

ORAL HISTORY INTERVIEWS

**Roland Westergard**



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Interviews Conducted by:  
Donald E. Seney, California State University-Sacramento  
Bureau of Reclamation  
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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 struck-out material is readable.

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

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

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

## Introduction

In 1988, the Bureau of Reclamation created a History Program. While headquartered in Denver, the History Program was developed as a bureau-wide program.

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

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

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

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

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For more information about Reclamation's History Program see:  
[www.usbr.gov/history](http://www.usbr.gov/history)

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**Oral History Interview**  
**Roland Westergard**

Seney: Today is October 14, 1994. My name is Donald Seney, and I'm with Roland D. Westergard at the headquarters of the Department of Conservation and Natural Resources, in Carson City, Nevada. Good morning Mr. Westergard.

Westergard: Good morning.

Seney: Why don't we begin by having you tell me about your family, about your mother and father. Are you a native Nevadan, by the way?

**Family and Early Life**

Westergard: I'm a native Nevadan. My folks were born and raised in Lovelock.

Seney: So, they were native Nevadans?

Westergard: No, I was born and raised in Lovelock.

Seney: Why don't you mention your birth date, just so we have it.

Westergard: April 6, 1934, born in Lovelock, Nevada. My folks were from Denmark originally and immigrated to this country and spent about a year in the Midwest where some of their family members had preceded them in coming to the United States. After about a year there, they came to Beowawe, Nevada, which is near Elko.

Seney: Why did they come to Nevada?

Westergard: They had worked previously in Denmark for the Dubourg (phonetic spelling) family who had a farming operation, as I remember, in Denmark and who had spread and acquired some properties in Nevada in Beowawe.

Seney: A prominent family I take it?

Westergard: Yes. My folks had an opportunity to begin work in Nevada. They had a job opportunity, is what it amounted to. And they took advantage of that and worked in Beowawe area for number of years.

Seney: What did they do there, what kind of farm was it?

Westergard: It's a ranching operation. That property is still a ranching operation today [1994].

- Seney: Cattle ranching, obviously?
- Westergard: Yeah. It was 1910 or '11 when they arrived in the Beowawe area.
- Seney: Forgive me. What does a Dane know about cattle ranching? Did your father have that experience before?
- Westergard: Yeah, he worked in a farming operation in Denmark.
- Seney: It must have been quite different. I would think, ranching and farming in Demark
- Westergard: Yeah, I'm sure.
- Seney: Did he ever talk about the differences?
- Westergard: They talked some, but I'm the youngest of seven children, and by the time I came along, they were really entrenched, of course, in the way of life in this country – not that the way of life itself was that different – but they made just a decision that when my oldest sister was born in the Beowawe area, that they were pretty much going to live by the social codes and everything else that existed here. Again, not that they were that much different, but even to the point that they stopped speaking Danish in the home and spoke exclusively English. Except, I guess, occasionally when they talked to each other.
- Seney: Maybe argue, huh?
- Westergard: (laughs) I don't know that they argued much. I'm sure that all married couples do a little of that. Again, by the time I came along, they joked between themselves about how they had really lost touch with the Danish language. I feel a little bad about that.
- Seney: Because you would have liked to have learned?
- Westergard: Often I think how nice it would have been learned that language. But that's how dedicated they were to making a home in this country and raising a family.
- Seney: And those were the reasons why?
- Westergard: And those were the reasons why. But anyway, they moved to the Lovelock Valley.
- Seney: Let me just stop and ask you about this decision to sort of “shed their Danishness.” Did they ever discuss that in the sense that it made life a little easier out here in Nevada as well, if they didn't seem so different.

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- Westergard: Well, there were other Danish people, obviously, in the Beowawe area, and later when they moved to Lovelock there were other Danish families. I think it made it a little easier for them. Obviously, they were in their early twenties and left family in Denmark. When they departed there, they probably thought that they would get back some day, which it turned out, did not happen. I'm sure it was very traumatic for them, as it is for anyone who makes that kind of move.
- Seney: Did they ever talk about Denmark?
- Westergard: Oh yeah, they talked about Denmark and their families some.
- Seney: What did they say, generally, about the differences between the two places?
- Westergard: Not a lot about differences, it was mostly related to family backgrounds.
- Seney: Talking about your grandparents?
- Westergard: Talking about grandparents, about aunts and uncles. And I may be getting ahead of the story here, but I think it's appropriate to say at this time. In 1957, I guess it was – I don't guess, I *know* on reflection – I was stationed in Germany in the service, and my wife and I had the opportunity to go to Denmark and visit some family.
- Seney: What was it like?
- Westergard: Oh, it was a fantastic experience! Of course, there were not a lot of the aunts and uncles left. There was an aunt, and an uncle – my father's sister and brother – and of course numerous cousins, second cousins. It was a fantastic experience to see where my folks were born and raised. As I said, we're probably getting ahead of the story here.
- Seney: That's alright. Tell me a little about your mom and dad.
- Westergard: *Very* dedicated to family. *Very* hard-working people. I think intelligent. I think that's an accurate reflection – not a lot of formal education. Very honest – integrity above reproach, as they say. If a handshake or a word means anything, it did to them, and they lived by that code. I feel a lot of pride just when I think about them, because they were such outstanding, fine people.
- Seney: What did you learn from them, do you think?
- Westergard: I think I learned some of those characteristics, and the importance of honesty and integrity, and the importance of family dedication and family allegiance. And I like to think that that's reflected in the relationship I have with my wife and my own children and grandchildren.
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Seney: You were born in 1934. What's your first memory?

Westergard: Specifically, its hard to say, but I think the first memory is the affection and love that I felt from my folks, and the support, even as a little guy. As I say, I was the youngest of seven, and the memory of patience that they had with me, because they were a little older by the time I came along. I loved the livestock on the ranch in Lovelock. I had a horse. Another early memory is the affection I felt for the atmosphere and of course the people, obviously, and then the related things around a ranch/farm setting.

Seney: (relates childhood memory) I tell you that to hope maybe it jogs your memory a little bit.

Westergard: Well, one of the first things, as far as specifics that I remember is standing at the back door of our home in Lovelock, waiting for the school bus to arrive, because my older brothers and at that time sister, would be arriving home on the school bus, and I can remember my mother in the background. I remember reflecting on "My mom is here, my dad's out in the field, and my sister's coming home." I guess that probably is the first real specific memory that I could relate to you.

Seney: And maybe looking forward to getting on that school bus yourself one day?

Westergard: Yeah.

Seney: Do you remember school?

Westergard: Oh yeah.

Seney: Getting on the school bus that first day and heading off to school?

Westergard: I remember getting on the school bus. One of my older sisters was like a junior or senior in high school, and I remember her being on the bus, and a sister just older than myself, and the comfort that that gave me, having them there.

Seney: You must have been the real baby of the family then?

Westergard: Yeah, I was the baby of the family. But an interesting reflection on that first day of the school bus: there was a young boy at that time, a junior or senior in high school whose mother who was a friend of the family and who my family, they also knew his father. I don't remember his father. But they lived on a ranch in Lovelock that the bus service also picked up, you know, picked up the children in the valley. And he was a friend of my sister's, and I recall him teasing gently, but I think positively and constructively too, not in a negative sense, just trying to make me feel the comfort of knowing that people were going to be friendly. And what's interesting about that, this particular individual was in the service and then went to college, and then went to medical school, and he's been the family doctor

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for my wife and me and my children – delivered our children here in Carson City. So that’s one of the nice things about Nevada. Even with the rapid growth that we are seeing, hardly a day or at least not a week or a month go by that we can’t reflect and seeing somebody that goes back to some of our earlier times in Nevada. And that’s one of the reasons that we continue to live here and enjoy living here – not that we would consider moving. (chuckles)

Seney: That’s a nice feeling isn’t it?

Westergard: Yes, it is.

Seney: Do you remember anything about your teachers and school and the impact it had on you?

Westergard: Absolutely. I remember them. I could go through them one-by-one. The first grade (Seney: Well, mention the important ones) teacher was an older lady by the time I came along. Her husband was a lawyer in Lovelock, and he was involved in some of the litigation involving water rights. You asked about my interest in natural resources. I can’t say that knowing that he was lawyer involved in water at *that* time, but on reflection I like to think that that type of thing generated interest. (Seney: Seeped in a little) Yeah. She was a disciplinarian, but a kind woman.

Seney: Did you need that discipline? What kind of kid were you?

Westergard: I don’t think I did, specifically, having the older brothers and sisters and having compassionate parents that I had. You know, I felt a responsibility to them to be the best I could be, and I know that’s sort of cliché and perhaps even used in advertising today. (laughter) But at that time, that’s what I wanted, I wanted to satisfy them, because I just felt so much love from and allegiance from them.

Seney: You [were] a pretty good kid, you think? (Westergard: I think so.) Not too much trouble for your parents? And anxious to please?

Westergard: Yes, I certainly was. And that first grade, the memory that sticks out there, of course I suppose programs are accelerated now, but I’ll never forget the teacher wrote the word “box” on the blackboard, and she said, “Does anyone know what I’ve just written?” And I’m not sure how I knew, but it was just kind of fun to think back to that day when I said, “box.” And she said, “How did you know that?” And I couldn’t tell her exactly.

But anyway, the second-grade teacher – let me just reflect on this for a minute – was a lady named Lena Delassandro [phonetic spelling]. The reason’s that’s important, the name not so much, but *her* parents were friends of my parents. Her dad and my father went deer hunting and all kinds of hunting together. But my wife’s folks now live in Lovelock and have since 1951. The

reason I relate this is because within the last two weeks, my mother-in-law called, and my wife's folks are in their eighties, and they're going to invest in purchasing a house in Lovelock – if you can image investing at that age. But what's interesting about it is that my second-grade teacher's parents had lived in that house. And here all these years later, my in-laws are purchasing that house that my second-grade teacher was raised in. Again, an indication of how paths continue to cross in the state of Nevada.

I could go through the fourth-grade teacher. She was a very attractive lady, was married to an Army officer.

Seney: This would have been during the war, by the [time] wouldn't have been?

Westergard: Yes, it would have been.

Seney: Not quite? Almost? Yes, it would have been.

Westergard: Yeah, it would have been. [The] sixth-grade teacher was a *real* strict disciplinarian. Again, by that time maybe I was a little more forward. But again, very effective. For a small community – and I don't know, maybe this is not unusual – but there was an excellent educational system, not only in Lovelock, Nevada, but in rural areas in Nevada. For example, when people from these various rural areas went to the university, they competed very well scholastically and otherwise. But that sixth-grade teacher sticks out in my mind.

Subsequently in junior high school, the principal was a man that is still well-respected and thought of in the Lovelock area.

### **Memories of World War II**

Seney: Let me just stop you for a second to go back to World War II. You were born in 1934, so you would have been seven, I take it, when the war began, and would have been about eleven or twelve when the war ended. Do you remember the war?

Westergard: Oh yes!

Seney: Tell me what your memories are.

Westergard: My two older brothers enlisted in the Air Force when they graduated from the University of Nevada in 1942. And I remember the trauma of their decision to enlist. But again, they had in their system, the same allegiance, I think, that my folks felt to this country, because they were treated well here, and they wanted to do their part. As difficult as it was, they did go off and both were in the Air Force. As it turned out, they stayed in this country the whole time, but you have



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the continual concern, and in fact fear, that they might become involved in the actual conflict.

Seney: Did your parents ever make mention of the fact that not only had their new country been attacked, but their old country was occupied too?

Westergard: Yes. Oh, they were extremely concerned about that, and the impacts on their families there. And subsequently, when my wife and I visited Denmark, we heard about [the occupation].

Seney: Awful stories?

Westergard: Well, yeah, were heard stories, but they were fairly subtle, because at the time, those people wanted to get that behind them. They didn't want to dwell on that. But yeah, some things like the trauma they experienced in their own home when the Germans came in. This is wartime, and I don't say this facetiously or whatever. They were obviously subservient to those military personnel.

Seney: Did they actually occupy your relatives' homes and live in them, and were billeted in their homes?

Westergard: Yes, but to get back to my brothers, I had cousins, of course, that were in the war, even though I was too young, being the youngest of seven, that's just the way it worked. One of my cousins was killed in the Pacific, and I remember the trauma of that day. (Seney: When the word came?) Yeah. And the sorrow that I felt for my family because it was a difficult time.

Seney: Of course, everyone listened to the radio for the war news. Do you remember listening to the radio?

Westergard: I remember listening to the radio, sitting on my dad's lap when he would smoke a roll-your-own cigarette. Even at that age, I'd have a treat to sit on his lap. He'd listen to the news. And there was a rural route delivery of the newspaper, of course, and I remember my mother or my dad, if he happened to be in and not be out in fields or out hunting – which he did a lot of – watching for the mailman, and the trip to the mailbox to get the paper to see what the headlines were, and what the latest report was of the war. And there again, not only as it affected this country, but as it affected Denmark and what was happening there.

Seney: I know a lot of Americans kept maps in their homes and followed the progress of the war on maps. Did you all do this?

Westergard: I don't recall that specifically. I think they had a good mental picture of the whole thing. Of course, we didn't have television at the time, but read the news accounts.

Seney: [Did you] see the newsreels when you went to the movies? Do you remember doing that?

Westergard: Yes.

Seney: What sticks out in your mind about those visual images?

Westergard: The horror of the whole thing. You the visual images from the newsreels? (Seney: From the newsreels.) Yeah, the horror and the concern. You know, I think the immediate trigger of the mind about my brothers *could* be there, my cousins *are* there, my folks' families are there. You know just the whole trauma of concern.

Seney: Remember when the war ended?

Westergard: I do. I remember specifically the day that the first [atom] bomb was dropped in Japan.

Seney: What do you remember about that?

Westergard: We were on our way to Reno and heard it on the car radio. There was concern, of course, about the effects of that, but also there was hope, I think, at least in reflecting whether this was real or just kind of an imagined reaction on my part. But the way I reflect on it is, a hope that this would end the whole thing that had been so traumatic for *everyone*, including my family.

Seney: Can you remember what the reporters said when you heard the radio? I mean, did they call it a "sun bomb"? Did they call it an "atomic bomb"?

Westergard: I think atomic bomb. That's my recollection.

Seney: Did it mean anything to you?

Westergard: Not from the scientific sense. More a sense of hope, I think, as devastating – even at that age – as I realized it must be, with all the news and excitement and the concern that people were expressing. I think it was more hope that maybe this is going to enhance the of this thing.

Seney: I don't mean to dwell in this, but I'm curious as to when the news report was given. Do you have vivid memories of that? Them saying that this is a new bomb, devastating bomb.

Westergard: No. I don't remember.

Seney: Anything of that kind?

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Westergard: Nothing comes immediately to mind.

### Junior High School and High School

Seney: Okay. Well tell me a little about your junior high school and you high school experience.

Westergard: Well, I was interested in athletics.

Seney: What did you play?

Westergard: I played football and basketball and a little baseball. One of my older brothers had played on a local ball team, had a letterman's sweater.

Seney: Did you get one?

Westergard: Oh yeah. In a small school, you don't have to be real good (laughter) to get a letterman's sweater.

Seney: How small was the school?

Westergard: The high school, in our graduating class there were thirty-two, so 123-130 in the high school.

Seney: And this is in Lovelock?

Westergard: In Lovelock. In junior high school I had an opportunity to play more organized basketball, and I was greatly interested in academics. Again, you know, when you can bring home a report card that's favorable, it gets back to wanting to be what my parents wanted me to be, and the rest of the family too. It's surprising to me as I reflect on it – it wasn't a pressure-type of thing, so much as a goal. I didn't think, "Well, if I get a "B" everybody's going to be disappointed." It wasn't so much that, it was more, "Well, if I get all "A's," everybody's going to be happy." Maybe that's inverse pressure, but I didn't sense it at the time. And I think I can honestly say that it was not only pleasing to someone else, but it was a self-gratification thing too, that if you really try, you can do *your* best, and that's reflected. You feel competition, I don't care what age you are, and there was the satisfaction of knowing that you were doing well, competitive-wise, academically. And I don't mean to sound egotistical, that's just my recollection of the feeling that I had.

Seney: Which subjects interested you?

Westergard: Mathematics, particularly.

Seney: Did you have a good teacher, or was this kind of a natural bent?

- Westergard: Had an excellent teacher, the principal of the junior high that I alluded to earlier was an excellent math teacher.
- Seney: Was he an influence on you, do you think?
- Westergard: Oh yeah, I think he was. He was disappointment to me later in athletics, but academically he was definite influence.
- Seney: I have to ask you why?
- Westergard: He did coach the junior high school, and I played for him there. I wasn't the best, but I was almost as good as anybody else.
- Seney: Tried hard?
- Westergard: Tried hard, yeah. And then later he substituted as the basketball coach at the high school level – specifically for a tournament in Reno at Manogue High School. I was a junior in high school at the time, and we had a three-game tournament, and I didn't even get off the bench.
- Seney: You remember that as a particular disappointment?
- Westergard: Oh yeah, I do. Through the years I haven't reflected on the negatives, but when you asked me, I have to tell you. I've had some negative experiences, and you can tell these (laughs) years later, it still comes to mind.
- Seney: You remember that! And you thought you ought to play, you were good enough?
- Westergard: I was good enough to at least get off the bench in three ball games, yeah, that's for sure. And I still wonder why. You know, I wonder if there were external pressures for that. And you know, you always want acceptance, and I had been accepted by him earlier, both academically and athletically.
- Seney: Were you too nice of a guy where you wouldn't have complained?
- Westergard: Eh, I think I showed my dissatisfaction, probably, but coaches are an unusual breed, that doesn't seem to affect them very much, and I guess they couldn't stay in their business if it did. (laughs) He had his reasons, I'm sure. But even today, I know they weren't good enough to do that to a sixteen-, seventeen-year-old kid. I was a junior in high school. But anyway, that's my recollection.
- Seney: Well, you recalled that incident. I'm not quite sure how to phrase this. But I mean, clearly, it's a vivid memory, and as you talked about it, your face is quite animated. Does this come back to you later? Does this make you strive harder? Because you've been very successful, you've held important jobs, and we'll get to

those. Anything in this besides just this the feeling that this guy ought to have cut you a little chance here, out of three games?

Westergard: No, I think that's about it. I had occasion to see him, oh, a few years ago. His health was bad.

Seney: Did you bring it up to him?

Westergard: Oh no, I didn't. I felt compassion for him because his health was bad. Maybe I'm dwelling too much on this.

Seney: It's funny, when we have these kinds of interviews and conversations, things tend to come out that are important that maybe you don't think about otherwise as being important. They stick with one, there's no question about that.

Westergard: As trivial as they may be! (laughter)

Seney: Again, I wouldn't necessarily want to trivialize that. To sixteen-, seventeen-year-old kid at a tournament, sitting on the bench, this is very important.

Westergard: Maybe that indicates the limited number of disappointments I had. (laughs)

Seney: Maybe! If this is one of the important ones, maybe that isn't so bad after all.

Westergard: That's right.

Seney: Do you have a sense of what junior high meant to you in terms of influence on you?

Westergard: You know, these are interesting questions, because you don't think about them in that sense, and I guess that's why [you're asking them].

Seney: That's why we're asking them, exactly right.

Westergard: Yeah, I think it did, because it was a chance for me to socially develop. You know, at that time you start to get interested in a lot of things, obviously, and you begin to think about your future. And I think I realized then the interest in math and science, that interest was going to have some bearing on what I decided for the future, and at about that time I began to think about engineering. So, from the academic standpoint, I suppose that [is one thing that junior high meant to me].

From the standpoint of athletics, you're part of an organized team where you're going to play some external competition for the first time, and so I suppose [there is] the desire to excel individually in that vein. But also, the importance of being part of a team. I suppose those things began to be formulated, at least more

definitively it probably started earlier. But some of these things, I haven't even thought about, but on reflection, I suppose that's the case.

Seney: Do you think athletics and being part of a team helped you become an important bureaucratic official? And I don't mean "bureaucratic" in a bad way. (Westergard: Oh, I understand.) You have to cooperate with other people and get along with other people.

Westergard: I suppose so. I think, although there wasn't ever a need to cooperate within the family, because we did cooperate – everybody got along so well. I suppose that's where I first started. But yeah, I think probably so.

Seney: Good training, then, for later?

Westergard: Good training. And I think you learn in athletics – or I did – if you can help make somebody else look good and the team wins, that's just as important as looking good yourself.

Seney: That's important in the bureaucratic world to, isn't it?

Westergard: Yeah, it is, and you know, on reflection again, that probably was important in the "way back" in my mind (laughs) in later years.

Seney: What do remember about high school?

Westergard: Fun time! Small high school; had a chance to be involved, as I said, [athletic] letters for three years, and to participate even as a freshman in different things. As I told you before, excellent academic scholastic system.

Seney: No complaints about the teachers. What was the size of Lovelock? This was a small town?

Westergard: Yeah, I guess about 1,200-1,500 people at that time. But everybody knew everybody else. The big thing was the Friday night basketball game or a Saturday football game, depending on the season. And later during the summer, the baseball game or some other team from some other community came in. Just a small-town atmosphere where everybody knew everybody else.

Seney: There's more to high school than athletics. There's what I like to call mischief.

Westergard: Yeah.

Seney: What was mischief for the Lovelock High School students?

Westergard: Oh, I guess maybe smoking a cigarette when you weren't supposed to. Of course, if the coaches caught you, you were supposed to be off the team, and I guess that

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depended a little bit on how good you were (laughter) if they depended on you. And I suppose occasionally, at a Friday night party, somebody going out to the car and having a beer. I can honestly tell you I didn't do those things, and it's because I felt if you had a rule – and I'm sure this reflected on my attitude later also – if you had a rule, you followed it, or you changed the rule.

Seney: That was part of your upbringing, your parents' strong views about drinking and smoking?

Westergard: No, I don't think so.

Seney: Did your dad drink?

Westergard: Yeah.

Seney: I mean, not as a drunk, but did he have a drink now and then? (Westergard: Yeah) Mom too maybe at holidays?

Westergard: Holidays, mom would have a glass of wine at a holiday dinner. But no, I don't think it was so much that. I think it was more that "there's a rule against this, and you know you're not supposed to drink when you're not twenty-one years old," and therefore you don't do it.

END SIDE A, TAPE ONE. OCTOBER 14, 1994

BEGIN SIDE B, TAPE ONE. OCTOBER 14, 1994

Seney: You were saying about drinking.

Westergard: It was against the rules, and I believed in following the rules.

Seney: Are you still that kind of guy?

Westergard: I still am that kind of guy.

Seney: So, your memories of high school are positive, and you enjoyed it?

Westergard: Yeah, very positive. I had a chance to be a class officer, a student body officer. As I said, I did well academically.

Seney: Popular do you think, as you recall? I mean obviously, if you were a class officer, you must have been.

Westergard: Yeah, I think so. I'd like to think respected too. Sometimes at that age, you know, there's pressure to do things, and just because I didn't go out have a beer with a few people – and it was the minority that probably did that – you didn't do that, so in today's terms you're a nerd. It wasn't that type of thing at all. It's

that's your standard and that's the way you do things, and people respected each other, and I think that's part of what's wrong today – they don't.

### **The Formation of Personal Values**

Seney: As I said, you've obviously been *very* successful individual in terms of the kinds of official responsibilities and so forth that you've held, and that requires a certain kind of person to do that. That kind of person, you think, was pretty much formed already by this time?

Westergard: I think so.

Seney: What kind of person was/is that?

Westergard: (Sigh) I think it's a person that had goals to accomplish things, first recognizing dedication to family. I just can't say enough about that, and I attribute that to the start my parents gave me and the support I had from brothers and sisters and later from my wife and children. You know, I think the basic desire to want to do what's right and to try to be constructive, and to offer something. I don't necessarily think that history has to reflect that there was an outstanding individual. But I'd like history to reflect that here was somebody honest, that just played by the rules and exercised the best judgment he was capable of, with the facilities he had within himself. And you know I think that was helpful for me, as I approached these responsibilities which I took very seriously.

Seney: A sense of confidence in yourself?

Westergard: Yeah, I think a sense of confidence. And I guess the standard that you do your best and you do it honestly, and that's what you can do. I wouldn't say that there weren't times where you wondered, because some of the decisions I made had impacts not only then, but well into the future.

Seney: Later on?

Westergard: Later on. Even from this day forward, some of those decisions are going to have some impacts. But basically, that has a foundation or background.

Seney: And I take it you went to U-N-R [University of Nevada, Reno].

Westergard: Yeah.

Seney: Was there ever any doubt about that?

Westergard: Never any doubt about it. I was real fortunate.



