt and his staff.⁶ (Seney: Sure.) And, he was the one who broke the news to us at the last moment that Secretary Watt was out of town and was not available to speak to us. And so we, we were given the opportunity to visit with Commissioner Broadbent, Robert Broadbent, who incidentally was from Nevada.⁷

Seney: This was the Reclamation Commissioner?

6. Paul Laxalt served as Governor of Nevada from 1967 to 1971, and went on to become U.S. Senator from 1974 to 1987.

7. Robert N. Broadbent served as Commissioner of the Bureau of Reclamation under the Reagan administration from 1981 to 1984.

Schank: The Reclamation Commissioner. And, we had a . . .

Seney: Was that a fruitful meeting or how did that go?

Schank: Well, I think we did. Mr. Broadbent was a very congenial person and seemed very sympathetic to our issues. Of course, being a fellow Nevadan we hoped that he would be somewhat sympathetic, and I think he was sincerely sympathetic. But, I think that, to a large degree, and maybe this is one of the problems that you have with, with the kind of government we have where there are so many agencies within the bureaucracy that sometimes the right hand doesn't know what the left hand is doing. And I sincerely believe, I believed it then, and probably that trip really solidified this feeling. I believed it then and I believe it now that there are those in the departments that we're dealing with, whether it be Justice, or Interior, or the Bureau of Reclamation, or the Bureau of Indian Affairs that have an agenda that is adverse or completely different to what I would call a progressive agenda of using the multiple concept of natural resources. And they have a desire, they had a desire then and they continue to have a desire, and to a large degree are in control of these departments, of making the West a wilderness area again and allowing it to revert back to the way it was pre-white man. Why they have that agenda, why they have that desire, I don't know. But I, I think there was a lot of those kind of people that were working in the department then and are now. And, I would have to say I think Commissioner Broadbent was sincere in his approach to our problems, but when it, when it came to action he had an assistant, whose name was Dave Houston.⁸ Dave, I think, run the show. Dave later became a political appointee and was the Regional Director of the Sacramento Office. And, things that he told us would happen, when he was with the Commissioner's Office, he did the opposite.

Disenchantment with Government Officials

Seney: What were those?

Schank: Well, just these things like Safety of Dams, and efficiency standards, and all of these kinds of things that . . .

Seney: Is he the individual that gave you the most grief on the Safety of Dams?

Schank: I don't, I don't know that, that he really is the one that gave us the most grief, but he was actively involved, and in the end, I believe, could have done some things to help and alleviate some of the problems we were having. And, of course, also about that time I, my four years was up and I was defeated, as we talked about before.

Seney: Well, let me . . .

Schank: And so, I wasn't, I can't tell you maybe on a day-to-day operation the kinds of things that happened, but, but promises were made and not carried out.

8. David G. Houston was the Mid-Pacific Regional Director from 1983 to 1989.

- Seney: My notes. I've got to write. I'm making myself nervous here. (Laughter)
- Schank: Well, you just changed the tape.
- Seney: I did. I know. I also left the pause on while Lyman and I talked for about twenty minutes, so I'm a little nervous about making sure I get everything on.
- Schank: I think there's just a general point of interest that I, that I have picked up on over the years, as I've been involved with, with the water problems in this area, with bureaucratic people, and maybe I made this point a few moments ago, but I think some of the underlings who run the day-to-day operations of agencies, who have agendas, tend to maybe only give the information to their bosses that they want them to receive. (Seney: Yeah.) And I, I feel really bad. It hurts me. And, you know, you can't see my facial expressions and you can't see inside of me, but it hurts me really bad when, when we go to court, or when we go to a hearing, or in a public forum when a senator or somebody in high governmental office accuse the farmers in this area of some of the practices that they tend to like to accuse us of. And I know, number one from their description, that it's not right. But more importantly, I know that they've never physically been here, in a lot of instances, and been in our shoes, and spent nights with us irrigating. It just hurts me that they outright lie.
- Seney: Which practices are you talking about?

Accusations Made Against Water Users

- Schank: Well I'm, I'll just pull out one for example. We're often accused of water wasting. We have a project. First of all, we were, we were—I've been told that maybe the right word isn't, to use isn't "lured," but I like to use the word "lured," because when this project was first being established they wanted people to come and take up the land and buy the water that the government had procured for them. Flyers went back East. We have one that hangs on the wall, in fact, out here in the foyer.
- Seney: It's an original, no less?
- Schank: We've—yes, we've reprinted that and we've distributed it to governmental people, etcetera. But, in 1914 that was sent out back east, and it invited settlers to come. It said, "The water rights are permanent, are guaranteed and permanent." And it explained what you had to do to take a forty, or an eighty, or a 160-acre piece of ground, and what you had to do get that.
- Seney: The farmers thought that was a deal, right?
- Schank: Oh, yes.
- Seney: Yeah.
- Schank: Yes. And, of course, we have to remember that was right after the turn of the century, and as I recall from history it was pre-World War I, and during World War

I, and there was a great depression at that time, and it was an opportunity for people to get away from the East and to establish a new way of life. And, a lot of people came out here, worked for the government in building the project, and then took up, you know, a piece of land, and developed it, and put it to, put the water to beneficial use. But, the government built the project, brought the people here, taught them how to use the water that was in the system, and then turns around eighty-five years, seventy, eighty-five years later—Well, let's see, it started in, I guess, '73 is when it really started. So, for practical purposes the project began in 1902 or '03. You're talking about seventy-some years later, to the present time, accuse us of doing all these malicious things to the environment. And, the greatest thing that they like to say is that we're wasting water. If we, if we continued, those of us who are in it to make a living, and full-time farmers, if we continued to practice the types of methods that they taught us we would have been out of business a long time ago. And we're more progressive than that and our efficiency standards, within our own people, have raised considerably. In fact, I would say that we're very progressive in this area, and we've had to be because of the kinds of constraints that have been put on us. It really hurts when they stand up and just outright lie. And, like I say, you know that they've never been here, they've never put on the clothing. And, I mean that just to come out and be with us and be like us and really see what we do before they make these kinds of statements. Because they would, if they are telling what they think is the truth they would have their eyes opened.

Seney: Well . . .

Schank: But, it hurts when those kinds of things (Seney: Sure.) are, (Seney: Sure.) when we're accused of those kinds of things, and we're here really at their invitation.

Seney: Well, I mean, clearly what you're expressing is that they don't understand what you're doing?

Schank: That's exactly right.

Seney: And, if they did understand what you're doing they'd be more sympathetic?

Schank: That's exactly . . .

Seney: If they took the time to inform themselves?

Schank: That's exactly right. I think that there's, there's often been a misconception. We talked a few minutes ago about the attitude that a lot of people in this country have about farming. I don't think, if you went to the cities and you conducted some kind of a survey I don't think most people would think much of farmers. If they had to rank farming amongst other professional activities, we would probably be way down, way down in the list. I've lost my train of thought. I have to—what was I . . . (Laughter)

Seney: Well I was, what I was saying was that your strong feeling is that they don't

understand what you're doing.

Schank: Oh.

Seney: And, if they did, (Schank: Exactly.) they would be more sympathetic?

The Culture of Agriculture

Schank: Exactly. And, I know what I was going to say now. You know, I think a lot of people don't think highly of farmers, and probably that's because of our society nowadays. But, even though they may not think a lot about farmers they have this misconception that those who have farms and ranches are very rich, very well off, land barons, so to speak. And I think maybe some of them secretly inside are a little jealous and wish that they could maybe own a little more ground than a city lot. The truth is, most people involved in ranching and farming nowadays are mortgaged up to the hilt and we probably practice gambling in a way that is far and beyond going down and pulling the handles on the slot machines. (Laugh) But, when you've been involved in farming you realize that the only reason we have nice places, the only reason the crops are growing and flourishing the way they are is because of the blood and the sweat that you put in. If I were to walk away from my farm, or if any other farmer in this valley were able, were to walk away from their ranches or farms, you'd find in a few years that it would just be simply a weed patch with everything in disrepair. And so, the thing, from the aesthetic angle, the thing that makes a farm or a ranch a beautiful piece, the thing that makes it grow and produce, is the blood and the sweat that you put into it.

And so, when I, when I talk about, you know, being deep, hurt deeply, people, for the most part, do not realize because they don't appreciate blood and sweat. And, I'm not downplaying other occupations, but when you get up and you have an eight-to-five job, and you make a very comfortable living, and you can take a two-week or three-week vacation in the summer, you have a different outlook on life than those of us who are basically married to a farm. We would like to take a two or three-week vacation, but there's no way that you can. Because if you did, when you come back you would have lost everything, to that point, at least in this area, because we have to irrigate. (Seney: Yeah.) You'd lose all your, you'd lose all your, you know, all of your work and labors.

As a young boy, for instance, I think until the time I was probably seven or eight, I don't ever remember taking a family vacation. And then when I was eleven or twelve and was able to, my dad found I was able to milk the cows, then I would stay home and take care of the cows while the rest of the family went on vacation. And so, (Laugh) I very seldom got to experience that. And even now, my family, my children have a hard time understanding why we can't take a one or two-week vacation in the summer like all the other families do. But, people don't realize what you have to do to make a farm pay, to make it, you know, provide a living for you. And it just, again, it hurts when statements are made that are untrue by people who don't get out and spend twenty-three hours a day for sometimes weeks at a time laboring so that they can put food on the table.

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- Seney: But at the same time, it's very satisfying, isn't it?
- Schank: Oh, you bet, it's very satisfying. When you talk about lifestyles, that's a, lifestyles and cultures, those are two good buzzwords that are modern buzzwords. We have a unique lifestyle and a unique culture. And, I guess like the old seaman who gets the sea in his blood, you get the farming and ranching in your blood, and you do it because of the (Seney: Yeah.) lifestyle. Because, it's a pace of life that, that not very many people nowadays get to enjoy.
- Seney: Well, you know, I think that's one of the things that makes settlement of the conflicts over the water around here so difficult, is that you're dealing with farmers on a project that it's more than, you know, make, a way to make a living. It's a way of life and it's a culture. And then of course, the Pyramid Lake Paiute Indians feel the same way. They have very strong feelings. (Schank: Yes.) And, so it makes for quite a difficult negotiation (Schank: Yes.) and achievement of a settlement when both people feel so deeply about what they're doing, for different reasons but still very, very deeply. And, you two have more in common than you'd think in terms of depth of (Schank: Well, we do.) feeling about your lives.
- Schank: We do have more in common and I've always maintained that if we were allowed to sit down together, that being the Pyramid Lake Tribe and the Newlands farmers, that we could solve the problem. But, we have a United States Government who brought us here and who built this project and now want to wash their hands of it, and I think they're the real conflict. They've caused the real conflict.
- Seney: Let me go back to the, to the board of, T-C-I-D Board, because I want to find out how it is you lost your job.

Voted Off the TCID Board

- Schank: Okay. All right. (Laughter)
- Seney: We ought to get back to the agony of defeat here. What happened? What were the issues that—because . . .
- Schank: Well . . .
- Seney: I don't know that before or since as many—there were three of you defeated?
- Schank: Yes.
- Seney: Ted de Braga was reelected?
- Schank: Yes. He was.
- Seney: He was the only one?

Schank: And he ran, he ran uncontested. And, I've always kidded him that if somebody, (Laugh) and he said the same thing, if somebody from Stillwater would have run against him for his district . . .

Seney: He might have lost?

Schank: That he would have, he would have been defeated.

Seney: Yeah.

Schank: There's a lot of things that begin to take shape at that time. As I mentioned, some of the old timers really had bitter, bitter feelings because of what was taking place. At about that time, actually it was after I got off the board but we initiated the action while I was on the board, was—or, we were, I won't say we initiated it, but it was initiated and we were a part of it—was the attempted re-adjudication of the Truckee River, which is known as the Orr Ditch Decree, and that went clear to the Supreme Court.⁹ And the Supreme Court held, much to the dislike of the United States Government, and still to their dislike, they [the Supreme Court] held that we actually purchased the water rights and that we owned the water rights and the government did not own them. That was, that was one of the things that we were working in. But, but as I mentioned, when I was, when I decided to run for the board I felt that I wanted to stay here. I wanted to farm. I hope that some of my children might want to stay, at least one of them might want to stay, and I was hoping that I could leave something for them like my grandfather and father had left for me. And, I really thought that maybe I could be a part of helping to see this thing settled. And that was, that was kind of the idea and the attitude that—I believe there, there was four of us that were elected to the board. I know there was four of us that were elected to the board, three new people—when I initially came on in 1978, we all had that desire and that hope, and that was one of the things that we worked on during that, that four-year period of time.

There was a lot of little incidental things that, like today the agencies nick you with bureaucratic regulation that haunts you. And so, we were always trying to put out these little fires. But, in the back of our minds we wanted to try to settle this thing. When the Republican administration came into power we had a Republican senator, Senator Laxalt, who was very good friends with President Reagan, and as I said we felt that there was a window of opportunity, and so we began pursuing the avenue of negotiations. Senator Laxalt and—well he was the Governor. Governor Laxalt and Governor Reagan of California were very good friends. They worked on

9. The Orr Ditch decree was entered by the U.S. District Court for the District of Nevada in 1944 in *United States v. Orr Water Ditch Co., et al.* The decree was the result of a legal action brought by the United States in 1913 to fully specify who owned water rights on the Truckee River and had rights to storage in Lake Tahoe. The Orr Ditch decree adjudicated water rights of the Truckee River in Nevada and established amounts, places, types of use, and priorities of the various rights, including the United States' right to store water in Lake Tahoe for the Newlands Project. The decree also incorporated the 1935 Truckee River Agreement among Sierra Pacific Power Company (now Truckee Meadows Water Authority), TCID, Washoe County Water Conservation District, Department of the Interior, and certain other Truckee River water users. See Truckee Carson Irrigation District, "What is the Orr Ditch Decree and why is it important?" <http://www.tcid.org/support/faq-detail-view/what-is-the-orr-ditch-decree-and-why-is-it-important>. (Accessed 5/2016)

the Interstate Compact together, and it just happened that Senator Laxalt was U.S. Senator and President Reagan was the President. And it was a good time to try to move that, that agreement through Congress so that it could be ratified and become the agreement that California and Nevada worked on as far as adjudicating the rivers, or the use of the rivers, the waters of the Carson, the Truckee, and the Walker rivers, which cross the state line. All three of those rivers begin in California and terminate in Nevada. But it was a, it was a wonderful time to, for this to take place and so we worked with Senator Laxalt. We initiated talks. I remember the very first time that we really got things together. Our desire was to get all the parties together and to not have any attorneys present. We felt that attorneys were a deterrent to our sitting down and talking one with another and trying to work out these problems. And, I remember at that first meeting there was not one attorney present, except Mr. [Robert S.] Pelcyger of the Pyramid Lake Tribe, and he refused to allow those talks to go on without being present.¹⁰ And probably that attitude, looking back, might have been what, in the end, caused those to break down.

However, we had some concrete proposals. I guess the mainstay of that proposal was we, we proposed to the United States Government that they give us a set amount of water and that was, as I recall, 375,000 acre feet, which was less water than historically we had used. But, we felt that with proper management and with some rehabilitation and betterment of some of the facilities, and that was also a part of our proposal, that we could live with that, that number, 375,000 acre feet. There was a lot of the old-time people who didn't think we could and thought we were very radical in our approach, and there was a division on the board. And, as I recall it was a division of four and three, seven members of the board and a project manager that basically sided with the three. And, in the end, that was what spelled his leaving T-C-I-D and I guess what spelled our defeat. He was active in the community and very well liked, and I liked Mr. Latten [Spelling?] very well.

Seney: Now, he had been a board member before he was manager?

Schank: He had been a board member. I was told by a local attorney that we weren't very smart politicians. I said, "What do you mean?" He said, "Well, you knew the elections were coming up. Why couldn't you wait three weeks, or a month and, and do what you had to do after the election, because you surely would have been reelected, and then go about cleaning the house as you saw with something you thought had to happen, after the election?" Well, my answer to him was, "I'm not that kind of guy. I think that things need to be done up front." And, that's why I probably wouldn't make a very good politician. But, I think things need to be done up front when they need to be done, and if there's a problem it needs to be settled then. And my, my purpose for being on the board was not to feather my nest so that

10. Robert S. Pelcyger participated in Reclamation's Newlands Project oral history series. For more information, see Robert (Bob) S. Pelcyger, *Oral History Interviews*, Transcript of tape-recorded Bureau of Reclamation Oral History Interviews conducted by Professor Donald B. Seney for the Bureau of Reclamation, in 1995 and 2006, in Reno, Nevada, and Boulder, Colorado, 1995 interviews edited by Donald B. Seney and all interviews further edited by Brit Allan Storey, senior historian of the Bureau of Reclamation, 2013, www.usbr.gov/history/oralhist.html.

I could be reelected. But, my purpose was there to make this area to the best of my ability a better place to live, and to make what we had a more permanent type of, or to make a settlement more permanent. So that we didn't have all this anxiety of not knowing (Seney: Yeah.) whether or not we were going to have water tomorrow.

Seney: Well, the water users thought you guys were giving away the store, didn't they?

Schank: Exactly. They did.

Seney: Their view being, essentially, "To hell with it. We're not going to compromise"?

Schank: That's exactly right. I remember after, after all this happened—and, incidentally, because this is for historical purposes—Mr. Latten [Spelling?], after his employment was terminated here, actively went out, and I know a lot of people told me afterwards that I would go out, visit the constituents of my district, and he would, he was right behind me. I guess I was young and naive and didn't realize it until after, but he would follow. He was following me around.

Seney: And, opposing me.

Schank: And, opposing me. Yes.

Seney: Because, he didn't want any kind of settlement here?

Schank: Yes. And, of course, I think he felt bad. And, like I say, Mr. Latten [Spelling?] and I were personal friends, and it took a few years after this happened before our friendship became better. And I think, he passed away here a couple of years ago, and we were able to sit down and talk. And . . .

Seney: What did Ted . . .

Schank: And, I feel good about that. But I really feel . . .

Seney: Feelings run very intense in small towns.

Schank: Oh, yes. Oh . . .

Seney: About these kinds of things?

Schank: Exactly.

Seney: Yeah.

Schank: I remember, though, after this happened I was feeling pretty blue. And I remember a good friend telling me, he said, "You know, when these kinds of things happen, in the end, and sometimes it takes years, but people will see, if you were correct they will see that you were." And looking . . .

Seney: That if-yeah.

Schank: Looking back now, that is exactly what's happened. We are, our diversions are far less than the 375,000 [acre feet] now, and in fact as some of these old timers who actively opposed the position that the majority of the board took at that time, they have come to me, on the side privately, and I've had some of them publicly do it, and say, "You know, we should have listened. We should have listened to what you said. We would have been far better off then, I mean, to have what you were proposing than we have now." (Seney: Yeah.) Our diversions now are far, far less down, less than 300,000 acre feet.

Nevada v. United States Victory

Seney: Let me ask you, in *Nevada v. United States*, which says what you indicated earlier, essentially that, "Listen. The deal's been done here. We're not going to redo the Orr Ditch Decree. These water rights belong to the farmers in the Newlands Project. The government only owns them nominally. They really belong to the farmers and the water-righted land." That must have been a great victory, you thought?

Schank: Oh, it was.

Seney: I know you don't drink, but (Schank: It was. Yes.) the champagne corks weren't popping, (Schank: Yes. Yes.) the soda bottles would be?

Schank: Yes. I remember. It was something that, it gave us new hope.

Seney: Yeah.

Schank: We felt that now, after all these years, and that was in '83, so it was approximately ten years after the real big battles begin. Actually, they started before 1973, but the Gesell order came down in '73. It really started to heat up, I guess, back '68 and '69. But, the first real order from a judge that really hurt us, or began to hurt us, was in '73. And so, it was a great victory. We felt as though we had been vindicated of the accusations and that now we could go on and we could have some surety in what we had.

Seney: And what, where are we in this election where you're defeated, when this, (Schank: Well . . .) before the decision?

Schank: The order came out about a year after I was (Seney: Okay.) off the board. Yeah.

Seney: Okay. Because that really gave, that did give the district new hope. I mean people really thought (Schank: Oh, yes.) the tide was running (Schank: Yes.) in your direction, (Schank: Yes.) and it wasn't?

Schank: Yes. Well. It's the old adage: "You can, you might win the big battle but in the end you lose the war."

- Seney: That's right.
- Schank: And, I think we won a big battle. And still today, that was a big victory, but . . .
- Seney: But now we're going . . .
- Schank: You're not protected because of the bureaucratic method of regulation and promulgating laws outside of Congress—"Dictating" is not the right word—but, making law through regulatory action, which has just, over the years since '83 has just nibbled away (Seney: Right.) at that victory.
- Seney: Because you go back to these people you were talking about in Interior and Justice who've got agendas which are not consistent with (Schank: Exactly.) big allocations of water for the Newlands Project?
- Schank: Exactly.
- Seney: Yeah.
- Schank: Exactly.
- Seney: Let me turn this over. [Tape paused] No. No. I don't. I'm fine. If you're fine, I'm fine. Does, if we could finish this other side, (Schank: Oh, sure.) that would be good. And, there's just a bit more tape on. I don't want to cut it off too early. But also, at this time you're talking about the project manager, Mr. Latten [Spelling?]. He's let go about this time, isn't he?

Dismissing the TCID Project Manager

- Schank: Well, he was . . .
- Seney: Are you off the board? Or . . .
- Schank: He was actually terminated, as I recall, again to be, you know, exact you'd have to look back, but, as I recall, within a month of the election, he was, he was let go. And, in retrospect, and I was very closed-mouthed about it, and that probably helped in my defeat, because I didn't feel—as I said, I was very good friends with Mr. Latten [Spelling?]-I didn't feel that—My purpose was not to defame him or to malign his name, and I was very closed-mouthed, outside of this room, as to what took place. We held some confidential meetings, and I didn't feel that it was my place to express to the newspaper or to other people what took place. I felt that was a private matter. It was a personnel matter and I didn't think that it would do anybody any good to, to go out in the community. I hoped that the community had enough faith in the seven who were on the board, that they would know that we were making decisions based upon sound information.
- Seney: Let me turn the . . .

END OF SIDE 1, TAPE 2. AUGUST 19, 1994.
BEGINNING OF SIDE 2, TAPE 2. AUGUST 19, 1994.

- Seney: Yeah. I want to ask you to be more specific about Mr. Latten's [Spelling?] problems with the board, because he's no longer here.
- Schank: That's right.
- Seney: And, as you said, you felt like at the time you shouldn't say anything. But, I hope enough time has gone by now that maybe you can, for the record, tell us what the issues were that made the board unhappy with Mr. Latten [Spelling?] and terminated him. Now, because I take it you and he were on opposite sides here?
- Schank: Yes. And I, again it gets back to what I said in the very beginning. The old timers, to a large extent, had the idea that, that this project was theirs, they had been here, and they were going to use the water as they saw fit, and that the government was not going to take it from them. And, they were just very unkind, in a lot of respects, to the government officials that we needed to deal with on a day-to-day basis. And as I said in the beginning, there was a group of us, and it was the majority of the board, that wanted to see this thing through. They wanted to solve the problem. And when as a board, you have a policy that you wish to carry out and our policy was to present a plan that we felt would be beneficial to the area. And as I mentioned, part of it was an allotment of 375,000 acre feet that would be delivered and we would make it work. That would—Mr. Latten [Spelling?] did not agree with that.
- Seney: He thought you should go for the higher amount?
- Schank: Yes. He wanted more water. And, there was just a basic disagreement. And when the board is trying to pursue something in that vein, and the majority of the board felt good about it, and the project manager speaks out against it, not in private but publically speaks out against it, we had no other option but to give him an opportunity. And when he did not come around, we had no other option.
- Seney: Now, this goes back to what you're saying earlier, you thought the board shouldn't be involved in day-to-day matters, but should make policy? And, you thought you'd make, you'd make the policy here and he'd carry it out?
- Schank: Exactly. Right.
- Seney: And he was . . .
- Schank: Exactly. Right.
- Seney: Yeah. Yeah. Yeah. I take it those were, my understanding is there were numerous long meetings over this matter?

Schank: Oh, exactly. Exactly.

Seney: Pretty heated?

Schank: Well, I won't say that they were heated in that we got into shouting matches, but there were . . .

Seney: Were they the most heated meetings you had during your time on the board?

Schank: I . . . I, I don't know really how to characterize.

Seney: You just don't want to answer my question. (Laugh)

Schank: No, I do. Of course time, (Seney: Yeah. Sure.) time erases (Seney: Sure.) a lot of things. And, I don't think, to say that the feelings amongst the board members, even though we had some differences of opinion. I don't think that, to say that we were militant one with another would be a good characterization. I think that there were seven individuals, and of course all of us involved in farming to some degree or another, some more than others. There were several who were just involved in farming on a small-time basis, part-time, and the rest of us full-time farmers. But, as you said before, we're very individual type of people. That's the way we've had to be in order to, to make a go at it. You have to be self-sufficient. You have to be conservative. And so, we all had good minds and we all had strong minds. And to say there were, there were no active debates would be a lie, but to say that we were caustic one with another or that we belittled one another or shouted is not a proper characterization. We discussed the issues and discussed them thoroughly and yes, we had long meetings. But I think, to a large extent when it come right down to the final position that we finally presented, as far as a negotiated position, as I recall, we were almost unanimous in pursuing that and going ahead. But, it takes work.

Building Consensus is Difficult

And nowadays they call it "consensus." (Seney: Yeah.) It takes a lot of work and it takes time when you get in those kinds of situations. And to me, those are the kinds of things that the board, that a board needs to be involved in. That's really what makes an organization strong is if you have good policy and policy that is not, in this case, on a four-to-three split, but policy where you've actually sat down and worked it out to where all of you feel good about it, or at least the vast majority feel good about it. And, I think it was that way. There were other issues, other auxiliary issues that really, you know, didn't relate to the negotiations where there probably was a four-three split, and it wasn't always the same four-three. So, to say that we were always a hundred percent united in everything that's not true either. But . . .

Seney: Did you try to be?

Schank: But, I think the big issues, in the beginning it wasn't that way. In the beginning there was some, when, in '78 when the three new board members came onboard there was feeling amongst the board that, "These guys are here just to try to change

things and they really don't know what they're after." And so, for a while there was probably an uneasy feeling, but I think all of us gained confidence one in another. And, as I left the board in '82 I remember feeling that it was more like losing some of your family than, you know, "I'm glad to get out of there, because boy there's some people I sure dislike." (Seney: Yeah.) I learned to appreciate and love each of the individuals that I had worked with for those four years, because of the kinds of people they were. And, I think that in any organization, whether it be church, or governmental, or private, that's what makes a strong organization is, is differences, but where you can take the best of all ideas and come up with a, with a hybrid that's better than any individual one would have been.

Seney: Now, once you're off the board did you kind of withdraw a little bit?

Schank: Yeah. I did.

Seney: How long before you got back involved again?

Schank: I have, I have to say, and I'm really being honest now, and probably the only people that really know this, the only person maybe that really knows what I'm expressing now is my wife, but I felt, I was hurt. I felt that I had given my all and in some respects had neglected that which is most precious to me, my family. I had neglected them to serve my community. And when my community, in my estimation at that time, let me down, I was, I mean not bitter to the fact that life was not worth living, because that surely wasn't the case. But I, I determined that I was not going to be involved in community service and politics. I had a notion, whether it's right or wrong, that most politicians are crooked, and I basically for, I guess from 1982 until about a year ago, stayed pretty much out of the limelight, if that's what you call it. I was involved enough to keep up on what was going on. I had some communication with some of the board members, particularly Ted de Braga who is a dear friend. And, I didn't know Ted all that well before I became a member of the T-C-I-D Board, but got to be a very good friend of his. And, over the years I've kept in touch with him and so have kept up on what was happening. And so [I] wasn't completely in the dark a year ago when it was determined that T-C-I-D was, could not, because of their dual relationship as a contractor to the United States Government, and also a quasi-municipal governmental organization which delivered water and technically is owned by the water rights owners, at least the assets of T-C-I-D, it was determined that they could, that they were not the most effective representative, representative for us. It was determined that as water users were going to have to come together and form some kind of an organization so that we would, could have the ability, perhaps, to take legal action against the United States as individuals, and perhaps even might have to take action against T-C-I-D. I went to that meeting.

Seney: This was the Lahontan Valley Environmental Alliance organization?

Beginnings of the Newlands Water Protective Association

Schank: No. This was, this was a meeting that was held in July of 1993. It was initiated by the district so that the water users could determine whether or not they wanted T-C-I-D to pursue the legal channels, which B-O-R [Bureau of Reclamation] and the Department of Interior had warned them they should not. They wanted to kind of lay it on, T-C-I-D wanted to lay it on the line and give us the opportunity as water users to say, "Yeah, we want you to take the lead or we're going to take it ourselves." And, the people, the water rights owners of the community, at that time, determined that we needed to organize ourselves and that was, that was the birth of the Newlands Water Protective Association. I, I had an opportunity in that meeting to speak. And, but because of my involvement with church activities and family, you know, four children, three of them teenagers, one in college, and just trying to keep ahead, and at that same time I also took over the responsibilities full-time of the farming operation. I, I kind of stayed low. I was asked by the group who was chosen to put together an organization, which became known as the Newlands Water Protective Association, I was asked by them to serve temporarily as the treasurer of the organizing committee. And I, I agreed to do so. And, then was asked to be a part of the first Board of Directors, which I consented to do so. And that's, I guess, why I'm involved to the state that I am today. It's, I've had the opportunity to make two trips to Washington, D.C. in the last year, and to renew some old acquaintances, and to become involved with the problem that, in a lot of respects, has not changed a whole lot from in the last, you know, fourteen years, in the scope that it is still a problem. Some of the areas and the number of other things that have come to light, or problems, little fires I guess you would call it, have grown.

Seney: What do you have in mind when you say that?

Schank: Are different. Well, I'm just talking about some of the added regulations that have been heaped upon us. I talked a few moments ago about the nibbling away. You know, there's a lot more of those little nibbling process that are going on now.

Seney: Well, there's the bench and bottom lands controversy?

Nibbling Away Water Rights

Schank: The bench and the bottom. Yes. And what we call the "dirt ditch issue," where the government has determined that in a dirt ditch, in a dirt ditch water is not being put to beneficial use and therefore they've taken the water right away. For some reason they don't think that a dirt ditch consumes water.

Seney: Now the . . .

Schank: The transfer case.

Seney: The dirt—let me stop a minute. (Schank: Okay.) On the dirt ditches, aren't most of the ditches dirt around here?

Schank: Well, a lot of them now are concrete.

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- Seney: That is, a lot of the farmers' ditches (Schank: Yes.) will be on your property?
- Schank: Yes. And—yes.
- Seney: Are those concrete on your property?
- Schank: Yes. And there's some in the distribution system that T-C-I-D, over the years, has, has lined quite a few ditches. And, I understand where once you put a lined ditch in the ground that that ditch goes through no longer is using water, at least (Seney: Yeah.) to the degree that it would if it was a dirt ditch. I mean still, when you water there is going to be usage of water in the bank. You lose water and it grows grass and the cattle graze it. But, certainly in a dirt ditch there is, that water is being put to beneficial use and there is a consumption of water. But, that's one of the ways that, that they're able to come in and instead of giving me twenty acre feet they only give me fifteen, and they justify it. In my mind, they're stealing the water from me.
- Seney: But, they penalize you for having that dirt ditch?
- Schank: Exactly, they penalize you. The transfer issue is another one that's real big in our minds right now.
- Seney: This is the transfer of water rights?
- Schank: Where basically we're not allowed to transfer water, even though under state law we are. The government has it so tied up in appeals and in court proceedings that . . .
- Seney: You still can't do it, despite the . . .
- Schank: That, that, well if the transfers that have been approved have been contested, and just recently within the last year the Bureau of Reclamation, through their own regulation, even though it's still in court, have declared that they're not valid and is not allowing T-C-I-D to serve the waters on those transferred grounds. And, you now, it's, we're trying to clean up some of the problems that they say that we have, but they won't allow us to clean them up. So, it's those kind of things, when I say "little fires," and "nibbling away" that's taking place. Those things have surely changed in some degree since I was on the board. But, the major problem of, of taking a natural resource that is limited and being able to put it to its best use so that everyone in this area can continue to have some sort of prosperity, whether it be the Indians, or the agriculture, or the wildlife, the basic problem of how to do it is still there. And, that's where we are, I guess, to this point and that's why I've become actively involved again, because hopefully in some small way I might be able to help in that process. And, as I explained to Assistant Secretary [Elizabeth] Rieke,¹¹

11. Elizabeth Ann Rieke was the first woman appointed as Assistant Secretary for Water and Science and served at that position from 1993 to 1996. Ms. Rieke also participated in Reclamation's Newlands Series oral history program. 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 (continued...)

it is my hope and my desire that we can solve this so that there is that stability that I hoped we could achieve back in the early '80s.