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- Seney: Did your brothers and sisters go to college? So, I mean, this was just part of the expectations?
- Westergard: Yeah, it was part of the expectations – not from the standpoint of prestige or stature or status or anything, but just, you know, it was instilled in me early on that that’s going to be helpful to you later and that’s going to be in your best interest.
- Seney: That’s one of the ways in which your parents made sure you’d be a successful and prosperous person? You talked about in those terms?
- Westergard: Yeah, it was there way of, I think, of telling me that that’s going to help you become prosperous. If not prosperous and if not successful, at least it’s going to help you do the best you can do.
- Seney: Do you remember your mom and dad talking to you about going to college?
- Westergard: Yeah, but it was always in a very positive sense. It wasn’t, “You know, you’ve got to this.” It was, “This is a good idea to do this. You’ve got the ability, intellectually” – and maybe a little parental bias. You do have some things to offer, and not only for *you* but for what you can offer others. It was kind of a responsibility thing too, but not one that was pressure-wise. It was encouragement-oriented, a positive reinforcement, so to speak.
- Seney: What year did you graduate from high school? I think that very fall you entered U-N-R?
- Westergard: Yeah, 1952. I was fortunate. I was valedictorian of the class – and the interesting thing about that . . .
- Seney: You must have been a very good student.
- Westergard: I was a good student, yeah.
- Seney: Are you kind of that guy the others said, (mockingly) “Oh hear comes Westergard. This guy’s got his paper done on time, and you know he’s going to get an ‘A’.” Was that Roland Westergard?
- Westergard: People expected me to get “A’s” – I don’t mean my family at that time, because they were more the “do what’s best for you.” But yeah, I think the people I went to school with expected that.
- Seney: I mean you kind of slipped this valedictorian business in, you know. I can see you’re a modest man, and so you’re not likely to bring this up to begin with.

### Meeting Mrs. Westergard

Westergard: But let me tell you *why* I bring this up, in part – And I’m proud of it, obviously, even in a class of thirty-two, you’re still proud of those things. And it helps on a resumé, (laughs) I suppose. I don’t know at that stage, maybe getting into college or whatever. And I mean that more humorously than seriously about the resumé. But what is really interesting about it is that my wife moved to Lovelock in her senior year, and that’s when we met.

Seney: Were you classmates, both seniors together?

Westergard: Yes, we were. And the reason I mention that specifically, as related to the valedictorian – she is competitive by nature, and intelligent, sharp. There was a question with the grade record that she brought and the record in high school about who was going to be valedictorian and where she was going to fit into it. And I was very candid, you know, it’s human nature when somebody moves in, sort of at the last minute, there’s a competition – particularly when they’re as capable as she was. She had gone to school one year in Elko High School, and I’d like to relate something about that in a minute. But again, to bring this particular point to a conclusion, she was salutatorian. That’s nice for us to reflect on.

Seney: Sure. Do you remember meeting her? Did sparks fly?

Westergard: Yeah. Yeah, even though she was in Elko for only one year, she was the Girls’ State representative from Elko, which is every spring/early summer. You’re probably familiar with the Girls’ State, Girls’ Nation process. Well, she was a delegate to Girls’ State from Elko, and was elected Governor of Girls’ State, after one year in Nevada and one year in the Elko school system.

Seney: Where had she come from?

Westergard: From California. But you know, all the boys, and I’m sure all the girls in Lovelock – some of them had met her at Girls’ State – were anxious to see this girl that had been Governor of Girls’ State. So obviously, she generated a lot of interest in that small community early on.

Seney: Do you remember your first meeting with her?

Westergard: Yeah, I do. I remember going to a movie and somebody saying, “Dixie Sturgess is sitting up behind.” That’s the first time I saw her.

Seney: So, Dixie Sturgess was kind of a celebrity for the reasons you mentioned?

Westergard: That’s right.

Seney: Did you begin to date in high school?

Westergard: Yeah, after a football game, as a matter of fact. Then we liked each other, and generally had, I think, a lot of the same goals and standards, and to a certain extent some similarities in the background, although there were a lot of differences in the background.

Seney: Had you dated other girls before you met her?

Westergard: Yeah.

Seney: Kind of a popular guy on campus?

Westergard: No, I wouldn't say that I was a big man with the ladies – I wouldn't say that. But for the junior proms and the senior proms and that kind of thing, and the Friday night dances.

Seney: You always had a date?

Westergard: Well, for the big events. At that time, you just kind of all went to the Friday night dances. Sometimes you went home with one person, sometimes you went home with somebody else, and sometimes you went home alone! (laughter) Sometimes you went home with the guys. (laughter)

### **Attending University of Nevada at Reno**

Seney: Sure. So, did she go to U-N-R too at the same time? (Westergard: Yes.) You both went together? Did you get a scholarship, by the way?

Westergard: Yeah, that's the other thing I was going to relate. There was a program at the time, where Harold Smith, the owner of Harold's Club, provided a \$4,000 scholarship to the larger schools in Nevada, and at that time Lovelock qualified to get one every year.

Seney: At thirty-two graduating, it was one of the larger schools in Nevada?

Westergard: Yeah, plus Reno High School and Sparks. Even Las Vegas at that time was a little bigger. The smaller schools got them every other year. But the year I was graduated, I was *very* fortunate to get that \$4,000 scholarship. At that time, you know, \$1,000 a year went a long way to paying your college expenses.

Seney: So, that was a thousand dollars a year. (Westergard: For four years.) And that must have paid, what percentage, do you suppose, of your costs?

Westergard: It paid most of the costs, you know, the registration, the books.

Seney: Tuition and room and board?

Westergard: Room and board too. Went a long way towards meeting those essentials.

Seney: Did you work while you were at school?

Westergard: I worked during the summertime.

Seney: Saved your money and then used it at school?

Westergard: Yeah.

Seney: What did you do during the summers?

Westergard: Worked on ranches. The good money was in hauling baled hay. You know, the hay baler that goes out, and bales it, and then it has to be hauled. And at that time, they didn't have what they called harrowed beds that were all automatic. You had a little hay lift that put the bale on the truck and then you had to place it, and then you have to go into the stack and take it off the truck. It was really hard work, but I did it with a good friend that had started first grade with me, and it was enjoyable. We made it fun, even though it was hard work. And it was good money, and that helped supplement some of these expenses, like sorority and fraternity parties at the university, so it helped.

Seney: Do you remember your first day up at U-N-R and getting there and what that felt like?

Westergard: I remember getting there. One of my older sisters took me down. There were five of us from Lovelock that were going to live in, of all things, a guest house that had catered to divorcees. (laughter) At that time, divorce was a big industry in Reno, and they'd have people come in for six weeks. And they had enough rooms, and they decided they wanted to vary their pattern a little bit, and so they decided – somewhat reluctantly I think – to rent a couple of rooms to five college boys.

Seney: And were you there when the divorcees arrived?

Westergard: Oh yeah. Yeah, we saw them come and go. Every six weeks somebody'd be going and coming. But yeah, I remember that.

Seney: What do you remember about that? Did any of these women stick out in your mind? Or the general industry of divorce, from the perspective that you were able to view it.?

Westergard: Not a lot, because you know we were all aware that that *was* part of the industry in Nevada and the guest houses and guest ranches, where prominent people came,

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and ordinary people came, (chuckles) and regular people came. There were men and women both at this place.

Seney: Any of them stand out in your mind?

Westergard: Not particularly, no. No, they didn't. They had meals at that place too, and sometimes they'd be there at mealtime, but there was not a lot of interaction because we were interested in school and college girls, and the one that came from Lovelock with me. (laughter)

Seney: And where was she living?

Westergard: The first year she lived on campus in a dorm.

Seney: And you dated all through college?

Westergard: Off and on – mostly on. Yeah, we had times when we did not, which were traumatic too, to some extent. (laughter) Because by then we had developed a pretty solid relationship – at least from *my* perspective we had, and I think as it turned out, from hers also. But I do remember the registration and frustration of being sure that you got all the classes that you needed, and the beginning to meet people from other areas, and the process of deciding what fraternity to join. Those are the early memories.

Seney: And you joined a fraternity?

### **The Importance of Fraternity Membership at UNR**

Westergard: Uh-huh.

Seney: Still active in the fraternity?

Westergard: Yes, still active in the alumni association. As a matter of fact, it's going to be homecoming this weekend at the university, and we'll be going to the fraternity house for a get-together.

Seney: Has that been useful to you over the years?

Westergard: Absolutely, and I can't tell you how useful. I mentioned the connections with Nevada people, and today, I can't go anyplace hardly without seeing somebody that I either knew as a fraternity brother at the time I was there, or that had been there before, or was there afterwards. And I don't mean to overemphasize the fraternity, but that is *very* important part of it. And the association with other people throughout the college years.

Let me give you a good example of a fraternity relationship. [Richard H.] Dick Bryan,<sup>1</sup> who is now the United States Senator and served as Governor of Nevada – I was fortunate to travel around the state with him quite often on what he called his “rural visits.” He was very dedicated to go out to the rural areas. And more often than not, a fraternity brother – either a former or when we were there, or later – would pick us up at the rural airport, for example, and take us into the community. You know, in my professional life, the contact with lawyers that were at the university or in the fraternity, or engineers or whatever, probably attributable to the small state.

Seney: Helpful to your career?

Westergard: Helpful to the career, and I think . . .

Seney: Did you wear a lapel insignia of your fraternity? (Westergard: No.) It’s just a that it’s a small state and people knew you. What fraternity was, by the way?

Westergard: It was Alpha Tau Omega, A-T-O.

Seney: Give me some examples of how it was helpful to you. Even if we jump ahead, don’t worry about that.

Westergard: Okay. Well, as simple as going to Elko and having a lawyer up there by the name of John Miller, pick us up at the airport, and give us an idea of the flavor for that particular day or that particular time.

Seney: Again, traveling with the governor?

Westergard: Traveling with the governor and with some other cabinet level people. And kind of flavor of what the issues are today. And you know, Dick Bryan knew what the issues were on a day-to-day basis, and I did too in the resource area. But you know, there’s always a little thing about, “Rancher So-and-so got his well permit denied. Roland he’s going to ask you why you denied his permit.” You know, just that type of thing. So, in a sense. But a court going on, and Jim Johnson was an A-T-O years before I was, and we didn’t even really *know* that until, later but we had this professional relationship. I relied on his intellectual memory of a lot of the legal things that had gone on. He relied on my engineering expertise. This is between two individuals, which reflected positively of the people that we were representing – the state and his clients – and later finding out, “Geez, we’re fraternity brothers!” You know that was kind of an “after the fact.”

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<sup>1</sup> Richard H. Bryan served as governor for the State of Nevada from 1983 to 1989 and served in the U.S. Senate from 1989 to 2001.

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- Seney: Do you remember important problems or decisions that might have been resolved or moved along because of this connection? I don't mean exclusively because of the connection.
- Westergard: I don't want to leave the impression that there was any preferential consideration. (Seney: No, I'm not talking about that.) No, but I want to make that point.
- Seney: What I'm getting at here, politics, as an important administrator, or an elected official, I mean, who you know, and the relationship with them, very often will make a difference in how you resolve a dispute, or how something is moved along. And I'm talking more about that, rather than saying, "Oh, gee, you're a fraternity brother, I'll do this for you." I'm not talking about that.
- Westergard: Yeah. Well, let me give you two or three examples, one with Dick Bryan. I was a senior when he was a freshman at the university. I was the house president, and I knew him there. And he was a fraternity brother. I think he knew how I functioned in meeting my responsibilities as a student, and as a fraternity member, and as the president of the fraternity. He probably saw whether I did or didn't have people skills, and how I managed things. And later when he was in the legislature, he felt comfortable calling and saying, "What do you think about this?" And I didn't have a lot of contact with him when he was in the legislature, but certainly when he was attorney general.
- Seney: Now, he was a prominent member of the legislature, was he not? My understanding is that he was kind of understood to be marked for bigger things, as a member of the legislature.
- Westergard: Yeah, he would tell you himself, when he was student body president in Las Vegas, he wanted to be governor someday. And that's a matter of public record, he has said that.
- Seney: When you say "student body president in Las Vegas . . ."
- Westergard: Of the high school, Las Vegas High School. But I guess the point I'm making about *that* relationship is, it was, in a sense of our official responsibilities, it was always kept at that level. By the same token – and I'm going to reflect on what I consider one of my characteristics I'm proud of – and that's honesty and straightforwardness. And if he, or *any* of the people I dealt with – it didn't matter of they were college people or whatever – but just as an example, with him, where he had a responsibility to respond to a constituent. If he asked me, he knew I would tell him the truth, whether he wanted to hear it or not! (laughter) And I can say that about all the governors I worked with, without exception. And I like to think that they could rely on that.

That's one example. Another example that continues to this time. There was another person that I knew at the university, had known him through high

school day, but I didn't really *know* him. He's a rancher in Fallon. We're involved in a very delicate mediation effort to resolve issues as it related to water supply [in the Fallon area].

Seney: You're talking about the Settlement II negotiations?

Westergard: Yeah, that's right. And you know, I saw him Tuesday and Wednesday of this week. It's nice to reflect not only on personality, but I know if he tells me something, I can trust it.

Seney: Do you mind mentioning who that is?

Westergard: That's Don Travis. If I tell him something, he knows its the truth. Both of us know that we're not going to get any special favors – not that he would even look for them. But I think its that kind of binding and mutual trust that was helpful to me through the years. Those are just a couple of examples, even though I could probably go on and on.

Seney: Well, we may get to some more later.

Westergard: Let me give you one example of that. There's an attorney, Milt Menukian [phonetic spelling], I didn't hear this first-hand.

Seney: Say that name again.

Westergard: Milton Menukian, a very prominent person here in Carson City. He has a law practice in Reno. But he had a client on a water issue – it was when I was still state engineer – and I don't know this first-hand, but one of my staff related it to me, that Milt made an appointment with me and brought the client with him. And before they came into the office, the client inferred that he might be able to get special treatment, one way or the other. And Milt flat out said to his client, "If I suggest that to Roland Westergard, he'll deck me right there on the spot." So, you know, *that's* the kind of thing that people felt about me.

Seney: Right. A fair decision, but not a partial one.

Westergard: Yeah, that's what I take pride in.

Seney: Well, you know, what we're getting at here too is something that you alluded to a number of times, and that is how do things work in a small state where people are likely to know one and another, and where these university contacts – I mean, I don't know how many people I have interviewed been to U-N-R.

Westergard: Well, you've seen it then and heard some of this already.



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Seney: Absolutely, right. A little more detailed *here*, but yes, absolutely. So, it gives one a flavor of the politics in a state which is relatively small.

### **Majoring in Civil Engineering at UNR**

Westergard: Yeah.

Seney: You liked the university, I take it?

Westergard: Oh yeah, I enjoyed it very much.

Seney: And you majored in?

Westergard: In Civil Engineering.

Seney: What did you have in mind to do with civil engineering?

Westergard: Well, I told you that I was raised on a small ranch in Lovelock, and probably the most serious consideration of being successful in a ranching operation in Nevada, or a framing operation, is having a water supply. And being on the lower end of the Humboldt River stream system. (Seney: Not the right end obviously.) Well, there is a system set up to assure that everybody gets their fair share, which I was involved in administering that later, but early-on I saw the importance of water and my dad worked for the local water district as kind of a part-time – at times it was full-time, more than a full-time job – my brother served as secretary-manager of that irrigation district.

Seney: You ever work for him as laborer, or anything like that?

Westergard: No, I didn't. But not only did I see it from the standpoint of irrigating on the farm there in Lovelock, and the importance of seeing that water go out a headgate (chuckles) and knowing that you couldn't waste a drop of it, to the responsibilities that my dad and brother had to get that water to the ranch. And then one of my early memories about *that* was when the state engineer was going to come to town. It was a big thing! Ed Muthe [phonetic spelling] was the state engineer that I recall. And boy, if he was going to be there, my brother and my dad were excited. And I think then, I thought, "Hm, that might be a fun spot to be in someday."

Seney: So, these were things that were discussed around the kitchen table?

Westergard: Yeah.

Seney: And the importance of them as clear by the nature of the discussion between your dad and your brother.?

- Westergard: Yeah. So *very* early on I had that interest in water. When I started at the university, I knew I wanted to be an engineer, but I didn't know whether I wanted to be an electrical or a civil engineer. When I registered, I had to put one or the other, and I put electrical engineer, and so on the orientation class I was with the electrical engineers, and when it came time to declare, I declared "civil." Well, the head of the Electrical Engineering Department, Professor Sandorf [phonetic spelling], through the years, just gave me a hard time of why I failed him. Yeah, in a joking manner. "Why did you change? Look what you did as a civil engineer!" That friendly competition, even between the disciplines. And he was a man (laughs) I respected. And I always felt a little disappointed that I disappointed him a little bit – probably didn't, but again, it's kind of fun to reflect on that also.
- Seney: What was the size of the student body, do you remember?
- Westergard: Oh gosh, at that time, 1,200-1,500 I guess. It was a small school, 1,000-1,200-1,500, something like that.
- Seney: So, you knew the faculty well?
- Westergard: Knew the faculty well, the classes were small. I knew most of the students. You know, if you saw somebody on campus, if you didn't know them, you probably would know their name. And if you didn't know their name, you would remember seeing them before. Very seldom was there a strange face. And that was nice.
- Seney: Yeah, and this is kind of the "elite" in a way, of Nevada, is it not, that's going to be later in important positions?
- Westergard: Well, I think the university played an important role in producing people that were responsible subsequently, yeah. Today, and at that time, I believe it's not necessary for everybody to go to the university. I think it's equally important in people that don't do that, and don't choose an extended formal education. For example, I didn't go on and get a master's degree, but I don't feel any less important, or that my contribution was any less significant than somebody that has a master's or a doctorate. *Nor* do I feel that my contribution was any more important than somebody [didn't have a degree]. And that's not reflected just because my parents didn't have the formal education. I just think that the people that don't have contributed every bit as much as those of us that do, but just in different way. So, I don't figure that education is a status symbol, or any indication of prominence or anything else. I feel very strongly about that.
- Seney: Sure. But still, the important people in Nevada, who have degrees, have by-and-large gone to U-N-R.

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Westergard: At least from the timeframe period that I was there. Now of course, there's the big campus at U-N-L-V [University of Nevada, Las Vegas], and those things have changed, but at that time, yeah. And some people chose to go out of state, obviously, and they came back, and they're probably not quite as well prepared. (laughter)

Seney: Well, not as well positioned, would you say? Because they don't *know* as many people, and they don't have the contacts.

Westergard: Yeah, I think that's really important, and that's reflected in our encouragement of our own children to go to the University of Nevada, Reno. Our approach with them was similar to my parents' approach with me: "It's a good idea, you ought to do it. If you choose not to, that's fine too." With four children, we were going to have overlap with the first three, we said, "Please just the first year or two, just for economic reasons, go to Nevada, if you want to go, and then after that if you can't get what you want, go someplace else." I'm not sure we *said* to them, we may have, "In your future careers, if you go to Nevada and you want to live here and raise a family here, you're going to make contacts there that will be very helpful. And as it turned out, all four of them chose to stay and eventually then, three are back in the area now, and eventually the fourth one will be.

Seney: So, you started in '52, graduated in '56, in four years?

Westergard: Yeah. And I'm proud of that too, with an engineering curriculum, you know.

Seney: Mom and dad come to the graduation?

Westergard: My dad passed away in March before graduation.

Seney: (Expressing concern.) Ah! But he knew you were going to graduate?

Westergard: Yeah. But my mother was there.

Seney: Proud moment for her? And you. What did you do after graduation? And by the way, when did you get married?

### **Marriage, Military Service, and Children**

Westergard: In December of '56, right after graduation in June.

Seney: And you have four children?

Westergard: Four children.

Seney: Tell me when they were born and what their names are?

Westergard: The oldest one was born in Germany in 1957. Her name was Laurie. You asked what I did after graduation.

Seney: Right. You went immediately into the military?

Westergard: Well, I worked for couple of week for the Bureau of Reclamation.

Seney: A couple of *weeks*?

Westergard: (laughs) Yeah, I'll tell you why. My wife and I graduated on June 4.

Seney: What was her major, by the way?

Westergard: Physical Education and teaching physical education. And I had a nephew, interestingly enough, a year older than me. His mother, my older sister, was the one born in Beowawe area and was the first when my parents decided, "We're in this country, our children are going to be raised as though we were all started here," to oversimplify. But anyway, that nephew and I (laughs) graduated the same day. I think it was like June 10, my sister called and said Dwayne, my nephew, got his draft notice today. I told you about rural mail delivery. When the rural mail delivery came, guess who else had the draft notice? I did!

Seney: Your deferment was up.

Westergard: Yeah, that's right. There was a little bitterness involved in that, which I can relate now or later. (Seney: Please.) I had attempted to get into the Reserved Officer Training, the R-O-T-C program at the university, as many people did at that time. And I took a physical and they said that I was color blind, which I am, and that I had a shoulder that would pop out occasionally, so I didn't pass the R-O-T-C physical. But of course, I was good enough to pass the draft physical! But I'll tell you a little bit that indicates that I have sort of an onery streak too, I suppose. (chuckles) About two or three weeks into basic training down at Fort Ord, in the fall of 1956, I got a message to go to company headquarters, and I thought, "Geez, I haven't been here long enough to be in any trouble, what's all this about?" And the company commander said, "We've been looking at your academic record and we see you're an engineer. How'd you like to go to Officers Graduate School?" And I said, "Gee, that sounds interesting. What's involved?" And they said, "Well, probably the most significant . . .

END SIDE B, TAPE ONE. OCTOBER 14, 1996

BEGIN SIDE A, TAPE TWO. OCTOBER 14, 1996

Seney: This is October 14, 1994. My name is Donald Seney, and I'm with Mr. Roland Westergard in Carson City, Nevada. Go ahead, you were talking about being called up by the military people.

Westergard: Yeah, I had been in basic training as a draftee for about two or three weeks and was called to the company headquarters. As I said, I didn't figure I could be in much trouble, because I hadn't been there long enough, and I wondered what it was about. And the company commander said that they had been reviewing my academic record and saw that I had a degree in civil engineering and wondered how I would feel about Officer Candidate School. And I thought, "Hm, that sounds pretty good!" an opportunity I didn't have because they rejected me. And as I said, for physical reasons, which weren't all that serious. But anyhow, I said, "What would be involved?" And when they got to the point of saying that would be another year, my orneriness or whatever kind of surfaced, and I, respectfully as I could, somewhat constraining myself, said, "Well, I appreciate the offer and the potential opportunity, but I will serve my two years and then get on with my life." (both chuckle) And I still feel a little bitter about that. You know, I wasn't good enough to get into R-O-T-C [Reserved Officer Training Corps] program, but then later when they saw that I could be an asset [they wanted me to be an officer] – and I guess I shouldn't feel that way.

Seney: Was the R-O-T-C program at U-N-R kind of a prestigious thing to be in?

Westergard: Well, I suppose it was.

Seney: All your friends were in it, and you really wanted to be in it?

Westergard: Yeah, there were friends in it.

Seney: So, it was a real disappointment when you weren't [accepted]?

Westergard: Well, it wasn't one of those things that I wanted to be a "roticie" as they used to say, but it was a way to prepare yourself, if in fact you were going to serve in the military, you know, at a level that might be more comfortable than otherwise. As it turned out in the long term, I think it was best for me personally, because of some of the positive things that happened later.

But anyway, to get on with it, you asked about my children. The reason I worked for the Bureau of Reclamation for two weeks was because I wanted to have a job to come back to after I got that draft notice. And I told the Bureau that I'd had offers from different places, you know, and they had an office in Carson City, and I knew I wanted to come back to Nevada, and just for security reasons, and because of my interest in resources, and they would provide an opportunity to work in that area. I told them I was going to be leaving, and they said, "Well, if you commit to come back to us, if it works out, you will have a job when you get out of the service." So, that was attractive. I worked two weeks for the Bureau, and as it turned out, worked for them a year-and-a-half after I got out of the service. But I went through basic training, my and I were going to get married in the summer, and typical [of the] Army, they didn't give me a leave after basic

training. They said, “Well, you’re going to go to Aberdeen, Maryland, to the proving grounds for six week, and then come home and we’ll give you a leave.”

The military at that time initiated what they called a Gyroscope Program, where they were rotating entire divisions, and they had a division in Germany that was ready to come home. So, we knew early on that we were going to be “gyroed” to Germany. But I got a leave in December, and my wife and I got married in December. I got gyroed to Germany – and incidentally, on the ship over, we left from Fort Ord, went through the Panama Canal – this is one of the experiences I might not have had if I’d been an officer. But about that time, things were surfacing in Egypt and the Mid-East, and there was a rumor that plans had been changed and we were going to “gyro to Cairo.” (laughter) But [we] arrived in Germany about a month or so later. My wife came over, traveled over with a couple of other wives that she had met when I was in basic training, lived on the German economy with a German family who spoke very little English.

### Living in Germany

Seney: So, she lived off base, you lived on base?

Westergard: No, we lived together, in a one-room apartment in a German home with just *tremendously* lovable people. The man had been the mayor of the little community, Kitizingen, Germany, about ten or twelve miles south of Würzburg, and about a hundred miles south of Frankfurt. They took us in almost as family, this older couple. They had a daughter living with them, and it was like family for us, being so far away from home and newly married and not having the support of our immediate family. We learned to say “coal” and a few things, you know, well enough to get by. And the family had us to dinner on holidays. Kind of a standing joke with us, if we were trying to communicate and couldn’t, the old gentleman would go get the book that had the translation of terms, and when we’d get through, he’d say, “Okay!” And so, then after that, after the first time he said “okay,” when he’d come to an impasse, he’d indicate that he was going to get [the book], and he’d say, “Okay!” and he’d come back with the book. Another nice memory about some real sweet people.

We got married in December, our oldest daughter was conceived there in Germany and born the following December. In the interim, we traveled to Denmark, as I told you early on. [I] served the time in Germany, had a *wonderful* experience with, interestingly enough, people that were very similar in background to us – not so much by area, but people that had just gotten married, just finished college – some of them were engineers. These were American people that we were *really* good friends with. The wives got together during the week; we’d do things together on the weekends. On July Fourth, we had a big Independence Day celebration, a big picnic, played cards together, and just really made the best of what wasn’t a really bad situation. It was a little frightening when you’d [go] out on alerts. Even at that time, when the siren would sound,

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you didn't know whether it was the real thing, or whether you were just going out on a training mission, and it was hard.