Seney: Are you going to be taking part in the upcoming negotiations?

Lahontan Valley Environmental Alliance

Schank: Well, at this point I have been chosen by the Newlands Water Protective Association to be the, our representative which will, at present time we will have three at the table representing the Lahontan Valley/Newlands Project area. We have banded together as a community under the flag of the Lahontan Valley Environmental Alliance.

Seney: And you'll be one of the three negotiators?

Schank: And, I will be one of the three at the table representing (Seney: The Alliance?) the Alliance, but I guess my specific reason for being there is I am a property rights owner and this is, to a large degree, a property rights issue. And, it was felt by Miss Gail Bingham,¹² who will, who is the mediator, who it looks as though will be officially appointed by Senator [Harry] Reid¹³ in the next few weeks to enter into this round of negotiations and mediate it. She felt that it was important that the property rights owner have a place at the table.

Seney: Now these, these are negotiations to try to get some settlement here on how the water is going to be distributed within the valley itself, within Lahontan Valley?

Schank: Well, I think the, there's more at issue here than just the Lahontan Valley. Certainly, our desire as a community is to protect—we talked about lifestyle and culture a few minutes ago—but protect what makes this valley what it is. We have a lot of people that have moved into this area, mostly from California. The reason that they move here is because it's a nice place. The reason it's a nice place is because of the water. If it was not for the water, it would be desert. You can drive outside of Fallon anywhere, in any direction, and you can see what this ground must have looked like, what this land looked like pre-settlement days. And so, it doesn't take a rocket scientist to say, "People are here because of the lifestyle and culture. And, the lifestyle and culture is here because of the water and because of the irrigation project." And, we want to keep that. We also realize that because of growth, not only in our area, but upstream, because of the environmental concerns

11. (...continued)

published by Brit Allan Storey, senior historian, Bureau of Reclamation, 2013, www.usbr.gov/history/oralhist.html.

12. Gail Bingham participated in Reclamation's Newlands Series oral history project. For more information, see Gail Bingham, *Oral History Interview*, Transcript of tape-recorded Bureau of Reclamation Oral History Interview conducted by Donald B. Seney, edited by Donald B. Seney and desktop published by Brit Allan Storey, senior historian, Bureau of Reclamation, 2009, www.usbr.gov/history/oralhist.html.

13. Senator Harry Reid served as U.S. Senator for the State of Nevada from 1987 to 2017 and participated in Reclamation's Newlands Series oral history project. See, Harry Reid, *Oral History Interview*, Transcript of tape-recorded Bureau of Reclamation Oral History Interview conducted by Donald B. Seney, edited by Donald B. Seney and further edited and desktop published by Brit Allan Storey, senior historian, Bureau of Reclamation, 2013, www.usbr.gov/history/oralhist.html.

that the government did not have in 1902, and which they still to a large degree fail to recognize that they're the culprit. But due to these new concerns with the environment I think in order to be good neighbors, and I think rural people have always tried to be good neighbors, we need to try to, to solve the problem. And it will mean, I am sure, as it has in the past in other attempts, it will mean giving up some of what we have. And, perhaps that's a given, because when it comes to ownership of water we have it and to a large extent they don't. And so, where is it going to come from?

Seney: Let me . . .

Schank: But it's, but it's how much and how we're compensated for our property that is a real issue (Seney: That's on the table here?) in this that needs to be solved.

Seney: Let me, let me—these are negotiations sponsored by Senator Reid, right?

Schank: Well, I guess, yeah you'd have to say so because he's in a very powerful position and because of his prior legislation. I guess it's not a mis-characterization to say that he's in the driver's seat. (Seney: Yeah.) But I would, in all honesty, and somewhat modestly, I would have to say that I believe it is because of the efforts of this newly formed organization, Newlands Water Protective Association, that this is taking place. We made some contacts in Washington, D.C. with senators from both sides of the aisle, explaining our plight and our problem, and I firmly believe that it was to a large degree at our insistence that these negotiations are being held. Now, we do it with, I guess, a great deal of faith, because I think that everyone will agree that we probably have the most to lose. And yet, if we don't solve the problem now it is only going to, to become magnified and get worse. And so, we've got to do something to protect, again, that lifestyle and culture that—because it is not only important to the Fallon and Fernley areas, which make up the Newlands Project, but it's really valuable and important to all of western Nevada. You know, what would western Nevada be, this part of western Nevada, without the Walker, the Carson, and the Truckee rivers? That, we, sure we have urban people in relationship with the rural people here in Churchill County in Reno and Carson City, but even though they're urban to us, to the people of New York, or San Francisco, or Los Angeles (Laugh) the people in Reno are hicks. (Seney: Yeah.) I mean, they're rural. They're rural people to those people who live in those big cities. And so our, our culture in all of western Nevada is because of the rivers, our lifestyle is because of the rivers and, and we need to work together as communities to do that.

Seney: Let me ask, let me ask you this. Is, in this negotiation that's going to go on, is the amount of water that's going to flow into Lahontan Reservoir is that negotiable or is that set?

Endangered Specie Issues

Schank: Well, I guess, I guess it's negotiable, and it's negotiable simply because of the legal mandate to protect and enhance the *cui ui* fish, which are an endangered specie in

Pyramid Lake. Personally, I cannot understand how a sucker fish can take precedence over human beings, families. Certainly, there is a need to protect wildlife, and farmers have to be, even though some people disagree, have to be the greatest environmentalists there are. I love wildlife. I have deer. I have geese. I have white-faced ibis.

Seney: On your property?

Schank: On my property. And, all the other kinds of shore birds. They, sure they nest and stuff in the marsh, but when it comes to wanting a good meal, they're out in my alfalfa field, and other peoples' alfalfa field, and our cornfield. And, I love to look at wildlife. I love to go down, and even though deer cause a lot of destruction and havoc with the crops, I love to get up early in the morning and go down and see a doe and her two fawns. One year we had, as I recall, three, three does. And, my dad happened to hit one fawn with, with a wind rower, but had he not done that there would have been six fawns. So, two apiece. (Seney: Yeah.) But, we had three does and five fawns, eight deer, and I remember we were cutting the corn—well, it wasn't corn that year. It was oats. And, some of it was nearly shoulder high. And, as we cut around and there was this one little strip of oats left these deer were running in and out of it to try to hide. And, of course, when it was finally cut down they had to run off to the willows. (Seney: Yeah.) But I, all through my life I've loved watching the wildlife. It's been an important part of this valley. And we love, when we say, I say "we" I mean agriculturalists, farmers, love wildlife. They are a part of our life. But to, to destroy a community to save a sucker fish, I really question the intelligence of the society when they do that. And, that's why I think there's got to be a better way, and I think we can do all of it if we'll just, if we will, if we can just have the opportunity to sit down and together work out those, those problems, and figure out how to solve the differences.

Seney: Who is going to be sitting at this table during these negotiations?

Settlement Negotiation Participants

Schank: Well, at this present time I believe there's about eight parties. There's Sierra Pacific Power Company, which is a large water right holder on the Truckee [River] side. There's the Washoe County governments, which include Reno and Sparks. There's the Fallon Tribe of Indians, the Pyramid Lake Tribe, the State of Nevada, the United States Government, the Newlands Project, which in this case is the Environmental Alliance, which will represent Newlands Project area, and then the environmental people.

Seney: And what you're trying to do is work out how, the future of the Newlands Project, essentially?

Schank: Well, I think it's more than the future of the Newlands Project. I think it's the future of all Reclamation projects in the West. This is the first Reclamation project out West. It was authorized shortly, it was authorized in 1903 shortly after the 1902 Reclamation Act was passed. And, I think we have always been on the cutting

edge. Because we were the first we've always, perhaps, incurred the first problems. We're also one of the smaller projects. And, I think in a lot of respects we've been a test case, and I think we continue to be, and I think that things that are done here become precedents in other areas, or set precedents, maybe I should say, in other areas.

Seney: Are you optimistic that this is going to work out to your advantage?

Schank: Well, as I told Secretary Rieke, "I've always been a very positive person. I think that comes from my father and my grandfather. I think that given a challenge, two parties or three parties, or in this case eight parties, if they really want to can sit down and solve the problem. It means giving up, compromising in some areas so that all can come out in the end winners." And so, from that standpoint, I guess I would have to say I'm cautiously optimistic. I hope that I'm more optimistic than cautious. (Laugh) But I, I'm not pessimistic. Perhaps it won't, it won't turn out the way I would like it to, but we'll never know unless we try.

Seney: Well, you know, this project may continue. There are many more people I'll need to talk to as my ability, time runs out on this. And this are supposed to be ended by January. Whether they will or not I'm not sure. But, maybe after that I can come and talk to you again (Schank: Sure.) to see how it works out?

Schank: Sure.

Seney: Okay. Well, thanks a lot for talking to us. I really appreciate it.

Schank: Well, I appreciate the opportunity and I hope I didn't babble on too much. (Laugh)

Seney: Not at all. Thank you.

END OF SIDE 2, TAPE 2. AUGUST 19, 1994.
BEGIN SIDE 1, TAPE 1. SEPTEMBER 20, 1995.

Seney: Today is September 20, 1995. My name is Donald Seney, and I'm with Mr. Ernest Schank at his farm in Fallon, Nevada.

Seney: Good afternoon, Ernie.

Schank: Good afternoon, Don.

Seney: I want to talk to you today about the Settlement II negotiations and the process of those negotiations and the outcome. To begin with, I'd like to talk a little about the preparation for the negotiations. Now, I know you represented the Newlands Water Protective Association under the umbrella of the Lahontan Valley Environmental Alliance. Do I have that right? (Schank: That's right.) Okay, do you want to explain a little bit about how the Protective Association and the Environmental Alliance worked together to come to the proposals that the Alliance eventually

made in the negotiations?

Why the Protective Association and the Environmental Alliance Worked Together

Schank: First of all, probably I ought to tell you how and why the Protective Association and the Alliance were together. (Seney: Good.) First of all, maybe I need to go back to the very beginning. On April 12, 1994, there was a hearing held in Washington, D.C., and I attended that hearing, as did Lyman McConnell from the T-C-I-D.

Seney: That was before the Senate Subcommittee on Water and Power?

Schank: Yes, that was before the Senate subcommittee. After that meeting, I was invited, and Lyman was invited, by Senator [Harry] Reid to have a personal visit with him. We went to his office and interestingly, we were invited to the inner office—the only time I've been in there. At that time he talked to us a little bit about the process of what was going on. We asked him if we could have another round of negotiations to try to iron out some of the problems that [P.L.] 101-618 had created.¹⁴ He indicated to us at that time that he would be willing to do so. He was not entirely sure as to who would be a mediator. We asked for a mediator. We wanted somebody who was independent, who was not biased one way or the other, who could sit down with the parties and try to work some of the details of some of the problems out. We talked about several people; one of them that came to mind was Paul Laxalt. Paul Laxalt is the one that really started the process of negotiations back in the early 80s.

Seney: The former [Nevada] Governor and a United States Senator.

Schank: He was a former Governor and a United States Senator. Senator Reid, for reasons I don't know that they were political, they might have been, felt that he would not be a wise choice.

Seney: Let me stop you for a second there. When you say political, Senator Laxalt, when he ran for the Senate in 1980, defeated Senator Reid, did he not?

Schank: Yes, he did.

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

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

Source is: http://www.usbr.gov/mp/lbao/public_law_101-618.html (accessed December, 2011).

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- Seney: Is there not really understood to be some competition between the two of them?
- Schank: Well, I'm sure that there is. At least Senator Reid does not indicate now that there is any. (Seney: Okay.) Although he does occupy Senator Laxalt's seat because when Senator Laxalt retired, (Seney: Right.) Senator Reid defeated Paul Santini for that seat. I don't know. We felt that Paul Laxalt would be good simply because he seemed to be fairly neutral. I mean he'd worked with the Indians, he had worked with us, he had worked with Sierra Pacific Power, and the other parties over the years. He was probably not, as I remember, maybe as efficient of a governor as some we've had, but he was probably one of the best senators we've ever had and was very well-liked and probably would still be there if he had chosen to stay. We just thought that he was really a good candidate and plus he knew the facts. (Seney: Right.) He and Governor Reagan, former President Reagan, who was then the Governor of California, were the ones who worked out the interstate compact, and that was an integral part of 101-618. Anyway, Senator Reid chose not to.
- Seney: Just one more question. Did you contact Senator Laxalt beforehand (Schank: No, no.) and ask him at all if he'd be interested or did you just put the name out?
- Schank: No, we just put that name out. And there were several others that we suggested, and, to be honest, I don't remember who they were right now. But Senator Laxalt sticks in my mind. Anyway, we asked if we could have another set of negotiations, and he indicated that he would look at that favorably; he wanted to talk to some people who had been involved in a negotiations process with a mediator and then get back to us. It was a short time later, he suggested this Gail Bingham, who eventually did become the mediator.

Negotiations Mediator Gail Bingham

When she came out, prior to the talks officially beginning, she interviewed all the parties, spent considerable time out here, several days. At that time she visited with all the local entities that were interested, individually. She visited with T-C-I-D. She visited with the county. She visited with the Lahontan Valley Alliance, which was just forming. In fact, they hadn't even formed yet officially, they just had a skeletal formation committee going at that time. She met with us, she met with some of the wildlife interests, all individually. Then [she] came back some time later and had another round of talks. In fact, she came here to my home and sat around this table and visited with us. One of the concerns that we had, and she seemed to agree that it was an important concern, was if the Environmental Alliance was to take the lead in the negotiations, they did not represent the water rights owners. The water rights owners are the property owners of the water rights.

- Seney: You're smiling when you say that.
- Schank: Well, I'm smiling because somebody got the picture.
- Seney: She was right about this?

- Schank: Sure, you bet she was right. We were the ones that were being affected. Sure, the water supply has an effect upon the county, it is important to the county and to the city of Fernley. But myself and my neighbors, who have a vested state, our livelihoods are dependent on it, that really we needed to be a part of this. So she felt that rather than have Lahontan Valley Alliance and have us at the table as individual entities, it would be better for us to work together, which was wisdom. I think it made us much stronger as a group. Not only did it make us stronger as we sat down in the talks, but as we worked prior to the negotiations and during the negotiations, I think the people of the community were able to see our side and we were able to see their side a little bit clearer, (Seney: Right.) and there was greater understanding as a result of that. That's the way we got involved with the negotiations.
- Seney: Okay, let me go back just to one question about the origins of the negotiations. My understanding is that not only did you bring this up but that Graham Chisholm¹⁵, of the Nature Conservancy, and David Yardis, of the Environmental Defense Fund, also had suggested that negotiations might be appropriate. Am I understanding that?
- Schank: I don't know for sure. (Seney: Okay.) I know that I personally talked to Senator Reid. I sent him a letter and then talked to him personally and talked to his aides personally several times between the January hearing that was held here in Nevada and the April hearing about having another round of settlement talks.
- Seney: Kind of lay out for me, as best you can remember, it's been a year and I know a lot of things have transpired, but kind of recollect for me as best you can the process of the water users and the Lahontan Valley Environmental Alliance coming to terms with the issues, because you actually did boil down your concerns into a written statement that you then submitted when the negotiations began. Can you kind of enlighten us a little bit about how it all went on?

Environmental Alliance Negotiations Check List

- Schank: Well, after Gail Bingham made her initial findings and put them in written form and sent them to Senator Reid as to how she felt personally as to whether or not this thing could be solved and whether or not negotiations would be feasible. After she sent that in and after Senator Reid informally decided to go ahead and have the talks, we began meeting together. We established a steering committee which was made up of anyone from the Alliance or from the T-C-I-D or from the Newlands Water Protective Association that wanted to be involved. We simply—I don't remember—I think we met at the community center a few times, and we met at the T-C-I-D office many times simply because they had the nice big board room with the big table that we could all get around. We just simply started putting down the kinds of things that we felt needed to be solved. In fact, someplace here in this

15. Graham Chisholm was the Nevada Special Projects Director for the National Conservancy and participated in Reclamation's Newlands Series oral history project. See Graham Chisholm, *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, 2011, www.usbr.gov/history/oralhist.html.

book that's on the table in front of me, we have a negotiations checklist, which is many pages long, it's probably six or seven pages. Then we have another sheet that just says "Negotiations" and everybody brain stormed, they put down the things that they felt were necessary and important to try to solve in a round of negotiations.

After we had met together for some time and Senator Reid *officially* said that we would be having talks, then we got a professional negotiator, a fellow from California from an engineering firm of Bookman Edmonston, Michael Clinton, we hired him to be our lead negotiator. Then he helped us put all of these things that we had written down into a . . .

Seney: Right, I'm looking at this paper that you're talking about here. In fact, there are some handwritten notes here that I think these say, Ted's [negotiations]. These must be Ted de Braga's perhaps?

Schank: Yes. What we did was, we had a deadline, and everybody was given the opportunity to write down or do on a word processor or a typewriter or whatever (Seney: Right.) and send in a list of the things that we felt were important, and then they were put together. We tried to weed out the ones that were duplicates. It was a good process. It was a process that started really from the grass roots.

Seney: Let me just, if I may, on the top it says, "Negotiations," and then there's no one to name on this one. Then Marcia de Braga's name, she has developed a series of points that she wants discussed. Then there's the Fernley's issues and concerns. I take it this is from the people that represent the Fernley area. Then there's yours, you have some negotiating items and rather lengthy, I must say Mr. Schank, in terms of concerns. And then Churchill County Administration Office, who would I see? This would be from Churchill County . . .

Schank: It would probably be Jay Selinder.

Seney: Yeah, okay. And then Ted de Braga has some, and then there the Lahontan Valley Irrigation District has goals, and let me see what else I see here. I'm just reading the headlines. And then goals of others, and I'm not sure who this would be. I take it then on this committee, it was kind of self-selection. If I was interested enough and wanted to be involved, I would come down and be involved (Schank: Yes.) and that was kind of the way it was done.

Schank: Initially that was the way it started. (Seney: Okay.) As the process tightened up, I guess, and got closer to the day that we started the negotiations, we determined that we had to tighten up the group so that we didn't have people going and coming. Although . . .

Seney: How did that happen? How was the tightening up done?

Schank: Well, we simply suggested that people who really wanted to be involved needed to be to all the meetings, or at least as many as they possibly could. So we kind of

tightened up the group and then we made a deadline—I don't remember exactly when it was—but as of a certain date, (Seney: Yeah.) if you weren't participating then we kind of closed the doors. Now, I mean we didn't have somebody that was a sergeant with a gun. (Seney: Yeah.) But we felt that although we could not close the doors because there were many public entities involved. In fact, the Newlands Water Protective Association was the only one that I guess, theoretically, we could have closed the doors because we're not a public entity. We were the only one of all of Churchill County or Lahontan Valley groups that were not a public entity.

Seney: You know, if I can stop you. (Schank: Sure.) When you're saying some of this, you're kind of smiling, and you and I have dealt with one another long enough that I know when you smile like that there's something else that you're not quite telling me maybe, or I should ask you about.

Schank: I'm just a happy guy, Don.

Seney: Well, good. Let me ask you anyway. I know in a small town and you don't want to get into personalities and individual people, but in this tightening-up process, did you feel that maybe there was some excluding that needed to be done in order to have a cohesive and effective group, and that maybe some of this meeting requirement business was done with certain people in mind? I don't want to say certain interests but with certain individuals in mind?

Schank: Well, I don't know that it was so much individuals. The problem that we began to have was Mr. "X"—and I'm not really thinking of anybody specifically (Seney: Right.) maybe he had missed two or three meetings and we had spent two hours hashing out something, and then he would come in and want to be enlightened, and so we were spinning our wheels (Seney: Okay.) instead of being able to press forward. (Seney: Okay.) We were spinning in circles. That was probably the biggest reason that we tried to tighten up the group. (Seney: Okay.) The other reason was we felt that there needed to be some confidentiality as we developed a set of negotiations checklist—I guess is what we have here—but we needed to be able to talk amongst each other and not have a fear that it was going to leak out to the other parties before we even sat down at the table with them. I suppose, in fact, in the end—and maybe we'll get to this today—in the end, our final position was known by others almost before we left the room the night that we developed the final position. So there evidently was some (Seney: Leakage?) leakage someplace, and I don't know who it was, and I probably never will, and I don't know that it matters that much.

Seney: Yeah, I can understand that. As I look at the negotiations checklist that I've picked up from your table here, and then the negotiations list here, is this a final list on the top? Or is that a distillation, or just another suggestion?

Schank: No, it really isn't, it was just kind of a distillation of (Seney: Of everyone's . . .) everyone's . . .

Seney: Do you mind if I read that into the tape just so we can see what these specifics are?

(Schank: Surely.) These are the points for negotiating. Point number one is federal interest's share of water rights and use. Number two is Donner Lake water as multiple use water, I take it?

Donner Lake Water

Schank: Well, Donner Lake is owned by the farmers of the valley or the T-C-I-D. It's privately owned water, but the federal government has not allowed us, except in drought years, to use that water. They don't allow us to bring it down through the system because they say that we're using a federal system to transport private water, and they won't do that.

Seney: Maybe we'll get more into that. (Schank: Sure.) Should we talk more about that? Do you want to say something else about that? That seems strange to me. What is their motive, do you think, from your point of view in that?

Schank: Well, their motive is to not allow us to have the water.

Seney: Where is that water going to?

Schank: It goes to Pyramid Lake.

Seney: It goes to Pyramid Lake.

Schank: Uh-huh, used by the power company. See the power company and T-C-I-D—I think, my dates might not be exactly right—but in the late 40s, purchased Donner Lake jointly, and so we owned half and they owned half. It's kind of a convenient partnership because they can basically use their half of the water in their normal year plus our half of the water, and then we get the water after it comes out of the sewage plant, so we *should* get it. In a drought year, when we need water early, there's been a few times that the government's allowed us just to open the gates and get what we can, down. But most generally, they don't allow us to do that. You cannot bring Donner water down until I think it's after September first or October first, I'm not sure of the dates. (Seney: Okay.) So it's late season water. (Seney: Alright.)

We had some proposals in the negotiations so that we would be allowed to use that water. One of the things that we had talked about was in a normal water year, a good water year such as this year, that water could be brought down exclusively for use of wildlife. We thought that it would . . .

Seney: Out in the wetlands?

Schank: Uh-huh. (Seney: Yeah.) We thought that it might be something, that would be the farmers' portion or just a goodwill gesture maybe, more than anything, of our desire to see the wildlife area flourish. And if we had that water and we did not need it for irrigation purposes, that would be a wonderful place for it to go.

Seney: Let me go back to number one then and maybe ask you to comment on that too. That might be the best way to set the stage (Schank: Okay.) for what goes on. This is federal interest's share of water rights and use. What do you mean by that?

Schank: You know Don . . .

Seney: That's alright, don't be embarrassed, it's not a clear statement.

Schank: Yeah, it isn't and I don't . . .

Seney: I'm not sure they're talking about Fish and Wildlife Service taking water to the wetlands, it isn't clear.

Schank: Yeah, I'm not sure either on that, I'll have to take a bye on that one right now.

Seney: Alright, how about number three, district say in efficiency improvements?

Efficiency Improvements

Schank: Yes. One of the problems that we've had, and particularly in the press, and the Indians' attorney, Mr. Pelcyger, for years and years and years has said that this irrigation district is very inefficient. That's not true. For the age of this district, it's very efficient, and all of the water can be accounted for. There is a certain amount of consumptive use. There is water that does leak someplace into the ground and is never recovered.

Seney: That's what you mean by consumptive use?

Schank: Yes, well, a consumptive use would be the water that [was] actually used by your crops. (Seney: Okay.) Then there is some *loss* water where you just don't know where it goes, but that's very little. Most of the water can be accounted for either as it is applied for agricultural use or when it ends up down in the refuge in the wildlife area. So it is very efficient. They say that it isn't, and the press likes to pick up on that. There are some things that could be done to make the district more efficient. We would like to have some say as to what those items are. In the past, the government has simply said you have to do "X," "X" and "X," or else. We've really not had any say in the kinds of things we do as far as efficiency improvements, and we just wanted to have more say and make some suggestions.

Seney: This would be in the OCAP [operating criteria and procedures] probably?

Schank: Yes, uh-huh, it would be part of the OCAP.

Seney: And then the hydroplant purchase, this is the hydroplant that Sierra Pacific now leases?

Schank: Yes, in part. A few years ago the district built a new hydroplant that is much more efficient than the old original one. There was a big debt that was incurred in that

process, and the OCAP and the reduction of water in the drought has raised havoc on the payments of that hydroplant. So there were some proposals as to how the new plant could be switched so that it became the primary plant instead of the old ones. As it sits right now, if there's water, the first place it has to go is to the old generators. The new one's much more efficient.

Seney: You get more power out of the new one?

Schank: Yeah, it would be much better to put the first charge of water through the new one and then any excess through the others.

Seney: What about the bench/bottom controversy?

Bench/Bottom Lands Controversy

Schank: Well, the bench/bottom controversy has been ongoing for years and years. There was an initial bench/bottom map that was drawn in the early days of the project, and I'm not sure if you're aware of what we're talking about when we talk about bench and bottom.

Seney: Right, but you can explain it a little.

Schank: Your bench has a four-and-a-half acre foot allocation, that is your sand and your soils that require more water. Your bottom soils or your more clay-type soils have a three-and-a-half [acre] foot allocation. Those were decreed in the Orr and the Alpine Decrees¹⁶ as bench and bottom three-and-a-half and four-and-a-half

16. The Federal Court adjudication of the relative water rights on the Carson River which is the primary regulatory control of Carson River operations today. The decree is administered in the field by a watermaster appointed by the federal district court. The decree, initiated by the U.S. Department of the Interior on May 1, 1925 through *U.S. v. Alpine Land and Reservoir Company, et al.*, to adjudicate water rights along the Carson River. The decree was finally entered 55 years later on October 28, 1980, making it the longest lawsuit undertaken by the federal government against private parties over water rights. The decree established the respective water rights (to surface water only) of the parties to the original lawsuit, both in California and Nevada to Carson River water. The decree did not make an interstate allocation of the Carson River between California and Nevada; it only quantified individual water rights. Neither state was a party to the decree. In addition to Carson River surface water rights, it also established the rights to reservoir storage in the high alpine reservoirs and confirmed the historical practice of operating the river on rotation, so that irrigators with more junior priorities could be served as long as possible. These upper alpine reservoirs were permitted to fill out of priority order, in accordance with historical practice. The decree also specifically recognized Riparian Water Rights in California (as distinguished from the quantified Appropriative Water Rights used in Nevada). For purposes of water distribution, the Carson River and its east and west forks, were divided into eight (8) segments and when the river went into regulation (i.e., there was not enough water in the Upper Carson River to serve the most junior priority) each segment of the river was to be administered autonomously. Duties of water were set forth for various locations according to Bench Land and Bottom Land designations. For lands in the Newlands Irrigation Project (i.e., below Lahontan Dam) in Churchill County near Fallon, the Alpine decree provided for an annual net consumptive use of surface water for irrigation of 2.99 acre feet per acre and a maximum water duty of 4.5 acre feet per acre for water-righted bench lands and 3.5 acre feet per acre for water-righted bottom lands delivered to the land. For lands above the Newlands Project (i.e., above Lahontan Reservoir), the net consumptive water use was set at 2.5 acre feet per acre with water duties of 4.5 acre feet per acre diverted to the canal for bottom lands, 6.0 acre-feet per acre diverted to the canal for the alluvial fan lands and 9.0
(continued...)

allocations. A few years ago, the United States Government decided that they were going to reclassify bench and bottom. My opinion—and it's only my opinion—but it was they wanted to reduce the number of bench acres simply so that they could have more water to go to Pyramid Lake. So they drew new maps and were successful in a court process in having about 12,000-14,000 acres that had been bench ground reduced to bottom ground. We felt that in these negotiations there needed to be some things worked out in that issue. There are some people—in fact, I have some ground that I lease that should be bench ground that was reduced to bottom, and you just can't produce a crop on it.

Seney: So you've been caught in this reclassification too?

Schank: Oh, yes, yes I have. Not to as big a degree as some; most of my ground is bottom ground.

Seney: And there's no question about that?

Schank: Yeah.

Seney: What about the inactive water rights, transfers, abandonment, forfeiture and non-perfection? This is a very emotional issue, isn't it?

Inactive Water Right Transfers

Schank: Yes. Since the early 70s, we've not been allowed to transfer water rights, and some of them have become inactive under the government's definition of inactivity. Basically, the rule [says]—they've got some dates attached, but just for the sake of our discussion here today—it's five years of non use, and it becomes inactive. Once it reaches the inactive state, then they won't allow that water to be transferred.

So there was a time period between about 1970-71, sometime in that frame, to 1984 when Judge Thompson, who was a federal court judge who has since passed away, made through an order, he made the government allow transfers through the process that is described in the state law. So there was a long time period there where there were not any transfers. Then when they did begin in 1984, they only lasted a short time before the government and the Indians put some more injunctions, and it's basically been in court since then. People who have this inactive right continue to pay for the water and are not allowed to use it because they won't allow transfer.

Seney: And then a lot of people were served, in terms of a legal service, in this last

16. (...continued)

acre feet per acre diverted to the canal for the bench lands. This annual net consumptive use, or Crop Water Requirement, was based on the water duty of alfalfa as it is a dominant and the highest water-using crop grown in Nevada. While the Alpine Decree established water duties for bench and bottom lands throughout the Carson River Basin, it made no identification of those lands. The decree also granted landowners on the Newlands Project an Appurtenant Water Right for the patented lands, effectively transferring water rights to these land holders individually.

summer, were they not? (Schank: Yes.) [There were] 2,000 roughly or something summoned?

Schank: Yeah, there were 2,000 summonses that were sent out from the Pyramid Lake Tribe, and it relates to some of the same ground. In some respects, it's a different issue, but in that situation, they have come in, and if there happened to be a house or a ditch or a roadway on some water-righted ground, they declared that the user abandoned it and they're trying to get that water for nothing.

Seney: So those are little tiny pieces of water that would add up to something.

Schank: Sure, it adds up to, I think somebody told me, about 10,000 or 12,000 acres. Which is about what the inactive water rights entails. So there is some overlapping.

Seney: Yeah, right. But that's a very emotional issue, isn't it? (Schank: Oh, yes.) All of those summons is.

Schank: Especially to the little widow ladies that have not very much water right (Seney: Right.) and all of a sudden they find themselves with these legal papers and have to go get an attorney and pay these high court costs. Yeah, it's pretty emotional for them.

Seney: Yeah. Then the OCAP final resolution is another item that you wanted to negotiate?

Final OCAP Resolution

Schank: Yes. In fact, when the negotiations did start, that was probably the thing that we spent the most time on was trying to formulate a realistic OCAP. An OCAP that took into account the true efficiency of the water that was used in this area. The big thing that we wanted to do was get the government's daily spying process out of here. We wanted to be able to have the rules and live by the rules but not have the thumb on us all of the time.

Seney: This is the compliance office (Schank: Yes.) that's located out on the T-C-I-D grounds? (Schank: Uh-huh.) Right. I know one of the things, in terms of efficiencies, that the district argues and the farmers argue, and I think you have argued to me when we talked before, was that the water that flows out of the project, that is the drain water, ought to be counted against the efficiencies? (Schank: Yes.) And it's not being counted against the efficiencies. (Schank: No, no.) Even though in other projects it is? (Schank: Yes.)

Then long-term O&M [operations and maintenance] agreement for project administration. Now it's on a year-by-year, well, I guess there's no contract, is there, technically?

Schank: Well, there is a contract. In 1984 there was an interim contract that was entered

into. It spelled out the responsibilities of the government and the T-C-I-D. Also, the 1926 contract, which was thrown out by a federal judge, is a part of that 1984 agreement in terms of the financial responsibilities that the district has to collect monies in repayment of construction cost . . .

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Seney: That may have cut off a little. You were saying it really is an annual contract now.

Schank: Yes. The government for some time has said that they were going to negotiate a new long-term O&M agreement. As I was saying, the water users do not necessarily agree that there needs to be one. The purpose, in my mind, and as these negotiations have been going on in the past few months—I've not been involved in them all that much.

Seney: These are the negotiations for the new contract?

Schank: Yes, there's some ongoing negotiations. I personally have not been involved but have heard some of the stuff. Basically, it sounds to me like they just want to charge us for all the police work that they're doing. They want to make us pay for everything. They want to raise the price of water to where it's so high that you can't afford to stay in farming anymore.

Seney: So that's your feeling about what's going on in the current (Schank: Yes, uh-huh.) contract negotiations? Uh-huh. What about the Truckee River Operating Agreement resolution point?

Schank: The TROA, Truckee River Operating Agreement, was incorporated in 101-618. In fact, it was mandated. I guess the easiest way to describe that is TROA would take precedence over the present Truckee River Operating Agreement, which was incorporated in the Orr Ditch Decree, so it would change. TROA is a method of changing the Orr Ditch Decree and the way the Orr Ditch Decree is administered. We are not a party to TROA, although the water users go to the meetings and actively take a part. But, as I understand it, in the legislation we were not a primary party to that. I don't know how they can do that when we were and are a primary party to the Orr Ditch Decree and to the present Truckee River Agreement. So that was something that we felt needed to be . . .

Seney: You wanted a bigger voice in the new TROA?

Schank: Yes. We felt that needed to be a part of the negotiations.

Seney: What about the water bank at Lahontan?

Water Bank at Lahontan Reservoir

Schank: One of the ways in these modern times that water is saved and put to more efficient

use is through a water banking process. I guess it's kind of like a savings account. If I don't use all of my water this year, I'm able to store what I didn't use, minus some kind of an administrative cost for the work associated with the accounting process: I'm able to leave it in, in this case, in Lahontan or in another reservoir and use it next year if there's a drought. It's as simple as that. We've wanted for some time to be able to bank our water. We felt that it would cause a better use. It would cause people to maybe plan ahead a little bit. It would give some latitude. If I didn't use all of my water and I wanted to sell some to the wildlife area or I wanted to sell some to my neighbor or I wanted to sell some to the city of Fallon for municipal purposes, I could do that.

Seney: So this is individual banking at Lahontan?

Schank: Well, yes. But it would be a water bank that any water user could participate in.

Seney: That's what I mean.

Schank: Sure. We're not allowed in 101-618 to do so until the recoupment issue is taken care of. So Senator Reid, what he did was, he simply took something that would be very desirable and would help the area and won't allow us through legislative action to do that until the recoupment process is finalized, and who knows how long that's going to take.

Seney: Right. And the exchange of Stillwater lands?

Stillwater Land Exchange

Schank: There are some private lands out in the Stillwater area. T-C-I-D owns some lands out in the Stillwater area, and there was simply a process that we wanted to enter into to exchange those lands so that perhaps some of the property that they are stripping the water off of up here in the Carson Division could be put into private ownership, and those lands that are presently down in that area could become government lands.

Seney: Wetlands water right purchases mitigating reservoirs, point fifty-one [.51] acre feet and other matters.

Schank: Okay, well, there's three or four issues there. The regulating reservoirs have been a source of consternation.

Seney: These are Harmon, Scheckler reservoirs on the system?

Schank: "S" Line, Old River. Some people call them re-regulating reservoirs, I've always called them regulating reservoirs, but it's simply an area where water can be stored. If I'm irrigating and I go off an hour or two earlier than I had anticipated and the next farmer is not ready to go on for a couple of hours, it's a place where that water can be stored and then used by somebody downstream and so it's not lost. It really

is just a way to make the use of the water more efficient.

But in the OCAP, they required that those reservoirs, many of them, be taken out of service. We've always maintained that they provide wonderful habitat: ducks and geese, et cetera, utilize those reservoirs. Plus the other recreational aspects, fishing, bass fishing, boat usage and things like that, that those reservoirs are an important part of this area. They chose in 101-618 not to recognize the wildlife value of those reservoirs that have basically been here since the project's been here.

The other point there—and I might just say we wanted to make the regulating reservoirs a part of the wildlife area (Seney: Right.) and credit the water that was used in those regulating reservoirs as a part of the wildlife water. We felt that it was fair and right.

Seney: This is the projected 125,000 acre feet of water that's going to be needed to maintain this 25,000 acres on average wetlands area?

Schank: 25,000 acres, uh-huh.

Seney: And you wanted to say that those regulating reservoirs . . .

Schank: . . . were part of the 25,000.

Seney: Charge those off against the 25,000. (Schank: Yes, uh-huh.) In other words, start using those regulating reservoirs again and just put that in as part of the wildlife . . .

Schank: Yes. Well, and some of the regulating reservoirs are still being used, Scheckler and Old River and a pond called Oley's Pond, they've discontinued using those totally. The "S" Line reservoir they divided in half, and I know they want to divide Harmon in half. But we maintain that the reservoirs provided wonderful wildlife habitat, and they ought to be a part of that 25,000 acres.

Now this .51, Judge Thompson in the Alpine Decision, which was rendered in I believe 1980, the use of water was changed. In other words, when it went from agricultural to municipal—and he, as I recall, didn't spell out specifically that if it was changed from agriculture to wildlife that the thing would apply. I think his intent was if it went from agriculture to municipal, that there would be .51 acre foot on a three-and-a-half foot allocation and 1.51 on a four-and-a-half foot acre allocation that could not be transferred, that it had to stay in-stream for purposes of keeping the river channel, et cetera, alive. It was a portion of the water that was not transferrable.

Seney: So in other words, if I bought an acre foot of your water to put out on the wetlands, all I could really take is 2.99 acre feet?

Schank: Yeah. That's the way the Indians have interpreted it. Again, their purpose for doing that is that it allows them to have the 1.51 or the .51, depending on the three-and-a-half or four-and-a-half acre-foot allocation. It allows them to put it in Pyramid

Lake, and so that's what they're doing with that water. As I read it, Judge Thompson intended for that water to stay in the Carson River, and it would eventually get down to the wildlife area.

Seney: But I see what you're saying. Say Fish and Wildlife Service buys a three-and-a-half acre-foot allotment, it can only put 2.99 of that into the wetlands and that .51 then is going to end up in Pyramid Lake, if it comes down the Truckee.

Schank: Yeah, because when they do their calculation, it reduces the number of acre feet that are required for the land that has a duty down here.

Seney: Ah, I see what you mean.

Schank: Now in my mind, when you transfer water from agricultural to wildlife purposes, they're growing feed down there, and their need for water is just as great as agriculture. To me it isn't a change of use, you're just changing from producing people feed or animal feed to duck feed.

Seney: And where you're using that.

Schank: Uh-huh. Now, when it's used in municipal water supply, I can see the rationale in not allowing a transfer of the full duty.

Seney: Because you need something in the stream when the outflow comes maybe to dilute that. Is that what you mean? (Schank: Yeah.) Yeah, okay. What about the Lahontan minimum pool, adjust OCAP targets to accommodate?

Lahontan Reservoir Minimum Pool

Schank: Presently there is not a minimum pool on Lahontan. Theoretically, the water rights owners and the T-C-I-D *has* a right to drain Lahontan every year completely if there was a need. A few years ago the Board of Directors—it was a smart thing and they were using their heads when they did it—but they determined that it would not be smart to drain Lahontan. They did that up at Rye Patch,¹⁷ if you remember a few years ago, and they had a tremendous fish kill.

Seney: And a public health problem they ended up with.

Schank: Yes, yes. And Lahontan, like Rye Patch, is a wonderful fishery. To protect the fish that are in there, the district determined that they would self-impose a 4,000 acre foot minimum pool. The State of Nevada has desired a greater pool, (Seney: 20,000 acre feet.) 20,000. And I think, generally speaking, the water rights owners think that that's a pretty good idea, but we want to make sure that it's not our water that's being captured and kept in there because it effectively reduces our water allotment.

17. Constructed by the Bureau of Reclamation in 1936, Rye Patch Dam is the primary feature of the Humboldt Project on the Humboldt River in northeastern Nevada. For more information, see Robert Autobe, "Humboldt Project," Denver: Bureau of Reclamation History Program, 1993, www.usbr.gov/projects/pdf.php?id=124.

So we felt that that needed to be discussed.

Seney: That should maybe be wetlands water that's in there if it needs to be, if it's real low?

Schank: Or the State of Nevada, if the State of Nevada wants to leave some of their purchased water in, then they ought to be able to do so.

Seney: That State of Nevada purchased water otherwise would find its way out to the Carson Lake?

Schank: Yes. Well, and then the state has been purchasing some water upstream, and the Carson River, if you've read the decree, Judge Thompson divided it into segments. (Seney: Right.) And they have been purchasing water in the segment just above Lahontan. They purchased the Gillia [phonetic spelling] Ranch a few years ago and I think some other properties. We felt, and in fact, in the negotiations, one of the things that the state desired to do, and in fact, I know they came to an agreement with the federal government to raise the minimum pool using water that they have purchased.

Seney: This is in Segment 5, below Dayton's use?

Schank: It's in Segment 7 or Segment 8. I don't know, I'd have to get the map out, Don.

Seney: Okay, let's not do that, but it's below Dayton at any rate, it's on the lower part.

Schank: Yeah, it's actually the segment that is below Carson City. It goes from Carson City to the inlet of Lahontan.

Seney: Okay, alright. What about the flexible marketability of on-farm water rights?

Schank: Well, that kind of went hand-in-hand with water banking. That is, that if a farmer did not use all his water or chose not to use it, chose to leave some ground idle, that he could market that water at a fair price to a neighbor, to the wildlife area or to municipal concerns.

Seney: Okay, and what about the government to turn over to the district their interest in the water rights of the project?

Government Relinquish Interest in Water Rights and Facility Titles

Schank: I don't recall exactly, but the United States has maintained all along that they own the water rights. Actually, the Supreme Court determined that they did not, that the water rights were owned by the property owners. I guess we just desired for them to say once and for all that they didn't own it, that we owned it.

Seney: Okay. And then the government to turn over to the district the title to the facilities including Derby Dam and Lahontan Reservoir.

Schank: Initially, when the Reclamation Law was passed back in the early 1900s, 1902, there was a process established for repayment, and once substantial repayment was reached, the projects were supposed to be turned over to local concerns. That's never happened, and the project, in my mind, has been substantially paid for. There's less than \$30,000 owed on it, and that could be paid off if they would turn title over to us immediately. (Seney: Yeah.) And that was part of this process, was we desired that to take place.

As you're probably aware, the Congress, during the last year, has proposed some methods for doing that. There is a need to turn these projects back to the private or to the states or to the local entities and get them out of the hands of the government. The government spends *far* too much trying to do police work and that sort of stuff.

Seney: You're smiling again. Do you think, in other words, you could run it more cheaply and save the Bureau of Reclamation and then taxpayers some money on this?

Schank: Sure. Right now there's so much duplication. We're the ones that are paying for it.

Seney: The last point is, is that state law regulate liability for flooding.

Schank: I don't remember exactly, but I guess if the project was turned over, then the state or somebody would have to accept the liability which now falls upon the federal government. I know that was a concern as we attempted to work out things in the negotiation process, was that liability.

Seney: Okay. Now these are the seventeen points you agreed on that you wanted to negotiate some sort of resolution to, right?

Schank: Yes.

Seney: Okay. This is the top list and all of these below it are the individual lists again.

Schank: Yes. There was a lot of other—I don't know whether incidental is the right word—things that we felt needed to be taken care of but they kind of fell within this framework somewhere.

Seney: Okay, and I take it that the community had some interests and obviously the water users had some interests in these discussions of what your negotiating points would be. Did you feel that the farmers did pretty well in all this? Were you pretty pleased from the point of view of what you came up with as the L-B-V-A's position in the negotiations, that the farmers' interests were pretty well protected and looked after?

Protecting Farmers' Interests

Schank: Yeah, I think for the most part. There was one area where there was some

disagreement, and there was disagreement ongoing through the whole process.

Seney: What area was that?

Schank: That was the storage levels of Lahontan. Part of the problems that we feel the OCAP has caused is they've given us artificial droughts. There's only been probably two years or maybe three that we felt it since the present OCAP has come into play, because of the drought. What they've done is they've cut down our ability to store in Lahontan. And if you don't have it in Lahontan, then it is going to cause artificial drought. That was an area that caused some problems. Some of the community people felt that we needed to be willing to cut storage back in Lahontan even further. Our contention was that that's our insurance policy. That's why dams were built, why Reclamation was an important part of the West—was we know we live in the desert. We know that we either have feast or . . .

Seney: Famine. (Schank: Famine.) I know you've been working hard that it's cutting season again and I appreciate your time especially.

Schank: You have a reservoir so that in times of plenty you can store for the times that are lean.

Seney: Let me turn this over.

END SIDE 2, TAPE 1. SEPTEMBER 20, 1995.

BEGIN SIDE 1, TAPE 2. SEPTEMBER 20, 1995.

Seney: September 20, 1995. My name is Donald Seney, and I'm with Mr. Ernest Schank at his farm in Fallon, Nevada. The last thing you mentioned was the quarreling over the amount of storage that was in Lahontan. Let me digress just to ask one question about that. Driving out here today, of course the reservoir's just brimming, I mean it's got so much water in it. I've never seen it with so much water in it in the several years I've been coming out here and all of the years I've driven down Highway 50.

Schank: It looks good, too.

Seney: It does look good. There's going to be a big carry-over this year. Now, the rains, we hope, will begin in the next month or so. Will there be some let-out of that for flood control purposes? What will happen to that, do you know?

Schank: If we have a real wet winter some will have to be let out, but if we have a dry winter (Seney: Then you've got the carry-over you need.) we've got a large portion of next year's supply in the reservoir, (Seney: Right.) and the beautiful part about it is we don't have to take so much from the Truckee River.

Seney: Right. If we have even a normal winter—and by the way, the *Farmer's Almanac*, which a lot of people put store in—perhaps you do, do you?

Schank: No. I hope that it's right.

Seney: Because it does say we're going to have another big winter, as a matter of fact, (Schank: That's right.) and that will be quite a bonus.

Raising Lahontan Dam

Schank: Incidentally—I'm jumping a little bit ahead (Seney: Sure.) but I think this is the place to talk about it—one of the things that we proposed in the negotiations was that we put another 100,000 foot of storage on Lahontan [Dam]. The purpose for doing that is in a year like last year when you have all this water that you can store, then it's going to give you even a greater supply for the lean years and further reduce the need for water coming over from the Truckee River. If we were allowed to store 100,000 more acre feet, it really reduces the need from the Truckee River by 100,000.

Seney: That's not a particularly expensive proposition, is it, (Schank: No.) to raise the dam? What are the costs generally suggested for that?

Schank: Well, the number that was batted around that I've kind of seen was \$14 million.

Seney: That doesn't seem like a lot of money (Schank: No.) in this day and age for that kind of a benefit. But let's go ahead and develop this point because my understanding is that there was resistance to this suggestion.

Schank: There was resistance to all of the measures that we put forward to improve the so-called inefficiency. The three major areas that we felt needed to be addressed which would really leave more water in the Truckee system—and that's what we're trying to do. (Seney: Right.) Number one, to line the Truckee Canal because there is water that is lost in the Truckee Canal.

Seney: But in lining it you would have then made some provision for a municipal water system for Fernley and up there in that area?

Schank: Yes, oh yes, that was part of it. (Seney: Right.) But lining the canal, that way there would not be the losses associated with transporting that water down. Raising Lahontan and then lining a ditch from Sagouspe, which is the last structure in the project on the lower end of the Carson River; lining a small ditch that would go about seven miles from there out to the wildlife area and would allow the water which ends up at the bottom of the river, most of it is drainage water, but would allow that to be transported out to the wildlife area to where it could be used. As it is now, the ditch is so long and sandy that very little water, even in good years, gets out to the wildlife area off of the end of the Carson [River].

Seney: This would be transporting tail-end water off of the Carson?

Schank: Uh-huh. It would be transporting water that now simply ends up down in what's called the sink. It would be keeping that in the system and utilizing it.

Seney: Who was the source of this resistance?

Budget Concerns Impeding Project Improvements

Schank: Well, we live in a time when all the government looks at is budget.

Seney: Well, I must say, Mr. Schank, that there might be those who would say that you would be on the side of government keeping a close eye on the budget?

Schank: Well, yes.

Seney: I'm kind of smiling at you now (Schank: Yes.) maybe I shouldn't divert us from this discussion but (Schank: No, no.) we know, you're quite right, (Schank: Sure.) the climate is to be careful about the budget. Go ahead without paying any attention to my comment.

Schank: Sure, but there are some things that could be done to make this project, to modernize it, I guess, to bring it up to 1995 standards. You have to realize that this is a 1903 project, and a lot has been done. But if they want us to meet the standards of a project that might be built today, then we need to do some of these things that would improve it. Of course, a source of funding was, I guess, a major irritant. But we really didn't get to the point of funding. The other parties just didn't want to do it. They didn't want that to be a part of this process.

Seney: Why do you think that's so?

Schank: Because they want the water, and they don't want to spend anything for it.

Seney: Do you think they really want to squeeze the project down?

Schank: Yes, I do. (Seney: Yeah.) And I think that was very evident as the negotiation project concluded that they really, really don't care about keeping farming in this area. They would rather speed up the process that they think is going to come anyway.

Seney: Let's develop that a little more when we get to the end of discussing what went on in the negotiations. Tell me about the first organizing meeting. With this in mind, what kind of an attitude did you carry into the negotiations? What was your level of optimism? I know you put a lot of work into it. I know you've worked very hard on these matters that, frankly, all of the participants have. There's a lot of details to master. It was a lot of work went in by all the parties. But, what was your level of optimism? If you could kind of give me a sense of what your attitude was and how it might have changed and how we might have had some ups and downs in optimism and pessimism over how the negotiations were going and why?

Attitudes Going into the Negotiations

Schank: Well, I guess—before I answer your question directly—I've been involved, as I told

you before, for a long time in the negotiations process. I was on the T-C-I-D Board when it started back in the early 80s with Laxalt. I have always been an optimist that if neighbors can sit down and talk rationally, that they can work their problems out. I hoped that that would happen this go-around, and I was really optimistic. I felt that, as a community, we had done some things.

One of the gripes that Senator Reid has always used is that we don't know what we want down here. And maybe to some degree that has been true. I think the water rights owners have always known what we want. It's just that some of the other people in the community didn't always want or haven't always wanted the same thing that the water rights owners have wanted. So there has been some problems in that regard. But we were able to sit down and work those things out and come to an agreement on the important issues as far as this community's future. I felt that as we went into the first negotiating session that we had a package that we had really worked on hard, and there was a lot of possibilities and potentials. We knew that for this to be successful that we were going to have to give up, as a community, some of the natural resources that we've had the opportunity to use for the past hundred years. But we also felt that if we did that, that some of the other parties had to also give up things. As the process got deeper and deeper and deeper, it was very evident to me that we were expected to give all, and there wasn't any of them that were going to give anything.

Seney: Well, you were willing to reduce the prime agricultural acreage to 43,000 acres, weren't you?

Schank: We suggested an orderly process whereby we could reduce the project from 72,000, a little better almost 73,000, down to roughly between 43,000 and 45,000 acres, which is quite a reduction.

Seney: And the estimates vary. This has always struck me as kind of strange, I guess, someone from the outside thinking, "Gee, they must know how many acres are actually being irrigated." But there isn't really a way of knowing exactly how many acres are being irrigated. The estimates I see are generally 57,000 acres are being irrigated against this 74,000 acres of water-righted land.

Schank: One of the things that we were able to do in the process of negotiations is to establish a number, a number that we felt was realistic and the other sides also felt was realistic. For some time, the government has had fly-overs probably for the last ten or fifteen years. In recent years they digitized on a computer with overlays, et cetera, if you understand the CAD system. They've been able to quantify acreages. Now, there's some problems in that some of the old maps don't jive with these new CAD maps, so there's been some problems there. But we utilized the Bureau's and the T-C-I-D's records that they've been working on with this digitized system.

As I recall, we all agreed that there is right at 60,000 acres that is presently being watered. There would be some more if they allowed that inactive water, which they've been able to keep us from using because of the court process. There

would be about 3,000 acres more that would be added to that. But 60,000 is the number that we all agreed upon.

Seney: Yeah. Let me just go back again. I've heard it said before that the people down here in Lahontan Valley don't know what they want; that there is the interest of the farmers, the water right owners, and the interest of the community. And that those interests are not necessarily the same, but that T-C-I-D has been the negotiating voice in the past—which really has represented the water right holders—and the community itself has really not been involved. This last year that changed with the Lahontan Valley Environmental Alliance. But I take it your feeling is that you, meaning the water right owners, the water users, were able to educate the community members to your viewpoint and your interests and to get them to see how important the agriculture was to the community and were able to kind of get them to agree with you. Am I saying this right?

Schank: Well, to some degree. I don't think that to say that we were able to educate them to our way of thinking is necessarily correct. I think that they better understand now our position. I guess to put our position, in a nutshell, it is that the water rights are privately owned. And for the community or the federal government or anybody else to come in and take that or decree that it has to be used in a different way is taking my property away. So I guess the greatest thing that we educated the community, as I look back, is the fact that these private property rights are a real issue and that for the sake of the community's future that we needed to keep as many of these water rights in private hands as possible. And that if it was not in private hands, the next best hands for it to be in would be the local community's hands so that we kept the water and the resource here in the area. My using water blesses this community. It's tax revenue for the community because the water allows my ground a higher and better use than desert. I also employ people and I spend money in the community and I create a product that goes to California or to Japan, and so it brings new dollars into the community. So the community reaps the benefits of my private ownership of water.

Seney: And you were able to get that viewpoint across pretty effectively?

Schank: I think that the people in the community understand that a lot better than they did. And the Alliance, that was one of the reasons the Alliance was put together, so that there would be a greater understanding.

Seney: Well, tell me about the first meeting of the year, you come, you're optimistic, you've got a position you've agreed upon. Just kind of explain how it looked to you, the first meeting.

Schank: You mean the first meeting where all the parties . . .

Seney: Right, the first negotiation meeting, right.

First Meeting of All Parties

- Schank: Well, I think that there was optimism by everyone in that meeting. Senator Reid came and addressed us, and we sat down and established some ground rules for the way we were going to carry on the negotiations process. I think there was genuinely positive attitudes. Like I said a few moments ago, we had a positive attitude. We felt that the package we had put together offered some real pluses for not only our community and for the fact that we would have a guaranteed future, but also would allow some of the other things that other people in western Nevada felt were important, such as the preservation of the wildlife, the preservation of the habitat in the Truckee River, and also the ability for Reno and Sparks to have some continued growth. We felt that everybody could benefit. But, we also knew that everybody had to give some, that it wasn't just that Churchill County or Lahontan Valley give, that everybody had to be a part of it.
- Seney: Now you probably knew most of the people around the table, had dealt with them before, had you not?
- Schank: A good share of them, yes.
- Seney: Yeah. From the Fallon Tribe, Bill DuBois was there. (Schank: Uh-huh.) Tom Burton.
- Schank: Bill DuBois¹⁸ and Tom Burton¹⁹ and then Tom, in the process, lost his chairmanship and the new chairman . . . (Seney: Alvin Moyl [phonetic spelling].) Alvin Moyl took over, and he was a part of that. Their attorney, Steve Chestnut, was also a part of that process. Sierra Pacific's Sue Oldham, Mr. [Gordon] De Paoli²⁰ who's their attorney, was present. Pyramid Lake, Bob Pelcyger, who I know and have known for a long time. Their chairman, Mr. Alvin James, I've known him for not a long time, but I've known him. And then (Seney: Mervyn Wright [phonetic spelling].) Mervyn Wright, their water expert, I guess they call him. United States government, Mr. [William D.] Bettenberg.²¹ Of course Elizabeth Rieke was a

18. Francis (Bill) DuBois, of the Fallon-Paiute-Shoshone Fallon Indians, participated in Reclamation's Newlands Series oral history project. See Francis (Bill) DuBois, *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, 2011, www.usbr.gov/history/oralhist.html.

19. Thomas C. Burton was the Tribal Chairman of the Fallon-Paiute-Shoshone Fallon Indians and participated in Reclamation's Newlands Series oral history project. See, Thomas C. Burton, *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, 2011, www.usbr.gov/history/oralhist.html.

20. Gordon De Paoli participated in Reclamation's Newlands Series oral history project. For more information, see Gordon De Paoli, *Oral History Interview*, Transcript of tape recorded Bureau of Reclamation Oral History Interview conducted by Donald B. Seney, edited by Donald B. Seney and desktop published by Andrew H. Gahan, historian, Bureau of Reclamation, 2013, www.usbr.gov/history/oralhist.html.

21. William D. Bettenberg was the Department of the Interior's Deputy Director of the Office of Policy and Analysis and participated in Reclamation's Newlands Series oral history program. See William Bettenberg, *Oral History Interview*, Transcript of tape-recorded Bureau of Reclamation Oral History Interview conducted by Donald B. Seney, edited by Donald B. Seney and desktop published by Brit Allan Storey, senior historian, Bureau of

(continued...)

newcomer, but I was acquainted with her. She had made herself available and had come out and had spent some time out here. In fact, she also had been to my home prior to the negotiation process starting, so I knew her quite well.

Seney: Well, you actually had some confidence in her, did you not, (Schank: Yes, yes.) in feeling that she had made a real effort to understand what's going on out here?

Schank: I still have confidence in her, although she's not with the government any longer. I think for one time—and I told her this, I was very honest with her—for the first time in my recollection, I really had some trust in a government official that we were working with. I felt that what she said, we could trust her.

Seney: What was there about her that made you feel that way?

Schank: She was honest, and when she said something, it maybe was not always what I thought personally ought to be, or what we as a community ought to be, but we knew that she wasn't going to change positions; that what she said was fair and was her honest perception.

Seney: Was Fred Disheroon²² there from the Department of Justice?

Schank: He was there part of the time. Only one time I think he actually sat at the negotiating table, most of the time he was in the background.

Seney: I take it for the federal government there would have been Mr. Bettenberg and . . .

Schank: Mr. Bettenberg and Miss Rieke and Lynn Collins,²³ (Seney: Lynn Collins.) a solicitor from Salt Lake. (Seney: Right.) And then of course Yardis and Graham Chisholm and Fred Wright represented the, they called it the Conservation Caucus. In the state of Nevada, Pete Morros and Roland Westergard.

Seney: And then the upper Carson [River] people were there.

Schank: And then they came in later, yes.

Seney: Right. It made sense, do you think, to include them in this?

Schank: Oh, yes. As this process unwound and as we got deeper into it, it was very evident

21. (...continued)

Reclamation, 2009, www.usbr.gov/history/oralhist.html.

22. Fred Disheroon, from the Department of Justice, participated in Reclamation's Newlands Series oral history program. For more information, see Fred Disheroon, *Oral History Interviews*, Transcript of tape-recorded Bureau of Reclamation Oral History Interviews conducted by Donald B. Seney, edited by Donald B. Seney and desktop published by Brit Allan Storey, senior historian, Bureau of Reclamation, 2010, www.usbr.gov/history/oralhist.html.

23. Lynn Collins, of the Department of the Interior's Solicitor's Office, participated in Reclamation's Newlands Project oral history program. For more information, see Lynn Collins, *Oral History Interview*, Transcript of tape-recorded Bureau of Reclamation Oral History Interview conducted by Donald B. Seney, edited by Donald B. Seney and desktop published by Andrew H. Gahan, historian, Bureau of Reclamation, 2013, www.usbr.gov/history/oralhist.html.

that if Stillwater were going to be preserved in the magnitude that 101-618 says it needs to be preserved, and if the quantities and qualities of water were going to be present, that the upper Carson had to participate. If usage of the Carson River was the destroyer of the wildlife area—and they use half the water—then they're a part of this process too, they're a part of the demise.

Seney: Here we have the first meeting, Reid is there, it's optimistic, friendly. As I said, a lot of people know one another, so there must be a lot of joshing back and forth and good natured sort of banter, I suppose. (Schank: Sure.) Am I right about that and about past things and so forth? Give me a sense of how the meetings progressed.

No Sense of Compromise

Schank: Well, I think the first thing that dampened everybody's spirit was when Bob Pelcyger presented his plan, and there was absolutely no compromise. Basically it was, we want Derby Dam taken out, cut off. We don't want any water leaving the Truckee River basin. That was just—in my mind—a position of, "We're not really here to negotiate, we're not here to try to solve our differences. We're here simply to take everything." That attitude sort of prevailed through the whole process. There was a few times when Bob would talk about other things and we would make what I felt was meaningful progress, but in the end he always came back to the fact we want it cut off, we want it cut off as quickly as possible.

Seney: We're talking about Mr. Pelcyger. He's been quoted many times, and I think sometimes maybe it's not a provocation of blowing up Derby Dam, which is of course the diversion dam that brings the Truckee [River] water down the Truckee Canal to Lahontan Reservoir. Was he serious about that, dead serious?

Schank: Oh, he was dead serious. He offered plans as to how, over a five-year period or a certain length of time, we could actually cut it down to zero. It could be done, but it would mean less lands being farmed in this valley than were farmed prior to Lahontan Dam being put in.

Seney: Which was 20,000 to 25,000 acres, roughly.

Schank: Yeah, 21,000, 22,000.

Seney: Yeah, right. And did anyone argue with him when he said, "This is our proposal," or was this all submitted in paper form first, and everybody got copies before he made this proposal?

Schank: Well, I think we all disagreed, and he knew that we disagreed. Even the federal government said it couldn't be done. The state of Nevada, of course, said it couldn't be done. But I think that kind of an attitude really put a damper on the spirits.

Seney: Ah, it did something to the psychology (Schank: Sure.) of the negotiations now.

- Schank: And then whenever we would make progress throughout the negotiations sessions, he would remind us, occasionally and quite often, that anything that we were doing was only a temporary fix, and that his long-term goal was to cut Derby Dam off.
- Seney: So-called decoupling of the rivers. (Schank: Yes.) You said occasionally you would make some progress with him on some things. On what things did you make some progress with him?
- Schank: Well, I think in general, I think everybody looked in favor when we talked about downsizing the project because they knew that by doing so we would make more water available for other uses.
- Seney: This is something to the degree you'd go down to 43,000, (Schank: Yes.) plus or minus, you felt you had to do.
- Schank: Well, we felt that in order to make the things work on the entire system—and when you start talking about the system, you're talking about the Truckee and the Carson river systems—but we felt in order to do the kinds of things that need to be done that we would have to, in an orderly way, make provisions to downsize the project, we all knew that going in. But, like I said a few minutes ago, we felt that everybody else also needed to give so that we could come up with something that we could all live with.
- Seney: Was it only the Pyramid Lake Tribe and the person, Mr. Pelcyger, making these demands? Was that the only unreasonable demand from any of the parties?