Seney: What kind of unit were you in?

Westergard: I was in an ordinance unit. But people don't believe these stories, I suppose, because they were told so many times, but about the third or fourth day I was there, again the commander said, "Anybody here type?" And two or three of us (chuckles) held up our hands. They said, "Well, report up to battalion headquarters." So, we had a typing contest, three of us, and I was the better typist. So, here a civil engineer in an ordinance company ends up as a battalion clerk! (laughter) Which wasn't bad duty, because on those alerts I got to drive the battalion commander in a jeep.

Seney: Well, that's a good position, is it not?

Westergard: Yeah, it was. Yeah, I got to make up the duty rooster. (laughs)

Seney: There's a lot of what you might call "patronage" there, right?

Westergard: Yeah, but you're just really "one of the guys" too. (laughter) It doesn't make a heck of a lot of difference that you're a battalion clerk. Again, they knew – and I'm going to get back to basic honesty – they knew again they weren't going to get any special treatment from the battalion clerk, probably because they knew I didn't have authority to give any. (laughter)

But just to continue with our children. We came back and worked for the Bureau . . .

Seney: Let me ask you first, though despite the obvious good times and the warm feelings you have about the family whose home you shared, anything important that you brought back from these experiences that informed your life or served you well subsequently?

Westergard: Yeah, I think so. Just going back to basic training, that was a humiliating experience, and I don't know what the military is like today. I had a brother-in-law later that said that was necessary to instill discipline, so when somebody tells you, "you go over the hill," you go. But you know, things like picking up cigarettes that somebody has thrown down. I don't care if you're a college graduate or somebody that . . .

Seney: But you might have had that feeling a little bit?

Westergard: I might have, I might have. I don't know. I hate to think that. I'd like to think that if I had never gone to high school – and I don't mean to overemphasize the academic aspect – but people of any social or academic or other status, I don't



think should have been humiliated in that way. And I resent it – I thought there was a better way to do things. And I still think there’s probably a better way to do things in the military. But I’m not certainly knowledgeable enough to even have that, but I do, truthfully, harbor that resentment.

Well, for example, my father had passed away, and my mother was up in years. One of my sisters brought my mother, and we weren’t married yet, but I was still in basic training, and my bride-to-be, down for an open-house weekend when we were supposed to get passes. Well, there was a sergeant, I can’t remember the term know, but anyway, just a real gung-ho guy that probably, in my opinion, sent other people ahead in the lines if he was ever there. And you can certainly feel a resentment I still harbor about that. That’s why my feelings are somewhat negative about the military.

Seney: You didn’t get a pass, I take it, and couldn’t spend time with your mother and sister and your bride.

Westergard: They cancelled passes for everyone. And it was bad enough for me, but it was really disappointing for my bride-to-be, and it was particularly disappointing for my mother who was up in years and subsequently died a few months later. And you know, I reflected back on that, and I think the dirty S-O-B deprived me of an opportunity to spend some time with people that I loved. And it served no purpose other than just to humiliate. And I will get back to the college education right now. And I think it was a resentment on this idiot’s part – and I use that word advisedly – that there were people that had a better education than he did, and this was his way to stick it to them, you know.

Seney: To show that he had authority over them?

Westergard: To show that he had authority, and probably not only to stick it to the people involved, but some of the family and supporters that were part of making these people, at least to that point, successful.

Seney: Based on these experiences, when you became, shall we say, “a man of authority,” did that make you treat your subordinates a little differently.

Westergard: It may have, because, you know, from a junior hydraulic engineer, to a technician, to the clerical staff – and I’m not categorizing these people than in official capacities – I had as much respect, and I had as much dependency on the new clerk that had a job to do – she or he had to do it right, because I depended on them. And I think I treated them with equal respect and dignity as I did Bryan when he was governor, or Paul Laxalt<sup>2</sup> when he was governor. I’m not signaling out Dick Bryan – Mike O’Callahan,<sup>3</sup> who was governor, and for whom I hold a

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<sup>2</sup> Paul Laxalt served as governor for the state of Nevada from 1967 to 1971 and served in the U.S. Senate from 1974 to 1987.

<sup>3</sup> Mike O’Callahan served as governor for the state of Nevada from 1971 to 1979.



tremendous amount of respect. Just last night I said to my wife, “Sometimes I wish I could call O’Callahan and have him tell the federal government, as he did when he was governor, how the cow ate the cabbage and what’s fair as far as state and federal relations.” But again, you cause me to reflect on some of these positive things. But it’s just an indication of how fortunate I was to work with such outstanding people, and maybe some of those experiences gave me the background which resulted in their trust in me too. I suppose it all ties together.

### Working for the Bureau of Reclamation

- Seney: Sure, sure. O you get back, ’56 you’re out?
- Westergard: Uh-huh, ’58. Come back, [and] work for the Bureau of Reclamation.
- Seney: So, you went right back to work for the Bureau? (Westergard: Yeah.) Tell me about working for the Bureau.
- Westergard: It was a real good experience. It was a small office here in Carson City.
- Seney: This is the Lahontan Valley Project Office? I don’t know if it was called that then as now. But it did the same thing as now.
- Westergard: It did essentially the same thing, except that at that the time, Stampede Dam<sup>4</sup> on the upper Truckee River, which was a reservoir supposedly to be committed to water supplies for Reno and Sparks and other purposes, a dam on the upper Carson [River] was being considered. (Seney: That was Watasheamu.) Watasheamu, yeah, and I got involved in some design work there – the elementary design work, because most of that was done at Denver, or some other area – but right-of-way acquisition. It just gave me a good beginning level experience in resource matters, and again, it was the first opportunity to work in that professional field with other people – primarily supervisors, because I was the low man on the totem pole.
- Seney: Right. Give me a sense of what it was like to work for the Bureau, apart from what your duties were? Let me tell you, as you know, I’m what’s called an intermittent employee of the Bureau, and I must tell you, I find them very easy to work with, and very cooperative, and in the sense of they are to work with.
- Westergard: They *were*. They were.
- Seney: My experiences are unimportant here -what’s important are *your* experiences. But in that sense, how were they to work with?

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<sup>4</sup> Stampede Dam is the major feature of the Washoe Project in northwestern Nevada. Constructed between 1966 and 1971, the dam a rolled earth and rock-filled structure is 239 feet high and 1,511 feet long, with a storage capacity of 226,500 acre-feet.

Westergard: What you've expressed is absolutely accurate. They were tremendous to work with. They were dedicated, capable, well-qualified people, who had the right goal in mind, and that is to do what you can to further what our responsibility to whoever the interest groups are. And that was from the boss right down the regional level to the Denver level. And I think, although at that time I had limited direct exposure and knowledge, I think even from the Washington level on down – *very* cooperative group, dedicated in their mission, and very responsible. There were frustrations, and I'm finding that this exists in the private sector as well, but at that time, I kind of attributed it to the government, and maybe it reflects a little bit on my military experience – but in all those years, only one negative thing sticks out in my mind, and its not a big thing, but that is Prosser Creek Reservoir.<sup>5</sup> There was an access road that was required – it's a reservoir on Prosser Creek that was part of the Washoe Project.<sup>6</sup> (chuckles) Well, there was an access road to be designed, and its one of those things they delegate to the local office. Well, there was a little hill from the point of beginning to the dam itself, a little hill in the way. So, the question was: Do you go through the hill, over the hill, or around the hill? Just on a limited access road, you know, probably a gravel road. And it was a good experience for me. I did the design on it. I looked at everything, and I thought, "Well, this is the best way to go, economically, safety-wise and otherwise," as a young engineer, "this is the way to do it."

Seney: And which way was that?

Westergard: You know, I can't remember. But what I *do* remember is, it came back, and they said, "Well, you'd better do it the second way." So, I did it the second way, and then it came back, and they said, "Well, there's a third way" – Which I recognized. I had decided which way to go. Well, to make a long story short, I had to do three different designs (chuckles) on a road, and I didn't have a hell of a lot salary at that time, but whatever it cost, I felt was wasted.

Seney: Do you remember which one of those was chosen finally?

Westergard: I don't remember. But I think that also tells you how positive my experience with the Bureau, because as I sit here, that's the only negative thing that comes to mind. (laughs)

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<sup>5</sup> Prosser Creek Dam and Reservoir are located on Prosser Creek approximately 1.5 miles above the confluence of Prosser Creek and the Truckee River. The dam is an earthen structure 163 feet high and 1,830 feet long. It is capable of storing 29,800 acre-feet of water for flood control, recreation and improvement of fishery flows in the Truckee River.

<sup>6</sup> The Washoe Project comprises the drainage basins of the Truckee and lower Carson Rivers. The project covers an area in west central Nevada that includes the cities of Reno, Sparks and Fallon, and the Town of Fernley. The project was designed 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](http://www.usbr.gov/projects/pdf.php?id=208).

Seney: You don't think in terms of ant kinds of the policies – I mean, you never questioned the Washoe Project, either on the Truckee or on the Carson [rivers]? You had no doubts about the Newlands Project<sup>7</sup> or any of the kind of policy, as apart from how they were to work with, what was being done?

Westergard: No, I think the policies were well formulated, and I think the authorization was warranted.

Seney: When you say “authorization,” you mean for the Washoe Project?

Westergard: Yeah. And the purposes were well defined. You know, some of the intricacies about developing drain water as part of the project and how that was going to fit into the whole thing. You know, I may have thought, “Well, I'm not sure this is the way to go,” on *details* maybe, but overall, I think it was well formulated, and I think the purposes were, as it turned out, the purposes were not followed through and were not realized.

Seney: Well, look at what happened to Stampede. I take it that's what you're talking about?

Westergard: Yeah. Well, that and the failure [to build Watasheamu].

Seney: Okay, let's talk about that when the time comes – unless the time is now, to talk about Watasheamu.

### Children

Westergard: No, I just wanted to follow up on my children, so we don't loose that. That's *so* important to me. (Seney: Oh yes! We've got one so far, Laurie. What was her date of birth?) December 17, 1957. I've got to be sure it's a year after we were married. (laughter)

Seney: That's right!

Westergard: Then I worked for a year-and-a-half for the Bureau and then it occurred to me that if I really wanted to advance – and I was ambitious – not to the extent where it was a driving thing to me, but I wanted to stay in Nevada.

Seney: And you didn't see a future in the Bureau in Nevada?

Westergard: Not beyond a certain level.

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<sup>7</sup> The Newlands Project was one of the first Reclamation projects. It provides irrigation water from the Truckee and Carson Rivers for about 57,000 acres of cropland in the Lahontan Valley near Fallon and bench lands near Fernley in western Nevada. In addition, water from about 6,000 acres of project land has been transferred to the Lahontan Valley Wetlands near Fallon. 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](http://www.usbr.gov/projects/pdf.php?id=142).

- Seney: You would have had to transfer out of Nevada in order to move up?
- Westergard: Yeah, and I kept thinking about that state engineer's spot. (laughter) And so I made a call.
- Seney: Was that because, if I may, the importance of the state engineer when he'd come and visit your dad? That seems like a pretty important job.?
- Westergard: Yeah, I think so. And even in the responsibilities of with the Bureau, there was always that state authority and jurisdiction out there. And very frankly, I thought, "Boy, if I can get involved with that, and *do* this in Nevada, that's what I want to do." The Bureau, as I said, was positive, and that's no reflection on that – its just that I wanted to do it in Nevada, and under the authority of the state process, if possible. Well, anyway, I made a call, there was a vacancy, and I was hired as a junior hydrologic engineer.
- Seney: In the State Engineer's Office?
- Westergard: In the State Engineer's Office. And our daughter, Tricia, was born in 1960. And then two years later in 1962, our son Todd was born. And then in 1967 our youngest daughter, Wendy, was born. And I just have so much pride in them. They all went through the university; all graduated in four years. Outstanding kids! All members of Phi Kappa Phi. Can I tell you a humorous story about that? (Seney: Please do.) If the kids read this, they'll say, "I knew Dad was going to say that!" My wife is Phi Kappa Phi, all four children in Phi Kappa Phi, and when they had the indoctrination of, I guess it was the youngest . . . (Seney: This is the honor society?) The honor society, yeah. Somebody said, "And you're in Phi Kappa Phi?" I said, "Nope not me." And they said, "Your wife and four kids; to what do you attribute that?" Take it back to Lovelock, okay? I said, "Well, the only thing I think of is that they didn't have kindergarten in Lovelock, so I missed that first early start. (laughter) It's a family joke, and kind of a university joke, in some circles.
- Seney: It's been heard enough, in other words?
- Westergard: Yeah. And even today, I get the newsletter for Phi Kappa Phi. Somebody said that I was made an honorary member – I don't know if that's true or not, but if not, I should be, because of my wife and the four kids, that's right. But anyway, all four outstanding kinds. Our oldest daughter was chairman of the Physical Education Department at Reid High School, just within the last two weeks has been named Dean of Students, and is going to retain her chairmanship position, so she's going to be a busy person – has two children. Her husband's a coach at Reid High School. The second daughter, Tricia, has a master's degree in counseling and social sciences right now and is raising a small family. She has five children.

- Seney: I wouldn't call that a small family.
- Westergard: I mean she has little children at home, and that's why she's not working. Our son, Todd, works for Gaming Controls. As a matter of fact, he was quoted on the front page of the *Reno Gazette Journal* yesterday on the gaming revenues and the fluctuations there.
- Seney: So, he has an important job?
- Westergard: He has an important job, yeah. He's also a hearing officer, in addition to being an analyst involved in the gaming regulatory area. He has three children; they live here in Carson City and our youngest daughter is married to a doctor who's doing a residency in the Portland area right now and will be moving to Sacramento for a fellowship in gastroenterology. That daughter has a master's degree in speech communication and is working for a nonprofit human resources agency and is taking the most of that opportunity to gain experience. She's interested, as they all are, in the political scene. Even at her level in a nonprofit organization, she has met with state legislators and congressional people. And they're enjoying it, I think, the Nevada setting that we talked about so much earlier. And the three of them are glad to be in this area. And the fourth one will get back here, I hope.
- Seney: No children yet for the fourth one?
- Westergard: No, but they're expecting, we're expecting one in January.

### **Going to Work for the State Engineer's Office**

- Seney: So, grandchild number eleven is on the way. Well, tell me about going to work for the State Engineer's Office?
- Westergard: People will say that my timing was excellent, and that's true I'm sure.
- Seney: Has that been true of your life, generally, do you think?
- Westergard: Yeah, you know, I really think it has! (laughs) They say you always have to have a little luck too, and maybe I had more of that than I realized, on reflection. But anyway, starting there as a junior hydraulic engineer, just carrying out some fundamental responsibilities of indexing applications and processing some of the documents that are required to perfect a water right, gradually working into some of the decision processes, conducting field investigations on contested applications, and then just gradually moving up the ladder. The reason I say the timing was right, some of the people in the senior positions were approaching retirement age, and there was the opportunity for me to advance, which I did.
- Seney: More quickly than would normally have been the case, do you think?

Westergard: Yeah, I think so. I started in 1960 and was named Assistant State Engineer in 1965.

Seney: Is that the number two [position]?

### **Becoming State Engineer and Working for Governor O’Callahan**

Westergard: Yeah. And then State Engineer in 1967. There was a lady that worked for me at that time that had worked for the former governors and state engineers, as an administrative assistant. And with that background, you can image how valuable she was. Alice Mayer [phonetic spelling] was her name – and [valuable] to my predecessors. As a matter of fact, Governor O’Callahan later stole her from me, and she went back to work for him for a while.

Seney: And was that useful for you, as well?

Westergard: For her to move over to [the governor’s office]? Well, it wasn’t, because she left *me!* (laughs)

Seney: But I mean, did you get your phone calls returned more quickly?

Westergard: No, with O’Callahan, he calls you. And people from around the country find this hard to understand. O’Callahan would call at 11:30 at night, or 5:30 in the morning.

Seney: What would he say when he called? “This is the governor?”

Westergard: He’d usually say, “What’s this about? and What’s going on here? and What’s our position?” But the last question . . .

Seney: When the phone rang and you picked it up, what would you hear on the other end?

Westergard: He’d say, “Rolly, how are you this morning?”

Seney: And you’d recognize his voice?

Westergard: Oh, absolutely! And when it rang at that time of day or night, I pretty well knew who it was. But he functioned that way with everybody: Tremendous humanitarian. Let me just relate one incident. We were in Las Vegas – I wasn’t even *with* him on this particular occasion, happened to be in the airport at the same time – and he has a leg he lost in the military, and when he went through the beeper system it set it off. And I thought, “oh, geez!” because he’s a very kind man, also he could react. And the person watching the machine had no idea who it was, and she very brusquely said, “You’ll have to go back through there.” And I thought, “He’s going to unload on her!” He didn’t, he handled it with a lot of

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tact, explained what the problem was. Anyway, that was one indication of what in effect was humility on his part. (Seney: Because he *could* explode.)

If you want me to, I can relate a couple of *those* stories too. I don't think he'd mind. But to make a long story short, that flight was canceled, and I'm pretty sure that was the same time these two things occurred, but anyway he said to me, "What are you doing?" I said, "Well, I'm going back as soon as I can." And he said, "Would you mind taking two or three days?" I thought, "Governor, if you want me to take two or three days, I'll take two or three days!" And you know he included me as though we were almost equals when we talked.

Seney: And you're the state engineer now?

Westergard: Yeah, I was still the state engineer. He said, "We'll drive up to Caliente. There's a girls school in Caliente, we'll stay there tonight, and then go on to Ely. There's some things we can do in Ely. I might want to stay an extra day or two in Ely." Well, it gives you the opportunity, driving across Nevada, to talk about a lot of things, but what was really important was, we came to, I think it was Caliente, which is a small community that you may be aware of, down in the southern part of the state. And he stopped – this was 8:30 at night – knocks on the door, this lady says, "Come on in Mike, and have a cup of coffee." As it turned out, I stayed in the car, because I had time with him, I wanted *her* to have the time with him. He came out, and he had his driver – I guess it was a highway patrolman, probably – he said, "We got to call Bordeaux [phonetic spelling] when we get to Caliente. Bordeaux was with the Motor Vehicle Department in the Safety Section, a person I played high school ball against, and is a good friend today – another indication of the connections in Nevada. We got to Caliente – geez it must have 11:30 at night. I thought, "Oh, Bordeaux, you're going to get one of those phone calls." And what had happened is that lady in Caliente had told O'Callahan about an accident that had occurred. Somebody had lost their life because there wasn't an ambulance service immediately available. He called Bordeaux at 11:30 at night, and he said, "I'm going to call you as soon as you think you have the information, but I want some sort of program set in place where we can get some sort of ambulances for these rural communities." That's the kind of intensity and compassion and interest he had in people. And the next morning he called Bordeaux, Bordeaux had things in motion, and subsequently, I don't know through what process, but they got some federal help, and they got the ambulances in. But that's the kind of people that were responsible, and I think today are responsible for administering state government. The experiences that I had, you know, beginning with Sawyer, then Laxalt, O'Callahan and List . . .

Seney: The years Sawyer was governor was . . .

Westergard: I think Laxalt was elected '60. Sawyer served until '60 and Laxalt served until '64. I may have those terms juggled a little bit.



Seney: Yeah, we can get back to that. Let me ask you a little bit about the technicalities of water right application and how that works?

Westergard: Yeah, maybe I've talked too much about politics.

Seney: No, no, no! I want to get into that, I want you to talk about all these people, and I want to get a sense of how you operated as state engineer and what the issues and all that were. And by the way, we're not going to finish today, I'm going to have to come back and talk to you again.

### **The Work of the State Engineer's Office**

Westergard: Okay, we can do that.

Seney: You said when you began you were processing water right applications and doing all that kind of thing. How does that work in Nevada? If I buy a piece of land, and I want to drill a well, can I do that?

Westergard: No, not without a permit from the state.

Seney: What do I have to do?

Westergard: In Nevada, the water belongs to the public.

Seney: And you as the State Engineer's Office are the custodian of that water?

Westergard: That's right, and an individual or a corporation or the government or anyone can acquire a right to use it, by virtue of approval from the state engineer, but he makes that determination. So, if you want to drill a well or take water out of a stream or a spring, you'll have to file an application with the state engineer. The only exception is that you own a piece of property, you can drill a water well for domestic purposes.

Seney: So, if I'm just building a house, I can go ahead and drill a well? Do I have to let you know about that?

Westergard: Yeah, the well driller has to give notice. There is an exception to that.

END SIDE A, TAPE TWO. OCTOBER 14, 1994  
BEGIN SIDE B, TAPE TWO. OCTOBER 14, 1994

Seney: You said there was an exception?

Westergard: Yeah, that is if there's a water service available from an entity, a public utility or governmental entity, then you can be precluded from drilling a well.



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- Seney: So, in other words, if there are pipes nearby that I can reasonably hook up to, then I can't drill a well.
- Westergard: That's right. But you file an application with the state engineer, the public is given notice, interested parties have an opportunity to object or protest.
- Seney: Forgive me for being so detailed, but what kind of application am I filling out here?
- Westergard: It's an application that identifies the purpose for which you want to use the water, who you are . . . Identifies the point from which you're going to divert water, and the area on which you're going to use it. It requires a brief description of how you're going to accomplish all this.
- Seney: So, it gives you enough information so you can get *your* maps out and lay this on top and say, Ah, this is where they're going to drill."
- Westergard: And the application has to provide the map too. That's the responsibility of the applicant. And the whole system is based on priority: it's first in time, first in right, which is extremely important, especially when you have a limited resource available, because the earlier right has the first call. People don't understand this. They say, "Well, you mean if John Doe has got a right for stock water or irrigation purposes and there's a municipality that has a water right to serve people, that the guy, just because he was there a few years earlier, gets the water and the municipality doesn't?" And that's the law in Nevada.
- Seney: Because that's a beneficial use?
- Westergard: That's right. But once that application is filed in acceptable form, as I said, the public is given notice through newspapers. And any interested party – For example, if I had a well, and you wanted to drill one close to mine, I would see that notice in the paper and I could object, I could protest.
- Seney: What difference would my neighbor's objection make?
- Westergard: It would have to be based on sound rationale. In other words, the state engineer has to determine, in effect, three things. One, is the water available? And in a lot of cases in Nevada, there's *not*, because its fully appropriated or fully committed. Secondly, is it going to adversely affect anybody's else's rights? So, if the well you want to drill is too close to mine, and the state engineer can determine that if you put a well there, it's going to jeopardize my right, and say "no." And he also has to consider the public interest, whether or not what is the purpose to be done is consistent with or contrary to the public interest. Those are the three basic criteria.
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But your question was, what basis might I have to object if you wanted to drill a well. I could call attention to the fact that my well is 250 feet deep, and I'm drawing three-second feet out of it, and that's not much. But just by way of example. If you want to drill a well and pump five-second feet and irrigate twice as much land, when you do that, you're going to draw the water level of my well down. And therefore, that's not a reasonable withdrawal and a reasonable expectation of what happens to the water level. And therefore, the state engineer says, "No, you can't have it." Or, in most of the surface water sources, springs and streams, rights have been appropriated for years. So, if a new request comes in, the answer is "no, it's fully appropriated."

Seney: That's really true across the state, right?

Westergard: It is.

Seney: Is there any unappropriated water?

Westergard: There may be some areas where there may be some groundwater and it's been a while since I was directly involved in that part of it.

Seney: Sure, but that's likely to have been only available because of abandonment.

Westergard: In some cases, yeah. There may be some out in the rural areas where there's not a lot of development. And that was an important role I played as state engineer, because we got to the point where before I became state engineer, there were some basins that were considered fully appropriated, just a handful of them, but there was growth at that time to the point where it was time for somebody to start saying no. And fortunately, or unfortunately, And I don't know whether this was good or bad luck, it came when I was state engineer. It's hard, you know, to say, "This basin is fully appropriated," and the next guy that comes in the door is going to be told no. Because the next guy that comes in the door says, "I just want a little bit of water to irrigate 160 acres here. Why can't you let me have it?" But the answer is, you have to draw the line, and when you do, you have to stick by it.

And it wasn't easy. People would come in with hardship arguments and everything. It kind of gets back to the Milt Menukian story. If you go in there with the line or the right approach or whatever, you'll get a yes answer. But again, let me get back to how my upbringing and the teaching and the training and the installing in my nature, I think, *by* my parents and by the people around me, just led me to believe [you] make your best judgments based on the best information you have available. You don't procrastinate and lead people on, you make a decision. And you live with it. And the real solace I took in all this was every decision I made as state engineer was subject to appeal to the court. So, every decision I made I thought in the back of my mind, "Rolly, you'd better be right, because if you're not, they're going to tell you you're wrong." And for a lot

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of reasons, you don't want to be wrong. Not just because of the self-interest in being right, but because of the responsibility to the people that you were trying to protect in the first instance, and the people that you had told no in second instance.

Let me relate a humorous story that goes right to this point. And I apologize for taking more time. When you get me talking about water, it's hard to shut me off – no pun intended!

### **Water Rights and Limited Supply Available at Lake Tahoe**

Seney: This is exactly what we want. And the pun's fine.