Unrealistic Plans of the Conservation Caucus

- Schank: Well, I think that the conservation caucus had a lot of unrealistic plans.
- Seney: Tell me what you mean by that.
- Schank: Well, I'm a farmer and I know how to raise alfalfa. I know how to put water to efficient use. I know that when I have the water I have to stay up all night and I have to watch it and it isn't something that you can just turn on and leave. I think that a lot of things are expected of us and the other parties, and in this case I'm talking about the wildlife refuge people, I think they're not held to the same standards. If we need to become more efficient, and there certainly are ways and areas that we can, then they need to become more efficient with their use of water too.
- Seney: What do you mean when you say that?
- Schank: We're expected to apply three-and-a-half acre foot per acre, and right from the get-go, they say they need five acre foot per acre to maintain marshland. It was always our contention that we were dealing with people that—at least my contention, maybe—had a conceptual idea of how a marsh ought to operate, but they really didn't have hands-on experience in a lot of cases as to how a marsh ought to operate.

They didn't have any investment in the whole situation. I have ownership of the water, I have an investment. I have an incentive to try to utilize my water to raise the maximum amount of alfalfa that I possibly can. Where these people get up, go to an office, have never perhaps experienced the *on-hands* type of utilization of water, and it's easy for them to sit and say, "Well, you should do this and you should do this and you should do this." But they have no practical experience, and it's hard to deal with a person that has that sort of an idea. I don't know whether I'm making sense.

Seney: No, you are making sense, you are.

Schank: I might just throw this out, I offered many times, individually and also to the group, invited them to come out and spend a week with me. Lynn Collins, for example, the solicitor, I asked him at one time if he had ever actually been out here and looked at a farm and looked at our irrigation systems, our ditches, et cetera, et cetera. He'd confided in me that he hadn't. He had been here, but he'd actually never been out and looked at a farm to see what we were doing. I found that all through this process. Sue Oldham, for example, she would suggest things, but I could tell from the suggestion that she'd never been here, she had never actually been in our shoes and tried to put up with the kinds of rules and regulations, et cetera, that we've been living under for the past twenty years. Because they haven't had the practical experience, some of what they wanted to do was just far out and was unrealistic.

Seney: So you felt like you were really in two different worlds?

Schank: Yeah, to a large degree, I did. And the further these negotiations progressed, the more I just came to realize that most of the other parties were not concerned about solving the problem in a way that everybody shared . . .

Seney: Let me turn this over.

END SIDE 1, TAPE 2. SEPTEMBER 20, 1995.
BEGIN SIDE 2, TAPE 2. SEPTEMBER 20, 1995.

Schank: . . . in a way that everybody shared, giving up something. But it was very evident that they wanted us to give up everything, and they wanted control of the natural resources.

Seney: You know, what got you talking about this very pertinent topic was when I asked you about the conservationists. Do you think that they were particularly guilty of this lack of practical understanding of what a farmer's up against?

Schank: Yeah. Especially when it came down to the final days. They're very good. Mr. Yardis, for example, is very good with figures. But when you work with water and you're working with averages, sometimes they don't tell you a lot. They can tell you that if you do certain things that you'll only have a two or three percent shortage

over what you presently have, and that doesn't sound too bad. But you have to remember that when we have droughts, we have big droughts, and so that little shortage that's spread over a ninety-two year model doesn't look too bad on the model, but in real-life terms, it could spell the end of your business because you don't have water, period.

Seney: You know, one of the things that several members suggested to me was that, given the project that I'm working on for the Bureau, that perhaps I should see if I could attend the hearings, the negotiations. I did approach Mr. Bettenberg about it, and he consulted with apparently Assistant Secretary Rieke, and they decided they didn't really want an outsider. I think they did me a favor, frankly. But these were long sessions, I know. I'm not sure exactly what I missed. That is, I'd like you to, as best you can, convey to us just exactly what it was like to sit there and to negotiate these things. Pick any one of the subjects that was negotiated that you like, any one of the meetings that you think might illustrate this to us. Take as much time and go into as many details, but try to give an outsider a sense of what it was like.

The Negotiation Experience

Schank: Well, I guess the best way to try to answer the question you just asked me, we've not really got into our positions a lot, but there was four objectives that the Alliance had. Everything that we proposed was with these objectives in mind, and I'll just read them. To achieve a permanent comprehensive and definitive settlement of all outstanding litigation and water management issues affecting the Newlands Reclamation Project. Number two, to minimize management participation by non-local entities. Number three, to assure the integrity of the rural agrarian lifestyle and economic base of the Lahontan Valley and its associated wildlife, wetlands and recreational opportunities. And number four, to gain new respect and cooperation among all parties.

If I can convey it on this tape—which I probably can't—but we really felt that we had something workable in the plan that we proposed. We felt that we had given a lot. We have always felt in this area that it's only been us that has given. I think the press, to a large extent, has made us out to look like crybabies and whiners, but in reality, when you start looking at what's taken place, over particularly the last thirty years, whenever anything's been given, we've given it. Because everybody else wants water and we're the ones that have it. We have the legal right to it, we bought it, we purchased it. They want the water. If they would buy it for a realistic, honest price, they would probably get a lot of it. But, because they want to steal it or just take it for nothing, we're going to fight to the end.

In this plan we felt that we would give, that we had to give, but we also felt that they had to give. We would go to these meetings, and I would go feeling good, feeling upbeat. We would, perhaps as a steering committee, would meet and we would decide or agree upon some specific things that we might need to take to a given negotiation session. It seemed like that we would get there and all we would get is hammered. They would just hammer us and hammer us and hammer us. It was like they were trying to just get us to finally throw our hands up and say,

"Alright, you take whatever you want." That's what it felt like.

Seney: Can you illustrate that? Can you pick an issue or meeting and tell us what you mean by how they were? I can appreciate the conclusion that they were hammering you, but tell us what that meant. Pick any one of the issues, anything that stands out in your mind. It doesn't have to be cosmic, it can be kind of trivial, as long as it illustrates for us the general point you're making.

Schank: Turn the tape off a second. (tape turned off and on)

Seney: Alright, go ahead.

Schank: Let's see, refresh me.

Seney: What I was asking you about is to give me a sense. You said that you would go optimistic to these meetings and then they would just hammer you. I asked you to give me a specific of what you were talking about when you said they were hammering on you, and apparently you have something in mind.

Senator Reid's Influence

Schank: When we started the negotiations process and met with Senator Reid, one of my concerns, and also Lyman's concerns, because Lyman was in the room—in fact, I think Lyman asked the question of Senator Reid—he said, "Senator, what is your agenda? What do you want to accomplish? You've said all along that there's certain things you want to see happen. You want T-C-I-D changed and you want the water users charged for water by the cupful, or whatever, you want certain things taken care of. What is it specifically that you want?" He told us, he said, "I have no agenda. You folks need to sit down out there, and you need to come to an agreement."

I asked, and I don't remember whether it was at that meeting or whether it was at some time later, but I suggested that Senator Reid and his people be a part of the negotiation process and actually have a seat at the table. They declined, saying that they did not want that kind of input, that it was a local issue, and that the local parties needed to take care of the problems and try and work them out.

Reid did send an observer and always had either the gal from Reno, Mary Conelly,²⁴ whose maiden name was Childress, [phonetic spelling] who incidentally grew up in Fallon, and/or Larry Werner [phonetic spelling] from the Washington office. I think he was the top legislative aide. Either he or Mary or both of them were always present at the meetings. All through this process they maintained a

24. Mary Conelly worked for Senator Harry Reid in his state office in Reno, Nevada, and participated Reclamation's Newlands Series oral history program. See Mary Conelly, *Oral History Interviews*, Transcript of tape-recorded Bureau of Reclamation oral history interviews conducted by Donald B. Seney, edited by Donald B. Seney and further edited and desktop published by Brit Allan Storey, senior historian, Bureau of Reclamation, 2013, www.usbr.gov/history/oralhist.html.

neutrality. I would talk—I have probably, sometimes daily, at least weekly—communication with Larry, had quite an open line to his office. For the first time in years I could call Reid's office and get right through. If Larry wasn't there, he would return my call, I had his home phone number. So there was quite a good relationship that we had built up.

One of the particular meetings, to be exact, the one over in Nixon, it was shortly after the election, and I know that there was . . .

Seney: During which, by the way, the Republicans now had a majority in both houses.

Schank: . . . a real change. There was an added push to force us to accept some positions and some things that I personally did not feel were right. So I, during the lunch hour, got Larry and Mary off to the side, and simply asked a question—I need to tell you also that I had arranged and had invited Senator Reid to come to Fallon. He had not been to Fallon publicly, I think he had slipped in and out a couple of times for some private things, but he had not publicly been to Fallon for several years. He feared for his life, he said. I don't know that there were actually death threats, but he said that there were, and I won't deny that or won't say that he was saying something that wasn't true.

But I felt that for this process to work that we had to have open communication. Part of that open communication was he needed to be willing to come here, on our turf, and really show that he was genuinely interested in us. So I had made an invitation for him to come to my house, guaranteed that he would not be harmed or hurt, that he would have the security, that we would be very tight-lipped about the fact that he was coming. We would announce it afterwards so that people in the community knew that we were really trying to work with him, trying to establish this communication.

Seney: He's a member of your church, isn't he?

Schank: Yes, he is.

Seney: Does that make a difference?

Schank: I don't know that it has. (Seney: Okay.) The only time that religion ever really became a part of our discussion was the very last time I saw him after the negotiations process was concluded—and maybe later we can talk about that—(Seney: Sure.) I had my son visit with him privately and he actually talked to me quite a bit about religion and some of his feelings. But that's the only time that we ever mentioned the fact that we were of the same faith. (Seney: Okay.)

Anyway, I had invited him to my home, and he had planned to come and then had to cancel at the last minute, but had again rescheduled that visit. It was for a just a few days after this meeting in Nixon. So I was feeling pretty good about that, feeling good that Senator Reid was going to come, thinking and hoping that we really had a, I say a sympathetic ear, and I don't mean that to mean that they were in

our camp or on our side, but I felt that for one time we were getting Reid's people and perhaps even Reid to listen to us and to see some things from what I thought was a realistic standpoint, rather than just something that somebody had dreamed up and said was true and really wasn't.

I asked Larry Werner at this time because some things were going on in the negotiations that I did not feel were fair. I felt that we were being expected to give far, far too much, that they were wanting to destroy our community to a point where agriculture could not economically be a viable industry in this area any longer. We would throw out the 43,000-acre number that we had agreed that we would work down to, and they would always say, "Well, what proof do you have that you can't go to 20,000 or to 22,000 or to 19,000? How do you know that you're going to lose agriculture if you go lower than 43,000?"

Seney: Who would be saying this, everyone else at the table?

Schank: Well, mainly it was the Indians. (Seney: Pyramid Lake mainly?) Mainly Pyramid Lake. The government, to some degree, not as much. But it was mostly the Pyramid Lake Tribe. They would want us to substantiate, and we would of course counter and say, "Well, what proof do you have that even 43,000 might not destroy agriculture?" I guess our whole point was we felt that if we got down to a point where we lost the equipment dealers and the feed dealers and the seed dealers and we lost the infrastructure of the ag. industry here that we pretty much would lose it. (Seney: Right.) Because people just, they can't afford every time a machine breaks down to have to go to Reno—really there isn't much in Reno anymore—you just can't afford to go to California. You've got to have the infrastructure close by. The auction sale, you get down to a point where the ag. in this area can't sustain an auction sale, and you lose a multi-million dollar industry that brings people from all over the Western United States to this area on a weekly basis to buy cattle and to sell cattle, et cetera.

So we really felt that that 43,000 acres was a number that we could live with that would probably keep that infrastructure. Well, they kept hammering and hammering on that, and I guess that's what precipitated the question that I asked Larry and Mary that day. I said, "If these negotiations do not come to a fruitful ending, will Senator Reid sit down with us, and on any ensuing legislation, will he work with us? Will he listen to our desires and our needs before he drafts some legislation like he did in 101-618 and really didn't get our input or listen to our input?" It was at that point that Larry took me off into a little room, because the meeting was about ready to start, and commenced to tell me that if I knew what was good [for me] that I would agree to a settlement regardless of what it was going to cost us in terms of this community, and that I would do everything in my power to make the rest of the Alliance agree and go along with a settlement. He told me that the votes were not in this community any longer, that there were far more votes and more money in the upstream, and their needs were far greater than ours, and if we didn't willingly agree to a settlement that we would be pushed out through the political process. He also told me, as a part of this conversation, "Senator Reid has

done you guys a favor to allow these negotiations to go on. He has stopped, for the time being, the process of a new O&M contract and the process of a new OCAP. He has no need to do that because you guys don't ever give him a majority in your community in any election that he's ever run." That was interesting that he said that. In my conversations with Senator Reid, he knew every election just how many votes he got out of Churchill County, and that has always been a source of, I guess, agony for him. I mentioned to Larry at that point . . .

Seney: Elected officials do count votes.

Schank: I understand, but they also need to understand that votes mean something, and if they're not serving the people of an area, probably they're not going to get the votes. So if they want to get votes, they ought to say, "What do we need to do to get you to vote for us?" (Seney: Yeah.) I pointed out to Larry, because he made a statement to me about how Democrats don't ever do well in this community, and I pointed out to him that Dick Bryan did very well in this community. In fact, in the last election, although he didn't carry Churchill County, he was only just a few votes—I'd have to look back—twenty or thirty votes shy of carrying this community, and Dick Bryan²⁵ was elated that he had done that well. I pointed out to Larry that the reason that Dick did that well is because Dick came here and Dick sat down with us and the people could talk. They might not always agree with his philosophies, because this is a very conservative area, but he at least would come and talk and spend several days here visiting with the people and getting access to his people, and his office was relatively easy compared to Reid's. At that point Larry Werner just flew off the handle and said some words that I won't repeat . . .

Seney: Words you don't use.

Schank: . . . that I don't use. I, in fact, told him at that point that I was embarrassed that he would say that in front of a lady who was in the room with us. He did apologize later.

Seney: What was the substance of what he was saying at that point?

Schank: The substance of what he was saying was that he was cutting Dick Bryan. He let me know that in very definite words that Reid and Bryan, although of the same party, were not of the same philosophy. And something to the effect that Dick Bryan will tell you anything to get your vote, and Harry Reid tells you what he feels. I don't agree with that, and I didn't then, and I don't now. But it was very evident to me that the whole nature of what we were being asked to do was entirely political and had nothing to do with what's right and what's wrong.

I guess from that point on, I really had a different outlook. I kind of knew from that point on what was going to happen in the negotiations because I had said Don, from the very beginning, that I was Ernie Schank, as a representative of water

25. Richard H. Bryan was a prominent politician in Nevada, serving as Governor from 1983 to 1989, before moving the U.S. Senate in 1989 where he served until his retirement in 2001.

rights owners in this valley, they placed a lot of trust in me, that I was not going to give my stamp of approval to something that I could not bring back to the community and hold my head high about. That if it was unfair, that I would not agree to it. I guess that was the standard that I tried to apply to everything.

I knew from the beginning that we were going to have to give, but I knew that I also had to live in this community for another forty or fifty years, however long the good Lord allows me to live here, and I wanted to be able to walk down the street of Fallon and hold my head high. I wasn't going to bow to a baseball bat or to somebody telling me that we *had* to accept a settlement if we knew what was for our own good.

Seney: Or you'd get worse.

Schank: Or we would get worse, and that was the threat.

Seney: What was he threatening you with? What was he saying would happen if you didn't?

Maintaining Agriculture in the Lahontan Valley

Schank: Well, they kept telling us all along that 101-618 would eventually be our demise if it were just to go as it were written. And that might be true, because it wasn't a good piece of legislation and isn't a good piece of legislation. It's trying to do some things that are really, in my mind, unrealistic. I think that they could be made to work if there could be some modifications made. But I've never in any of this process felt that we could give in to such a point that we destroyed the infrastructure here, that we destroyed people's properties, people's rights.

There were a lot of things that we agreed to in the negotiations process that I did not feel easy about, but I felt that could be workable. For instance, the downsizing. How are you going to downsize? Are you going to simply go out and say, "Don, you own a farm out here in an area that I think is inefficient, and so you've got to sell"? Now, that's taking people's property rights. We felt that there were ways that we could encourage people to sell without taking away their personal right to make a choice. But I didn't feel that some of the things that we were being asked to do, that we could do because we were taking something that did not belong to us. That this whole process had to be one where we agreed to a framework of, for instance, getting down from 73,000 to 43,000 acres where the people could be bought out at a fair price, and then the water would be made available for upstream municipal, or for municipal here in the Churchill County area and Lyon County area, or for the wildlife area. But in all of this process that the individual water rights owner would not be hurt or harmed, that he would receive fair compensation for what he owned.

That was what I tried, throughout this process, to keep in the forefront. When I had this little encounter with Mr. Werner that day in that room, it was a forty-five-

minute session of him simply telling me that there was no such thing as "right" or there was no such thing as "equitable." That all we had to do, if we knew what was for our good, was look at the votes that were upstream compared to our votes, and we better accept it because that was going to be the best we were going to get. If we didn't, Mr. Reid would write legislation that would be far worse.

Seney: Well, if you don't mind, let's leave it there for today (Schank: Okay.) because I'm going to need to come back and talk to you again some more. We might have to spend a couple more hours, there's lots to talk about here. I appreciate your candor and your forthcoming on this. This is very important information, and I'll be back to get some more.

END SIDE 2, TAPE 2. SEPTEMBER 20, 1995.
BEGIN SIDE 1, TAPE 1. OCTOBER 11, 1995.

Seney: My name is Donald Seney, I'm with Mr. Ernest Schank. Today is October 11, 1995, and we're in Mr. Schank's home in Fallon, Nevada.

Seney: Good morning, Ernie.

Schank: Good morning, Don.

Seney: We need to talk a little bit more about the Settlement II negotiations. We ended last time talking about the pressure that was put on you guys to settle. But I think we maybe need to back up—as you suggested before we turned the tape on—to talk about how the community arrived at the proposals that [were] put forward. Go ahead with how the committee put the proposal together.

The Community's Proposal

Schank: Okay. Well, I think the first thing that, as a community, we decided was really necessary in settling this issue was the fact that we were all going to have to work together, upstream [and] downstream. It was going to have to be a settlement where we all felt as though we were a part of it, where we all received something. We felt that multiple use of the water was very important. We also felt that our community had to survive. We realized that 101-618 is a law that was signed by the President of the United States. So the wildlife aspect was something that was important, although we didn't—as a community I don't think—feel that a legislative action like 101-618 was necessary. We've always felt that wildlife was an important part of this community, and there's been an effort for years to make sure that the refuge survives. I might just parenthetically say that because of the drought, the action that the government had entered into over the past twenty years, it made it all come to a head quicker in drying up Stillwater [Wildlife Refuge]. We've long maintained that the reason Stillwater and Carson Lake has dried up to a large extent is because of what the government's done, not because of what we've done.

Seney: When you talk about what the government said, you mean specifically the OCAP?

Schank: The OCAP, yes, is a part of it. But even before OCAP came into being, the government quit putting winter power water down to that area, and that's what kept that going, (Seney: Right.) was all that water that they sent down there during the winter months when the irrigation season was not on.

We also felt that in order to make this thing sellable to our own community that we had to be released from all of the lawsuits that we're under; that if we were going to pare down or reduce agriculture here, there had to be a carrot for the people here to accept it. And that carrot would be some surety for the future that would come about principally because the lawsuits were dropped and so we wouldn't have those over our head.

Seney: When you say lawsuits, I know you mean the one on abandonment and forfeiture, that would be one.

Schank: Well, we could try to name them—and I don't know whether I'll name all of them but—yes, there's the transfer case. Abandonment and forfeiture fits into almost all of these.

Seney: I guess it does, doesn't it? Yeah.

Schank: But there's the transfer case. There is what we call the Dirt Ditch Issue. That was where the United States said that ditches and roadways and levies that are bigger than ten feet, and this sort of thing, where houses now exist, that the water rights under those could not be used, that they were not a valid water right. So if, for instance, you have to run water through the ditch to get it onto the land, you're not supposed to water non-water righted ground and yet they don't recognize the fact that that ditch does use water, that there is a consumptive use. They don't count that as a part of your allocation when, in my case, I own the water right and I've been paying for the use of the water for that ditch. It does grow feed. A lot of times the farmers or ranchers actually fence the ditches and keep them clean all summer with the cattle. There's just grazing in the fall and in the spring.

Another important part of the community's package was, there's been a lot of talk about the inactive water right. We wanted to take care of the inactive water right issue once and for all. We felt that the people who owned that water right had purchased it and paid for it in good faith and owned it, and that there had to be some just compensation for that, realizing that it might not be as valuable as active water right. But we felt that we needed to provide a method that those who held the inactive water right could get some compensation, and then we would have that off the books. That would relieve some of the pressure and provide some more water for Pyramid Lake.

Seney: Let me stop you there. (Schank: Okay.) I know that the tribe and the Bureau apparently raised the question of irrigating non-water-righted land. Then the question of these inactive rights was pursued by T-C-I-D. One example I've heard, say you take an eighty-acre field when it was first bought and you've got a bunch of

sand in that and you drag it into the middle and there's three or four acres of sand in the middle. So the person only bought seventy-six acres of water rights for that eighty-acre parcel. Over the years that all gets leveled out. They're now irrigating eighty acres instead of seventy-six, and at some point, in recent years, the government and the tribe, looking for more water for Pyramid Lake, discovers this, that an eighty-acre field really only had seventy-six acres of water rights on it. My understanding is that at that point, that T-C-I-D went around looking for these inactive water rights, the ones under corrals and under roadways and so forth. Is that accurate? (Schank: Well . . .) To try to put them together, in other words. To give that . . .

Schank: That is probably one scenario. (Seney: Okay.) There was a lot of scenarios, and I think we ought to take a little bit of time and discuss that. But before we do, let's just hold that thought. (Seney: Okay, alright.)

Just one other thing that I want to mention as far as a settlement. We also realized that for a settlement to work—I said we were going to have to all work together—that there was going to have to be a reduction of agriculture in this community. So a part of our plan and proposal was to make an orderly transition from agriculture to, first of all, a municipal use for our own community because we felt that the resources belonged to this community, and we need to make sure that our M&I [municipal and industrial] needs were met. (Seney: Right.) Then also provide some extra for the *cui-ui* recovery and realizing that Reno and Sparks would also need additional water. But of course, if you're able to use water in a multiple-use concept, then theoretically water can be used upstream, cleaned up and sent downstream for those downstream users. (Seney: Right.)

We also felt that it was very important that the upstream Carson participate in what would have to happen. We're not the only users on the Carson River. In fact, we only use about half of the water the Carson River provides each year; the other half is used upstream. So if we have responsibility for the demise of the wetlands, then surely the upstream users on the Carson River, as well as the upstream users on the Truckee River, have a responsibility to help, to bring back those wetlands that have been lost.

Incidentally, on the Truckee side in the Reno area, there were some 80,000 acres of marshland, wetlands that have been lost in the Truckee Meadows area, (Seney: Yeah.) in probably the last forty, fifty, or sixty years. In fact, as a young boy I remember out where all those large warehouses out in East Sparks and out where all that subdivision, Reed High School and that area, that was all wetlands when I was a boy. I remember a lot of times the water lapping up against the highway as we would come home. In fact, a few years, when there was some flooding, the water was up over the highway there in the Vista area. So all of that wetlands was lost, and surely those people have some responsibility to help reestablish the wetlands, and it shouldn't all be placed on us.

So we felt that the upstream Carson [River], the upstream Truckee [River], had to be a part of reestablishing the wetlands. And methods had to be provided in

any kind of a settlement, whereby they knew and realized that they were participating, whether it be through money or whether it be through actual water, to reestablish the wetlands. (Seney: Right.)

Then I guess maybe not the last aspect, but the last aspect that really stands out in my mind right now, is there had to be some improvement, betterment and rehabilitation of not only the project, what we called the Newlands Project proper, but also other areas in the system. There needed to be maybe some conservation practices, water meters on the upstream users, more than there is perhaps now. The Truckee Canal was one aspect that we felt could be lined. Mr. Pelcyger has always complained about the amount of water that is lost to the Truckee Canal, so one way to save that water would be to line the canal. Also, the cheapest way to provide water for the Newlands Project, without having to take away from the Truckee.

Incidentally, one of the little phrases you probably read as you have looked over some of the material is, "maximize the Carson, minimize the Truckee." That was part of our proposal. Well, one of the ways that you can do that is add height to the Lahontan Dam so that when you have years of plenty, like we did this last year, you can store more water in Lahontan and carry it over so that the next year you don't have to bring so much down from the Truckee. We felt that we could easily put another 100,000 acre feet of storage capacity on Lahontan by simply raising the crest about six or seven feet. There has been some studies and some proposals. In my mind, it was really a pretty cost-effective way of getting more storage. Then there would be some improvements down here within the project, some small lining projects, to get more water to the wildlife area so that it wasn't lost in the sandy areas as it was transported out there.

Upstream Storage on the Truckee River

Then the other aspect is this, that would be upstream storage on the Truckee River so that we don't have to bring all of the water down in the spring, not knowing exactly what the yield is going to be on the Carson side. (Seney: Right.) Water that we would normally be able to bring down, we would store in upstream reservoirs. (Telephone ringing.) I was explaining before the telephone rang, and I'm sorry about that.

Seney: Don't worry about that.

Schank: The last aspect, I guess, was that upstream storage. We felt that if we could be guaranteed that storage upstream so that if we didn't get the yield on the Carson that we thought we were going to get, then we could bring it down when we needed it, then that would save water. If we didn't need it, then it would simply stay in the Truckee, and it could be utilized for fish flows or whatever was needed up there.

Seney: Where would that be stored, in Stampede? (Schank: Well, there's . . .) Boca, Prosser, a combination maybe?

- Schank: Yeah, there's a lot of storage reservoirs up there. Of course they claim that there isn't the space available, but I think that if they really . . .
- Seney: So there's a lot of upstream storage capacity on the . . .
- Schank: Well, I think that when you talk about a settlement, you've got to get creative. (Seney: Yeah.) I think that if there was a desire to really settle, then I think that creatively we could come up with storage space (Seney: Yeah) because there is storage space available. We've got Lake Tahoe, of course Lake Tahoe is already part of our storage system, but there might have to be some transfer of water on paper so that more water can be kept in Tahoe at certain times. Things like that. (Seney: Yeah.) But if you do, you've got Lake Tahoe, Donner [Lake] is a small storage area, Prosser Creek, Stampede [reservoirs],²⁶ and then I think there's a few other (Seney: Independence.) little [ones], Independence.
- Seney: Is it Independence that you own jointly with Sierra Pacific Power?
- Schank: And then Boca, we forgot Boca.²⁷ (Seney: Yeah.) No, we own Donner Lake.
- Seney: How does Donner at this point feed out? When do you draw water out of Donner?
- Schank: I believe that they can't draw water, in a normal year, until September 1st, I believe it is. Then they start to drain it down, and they have to get it down to a level for flood protection. I think—and I'm not sure, Don, I'd have to look at these numbers—(Seney: Sure.) the yield on that is 4,000 to 5,000 acre feet. I think there's 8,000 that they can take out. We own half, the power company owns half. Theoretically that water can be used—so long as it's put back in the system, the same amount—upstream and then given to us after it's used. Now, in some years when we're having drought, they have allowed us to bring that water down earlier for Fernley and Swingle Bench and Hazen. But that's not a normal thing. (Seney: Yeah.) They usually don't allow us to bring it down, and we simply lose it.
- Seney: When you say *they* don't, would that be the Bureau?
- Schank: The United States Government.
- Seney: The Department of the Interior? (Schank: Interior.) Yeah, okay. Did you not get close at all in terms of upstream storage on the Truckee in the negotiations? Was there much movement?

26. Both Prosser Creek and Stampede dams are features of the Washoe Project to improve the regulation of runoff from the Truckee and lower Carson River systems. It also provides fishery uses, flood protection, fish and wildlife benefits, and recreation development. For more information, see Carolyn Hartl, "Washoe Project," Denver: Bureau of Reclamation History Program, 2001, www.usbr.gov/projects/pdf.php?id=208.

27. Boca Dam and reservoir are primary features of the Truckee River Project to provide a supplemental supply of irrigation water to approximately 29,000 acres of land in the Truckee Meadows surrounding Reno and Sparks, Nevada. For more information, see Carolyn Hartl, "Truckee River Project," Denver: Bureau of Reclamation History Program, 2001, www.usbr.gov/projects/pdf.php?id=200.

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- Schank: Well, it's kind of interesting. Upstream storage, personally, I felt was one of the most important things to make this work. There was just not a lot of talk about it. They didn't seem to want to talk about it. Now that the talks have concluded, I sat and listened to Sue Oldham one day explain Sierra Pacific's position here in one of the local meetings—and I think you've seen those tapes.
- Seney: I have seen those.
- Schank: And she talked about that, and she couldn't figure out why it wasn't brought up, and it was. I sat there several times and mentioned how important that was. But the other parties just didn't seem to want to talk about it.
- Seney: Yeah. You feel strongly that there really wasn't a will on the part of the other parties, at least some of them, to make an agreement here?
- Schank: Yes, I do. (Seney: Yeah.) I really feel there was not the desire. (Seney: Yeah.) Now, do you want to go back and just take a second (Seney: Sure.) and address the inactive water rights?
- Seney: Yeah, why don't we do that?

Inactive Water Rights

- Schank: Okay, well, I'll try do it really quickly.
- Seney: Well, don't do it too quickly, because the more details the better. We won't get maybe another chance to talk about it. (Schank: Okay, alright.) So, don't spare us any details. (Schank: Alright.) I want to remind you as we talk about this, remember, think ahead fifty or a hundred years, someone's reading this, and they're going to say, "What, he's going to hurry? He could take a few more minutes so we can understand what's going on here." So don't hurry too much.
- Schank: Okay. Well, you explained *one* of the many scenarios. Probably more common than what you kind of spelled out and laid out was that, let's just take an eighty-acre farm. A farmer came in and settled on eighty acres, and that eighty acres was granted eighty acres of water right. Because there was several sand hills in that, he probably leveled around the sand hills and maybe only watered seventy-five acres. Then years later [he] went back and leveled out the hills, and because that wasn't watered when the aerial photos were taken and active water rights were determined, then they showed those spots and they claimed he was watering ground that he shouldn't be watering when in reality it did have a water right.

The other is that we have to remember the methods of mapping were very primitive. On my place, for instance, the earliest maps I think they are about a 1912—as I remember—version, are completely different than the water rights maps that were drawn a few years later in 1913 or 1914, where it showed land that was water-righted—or in my case it was vested. It was water right that was held on the

ground prior to the project coming in. But where it showed there was water in those earlier maps, in the later drawings, there was areas where corners were rounded off or cut off and where the earlier map showed I had water, the later maps didn't. So that has caused problems. Also, sometimes I suppose the engineer come out on horseback, and maybe it depended how long he had spent at the bar the night before, and he started drawing these maps, and he may not have put the water on the exact locations that it was being watered. Again, for instance, on my place, a piece of land that when we bought the place in 1939, my dad said was being watered and appeared to have been watered for years and years, it did not show on the water rights maps as having water, it was showing on another place that wasn't being watered.

I guess what I'm trying to say is, in most cases when they really started coming out and searching these things out, the farmers weren't exceeding their water rights. They might have been exceeding what the Indians and what the government determined was an active right, but they were not exceeding their rights. State law, in describing water rights, describes it on quarter-quarter sections and that's a forty. It simply says that on this forty, there's thirty-eight acres of water right. In the early days, they didn't even describe exactly where those thirty-eight acres were, just so long that the thirty-eight acres were in that forty.

So there's a lot of things that have happened over the years, and I guess the farmers are in a sort of "Catch 22." I don't think most of them went out with the idea, "Hey, I'm going to water this ground, I know it isn't water-righted, I'm going to water it." (Seney: Yeah.) I think they were simply trying to use the water that they owned in the best possible way and trying to manage it to the best of their abilities. We've got modern technology now, jet airplanes and satellites that can take these high-level photographs, and I mean they're highly, highly accurate. But when the project was laid out in the early 1900s, they didn't have those (Seney: Right.) kinds of things to be as accurate. So we're caught. We want to try to straighten it out, but because now of all the legal ramifications and suits, et cetera, our hands are kind of tied. We have the water, we own the water, but we can't use it.

Seney: You can't transfer it at this point from one to another? Are those not still hung up?

Water Transfers

Schank: Well, yes, the transfers are hung up. They are allowing and have allowed a few transfers. It was in the early months of 1984, before an injunction was placed upon us and upon the state of Nevada and the engineer, which didn't allow him to do any more. There was some transfers that were allowed. Also, they are allowing what they call "wet water" or "active water" transfers where I've been watering for fifty years and [if] I do want to move it, they will allow me. But if I'm trying to transfer, you mentioned under a corral, they won't allow me to transfer that. (Seney: Right, yeah.)

I've got a case here on my home-place wherein about probably 1975, we put a corral into the field, we needed more corral space. Up until that time that piece of

ground had been watered as long as I can remember. (Seney: Yeah.) We put the corral in, well, we couldn't transfer water because they wouldn't allow us to. We put the corral in when they would allow us to transfer, we tried to transfer it, but they say it's inactive water because when they took their photographs in '84, it was a corral and it didn't show up as being watered, and so, see, I'm unable to transfer it. (Seney: Uh-huh.) So it's one of those things where they didn't allow us to do it for such a long period of time, and then they write new rules in the middle of the game, and so we're caught. Until the court does something one way or the other, we can't use it.

Seney: As you know, I've been talking to everyone I can talk to, (Schank: Sure.) and I've talked to some people on the other side of the issue, from the tribe, about this. That's why I raised the question of, say there's all these areas that are being watered that don't have water rights to them, they [the tribe] have told me that at that point, T-C-I-D, in cooperation with the farmers, obviously go back to our example of an eighty-acre field where you only really had seventy-six, seventy-five acres of water rights, but then there are inactive water rights. My understanding is that T-C-I-D, and I can certainly understand doing this and you guys doing this, went out and found these inactive water rights under corrals, under roadways and so forth, bundled them up—and say, this, you might have to take several pieces—bundled it up into a five-acre parcel so that you can transfer it onto this field that I've been describing. Did that happen?

Schank: Sure, yeah. And it was simply to try to clean it up, to try to make it so that we were right. There was some cases where lots in town were sold, and it wasn't T-C-I-D that bundled them up, T-C-I-D helped in the process but . . .

Seney: With the maps and that kind of thing.

Schank: . . . with the mapping. But for instance, if I was watering eighty and I only had seventy-six acres of water right, I might go to town and try to buy, myself—which is what some of the farmers did, they went and bought these lots where people had subdivided and put that water together so that they could transfer the water. (Seney: Yeah.) More often than not, however, it was a case like here on our place where we had some water right on some ground that wasn't being watered, and we had some holes where we had been watering for years, in some cases, (Seney: Yeah.) and we needed to fill those up. We didn't even know that they didn't have a water right (Seney: Yeah.) until they got this high-level mapping. But we tried to simply transfer water within our own ranch from a piece that is not being watered to a piece that is being watered, and they wouldn't allow that.

Seney: Yeah. You know, one of the points that was made to me from the tribe's side is that these things get started between you guys down here and the Pyramid Lake Tribe and they kind of take on a life of their own and, in a way, nobody's able to control them. And this water right transfer and abandonment and forfeiture case all wrapped up together was cited as an example of that, that the tribe wants obviously more water for Pyramid Lake. They think they've found a way to get it by focusing-

in on these abandoned or forfeited rights. I know there's a difference in the term. Would they have been abandoned if they had not been used for five years (Schank: Well.) as opposed to forfeited, which takes an intent to . . . I know there's a difference, I'm not sure I'm spelling it out right?

Abandoned as Opposed to Forfeited Water Rights

- Schank: Well, the problem there, Don, and just briefly so that you understand it is . . .
- Seney: Not too briefly now.
- Schank: Yeah. I think, again, my dates might be a little bit off but they're pretty close, it was 1913, anything pre-1913 (Seney: That's the date, right.) was before Nevada State law (Seney: Right.) went into effect on abandonment, forfeiture and lack of perfection. The project has a priority right in the decrees in 1902. So the district in the project has long maintained that we are exempt because the project has a 1902 priority. The tribe, in their desire to get more water and get it for nothing, has tried to say that the date that the land was actually put into production is the date of priority.
- Seney: Because that's when the right is perfected.
- Schank: That's what they're claiming.
- Seney: Right, I understand.
- Schank: But the United States Government in 1902 reserved the rights, (Seney: Yeah.) and so the priority of the project is 1902. And the problem that we get into—it's going to really be a nightmare—if you understand riparian rights and rights of prior right, prior use in western water, as lands were developed and rights were appropriated from streams, whether it be here in western Nevada or Colorado or other places, your priority became the date that you were granted that right and perfected it.

In the case of the project, there were rights that were here prior to the project. For instance, my home-place is mostly vested right, an 1886 right. Now, in order to make this work, the government had to come down and get all of those people—there were some 20,000 to 22,000 acres of vested right here in the early days—they had to get those farmers to sign over their vested right, and they replaced it with a storage right in Lahontan. The carrot that made the farmers jump or take the offer was the fact that prior to that time, they had water only as long as it was in the Carson River. If I had an 1886 right and my neighbor had an 1884 right and the river didn't provide enough for both of us, then he got first right of that water, and if there was any left over, then I would get it. But generally speaking, in the first of July to the middle of July every year, the river just quit running. So you got the early water, they could get maybe one good crop of meadow hay, and that was about it. Well, with the dam going in, then that made water from March fifteenth available to November fifteenth.

Seney: Let me turn this over.

END SIDE 1, TAPE 1. OCTOBER 11, 1995.
BEGIN SIDE 2, TAPE 1. OCTOBER 11, 1995.

Schank: That is why the government made a 1902 priority right as I look back (Seney: Yeah.) and study it because everybody had to be on the same footing here to make this work. If they were to put Lahontan Reservoir in and then have to deliver to every farm according to his priority, it would be a nightmare. Talk about inefficient use of water!

Seney: Right. So you had to put everybody on the same priority date?

Schank: Exactly. So if in the end the court does hold that indeed a farmer that didn't get his land in until 1914 or 1922, if that is his priority date and it isn't the 1902 priority date, we're going to really be in a mess down here, (Seney: Yeah.) as I see it.

Seney: I understand too that the Nevada Supreme Court has complicated this to some extent—although I don't think you guys would regard this as a complication—because they've said, well, say you've got a field out here you haven't watered for ten years, if you water it this year and nobody has complained about it for those ten years, now you've reestablished your right to that, and the abandonment no longer pertains. Am I right about that?

Reestablishment of Water Rights

Schank: Well, I'm not sure (Seney: Yeah.) but I believe western water law basically says that you can reestablish a right. (Seney: Right.) And I know what you're citing now, you're citing a case—and I don't know the particular details, but it had to do with underground water out in Eureka, I believe it was. Evidently a well was not used for more than the five-year period, (Seney: Right.) and it was not protested by someone else or someone else didn't come in and try to take the right. (Seney: Right.) And when that was reestablished, the Supreme Court, I believe, did say (Seney: Right.) that that right was reestablished. (Seney: Yeah.) And yeah, it hasn't as far as we're concerned, but as far as the tribe is concerned, it has, because if the priority is indeed on a lot of these grounds established to be after the 1913, then if I was able, in that five-year period that they're claiming it wasn't used, and I was able some time after that to use it again . . .

Seney: Yeah, get some water on it and it would be alright. Yeah, right.

Schank: . . . then it would be reestablished.

Seney: This is one of the reasons they say that they moved ahead to file all of these, what? 1,800, 2,000, somewhere in there, lawsuits. Did you get served in that?

Schank: No, I didn't. I didn't personally.

Seney: Why didn't you get served?

Schank: I don't know. I think what happened as we've looked over those summonses and where the information came from, a lot of it was from old maps that were not rectified. There was a lot of mistakes that were made. Perhaps some of the water that was in that Pelcyger didn't serve on was water that was in the transfer cases, I don't know for sure. (Seney: Yeah.) But I do know that there was a lot of mistakes. Several people that I'm aware of don't own a water right, but they were served. (Seney: Yeah.) It was simply because in the mapping, photos were not rectified, and they didn't sit on property lines, et cetera, properly, (Seney: Yeah.) and so it showed people were watering ground that they don't even own. So there was just a lot of mistakes. (Seney: Yeah.) I think it was a hurried-up job, and I don't think . . .

Seney: Well, I think it was, too.

Pyramid Lake Tribe's Lawsuit

Schank: I don't think that there was maybe a lot of refinement before those were sent out, and I think that's going to come back to cause Mr. Pelcyger some problems.

Seney: I understand, at least from the tribe's point of view, they have said to you guys, "Listen, let's winnow this down, let's have a test case or two here and try to sharpen the focus a little bit. We don't really want to sue all of these people, we had to file on them because we wanted to protest this, so if they put water back on it, we've filed a lawsuit." You know how the law works (Schank: Sure.) and I mean it's, I don't know whose benefit it works to sometime. But the tribe says you guys have not been willing to do that. Is that so? Have you taken kind of a hard view on this?

Schank: There's been some. I know Ted de Braga has suggested that that happened. But I think . . .

Seney: What does the Newlands Water Protective Association . . .

Schank: Well, I think . . .

Seney: Since we met last you're now the president of it. Congratulations.

Schank: Yeah, that's what they tell me.

Seney: Or condolences, I don't know which is in order here.

Schank: I think our position has been all along that all of these rights are so individual that it's really hard to pick out four or five or six or maybe even ten that would uniformly cover everybody. Now, granted, you could probably pick out three or four, and it would cover most. But the water rights are so individual.

The best way I guess that I can explain that is on our ranch right here, where we're sitting. We have some 1886 vested rights, two different ranches that were

purchased and now are one. We also had some 1949 water right that was purchased that was added to it. Then we had some that was purchased and placed in 1984. The places where the water came from, when we transferred onto the ground, had different circumstances. The 1984 transfer was water that was purchased from the United States Government in 1922. As I recall—I've done some research—that that was purchased that was a 1922 right, was put into production at different times, it wasn't all put in, in 1922. So it's so individual that to pick out a few and say, "Hey, one size is going to fit all," doesn't work. That's one of the problems right now that we have, is everybody needs their day in court. They need to plead their case and to have somebody else plead their case and then make it fit, it just doesn't always work.

That's why—and I'll just throw this in—(Seney: Yeah.) the Newlands Water Protective Association has pushed so hard for the state engineer to be the fact-finder because he's the one under state law that is given that right, and he's mandated by law (Seney: Yeah.) to take these individual cases and weigh them against Nevada State law, and either they fit or they don't. Again, it has to be done individually.

Seney: Without my sounding overly suspicious here, would I be wrong in thinking that one of the things in your mind is that you're going to make this case as complicated and difficult for the tribe as you can by saying—and I think probably legitimately, I mean I don't want to argue with the substance of what you're saying—that one size won't fit all, that everyone needs their day in court? Assuming that that is true, don't you still achieve the goal of making this as complicated as possible for the tribe, and maybe that's to your advantage?

Schank: Well, to be honest as far as personally, that's not my reason.

Seney: But do your lawyers suggest that to you? I mean I could . . .

Schank: I don't ever recall them suggesting that. (Seney: Okay.) I really don't. Now, maybe in the back—and who knows what goes on in lawyers' minds, because it's probably advantageous for them, it doesn't matter which side they're on, to make it go as long as possible.

I guess in the back of my mind, it's this, you're innocent until proven guilty. For far too long the tribe has been able to come in and put action against us, and we're the ones that end up paying the bill (Seney: Yeah.) for trying to protect our own rights. They need, in my mind, to prove beyond a shadow of a doubt. And isn't that the way our system works? I mean we've just kind of seen that in the O. J. Simpson trial, but they need to prove that we're not living according to Nevada State law. And why should the burden of proof be on me?

Sure, it would probably be cheaper for the tribe; in fact, I know it would be cheaper for tribe to come in and just take four cases. And it would probably be cheaper for us. But, if that doesn't allow due process for every individual, then that individual has lost a right that is guaranteed by the Constitution. Now, if an

individual wants to come in and say, "Hey, I don't want to fight it," then he has that right. He can make some kind of a deal with the tribe or else give the water to the tribe, you know, that's his prerogative. (Seney: Yeah.) But for those individuals who say, "Hey, I am living according to the law, and if they want my water, they're going to have to prove beyond a shadow of a doubt that I have done something wrong." Then that fellow ought to have all the rights and all the privileges that the Constitution affords him. That means for whoever is looking at it, to look at each case individually.

Seney: I can understand too, I think, your preference for wanting the state engineer to look at this. Because would I be wrong in thinking that the state engineer is relatively sympathetic to the water right holders, as a rule?

Schank: Well, I don't know that he's sympathetic to the water right owners. I think he's sympathetic to Nevada State law. And I think that he's in a position to judge whether or not Nevada State law is being observed and whether the rules are being kept. He also has all the facts and all the data because he's done a lot. I mean the state engineer, I guess, has been in place since 1913 or 1914, and so they have the facts, they understand the law, and I would think that he's in the best position. Then there's always the recourse that the tribe has, which Howard McKiven [phonetic spelling] ruled—I don't know whether you're aware of this—just recently, said that the Nevada State Engineer will be the fact-finder. (Seney: Right, right.) And then the little caveat at the end was that, "Tribe, if you don't like it, you always have your appeal process."

Seney: Which will go straight to the federal court in this case, (Schank: Yes.) bypassing the state court, which is a fairly and relatively unusual procedure for them. You know, I drew you into this long discussion of this case not only because it's important, but because I know that there are very strong feelings here about all of these suits that the tribe filed in this case. Of course these were filed before the Settlement II negotiations began, a little more than a year ago they were filed. Despite your hope that you'd be able to come to an agreeable settlement with all of the people on the river and establish good relations and so forth, it seems to me, and please correct me if I'm wrong, that actually the enmity is growing between the district and the tribe, rather than abating. Is that your feeling at this point?

Schank: I don't think so. I think that at least on, and I don't know on the lawyer level . . . (Seney: Right.) I mean those guys are going to sit and argue until Hell freezes over. (Seney: Sure.) But I think as far as our relationship with the tribe and with the officers of the tribe, I think it's much better. But again, it's not on that level anymore because it's in court and that's, I guess, the real sorry part that you know. We weren't able to settle because it is back in court now. The transfer issue of these inactive water rights, we felt we had a method whereby those things could be settled and we wouldn't have to go to court. But it would cost somebody some money to buy out those who owned the right. (Seney: Yeah.) But they didn't want to pay the money. (Seney: Yeah.) They didn't even want to talk about the money because they want it for nothing.

Seney: And that's your view, is it? It's attempted by the tribe to get this for nothing.

Schank: That's my view is they want it for nothing.

Seney: Yeah, right. You know, I was told that during the negotiations, someone I think on your side, raised to the tribe, "Can we talk about the recoupment issue?" Pelcyger said, "No, we're not going to discuss the recoup issue." But Norm Harry, the Tribal Chairman, says, "Yeah, we can talk about that." (Schank: Yes.) Do you recall that?

Recoupment Issue

Schank: Yes. In fact, Norm Harry and I, along with Bob Kelso and Mervyn Wright had met a couple of times but . . .

Seney: Getting anywhere? (Schank: No.) Meeting on this is important, don't you think?

Schank: Yeah, we felt that it was important to establish a friendly relationship, and I still think it is. (Seney: Yeah.) I've been so busy a person this summer that I haven't been able to get back with Norman and Mervyn other than seeing them in passing a couple of times.

The recoupment issue, it's another one of those when we were listing court cases—I didn't list that one—but it is an important one, and there is a lot of difference in where we feel we're going (Seney: Yeah.) in that case. And as Betsy Rieke said, "There's a million acre foot difference in what we feel we owe and what they think we owe." (Seney: Yeah.) I mean, it gets down to the fact that we don't think we owe anything (Seney: Right.) and they think we owe over a million acre feet. (Seney: Right.) So at this point, the only place that that one maybe can be settled is in court. (Seney: Yeah.) There's just a lot of things that went on through the years, particularly in the 1973 to 1984 period, where I think you can put blame on a lot of people. You can put blame on the tribe, you can put blame on us, perhaps, and you can put a lot of blame on the United States Government.

Seney: Let me go back to this exchange when Norm Harry said, "Yeah, we'll talk to you about recoupment." I'm told that that's a pretty big moment really when Pelcyger says, "No, we don't want to talk about recoupment," that the tribal chairman says . . .

Schank: Well, I think it was a big moment because for once the tribal chairman told the attorney to be quiet, and I don't think anybody had ever seen that before, and it kind of took us all by surprise in that room. But, again, there's a difference between talking about it and making some substantive movement. I've told Betsy Rieke this and I've told Norm Harry this and I think, in fact, I think he told me the same thing in our conversation. I don't think we'll ever be able to solve the recoupment issue on the kind of level that it ought to be solved on unless we can come to some understanding amongst ourselves, unless we can come to some respect (Seney: Yeah, right.) for each other's position. (Seney: Right.) And, unless we can come together realizing that both are going to have to give. And until that kind of a

condition can be met, then we're not going to be able to solve the recoupment issue.

Seney: Let me segue into talking about [P.L.] 101-618 because before the tape was on, I said to you since we've last me I've been going over that some more and thinking about it, and obviously I've gotten views from some of the people that I've interviewed since I saw you last. I think I did not really appreciate just how detrimental 101-618 was until recently to the irrigators' interests. I mean there is potential there, if that legislation is implemented fully, to really reduce agriculture in Fallon to what it was before the project was built.

Public Law 101-618

Schank: I think to answer your question, in my figuring, it would reduce it to less.

Seney: To less?

Schank: Yes. (Seney: Okay.) There was something like 22,000 acres here prior to the project, and I believe the United States Government, they said that in their initial proposals I think they were proposing somewhere around 13,000 acres of irrigated agriculture. Well, that's considerably less than the (Seney: Yeah.) 22,000. And they were saying the way they arrived at that 13,000 acres in production figure was simply by taking all of the requirements of 101-618 and putting them into effect and that's what it would leave us.

Seney: To be specific about that, the 101-618 mandates a *cui-ui* recovery study which has been done now—I don't know whether it's the final one, but it's the first one, the newly revised one—that says that over and above what's flowing in the Pyramid Lake, another 100,000 acre feet is required.

Schank: [Another] 110,000 I think is the figure that they've used.

Seney: [Another] 110,000 is it? Yeah. And there's only one place that that can come from.

Schank: Exactly. We've maintained that all along.

Seney: Yeah, right. Then, if you take the wetlands requirement of 125,000 acres, plus or minus a little bit, and you subtract that from what the project would have, and let me see if I can get these numbers right. The project has got about 285,000 acre feet now. Would that be about right?

Schank: Yeah, [in] round figures you figure that it takes about 300,000 to get you through a hundred percent year. (Seney: Yeah.) Probably more accurately the 287,000 that you're using.

Seney: Right. So if we take 100,000 acre feet, which in a full water year you'd really probably have to take off the Truckee [River], wouldn't you? So now we're down to 187,000 acre feet. Then you subtract 125,000 acre feet, plus or minus, for the wetlands, and how's my math? We're down now to 62,000 acre feet? (Schank: Uh-

huh.) And you divide that by four, to take in the bench and bottomlands, and we divide 62,000 by four, we'd get 13,000 acres, don't we?

Schank: Exactly. And then there's another little thing that you have to throw in, there is a part of that proposal was to give or allow the reservation to keep the ground that they have, and that would be roughly, I want to say 5,000 . . .

Seney: Something in that neighborhood, yeah.

Schank: I think it might be a little less than that (Seney: Yeah.) but roughly 5,000 acres. So you take that off of the 13,000 and that shows you how much private (Seney: So you'd be down to 8,000 now?) would be left, and that doesn't take into account the municipal and industrial needs of this community. So what you've done is you've essentially legislated agriculture out in this area with 101-618.

Seney: Because once you stopped irrigating, you'd stop recharging the aquifer, wouldn't you?

Schank: That's what it looks to me like.

Seney: Yeah, so that water for those 8,000 acres would not really be needed for M&I purposes, wouldn't they? (Schank: Yes.) I must tell you, and it's all I can do to apologize for my incomplete understanding up to this point, but that's a significant threat. (Schank: Yes.) Now, I have been told as well that Congresswoman Vucanovich,²⁸ a member of the new Republican majority in the House of Representatives, has told you folks on the project, "Don't depend upon 101-618 being changed." Am I right in understanding that she has said that to you? (Schank: That's correct.) And my understanding is the reason she has said that to you is that while you may be unhappy with what's in the legislation, there are *so* many powerful people that are happy with what's in it. Beginning with the states of California and Nevada, who are happy with the interstate allocation. Sierra Pacific Power, who has their agreement with the tribe over Stampede [Reservoir] written in, feeling that's the best they can get. The Pyramid Lake Tribe is happy. The Fallon Tribe is happy. Reno and Sparks are happy, and only you guys are unhappy.

Schank: So what it gets down to is votes.

Seney: Yes, it does. I mean it's a very unenviable and kind of bleak position, isn't it?

Schank: Well, I think Mrs. Vucanovich—because I've heard her say it—to go further, it's not that she believes that the law is right (Seney: No, I'm not saying that.) morally, et cetera, (Seney: Right, it's her political judgment.) but it's almost impossible once a

28. Nevada Congresswoman Barbara Vucanovich served in the House of Representatives from 1983 to 1997, and participated in Reclamation's Newlands Series oral history program. See Barbara Vucanovich, *Oral History Interview*, Transcript of tape-recorded Bureau of Reclamation Oral History Interview conducted by Donald B. Seney, edited by Donald B. Seney and desktop published by Brit Allan Storey, senior historian, Bureau of Reclamation, 2013, www.usbr.gov/history/oralhist.html.

law is written to change it appreciably.

Seney: Yeah, right. Because to change it in a way that would be to your advantage would be necessarily to change it in a way that would be to the disadvantage of all of these other groups. I didn't even mention the environmentalists. As environmentalists go, you know, the Nature Conservancy is a fairly moderate, mainstream kind of group. I think the Environmental Defense Fund some people might think is a little more radical in its approach. So you don't even, from your point of view, have fringe environmental groups that you could attack on this. Then I suppose out on the wetlands you've got the hunters, don't you, that would go along?

Schank: Well, I think most of the hunters don't like it because they see that it will be the end of hunting as we now know it in the Lahontan Valley. As that becomes refuge (Seney: Ah.) then they will not have access to hunt. See, what makes hunting so wonderful in this area is the agriculture.

Seney: They're feeding off your fields, aren't they?

Schank: Oh, you bet. (Seney: Yeah.) You can come over to my place early in the morning, and probably for the last six months now I've been providing forage for 250, somewhere in that area, of geese that come in every morning. They're eating from the agricultural lands, and then they fly out to where the water is during the day.

Seney: You know, I bring up this sort of grim analysis, and it must be fairly grim from your point of view, because I'd like you to talk about how you guys are going to combat this. What is your strategic thinking here in terms of what you're going to do to keep the project going, given these things that not only I've said, but of course you've agreed that this is . . .

Combating the Effects of 101-618

Schank: Well, I might just point out, before I answer that question, (Seney: Sure.) some of the best wildlife in wetlands area is privately owned. For instance, the heart of the Stillwater Marsh is privately owned by the Stillwater Farms. Most of the wildlife people and the hunters recognize that that is the heart of the marsh. So I guess if private lands are lost, that might be some of it that's lost. And that's too bad because that's an area where private or multiple use of water (Seney: Yeah.) provides for both private and for wildlife needs. I also think, just to carry that a little bit further, most of the people, particularly with the state and, I don't know, the federal people, I can't always read what their thoughts and motives are. But the state wildlife people agree and *vocally* say that agriculture is necessary in order to keep the proper kinds of wildlife and wildlife areas in the Lahontan Valley; that the agriculture provides an important place for feed, et cetera, for the shore birds, ducks, geese, et cetera.

Now, to answer your question, how are we going to combat this. Well, I guess the first thing that comes to my mind is education. There is one aspect of 101-618 I feel that does protect us, and that is, "willing buyer, willing seller." The only problem is that to this point, there is only one buyer, and that's the United States

Government, because most people in their right mind aren't going to come invest their money in this valley with all of the uncertainty. So if somebody does want to sell and needs to sell, there's just one person to sell it to, (Seney: Yeah.) and that's the government.

On the other hand, I think that through the education process, if people understand that our water rights are still ours and they're still valuable and they don't have to sell if they don't want to sell and agriculture can be an important part of this valley for a long time. And I for one plan to stay here, I plan to farm. I'm sure there will be a lot of hurdles that we'll have to get over, one of the biggest being that if a lot of people do sell, then you still have a cost of maintaining a project, and it's going to be spread over fewer people, which is going to raise the cost. So that will be a hurdle that we'll all have to look at.

Seney: Well, my understanding is that the state law is such that whoever buys these water rights is obliged to pay the O&M costs at this point.

Schank: That's right.

Seney: Yeah, I mean that was Carl Dodge's contribution apparently.

Schank: To this point, (Seney: Yeah, right.) but who knows what the United States Government will do or will try to do, especially if they are the ones that in the end come into the control of the majority of the water rights.

And there's one other aspect, Don, that I think we have to look at and that is maybe Congress won't rewrite or change 101-618 appreciably, but there's the Supreme Court. Very conveniently, when Senator Reid wrote that bill, he put a clause in there which didn't allow any kind of legal challenge until 1997. I don't know what will happen. (Seney: Yeah.) I'm not here to say that Newlands Water Right Protective Association is prepared to make that challenge, but I know that there are some that are prepared and are preparing to challenge that in court when that opportunity is available.

Seney: What would be the grounds for challenging 101-618 in the court?

Schank: Well, the one thing that sticks out in my mind is how can Congress write a bill and take away the opportunity for legal review, which is what they did in 101-618? And in my mind that, in itself, makes it unconstitutional. What it's doing (Seney: Yeah.) is one of the branches of the government is usurping—is that the right word there?—they're taking away the authority from one of the other branches. And remember we have three branches (Seney: Yeah.) and we're supposed to have check and balance. How can Congress write a bill and take away that check and balance aspect?

Seney: Actually that is Constitutional.

Schank: It is?

Seney: Under the Third Article of the Constitution it says that Congress can prescribe the rules under which the court can exercise its appellate jurisdiction. They've done this in the past, they forbid the court to review the Civil War reconstruction statutes which they knew were unconstitutional. So that's probably legal. Let me turn this off.

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Schank: I just received a civics lesson.

Seney: Did you? It's not my place to lecture you, but I think that might not be as firm of ground as you would think.

Schank: Well on the other hand, we have had attorneys look at it there are several of them that are constitutional attorneys, and they claim that there are a lot of problems with 101-618. I am not a lawyer so I'm really not prepared, nor so I want to sit here and try to . . .

Seney: Well, I'm not prepared either. But on that point I think the law is fairly clear. Let me ask you, I wanted to ask when you said you said about the willing buyer, willing seller business. It's education then on your part, and of course I think you mean by that obviously educating the water right holders here to maintain their position. How do you see Charlie Frey's²⁹ Truckee-Carson Leasing Authority in this context? His desire to have people lease water rights for these environmental purposes.

Truckee-Carson Leasing Authority

Schank: I think it's a wonderful idea, in fact I belong to the leasing association. And it was an aspect that we had in our proposal. And in fact Charlie even went so far as to provide some pretty intricate details of how it could work. In our proposal, the specific proposal we didn't get that detailed, other than simply mentioning that leasing was a viable option. I think that it makes common sense.

Seney: Were there many takers at the table for that, was there much interest?

Shank: Again Don, I think that it all comes down to dollars and cents. And they figure if they can get the water for nothing, why lease it. The rationale that they like to use is that it cost them more to lease water than it does to buy it. And they're so unsure about what the budget is going to be from year-to-year, what kind of kind of a budget they're going to have that they don't want to take that chance. But I think if it all gets back if we're going to use our natural resources wisely, and we're going to

29. Charles Frey, Jr. participated in Reclamation's Newlands Series oral history program. For more information, see Charles Frey, Jr., *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, 2012, www.usbr.gov/history/oralhist.html.

utilize the multiple-use type concept, which for a few years kind of was not politically correct, that word multiple-use, but is kind of coming back in now I noticed. But if we're going to make the most of what we have then we've got to look at these kind of options, and when there is years of plenty, then agriculture can go ahead and put a hundred percent in. When it is not a year of plenty, then those who own the rights can lease it to those who need the rights, whether it be fish or upstream M&I use, whether it be M&I use here in our local area. When there are those needs, then they can lease it. And everybody benefits, the farmer who owns the right, who can't put the crop in, he's going to receive something so he doesn't starve. And it's going to allow the people who maybe have what is considered a higher use to have the use of the resource. So I think leasing makes sense.

Seney: I know that Charlie Frey's had problem being investigated even by the Justice Department, and what he considered, and I can understand why he would fell that way, harassment and punishment for even trying to come up with an alternative.

Schank: And when you think about it Don, what's the difference. They come after him, investigate him for price fixing. What is the United States Government doing? They're the only buyer of property in this area. Are you telling me that they're no price fixing. I would say that they are.

Seney: What else do you have in mind besides the education of the water right holders and perhaps the constitutional challenge against 101-618? What other kinds of thing are you thinking about?

Schank: Well I think the avenues were open as far as talking one with another, and I think that there's a lot of opportunities available to make the streams more efficient. We talked about water in the upstream Carson [River]. I know that the upstream Carson people are participating in some studies to see what they can do to help, to send some water down for wildlife. And if others can share the burden of 101-618, then it would simply mean that it wouldn't all have to come out of this project, and the Lahontan Valley. I think there are a lot of things, but then again it get to cooperation.

Seney: And of course as long as you don't have willing sellers, it doesn't matter how willing the buyer is.

Endangered Species Act

Schank: Exactly, and then there's another aspect to, you know we were accused after the last negotiations that one of the reasons we didn't settle was because of the change in Congress. That was never in my mind. That was never in my mind. I did realize that maybe some things might be a little bit easier, because the Republicans seemed to have a little, seemed to be a little more favorable towards changing the Endangered Species Act so that property rights were honored.

Seney: But would that matter Ernie, given what's in 101-618, would it matter if they even

did away with the Endangered Species Act

Schank: I don't know. I don't really know Don. I can't answer that, other than OCAP is tied very intricately into the Endangered Species Act. And OCAP is a part of 101-618, so I think that there would be some linkage. But I think, I guess the thing that I'm looking at, and what I wanted to just mention, is perhaps our country, we tend to swing like a pendulum. Granted in the early days, I'm sure that there was total disregard, as this country was settled and as the boundaries moved toward the West, there was total disregard by some people for the environment. And for things now we consider very important. We tended to swing really far in one way in my mind, and it looks like now we're coming back to maybe find more of a balance. And I would just hope, I guess, I'm an optimist, but I would hope that 101-618, notwithstanding, that maybe there would be some common sense brought into our environmental policy. And the way that things are administered, the way that the environment is protected so things, like what you're saying, would happen if 101-618 was allowed to just proceed. They won't happen, that this country will realize the natural resources are important, that those people who utilize natural resources are also important. I know that you know that agriculture for years is what made our balance of trade in the black, and still agriculture is one of the few industries that keeps us from going into the hole even further. So I would hope that people would come to their senses and maybe mitigate some of these things like 101-618 so we can all live and continue to live, realizing that times are a little different. I'm sure that agriculture is not going to be as important in this valley, especially as more people move in. This is becoming quite a retirement area, but at this point agriculture is still very important to the community. And very important to those people who make their livelihoods in agriculture.

Seney: While you're keeping your eye on this broader picture, are looking at the appropriations process?