Westergard: The Lake Tahoe situation, there's a limited water supply available there. We negotiated an interstate compact with California, set the limits on what could be used by both actions of both legislatures. The Congress had not ratified the interstate compact. There was an individual that wanted to take some water out of the Lake Tahoe basin for a development outside the basin. The compact said no new exports of water out of the basin, so we said no. They took us to the Nevada Supreme Court, and the Supreme Court said, "That compact's not effective until the Congress ratifies it." But we were concerned about the future *if* it were ratified. So, this individual started to look for other sources, even though that decision had been made.

Seney: In other words, he *could* have exported the water.

Westergard: Yeah, in one case they did, somewhat limited amount. But that sets the background as to why this was important. Another individual came in, and he wanted to drill a well, because of the problems in getting water out of the Tahoe Basin. And it was a tributary to the Carson River, way up in upper reaches, in Daggett Creek. He filed an application for a well. I set a hearing, took evidence, and as I told you, I didn't like to procrastinate. If attorneys wanted to file briefs, I'd say, "What are you going to tell me that I don't already know. Or if there *is* something that I don't already know, I'll give you that opportunity. But let's get an answer for everybody. Well, in this particular case, I heard all the evidence, the applicant was sitting there with his attorney and at the end of the recitation of facts and conclusion, I said, "The application is denied." And it was because one of two things would happen: either the water would not be there in the first place, or secondly if it was there, it'd be coming right out of the stream which was already fully appropriated. Well, this guy who kind of had a reputation for really pushing for what he wanted turned to his lawyer and said, "What does he mean?" And his lawyer said, "Purdy, that means you lose." (laughter) So, I guess it demonstrates several things about the way I did things based on the facts, and quick response if you could get to it, and maybe even whatever the sort of facetious comment by the lawyer meant to that individual, "It means you lose."

Some people win, some people lose, but wasn't because of who they were. It was because of the facts of the situation and what the law mandated I do. And again, even in that instance, I thought to myself, "If its appealed, I want to be sure that a judge, in fairness to him also, can say 'there was substantial evidence, the state engineer considered that, so the conclusion is upheld.'" Or if in fact it wasn't, it is overturned.

Seney: But you would know in this case that when he drilled that well down the water was actually seeping out of that creek into that well. So, it was really creek water he was getting (Westergard: That's right) in all likelihood.

### Water Rights Generally in Nevada

Let me go back to ask you just one thing about, say, my domestic well that I want to drill. You gave an example of three cubic-foot per second on this well, and maybe five cubic-foot per second on this well, because they want to irrigate. I would never need that much water for my domestic purposes would I? (Westergard: No.) Can you give me a sense of how much I *would* take out?

Westergard: Eighteen hundred [1,800] gallons a minute is the upper limit that the law provides the most you can take under a domestic well.

Seney: And that's a lot less than five cubic feet or three cubic feet That's a trivial amount in comparison?

Westergard: Yeah. For example, three second feet would be about 1,200 gallons a minute, just to put in perspective, is all.

Seney: And all could take would be . . .

Westergard: Would be 1,800 gallons a minute.

Seney: Okay, good. But when you went to work for them, you were evaluating these applications and making recommendations to the state engineer?

Westergard: That came a couple of years later, and again, I moved fairly fast in that process.

Seney: Tell me about moving up in the ranks. You were attending a lot of retirement parties, I take it?

Westergard: (chuckles) Well, that too. But at that time – and I guess it continues today – there were a lot of people that would come from all over the state and say, "I need a water right, what do I do?" And we'd go through the process, at that time even help them fill out the applications. And again, that's where the Nevada connection was expanded, or continued. People would come in and say, "Geez, remember when we went to the football game in Davis when we were at the

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university.” Or, “I remember when your folks came to Winnemucca for a rodeo.” Or, you know, just on and on and on. And I developed a relationship and a rapport with those people that today I value and cherish. Geez, it’s just been one of the most gratifying things. And that’s what I really miss, is that day-to-day contact. But in any event, those people would come in and I’d assist them, and I took on more and more responsibility, like reviewing the documents that had to be submitted. Another requirement is that once you’re granted a permit, bear in mind you only have the right to use, and you have to demonstrate due diligence in proceeding to develop that right.

- Seney: So, I have to begin digging my well, making sure that I’m using water?
- Westergard: That’s right, for two obvious reasons. One, because the theory is you develop what’s available – don’t exceed it, because that’s in the interest of the state to have whatever economic benefits there are, in the first instance. The second instance, if the state engineer has told somebody else no, they can’t have a well, then you have a responsibility to proceed or that guy ought to get a crack at it.
- Seney: And you kept an eye on that. As part of my application, I would have to submit to you that, “Okay, on this day the well is dug. Now I’m beginning to take the water.”
- Westergard: And now I’m putting it to beneficial use, and now I’m entitled to a right for perpetuity, subject to loss only if I fail to exercise it for a period of time, or if time shows that I’m jeopardizing somebody else’s right. That’s the only way you could lose it.
- Seney: Sure. Let me ask you something about how you worked and how the office worked when you were there? I take it to be a small office, not very many people?
- Westergard: Yeah, it was a small office. It was a state engineer, and assistant, a senior engineer, and two or three hydraulic engineers, and two or three junior engineers.
- Seney: Not only would you know the people who’d been to Winnemucca with your parents to a rodeo or off with to Davis for a football game, and there would be *that* connection, but would I be right in thinking that in a small state like this, a real bureaucratic approach in the worst sense of the term, just wouldn’t be tolerated?
- Westergard: I think that’s fair to say. Yeah, I think that’s fair to say. People expected you to be responsive. I don’t care whether you were the state engineer or whether you were Ed Muthe coming to Lovelock for a meeting with the Pershing County Water District, or whether you were a junior engineer – they expected you to be responsive.

Seney: Friendly, open, helpful?

Westergard: Yeah. But on the other side of it, they had a respect too, I think, because of the way that resources were being treated. And my years of experience, with all those governors – I started to say this when you asked me what O’Callahan would ask, or what he would say – at the conclusion of almost every conversation would be almost the admonition, from everyone of those people, “Just do what’s right and what you can support.” And you know, I don’t know whether that happened in every area.

Seney: With other department heads, you mean?

### **Dealing with Water Use in Las Vegas**

Westergard: Yeah, I don’t know. I’m not saying they *didn’t*, but I know how it was with me. They said, “Just do the right thing.” Some of those were tough issues, you know. You go to the Strip and tell them they can’t pump water over and above their entitlement, and they’re going to have to buy water.

Seney: This would be the Las Vegas Strip?

Westergard: Yeah. Those were tough decisions. But I think that there was a sense throughout the state – or at least I like to think this – that these resources are being managed based on what I tried to illustrate, the *facts* and a defensible conclusion. And there’s no use meddling with it in politics because, “It ain’t gonna git the job done.” (laughs) That’s the way its *been* done, and that’s the way its going to be done, and that’s the way it’s going to be done. And take a lot of pride in knowing that that’s the way I operated, and I take equal pride in knowing that that was the direction I had from the people I worked for. From the day that I was a junior hydraulic engineer, nobody ever suggested to me that I should give somebody special treatment.

Seney: Never happened?

Westergard: No, and I like to think it was back to the Menukian story. What would happen if they did? And I’m not being egotistical. Again, I attribute it to the way I was brought up.

Seney: Since you brought the Strip and the gaming interests, as they prefer to be called. As an outsider, as a Californian, of all things, as a foreigner here, I must say rightly or wrongly – and this gets to your statement that you were never really pressured to make decisions in one way or another – we get the feeling over in California, and maybe people in other states so too, that this is a big interest, the gaming people are *big* interests in Nevada, and that pretty much what they want, they get. They use a lot of water, there’s no question about that. They *need* a lot of water, and they *use* a lot water. Even if it weren’t a governor calling up and

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saying, “Listen, Roland, you’ve got to do this, that’s all there is to it,” would there be in the back of your mind, maybe a sense that this is an important interest here, and that if a reasonable accommodation can be made, it *ought* to be made. Would that be maybe part of your thinking?

Westergard: An accommodation, *if* it were in the constraints of the law. Let me give you two examples, conflicting [examples]. (chuckles) There both a little bit humorous, I guess. When I was assistant state engineer, I got the sense – and I was just beginning to get involved in the Las Vegas situation. At that time there were wells being drilled, temporary permits being issued. There was a lot of things going on down there. I became aware that on the Strip some of the hotels were using more water than they were entitled to. There *was* water available from the water district out of Lake Mead, and the conditions of certain permits were that when the water became available, those groundwater rights had to be terminated.

Seney: So, once they got the water out of [Lake] Mead, they capped the wells.

Westergard: Or cut it back to their entitlements. When I was appointed state engineer, shortly after that I went to then-Governor Laxalt and I said, “There’s this problem. I’m concerned about it.” He said, “If you’re concerned, I’m concerned. Have these people been approached?” I said, “I’m not sure they have.” He said, “You get together with my secretary, set up meeting” – And I can’t remember the little place in Las Vegas – and we had about four or five of the managers of the major hotels. And they weren’t the big ones like they are now, but they were big hotels for that time. We sat in a room and he told them what the issue was. And he said, “We’re going by the law. You are going to be limited to what . . . And you know, somebody said, I think, “That might cost us \$20,000 a month,” or a year – I don’t remember with respect to the particular figures. And I thought to myself, “it costs them that much for the power on those big signs,” just reflecting what my thought process was. And it kind of responds to, “Well, should they be accommodated? Laxalt told them, “Don’t call me, you call Roland, and you get this worked out and you get within the constraints.” That’s the kind support I had.

The state engineer does have the authority, and it goes to your question about accommodating. And that might not be the right term to apply to it, but in the designated basin where the water supply is for all practical purposes, fully committed, if the state engineer does have the authority to consider preferred use. In other words, I’ve got this well here. Okay, you wanted to drill a well. The state engineer told you no. Somebody else wants to put a well in there that may be smaller in quantity and for a different purpose where there’s a real public interest involved, the state engineer could say yes to that person. I don’t know whether you know Cy Ryan [phonetic spelling] or not. He’s a U-P-I [United Press International] reported here – just again, a very fine person, tenacious as hell when it comes to reporting the news, [in] Lemon Valley, out north of Reno, we’d had some real problems with groundwater administration out there and



bringing people into line. We had to issue various orders, and I denied permits, told them they had to come in compliance.

Seney: Why are you putting your hands to your forehead when you say that?

Westergard: Because this is funny (chuckles) and it's just fun to reflect. You read this body language more than I'm aware of it's even going on. But anyway, I got an application for a small draft well, a few hundred gallons a minute for a Little League ball field. Well as it turned out, about that time there was an article in the *Lovelock Review-Miner*, which is the local paper in Lovelock, and it said, "Twenty Years Ago . . ." You know, those ten, twenty, thirty, . . . "Twenty years ago Roland Westergard was named to Elko's all-opponent team," or something related to my playing football! (laughs) In a small school, a quarterback that couldn't pass. Anyway, I got that application for a Little League ball field that I considered it a preferred use and gave them a permit.

Seney: Same day in this paper?

Westergard: Just about the same time. Cy Ryan calls and says, "God damn you! (Laughs) I saw that 'Twenty years . . .' If anybody was going to get a preferred use for a well, it would be a Little League ball field." You know, just another kind of humorous incident, but it also represents the authority of the state engineer to address public interests and concerns, while at the same time protecting [the water resource].

Seney: So, this would be a judgment you could make, that is, my well for my private residence, in your opinion as state engineer, you might deny that. And then a week later here comes a Little League ball field permit, and you say, "Yeah., we can run some drinking fountains at the Little League ball field."

Westergard: Probably not a domestic well. I don't know what rules they follow today, but I'm not saying that a Little League ball field would take precedence over a domestic well, but it would take precedence over an irrigation well, or a commercial establishment.

Another example. As I recall, we had a church one time that wanted to build a church in a designated basin, and they needed a permit. We considered that a preferred use – that type of thing. But just because you're Hotel "X" and need 3,000 gallons a minute so you can expand your facility in a designated basin, that's not going to cut it.

Seney: You never had the feeling that that was something you really had to do?

Westergard: No. They had the wherewithal to acquire rights, if it was important, or whatever.



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- Seney: So, they could go out and buy them – then come and buy *my* rights, in other words.
- Westergard: Yeah, they could do that.
- Seney: And then they *did* that, I assume?
- Westergard: Yeah, there's a lot of that that happens.
- Seney: So, in other words, if you happen to say no to them, that wasn't necessarily *no*, that was just "find another way."
- Westergard: Well, in the case of the Las Vegas example, they could go to the water district and hook up – they just had to pay more for it. But in lots of areas, that's not the case. In lots of areas, its fully committed and the answer is no, and further development *is* precluded, where there *are* no other alternatives.
- Seney: At what point did that water come from Lake Mead to the water district, where the casinos could take advantage of it?
- Westergard: Oh gosh, it was in the mid-70s as I remember, because we started curtailing those temporary permits about that time.
- Seney: So, in other words, by the mid-70s they were able to take care of that?
- Westergard: Yeah, I do have an appointment at twelve.
- Seney: Okay, well, why don't we stop now then?
- Westergard: Is that alright with you?
- Seney: Absolutely. And I apologize again. What can I say?
- Westergard: Oh, that's alright, I've enjoyed this.
- Seney: Okay. I'll definitely be back to talk to you.
- END SIDE B, TAPE TWO. OCTOBER 14, 1994  
BEGIN SIDE A, TAPE ONE. OCTOBER 4, 1996
- Seney: Who we are and where we are. And, my name is Donald Seney and I'm talking with Roland Westergard at the headquarters of the Department of Natural Resources, Conservation and Natural Resources in Carson City. Today is October 4, 1996 and this is our first tape. Good afternoon, Roland.
- Westergard: Hi.
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### Director of Conservation of Natural Resources

Seney: Hi. When we finished so long ago, we had just finished talking about your being state engineer. And now, now your next job is to be director of Conservation and Natural Resources?

Westergard: That's right.

Seney: When were you appointed to that job and who appointed you to that job?

Westergard: Governor Bob List<sup>8</sup> in 1979.

Seney: In '79?

Westergard: Yes. Uhm-hmm.

Seney: And did you hold, did you retain the job of state engineer when you went to . . .

Westergard: No.

Seney: Do those two jobs go together anywhere?

Westergard: No. No. The Division of Water Resources was one of the divisions in the department and the state engineer is the administrator of the Water Resources Division. And the (Seney: Okay.) director administers the department, which included the (Seney: The state engineer?) numerous divisions.

Seney: Right.

Westergard: Uhm-hmm.

Seney: How did you get the job? How did that come about?

Westergard: Well, I guess my experience as state engineer and in the resource area led then-Governor List to, to at least consider me for the position. And, and I'm grateful for the opportunity to serve at his request. (Seney: Right. Right.) It was a very positive experience and I enjoyed very much working with him.

Seney: How many years did you serve as director?

Westergard: Until 1990.

Seney: Until . . .

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<sup>8</sup> Robert F. List served as governor for the state of Nevada from 1979 to 1983.

- Westergard: Until I retired. So, it was eleven years.
- Seney: Yeah. Right. That's kind of long, isn't it?
- Westergard: Well, yeah.
- Seney: Is there . . .
- Westergard: The time went. The time went fast, (Laugh) because as I said I enjoyed it. (Seney: Yeah.) But it was a long stint, yes.
- Seney: I mean, in terms of that would have meant that you not only worked for Governor List, but you worked for Governor Bryan?
- Westergard: Yes.
- Seney: And Governor [Robert] Miller<sup>9</sup> too?
- Westergard: Yes. Yes.
- Seney: So, all three?
- Westergard: Yes.
- Seney: Was List a Democrat? Forgive me for not knowing (Westergard: No. No.) enough about . . .
- Westergard: He was a Republican.
- Seney: Republican?
- Westergard: Uhm-hmm.
- Seney: So, that doesn't really count, in a job like that it just doesn't much matter?
- Westergard: Well, I think historically the, those appointments to the resource positions were not really based on politics, at least in the time span that I, that I was aware of it.
- Seney: Right. Right. You know, we, before we started to talk, I asked you about the Interstate Compact that finally failed in 1986, that was drawn up between – you're kind of grimacing. Am I right about that? Or, you agree it failed in '86, the Interstate Compact?

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<sup>9</sup> Robert F. Miller served as governor of the state of Nevada from 1989 to 1999.

## Interstate Compact

- Westergard: Well, it was never ratified by (Seney: Right.) Congress.
- Seney: Although, we would say here, and we'll get to it later, the elements of it end up in Public Law 101-618<sup>10</sup>, don't they, pretty much?
- Westergard: That's right. I guess that's why I hesitate to say it failed.
- Seney: Yeah. Right. Exactly.
- Westergard: Because it took a little longer to get it in effect (Seney: Right.) and ratified, which is still not (Seney: Yeah.) effective but will be.
- Seney: In a slightly different form, as legislation as opposed to an Interstate Compact?
- Westergard: Yes.
- Seney: But still, the objective was satisfied?
- Westergard: That's right. Uhm-hmm.
- Seney: And, you said that you helped to draw up, or you were part of the team that helped to draw that up from the Nevada side when Paul Laxalt was governor?
- Westergard: Well, actually the negotiations started under authorization from the Congress in the two state legislatures as early as 1955. So, and I didn't really come on that scene until I was employed in Water Resources in 1960. And, over the next couple of years I became involved. But there was a lot of the background that had even initiated, was initiated in 1955. So, it was, you know, again, it was a fairly lengthy process culminated in approval of the legislatures in, in the 1969, '70s, '71 era. So.

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<sup>10</sup> Public Law 101-618 became law on November 16, 1990. The Law contains two acts: The Fallon Paiute-Shoshone Tribal Settlement Act and the Truckee-Carson-Pyramid Lake Water Rights Settlement Act. The main topics of the legislation are:

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

Source: [http://www.usbr.gov/mp/lboa/public law 101-618.html](http://www.usbr.gov/mp/lboa/public%20law%20101-618.html) (Accessed December 2011).

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- Seney: Right.
- Westergard: Yes.
- Seney: And by “legislatures” you mean both California and Nevada legislatures?
- Westergard: Both California and Nevada. Yes.
- Seney: Can you give me a sense of what was, what was in that Interstate Compact and what it hoped to achieve?
- Westergard: Actually, the purpose and what it would have achieved and hopefully now will achieve ultimately is an interstate allocation. It established the limits of water use, allowable water use in the form of allocations on the Carson and Truckee rivers and Lake Tahoe. In effect, oversimplified, divided the water between the states of California and Nevada, of those water sources. And, in the original one, the Walker River was, was also included.
- Seney: Right. Later though, 101-618 the Walker River is dropped out of, (Westergard: That’s right.) it isn’t it?
- Westergard: That’s right.
- Seney: So, it’s only the Carson and the Truckee?
- Westergard: And Lake Tahoe.
- Seney: Right. And, right, Lake Tahoe.
- Westergard: Yes.
- Seney: You know, as I look at a map of California and Nevada the boundary line, of course, people were possessed to draw it right through the middle, almost, of Lake Tahoe, were they not? Who, which side gets the – how is it split?
- Westergard: It’s split one-third, two-thirds, in effect. There’s a total allocation of 34,000 acre feet.
- Seney: One, in other words, one-third of the Lake is in Nevada, and two-thirds is in California, roughly speaking?
- Westergard: That’s approximate. Yeah. Uhm-hmm.
- Seney: Okay. And, there were 34,000 acre feet to allocate out of there?

- Westergard: That was the determination of what could be allocated for use in the Tahoe Basin without unduly affecting the water rights on downstream of people that had established rights years before. (Seney: Okay.) Of that, Nevada got 11,000 and California 23,000. So, it's roughly at one-third/two-third split.
- Seney: Okay. So, again, what was being done is obviously as we know there are well established water rights on the Truckee River (Westergard: Right.) that have very early priority dates. So, taking all that into consideration you were figuring what was left over?
- Westergard: Yes. In all, you know, in all candor I want to indicate that a lot of those discussions had gone on even prior to my involvement in it. (Seney: Right.) But the basic determination was, was a balance of what was a reasonable allocation for use in the Lake Tahoe basin that would provide a water supply for reasonable development in that area, and at the same time not, not unduly adversely affect and impinge upon water rights that had been established, as you say, for years on the lower Truckee River.
- Seney: Right. Right. And it was determined then, through this . . .
- Westergard: And when I say "Lower Truckee River" I mean below the outlets of . . .
- Seney: Of Lake Tahoe?
- Westergard: Tahoe, in both California and Nevada. Yes.
- Seney: Right. And my understanding is that while these have gone on for some time that there was some impetus, when Reagan and Laxalt were governors, that they hit it off pretty well, and that . . .
- Westergard: Yes. Uhm-hmm.
- Seney: How would you describe the role of those two individuals in getting an agreement?
- Westergard: Well, as I say, the negotiating commissions were, even though it took time, worked well together and that there were obviously controversies. But the watersheds in both states had representatives, the four watersheds that we talked about. And, when those bills were submitted, bills were submitted for the state legislative ratification, the two governors were supportive. And, they were concerned, of course, at that time not only about an interstate allocation of water between the states, but also the protection of Lake Tahoe, which later resulted in, in another bi-state compact, which is effective and which is operable today. So.
- Seney: That's the one that created Tahoe . . .

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- Westergard: The Tahoe Regional Planning Agency.
- Seney: Planning Agency.
- Westergard: Yes.
- Seney: Right. That allocates building permits and (Westergard: Yes.) and does all that kind (Westergard: Yes.) of thing?
- Westergard: Uh huh.
- Seney: Would the agreement, do you think, have come about without the, without Governor Laxalt and Governor Reagan? I mean, were you heading in that direction? Everybody knew it had to be done?
- Westergard: Yeah. If it – I think so. I think once the two commissions came together and could jointly represent to the two respective legislatures, and the executive branches, that – it wasn't a matter of politics in the normal sense (Seney: Right.) between the states. It was, it was rather a matter of reaching an equitable apportionment or allocation and an understanding among the people who represented the water users in both states. And I think when the elected officials, both at the legislative level and executive level, accepted those representations that a valid, fair allocation had been, had been determined between the negotiating bodies, I think they were ready to accept that.
- Seney: And this was something that really had to be done, I take it. You couldn't just forget it and let it slide if you . . .
- Westergard: Well, yeah, we, obviously, my predecessors and me and the people that I worked with and the successors have felt that it was extremely important to establish that division of resources between the states.
- Seney: The implication . . .
- Westergard: For a lot of good reasons.
- Seney: One of them being that, that you couldn't really have development, regularized planned development in California and Nevada, around the basin, if you didn't know what the water rights were and how much was going to which side?
- Westergard: Yeah. That's right. And very simply in the Tahoe Basin, as an example, without this allocation there in effect it, in some sense, would not be an entitlement for use in the Tahoe Basin. Any use up there would be subject to challenge by earlier water right holders. So, on the one hand it constituted an entitlement, you might say, (Seney: Yeah.) for water use within the Tahoe Basin, but at the same time it set a limit on what could be done up there, as we said before.

Seney: Right. Right. So, it both stabilized the situation and limited it at the same time?

Westergard: That's right. Yes.

Seney: Yeah.

Westergard: And, to a certain extent the same thing was true on the, on the Walker [River], and the Carson, and the Truckee. One of the basic concepts was that their water would be allocated with the recognition of it existing established rights and that the water over and above that would, in effect, be divided on a percentage basis. (Seney: Yeah.) And that was a judgment call based on the potential for development and, again, fairness and equity.

Seney: Right. But these were long-term? I mean, it took a long time to come to this?

Westergard: 1955 to 1969, when Nevada first ratified (Seney: Yeah.) it. Yes.

Seney: How do you, how does it take so long to come to an agreement like that?

Westergard: Well . . .

Seney: What makes it so lengthy?

Westergard: Well, in the first instance there were four watersheds, as opposed to many Interstate Compacts are on one water source. A lot of diverse, and one, in the sense that they're competing users: irrigators, municipal, power, recreation, Indian tribes, you know. Just the whole gamut. Fisheries. Just a lot of different interests who, of course, were interested in seeing that they, that their water supply was protected to the extent it can be. And I would stress that to the extent it can be within the allocation to the respective states. The Compact did not, did not attempt, nor did it, allocate water to users in either state. It provided a division between, between the two states.

Seney: Just a gross division?

Westergard: Right.

Seney: Yeah. And then the states themselves decide what . . .

Westergard: Where to administer the quantity that they were allocated (Seney: Right.) under the Interstate Agreement.

Seney: Right.

Westergard: Yes.



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Seney: And then to obviously further allocate it for the uses that they (Westergard: That's right.) under their law?

Westergard: That's right.

Seney: Right. You know and I know, and we'll get to this as we talk, that the Pyramid Lake Tribe was very opposed to the Interstate Compact, and when it came up for ratification in 1986, they really mounted a serious, and ultimately successful, campaign to defeat it. And I'm, can you explain to me, what is your perspective on why they were so opposed to that Interstate Compact?

### **Pyramid Lake Tribe's Opposition to the Compact**

Westergard: Well, I suppose there were two things. I think one, I think that they were under the impression and had the feeling that the compact, perhaps, should, should establish an allocation for, for the tribe. The basic basis and concept behind the allocation, as I said earlier, was that it would be a division between the states and then that the various users' needs would come out of that allocation. I think that was one thing. Secondly, it was clear in there, consistent with what I've just said, that the federal uses, and I guess you could extend that to Indian uses, would be governed and controlled by that interstate allocation. I think those are the two, two basic reasons, and there's even a little overlap as between those two.