The Appropriations Process

Schank: You know as you talk, you lose your train of thought, but that was the other aspect that I was going to mention, the budget. You can have a grand a glorious bill, and it was pointed out to me by a lawyer who was very involved with this in the Senate. He said, "If they don't fund it, an unfunded mandate, that law can sit there and it's not going to do anything." And I think that this is something we've got to look at. It's something that we might not have to push too much because Congress itself, they're saying the American public has spoken and they want us to cut back on costs.

Seney: I want you to be more specific here, have you got a list of the appropriation subcommittee members in the Senate and the House that act on the natural resource budget.

Schank: I don't specifically have a list. I know some of the chairmen of the committees, who the chairmen are. And yes, I have visited personally with some of them.

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- Seney: Have you been in touch with some of them recently, have you?
- Schank: It's been a few months. But yes I have, we have the Newlands Water Protection Association
- Seney: That seems to me to be an absolutely reasonable thing. If I were in your shoes that is exactly what I would be doing, zeroing in on this soft spot. And given the climate of the time, and given in terms of budget cut backs, and given the new attitude in the Congress toward these matters, if you weren't doing that you'd be remiss. You would not be meeting your responsibilities to your constituency. So that, to me, is something that I would expect you to do. You obviously appreciate the political, what's going on here politically, so you do you see that as a major . . . ?
- Schank: Oh yes, I think it is a major aspect.
- Seney: Ernie, in all honesty, educations fine, you know, and all that, but this seems to me to be the major point, to put some pressure as things are going on. Do you feel pretty good about what you may be able to accomplish in that regard?
- Schank: Well you've been around long enough to know that you can't ever predict what Congress is going to do. But I don't know that I can feel very confident about anything, except that taxes are going to go up, and I'm going to die someday. But I think that it's a real important issue, and aspect of this whole thing. And we've got to continue, especially in this climate of change that we're seeing. And I think we're going to continue to see it. All indications are that this isn't just a little blimp, but it's a swing that I talked about a few moments ago about maybe we're getting back more to the middle. And not being extreme one way or the other. But I think it's important. Yes we've got to play our cards. We've got to keep those people informed. We've got to teach. Education isn't only here within our own valley, but education is to our congressional people, and more importantly, than for the congressmen and senators is their staffs. And those people that are working behind the scenes, in committee staffs, so that they understand.
- Seney: You know, I know you went into the Settlement Two negotiation feeling pretty much that you guys were the only ones with anything to give up. That the other eight parties, were there nine all together in the end, the other eight parties, maybe the Carson people are off on the sides a little, but the other eight parties get along pretty well with one and other, and you guys were at the bottom in more ways than one, not only the bottom of the river, but the bottom of the pile in a sense too. And I don't think, as general rule, that people who feel threatened are not willing to negotiate much often there isn't the flexibility that come with strength. Do you feel that if your successful, and I suspect that you may be in this appropriations process and keeping the funds unavailable for water right purchases, will that do you think make you might be more willing to negotiate with the tribe. I expect that a bilateral agreement, in a way, with the tribe might help more that anything else to help alleviate some of the problems that you're facing? Do you think this will add to the impetus to negotiate with the tribe, or subtract from it?

Education the Public on the Issues

- Schank: Well, from my view point, and I've got to back up just a little bit. There's a lot of people who live in this valley, agriculture water users and non-water users, who don't understand. They really don't understand the issues. They don't understand the problems. They don't understand the ramifications.
- Seney: Now you're not just saying they don't have your point of view? You really feel that they don't understand?
- Schank: No I really don't think that they understand. I know that there are many old timers in this valley that as far as they're concerned, they'll die before they'll give anything up. And maybe I'm, I want to use the word progressive, I'm trying to look ahead. And I see what you have spelled out. I think, and I'll state it very plainly for this record and for any other record, I plainly believe and feel and think in my heart that we own certain rights. And that unless we are justly compensated for them, we shouldn't give them up. They are worth something. We have invested our lives, and we rightly should be justly compensated.

Now having said that, I also feel, as I stated before, I think I stated to you plainly times are changing. Agriculture is important in this valley, but there are a lot of people moving in, particularly from California area, a lot of retirement people, the base has brought some people in, there's a need for homes. Like any place especially down in California, where do they want to put their homes, they want to put it on the best land. So agriculture is going to be downsized in this community. I think with that happening there's a wonderful opportunity for us to make changes. And those changes could help to provide more water for some of these other needs that some people think are more important now. Whether it be for the reestablishment of the *cui-ui* in Pyramid Lake, or whether it be for upstream needs as far as M&I use, or our won M&I use. And so I think personally we can't sit back and say we're not going to do anything. We've got to look for opportunities to try and settle some of these issues out of court. But there has to be some finality, and the people hear have got to feel as though they're getting something for what they're giving up. The settlement, in my mind, would have gone. There would have been a settlement had there would have been a willingness on the other side, and I'm spelling out two groups, the tribe and the United States Government. If there had been some willingness for them to drop lawsuits, so the people in this area could say, "Hey were giving up some things, but for what we're giving up we're getting out of bondage, so to speak. We're not going to have these lawsuits hanging over us." But in the end, they wanted to settle in certain things. They wanted us to drop our legal challenges to what they're trying to do, but they did not want to drop any of the legal challenges they had hanging over us. And so it was a lose-lose situation for us in my mind.

- Seney: Is this why, when it looked like there wasn't going to be an overall settlement, a five year settlement was suggested and that you all did not go along with it, because it did not offer you the certainty and stability that you wanted?

Discussions on an Interim-Type Settlement

Schank: Well, we haven't had a chance, Don, to discuss this, but somewhere in the middle of the negotiations, and I would have to look back in the minutes to give you an exact date, it was somewhere, I believe, in the latter part of November, early December, Betsy Rieke called me one day. She proposed an interim-type settlement. She had been instrumental in the Central Valley and doing that in some of their areas. And it sounded really good to me, and I made the proposal to our people. And our people jumped on it, but we wanted an interim to work into a final agreement. We could not see where we would be gaining anything by simply putting off everything for another five years. And so we proposed that there be an interim-type agreement, and as I recall, we proposed that it be over twelve years with three four-year periods which certain things had to happen. So at the end of twelve years it could be finally in place.

The tribe and the United States wanted to do simply a five-year plan, which we felt in the end we wouldn't have anything. We wouldn't be any further along than we are now except for five years it would stop things. Bob Pelcyger's plan was still to cut off the Truckee Canal and so I guess he couldn't go along with our twelve-year plan, which would be three interim plans. Because that's not what we were proposing. We were proposing downsizing agriculture, downsizing the need for diversions, but we were also proposing that agriculture remain a viable part of this community, that it still consisted of about 40 to 43,000 acres. And they wanted to downsize considerably more than that. And in this whole process, they didn't want to do away with any of the lawsuits. So in the end, it was decision, and I was very plain as I talked to people, in fact, in the negotiations, I told them that I personally could not agree to something that I couldn't come back to my community and 1) sell to my community, and 2) hold my head high knowing that it was something equitable and something that was just and fair to all concerned.

M&I Needs for the Lahontan Valley

I might just throw out this, and I don't know, I mentioned it last time. In the waning hours of the negotiations process one of the things the community felt was vitally important was that our M&I needs, not only for the present but also for future growth be considered. After all, Reno and Sparks have been allowed to utilize their natural resources to grow. Carson City has been able to utilize their natural resources to grow. Why shouldn't we have that same opportunity with our natural resources? So that was a very important part of our proposal. We wanted to make sure that the opportunity for this area to grow and flourish would be a part of that settlement, realizing that water would be needed. We talked about an M&I system and there was not a willingness by the United States Government or the tribe, and I really don't know why the tribe should be involved in our M&I needs, but they seem to want to be. But there was not really a push or desire to be involved because it cost dollars. It cost money, and we already talk a lot about budget. But in the waning hours a little carrot came from Senator Reid's office to provide, I think it was, \$14 million. I don't remember the exact to provide some funds. So we

offered to settle the wildlife, or the wetlands aspect. See there was really two aspects to this settlement: there was wetlands package and the OPAC portion of it. We offered to settle the wetland, and the wetlands people, the Environmental Defense Fund and the Nature Conservancy, seemed very willing. But in the end I understand, it was the tribe that vetoed that.

Seney: I understand in talks about the wetlands, you wanted the Harmon Reservoir and the S-Line Reservoir included as part of the wetlands. And there was agreement that that could be done

Schank: Yes. Well we wanted instead of just a blanket 25,000 acres out in Stillwater and Carson Lake, we felt that the wetlands of this community, and this project, this valley entailed more than just Stillwater and Carson Lake. That the wetlands have to be a component of agriculture; we already talked about what agriculture provides. The drainage ditches which are a part of agriculture provide a large habitat for wildlife. The river system, the Carson River, was an important aspect that we felt was important, and we made it a part of our proposal. The Carson River, the cleaning of the Carson River, the utilizing of the Carson River, which is now in some cases so plugged up that water you couldn't through it, if you had to put water through it. Although we had the high water this year and I think they did get it cleaned out, it's like a flushing. But we also felt that the reservoirs, which were part of a new environment that was created with the creation of Lahontan, and with the creation of the Newlands Project. That was a new environment that was created, but it was also an important part to the wildlife habitat. But that all had to be looked at, in this supposedly 25,000 acres. Again it was an area where we could compromise and they could compromise. We would all be the better for it, because there could be more agriculture, and the specifics of the bill could be met.

Seney: And there was some movement there.

Schank: Oh yes, and I think we would have been able to sell that to the community. I'm sure there would have been some people who would not have like it. But I think for the most part it was a salable thing. It was something that would have been good for all of us, and more importantly, it would have been something we could of all maybe have hung our hat on and say, "Hey, we really can come to an agreement; we really do want to work together." So we felt that we really could settle on this, and we offered to settle on that. There was too much difference in the other areas, with the lawsuits, etcetera. There was too much difference. But we felt that we really had over that time come to a conclusion on that wetlands package, We could have made that work.

Seney: Did you find the environmentalists pretty flexible and willing to negotiate?

Schank: I think in some respects, again, when you been together eight months you all start to bend a little bit. And I felt in the beginning that they took a pretty hard stance and yeah, I think they did move. And I know that we moved a lot.

Seney: What was the OCAP part of the interim agreement that was proposed?

OCAP Component of an Interim Agreement

Schank: Without really getting into specifics because its been too long, and when you start working with numbers, I'd quote numbers that won't be right. The OCAP portion is really devised, and was devised when OCAP first came into being, to minimize diversions from the Truckee River. To keep more of the natural flows from the Truckee in the Truckee and flowing into Pyramid Lake. What is the little saying, a mathematician can make things lie just by changing the numbers a little bit. Recognizing that change in agriculture is somewhat of a slow process, particularly when your dealing with private property rights, we felt that there had to more than a five-year plan to make this whole thing work. You're going to have a certain amount of attrition. You're going to have some old farmers that have no family that wants to take over the family farm that want to get out. You're going to have people, for financial reasons, need to get out of agriculture. So through attrition there would naturally be a turnover of agriculture. They might not all be in the locations that you want the turnover, but through a method of transferring lands and maybe taking a farmer that's out in the Stillwater area that all the farms have sold, and moving him in closer to the central part of the project, so you could centralize the agriculture. There's a lot of things that could take place, a five-year window is not a very much time for those kind of things to happen. Also you can't . . .

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Schank: Also, you can't just cut off the stream immediately, recognizing that the turnover in properties is going to take some time, and the downsizing of agriculture is going to take some time. You can't just cut off the stream. You also have to realize that the United States Government may not agree within its own agencies. I mean, you've got 101-618 that mandates 25,000 acres of wetlands, and there's a certain need for water for that. And they can convert, they can buy agricultural lands, and they can convert that to use out in the Stillwater area. But when it comes down to it, the need for water is just as great as it was when you were applying it to agricultural grounds. And so there again, you can't just cut off the source. And to this point, the Truckee River has been an important source of water. It has been the source that's made Lahontan Reservoir work, because the Carson [River] does not provide, on a *consistent* basis, the amount of water that's needed to sustain the uses that are presently here. The reason is there isn't a large upstream reservoir. On the Truckee side, there's Lake Tahoe, and that provides the stability, so that in years when the Carson isn't flowing, you can take more off the Truckee to make up for what the Carson doesn't have. In years of plenty, the Carson provides nearly enough—at least for the lower Carson area.

The OCAP that was proposed was to drastically reduce the diversions from the Truckee River. And I don't think, I didn't think then and I don't think now, with the data that we had, that we could have lived with those kinds of reductions in *that* short of time that were being proposed, without an upstream storage component to guarantee us that we could have the water if we needed it. And without the

improvements on Lahontan Reservoir, the Truckee Canal, and some of the improvements that were needed to better deliver water more efficiently from where the project now ends, to the wildlife area. So there was just too big of a gap. Before we started, you mentioned something about modeling. Towards the end, we finally come to an agreement as to how many acres of land were being farmed down here. And prior to that point, there was a great disparity. The government said we had so much, the Indians said we had so much, and *we* claimed we had so much. You know how we finally solved that?

Seney: No, how?

Schank: In fact, I think I was the one that suggested it. The United States Government, since the early 80s, has been taking photographs, and they're telling us how much we're farming; they've got all the maps. So I said, "Let's go in and look at the maps, and let's add up what they say is down here." So they finally agreed to do that. It took a little bit of hassle, because even when they *had* the numbers, they didn't want to agree that that's what was being irrigated, but they finally did, and it was very close to what we said all along was being irrigated.

Seney: About 57,000?

Schank: Yeah, I think the total was about 60,000, when you add Fernley and Hazen and Swingle Bench area in with the Carson Division, it was right near 60,000. In fact, I think it may have been just a little bit more than 60,000.

Seney: But the modeling didn't really solve anything, on the whole?

Schank: No. Well, what is modeling? Again, we're talking about liars figure and figures lie. That's it—"liars figure and figures lie." Again, modeling is simply a ninety-two year . . . In this case, they took ninety-two years and they're making an average. And averages don't work when you start looking at shortages. (Seney: Yeah.) And this was one of the reasons we couldn't accept what they wanted to do in five years. I mean, if we had years like last year, with a terrific amount of water, we could have done fine. But what happens if you have years like we had the previous ten? Then the shortages would be just *terrific* down here. (Seney: Yeah.) Again, you're taking a way a right that somebody has purchased, they paid for it, a right that they own to that water. And if, as a negotiator, I'm giving that away, in fact, I don't think I have a right to give it away. I think as a negotiator I had a right to come up with a plan whereby we could put these details into place, giving people the opportunity to make their own choices so that over a period of time we could downsize and change the needs for water in this area. I think that could happen. But for me to say, "Yeah, I agree to cut down from 100,000 acre foot annual diversion to a 50,000 acre foot diversion," I don't think I had that right, because *I* would be giving away my neighbor's property right.

Seney: That's why you wanted three 4-year blocks?

Schank: So it would give us time to implement the plan, so that it would give these people

that want to get out, an opportunity to get out of agriculture, so that the water could be used in other areas. But in all aspects, in all respects, I always maintained that the property rights owner had to be justly compensated. Whether it was for a right that was considered inactive, or whether it was for an active right, they had to be justly compensated. It gets back to this "willing seller, willing buyer." The person who's selling had to feel good about what he was getting for what he was giving up.

Seney: Right. Is there anything else we need to say? I think we've been over most of it, haven't we?

Schank: Well, we've covered a lot. (laughter)

Seney: A lot of ground, exactly. Because I think—and I covered this point before—and that is maybe the changing attitude that you might have down here toward the tribe and whether or not negotiations are in the future.

Schank: I think that's an important thing, and if there's any kind of a conclusion that I can give to something that perhaps won't be concluded in my lifetime, I would like to see it concluded, but I don't know whether it ever will. But I do think that the negotiations established a communication that there never has been. I think that we, and when I say "we," I'm speaking of the community, saw things that perhaps we had never seen before. But I think the other sides saw things that they had never seen before. And if you could take this out of the climate of the courts, and out of the climate of the lawyers. I have some very good friends that are lawyers, but I think so many times that they just muddle it and put a bigger cloud over things and make it a bigger issue than it really is. I think if friends could just sit down and talk, over time, I think a lot of these issues could be worked out. And I think from that standpoint, there was a lot accomplished. I can say that I made a lot of new personal friends in the people who were parties to the negotiations. I can call them on the telephone and I can talk to them. Before, I couldn't—I didn't know them, for one thing. It always helps to know the people that you're talking with. And so, personally, I don't think that all was lost. I don't think that greater animosity was created because the negotiations didn't succeed. I think that a new climate was created whereby better communications can be a part of future talks, or they can aid in future talks.

Seney: I know there's some thought that maybe these TROA negotiations will lead to something more, and you'll be drawn into them to settle some of these questions. Do you see that happening at all?

Schank: I think that they're one of the on-going processes as a part of 101-618, and I think that the water users down here have been a part of that, although some of the other parties are trying to write us out of it.

Seney: I know 101-618 *did* write you out of that, yeah, as a mandatory signator.

TCID's Involvement with TROA

- Schank: And it was simply a method of changing the decrees that are already in existence, in *my* estimation. And I think some day, maybe 101-618 wrote us out of being a mandatory signator, but we are a signator to the original Truckee River Agreement, which is a part of the Orr Ditch Decree. And for any of this to be ratified, it's going to have to go back to the original court of jurisdiction, which is the Orr Court, and I think we *are* going to have to be a part of it.
- Seney: Well, you think it was an attempt to modify the Orr Ditch Decree and the TROA?
- Schank: Oh, definitely, definitely. I mean, anytime the TROA, Truckee River Operating Agreement, it's going to change the current Truckee River Operating Agreement. It's going to change Floriston rates.
- Seney: Well, they're soon going to be eliminated. I understand in the next week or so that they're not going to be applied, that they're assumed.
- Schank: I'm not sure. During the winter months, the Floriston rates are reduced.
- Seney: I may have this wrong, but my understanding is that very soon . . .
- Schank: They change. During the irrigation season, the Floriston rates are higher than they are during the winter months.
- Seney: Right, they'll be down to 250 to 350 c-f-s after . . .
- Schank: I think a lot of that, the parties have always been able to modify those if there was a need to. Right now I'm not sure, but they could keep the Floriston rates higher *if* they think they're going to top the reservoirs next year. So I mean there is some room to play, but normally Floriston rates would be reduced.
- Seney: Yeah. (brief interruption) I think we are almost finished. I look forward to seeing whether or not these TROA negotiations *do* pull the district in. I understand some of the other participants are anxious that that happen. Have they made any overtures toward you?
- Schank: Like I thought I said, the district people have been participating. (Seney: Right.) They've been attending these meetings regularly all along. Our Executive Secretary, Jamie Hilbren [phonetic spelling], has been attending some of these also. So we've been a part of it. But as far as us being a signator, that hasn't come about. There have been some proposals made by the district and by Mr. McConnell, for the district to become a signator, but that has not been accepted by the others yet. I hope that it will be.
- Seney: Was there anything else that you wanted to add?
- Schank: No. (laughs) I think we've discussed things fairly thoroughly.
- Seney: Alright. Well, again, on behalf of the Bureau, I appreciate your taking part in the

project. It's a valuable contribution.

Schank: Well, I appreciate your patience with me.

Seney: Oh, not at all. Thank you, Ernie.

Schank: Alright.

END SIDE 2, TAPE 2. OCTOBER 11, 1995.

BEGIN SIDE 1, TAPE 1. APRIL 27, 2004.

Seney: Home, on his ranch in Fallon, Nevada. Today is April 27, 2004, and this is the fourth time Ernie and I have talked. And, it's been a while, and lots of things have happened. One is, of course, you are now the President of the Board of T-C-I-D [Truckee-Carson Irrigation District]. Why don't we start with you telling me about how that came about.

Schank: Sorry, I didn't realize it was the fourth time. I knew it was probably the third, but I'll believe you.

Seney: Okay. Well, it's all here on the paper.

Schank: Yeah. It's been, it's been a long time, Don. You have a Hawaiian shirt on, you have cutoffs on, and you have an earring.

Seney: Yeah. I knew you'd mention that earring on the tape.

Schank: So, you've, you've changed. (Laugh)

Seney: Yeah. It's alright Ernie. I edit these. I edit these tapes, you know. (Laugh)

Schank: I know you do.

Seney: Well, you look good, Ernie. (Laugh)

Becoming President of the TCID

Schank: Well, I guess the last time that we talked I was not the President of the Truckee-Carson Irrigation District. In fact, I was not even on the board at that time.

Seney: No. You were deeply involved with the Newlands Water Protective Association.

Schank: I was involved with the Newlands Water Protective Association. And, I guess, just to bring the history up to date, so to speak, Mr. de Braga, Ted de Braga, who had served as fourteen, who had served on the board for twenty-four years, I believe—it might have only been twenty-two years. And, I was going to print that up for you.

Seney: We can check that.

Schank: Something, something, well, I know exactly what it was because that's another little thing that I've done. I went through [pages turning]—let me, we'll talk a little bit more about it (Seney: Sure.) later, but I went through, in preparation for this centennial celebration. That had never been done. I actually identified all the people who had served on the board (Seney: Ah.) when, and which districts that they are from, and so that tells you. But, Ted served as fourteen years, for fourteen years as the president. (Seney: Right.) And, he decided that he was going to retire. He lost his first wife and remarried a few years later, and decided that there was probably more things to life than spending all your time at the office fighting with attorneys. And so he (Laugh) decided to retire. He actually came to me and asked me if I would consider running for the board, and if I did if I would consider accepting the responsibility as president. He couldn't guarantee that that would happen, but that was what his recommendation was going to be. And, I told him that I would consider it, and I talked to my wife and to my family, and I received encouragement from them. The director who was serving from my area, the district, was Jim Prazzo [spelling?], and so that was another little complication just because Ted was going to retire didn't mean Jim wanted to retire. But, Ted talked to Jim and Jim came and talked to me, and I told him that I would do it if he decided he didn't want to run again. It was kind of interesting because I'm the one that went and got Jim to run four years before that. (Laugh) But, we talked about it, and Jim said he felt good about retiring. He felt that if I, if I would agree to be the president, and I guess there had been enough discussion amongst the board members that they kind of predetermined that if I would do it that they would, they would nominate me and go through the procedures to do so. So, I agreed, and they agreed, and I did that.

Seney: Now, let me see, Ernie, it's probably not uncommon for the board to kind of to agree on these things so there's not a lot of divisiveness when the president's elected, and that kind of thing? Is that typical? Do you know?

Schank: Well, I can't really say, Don. Historically, I don't know that it is typical. (Seney: Ah.) I've done a lot of research in past boards and there was, there's been a lot of the boards that have been very divisive, or you know, there's been a great division in them. And there's, even one case, and it was the director that was from my district, his name was Bill Armond [spelling?], he actually resigned over a matter. Principally, it was the Truckee River Agreement, but it also had to do with the reservoir that was built up here, the S-Line Reservoir. And, he thought that he could resign and they would beg him to come back (Laugh) and then he'd get his way, and they didn't. (Laugh) So, I don't know whether there's always been harmony. I think probably the reason, and I'm, I would hope that people who listen to this in the future, or read this in the future would not get any, you know, would not say, "Well, that Schank is arrogant," because that's not my intent. But I think that most of the board members realized that things have changed and that we live in a different era than we used to live in, and that it took somebody who had the time, and I don't necessarily have the time, but who would give the time and would be involved like you now have to be involved. I mean, at one time, I think the president was the president and he showed up that the board meetings and, you

know, maybe a few things were run by him in between now and then, and other than that that was about all that happened. And, I think things have really changed, and I think perhaps that was why they asked me. I had been involved in water issues for a long time. I had been involved in the second-generation negotiations, and I think we discussed those (Seney: Right.) in one of your little (Seney: Right.) past settings. And, I don't remember the last time we talked whether we were involved at that time with Pete Morros. Pete Morros attempted to . . .

Seney: That was just beginning.

Schank: To negotiate or mediate a settlement between us and Pyramid Lake, leaving out the government, and that didn't work because we left the government out. But, Ted . . .

Seney: How do you mean, Ernie?

Schank: Ted and I were involved in that. Well, what I mean there was he, and we, thought that we could maybe reach a settlement with Pyramid Lake that would be between the irrigation district and the tribe. And, when it came down to it there was probably far more things, but when it came right down to it we did not have a representative from the Department of Justice or the Department of Interior, and we really needed their support, and their prodding, and their pushing in some things. And, they were not there, and I don't think, when we did bring them in finally, they were not willing (Seney: Yeah.) to, they were not willing to go and look at some of the avenues that we were trying to look at.

Seney: Were they unhappy about being left out, do you think?

Schank: Perhaps, because I think it was a little bit different than, they were looking at a TROA [Truckee River Operating Agreement]. We were looking at doing something that would make it so we wouldn't have to have a TROA, at least a TROA in the sense that the TROA has been written and presented at least as far as I understand it at this point.

But, back to what I was telling you. (Seney: Sure.) I think that they, I think that some of the board members just felt that I had some expertise that maybe no one else had in some of those areas. And, I think that was why they asked me, and quite frankly it was an honor, and it's been a privilege to serve, and I hope that I have, I hope that I have served them well in doing so. I've learned a lot, I'll tell you that.

Seney: Let me ask you about, going back to 1984 when you and some of the other members on the board at the time—I think '84 is the right date?

Schank: It was actually '82.

Seney: Eighty-two? Supported a settlement which the irrigators rejected, and their, one of the ways of rejecting that was actually to boot you off the board. And now here,

you're what, a dozen years later, little more than a dozen years . . . ?

Schank: Oh. It's more than that. It's almost twenty, twenty, twenty-four years.

Seney: Well, I'm thinking more not what today's date is but when it was you became the president, and they asked you, and there was this consensus behind you.

Consensus Among Board Members

Schank: Oh. Yeah. Oh yeah. Yeah. It was . . .

Seney: Yeah. I just wanted to get you to . . .

Schank: Well, that would have been six years ago. So, 1982, take six years, so it would have been eighteen years.

Seney: How did that make you feel, given, did you have that other experience in your mind at all? Did this, did you have a personal feeling about being asked, unanimously, to have a guy step down so you could get on the board, have the board arrange for you to become the president?

Schank: Well, I had, and we've talked, I think, about this.

Seney: Yeah we did.

Schank: Extensively in the past.

Seney: Right, and, I just wanted to see how you feel about this.

Schank: Interestingly, some of those people, of course some of them have passed away. (Seney: Right.) Some of the players have passed away. Mr. Latton [spelling?] passed away some years ago. But, one of the, it's hard in these oral histories because you don't know who's going to read this, and you don't want to offend people, but one of the . . .

Seney: Ernie, you know, you do not come across as arrogant or offensive, or any of the rest of it, so please speak your mind.

Schank: One of the people who probably was most vocally outspoken about the position of the board, and in particular my position in those early negotiations, was Senator Carl Dodge.³⁰ And, it was interesting because about three days before the, my being named president of the board took place he pulled into the yard one day and rolled down his window, and this is typically Carl, he says what he has to say and then he's

30. Senator Carl F. Dodge was a long-time politician in Nevada, serving six terms in the Nevada State Senate and participated in Reclamation's Newlands Series oral history program. See Senator Carl F. Dodge, *Oral History Interview*, Transcript of tape-recorded Bureau of Reclamation Oral History Interview, conducted by Donald B. Seney, Bureau of Reclamation, August 5, 1994, at his home in Fallon, Nevada, edited by Donald B. Seney, www.usbr.gov/history/oralhist.html.

gone. If he calls you on the phone he'll tell you what he wants to say and he doesn't even say, "Goodbye," and he just hangs up. But, he pulled into the yard, rolled the window down, and knowing some of the feelings that had kind of gone on before I wondered what his purpose (Laugh) for arriving at my yard was. And [he] rolled the window down, and he stuck his hand out, and he said, "I just want you to know, Ernie, that there isn't a better man that I could think of to take the position." He said, "I understand that they're going to name you as the president." And, he said, "I want you to know I congratulate you, and I know you'll do a good job." And basically rolled the window up and drove off. And, I've had his support. I've had numerous phone calls from him. There are phone calls, very similar, where he'll call up and say, "Ernie, this is Carl. Just want you to know you're doing a hell of a job," and hang up. And, so (Laugh) I would have to say yes, (Seney: Sure.) it's felt good. I had a very dear friend one time, after I—of course I was not the only one that was defeated in '82.

Seney: I know you weren't.

Schank: There were three of us.

Seney: Right.

Schank: But, I had a very good friend who told me one time, he said, "The truth will prevail in the end." And, he said, "Some of the things that are going around, some of the perceptions, time will tell the truth and you will be vindicated." And, I, truly, I truly have been. People who were vocal, and people who did not approve, have been very very supportive of me. And, of course, what we have now is a lot worse, in my mind, than what we could have had had we negotiated then.

Seney: Well, I've been told that, that if you'd only had that ninety, 1982 agreement you'd be a lot (Schank: Sure.) better off than you are today?

Schank: We would, we would have been.

Seney: Yeah.

Schank: We would have been.

Seney: And, people realized that?

Schank: I think so.

Seney: Yeah. Yeah.

Schank: I think so.

Seney: Right.

- Schank: So anyway, that's (Seney: Yeah.) the long and the short of how I became the president. (Seney: Yeah. Yeah.) And, I've served now for six years, and I don't know what will happen in the future. We have a reorganization meeting will come up on May 7, and perhaps they will choose to not reelect me (Seney: Uh huh. Uh huh.) as president.
- Seney: I appreciate your modesty.
- Schank: Well.
- Seney: Is there anybody else who thinks that in town?
- Schank: Well, I don't know. (Laugh) I don't know. I don't know.
- Seney: You're kind of smiling so, (Schank: Well, you. . .) I think maybe . . .
- Schank: You become guarded after a while.
- Seney: I'm sure you do.
- Schank: Because, because, you know, you do step on people, and people do, you know, people do get upset. And, when there's enough that do get upset then things change. So.
- Seney: Yeah.
- Schank: So, I don't know, you know, where we are in that point in time.
- Seney: Right. Right. Just, as we were talking before the tape went on, just about coincidentally with you're becoming resident of the board, Betsy Rieke, former Assistant Secretary for Water and Science under the Clinton administration, comes back to the area, well comes to the area I guess I should say, to take over as Area Manager. How has, how has that worked out in terms of the relationship between the Bureau and the district, and how would you assess that relationship over these last six years? And, with some, of course, examples, if you don't mind?

Betsy Rieke

- Schank: Well, again, and I am going to be fairly guarded here because I'm still sitting, and she's still sitting.
- Seney: Well, you know, Ernie, I can tell you again that . . .
- Schank: I understand.
- Seney: We can restrict this. I mean, for, you know, for as long as you like and it's, (Schank: Yeah.) and it goes (Schank: Well.) in the National Archives.

Schank: Well, some of this, some of this might, at least at present, need to be restricted, but I am going to be very, a little careful (Seney: Sure, of course. I understand) about what I say.

Betsy and I had a, I would call a fairly good relationship and the respect of one another. And that resulted in the second-generation negotiations, and I think we discussed in the previous setting, the fact that she actually came out here, (Seney: Right. Right.) and visited. And in fact, she sat at this very table that you're sitting at, Don, and we had breakfast with my family, and a very, a very good discussion early on in those, in those talks. And, I think there was a mutual respect. I was invited, as probably not very many people from this area have been, to visit her office when I was in Washington on another occasion. You know, to get in, the Assistant or the Secretary's Office of Interior is not a small thing in this country. And, especially in an administration that is a different political affiliation than most of the people out West, and most of the people in Churchill County. And, I'm not, you know, too shy to say I was a Republican, and she knew I was a Republican, and she was a Democrat. But, nevertheless, she invited me to her office, to her personal office, not an outside office but her personal office, and I was able to take my son there, and you know, we had very cordial talks. And so, Betsy and I had a relationship. I think Betsy has, Betsy has always prided herself in trying to, to be a—I shouldn't say trying to be, but she has pride that she has had some success in mediating and bringing some parties, under difficult circumstances, together. And, the one big one that she's credited with is the, would be the pre-CALFED³¹ action that had to do with a Kesterson?³² One of those.

Seney: Right. In, on the Central Valley Project.

Schank: The Central Valley Project, and particularly in the Bay Belt, the Bay-Delta area.³³

31. "The CALFED Bay-Delta Program is a unique collaboration among 25 state and federal agencies that came together with a mission: to improve California's water supply and the ecological health of the San Francisco Bay/Sacramento-San Joaquin River Delta. It was the Delta's importance to the economic stability of California and the nation that led to the drafting in 2000 of a 30-year plan for its management and restoration. Implementation of the plan was ultimately pledged by 25 state and federal agencies with expertise to manage the complex program. This plan, set forth in a programmatic Record of Decision, laid out a science-based planning process through which the participating agencies were able to make and implement better, more informed decisions and actions on future projects and programs. Two years later, the California Bay-Delta Authority was created to oversee the program's implementation and Congress adopted the plan in 2004." See "CALFED Bay-Delta Program Archived Website," <http://www.calwater.ca.gov/calfed/about/> (Accessed 8/2016).

32. "Completed in 1971 by the Bureau of Reclamation, Kesterson included 12 evaporation ponds for irrigation drainage water. The reservoir, a part of the San Luis National Wildlife Refuge, was an important stopping point for waterfowl. In the 1960s officials proposed a 290-mile drainage canal to the ocean known as the San Luis Drain. Only 85 miles were completed, however, and work on the drain halted in 1986 after scientists discovered bird deformities due to drainage at Kesterson." For more information, see Water Education Foundation, "Kesterson Reservoir," www.watereducation.org/aquapedia/kesterson-reservoir. (Accessed 5/2016).

33. Referring to the delta of the San Joaquin and Sacramento rivers—often referred to as the Bay-Delta. This is located on the northeast quadrant of San Francisco Bay (San Pablo Bay). The water from the Delta exits to San Pablo Bay through the Carquinez Straits. "The Bay Delta Conservation Plan (BDCP) is a part of California's overall water management portfolio. It is being developed as a 50-year habitat conservation plan with the goals of restoring (continued...)

But, she was instrumental in getting some of those early preliminary settlements tied up so that they could really start acting on what is now called CALFED. But, she has had some success in those areas, and I think perhaps that was why she accepted the job. But more importantly it was probably why she was extended that opportunity from the people in the Mid-Pacific Region because they knew that she had developed some kind of a rapport here with, not only us, but with the tribe, and with some of the other parties that were involved in those 1990, what was it, two, settlement.

Seney: The second settlement? Two?

Schank: The second generation.

Seney: Ninety-four?

Schank: The second. (Seney: Right.) I guess it was '94, the second-generation (Seney: Right.) settlement. So, I think that was the reason. And so I think we, I think we probably both had, you know, lofty goals as to what would happen when she took over. And, I think we had a period of honeymoon, and I think we had a period of some pretty rocky times when there was not very good relations between us and, necessarily the Bureau in general, but the Bureau in Carson [City]. And, it was not only on my level and her level, but it was with the staffs. And, it has taken some work on both of our parts. And, it has taken some compromise. And, it has taken me personally, and I can't speak for them but I know me personally, it has taken sometimes biting my tongue and not saying things that I might would otherwise say. Realizing that sometimes you just have to work on these things, and sometimes you have to hold the feelings aside, or set them aside hopefully for the good in the end. And, we have tried to do that. And, I think in the last year and a half the relationship is probably better than it has ever been. Not saying that the issues have been settled, because there are still some pretty deep rooted problems and feelings that go far beyond my even being alive, that have not yet been settled, and may never (Seney: Yeah.) be settled, but at least we have a working relationship. We hold monthly meetings with the Bureau, which had not been done before. We have tried to make the channels of communications better on an every-day basis. And, I think we've made some great strides, and I think Betsy would tell you the same thing.

Seney: Are these differences that you allude to, are they differences over specific activities or policies, or are they just the kind of differences that occur when people have, stand in different places and as a result have different points of view?

District's Relationship with Reclamation

33. (...continued)
the Sacramento-San Joaquin Delta ecosystem and securing California water supplies. The BDCP would secure California's water supply by building new water delivery infrastructure and operating the system to improve the ecological health of the Delta. The BDCP also would restore or protect approximately 150,000 acres of habitat to address the Delta's environmental challenges." See baydeltaconservationplan.com. (Accessed June 2014).

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- Schank: Well, I think we got into this probably in some of our past discussions, but I would have to say the most deeply-rooted problem, and "cancer sore," if you want to use an analogy, is the fact that the United States represented us. They built this project. They are the ones that filed all of the early court actions to make sure that there was a permanent, firm and permanent water right. And now, they have turned their backs, in a lot of respects, and seem to put most of their emphasis on Indian trust, forgetting that they have a trust to this project. [Aircraft noise] And, that most of these issues that we have talked about in the past, and still have today, I think could largely have been stopped had the government not taken sides with us necessarily but that they would have represented us, their project, their client, a little more than they have. And, I think that that is never going to, that, that deep-rooted feeling is probably never going to leave. And, I realize a lot of things have happened. We have Endangered Species Act, and a lot of other modern, Clean Water Act, and a lot of other things that were not had back in the early days of Reclamation. But, sometimes we would just like Reclamation to stand up and say, "Hey, this, the project was built for these purposes and these reasons, and we believe that we have these firm rights, and just stand behind us a little bit." Now, whether or not that makes any sense to you, I don't know.
- Seney: No. It does actually. And I was, you know, I'm wondering, you've shown me these incredible photographs you've amassed, and told me about this slide show you put together, and presentation on the 1903-06 founding of the district, and I'm curious. Of course the language there is all the kind you speak of, and that is where the federal government is the originator, the supporter, of the project. Does that in a sense tend to annoy you even more as you go back and read that material and see what the original notions were, and look at it the way it is today?
- Schank: Well, I don't, I don't know that, I can't really say that it annoys me. And maybe, maybe it doesn't because I've become calloused to a (Laugh) to a certain extent, but you know it wasn't until 1926, actually 1918 it started, but 1926 that the project was turned over to what is now the Truckee-Carson Irrigation District. And so, from the inception of the project, and from the authorization in March, on March 17, or March 14, 1903, the project was operated, was run, designed, was overlooked, or overseen, was managed by the Bureau of Reclamation. In those days it was the United States Reclamation Service, which now we know as the Bureau of Reclamation. But, it was overseen. And, the operation was federal, completely. And, the only reason, well there's two reasons, but the first reason was not the reason they turned it over to us. The original Reclamation Act said that they were to turn it over, but the real reason that this project was turned over to the Truckee-Carson Irrigation District was because they, by that time, in 1918 principally, they knew that this project would never be the magnitude that they had originally envisioned it. It was originally supposed to be 400,000-plus acres. It was supposed to take in all of the valleys north of Reno. It was supposed to take in Dodge Flat, which is part of the Indian reservation. It, well the Pyramid Lake Indian Reservation. It was supposed to take in all of the Fernley Bench area. It was supposed to take in a huge area around Hazen and a Oswego Bench, and then of course this lower, the lower Carson Valley. It was supposed to take in—there was
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going to be an 800 c-f-s canal that was going to take off at Hazen from the Truckee Canal, that was going to deliver water into the lower end of the Lovelock Valley, and they were going to water, I think it was, in the neighborhood of 50-60,000 acres in the lower Lovelock area, plus it was going to take in Carson Valley, Eagle Valley, which is below Carson, Dayton Valley, and Churchill Valley.

So, the magnitude of what they had originally envisioned was huge, and that was the original concept it was sold to Congress on. And, then when it originally came down, as we know 73,000 and some-odd acres, but of course by 1918 they knew that it was, there just wasn't the water, and political climate was not there to make it what they had originally intended. And, they got to the point where they'd spent all the money that they were supposed to have spent to build this big project, and they didn't have it. And, they needed drainage. Drainage was not, although there was some limited drainage that was intended originally, it was not intended in the magnitude that by 1918 they knew there had to be. (Seney: Right.) There was rebellion, open rebellion, down here because they would not put a drainage system in, and these guys would flood their fields, and it would scald their crops because the water would actually sit on an area that the water table was very low before the project now had a water table so high that it was right on top of the ground. And so the real reason that it was turned over to the Truckee-Carson Irrigation District was because the district was formed in 1918 for the purpose of bonding to get the monies necessary to build the drainage system. And, so it was just the most convenient thing for the Bureau, or for the Department of Interior, to do, was to negotiate a contract wherein we would not only operate the system, but we would be able to repay the bonds that we had put out for the drainage, and we would also be able to be the entity that would collect the fees that were needed for the repayment. And so in 1926, when the 1926 contract was written, it was a repayment contract and we became the agents for the government to do all of these things that, in some respects, they had not been able to do at that time.

Seney: That's an excellent summary, Ernie. That's the best I've heard. You're really getting a grounding in the history of the district, didn't you?

Schank: Well, I've lived here all my life. So. (Laugh)

Seney: And it shows. Well, no, you understand it though more than just being here. There's a lot of people who would be here that wouldn't understand it. To go back to the current period, [cuckoo clock chime 6 times] what have been some of the issues that have divided you and the Bureau that you've been squabbling and quarreling over more than any others?

The 1996 O&M Contract

Schank: I don't think, the last time we talked [cuckoo chime 4 times] we had finalized the 1996 contract?

Seney: No. The contract was just be getting ready to be negotiated under Ann Ball.³⁴

Schank: Okay. Well, and I'll take a little sidetrack to answer your question. The 1926 contract ran, and it actually, unlike most contracts, in fact it was one of a few, it had no end. And, the only reason that it ended was because the United States—and this is, because this is my oral history I can say this—(Laugh) the United States contrived a way to say that we had breached the contract, and then convinced a judge that we had done so. I think they would have a hard time doing that nowadays, because I think, and I say this because I was one of the ones that testified extensively to some of these things at the recoupment hearing, but I think now, looking back, you can see where there was a conspiracy. And, I don't know why. I can't really answer—well, I could, I could construe, but I think there was some kind of a conspiracy to take that contract from us in light of some of the things that the government saw down the road, particularly concerning Pyramid Lake. And, the easiest way for them to insert the kind of control that they wanted to insert was to do away with that contract.

Seney: Ernie, let me turn this over.

Schank: Okay.

END SIDE 1, TAPE 1. APRIL 27, 2004.
BEGIN SIDE 2, TAPE 1. APRIL 27, 2004.

Seney: Okay. Go ahead.

Schank: Lots of things happened, and I don't think we want to take the time to go into them now, but . . .

Seney: By the way, the case we're talking about is *Pyramid Lake Tribe v. Morton*, isn't it?

Schank: Yeah. Well, that was, that was where it started.

Seney: Yeah.

Schank: Yes. And that was a, that was a very convenient way to erase the effects of that contract. That contract gave a lot of authority, gave a lot of authority to the Truckee-Carson Irrigation District, and put a lot of things in our control. And in order for the government, and this is my take, for the government to do some of the things that they needed to do, and in some respects it goes back to what we were talking about a few minutes ago. In my mind they switched, they switched their emphasis on supporting a project that they built, and now they were all of a sudden

34. Ann M. Ball was the Bureau of Reclamation's Area Manager for the Lahontan Basin Area Office in Carson City, Nevada, and participated in Reclamation's Newlands Series oral history program. See Ann M. Ball, *Oral History Interviews*, Transcript of tape-recorded Bureau of Reclamation Oral History Interviews conducted by Donald B. Seney, from 1995 to 1998, in Carson City and Reno, Nevada, edited by Donald B. Seney with final editing and layout by Brit Allan Storey, 2009, www.usbr.gov/history/oralhist.html.

becoming the hammer over the project that they built, and trying to, in their minds, undo some things that perhaps they thought that they had done to cause the problems that were all of a sudden appearing in the early '70s, or late '60s and early '70s. And so, with breaching that contract, all of a sudden we had no contract, and there was a great drive by some, I'm sure including the tribe too, for the United States Government to actually come out and assume operations of the district. But, they never did it, and I think because they just figured in the long run it would not be in their best behalf. I mean, it just wouldn't work. So they allowed us to continue to operate the project with actually no contract, from 19, or 1973 until 1984. And, in 1984 after *Nevada v. U.S.*, and the Alpine Decision, after they came down, then a temporary contract known as the 1984 contract was, an interim contract, was entered into.

Seney: It was probably a year-to-year contract, wasn't it?

Schank: Well, as I, and I don't have it here before me, it was a temporary contract. (Seney: Right.) And, it was temporary until such time that a permanent contract, or they decided not to renew it, I guess. And, having not read it for a while I'm not even sure about the language. But, I think there was notice, I believe it might have been sixty days notice either way that it could, that it could be canceled. But, nevertheless we operated on the 1984 contract, which basically just extended the 1926 contract. (Seney: Right.) There was some other provisions that were put in there concerning OCAPs [Operating Criteria And Procedures], etcetera, but basically it just extended it. And, it's kind of interesting that there was not really a concerted effort to even come up with a new contract until 1996, which coincided on our repayment, our complete repayment. So, we continued, the district continued to collect the monies, and continued to repay the government, even in the period of 1973 to 1984 when there was no contract. The government said we didn't have a contract, but we continued, in good faith, to collect those monies and forward them to the government. And, in 1996 we paid off the contract. In 1996 we entered into a new settlement negotiation, or a new contract negotiation, which I think lasted, as I recall, over about a fourteen-month period. And, we were able to finalize it, and that is now what we operate on.

Seney: How does it differ from the old contract?

Schank: Well, there's a lot of differences. Of course, also in that period of time the 1990 Settlement Act took place, and in that Settlement Act there was considerable amounts of custodial ground that were removed, or at least an opportunity in that legislation that they would be removed. And so we, in the 1996 contract, we do not have the kinds of authority over outside areas, the grazing, the leasing now is all administered by the Bureau of Reclamation, and then if there is credit due it is credited to us under what they call the, "Subsection I Revenues," you know, "Rules and Regulations."

Seney: Is the Carson Pasture, that kind of thing?

Schank: The Carson Pasture. Of course we, we still continue to operate it, but we operate it

under a contract, or an agreement, with both the Bureau and with the state of Nevada. And it's basically an annual or a year-to-year thing, and so we don't know from one year to the next whether we'll be operating the grazing. We do not operate the wildlife management portion of that. And, of course, that is in the process of being transferred to the state of Nevada by the federal government. And then of course, that's another whole story between the state and the federal government (Seney: Right.) on that. The Lake Tahoe Dam, control of the Lake Tahoe Dam has been removed from the things that we do. And, so we do not have that control anymore. Many of the, well a lot of the area down in Stillwater, that we used to have control over, including Point Reservoir, which is still a very, I don't want to say "hot" item but it's still an item that has not been completely settled. It's a reservoir that we have to use for our operations, but the [U.S.] Fish and Wildlife claim that it's theirs. So, there's been some problems there. But, that was not clearly set forth as to who and how it would be operated in the '96 contract. There's language concerning OCAPs, and that we have responsibilities to the OCAPs, that of course were not in the 1926, or in any of the interim contracts.

Seney: What would be some examples?

Schank: We now have to pay a fee to the United States each year, for administration, that we didn't have to pay before. And so there's . . .

Seney: To offset Bureau costs, do you mean, in a sense?

Schank: Yes, for administration.

Seney: Yeah.

Schank: And so there's various items like that that were not in the earlier contract. It's renewable every five years. It's a twenty-five year contract, renewable every five years. There is an area, or there is a section for resolution of disputes, and some of those items we've actually used as to how disputes would be resolved, or resolved. So, it's quite different.

Seney: It's been renewed once, I would take it?

Schank: It has been renewed one time, yes.

Seney: Did, were there any changes made in it at that point?

Schank: No. I don't think it, I don't think we really have that opportunity. It's simply renewed. We call it, kind of laughingly, "If we're good boys it can be renewed." (Laugh) Because if there are outstanding disputes that have not been resolved, you know, there's an opportunity for the government not to renew it. But, we tried, and we're trying. We don't want to get into a situation where it won't be renewed.

Seney: Well, you know, you've used the term "good boys," in reference to the Bureau a

couple of times, once off the tape in a context that you didn't understand to be recorded, and I won't be specific about that. We know what that was. And, again, what do you have to do to be "good boys," or what would you do to be labeled "bad boys?" (Laugh) What, because you kind of smile when you say that, Ernie.

Issues Associated with Renewing the O&M Contract

Schank: Well, I . . .

Seney: You have a wonderful smile.

Schank: I do, because I, the one thing that this contract, the new contract does is if people in managerial positions don't believe that we are doing what we ought to be doing then they simply can file a Vital Dispute. And, the language in the contract is that if there is a Vital Dispute, that that can be reason for the contract to not be renewed. And, that could be a Vital Dispute, it could be a Vital Dispute that we filed. We have not done so yet.

Seney: Have they?

Schank: They have filed, I believe, one Vital Dispute, and have threatened several others, which we have resolved before they got to that point.

Seney: And, what was this Vital Dispute?

Schank: The Vital Dispute was over some, the account, some accounting practices. One of the things in the contract that I did not mention a minute ago but just came to my mind is we have an obligation to set aside ten percent of whatever our O&M fee is. And, that is set aside strictly for conservation purposes, and it has to be used, at this point, for the installation of water measuring devices, until we reach, and I don't recall the exact language, but until we reach, I believe, measuring seventy-five, actually measuring, physically, with a measuring device, seventy-five percent of all the water delivered in the project. And, that has to be accomplished before 2012, or by 2012. And, the Vital Dispute that was filed was over the accounting of the first, I think it was the first year's funds. And, the Bureau basically said that we used some of those funds, or accounted for those some of those funds, in a way in which we should not have. And, we sat down with the Regional Director, and before it got to Commissioner status, or level, of the dispute. Now, the contract spells out some things that need to be done, (Seney: Right.) and in the end the Commissioner of Reclamation is the final arbiter, if it gets to that point. But, it did not. We were able to sit down and we resolved it in a manner that was amicable to both sides. And, since that point we have not had a problem. Now, we have had some other issues (Seney: Sure.) that there has been some threat that they might become a vital dispute.

Seney: But before we get to that.

Schank: But they did not.

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- Seney: How far along are you on the measuring? How much water are you measuring this year?
- Schank: I don't know that I can give you a precise percentage. There's a graph, and each year we have to do a report. And, another thing in this new contract is there's numerous reports that have to be written, hand written, I mean, you know, paper, written on paper. Hard copy, I guess is the word I want to use, but that we didn't have before. But, we have to report each year as to where we are, and each year there's a graph put in there as to how we measure up at this point in comparison to what we need to be at in 2012. We're working on that in a joint venture with the Bureau, and with, I mean I should say a joint venture with the Bureau and us. Funding comes from both sides. We're working with Cal Poly [California Polytechnic State University], and they have been helpful, very helpful, in not only determining how, and when, and where those devices need to be installed, but if in fact, and where in fact, they can be installed. We have a problem in this valley and that is it's so flat that there's a lot of places that you just cannot use conventional measuring techniques. But, we are putting devices on, and I think the number this year is we've put about sixty-some devices on. We are ahead of the curve as far as meeting the seventy-five percent. So, we, but we continue to put the devices on, hoping that in the meantime we will be able, there will be new technology developed so that if we do have to finally put them on basically every takeout that we'll be able to do it at considerably less than what it costs us now. It's not a cheap thing to install measuring devices.
- Seney: And what's, do you have a notion of what the per-device cost is?
- Schank: The types of devices that we found most successful run between eight and probably \$12,000, depending on the installation. I had one up here on my gate. What we're doing . . .
- Seney: This is for every, this is on your gate (Schank: This is all mine.) to measure what's going on in your field?
- Schank: To measure what is coming into my place.
- Seney: Eight to twelve thousand?
- Schank: And that doesn't actually measure all the water, because I have two takeouts and they put it on the larger takeout. The kinds of things they have right now, they can't put that same device on my other takeout. But, what we've done, Don, is with Cal Poly, we've identified the places that we can put measuring devices on that will be accurate with the kinds of technology that we're able to use nowadays. And principally, to get a really good measurement, you have to have some fall. (Seney: Right. Right.) There has to be some fall. We've identified those places, and then we're also putting them on the larger acreages, so that we can meet, meet the demands of the contract and measure seventy-five percent, which, you know, may mean that we won't have a device on everybody's gate.
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The interesting thing, and maybe we're wondering off (Seney: That's alright.) and I may not have answered your original question, but the interesting thing is that for four years now we have achieved the efficiencies of the OCAP. And . . .

Improvement in Water Use Efficiencies

Seney: Is that sixty-five percent?

Schank: Actually, it's a little higher than that.

Seney: Sixty-eight?

Schank: I think last year it was, I, just off the top of my head I'm going to say it was about sixty-seven and a half percent last year. But, for four years we have reached those efficiencies, and it is not because of water measurement. [Aircraft noise] Maybe some, but principally the reason that we have been able to reach efficiencies is because we have done, we have done considerable work on automation, and on control of levels in the canals. And, of course, every effort possible to not spill water, is made, which has had a disastrous effect of course on the wildlife areas. But, in 1990, what? Eight. And then I guess in 19—well, actually it was 1998, the contract with Sierra Pacific, the thirty-year contract that we had with them to operate the power system and to operate the hydros expired. And, of course, that's another great huge thing that's happened since you and I talked, the legal battle that went on there. But, in the end they kept the distribution system. We leased it out to them again for fifty years, but we took back all the hydro generation. And that is what the water people at T-C-I-D will credit, to a large extent, with our making efficiencies, because we're able (Seney: Ah.) to control what goes through the hydros. We make, we make changes as to what is being released from Lahontan, and maybe as much as two or three times a day, if needed. We're able to just stay on top of it.

Seney: That's interesting, isn't it?

Schank: Yeah. Where before, I am told that when a change was needed sometimes it was two or three days before Sierra Pacific would come out and be able to make the change.

Seney: Did you have any idea that when you took back control of the hydro that it would have this effect (Schank: I don't . . .) on your efficiencies?

Schank: I don't think, I don't think we did. I don't think we did.

Seney: Well, that's a nice bonus isn't it?

Schank: But, it is a nice bonus. And then we have, we have upgraded those hydros, and we have put some modern electronic things on them, that's made them easier to control and those sorts of things too. And, that has had a great effect on our efficiency. Now, having said that, water measurement has had a place, but I think a lot of these

other things have had far more effect (Seney: Right.) than water measurement.

Seney: Now, to go back to what efficiency means, it means that if sixty-seven is the target, that means of all the water released from Lahontan, sixty-seven's got to get on the fields?

Schank: Sixty-seven is delivered through the gate (Seney: Yeah.) of the user, (Seney: Right.) and that is what he is charged for.

Seney: Right. Right.

Schank: Yeah.

Seney: Right.

Schank: And it's, I'm touting, tooting, tooting our horn when I say this, but in the press, and in litigation, and in negotiations, it was made out by some, principally some of our congressional people, (Laugh) Senator Reid, I'll (Seney: Yeah.) say it, by some Bureau people, and by others that we were behind times. We were a 1903 project that was not up to date, that we were wasters of water, and all of this sort of stuff. And, in reality, since we've gotten Cal Poly involved, Cal Poly will tell you the true story. We are probably ten years ahead of anybody in water measurement. In fact, we are on the cutting edge, Stu Styles [spelling?] will tell you. And, stuff . . .

Seney: Mr. Styles [spelling?] is your contact person at Cal Poly?

Schank: He is the one. Do you know Stu [spelling?]?

Seney: No. I don't know him.

Schank: Okay. He's, he, originally he was working with Dr. Burke [spelling?], but now he is a Ph.D. in his own right, and he pretty much, I think, operates the, what is it called, the Irrigation Technology something. But it's an arm of (Seney: Cal Poly's?) Cal Poly.

Seney: Maybe Engineering School or something?

Schank: Well, of their irrigation school.

Seney: Yeah.

Schank: Yeah. And they're renowned. The Bureau trusts them. The Bureau does a lot of contract work with them. But, Stu [spelling?] will tell you that things that we have developed here, techniques we have developed for water measurement and other things, are now being used in other areas. And just kind of as a side note, we had a ditchrider that was here a few years ago that left and went down to one of the projects in the Central Valley, and he called the other day and his comment was they

are just now starting, in the irrigation project, or irrigation district he works in, some of the stuff that we been doing here for many years.

Seney: Yeah. Yeah.

Schank: So, that was something that was promulgated that absolutely is not true. You know, we might be an old district in terms of dirt-lined ditches, and yes a lot of our structures are a hundred years old. And, as I've been involved in this centennial, I've really come to appreciate what we have in the fact that something engineered a hundred years ago has held up, and still has a long useful life left. So, in terms of a modern project, yeah, we might not have some of those, but in terms of measurement and control of water we are very modern and very up-to-date.

Seney: Anything else? Quarrels with the Bureau that are helpful in us understanding relationships between the district and the Bureau as it stands today?

Schank: Well, I don't, I don't know that, you know, there's other significant ones. I mean, we've had some problems. We've had some, one of the things that the new contract allows is for the Bureau to have more hands-on, on maintenance, the kind of maintenance we do. And, perhaps the way that they can require and force us to do maintenance, when they think that it needs to be done. And, we've had some problems with some of our bridges, that some of the old bridges that were installed that have worn out, have been through their useful cycle. And, one of them in particular, actually two of them, we did not even feel were needed for purposes of the project any longer. And, one of them we had to rebuild under the threat of a Vital Dispute. And, we did it. Still, as it is now completed, still wondering sometimes why they want us to spend money on some of those kinds of things that don't help efficiency, and don't make for better delivery of water. But, you know, those are, I guess, just calls of judgment by people in positions, and that's one of the things when you sign a contract, and you agree to do that, and agree to give them those kinds of authority, that you have to live with.

Seney: What about things that have gone well, that have come up, and you've said, "That's a nice solution. We'll go for that." Or vice versa. Or maybe . . . ?

Improvements to Derby Dam

Schank: Well, I, and I should be able to recall some (Laugh) and I, there probably isn't one that I can—well, I guess perhaps an example of that is Derby Dam. And I think our relationship with the Bureau, it's an ongoing, it's an ongoing thing. And, if it's going to improve; it's got to continue to improve. It isn't something that's just going to happen overnight. (Seney: Right.) The problems that I alluded to a while back are, you know, earlier in our discussion, are deep-rooted. And it takes, you've got to gain trust, on both sides. They've got to gain trust in our abilities, and we've got to gain trust in their abilities. And, it is a slow process, but I think, I think in some things that we've done that have been successful there has been some trust. We've, we've done some major things at Derby Dam where it has taken give and take on both of our sides.

One of the very first things, when I got back on the board, was we had a major, and I don't think it went, actually went under Safety of Dams, but we had a major renovation on the apron at Derby Dam that was undertaken. And, there had to be some give and take on both sides, and we actually had to, we actually had to dip into some emergency funds that normally we would not have been allowed to do so under our contract. But the Bureau allowed us to do that so that we could take care of a far costlier project than what was originally anticipated. And, that was a project where we actually worked very closely with the N-R-C-S [Natural Resources Conservation Service] and with the Bureau. And when that was completed then the Bureau, because they wanted to put a fish, it was first designed as a fish ladder or called a fish ladder but later it became a fish passageway, was installed at Derby Dam. There was also a need to renovate some of the operators, and it turned out that we, we're still in the process of making it work. In fact, this morning at a meeting we spent a considerable time on it. But, we now have automation or the ability to automate every gate at Derby Dam, and at the canal, the head works of the Truckee Canal. And, that's been a major project, and that has taken considerable effort on both our side and the Bureau's side to make that work. And, it did work, and if we can get all the little bugs of the electronics worked out, it'll be a wonderful, wonderful thing for both of us.

Seney: Great. Let me ask you about the TROA. Now, we talked on the phone earlier. I know that you guys are not a party to the TROA, and you don't have detailed information at your fingertips, but it's obviously going to have an impact on you guys, whatever it means, and I have a copy of it, 261 pages I think, and it's just as dense as the great Constitution. The old one was what? Seven pages, I think, something like that?

Impacts of TROA

Schank: No.

Seney: Was it longer?

Schank: The old, the old Truckee River Agreement was, I'm going to say it was probably thirty pages. I don't know whether—I thought I had a copy here. I have a copy in the other room. (Seney: Yeah.) But, no, the, well I take that back. The Truckee River Agreement may not have—no it was. It was longer than that.

Seney: Was it?

Schank: It was, yeah, it was longer. And, I may be, am exaggerating, it may have been only twenty pages, but it surely—and it was hard enough to understand.

Seney: Yeah. Right. I agree.

Schank: But, it surely wasn't anything like this present one is.

Seney: Right.

Schank: And, I'll be honest, and I told you on the telephone, I have not read it. I've read bits and pieces over the years. It has supposedly been changed considerably. I don't even have a copy of the last draft. It is available.

Seney: Oh, I'm sorry. I had an extra one. I should have brought it to you. (Laugh)

Schank: Well, it is available. They have one at the office, and if I wanted to go read it I could, but I just . . .

Seney: Well, you can download it off the Internet, actually. Yeah.

Schank: I know you can do that too. To be honest, I just have, I have not had time.

Seney: Right.

Schank: I have, my energies have been channeled into other areas.

Seney: I don't [think] there's that much a point in you reading the whole thing in any case.

Schank: Yeah. I mean, I basically, I know this, that the, the, at least as I see it, the Truckee River Agreement is an agreement between the parties that have worked it out. And, we tried to be involved.

Seney: Let me change the tape, Ernie.

Schank: Okay.

END SIDE 2, TAPE 1. APRIL 27, 2004.
BEGIN SIDE 1, TAPE 2. APRIL 27, 2004.

Seney: His ranch in Fallon, Nevada. Today is April 27, 2004. This is our fourth meeting, and this is tape number two.

Go ahead Ernie.

Schank: Okay. I was talking about the TROA.³⁵ My perception of the TROA is this, that is a

35. "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 as a whole....

"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 (continued...)

method that parties other than the Truckee-Carson Irrigation District, and for various reasons we were not really wanted, and although we were given the opportunity, when we tried to put input in it was not considered in a part of the TROA.

Seney: Why weren't you wanted, do you think?

Schank: I don't know. I know that they like to, they like to use the story that we walked out of it, and that's not true. And, we actually sent somebody for several years, and he tried to be an active participant.

Seney: That was Russ?

Schank: That was Russ Armstrong [spelling?].

Seney: Russ Armstrong [spelling?].

Schank: And then we also, Dave Overvold, after Russ left, and Dave became involved. Of course, Dave had been involved from the Bureau side beforehand. And, we tried to utilize him, and sent him a few times with some others, and they just, they just didn't want our input. And, you know, it's hard to sit here and say, "Well, prove it." You know, you say, "Prove it." Well, you know, you can tell (Seney: Sure. Sure.) when you're in a place, and they laugh or make light, or don't include those kinds of things. And, I think it was very clear that the United States had put themselves, or taken on the responsibilities, all of a sudden, to speak for us. And I think that was kind of the attitude, and that, you know, it didn't matter what we thought anyway they were going to do it. So, that's kind of, that's kind of, you know, where I see that we're at. As far as where they're getting water in order to make a new operating agreement, and to divvy it up, and to decide where to store it, I think it's clearly the water that, and I don't know whether the right word to use is "taken," but it's clearly the water that they've been able to scrape up as a result of an OCAP, and of the OCAP. And, whether or not, in the end, it is legally their water to do so, I guess only a federal judge in a federal court, and maybe ultimately the Supreme Court, will have to decide, because in my, in my mind it is water that has already been decreed. And, I don't know whether it's really their to do what they think they're going to be able to do with it. But, I guess, time will tell.

Seney: You know, I've heard the, because I have talked to other participants in it, and some of them are concerned, many of them actually are concerned, "What are we doing here and doing all this negotiating, because when it's all said and done the district is going to file a lawsuit, and they were parties to the first one and they're not parties to this one?" And that that, in their minds, at least the people that I, that referred this to me, it was a kind of substantial legal problem. I mean, I don't know if it is or not. But, have you guys decided what you're going to do?