Seney: Right. The Indians themselves don't have much of a water right, do they, for the Pyramid Lake Tribe, and so forth?

Westergard: Well, there is right in the decree for irrigation purposes (Seney: Right.) on the reservation, and subsequently when Stampede Dam was built, and there was litigation involving that, the courts, in fact, (Seney: Yeah.) made the determination that the storage at Stampede would be devoted first to the preservation, or the enhancement, of the endangered species. So, to that extent there's entitlement to use Stampede Reservoir for the benefit of that lower fishery and endangered species, endangered species specifically.

Seney: Right. But, that did come after 1986, this, didn't it, the decision on Stampede?

Westergard: Yeah. I'm sure it did.

Seney: So, when they were opposing it, all they were . . .

Westergard: You're saying 1986.

Seney: That's the date I'm putting on the defeat of the Interstate Compact.

Westergard: Yeah. I don't recall that date specifically. But, obviously, you're . . .

Seney: Yeah. I think that's right. Right.

Westergard: Right. Uhm-hmm.

Seney: It was the end of Senator Laxalt's term, (Westergard: Uhm-hmm.) and it was one of the things he wanted, at the end of his term, (Westergard: Uhm-hmm.) to get done. And, you know, I've interviewed Bob Pelcyger<sup>11</sup> and Joe Ely<sup>12</sup> (Westergard: Uhm-hmm.) and I've talked to them about, (Westergard: Uhm-hmm.) "What were you guys so upset about? Why was . . ." "Oh, well . . ." They, frankly they couldn't remember the details, (Westergard: Uhm-hmm.) but it was bad for the tribe, (Westergard: Uhm-hmm.) and so forth. And I was hoping maybe you could remember more specifically what the objections might have been, because I know you were involved in that in that period.

Westergard: Well, those were, those were the reasons we gave. Frankly, the people that had negotiated it over the years were extremely disappointed when that objection surfaced at the federal level, because the tribes and everybody had an opportunity to testify and participate in the state legislative review of the agreement. And I can't, I would be if I could be more specific. (Seney: Right.) I think it was just that they felt that because they were an established Indian tribe that perhaps the document should specifically set forth a water right.

Seney: Spell out their allocation?

Westergard: For the tribe.

Seney: Yeah.

Westergard: I think that they, and I'm trying to remember the details, you know, and you don't think about these things for a while. (Seney: Right.) I think they felt that some of the provisions could, perhaps, affect them in the future as the potential for development, particularly in California, you know. Anything that is used in California does not come on down across the (Seney: Right.) state line, and I think there was a concern. And, to a certain extent that was the basis for 101-618, that those limits be set. And there was a concern about whether the diversions in use of water in California would affect the flows for endangered species and otherwise. But again, it's interesting to note that now, after all these years, 101-

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<sup>11</sup> Robert S. Pelcyger participated in Reclamation's Newlands Series oral history project. See, Robert (Bob) S. Pelcyger, *Oral History Interviews*, Transcript of tape-recorded Bureau of Reclamation Oral History Interviews conducted by Professor Donald B. Seney for the Bureau of Reclamation, in 1995 and 2006, in Reno, Nevada, and Boulder, Colorado, 1995 interviews edited by Donald B. Seney and all interviews further edited by Brit Allan Storey, senior historian, Bureau of Reclamation, 2013, [www.usbr.gov/history/oralhist.html](http://www.usbr.gov/history/oralhist.html).

<sup>12</sup> Joseph (Joe) H. Ely participated in Reclamation's Newlands Series oral history project. See, Joseph (Joe) H. Ely, *Oral History Interview*, Transcript of tape-recorded Bureau of Reclamation Oral History Interview conducted by Donald B. Seney, edited by Donald B. Seney and further edited and desktop published by Brit Allan Storey, senior historian, Bureau of Reclamation, 2011, [www.usbr.gov/history/oralhist.html](http://www.usbr.gov/history/oralhist.html).

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618 provisions are fairly consistent with the (Seney: Right.) documents that were approved years before. (Seney: Right.) And, that's not intended as criticism of the tribe's position (Seney: Yeah.) on this at all.

Seney: No, I understand. Right.

Westergard: Obviously, like all of us, they represent an interest and did it effectively, (Seney: Right.) and that's the way it was, and is.

Seney: At the time the Interstate Compact was being debated in the Congress, though, their political position was nothing like it is today. That is, today they're, they're more than fairly influential, wouldn't you say, in these water matters? They have a strong voice?

Westergard: Yeah. I think their voice is certainly heard.

Seney: Yeah.

Westergard: And, you know, and again I'm not critical of that.

Seney: No. No.

Westergard: I think that's part of the process.

Seney: No, I think that's the situation. Right.

Westergard: And that's the process. So, (Seney: Right.) yes.

Seney: And, in 1986 that was not the case, would you agree?

Westergard: Well, but it may not have been as strong but I, but I do think that the tribe was, was able to, to convince certain people in the federal establishment, the federal Executive Branch in particular, and perhaps in the legislative too, I don't know that, that this was not something they wanted to see. And, I have not used the word, "was not in their best interest," (Seney: Yeah.) because, because I can't come to that conclusion (Seney: Right.) even today, because I believe that the original compact and the agreement today is in everybody's best interest or we wouldn't have concluded it (Seney: Yeah.) the way we did. (Seney: Yeah.) But I think they were able to convince people that, from their perspective, it wasn't in their best interest, particularly in the Executive Branch. And I don't recall again the details, but I think some of the, some of the Office of Management and Budget and other federal agency reports were not, were not totally supportive. (Seney: Right.) And, when you had the arm of the legislature, in the form of the executive agencies, to a certain extent, and the tribe's joining and saying, you know, that "There are concerns about this," you know, it was difficult even to get set for hearing in the Congress. And, and so to measure their, their influence, if

that's an acceptable word, I don't know how to compare '86 with today. (Seney: Right.) But certainly, they were effective enough so that it didn't pass at that time.

Seney: Right. I understand that . . .

Westergard: Or earlier, I should say.

Seney: Yeah. Because, yes, there were (Westergard: Yes.) attempts to pass it earlier (Westergard: Yes.) in '82, I believe? I am right?

Westergard: Again, the dates escape me.

Seney: Yeah. Somewhere. Somewhere in there.

Westergard: Somewhere in there. Uhm-hmm.

Seney: My understanding is, and we spoke briefly about this before we began to talk on the tape, is that, that the Indians were able, through the good offices of Senator Hatfield, to get Senator Laxalt to negotiate some of the elements of the Interstate Compact. I mean, to add certain things. Because, of course, you couldn't go back, really, and change it. The two state legislatures had passed it. (Westergard: Yeah.) But apparently some, there was some legislation contemplated to go along with that. And, when Senator Laxalt called you, and you are at this point Director of Conservation and Natural Resources, numerous sources have told me that you said to the Senator that "This won't work." That, "We can't change it in this way. This is not . . ." Do you recall that?

Westergard: I recall it and I wish I recalled it more specifically. My recollection is that the changes, which we were not a party to developing, as I recall . . .

Seney: When you say "we" you probably mean the (Westergard: I mean . . .) State of Nevada?

Westergard: Yes. Uh huh. And, to my knowledge the State of California either.

Seney: Right.

Westergard: But, again, I don't say that in the argumentative sense.

Seney: No. No. No. No. Yeah.

Westergard: It's just my best recollection. Because, you know, of the respect I have for Senator Laxalt, he wanted to accomplish something in the best interest of everyone. I know that. (Seney: Right.) And that, that's why he was, I'm sure, as intent as all of us were in trying to get this through. And so, I don't remember the

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specific changes that were proposed. My best recollection is that the material that I saw would have resulted in something less than a final allocation between the two states and that it would have not been an effective allocation or division in perpetuity. Now, that's my best recollection.

Seney: Right. Right. And that, for you, was enough to say to the senator, "I don't think this is a good idea," or however you advised him, whatever advice you gave him on this? Or . . .

Westergard: Yes. I think that's, I think that's a fair, a fair representation of it.

Seney: Do you recall what you, do you recall what you said to him?

Westergard: I don't recall. I don't recall the exact words, but I think I probably said just what I, about what I told you, that (Seney: Yeah.) "From my perspective and as a representative of the State of Nevada, I don't think this constitutes an interstate allocation, as was envisioned by the state legislatures." And certainly the, and I couldn't speak for the legislatures, obviously, at that time. But, for those that had developed the agreement and those that had ratified that agreement, my recollection is that there were things in there that would have, in effect, negated that, that interstate agreement, (Seney: Yeah.) and allocation most importantly that we had set to be in effect in perpetuity.

Seney: Do you recall his reaction to that?

Westergard: No, I don't specifically recall.

Seney: Anything beyond, "Thanks very much. I appreciate the information"?

Westergard: No. I don't think so. And, you know, I don't think, I don't recall at that time that he said, "Well that's, you know, we're not going to go any further (Seney: Yeah.) with this," or "We're going to explore this further and we're going to go with it." Anyway, I don't remember that kind of (Seney: Yeah.) conversation. (Seney: Yeah.) You know, he's such a, such a fine person that I think he listened to people and then made his judgment, (Seney: Right.) and he wasn't judging them. (Seney: Right. Right.) He just, I think, I like to think he had a respect for the people that were commenting to him. (Seney: Right.) And I'm sure, you know, I, his judgment was, you know, just so sound, obviously, or he wouldn't, (Laugh) wouldn't have been where, where he as and (Seney: Right. Right.) where he is. (Seney: Yeah.) And I'm certainly not questioning that. I think he just listened to people and made his own decision.

- Seney: Some people have said to me that he also contacted Joe Gremban<sup>13</sup> at Sierra Pacific Power. And, do you know that? Did he talk to (Westergard: No.) the Sierra Pacific Power people?
- Westergard: I don't know that.
- Seney: Yeah. I mean, it would make sense. It wouldn't surprise you if he had, would it or not?
- Westergard: Well, it wouldn't surprise me if he, you know, who he might have talked to, (Seney: Right.) because I'm sure he wanted to get background and information to make, in his view, what would be his best judgment. (Seney: Yeah.) So, I, and I don't know who all he talked to or the specifics of why or why he would choose to (Seney: Yeah.) talk to any particular individual.
- Seney: As you know, I've talked to quite a number of people. Not everyone involved, yet. I hope to get all that accomplished eventually. But a lot of them think that your advice was the decisive advice, that your perspective was the one that caused him to say, "This is not workable," and sort of throw his hands up. Do you feel that way? I mean, do you have the sense that that was the case?
- Westergard: I just, I don't know.
- Seney: Okay.
- Westergard: All I know is, you know, I gave him my best candid assessment (Seney: Yeah.) of the situation and I felt that that was my responsibility (Seney: Sure.) to the state and to the . . .
- Seney: That's what he wanted from you, I'm sure.
- Westergard: To the system and to him.
- Seney: Right. Right.
- Westergard: And to the, and to the agreement, you know.
- Seney: Did you feel, when it collapsed did you feel any burden that you had . . .
- Westergard: No. No. I felt an extreme disappointment (Seney: Yeah.) that it was necessary even to make changes that, in my view, made it something less than what we anticipated and something less than what would be effective in the long term.

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<sup>13</sup> Joe L. Gremban participated in Reclamation's Newlands Series oral history project. See, Joe L. Gremban, *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, 2015, [www.usbr.gov/history/oralhist.html](http://www.usbr.gov/history/oralhist.html).

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Tremendous disappointment, but, you know, (Seney: Yeah.) from 1969, '70, '71, when we got through the real – you know, it wasn't easy getting it through the legislatures. And I guess just extreme disappointment.

Seney: Sure. Sure. [Tape paused]

Westergard: Move forward.

Seney: After this, the next sort of step that I'm – I mean, you were obviously up to many other things, but the next step I'm interested in is the fact that then Joe Ely and Joe Gremban get together, the Tribal Chairman Joe Ely of the Pyramid Lake Tribe, and Joe Gremban, the President of Sierra Pacific Power, and they begin to talk and discuss. Because by now, about this same time, I think, is when the, the Stampede decision came down that you alluded to earlier, (Westergard: Uhm-hmm.) and the reservoir that Sierra Pacific Power thought was going to be dedicated to their needs now turns out to be dedicated to the endangered species, the cui-ui, in Pyramid Lake. Do you recall those negotiations, and can you give me kind of your view on those? And . . .

Westergard: Well, there were, there were discussions going on from time to time. I don't remember how many different times negotiations and discussions were initiated and pursued and would get to a certain point and for whatever reason they did not, not ripen or mature into a final settlement. And oftentimes, you know, the Nevada interests, collectively, would establish positions, which I thought was a positive thing to do because after all the different entities in Nevada represented, you know, to a large extent, common interests. So, (Seney: Right.) and then in some of the discussions, parties, I believe there were discussions between, between the tribe and the Truckee-Carson Irrigation District, the Fallon area, at the same time. So, I wasn't privy or (Seney: Sure.) directly involved in those discussions between the various, the various interests.

Seney: But you would probably be generally informed, given your position, on what was going on?

Westergard: Not, not to any great extent in the case of the tribe and the power company in (Seney: Yeah.) what ultimately resulted in the Preliminary Settlement Agreement.

Seney: Because the State of Nevada's interests were really not at play much in that, were they? Did you see it that way, or no, or?

Westergard: Well, I think to the extent that there are water users in the state of Nevada the State of Nevada's interests were involved, (Seney: Right.) and to the extent that any of those discussions, or conclusions, or agreements could in a way impact other water users in Nevada or jeopardize the longstanding agreement we had with California, even though it hadn't been ratified at that time, we still operated under the good faith commitment (Seney: Right.) to both states, in effect,

particularly in the Tahoe Basin. So, to the extent that those discussions or agreements could affect anybody else, or the future (Seney: Yeah.) of administration of water in Nevada, there, you know, there would be a concern.

Seney: Right. Let me say this explicitly, because maybe the implication won't be picked up. Once the two state legislatures approved that Interstate Compact, the two states began to divide the water on that basis, didn't they, in full?

Westergard: Well, we pretty much, pretty much managed and operated the Tahoe entitlements under the agreement. And, as far as the Carson, and the Walker, and the Truckee it had, the agreement would have, and did, protect existing rights. So, to that extent, yes. [Tape paused] Protecting those rights.

Seney: Right. Even though it hadn't been ratified yet (Westergard: Yes.) by Congress, (Westergard: Sure.) you guys went ahead with it (Westergard: Yes.) because it made sense to you? Right.

Westergard: Yes.

Seney: Do you recall that when Senator Reid<sup>14</sup> was elected in '86 to replace Senator Laxalt he said at election night news conference, when he was asked, "What's your biggest priority?"

### Senator Harry Reid

Westergard: I remember that. (Laugh)

Seney: You're smiling. Even laughing now.

Westergard: No. No. I remember that.

Seney: Yeah. But everyone does.

Westergard: Yeah. Uhm-hmm.

Seney: He said, "To settle the water wars on the Truckee."

Westergard: Right. Uhm-hmm.

Seney: And, you know, I've interviewed him, and he said at the time he didn't really know anything about it, (Westergard: Uhm-hmm.) and wasn't sure why he said

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<sup>14</sup> Senator Harry Reid represented the state of Nevada in the U.S. Senate from 1987 to 2017. Senator Reid also 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](http://www.usbr.gov/history/oralhist.html).



that but did. And he immediately hired and then dispatched Wayne Mehl<sup>15</sup> to begin to look into matters and began to set up some negotiations. Do you recall those negotiations that Wayne Mehl oversaw for Senator Reid?

Westergard: Yes. Uh huh. I do.

Seney: You took part in those, (Westergard: Yes.) did you?

Westergard: Uh huh. Uhm-hmm.

Seney: What was the State of Nevada looking for in those negotiations? What were you trying to accomplish?

Westergard: Well, we were hoping to accomplish final implementation of the interstate agreement, as well as a resolution of issues within the, within the state of Nevada. And, I say that with the recognition that that was always the intent, even under the original compact, that those issues, if there were some outstanding in Nevada, would be resolved under established procedures, application of state water law, or federal law if that were necessary, but that there was a mechanism in place to do that.

Seney: Let me turn this over.

END SIDE A, TAPE ONE. OCTOBER 4, 1996.

BEGIN SIDE B, TAPE ONE. OCTOBER 4, 1996.

Westergard: But then there were some, you know, some federal actions that, that followed. The Operating Criteria and Procedures process was, as I recall, ongoing. And there were things that, there were numerous lawsuits that had been filed, both in Nevada and across the line in California. There were so many things ongoing at that time that unfortunately, from my perspective, it took a resolution of these issues out of the hands of the processes and procedures that were there and perhaps could have been used to resolve these issues. That is the application of state procedures, and as I say, to the extent necessary and appropriate, federal procedures.

Seney: What do you mean when you say, "state procedures"?

Westergard: Well, I mean the, the very simple application process that we talked about before. (Seney: Uh huh.) And any other protections that, that water users and entities in Nevada could be afforded under the, under the state appropriation and administration process.

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<sup>15</sup> Wayne E. Mehl participated in Reclamation's Newlands Series oral history project. See, Wayne E. Mehl, *Oral History Interview*, Transcript of tape-recorded Bureau of Reclamation Oral History Interview conducted by Donald B. Seney, edited by Donald B. Seney and further edited and desktop published by Brit Allan Storey, senior historian, Bureau of Reclamation, 2013, [www.usbr.gov/history/oralhist.html](http://www.usbr.gov/history/oralhist.html).

- Seney: You may be thinking specifically about the Truckee-Carson Irrigation District here?
- Westergard: Well, not specifically. I'm just thinking about all, all the users in the state. I guess I don't want to leave the impression that the compact as originally conceived in the '60s and '70s left something out there undone. What that did, and I just repeat, allocated between the states, and we felt that the mechanisms were in place to implement that in the respective states by those state authorities.
- Seney: So you, you feel as though the State, itself, should have resolved then the allocation of the (Westergard: I think . . .) water between the various entities in the state, with the feds maybe staying out of?
- Westergard: Yeah. I think they could have. And, if there was, obviously some of the litigation raised issues that, in the view of the people bringing that litigation, and did not, did not to their satisfaction provide a mechanism. But I, you know, maybe I'm overly conventional or, in fact, old fashioned to think that it could have been done. But that's beyond us and there's no use (Seney: Right. Right.) rehashing that, (Seney: Yeah.) that issue. We've got to get on with the resolution of these things and in the forms that are available now. (Laugh)
- Seney: Were you unhappy that Senator Reid began to take this kind of action?
- Westergard: Oh . . .
- Seney: Do you remember? Or . . .
- Westergard: Oh, no. Not at all. Not at all. And when I smiled when you mentioned his statement it wasn't any way a reflection that, "Well, you know, maybe, maybe he thinks he can do something others haven't." That wasn't it at all. It was just a reaction to, "Here is another effort that hopefully is going to be positive (Seney: Yeah.) and is going to result in a resolution of this." That's, you know, that's been my goal and, I think, the goal of all the representatives of the state, and I don't have any reason to believe but what it's been the goal of everybody involved to get these things resolved once and for all. And if he could, through whatever means he, he devised, accomplish that we were interested in participating, interested in assisting, and facilitating and I think the record would show that the state representatives and others have done that.
- Seney: Right. You know, in those negotiations that Wayne Mehl presided over, obviously the Pyramid Lake Tribe wanted more water for their lake.
- Westergard: Yes.
- Seney: The Sierra Pacific Power and Reno and Sparks wanted to insure domestic water supply for the Reno-Sparks metropolitan area. The environmentalists were

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concerned somewhat with Pyramid Lake, but more probably with the Stillwater Wildlife Refuge and the marshes out there. Certainly, the Truckee-Carson Irrigation District was interested in maintaining itself and maintaining its supply of water and a predictable regular supply of water. What was the State of Nevada interested in achieving in those negotiations?

### Nevada's Interests

- Westergard: I guess finality is, probably in a word. And, let me back up just a little bit, because I'm not sure I gave an adequate answer (Seney: Okay.) about how the state law might have applied to resolve (Seney: Okay.) these issues. Through the years, the tribe was encouraged, for example, the Pyramid Tribe was encouraged to file an application for the unappropriated water on the Truckee River, and chose not to do it. That, and I don't, I'm not judging why. Now there is an application pending.
- Seney: They have done that now, haven't they?
- Westergard: Well, yeah. But, you know, that could have been done in 1971, after the compact was passed. (Seney: Yeah.) The mechanism was in place for the government to come in and file applications to change water rights in the Fallon area for the benefit of the wild, of the Stillwater Wildlife Management Area. Now that's happening. So, I guess maybe it just took some time for all these things to fall into place, (Seney: Ah, I see.) and people to recognize (Seney: Right.) that these mechanisms, you know, these mechanisms could work. To answer your question about what Nevada hoped to get . . .
- Seney: Can I just to say (Westergard: Yes.) so that when others read this, we both know what it means, the unappropriated flows on the Truckee River, but that means that in a heavy year, with a lot of water, (Westergard: Yes.) after everybody's taken what they have a right to, (Westergard: Yes.) there is extra water, thanks to nature, and that's the unappropriated flows that they could have applied for?
- Westergard: Yes. And, it was done on the Walker River system, as I recall, in the early 1970s. I think it was Nevada Department of Wildlife filed for the unappropriated waters on the Walker River. I was the state engineer. I issued the permit for that. And, and the only real serious qualification on it was that if water was needed for M&I, municipal purposes upstream, that that could be evaluated by my successor in the future. But so, the precedent was there to do that, (Seney: Yes.) and the Pyramid tribe chose not to do that. (Seney: Right.) And, again, I'm not being judgmental, but (Seney: Right.) I just want to make the point that (Seney: Sure.) the mechanism was in place to do these things.
- Seney: Well, no, I'm glad you did, (Westergard: Yeah.) because that, that clears up what you meant by a "state mechanism" (Westergard: Yes.) to help resolve this.

Westergard: That's right. Yeah.

Seney: Yeah.

Westergard: And, I apologize that it took me a while to clarify that.

Seney: Don't worry about it. (Laughter) That's how this works. I know I'm asking you to dredge up things that are a long time ago. And . . .

Westergard: Well, some of these things I haven't thought about.

Seney: Yeah. And, this is all right. Things will come to you and it's okay if it's (Westergard: Yeah.) we jump around a little bit. No problem.

Westergard: Okay. But, as to what Nevada hoped to get was, you know, first and foremost a protection of existing rights. We didn't want to see any, any process come in that was going to jeopardize that, or overturn the decrees that have been in place, in the case of the Truckee [River] for years, and in the case of the Carson [River] the decree or the documents that preceded that decree had been in place for a long time and people had, had relied on them, and rights established under state law. We wanted to see that those were protected. (Seney: Right.) We also wanted to see the state jurisdiction and authority preserved, and that's more than just a turf issue. It's a, you know, a process that has worked well for years and has served to protect not only existing rights but the potential for development and a system to allocate water for reasonable development for the future. So, we wanted to see that protected. We were very interested in protecting the levels of Lahontan Reservoir. That's a tremendous recreation resource, obviously, and I still have, I have a continuing concern about (Seney: Good.) whether the ongoing OCAP and these other things are going to accomplish that and (Seney: Right.) perhaps will not. We wanted to see the wildlife areas protected. We certainly wanted to see the resource at Pyramid Lake protected. There was no overt intent or whatever to deprive anybody of, or any entity or group of water supplies to which they were entitled. We also wanted very strongly to see this allocation at [Lake] Tahoe implemented because of the ongoing effort of the Tahoe Regional Planning Agency. We wanted those limits set, but we also wanted those people to have the entitlement that they would enjoy. And then very basically, again, to have the assurance between the water users in both states that the limits had been established in California so that at some time there couldn't be some grandiose scheme to take more water (Laugh) out of the, out of the upper watersheds that (Seney: Right.) would normally flow to Nevada. So those, those were the basic things.

Seney: Right. Right. Well, I know that one of the things that you've been interested in at Lahontan is keeping a minimum pool for, especially for fish so that they don't, there's not a big kill and it isn't drained down. And . . .

Westergard: Yeah. That's right. (Seney: Yeah.) That's one of the things, but also . . .

- Seney: There are lots of others too on that?
- Westergard: At one time on, I think it's Memorial Day weekend, at one time Lahontan Reservoir was the third largest metropolitan center in the state, following Las Vegas and Reno. Now, with the growth in Henderson and other places that's changed, but that's the time . . .
- Seney: It's still a very important resource in northern Nevada isn't it?
- Westergard: Very important resource.
- Seney: Yeah.
- Westergard: Yeah. A very important resource and one that the state, and the legislature, and the public, and the taxpayers have invested a lot in, and we want to see that protected.
- Seney: In this, in 1986 was Governor Bryan the governor at that point?
- Westergard: Yeah.
- Seney: He, was he elected?
- Westergard: He would have been the governor (Seney: Yeah.) in '86. Yes.
- Seney: Did, when the negotiations were being organized, and obviously you're included as a participant, is this something that you'd go to the governor and outline to him and say, "What's your direction on this?" Or would this be pretty much your call?
- Westergard: All the governors through the years were interested in resources, and generally they, you know, they wanted to be informed, (Seney: Sure.) as he did in this instance. I'm sure that we kept him informed as to the processes and what was going on, and why it was of interest to the state.
- Seney: But the objectives were pretty much settled? There really wasn't too much?
- Westergard: I think the objectives were pretty much settled and had been for a long period of time, (Seney: Yeah.) and are not much different today. (Laughter)
- Seney: Right. Yeah. Right. Exactly. There's a lot of, well you know that's one thing I've noticed about Nevada, there's a lot of consistency and consensus on these things that you've outlined here, that the state itself is interested in preserving, and there hasn't been a lot of conflict or controversy over them among the legislature or the executive branch, or people in the administration, like yourself, has there?

Westergard: I don't think there has been.

Seney: Yeah. Yeah. As these negotiations progressed at one point the Truckee-Carson Irrigation District withdrew from the negotiations. And, you know I've, as you know I've interviewed numerous people from the district and other participants as well and there are a variety of perspectives on what happened and I'm curious on how you recall the Truckee-Carson Irrigation District leaving those first round of negotiations in about, what, '88 I think they stepped out?

### **Truckee-Carson Irrigation District**

Westergard: As we talked earlier there were numerous attempts and there were different forums, and it's a little bit hard after time to distinguish and remember (Seney: Sure.) just what happened in each instance. I have always felt that the accusation, and I used that word advisedly, that the Truckee-Carson Irrigation District withdrew and blew all this stuff is, at the very least, an overstatement, and probably . . .

Seney: You mean tried to sabotage, in a sense, what was going on?

Westergard: Oh, I know they didn't do that.

Seney: Yeah.

Westergard: But I think it's a gross exaggeration, or has been portrayed as a gross exaggeration, about their responsibility for this whole thing falling apart. Everybody, to my knowledge, was proceeding in good faith in the negotiations.

Seney: No. I don't mean the most recent ones. I mean the ones that preceded 101-618.

Westergard: No. I'm talking about that (Seney: Okay.) too.

Seney: Good.

Westergard: Yeah. I'm talking about that too. I think that you probably have gotten the sense that they were, in effect, blamed for that falling apart too, if I've got my (Laugh) sequence (Seney: Right.) in place.

Seney: Well, if you remember, they withdrew and . . .

Westergard: Well, I don't think the word "withdraw" is quite accurate, in my recollection.

Seney: Well I, it's not the word the Truckee-Carson Irrigation District would use.

Westergard: No.

Seney: They felt they were more excluded and thrown out.

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- Westergard: Uhm . . .
- Seney: Forced out.
- Westergard: Well.
- Seney: Can you think of a better word? What word would you use from your knowledge of it?
- Westergard: I think that, I think that the, as I started to say, that the negotiations were conducted in the best faith possible by representatives of various interests, and when it appeared to very, to the different groups that this wasn't going anyplace, I personally don't remember that T-C-I-D or their representatives saying, "We're through. We're withdrawing. We're cutting out." (Seney: Yeah. Yeah.) I don't remember that. (Seney: Yeah.) I think this is something that evolved. You talked about the tribe talking with the Power Company. I know they had some discussions going with, the tribe had discussions going with T-C-I-D and my recollection is that those two groups reported back to others that they just weren't going anyplace. But I don't recall that it was T-C-I-D that said, "We're not coming to the table (Seney: Yeah.) anymore." And, I think, and I want to make this point very strongly. I think that's an unfair characterization and one that has been, that has been perpetrated or perpetuated, (Seney: Right.) maybe both. (Laughter)
- Seney: Maybe. Yeah.
- Westergard: Through the years. And it's, it's just basically (Seney: Yeah.) not fair and that, today is sometimes used unfairly against, against not only T-C-I-D but the Fallon area. (Seney: Right.) It's something we should get behind us and stop pointing fingers. And (Seney: Right.) because I think the point, the fingers if they're going to be pointed could be pointed in probably the direction of all the negotiators, if you're going to try to lay blame. We just failed and that's unfortunate, but that's what happened.
- Seney: Well, I raise this because it has implications later on when Public Law 101-618 was (Westergard: Yes.) drawn up. Everyone else stays at the table. You know, I've had two – T-C-I-D has said that they said, "Well, we don't feel like we can make an agreement here, and our (Westergard: Uhm-hmm.) interests aren't being taken into account." They kind of have said to me that they were, again, kind of thrown out or pushed out. And . . .
- Westergard: Well, I think you could turn that around, though, and say that the other interests, competing interests, thought that if the T-C-I-D's view as the one that was going to be adopted, that their interests would (Seney: Right.) not be protected. (Seney: Right.) And I don't think that you can distinguish or (Seney: Yeah.) specify who was absolutely and totally responsible.
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- Seney: I'm not, I'm not trying to do that. I was just . . .
- Westergard: No. No. I'm just trying to establish (Seney: Sure.) the record, (Seney: Yeah.) and I know you're trying to get that.
- Seney: Right. Exactly. That's what I'm trying to get at here.
- Westergard: Yeah.
- Seney: Because the other sides have said the Pyramid Lake Tribe, Sierra Pacific Power, a representative of Senator Reid's office that what happened, from their recollection, is that T-C-I-D came to one of the meetings and said, "Well, gee. We don't think we can reach an agreement with you, but it looks like you all can resolve some questions and why don't you go ahead and continue and we're going to withdraw."
- Westergard: This was later in the Public Law 101-618 discussions.
- Seney: Yeah. Right. That preceded (Westergard: Uhm-hmm. Uhm-hmm.) Public Law 101-618?
- Westergard: Yeah.
- Seney: And the others did, indeed, go ahead and begin, and discuss these things. And then when public law 101-618 looks like it's going to pass, T-C-I-D then, do you recall, tries to get back into the negotiations, (Westergard: Well, I . . .) through Senator Bradley and Senator Reid?
- Westergard: I don't recall that specifically, (Seney: Okay.) but I can tell you, from the State of Nevada's perspective, as far as (Seney: Please.) *the* representative of the State of Nevada, we never excluded anybody and were always, even if certain people were not or certain entities were not at the table, we had that in mind. (Seney: Right.) Because we didn't want to resolve issues among a select number of the parties and leave anybody hanging out to dry. (Seney: Right.) And, to this day I don't want to see that happen as . . .
- Seney: What I'm trying to get to, and maybe I'm not doing it very well, is to get you to talk about the State of Nevada's perspective on (Westergard: Uhm-hmm.) Public Law 101-618, (Westergard: Okay.) on how it was drawn up and then what it, what's in it.

### **Nevada's Perspective on P.L. 101-618**

- Westergard: Again, it was drawn up, you know, by intense negotiations and discussions by most of the interested parties, and nobody was excluded intentionally, certainly. As I told you, from time to time there was an effort on our, on our part as



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representatives of the State to be sure that all the interests in the state of Nevada were being adequately represented. That was our responsibility. (Seney: Right.) And I, you know, I don't, today I don't specifically recall the Fallon people saying that. They may have. (Seney: Right. Right.) Maybe it's because I never felt, you know, that one or the other was being shut out of anything.

Seney: Well, it's one of these wonderful historical questions that we're probably never going to get an answer to. We just . . .

Westergard: Yeah. And I . . .

Seney: I'm just trying to get as many perspectives on it (Westergard: I know.) as I can.

Westergard: I know. And I'm really not trying to be evasive on it.

Seney: Sure.

Westergard: I think you know that. (Seney: Right. Right.) I just don't recall the specifics of that. As far as what went into it, you know there had been a previous effort too to come up with a statute that was, in effect, enabling for further discussions and agreements and so forth to follow. And that's what happened, of course, with Public Law 101-618. And you say, "What's in it?" You know, very basically it's the allocation and the provisions for the development of a Truckee River Operating Agreement, which is sort of an agreement to reach agreement in the future. (Seney: Right.) And that's, of course, what we're in the throes of doing right now. And then there are all sorts of other provisions, most of which I couldn't even list for you (Laugh) right now. But there's a lot to be accomplished (Seney: Yeah. Right.) under it. And when I say I can't list them that's not to infer that they're not positive, (Seney: Right. Right.) because . . .

Seney: Well, it's a complicated piece of legislation, (Westergard: If – yeah. It is.) with a lot of interlocking (Westergard: Yeah.) parts to it. (Westergard: Yeah.) On the whole are you, is the State of Nevada pleased with it and (Westergard: Yeah.) feels it's a constructive piece of legislation?

Westergard: Yes. And I, you know, I wish it could have gone further in specifics rather than, rather than being an instrument that allows these other things to be resolved prospectively. But I think at the time (Seney: Yeah.) that was the most (Seney: Yeah.) we could get. (Seney: Right.) And, I think it, I think was a very positive step. And . . .

Seney: What do you wish it had included, more specifically?

Westergard: Well, some of these issues that are now being included in the Truckee River Operating Agreement or being negotiated could have been included, but it, there just wasn't time to do it and we needed to make progress and needed to make, I

think the senator [Harry Reid] felt and I think everybody agreed that it was time to, to, you know, solidify and to firm up some of these things. And even though they had to be made contingent, or contingent on a future agreement, that was considered to be a positive step, and I think it, I think it was. That's not to say that we don't have a ways to go, and I'm sure you'll get to that, (Seney: Right. Right.) in the next step in implementing that agreement.

Seney: When the Settlement II negotiations, these are the most recent negotiations . . .

### Settlement II Negotiations

Westergard: These are the Gail Bingham,<sup>16</sup> so-called?

Seney: Exactly. Right. Right.

Westergard: Yes. Uh huh.

Seney: When those negotiations began in, what 1994, I guess, didn't they?

Westergard: Yeah, I think, think so.

Seney: Yeah. Nineteen – they began in October (Westergard: Uhm-hmm.) or September, October of '94 and ended in February of '95?

Westergard: Yeah. Uhm-hmm.

Seney: You, of course, meaning the Department of Natural Resources, Conservation and Natural Resources were involved. Now, at this time you're no longer the director by now, but you've been a consultant (rattling noise) – what's wrong with my watch here – you've been a consultant to the department for some time on these matters, haven't you?

Westergard: Yeah. Through a contract with the (Seney: Right.) Attorney General's Office. (Seney: Right.) Yes. Uh huh.

Seney: So, did you work on the Settlement II negotiations? Did you take part in those?

Westergard: I participated in it with other representatives of the State. Yeah.

Seney: What was your, what did you do?

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<sup>16</sup> Gail Bingham participated in Reclamation's Newlands Series oral history project. 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](http://www.usbr.gov/history/oralhist.html).

- Westergard: Well, when proposals came forward, I assisted in the evaluation of those proposals and to the extent it was possible tried to formulate, on behalf of the State, hopefully, constructive suggestions (Laugh) as to how these things might move forward.
- Seney: Yeah. Overall, how would you describe or characterize those negotiations? What did you think about them?
- Westergard: Again, it was disappointing that they were not concluded in a positive sense, because I think, you know, I think a lot of progress was made. Any, and you can say, "Gees, he's been saying that since 1960 when he went to work for the state, (Laugh) and that's a long time."
- Seney: Well, you're an optimistic fellow. (Laugh)
- Westergard: Well, yeah, maybe so. But I guess you asked me about some of the complications (Seney: Yeah.) why the compact negotiations took a lot of time. (Seney: Yeah.) There are just an awful lot of players, an awful lot of interests, an awful lot of personalities, and sooner or later those, unfortunately or fortunately, become to play in the whole process too and people have strong feelings. I think, basically, that the negotiations, as I started to say, were a positive thing, again. The disappointment that they fell apart.
- Seney: Yeah. I mean, did you, were you optimistic when they began? Did you have a feeling this was something that might be accomplished?
- Westergard: I was somewhat optimistic, but, and I hope this isn't characterized as a reason that they fell apart. The mediator process did not have a lot of appeal to me because it had been tried before, and with all due respect to Gail Bingham, I think she, you know, I don't think we can lay this at her feet. (Seney: Right.) I think that if a mistake was made that we took too much time jostling, and juggling, and talking about procedures, and not identifying the issues and getting down to the hard decisions. If I had a criticism, I think that's what it, (Seney: Right.) that's what it would be. (Seney: Right.) You know, we knew the issues. We knew peoples' positions. I think we just needed to start knocking heads and saying, you know, where can you give and where can you, (Seney: Right.) are you going to be able to take, and that kind of thing. And, even though they were over a relatively short period of time, I think with all that rediscussion or reevaluation of positions and so forth, maybe the battle lines became drawn more rigidly rather than being moved forward.
- Seney: Yeah. I know that one of the things that the State of Nevada wanted too, but she – and that's something that I mentioned earlier – was the minimum pool in Lahontan.
- Westergard: Yeah. Uhm-hmm.

- Seney: What were the other things that the state was after?
- Westergard: Some of the very same things that we've discussed before in the other. And if I were to list them I'd say the same things. We were hoping that there would be, that there would be conclusions to those things that we, that I had discussed earlier. (Seney: Right.) I don't think of much new, really, other than, you know, we just wanted to conclude (Laugh) the things that we had been talking about all these years.
- Seney: Yeah. But it did not surprise you then that the negotiations were not successful in the end?
- Westergard: A little bit. A little bit. Because I think everybody went in there with a renewed, a renewed desire, not that it hadn't been continuing, but almost a new ambition, a new optimism that, "By gosh, this time it's going to happen. And (Seney: Yeah.) we're trying a little different approach with a mediator and, and let's get it on," as they say in the boxing world sometimes. (Laugh)
- Seney: You know, in, as the negotiations were going on the election of 1994 occurred, in which a new majority, a Republican, conservative Republican majority was elected to the Congress. Some people feel that that maybe made a difference, that now Senator Reid would not be in the majority, that legislation would not be forthcoming maybe that would, that's kind of hung over the Truckee-Carson Irrigation District as a prod to make an agreement. Do you think that election made any difference at all? Is that your, what's your read on that?
- Westergard: I honestly don't know, you know. I've heard those same things, (Seney: Sure.) but I just don't know. I, and I am naïve in this sense, and partly it's because of the support that I enjoyed from the various administrations. You asked me earlier about (Seney: Right.) how come a Republican governor appointed somebody that had served under a Democratic governor, and I told you that it didn't seem to matter in the resource area. I guess I've been naïve enough to think that that also ought to apply in Congress, that if people out in Nevada and California can get together on something it shouldn't matter whether it's a Republican or a (Seney: Right.) Democrat. And I realize that's somewhat naïve. (Seney: Right.) But I just don't know how much affect that had. I honestly don't.
- Seney: Right. But, once they collapsed it was, it was disappointing?
- Westergard: Yeah. It was disappointing, because I think, and again if you ask me to recite the specifics of what was in the last document that was looked at, I can't do it, (Seney: Yeah.) but I think we were making progress and I think we were fairly close. And maybe, you know, maybe there was too, much push right at the end, even though it was slow coming. Maybe when it got down to the wire and there was too much push and people (Seney: Yeah.) didn't have enough time to think

about the real ramifications of this. But, in any event it's unfortunate that they fell apart.

Seney: One of the things that I know you've been involved in for some time is the TROA negotiations the Truckee River Operating Agreement negotiations?

Westergard: Yes. I have.

### **Truckee River Operating Agreement**

Seney: Talk about those a little bit. What goes on in those? As I've commented to you, I've been to one of the meetings and as an outsider I probably didn't understand a whole lot that was going on, but can you explain to us what's, what you're up to there in those negotiations?

Westergard: Well, the public law pretty well defined, you know, what's to take place in those, in those discussions and what's to be, you know, what's to be concluded. It's how you get there. (Laugh) And, again, excuse me.

Seney: What is to be? Obviously, the objective is to . . .

Westergard: Well, it's to, it's to come up with an agreement that will provide for the operation and administration, primarily, of the Truckee River reservoirs, to enhance the water supply for the fishery and the endangered species in the form of timing of releases from those reservoirs, and also to, in effect, firm up the drought year water supply for the, for the Truckee Meadows area. And, obviously, when those, if that can be done then the other interstate things, and so forth, are triggered to be, to be implemented. So, you know, that's, and there are other goals too, of course. To provide for the proper administration and to ensure the two things that I keep harping on, as a former state engineer, the protection of existing water rights and the protection of the state process, as well as the process set forth in the federal decrees that we've lived under for years. But those are the primary goals, I think.

Seney: Can you kind of illustrate what you mean by how the rivers, the reservoirs would be operated to, for the fish and for drought? How does that work, practically?

Westergard: Well, you, well you mentioned, for example, the Preliminary Settlement Agreement where the tribe, in effect, would have the benefit of the storage space in Stampede Dam to, to protect the endangered species. Well, under the agreement some of that space in Stampede Dam would be made available, for example, to the Sierra Pacific Power Company to implement the Preliminary Settlement Agreement. And part of it would, could be made available under, through contracts with the federal government to, for use of space, to make that space available to store part of California's allocation for a period of time. And perhaps, there's, just next week going to be a signing ceremony on a Water

Quality Agreement, where water rights would be acquired and then used for water quality purposes. And this mechanism would provide an opportunity to store some of that water quality water upstream for release at the most opportune, and to maximize the use of that supply for water quality purposes. That type of thing.

Seney: Yeah. Let me put another tape in.

END SIDE B, TAPE ONE. OCTOBER 4, 1996.

BEGIN SIDE A, TAPE TWO. OCTOBER 4, 1996.

Seney: Donald Seney and I'm talking with Roland Westergard in the headquarters of the Department of Conservation and Natural Resources in Carson City. Today is October 4, 1996 and this is our second tape.

Go ahead, Roland. I was trying to get you to talk specifically about how these agreements actually work on these rivers, and to kind of illustrate, even in, if you want to get down to talking about acre feet and when something would be released. I know for the cui-ui out of Stampede there's a certain time window. And if, am I right, is it May and June, somewhere in there, when they, they need releases for the cui-ui when they have water for that purpose?

Westergard: I think so. (Seney: Yeah.) The specifics of that, again, I don't recall. But, in effect, under these agreements the Sierra Pacific Power Company has entitlements for power generation purposes on the Truckee River stream system. They would forgo the release of water for those purposes and that water would be held up, upstream in Stampede Reservoir, and then subsequently released for the benefit of the endangered species. By the same token, in exchange for that, the Sierra, or the Pyramid Lake Tribe would consent to the, to the Sierra Pacific Power Company storing water supplies that they acquired by purchasing agricultural rights in the Reno-Sparks area and holding the consumptive use portion of those rights upstream in those reservoirs as a backup for their drought year water supply. (Seney: Right.) And, on the Water Quality Agreement, as I started to and maybe did say, water rights would be acquired, irrigation water rights would be acquired and the consumptive use portion of those would be held upstream in those, in that, one or more of the upstream reservoirs and released when needed for water quality control purposes below the Reno-Sparks sewage treatment plant.

Seney: When you say that . . .

Westergard: It may be somewhat of an oversimplification, (Seney: Right.) but that's the basic concept.

Seney: When you say "consumptive use portion" does that mean that, say, if it's a 3.5 acre feet that only, what, 2.9 of that would be held up and the rest (Westergard: Well . . .) is allowed to go down the river as a part of the flow?

Westergard: The determination on the consumptive use component on the Carson [River] was determined. On the Truckee that's still up in the air. But, a percentage, yes, of the 3.5 or (Seney: Yeah.) 4.5, whatever the (Seney: Yeah.) annual entitlement is, what would be consumed through the irrigation practices, and that hopefully will be determined through the state process by the state engineer and then ratified by the court.

Seney: Now, when you say "on the Carson" the Alpine Ditch Decree?<sup>17</sup>

Westergard: The Alpine.

Seney: The judge said, "Of 3.5 there's a 2.9 consumptive use." I know it's a very complicated piece of business, (Westergard: Yeah.) isn't it?

Westergard: Well . . .

Seney: Or is it?

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<sup>17</sup> "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 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." Babylon Software, [www.babylon-software.com/definition/ALPINE\\_DECREE\\_\(California\\_and\\_Nevada\)](http://www.babylon-software.com/definition/ALPINE_DECREE_(California_and_Nevada)) (accessed 5/2019)



- Westergard: The court really, really simplified it when he established what those consumptive use figures would be.
- Seney: Why, and you're maybe the right guy to explain this to me, why don't you get the whole 3.5? Why do you only get the 2.99? What's the other half an acre-foot doing?
- Westergard: That's the quantity that was deemed to get back into the river, in effect, in the form of return flow. So, that's to, that adjustment (Seney: Oh.) is to compensate for, for the effect on return flow, when in fact over time that return flow would have gone to make up other water rights. It's an adjustment to be sure that the return flow (Seney: Oh, I see. I see.) and the water rights are protected.
- Seney: In other words, if I'm taking 350 acre feet of water for my purposes the assumption is that, that about, what, 50 acre feet, roughly, are going to get right, are going to go back in the river?
- Westergard: A certain percentage would be, (Seney: Yeah.) depending on . . .
- Seney: So . . .
- Westergard: Yes. Uhm-hmm. Yes.
- Seney: As a . . .
- Westergard: Yes.
- Seney: So, now if somebody buys my 3.5 acre feet they have to leave that half acre foot (Westergard: Yes.) in there, because somebody downstream is going to need it?
- Westergard: In effect, that's it. Yes.
- Seney: Ah. Okay. All right. Well, I've asked several people and no one's been able to explain it. So, I appreciate it. Right. (Laugh) I expect no less of you, (Laugh) given your background.
- Westergard: I hope I'm right. (Laughter)
- Seney: Yeah. How is the, how are the TROA negotiations going?
- Westergard: Long and tedious. Time-consuming. But, again, if we learned anything, I guess we've learned that's the way this thing works. (Seney: Yeah.) A certain amount of frustration, obviously, to that. But I think we've gotten to the point where the management and administration of the [Lake] Tahoe, or the California entitlement under both the Public Law 101-618 and what we deem their entitlement under the, to be under the Truckee River Operating Agreement has been pretty well, has



been pretty well concluded. (Seney: Yeah.) There are still some issues about the fishery in California. But I think that's pretty well concluded. Some of the things that are inherent in it, of course, like to include the Preliminary Settlement Agreement, some of those things are, are concluded. It's just a matter of, of determining and deciding if, if, you know, what's set forth and proposed meets the real test of the Public Law 101-618, and that is under these schemes – and I don't mean that in a negative sense (Seney: Right. Right.) – existing rights can be protected. And I know I keep coming back to that but that's inherent and basic in all this. (Seney: Yeah.) That has to be, you know, that has to be a determination that can be supported in the court when the court finally is to ratify the Truckee River Operating Agreement.

Seney: And that's not only your personal view, that's the corner of some of the State's policy here, too, isn't it?

Westergard: Well, yeah, it is.

Seney: To protect existing water rights?

Westergard: It is, and it's a basic provision of the Public Law 101-618. (Seney: Yeah.) Everybody insisted, well most, I think everybody insisted on that (Seney: Yeah. Yeah.) from the very beginning.

Seney: You know I, I mentioned that I, as I said I've been to a TROA meeting, (Westergard: Uhm-hmm.) and while I couldn't really understand much of what was going on, subsequently I was very interested in the, in the players, (Westergard: Uhm-hmm.) in the procedures that (Westergard: Yeah.) were there. At these TROA meetings I take it Bill Bettenberg<sup>18</sup> would generally be there for the Department of Interior?

Westergard: Yes. Uh huh.

Seney: Fred Disheroon<sup>19</sup> for the Department of Justice?

Westergard: Yes. Uh huh.

Seney: Lynn Collins<sup>20</sup> from, the solicitor from the Interior Department in Salt Lake City would be there?

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<sup>18</sup> William Bettenberg participated in Reclamation's Newlands Series oral history project. See, William Bettenberg, *Oral History Interview*, Transcript of tape-recorded Bureau of Reclamation Oral History Interview conducted by Donald B. Seney, edited by Donald B. Seney and desktop published by Brit Allan Storey, senior historian, Bureau of Reclamation, 2009, [www.usbr.gov/history/oralhist.html](http://www.usbr.gov/history/oralhist.html).

<sup>19</sup> Fred Disheroon participated in Reclamation's Newlands Series oral history project. 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](http://www.usbr.gov/history/oralhist.html).

Westergard: Yes. Uh huh.

Seney: Sue Oldham from Pacific Power, Sierra Pacific Power?

Westergard: Yes. Uh huh.

Seney: Bob Pelcyger from the Pyramid Lake tribe?

Westergard: Yes. Uh huh.

Seney: Yourself. Who am I leaving out?

Westergard: Normally someone from the Truckee-Carson Irrigation District, Russ Armstrong, (Seney: Yeah.) in recent months, has been sitting in, (Seney: Right. Right.) from the Truckee-Carson Irrigation District. Sometimes representatives from, like George Bennish [Spelling?] from the local Conservancy District in Reno and Sparks.

Seney: On the California side is it?

Westergard: Yeah. On the Nevada side, Bill Isaiah [Spelling?] from some of the Reno and, or Sparks (Seney: Yeah.) county people. Don Mahan [Spelling?] from the county. Some of those people have sat in. From California, it's been people from the Department of Water Resources staff, and that has, it changes from time to time. (Seney: Yeah.) And then they do have counsel. John Kramer<sup>21</sup> is . . .

Seney: He's a regular?

Westergard: He's pretty much a regular.

Seney: Yeah. Now, when you say others sit in, I'm thinking more of the regulars, like yourself and Bettenberg, and Disheroon.

Westergard: I think you've pretty much identified, (Seney: Yeah. Right.) you've identified the regulars.

Seney: And, I commented on . . .

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<sup>20</sup> Lynn Collins participated in Reclamation's Newlands Series oral history project. 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](http://www.usbr.gov/history/oralhist.html).

<sup>21</sup> John Kramer participated in Reclamation's Newlands Series oral history project. See, John Kramer, *Oral History Interview*, Transcript of tape-recorded Bureau of Reclamation Oral History Interview conducted by Donald B. Seney, edited by Donald B. Seney and desktop published by Andrew H. Gahan, historian, Bureau of Reclamation, 2016, [www.usbr.gov/history/oralhist.html](http://www.usbr.gov/history/oralhist.html).