35. (...continued)
Agreement," https://tmwa.com/water_system/settlement/. (Accessed 2/2016)

Legal Ramifications of the TROA

- Schank: Well, in all honesty, as I told you on the phone we haven't.
- Seney: Yeah.
- Schank: I, you know, and I'm not saying we will sue them. I'm not saying we won't. It might turn out that that's our only, our only recourse, because as you know, Don, and as I know, the Supreme Court already settled the fact that the Orr Ditch Decree could not be reopened.
- Seney: Yeah.
- Schank: And so I guess the question, in the end, when all the minutia is pulled away, and all the politics is pulled away, is the TROA really an effort, disguised effort, to reopen or reallocate water that was allocated in the Orr Ditch Decree in 1944. And a decree in which went to the Supreme Court, in the case called the *Nevada v. U.S.*, and the Supreme Court said it couldn't be done in 1983?
- Seney: Right. It's final. That's it.
- Schank: It's final. And so, you know, that's really, in my mind, the nuts and bolts of this. And, I don't know, in the end . . .
- Seney: Because, it does make modification to the Orr Ditch Decree, doesn't it?
- Schank: It does. And there is no doubts. There is (Seney: Yeah.) no doubts. And that's, you know, when you, what gave them the authority to even begin to write a TROA? Well, the authority come from the 1990 Settlement Act, and it told them, or authorized—maybe that's not the right word. In the legislation it said that a new TROA should be negotiated.
- Seney: Right. Right. Well, it requires it, really.
- Schank: It required it. Okay, that's the word I want. It required.
- Seney: And everybody has to sign off or they don't get certain benefits from it?
- Schank: Exactly. Exactly.
- Seney: From the act?
- Schank: Exactly. That's exactly right. But then, it says [beeping] in the, I think—excuse me, if you would.
- Seney: Sure.
- Schank: Oh shoot. That was our lobbyist from Washington, D.C.

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- Seney: Ah.
- Schank: Let's see. Where were we? We were, we were on—I lost my train of thought.
- Seney: Yeah. I did too, as a matter of fact. There's nothing like a cell phone beep to . . .
- Schank: We were talking about the Orr . . .
- Seney: Ditch Decree.
- Schank: The Orr Ditch Decree.
- Seney: And reopening the Orr Ditch Decree. Oh no. We were talking about the Settlement Act, the interlocking parts of it.
- Schank: That's what I was talking about.
- Seney: Yeah. Right.
- Schank: The Settlement Act . . .
- Seney: I'll edit all this, don't worry. I'll edit all this out.
- Schank: Although the Settlement Act told them that they needed to negotiate, and if they did the certain thing, (Seney: Right.) benefits would come as a (Seney: Right.) result of it. It also, I think, in a couple of places specifically says that, "The Orr Decree, which includes the original Truckee River Agreement," (Seney: Right.) there's no "operating," it was just "Truckee River Agreement, is not to be disturbed."
- Seney: That's right. It refers to all the decrees that way.
- Schank: It does. And so it's, again, maybe the only person that is going to be able to decide is a federal judge, and maybe ultimately the United States Supreme Court, because in my mind it's a little bit like Adam and Eve in the garden, (Laugh) they were told to do one thing, and they were told they couldn't do another. [Aircraft noise] And, you have two things here that you're told to do, and if you do one, if you, in my mind, if you put in the Truckee River Operating Agreement as I think it's written it is going, it is going to change the Orr Decree of 1944, which the Supreme Court said, "No," and which the 101-619, the Settlement Legislation, also says you can't change. (Seney: Right.) So, I don't know.
- Seney: Yeah. Yeah. I don't either.
- Schank: Maybe, maybe it's, I'm being a little facetious here, but maybe it's something just to keep attorneys in full employment? (Laugh) I see Don is shaking his head. That will be edited out. Don is shaking his head.
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Seney: No. No. I'm just shaking my head "yes," but that will be edited out. (Laugh) No, I think, you know, I have been told by, let me say this, that I have been told that some of the attorneys were responsible for prolonging this, the ones who tended to be privately hired were, by as much as four years. (Schank: Yeah.) And, because it was a huge process. What did it last? Twelve years, something like that? (Schank: Well.) Ten?

Length of Time Attempting to Resolve Newlands Project Issues

Schank: Yeah. It, I mean it started, the talks started shortly after the . . .

Seney: By '92, I think they were underway.

Schank: Well, but they, yeah, they started shortly after the legislation was signed in December of 1990.

Seney: Yeah. Yeah.

Schank: And, of course, part of that was the preliminary settlement, which had taken place prior to 1990, (Seney: Right.) and in that preliminary settlement I think there was envisioned that there would be some kind of a permanent settlement. So, so, in reality, they've probably gone on for longer than twelve years. But, I mean, after the legislation, yeah, (Seney: Yeah.) at least twelve, (Seney: Right. Right.) and really maybe it's been more like fourteen years.

Seney: Well, that was the incentive for the Sierra Pacific Power and/or it's successor to sign the TROA, was that that would implement the Preliminary Settlement Act.³⁶ And, of course, the same for the tribe, plus development monies (Schank: Sure.) were also the other half of the development monies that they were promised under the act, dependent upon their signature. And, Nevada and California got the interstate allocation, which Nevada very much wanted, and I think California was willing to go along with for a whole variety of reasons, having more to do with Southern California, apparently, and what goes on at Hoover Dam than anything that happens in the north. But, so, well, that's an interesting perspective. Anything else you want to add about the TROA, Ernie?

Schank: Well.

36. "An agreement reached between the Pyramid Lake Paiute Tribe of Indians and Sierra Pacific Power Company (SPPCo) on May 23, 1989. The Preliminary Settlement Agreement provides SPPCo the ability to store its water rights in federally operated reservoirs along the Truckee River in California at times when it is not needed for municipal and industrial (M&I) water supply in the Reno-Sparks Metropolitan Area. In exchange, excess water in storage is used for fishery purposes when drought conditions are not in effect. Also, SPPCo forgoes its right to single-use hydroelectric flows in the Truckee River under the Orr Ditch Decree (Nevada and California), thereby enabling the United States and the Tribe to store water for fishery benefit at certain times of the year. The PSA is incorporated into Public Law 101-618 (the Negotiated Settlement) by reference." See Ecology Dictionary.org, "Preliminary Settlement Agreement (PSA) Nevada," [http://www.ecologydictionary.org/PRELIMINARY_SETTLEMENT_AGREEMENT_\(PSA\)_\(Nevada\)](http://www.ecologydictionary.org/PRELIMINARY_SETTLEMENT_AGREEMENT_(PSA)_(Nevada)). (Accessed 2/2016)

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- Seney: That's exactly what I was looking for, by the way.
- Schank: Yeah. And I, I don't really know what I can add, Don.
- Seney: Okay.
- Schank: Because I'm, I'm, I'm probably more ignorant than I ought to be of its content.
- Seney: Well, that's not so much what I'm interested in, from you as President of the Board. I'm interested in exactly what you had to say about it, and that is the broad overview, and that was very useful, and insightful, if I may say so. And, because I know this is the kind of thing that you guys have been talking about, and I want to appreciate what your perspective, and we want to get it on the record what your perspective is on this. And, so that's good. But, do you think that's about it then, Ernie?
- Schank: Well, I, I would say this, and this is in the form of a personal commentary. It goes back to some things that I mentioned, and it may have been on the tape, and it may not have been on the tape before, in some of our preliminary just sitting here chit-chatting. But, we entered into, and I guess in terms of years—the years are starting to melt together (Laugh) so that says something about my mind.
- Seney: I know that feeling.

Opening Negotiations with the Pyramid Lake Tribe

- Schank: But, I'm going to guess it was right around the 1996 era, because it was about the time that we negotiated the new contract with the Bureau, but Ted and I, Ted de Braga and myself, with the prodding of Pete Morros who was then the Director of the Nevada State Division of Conservation and Natural Resources Department, knowing that the 1994 second-generation negotiations had in, I won't say they had failed, but they had failed in light of what some people wanted to accomplish. He felt that maybe, if he could get the tribe and us to sit down together that maybe we could make some headway. And one of the things that we really worked on, in that set of negotiations was—and I think it's, I think it's, I think it is one of the few common-sense approaches that had ever been taken. But, again, when you start to get attorneys involved, they just say, "It can't happen," or maybe it's they don't want it to happen. But, I envisioned that, and this is what we worked on, that we could, that we could maximize the Carson River, in terms of this project, and minimize the Truckee River. If we could change the storage, the storage regulations, and that might not be the right word, but change the storage criteria and the use of . . .
- Seney: You're referring to Lahontan?
- Schank: I'm referring to, I'm referring to the, the reservoirs on the Truckee River.
- Seney: Yeah.
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Schank: If we could change their usage. This is why the Indians had to be involved in it, because one of the major reservoirs is Stampede Reservoir, where there is the capacity to hold considerable amount of water. But, the whole process would have changed the way that we stored things, so that in just a quick overview, Lahontan Reservoir storage would take place not only in Lahontan, but it would take place in some of the upstream Truckee reservoirs. And, during times when we would traditionally bring water down here, because we don't know what the season is going to be, we don't know what the runoff is going to be, we would actually leave the water up there. And, when you totaled the storage capacity of Lahontan, it would be the storage of what was in Lahontan, and it would have added to it the storage that was in, wherever it was, whether it be Lake Tahoe, or Prosser Creek, or Stampede, or Boca [reservoirs]. And then once it reached the level of spill, which would be either 295 or 317, depending on Lahontan, whether it has flash boards or not, but when it reached that level then anything that spilled would be just like it's spilling out of Lahontan, except it was in the Truckee River. So it would spill to Pyramid Lake, and they would get the benefit of anything over the capacity of Lahontan, but that it would protect us in drought situations if we needed the water then we could bring it down. If we didn't need the water, it was there. It would change [revving engine] or would have the potential in some respects you would probably have to change the Floriston rates, there would have to have been some modification, which there is in the TROA, (Seney: Right. Right.) the proposed TROA. (Seney: Right.) Because, we would not [revving engine] be diverting the same amount of water at some times at Derby Dam that we now divert.

If there was an opportunity, particularly this time of the year, to keep our water upstream, we would only have to divert enough to take care of the Truckee Division, which is Fernley and Hazen, and Oswego Bench. We wouldn't have to be bringing water into Lahontan. If we needed water later in the season, we could bring it into Lahontan. Now, that would do a couple of things, in a water-short year. It would give Reno and Sparks the opportunity to use it, and then, of course, put it back. It would also keep the Truckee River flowing at times when there might not be much water. And so, it would have been a real benefit, (Seney: Yeah.) to both of us. It also would have allowed, I think, to put some hydro generators on the Truckee Canal, and that water that could be brought down later, we would not need and would eventually go to Pyramid Lake, could have been run through hydro generators and it could have been a partnership between us and tribe which would have improved relationships.

I just think there was a lot of things (Seney: Yeah. Yeah.) that could, that could have been done, and would make it so there didn't, wouldn't have to be the TROA like we have it now. For instance, it was our vision that if we could make something like this work, that we would have built into it certain regulations or certain triggers that, if Washoe County, or Reno and Sparks, needed the water, because of a drought, that we would sell it to them, and then that, the monies from that water would be distributed to those down in this area that chose to fallow ground in drought situations. And so it's something that could have really worked. But, we never could get that far with it.

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- Seney: What did the tribe interests seem to think about it?
- Schank: Well, I think, I think that there was interest from the tribe. We had Mervin Wright and, this is where you can't remember stuff when you get old age comes about. The former, who was the, maybe you remember his name?
- Seney: I'm struggling with it too. He succeeded Mervin, didn't he?
- Schank: Well, he actually was before Mervin.
- Seney: And then after Mervin?
- Schank: Then he was after Mervin.
- Seney: Oh.
- Schank: And I should know.
- Seney: Oh, I know, me too.
- Schank: I should know him. I know his . . .
- Seney: Harry. Norm Harry.
- Schank: Norm Harry,³⁷ that's right. (Seney: Yeah.) I know him as well as we're sitting here.
- Seney: Yeah. I've interviewed him a couple times. Yeah.
- Schank: But, Norm and Mervin were very involved. And, I think that there was, this is my take, I think that there was, I think that they saw the potential of it, but I think it's a situation where sometimes common sense is overruled by legal minds and attorneys.
- Seney: Did Pelcyger put up roadblocks?
- Schank: You know, I can't sit here and say for sure he did, but I know that there was roadblocks put up. (Seney: Yeah.) And I think that even from some of the federal people who were involved in the TROA that there was roadblocks put up. In my mind it was a way, a simple way, that we could have solved a whole lot of problems without having to enact a whole bunch of new regulations on a river system (Seney: Right. Right.) that is already highly over-regulated.
- Seney: Right. Right. It's interesting. But once, how was, what was Pete Morros's attitude toward these initiatives and these ideas?

37. Norman Harry was Chairman of the Pyramid Lake Paiute Tribe and participated in Reclamation's Newlands Project oral history project. See Norman Harry, *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, 2012, www.usbr.gov/history/oralhist.html.

- Schank: Well, I think Pete, I think Pete was very favorable. I think that we went into, we went into those negotiations with a very open-type agenda. I mean, "What are some things that we can do to solve some of the long-term problems we have had?" And, I think that Mr. de Braga and I, with some support—and I say that because both of us agreed initially that whatever was settled upon would have to receive the ratification of both sides. And so we, although I don't think we just took carte blanche liberty, we worked with the T-C-I-D, and at that time I was probably the president, or at least I was on the Board of Directors of the Newlands Water Protective Association, and so we did. We didn't do anything, or propose anything that we didn't think would be accepted or at least have a high, you know, degree that it would be accepted. But I think we, I think we went to those talks initially and laid things on the table that could happen, and that we thought were realistic. And, we did at one time involve modelers. We got permission to use Sierra Pacific's modeler, who was Rod Hall [spelling?], and he participated in some of our discussions, and did some modeling to show that some of the things that we thought could happen really could, really would work. And, in the nuts and bolts of that, and the things that we were talking about, also included the fact that if we didn't need the waters that we owned in Donner Lake, that the tribe would be able to receive those. And so, I think it was something that could have worked had it got to a point where, well we really could have, you know, started looking at it in terms of what we already have legally.
- Seney: Yeah. Right.
- Schank: But, we didn't get to that point.
- Seney: No.
- Schank: And I think, I think, I think Pete was very disappointed. What happened, what happened basically was we come up with these concepts and then we did bring the government in. We did bring the Disheroons, and the Pelcygers, and the Bettenbergs, and that's where it just kind of died, when we brought them in. It just kind of didn't go any further.
- Seney: That's too bad, huh?
- Schank: Well, it is.
- Seney: Yeah.
- Schank: Because I think it would have been a concept that was worth looking at.
- Seney: Right. Right. Anything else on the TROA?
- Schank: That's, that's all I can think of right now.
- Seney: Okay. What about a couple of words on A-B [Assembly Bill]-380?

Assembly Bill 380

- Schank: Okay, A-B-380 was something that, a concept, that I have advocated for years. And, the basic concept was this, if the United States and the tribe, and either or both of their agents, whoever they might be, whether it be environmental groups or political action groups or whatever it, whatever it is that's behind it, was going to continue to fund litigation which would keep the water users of this project from using their not only decreed rights but the water rights that they had bought and paid for, if they were not going to allow them to use them, then there needed to be some way that these people, if they wanted to get out of litigation and wanted to get out from having to pay the annual operation and maintenance charges, that they could do so gracefully and receive the value for what they had invested. And so that was the basic idea. And, Marcia de Braga,³⁸ at the urging of some from T-C-I-D, and Newlands, and the city of Fallon, principally Mike Macadon [spelling?] . . .
- Seney: The city attorney, isn't he?
- Schank: He is the city attorney. (Seney: Right.) But, she, at least began the process. And I don't—you'd have to interview Marcia to really understand, but I think it actually, probably in the end, did not come out entirely the way that she had envisioned. But in the end it was a mechanism wherein the federal government, the state of Nevada, and Sierra Pacific Power put money into a fund which would allow people, if they chose to sell, and I guess that's the best word, but to sell into this program their water rights. Our idea was it would be the water rights that were challenged, that had legal challenges, that if they were going to be able to use them ever they would have to spend considerable sums of money to prove that they had not abandoned or forfeited them. And, that's really what it was. Everybody finally, in the end, came together at, it was a long, long, long battle. It took the direction and the guidance of Mike Macadon [spelling?], of Marcia (Seney: Well, let's back up a minute.) of Marcia de Braga. Okay.
- Seney: We've left, we left out something essential here, Ernie, and that's the gun you put to the head of Sierra Pacific Power by filing lawsuits about water transfers in the Washoe (Schank: Yeah.) Valley, wasn't it? That's what got things moving here?
- Schank: Well, yes.
- Seney: I bet when I said to you, "I thought you guys were very clever about that," that's what I was talking about, (Schank: Sure.) that you precipitated this by . . .
- Schank: Well, and that was, that was really Mike, Mike Macadon [spelling?], [squealing noise] and Churchill County's doings, is because their, [squealing noise] and it's

38. Marcia de Braga served in the Nevada State Assembly and was a long-time resident of Churchill County. Ms. de Braga also participated in Reclamation's Newlands Series oral history program. See Marcia de Braga, *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, 2011, www.usbr.gov/history/oralhist.html.

(Laugh) it's been so long ago now again, [squealing noise] my memory, my memory is failing me in some aspects.

Seney: We should say that was your cuckoo clock.

Schank: That was my cuckoo clock. I guess basically what happened was, the state engineer was not allowing us to transfer certain water rights under rules and regulations. And then all of a sudden Sierra Pacific Power Company was allowed, or was trying to transfer the same kinds of water rights on the Truckee River that for years and years, in fact perhaps in a lot of instances for longer than they had alleged we hadn't used our rights. Ours were not used because of government intervention and regulation, and court litigation. Theirs were not being used because of development, and they had just never been transferred. And so, some of our people figured that, "What's good for the goose is good for the gander," and if we weren't allowed to transfer and utilize these water rights, they shouldn't either. And so that's exactly what happened. And, in the end, to make a long story short, they agreed not only to put up some money, but they agreed to release their protests on some of our transfers if we would agree to release our protests on their transfers. And that was kind of what finally allowed this A-B-380 to (Seney: Right.) be enacted, and to move into place, and get all the players involved (Seney: Right.), including participation and support from Senator Reid's Office.

Seney: And get you guys out from what had been a real irritant and a headache, (Schank: Yeah.) and that was all these suits filed by the tribe (Schank: Yeah.) to stop you from transferring water rights.

Schank: Yeah. And it, you know, I have to say I don't think that it's going to be entirely successful. But for those people who have chosen to be involved in it, it has been a success and has relieved them from the cloud of litigation that has hung over their heads for a long time. And I'll say, you know, for purposes of history, I participated in a small part in that. I had probably a total of ten or twelve acres that was in that category, and a lot of it was in that category simply because of an engineering mistake made by an engineering outfit that did my original transfers, or otherwise I would have had mine all settled long before it. (Seney: Right.) But, it got, it got caught in the web of suit, and cross-suit, and appeals, and cross-appeals, and all of this stuff. And, you know, we talk about 1984 is when a lot of these date back to, but they really date back further than that. They really date back, some of them, into the '40s and '50s, that people have not been able to transfer water. And so its given them an opportunity, if they wanted to participate in this program, to get paid a fair market value to get out from the litigation. The district, to some extent, we were supposed to be kept completely whole. I don't know that we have. But, the O&M was paid, and hopefully we will be able, in the end, to invest the money and so that it will pay the O&M in perpetuity, so that the district doesn't suffer because of the loss of these rights. And these rights are then abandoned into the 380 Program, and that's where they will stay from now on til ever, I guess.

Seney: Let me turn this over.

END SIDE 1, TAPE 2. APRIL 27, 2004.
BEGIN SIDE 2, TAPE 2. APRIL 27, 2004.

- Seney: Again, I was told that this was a, was considered principally by Sierra Power people to be a very elegant play on your guys' part. They didn't like it, but they respected it, and you got some considerable respect and political mileage out of it.
- Schank: Well, and I think most water bills, they will tell you that it takes several legislative terms to get them through, because it takes getting people signed on board. And, there was some action to take care of these kinds of things that was proposed by Sierra Pacific, and also perhaps by some of the governmental agencies in Washoe County, and they actually [aircraft noise] did not make it, and this bill did. And so, yes, in the end it probably was a, what's the word? A "legislative political public relations feat" that most people would not have given much opportunity to have happened but did.
- Seney: Well, I think too, we need to credit someone who is not often thought of as a friend of Truckee-Carson Irrigation District, and that's Senator Reid? Apparently he inadvertently gave it a big boost by coming down heavy on people, and they didn't like it?

Senator Reid's Involvement in AB-380

- Schank: I don't think that that's the case. (Laugh) I think that Senator Reid was also caught in this web, and I think—and when I say "caught in the web," I think that, I think that there was some people in the legislature that had to twist his arm considerably to make things happen. I'm not convinced, and that's why I think we better put a hold on these tapes for a few years. (Laugh) But, I am not convinced that he willingly participated in 380.
- Seney: No. The point I was going to make, and this comes from people close to him, who worked with him, for him, with him, that he really didn't want that legislation, and he went down and twisted arms to the point of nearly breaking them, in the process made these legislators angry and they went the other way.
- Schank: Exactly. You have, you have it. (Seney: Yeah.) You have it. He actually twisted them not to, (Seney: Right.) and in the end, in the end he was made to have to by people from his own party.
- Seney: Right. Right. Exactly.
- Schank: Yeah.
- Seney: Exactly. Yeah. Anything else you want to add?
- Schank: And, I would hope, I would hope (Seney: Sure.) in retrospect, because I have to say Mary Conelly, who is his state director here in Nevada, I think has been very

instrumental in getting us in the 380 to where we are. To the point that she has even, I guess the word would be "renegotiated" at least one aspect of that, and that is the money that we would get out of this and how it would be paid. And, she has made a real effort to help us to be made whole in this process. And, I have to give her a lot of credit. So, I would hope that, in retrospect, if Senator Reid were to sit down and talk to you, that he would say perhaps he didn't support it in the beginning, but now he does see that it's a useful thing, and that he's glad that he was involved in it. I would hope that would be the case.

Seney: Right. Right. Well, I know she was helpful in getting money, apparently, to us (Schank: Sure.) from him, through him?

Schank: She was. Right. She was.

Seney: Right. Yeah. Anything else you want to add on any of these subjects? The TROA? Or . . . ?

Schank: No. I don't know how much more time you want to take?

Seney: Whatever you like.

100th Anniversary of the Newlands Project

Schank: I would like to say that one of the things that I was really excited about when I became the president of T-C-I-D was that I would be the president when the project turned 100 years old. And, of course, I got, I was able to be involved. I was invited by the people who were responsible for organizing the big Reclamation celebration at Hoover Dam, on the 17th of June, 2002. I was, I was, my wife and I were given the opportunity to attend and represent the Truckee-Carson Irrigation District, and to represent the Newlands Project. Incidentally, in the speech that the Commissioner gave at that event, you might remember Don, he recognized us as the first project.

Seney: He did.

Schank: And, that Derby Dam was the first constructed portion of our project, the first dam actually built under the 1902 Reclamation Act. I was able to be involved in that. And then we had a community celebration that started with a kickoff to coincide with the June 17 anniversary of Reclamation, and lasted eighteen months, to the end of December of this last year. We had congressional picnics. We had the university, or the museum put on a series of lectures to commemorate the Newlands Project. We participated in parades. We participated in a dinner as a part of what they called Ag Expo, with the Farm Bureau and with the Newlands Water Protective Association, to honor all the past boards and particularly those living board members, who are still alive. Had a really nice formal event, and honored them, and gave them—I've got one in the other room I'll show you, but gave them a three-inch piece of the stem that come off of Derby Dam, one of the gates at Derby Dam. In the process of remodeling Derby, we took off all of the old original stems

and put new stems on. And so we cut those and mounted them, and gave those to each of the directors who are still alive, that have served on the board, and also have given them to many other people, our congressional people, and governors, and those kinds of things in the state, people that we wanted to feel a part of our celebration. (Seney: Right.)

And then, we, on the 14th of March of 2003, we commemorated this project by reenacting the dedication of Derby Dam, which took place on June 17, 1905. We were able, through some of the state historical people, to find the original verbatim transcript of the talks and speeches given that day. We were able to identify all of the people that were in attendance, all the congressional people, and all the other V-I-Ps. We reenacted that as closely as we could to the way it was presented originally. We had people play the parts of all of those individuals. We, I, myself, played the parts of Francis Newlands. We dressed in costumes of the period. We had the reenactment, and then we went up and we christened the dam. A local lady, Bonnie York [spelling?], whose grandfather Lameul Allen was the Lieutenant Governor of Nevada, and was at that event in 1905, she played the part of Mrs. Newlands, and she christened the No. 3 gate on the canal side, with a bottle of white champagne, just as was done originally. And then when we got done with those festivities of lowering the gates on the river and opening the gates on the canal, we went back and we had a modern celebration and we, I gave a little talk. And, we asked the Mayor of Fernley and the Mayor of Fallon, and Betsy Rieke, and the state engineer to each give some remarks, as well as Lyman McConnell [spelling?] the Project Manager, present Project Manager. And, we had a wonderful time. I still get a lot of feedback, positive feedback. It was an invitation-only event. The Bureau of Reclamation had some, had some misgivings about us doing it. They felt that with all the political and litigation stuff that's going on, and gone on, that they didn't want us to do it. In fact, I was pressured by high-level people not to do it.

Seney: That seems strange to me.

Schank: We, we assured them that it would be, that it would be an invitation-only event, that we were not rubbing anything in the face of the Indians, that we were simply celebrating something that we thought was valuable in terms of history in this country. And that we were celebrating what our pioneer forefathers did, that was magnificent in terms of engineering when you think of what they had to do it with, and the kinds of tools they had to accomplish this great feat. And, when that assurance was given they allowed us to go ahead and have it. And so, in terms of inviting a lot people, we were low-keyed. I think we probably sent out 200 invitations. I think there would have been a lot more people attend had it been opened. A lot of people wanted to come that didn't, and couldn't. But, it was a very successful thing, and I've had a lot of positive comments from people who were there, that they really appreciated and it helped them to understand this project, and what people went through to build it, in a way that they never would have had we not had that reenactment. And so that was a, that was a wonderful thing. And if I could, you know, if the six years that I've spent thus far as president, if I could pick out one thing that I would have to say was a highlight, it would have had to have

been that day. It was a cold, blustery day, and we had to change some things at the last minute that we had intended to do.

We had intended to have the speeches over where they were originally held, on the bank between the canal and the river. But because the folding chairs were being blow over by the wind, that's how gusty the wind (Seney: Oh.) was that day, we actually had to hold it down kind of under the protection of the bank and the dirt dam that extends northwestward from the concrete Derby Dam structure. We found a place down there where it kind of protected us so the wind would blow over the top of us, and we were able to set our chairs up. So, other than that we did it just as it was originally. But . . .

Seney: Well, the pictures you showed me are wonderful.

Schank: It was, it was (Seney: Yeah.) a wonderful event. It was a fun event, and it was a historical event. And, I would have to say that if that was, you know, if I had to choose one thing, I would have to say that's what it is. We've had lots of other things go on in the last six years. We didn't even talk about the 1968, end of the lease, which ended in 1998, of the power generation (Seney: Right. Right.) facility with Sierra Pacific.

Seney: Well, go ahead, if you'd like to say something about that.

Returning Management of the Hydros to the District

Schank: Well, I don't, I don't want to say a whole lot other than we could spend three or four hours on that. (Seney: Right.) It became a very political thing. And, something that we had once operated, and had been very successful at, was taken to the Public Utilities Commission and we were, we were basically barred. We could have spent years in court, but we chose not to, to get our power system back so that we could operate it. In the end, we did get the hydros back, and we . . .

Seney: You just signed a new contract for that haven't you? Or done something along those lines?

Schank: No. No. We, what we did was we got, we had four hydros. Three of them actually belong to the United States, but under our operating agreement and contract, we operate them. We call those Old Lahontan, and there's three old Pelton hydros that can make about 1.5 megawatts. And then we had two hydros at the twenty-six-foot drop, which is on the V-Line Canal. Each of those make about, about I guess, about 250. So there's another half megawatt, if you can run them, you know, at capacity. And we did get those back. Those were not in the new lease that we (Seney: Yeah.) that we wrote with Sierra Pacific. And so we have been in the process the last five years, six years, of refurbishing those. And we just completely finished that process. All five hydros are in tip-top shape. We put new runners, which is the water wheel, in all of the ones at Lahontan, just completed the last retrofit this year. And what we did do this year was we bought our partner's interest in New Lahontan. So, T-C-I-D now either owns or controls all of the hydro generation

coming out of Lahontan Reservoir. And. . .

Seney: Does that bring you some income, I would think?

Schank: It brings us some income. Of course, now, we've got to pay the debt off, (Seney: Right.) but it has a potential of helping to act as a hedge against inflation on our operation and maintenance costs. And that's why we did it. We're excited about that. So, lots of things have happened in six years. (Seney: Right. Right.)

Final Thoughts

And I must say, I was talking about the celebration, the last thing that we did was with the help of the Nevada State Museum, and a guy by the name of Bob Nylen [spelling?], who is very into the history of Nevada, he suggested that we mint, or strike, a silver dollar commemorating the Newlands Project, and the 1903 Centennial, in a silver dollar. And we struck a silver dollar, a limited edition. Well, I won't say limited. We own, we struck I think 400 pieces, which on one side have the great seal of the State of the Nevada, and on the other have a depiction of the spillway at Lahontan, which note that we're celebrating the Centennial, and it was minted on the original Carson City Mint that minted the famous C-C [Carson City] dollars, and, it bears the C-C mark.

Seney: Oh.

Schank: And that, we did that in December, and that was our last official celebration for the 100th Anniversary of this project.

Seney: Well, you guys had quite a string of celebra—very clever stuff. Yeah.

Schank: We had, we had, we had a wonderful time. Wonderful time.

Seney: Yeah. That's great.

Schank: So, I guess, in a nutshell, that kind of brings you up to date.

Seney: Alright. Well, I'll be talking to Lyman [spelling?], so maybe he'll talk some more about the power business, and add his perspective, and so forth. Well, as always, Ernie, I thank you. It's great to see you again, and to talk to you. And, thank you.

Schank: Well, I appreciate the time, Don. (Seney: Oh.) You, I don't whether the reader of this oral history will, will see what I feel, but I feel a lot of passion for this project. I have a lot of passion for this project. A lot of it because my ancestors came early in the scheme of things. I've been here my whole life. My father's been here his whole life. I love history. And, I, just as I've gotten older, I have really come to an appreciation of what these early people did, and the vision that Francis Newlands and Powell, [John] Wesley Powell had, and a guy by the name of Leon Taylor [spelling?], who was, who worked before the project was ever authorized, under the

guidance of Francis Newlands, to lay out things, and then became the Project Engineer. I think he was that, he was the Project Engineer and the Construction Superintendent until 1906 or 1907. But, I just, I've really come to appreciate the vision that these guys had. And, it wasn't an easy thing to have this kind of a vision, and then sell it, (Seney: Right. Right.) and get the funding, and then see it happen. And although it probably didn't turn out a hundred percent the way they wanted it to, to see what it blossomed into when it was magnified three hundred and some times, and when you really sit down and you say, "What would have this country been had the use of the natural resource of water not been harnessed? Could have this nation become as strong as it has, had we not developed our natural resources?" And, of course now, we see it almost going the other way where some people want to dismantle the use, the wise use I say, of renewable and natural resources. But, I'm just, I'm amazed every time I think about it, and I just, I have a great respect and a great reverence for those people who sacrificed, and many times gave their life, so that we can have some of the things that we have in this country, and in the West, and in this area. And, I guess, with that, I will conclude and thank you for your time, and for your participation.

Seney: Thank you, again, Ernie.

END SIDE 2, TAPE 2. APRIL 27, 2004.
END OF INTERVIEWS.