- Westergard: In addition, you know, it's not just those, (Seney: Yeah.) those people. From, Christine Teale [Spelling?] from the state. Pete Morose [Spelling?], of course, was there a lot. (Seney: Right. Right.) Different people – Gordon De Paoli's<sup>22</sup> been a real big player in this as a representative.
- Seney: On behalf of Sierra Pacific Power?
- Westergard: Sierra Pacific Power Company. And I, you know, by your list neither one of us would want to leave anybody out.
- Seney: Right. Right.
- Westergard: So, it may not be an exhaustive list you've given, but you've identified, certainly, (Seney: Yeah.) some of the major players.
- Seney: I'm trying to get kind of the dynamics of that . . .
- Westergard: People from the tribe, I don't want to leave out Mervin Wright, (Seney: Yeah.) and some, and sometimes (Seney: Sure.) the chairman, too.
- Seney: Yes. I know. He's there too, isn't he? Right.
- Westergard: Norman.
- Seney: Norm Harry is there.
- Westergard: Norman Harry,<sup>23</sup> sometimes.
- Seney: What I'm trying to get at is the, kind of the – because, you guys have been meeting for what, four or five years now on this?
- Westergard: Well, it started not too long after 1990 (Seney: Yeah.) when the law was passed. (Seney: Right.) Yeah. Uhm-hmm.
- Seney: And, I'm trying to, you know, because that was one thing that kind of interested me was the dynamics. You all seemed to know each other very well, (Westergard: Uhm-hmm. Uhm-hmm.) and have a long, go back even before this, these . . .

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<sup>22</sup> Gordon De Paoli participated in Reclamation's Newlands Series oral history project. See, Gordon De Paoli, *Oral History Interview*, Transcript of tape recorded Bureau of Reclamation Oral History Interview conducted by Donald B. Seney, edited by Donald B. Seney and desktop published by Andrew H. Gahan, historian, Bureau of Reclamation, 2013, [www.usbr.gov/history/oralhist.html](http://www.usbr.gov/history/oralhist.html).

<sup>23</sup> Norman Harry participated in Reclamation's Newlands Series 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](http://www.usbr.gov/history/oralhist.html).

- Westergard: Some of us way before this. (Laugh)
- Seney: Yeah. And there's also a lot of bi-play that goes on (Westergard: Uhm-hmm.) and joking, and kidding. And, as you also commented to me before the tape was on, there's the, it gets heated from time to time, too.
- Westergard: Yeah. Sometimes it does.
- Seney: Yeah. But I would think that it would be hard for an outsider. I mean, when I attended, I think that was maybe the first meeting that Russ Armstrong [Spelling?] had been to on behalf of the Truckee-Carson Irrigation District. Now, I know they're not formal parties to this agreement, are they? They're interested parties but not formal parties to it?
- Westergard: Well, I guess that depends on your perspective. The only actual parties that are absolutely mandated by the Public Law 101-618 are the two states and the federal government. Now, the tribe and the Power Company and others will argue that because the Preliminary Settlement Agreement has to be incorporated in this that their, that they are mandatory parties (Seney: Right.) too. I think that's an argument that nobody is going to benefit any from pursuing. (Seney: Right.) As far as I'm concerned, you know, anybody that in any way is going to be affected by this should ultimately be a party and should be a signatory. I've been somewhat concerned that the perception that apparently even you have is that there is a so-called Big Five, the two states and the federal government . . .
- Seney: Right. That is the perception I have. Yeah.
- Westergard: The two states, the federal government, and the Power Company, and the tribe. And I've never subscribed to that theory. (Seney: Yeah.) It's been the State's position that anyone that has an interest in this should be included in all the discussions, and admittedly when you get too many people around things tend to take longer. But they're taking a long time anyway. And sooner or later anybody that is in any way affected from the water rights or water supply standpoint is going to have a say in federal, in federal court, when this thing is up for (Seney: Right.) ratification. (Seney: Yeah.) And my perspective on it is that the more that they can be brought into it the earlier the better we're going to be, and the more people that are satisfied the less opportunity, or reason, or basis is there's going to be for (Seney: Right.) challenge. It's been a frustration to me and to the, the other state representatives. (Seney: Yeah.) I realize some of the practical considerations, but from the State's perspective there's no such thing as a Big Five. It's (Seney: Yeah.) everybody, and fourteen or whatever it is, and one is just as important as the other in the overall scheme of things, because their interests and rights are just as important to them as the major water users.
- Seney: You're talking really about developing a consensus so that when (Westergard: Yes.) it's done with everybody will be happy?

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- Westergard: That's right.
- Seney: So, you don't want to leave anyone out. I can understand that.
- Westergard: Yes.
- Seney: I guess what I was, the point I was trying to get at in these, and maybe it's not an important point, I'm not sure, is that the people who are accustomed to being there and working together kind of have a certain rapport, and I think, it looked to me like it was kind of hard to break into that. Would I be right? Or . . .
- Westergard: You know, I hadn't thought about that. Maybe other people would have that same feeling, and if that's the case it's unfortunate. As a matter of fact, it's disturbing. But I can see why (Seney: Yeah.) someone sitting there for the first time might say, "Gees, you can just about tell who's going to be doing the talking here, and anybody else is shut out." And it should not be that (Seney: Yeah.) way. And that's been a concern of mine, even though I hadn't looked at it quite, quite perhaps as pointedly as you just have explained it.
- Seney: But you feel like the negotiations are going pretty well and they're reaching, about as well as can be expected, on these complications?
- Westergard: Yeah. I think so. I think so. As I say, I think real progress has been made on the California issues there.
- Seney: Can I get you to do one thing for us?
- Westergard: Yes.
- Seney: We keep saying these are complicated, and complicated, and again other people are going to read this and they're going to say, "What is, what's so . . ." (Westergard: Yeah.) Can you pick one thing, anything you want to pick, and kind of take a minute or two and just illustrate the complications and the different points of view, and so forth, that come to play? On any issue you want, just to illustrate what you mean about the complexity and the difficulty of the issues that you're dealing with.

### **Complications during the Negotiations**

- Westergard: I guess one example would be California gets 32,000 acre feet out of the Truckee River, 10,000 acre feet of which can come out of the surface water sources. There's been a lot of time and debate evolve around where California can drill wells in the California Basin and whether the water that they withdraw from those wells should be considered part of the 10,000 acre feet of surface water or part of the groundwater. Now, that's probably a very simple example (Seney: Yeah.) of how people can argue for hours about (Laughter) a location of wells.

- Seney: Do you argue, like, “If it’s so close to the lake it’s got to be surface water”?
- Westergard: That’s one, that’s one of the arguments, yeah, or how deep, or how confined the basin is, you know. (Seney: Yeah. Yeah.) It just goes on, and on, and on.
- Seney: Okay. Fair enough.
- Westergard: Yeah. That’s one example. And, those discussions have gone, primarily, on primarily between local people, and California, and the tribe and the Sierra Pacific Power Company.

An issue right now is, there’s only so much storage space in Stampede, and Tahoe, and Boca, and Prosser, and Independence, and Donner lake reservoirs. Those are the upstream storage reservoirs on the Carson [River], I mean on the Truckee River stream system. We’ve talked about holding water for the endangered species in those upstream reservoirs. We’ve talked about holding water for the Reno-Sparks municipal water supply up there. We’ve talked about holding water for the Water Quality Agreement. The point is that we’ve talked about holding water in those reservoirs for the benefit of the California allocation. (Seney: Yeah.) And there are other interests too that might, either today or at sometime in the future, want some of that storage space. There is sort of a priority system about who gets the first chunk of it, and then whatever’s left there’s a debate about, “Should that all be devoted to one or another entity, or should there be an opportunity at some time in the future for somebody that may develop a need for that, or today may have a need for it, to get a chunk out of that?” These are the kind of things that the State . . .

- Seney: Is this like the firm M&I [municipal and industrial water] and the non-firm M&I?
- Westergard: Well, it sort of relates to that. (Seney: Yeah.) Yeah. It, what it, but what it really boils down to is there’s a finite amount of storage space and, and everybody wants to assure that they’ve got enough of it to protect their needs (Seney: Right.) for the future. And yet there’s a discussion about whether it’s not appropriate to have a piece of that available for someone else that might have an equally important need for it at sometime in the future. Those are the kind of things that, you know, that go on for, for hours and hours of discussion and (Laugh) debate.
- Seney: Well, I know Wayne Mehl told me that he, as a person from Ohio, where none of these questions (Westergard: Uhm-hmm.) ever come up, there’s plenty of water, (Westergard: Uhm-hmm.) that he couldn’t believe there were discussions preliminary to 101-618 over water use for making snow, (Westergard: Yes.) for the ski resorts.
- Westergard: Yes. That’s another good example.

- Seney: And, “How do we measure that?” and “Who gets it?” And (Westergard: Uhm-hmm.) finally he said, I think Bob Pelcyger and someone else were arguing about this, as he related, and finally said, “How much water are we talking about,” and they said, “Well, 600 acre feet.” He said, “Oh my god, just forget it, you know, (Laughter) we’re not going to argue about 600 acre feet.” Do you find there that kind of, that it gets down pretty detailed? And . . .
- Westergard: It does, but I would disagree, respectfully, with Wayne that 600 acre feet isn’t important, (Seney: Yeah. Yeah.) because, because if you . . .
- Seney: People out here look at it very differently.
- Westergard: Well, yeah, and if you’re at the limit at Lake Tahoe and you can’t build another, and we’re not quite there yet. We’re approaching that, you know, (Seney: Yeah.) when there’s when that 34,000 is going to be the limit. And, in our very earlier discussions, I think, I related to you, when you’re the state engineer, and you have to say no to that first guy when things are fully appropriated.
- Seney: That’s right.
- Westergard: The same thing applies here. If you’re the first guy that would have gotten a piece of that 600 and don’t get it, (Laugh) then it’s pretty serious. (Laughter)
- Seney: That’s right.
- Westergard: Another, (Seney: Yeah.) another thing that takes a lot of time is interpretation of existing documents and how they are going to, how there are going to be assurances in, in the Truckee River Operating Agreement language that, that will give cause for comfort when these things are all represented to the federal court. You know, I, you’ve heard me allude to that a couple of times, (Seney: Right.) and I’m guilty of reminding people, probably more frequently than they want to be reminded, that the final test on this whole thing is, is to have that court that retains jurisdiction, (Seney: Yeah.) or those courts that retain jurisdiction, verify this. And the challenge is to make it comprehensive enough so that, so that there won’t be disagreements in the future, but yet not getting it so burdensome that there are going to be disagreements about interpretation in the future. (Seney: Right. Right.) If that makes sense?
- Seney: Yes, it does.
- Westergard: Yeah.
- Seney: Well, I know it’s very delicate and very difficult.
- Westergard: Yeah. Uhm-hmm.



Seney: And because, the reason is because there is so little water, really, (Westergard: Yeah.) and the need is so great, (Westergard: Uhm-hmm.) and that no one is willing, for obvious reasons, to back off of what they consider to be their rightful allocation and their future in these (Westergard: Yeah.) matters. And, yeah, I know it's a very challenging responsibility. I want you to talk a little about the, the Truckee-Carson Irrigation District over the years. Its position has changed, obviously. Before 1967, it was the undisputed lead player in these matters, free to take water even during the winter that they really apparently had no right to take for winter power generation, and pretty much to do as they pleased. And since then, through court rulings and federal rulings, their position has changed really dramatically. And maybe you could talk a little bit about that and about the district, from the point of view of the State and how the State views the district, and the change in the district's status and the troubles that its, that it's been under?

### **Truckee-Carson Irrigation District**

Westergard: Well, you know, I, I suppose you could, could make the counterpoint, in all fairness, that what went on before 1967 was the interpretation of the decrees and the administration of those decrees. That, you know, that those weren't illegal acts or unauthorized acts. And, again, you can debate that. (Seney: Right. Right.) I mean, there's no point in doing that. But, you know, with all the criticism and the allegations about those things, the water supply that got to the Fallon area was not single purpose. And, this was debated in the compact discussion, (Laugh) and has been debated since, about whether that was, you know, whether it was a single purpose for irrigation, but there was power generation. And what we've really learned is that those water supplies ended up, ultimately, in the Stillwater and the Carson Sink and really supported an invaluable wildlife resource down there. When all these cutbacks were made, and I may have said this to you before, I don't think so, when all those cutbacks were made, and there were court orders and so forth to restrict diversions, what we found out was that the impacts were disastrous on the wildlife area. So, what's happened, we've come back now when, and cut down the diversions, and because we've done that the public monies have been spent, and necessarily so, to acquire water rights to sustain the wildlife area. So, you know, are we paying now for what we were getting, in effect, for free earlier?

Seney: Probably. Yeah.

Westergard: And, that's an oversimplification. But, to point fingers is not positive and (Seney: Yeah.) it's not productive. And, because you can always rationalize, and I think legitimately so, that there were benefits from some of those, (Seney: Right.) from those practices. And, but you're right. When the OCAP, when the lawsuit was brought, which resulted in the Operating Criteria and Procedures, it necessitated changes in the operations.

Seney: Did that seem unfair to you at the time?



- Westergard: I don't know that, you know, I would never question the prerogatives of anybody to bring a lawsuit (Seney: Yeah.) to, as was done, because that's their prerogative. I think that some of the effects of it have been, have been, I don't think unfair is much the word that I would use as unanticipated. (Seney: Yeah.) Both in the form of change, of mandated changes and practices, (Seney: Yeah.) which may or may not be okay, but effects on other resources, like I've said. Like on . . .
- Seney: Right. Well, you're really speaking as a State official here, aren't you (Westergard: Uhm-hmm.) when you're, when you're commenting on the Carson Pasture and the Stillwater Wildlife Refuge losing flows as a result of these changes? I mean, as a state official that's something you have to worry about, right?
- Westergard: Well, I did, when I was (Seney: Okay. That's what I mean.) a state official.
- Seney: Yeah. Right.
- Westergard: Yeah. And it's still a concern as a representative (Seney: Yeah.) of the State in a different, little different capacity. And, Lahontan Reservoir, I can't, (Seney: Right.) you know, I have to stress that. But, by the same token, that doesn't mean that there isn't an equal concern about, about a viable operation of a resource to benefit Pyramid Lake, in the form of water supply or whatever, you know. (Seney: Yeah.) I'm not drawing lines and saying one, one interest or one economy has more, has more credibility or more importance than the other. We all know that there's not enough water to do everything for everybody and, you know, everybody's trying to stretch it as far as possible and keep everybody whole to the extent (Seney: Yeah.) they can.
- Seney: Well, this puts you in a real bind, doesn't it? And, I mean, thinking of you as a state official for all these years, and still kind of as a state official, I mean this does put you in kind of a bind because all this is going on in Nevada, really? It's not like the water's all of a sudden going to California, (Westergard: Uhm-hmm.) where you could have a much more clear-cut antagonism, if you will, toward that? I mean, this is shifting from one, from Stillwater Marsh, to Pyramid Lake, or maybe from the Truckee-Carson Irrigation District to the Truckee Meadows. So, I mean, these are all Nevada interests that are (Westergard: Yeah. That's, right.) that are impacted here?
- Westergard: That's right. And I would stress the very words you used, these are Nevada interests. (Laugh) And, that includes the tribe, and I don't single them out. (Seney: Right.) But, you know, some people feel that they're, you know, that because they're, they're a tribe they have a different status, either in the form of a sovereign nation or whatever, and I don't think from the resource standpoint, as an administrator of resources, that those kind of things should unduly affect anything. I think you manage the resource in accordance with the rights that have been established, whatever the basis. And, if they have those rights, the basis of

those (Seney: Yeah.) rights as a reservation or whatever that's fine. But, but the resources managed based on those entitlements under established rights.

Seney: Yeah. Yeah. What about, before we began to talk on tape, we had talked a little about the federal government and what, and – I don't know if I want to characterize your remarks, but I guess they were – you see the federal government sometimes kind of a problem, maybe, or a difficulty? I know you want to be very careful, maybe, in what you say, but how would you comment on the Department of Interior and the various elements of it in dealing with these problems, the Bureau of Reclamation, the Bureau of Indian Affairs, the Fish & Wildlife Service?

### **Role of the Federal Government**

Westergard: Well, you know, when we talked earlier in our discussions, I mean before today, (Seney: Right.) you asked me about the Bureau of Reclamation, and I told you worked there for a period of time.

Seney: That's right. That's right.

Westergard: And, I have the upmost respect for those, for the people in the Bureau. I guess that . . .

Seney: Well that's, of course, that's not – the problem is that the Bureau's going to see these things one way and the State of Nevada is likely to see them another, aren't they, some of these things, just in terms of the perspectives that they take?

Westergard: Yeah, I think, I think that's probably so.

Seney: And, that's to be expected, I suppose?

Westergard: Yeah. I think so. I think, I think in some areas there, in the federal government, there is somewhat of a reluctance to recognize State jurisdiction and authority, and I think, on the part of the tribe, with all due respect, they feel that because of their status that they don't have to be overly concerned with that. I think, to a certain extent, that's been changing, where there's an agreement in 101-618 for the State and the tribe to enter (Seney: Yeah.) subsequent agreements about the unused water, and that kind of thing. And so, I don't mean that in the negative sense. But, I think, just as a fact, throughout the West the federal government – and, you know the West has been fighting (Laugh) the federal encroachment on (Seney: Yeah.) administration of resources for years and years. And, and that's not attributable to individuals. It's attributable to philosophies and (Seney: Right.) directions that have been (Seney: Right.) developed over a long period of time. As far as distinguishing between the Bureau and the U.S. Fish & Wildlife Service, and the Justice Department, and the Solicitor's Office, you know, I think that the representatives of those entities have a responsibility to proceed in good

faith, as do representatives of all the other entities. And, I don't have any, any reason to say that they haven't done that. I think at times, very candidly, on the Truckee River stream system there have been indications that, that the agricultural interests on the lower Carson River are not as high a priority in the federal system as, as other interests, and maybe that's just my own personal view.

But, when you see the, the imposition of the Operating Criteria and Procedures, which were in part a result of a, of a, of litigation and a judicial act, obviously we're all committed to, to enforce and uphold that. But the efforts to renegotiate operating and maintenance agreements, the continual threat of another OCAP, an adjusted OCAP, the very language of Public Law 101-618 that says, "Nobody can challenge the interim OCAP unless the federal government determines that changes must be made for the protection of the endangered species." And I guess there's a basis, a legal basis, (Seney: Yeah.) for that. I'm not sure, and the lawyers would say, "You're an engineer and don't make this judgment," but it's pretty tough, it seems to me, constitutionally even to say, "We're going to do something that affects you and you can't sue us until (Seney: Yeah.) sometime out in the future." Those kind of things, if not really, perceptively give the impression that there is sort of a – and I, again this is a strong word – of heavy handedness about, about the actions taken on the lower Carson River stream system.

And, I know that you could get the people that you mentioned in a room and we could all vociferously argue (Seney: Right.) this point, but what I would like to see come out of all this, and probably that's what I'm leading up to with these comments, is a conclusion in this Truckee River Operating Agreement that, that settles all the issues and doesn't just settle the Pyramid Lake issues, and the Truckee Meadows issues, and the California issues, but also the issues in the, in Lahontan Valley and the Fernley area. So, we get away from this real or perceived attitude and impression that, that one area is being treated different than another. We've got to get away from that. And our actions are going to have to allow us to get away from that. And the final, the final conclusion of this thing is going to have to document that we've successfully done that.

Seney: Yeah. Let me, let me say something and get you to comment on it. One of the things that I've been told is that the, over the years the Truckee-Carson Irrigation District has missed opportunities to resolve these questions. And one of the problems that the district faces if that they're, that it's very different than Sierra Pacific Power or the State of Nevada, which can have a very unified negotiating position. But the district has a Board of Directors, but it has 3,000 irrigators and it's awfully hard to get them all to agree on something. And, and it kind of faces a problem when it, it squares off against the Indian tribe, or the federal government, or the others because it's very hard for it to make decisions and come to conclusions. And there were opportunities in '82 to make decisions and to, you know, get I think something near 400,000 acre feet, if I remember correctly, much more than they've ever been offered subsequently to that, and that

as time goes on they have missed opportunities to resolve the situation. And, and of course we're talking here again about a matter of perspective. But you know what I'm talking about?

Westergard: Yeah. Uhm-hmm.

Seney: Because, you're familiar with all these things, far more than I am really. How would you, how would you comment on that and how would you characterize, maybe, the difficulties that the district has in making decisions about its future? How do you see those from the Nevada state side?

### Missed Opportunities

Westergard: I suppose, and I guess speaking more of an individual rather than as a (Seney: Sure. That's fine.) State official, but I suppose there have been missed opportunities. But, you know, maybe, if you want to go way back, maybe the tribe and others missed, missed opportunities (Seney: Sure.) when the compact wasn't ratified years ago. (Laugh) You know, you can always look back and say people missed opportunities. We all miss . . . .

Seney: Let me turn . . .

END SIDE A, TAPE TWO. OCTOBER 4, 1996.

BEGIN SIDE B, TAPE TWO. OCTOBER 4, 1996.

Westergard: We all missed an opportunity, (Seney: Yeah.) you know, whether it was in 1971 or '75, or '86, or whenever, because a lot of money has been spent rehashing some of these same things (Seney: Sure.) that we find are going to conclude were valid in the first place. So, there were missed opportunities. I suppose that because of the composition of the district down there and the representation that perhaps, maybe, at times it was tough to come to a consensus among themselves. But, in the Gail Bingham efforts, you know, that was not just T-C-I-D. It was the Lahontan Valley Environmental Alliance, and pretty much a group representative of the interests in Lahontan Valley and Fernley that came to the table there. (Seney: Yeah.) As far as missed opportunities, though, I think when you're the person making a judgment you have to decide whether, you know, whether a decision you make is going to be a missed opportunity or whether it's going to, in fact, be something that jeopardizes, jeopardizes your future and the (Seney: Yeah.) future of your constituents. And, well I guess that's what I would (Seney: Yeah.) say about that.

Seney: Yeah. Yeah. I guess all I'm suggesting here is that as I talk to the various participants, I mean, I see (Westergard: Uhm-hmm.) that, you know, that they suffer a disadvantage given the scale of their organization and how hard it is for them to reach a consensus. You know, in interviewing, say, Joe Gremban at Sierra Pacific Power, Marcus Faust, (Westergard: Uhm-hmm.) I mean it's very

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clear that with that kind of an organization they can make a decision. “This is our policy. This is our position. This is our objective. This is what we’re after.” And they can pursue it. The federal government has, maybe, a little more trouble doing that, but they, they have a hierarchical structure where the assistant secretary (Westergard: Uhm-hmm.) or the solicitor, now apparently, who oversees these matters, will say to the various (Westergard: Uhm-hmm.) elements, “This is what we will pursue.” But the district is kind of at a disadvantage here. I mean, whoever is right or whoever is wrong in the long run or the scheme of things, that it’s harder for them to negotiate given all the water users and the difficulty of reaching a consensus among them. I guess, that’s what I was trying to get at. (Westergard: Yeah.) It’s not their fault, it’s just the way things are.

Westergard: I think that may be just overstated a bit, from my perspective.

Seney: You think so?

Westergard: Yeah. I don’t think it’s that big a problem. You know, they have an elected board down there that’s elected under procedures set up for them in the state statutory process and, and sure they’re answerable, but, you know, and again at the risk of being somewhat, you know, appearing negative, there have been times when the tribal people representatives have said, “We have to go back to the tribal council for an election on this.” (Seney: Right. Right.) And, I think at one point, if my recollection is right, the tribe voted against participating in something where we thought we had an agreement. Or, you know, (Seney: Yeah.) maybe my, maybe my . . .

Seney: No. I think you’re referring to the Interstate Compact?

Westergard: Yeah. Yeah. That.

Seney: They did have a referendum on that, (Westergard: Yeah.) right?

Westergard: And, as far as, you know, the federal government is really not much of a different position, because when we get back to the compact days and other subsequent efforts at negotiation, which I can’t identify with specificity right now, you know, we thought we had agreement with Interior and Wildlife, and perhaps someone in the Solicitor’s Office, or, of course if Interior was committed the solicitor should have been, but Justice would say, “Wait a minute,” you know, or the Office of Management and Budget. So, we didn’t always have the federal government speaking with one position either and it was detrimental in the days when we were trying to get the compact ratified. So, you know, I guess my point is, I think to identify T-C-I-D in that category and exclude the others is probably not all fair. And, you know, there are people that say that I’ve been too protective or too defensive of the Truckee-Carson Irrigation District, and that’s not my purpose. That’s not my intent. I’m just looking out for the welfare, and have been over, over the time that I’ve been involved, the interests of *all* the entities in Nevada.

And, just as we try to balance fairness and equity between the two states, within the constraints of established water rights and procedures, that's what I've tried to be a part of accomplishing in Nevada too. (Laugh) (Seney: Right. Right.) Not one interest as opposed to the other, (Seney: Right.) but rather accomplishing that across the board for all the, for all the interests.

Seney: Has that been a difficult balancing act, do you think?

Westergard: It has. Yeah. It has, at times. It has, at times.

Seney: You must feel tugged and pulled? And . . .

Westergard: Yeah. But fortunately, you can always go back on the, on the system, and the decrees, and the water rights to say that, "This is the basis." And then some of these things are late in being determined, like the entitlement to the unallocated water. And there's still outstanding applications for that and potential conflicts, (Seney: Right.) and contests, you know. The district has one pending. The tribe has one pending. There are others pending, I think, by Washoe County, and the power company, that have been put on hold pending the completion of TROA. So, not everything is, will be resolved even by TROA, if we're not careful. (Seney: Yeah.) And what we want to do is be sure that it does conclude everything.

Seney: How do you, how do you see the future? What do you think, fifty years from now, the, what do you think is going to be the scope of the Truckee-Carson Irrigation District fifty years from now?

### **Future of the Project**

Westergard: Well, I guess, from the, from the background that I come from I would hope that if there's a community of interest down there that has wanted to preserve a way of life, be that in the agricultural setting or whatever, that government doesn't make it so hard for them to exist, that they have to, to in any way forfeit or abdicate that. And, you know, I would say the same thing about the Pyramid tribe. I just hope that this whole thing provides a viable resource availability for them so that their customs and their religious beliefs, and everything, can be protected and fostered. And, like you say, that gets to be a fine balancing line. But you asked me particularly about the Newlands Project area.

Seney: Right.

Westergard: It just seems to me that, that to force a change in a way of life by imposition of regulations, and rules, and lawsuits, and so forth is, gets to the point of being heavy-handed. When you're, you know, you can price people out. God, I don't know how much money all of us, the State, and the power company, and the tribe, and the government, and T-C-I-D has spent, but I hope it doesn't get to the point

where, you know, economics dictate that you can't continue something that you really want to, (Seney: Yeah.) want to continue. If an individual says, "I want to reap whatever I can out of the assets that I have here and sell this, my water right, to the wildlife area," that's his prerogative. (Seney: Right.) But, for there to be almost bordering on overt actions to make that happen, and I hope we don't come to that. (Seney: Yeah.) I hope we don't come to that. (Seney: Yeah.) But, if we do, then it's wrong and I would not like to see that happen. Similarly, if there are people in the Truckee Meadows, in Reno and Sparks, as tough as it is to maintain a sixty-acre little vegetable farm, or whatever they might have over there, if that guy, in his, wants to pass that on to his children he ought to be entitled to do that without, (Seney: Yeah.) without somebody forcing him to do otherwise.

Seney: Yeah. Is there anything I haven't asked you?

Westergard: I don't think so. (Laugh)

Seney: Or anything you want to comment on?

Westergard: You've asked me things I haven't thought about for years, (Laugh) and I hope I've been responsive to your questions.

Seney: Oh, no, you've done very, you've done well, really well, and you're really provided the State's perspective, (Westergard: Yeah.) which is really what I wanted (Westergard: Yeah.) and needed from you on these matters. I mean clearly, you know, the State has a big role to play here, (Westergard: Uhm-hmm.) and you've been in charge of it or playing a key part in it for a long time, and I'm glad we were able to get together and talk about these issues.

Westergard: I am too. And it, you know, when you've spent this much time a whole, a whole, really, professional career, I would like to see these things concluded (Seney: Yeah.) someday, (Seney: Yeah.) and the sooner the better. (Laugh) And, but as I said earlier, I just hope it's in a, in a form that resolves all the issues and doesn't leave something out to be determined (Seney: Yeah.) in the future, to the extent we can. You can never make everything, (Seney: Right.) of course, totally challenge-proof. But I just want it to be so, you know, comprehensive and conclusion, and be a conclusion for the best interests of everybody in Nevada and California, too.

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

Westergard: No.

Seney: All right. Well, on behalf of the Bureau I really appreciate your (Westergard: Uhm-hmm.) giving us this time.

Westergard: I've enjoyed it. Thank you.



Seney: All right. Thank you.

END SIDE B, TAPE TWO. OCTOBER 4, 1996.

BEGIN SIDE A, TAPE ONE. JUNE 1, 2006.

Seney: In the headquarters of the Nevada Department of Natural Resources in Carson City, Nevada. Today is June 1, 2006. This is the third session, and this is our first tape. And Roland we ended I think we were at 1996, October 1996 the last time.

Westergard: Yes. Uhm-hmm. That's right.

Seney: And we talked then a little bit about the TROA [Truckee River Operating Agreement], which had been underway then for what about four years, the actual negotiations?

Westergard: Yeah. That's probably not too long after the 101-618 (Seney: Right.) was passed in 1990. So, yeah.

Seney: And as we talk today, ten years later, the negotiations are still going on. Are you surprised at that?

### **Continuing TROA Negotiations**

Westergard: Well, a little bit. But I think as we talked earlier, one can firm the conclusion that we drew was that these things take a lot of time. So, and you know, with the history of development of the [Alpine] Decree on the Carson River, which spanned many more years . . .

Seney: The last forty years, essentially?

Westergard: Yeah. And the compact took a lot of time. And, you know, this isn't unique to Nevada either. I think you'll find that these complicated settlement efforts do take time. Of course, there are a myriad of issues, obviously, and a myriad of parties. So.

Seney: Well, I know that there were somewhat now turned out to be optimistic notions that maybe six years, (Westergard: Right.) seven years would do it? And of course, it's been longer, and it may be a bit longer since there's been a recent hangup over an issue, and we'll talk about that later, on the Fernley upstream storage, etc. But, what, what in specific do you think has delayed things more than anything else, what issues have been more difficult than you might have thought?

Westergard: Well, all the issues are difficult. When you have that many parties and five so-called principal parties and then the other groups too that obviously have an



interest in it, you just have that many various points of view and everybody wants to express their points of view. It's been said, I think by Bob Pelcyger and others that, you know, that every phrase and perhaps every word of the document has been (Laugh) subject to some discussion. And as I say, when you're trying to address so many concerns by so many people it just takes a while to explore those. And, you know, these are all extremely busy people that have full-time duties in other, in other arenas and areas. And, not that they haven't been dedicated in making time available for it, because I think all the parties have, it's just, it's just a very complicated process and I think, you know, with the intent and purpose of making this really the conclusion of the disagreements, in this case on the Truckee River, but as we've talked about before involves sort of indirectly the Carson, absolutely directly Tahoe. (Seney: Yeah.) The interest and concern about (Seney: Right.) concluding these issues in perpetuity we want to be sure that every word is right and that has taken some time.

Seney: Let me give a more maybe specific kind in my question. One of the differences between disagreement and the agreement is it sort of supersedes the old Truckee River (Westergard: Yeah.) Agreement in 1936?

### **Preserving Truckee River Agreement**

Westergard: Thirty-five.

Seney: Was that the Truckee Carson Irrigation District was a signatory to that agreement? (Westergard: Yes.) They are not now a signatory (Westergard: Right.) to this agreement and, in fact, they have not even participated for some time in, as an observer even in the negotiations?

Westergard: Right.

Seney: My understanding is, however, that in anticipating the legal challenges by the district that you all have made (Westergard: Right.) an attempt to work into the TROA the elements that protected them in the Truckee River Agreement?

Westergard: Yeah. That's right. As I said, to make this an effective document in perpetuity, and at the same time the understanding that there are lots of process that follow the development of the federal regulation, certainly all of the action on applications to change that are going to be required, the court, the two court confirmations or approvals of the changes to the Truckee River Agreement, and other things that the federal courts have to approve. The goal is to protect all the parties and to make this document as defensible as possible. And I think you'll recall that in our earlier discussions one of the primary concerns of the State of Nevada was to be sure that existing water rights under existing decrees, or state-issued rights, were protected and that continues to be the, to be the goal, (Seney: Yeah.) and hopefully that's going to contribute to a successful defense of this document if, in fact, it's challenged. Of course, we can always, you know, we can

always be optimistic to think that those (Seney: Right.) challenges are not going to be forthcoming if we do a good enough job on demonstrating that those rights are protected and nobody's adversely affected.

Seney: Well, the public law 101-618 specifically says that the decrees and the state water rights is always an element with the federal water law are immune from change by that legislation?

Westergard: Immune from change, certainly.

Seney: I mean . . .

Westergard: Put it another . . .

Seney: I didn't put that well. The federal legislation didn't in any way compromise the Alpine Ditch Decree (Westergard: No.) or the Orr Ditch Decree<sup>24</sup> or the water rights and laws of the State of Nevada. That was all held intact?

Westergard: That's, that's right. That's right.

Seney: Did you play a role in making sure that that was in Public Law 101-618?

Westergard: Boy, that goes back a ways but I'm clearly certain I did. Yes.

Seney: Yeah. Did you work with Jim Burney [spelling?] at all, who was the Republican staff member on the Water & Power Subcommittee of the Senate Energy Committee?

Westergard: That name doesn't come to mind. Tom . . .

Seney: Right. Jensen?

Westergard: Jensen's name (Seney: Right.) comes to mind. The other name, I probably did. It's just been (Seney: Yeah.) so long now.

Seney: Yeah. Well, let me tell you what he told me when I interviewed him in (Westergard: Uhm-hmm.) Washington D.C. And I think when you asked me of

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<sup>24</sup> "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)

all the people I've interviewed, I left Jim out. (Westergard: Uhm-hmm.) I'm sorry Jim. (Laugh) He told me that one of the Republican interests, in Congress, whenever this water law came up was to make sure that there weren't many changes in the state, within the water law in the state (Westergard: Uhm-hmm.) as it existed then. You didn't mess with these court decrees and you didn't mess with the state law. I thought, given what he said about that, their interest in making sure those were immune from any change, you might have had some contact with him?

Westergard: I probably did, but I just, I don't recall. (Seney: Right.) It's been a number of years. But, you know, the main thrust of the 101-618 and the continuing effort addresses really those, the operation of the reservoirs and the ability to sort of manage it. Those water rights are being protected through changes in operation of the reservoirs. And it's pretty much restricted. You know, ultimately that's pretty much the restriction on this document could do.

Seney: Right. You know, I know when the Preliminary Settlement Agreement was being negotiated, and you had – I should say I've been told, by credible sources – when that agreement was being negotiated by the tribe and Sierra Pacific Power that Sierra Pacific Power, who had been a longtime ally of the Truckee Carson Irrigation District went out of their way to make sure that T-C-I-D was happy with the Preliminary Settlement Agreement. They asked them, you know, what they would like to see, that they suggested language, that language was included in the Preliminary Settlement Agreement, and that the district did not evidence a great deal of or really any opposition to the Preliminary Settlement Agreement?

Westergard: You know, Don I wasn't privy to those discussions. So . . .

Seney: Well, more – well I wanted to lead up to another question. (Westergard: Uhm-hmm.) and that is, when the, when you were working on the language of the TROA having to do with the Truckee River Agreement did you meet with T-C-I-D people and tell them what you were doing and keep them abreast of things?

### **Discussions with TCID**

Westergard: Well, we've had discussions through the years with the representatives of the Truckee Carson Irrigation District, and as to specifics on that point I'm not sure. But we probably did, you know. (Seney: Yeah.) We wanted to – our goal was to get all of these issues concluded, as I said, and we had major, major concern through the years, as evidenced I think by, by a lot of the background information that we get as many of the interests involved as we possibly could, and to be sure that those, as I said before, that those interests were protected. We would, you know, we would like to have seen the Truckee Carson Irrigation District be a party (Seney: Yeah.) for reasons that we've discussed before. (Seney: Right.) They are not, but the ultimate decision that the State had to make was whether we felt, you know, that their interests were protected in this just as we feel we had to

make, had a comfort level that the tribe's interests were protected, or Truckee Meadows, or whoever. (Seney: Right.) But, as you and I have talked about before that OCAP [Operating Criteria and Procedures] process, Operating Criteria and Procedures process became directly involved in this course through a separate, through a whole separate process, and once the courts ruled on what the entitlements were and what the criteria for the diversions from the Truckee [River] were, and decisions were made not to challenge certain points that process, by the State and others, (Seney: Yeah.) once those issues were concluded by the court we felt bound by those (Seney: Yeah.) decisions. (Seney: Yeah.) And so, that's the basic (Seney: Yeah. Right.) criteria for diversions from the Truckee, which were recognized in the TROA document.

Seney: You mentioned the tribe and you mentioned the Truckee Meadows, you know, the State wanted to make sure that they're well treated as well as T-C-I-D (Westergard: Yeah.) and signatories. Of course, there's no question they're well represented?

Westergard: Right.

Seney: And are signatories (Westergard: Right.) to the agreement? My understanding is, and I can certainly understand why the State has kind of had its arm around T-C-I-D a little bit to make sure it was, you know, looked after in TROA. Would that be a fair assessment?

Westergard: Yeah. Yeah, I think so. Probably not any more so than the other parties except because T-C-I-D wasn't present with representatives and yet it's a major, major (Seney: Right.) economic, recreation, environmental, wildlife area down there, which is vital to the, you know, to not only the local area but to the interest of the State. So, we wanted to be sure that their interests were protected.

Seney: Well, I know they would see it differently, because I've talked with so many of them. (Westergard: Yes.) Some would look at their efforts almost as obstructionist when it comes to all the exceptions, they found to this and that, and the state engineer, and appropriated water, and etcetera, and the lawsuits and all that kind of thing. Were you also motivated by the idea, "Well, let's even make sure we've got an agreement here that maybe is going to be immune to these exceptions and lawsuits?"

Westergard: Yeah. I think that's, that was the, in addition as I said earlier, to concluding everything we wanted that to be to the extent, and that's still our goal. And when we get to some of these other points maybe they'll come up in your questions again. But we do, and you know, that we have wanted to make it immune from challenge because decisions have been made to proceed with this (Seney: Yeah.) and the principal parties, I think, are primarily in agreement. All of us are interested in pursuing this as rapidly and concluding this as soon as possible.

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- Seney: You know, I know you've been involved in this water issues for about as long as there's been water in Nevada. (Laugh)
- Westergard: Not quite.
- Seney: Well, it goes way back?
- Westergard: Yes. It does.
- Seney: To the Interstate Compact?
- Westergard: Yeah, it does.
- Seney: What I want to ask you about is, there, I should think first of all there must be a pretty good consensus of what the State of Nevada's interests are in all of these agreements, what your goals you're pursuing, what things you want to see accomplished? But, have there been times in the TROA negotiations that you've had to go to, I guess, what Governor Bryan at one point it would have been? Governor Guinn?
- Westergard: Or Governor Miller.
- Seney: You know that's Governor Miller. How does, have you had to go up higher or did they leave this in your hands?

### **Governors' Influence on Negotiations**

- Westergard: Well, not in my hands, you know, since 1990 I've been an advisor to the State. Prior to that time, of course, as you know I was the director and when I served as director obviously if there were major policy decisions that I had, that I felt had, you know, had implications areawide or statewide I would certainly keep the Governor's Office briefed. And, you know, if there was an expression of concern one way or another by the governor or his staff, I would have attempted to address those concerns. And since that time, I've said, I've been in just an advisory capacity and I've reported primarily to the director of the department, the various directors through the years and you know I would assume that on major policy issues they probably followed the same process. I think that's pretty much standard (Seney: Right.) in state government administration.
- Seney: Were there any changes in the State's approach to these things that you recall?
- Westergard: No. No. I think the, the administrations supported the basic concepts that the State was advancing and protecting existing rights and covering all the interests to the extent that's possible to do so. And if (Seney: Right.) you don't do it adequately then you, you extend this time of negotiation (Laugh) until you do accomplish those two purposes.

Seney: Well, I know you've been a strong voice in water matters, and you've been relied upon in the State, and I was told by what I, again, I regard as reliable sources to go back wasn't it the 1986 attempt was made by Senator Laxalt (Westergard: Right.) to get the Interstate Compact passed, there were, you ran into all kinds of problems and difficulties and had to go so far as go to the Appropriations Committee as a last-ditch effort? As I'm sure you recall they put some language into the Appropriations Bill, a simple sentence that said, "The interstate, the California-Nevada Interstate Compact is hereby ratified," and that ended up, he ended up taking that out? There were some compromises and I've, for the life of me I can't remember the particulars of it, but then been told that when Laxalt called you, you were director then, and asked you, "Would this be all right?" and you said "No. That would not be all right."

Westergard: And, you know, I did briefly review our earlier discussions on this point and my recollection at that time and as I've thought about my recollection again is that there were – and I don't know that I ever saw the specific language (Seney: Right.) that was proposed. It was probably read to me. But my conclusion at that time was that to have simple sentences ratified would have been fine but there was some qualifying (Seney: Right.) language in there which, as I say, I don't know that I ever specifically saw but I certainly was aware of it, that would, in effect, undo the total interstate resolution of the issues. And, we had spent from, well certainly the parties from 1955 until whatever that date was. And it concluded the interstate discussions in '69, '70, and '71. But, the whole purpose and goal, the whole reason was to, relating to what we're trying to do now to conclude all the issues and that suggestion would not have concluded the interstate issues. That's my recollection. (Seney: Right.) So, you know, all those years would have been, in effect, not to have produced what the goal and what was intended to be accomplished.

Seney: Right. Right. Is that going to be accomplished under TROA, do you think, what the Interstate Compact would have done? Is that going to be done now?

### **Protecting Nevada's Interests**

Westergard: Yeah. And, as I think I may have said earlier Don, and it's been some time since we talked (Seney: Right.) if I'm repeating I apologize.

Seney: No. No. Don't worry about that.

Westergard: But, yeah. And it's . . .

Seney: It's been ten years.

Westergard: Yeah. And it's . . .

Seney: I've reviewed a little and you've reviewed a little.

- Westergard: Yeah. (Laugh) I, you know, I can't help but jab once in a while, that the provisions that are in 101-618 are, you know, very, very similar and in some cases almost identical to what was done in '69, '70, and '71. (Seney: Right. Right.) And it's taken this long for people to realize it (Laugh) what our predecessors and some of us accomplished in those earlier years really was, really was what needed to be done. So, I take a lot of, you know, satisfaction in that and some gratification in that (Laugh)
- Seney: Right.
- Westergard: But yes. I would say for all practical – there are some changes, you know. (Seney: Right.) But, the essential purpose of establishing, you know, an entitlement for use of [Lake] Tahoe at the same time establishing a limit on that, on that diversion, and that diversion at Tahoe and establishing how much California can divert before it gets to Nevada is what we were trying to do. And that's both on the Truckee and the Carson [rivers]. That's been pretty much accomplished in 101-618.
- Seney: Well, those remain the same, don't they? The interstate allocations (Westergard: Yes.) and the diversions are what was (Westergard: Yes.) negotiated (Westergard: Yes. Uhm-hmm.) in them?
- Westergard: Uhm-hmm.
- Seney: And, I have to say I think that Nevada made out like a bandit on those, especially with the interstate allocation.
- Westergard: Well, you know, the basic premise was, at that time, you know that kind of gets back to protection of existing rights. So, it was to, an attempt to recognize quantities of water necessary to satisfy those existing rights, and if there was anything left over to divide it equitably between the, between the states. You know, one really, really important feature of that, of the compact then and now, as I alluded to earlier, it establishes an entitlement for diversions and use in the Tahoe Basin and yet also establishes a cap, which in the absence of the compact really does not exist.
- Seney: Right. I think the Tahoe Basin allocations are understandable, but I'm thinking about the interstate allocations of 90/10. Would I be right in thinking if we go back to when all that was negotiated there was negligible development on the upper Truckee in the California side?
- Westergard: Yeah. That's true.
- Seney: And significantly more obviously development on the Nevada side?
- Westergard: Yes. That had . . .



- Seney: That must have been the factor that was weighed and taken into consideration?
- Westergard: That's right. Because as I said, the intent was to protect the water supply for the existing uses at that time and to the extent that there wasn't much in California, and there was a lot in Nevada that kind of relates to what you've just said. (Seney: Right.) And then also to give, but to give some room for growth and development on both sides of the state line.
- Seney: What was your take on the Nevada, on the California interests coming in kind of late in the game, you know, the precipitating event? There's the Memorial Day drawdown in Stampede, which now you have the development around Stampede (Westergard: Right. Right.) and all of a sudden – I mean, all of the sudden the watermaster empties Stampede (Westergard: Right.) to meet the water needs of the tribe, I think, in that case for the fish run if I'm not mistaken? And all of a sudden there's a mud hole instead of a nice lake in a day or two. I'm sure you recall all that?
- Westergard: Boy, I'm not recalling that. Sorry.
- Seney: Well, that was what precipitated the Upper Truckee interests in coming in.
- Westergard: Oh, it's the same – yeah.
- Seney: “What the hell's going on here?”
- Westergard: Yeah. When you say the “State of California” I think the State was involved, obviously. (Seney: Yes. Right.) You're talking about the local interests?
- Seney: Right. Right.
- Westergard: And the Truckee interests?
- Seney: And then prodding the State to take an interest.
- Westergard: Yes. Yeah, that's true. The Truckee, the recreational interests, the fish and wildlife interests, (Seney: Right. Right.) in the California?
- Seney: Right. They, (Westergard: That's right.) Gary Elster<sup>25</sup> (Westergard: Right.) and Kathleen Eagen?<sup>26</sup>

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<sup>25</sup> Gary Elster participated in Reclamation Newlands Series oral history project. See, Gary S. Elster, *Oral History Interview*, Transcript of tape-recorded Bureau of Reclamation Oral History Interview conducted by Donald B. Seney, edited by Donald B. Seney and further edited and desktop published by Brit Allan Storey, senior historian, Bureau of Reclamation, 2011, [www.usbr.gov/history/oralhist.html](http://www.usbr.gov/history/oralhist.html).

<sup>26</sup> Kathleen Eagen participated in Reclamation's Newlands Series oral history project. See, Eagan, Kathleen, *Oral History Interview*, Transcript of tape-recorded Bureau of Reclamation oral history interview conducted by Donald



Westergard: Right.

Seney: So, they were very able, I think, people in terms of getting the State [California] to listen to them. Do you remember what, what your reactions to the Nevada person was when here all this hornet's nest is now (Westergard: Yeah.) in the midst of this? We're talking about (Westergard: Yeah.) you know we're talking about what '97, '98 now? And, TROA has been going on for some time and all of a sudden here comes a new group from, in?

Westergard: Well, if there was any concern it was whether how much it was going to rock the boat and delay progress. But, at the same time, you know, we've, through the years, made a real argument for trying to protect our recreation interests and water levels in Lahontan Reservoir. So, we had a sympathy and an understanding of what they wanted to do to protect those recreational and other assets that those people were advocating for. (Seney: Right. Right.) And so long as, again, it didn't jeopardize Nevada's interests we felt that they needed to be heard. And obviously the administration in California got that message and those people did, did play an active, an active role, and I think ultimately a constructive one. You know, another thing you have to remember – or we should remember – is that those reservoirs and those minimum pools and the stream flows in California are things that are enjoyed by residents of Nevada too. (Seney: Right.) It's just not very far across the state line (Seney: Right. Right.) and a lot of our people use those recreation facilities. So, you know, I think it, it was a little painful at times and maybe a little frustration even. But ultimately, I think, I think they played a, they played a positive role in resolving these issues, and in the interest of using the water for as many purposes and yet protecting the existing rights as could be accomplished.

Seney: Right. Were you at all concerned that this the whole 90/10 allocation might, might come up for discussion again because of these people?

### **The 90/10 Allocation**

Westergard: The one thing I do recall, and boy I'm stretching my memory a little bit here, I think I personally and I'm not sure others, perhaps others had a concern about the Public Trust concept and whether or not that could somehow (Seney: Yeah.) mess up the allocation we had agreed to. Because, you know, in California that's a very strong doctrine, (Seney: Right.) and in Nevada and around Tahoe. Although, you know, the public interest has to be considered. I think there may be a difference in intensity is how, maybe not how that's applied but how at times it's interpreted in the two states. And, I had a little concern about that. We'd had some experiences on the Walker River stream system, Bridgeport Reservoir I believe it was, where the water had been drained down and there were some, there

was some legal action and the Public Trust Doctrine was advocated, as I recall, and resolution of some of those issues. And I was a little concerned about applying that (Seney: Right.) on the Truckee (Seney: Right.) and in turn messing up what we had agreed to (Laugh) way back starting in 1955. (Seney: Yeah.)

Seney: Was it helpful in, or would it have been, would it have been helpful at combating any anticipated changes by all the interlocking incentives that went into 101-618? I mean, if you don't sign and California doesn't sign, no allocations, interstate allocations and Tahoe allocations, those are dependent on your signatures. Sierra Pacific, I guess now TMWA [Truckee Meadows Water Authority, pronounced tumwa] signs or the Settlement Agreement (Westergard: Uhm-hmm.) doesn't go into effect? The same for the tribe, (Westergard: Yes.) along with the development money and so forth for them? Did that, did that help to stabilize the situation so that people said, "We're not maybe so sympathetic to changing that allocation?"

Westergard: Yeah. I think so. And you used the word "incentive." I think it was a real incentive to try to make things work, not only as related to that issue but other issues. What we've talked about, the incentive was always there to conclude these things for all time. (Laugh)

Seney: Right. Right. (Laughter) You know, I know the tribe raised some very complex issues, and Sierra Pacific too, of depletion on the California side. You know, they had these what, 32,000 acre feet (Westergard: Yeah.) that they could allocate a certain percentage came could be out of the, or surface water, the rest, what, 10,000 surface water?

Westergard: Yes.

Seney: And 22,000 groundwater?

Westergard: Yes.

Seney: And the whole question of what kind of returns there would be? Did, I would assume Nevada would have been on the side of the tribe and Sierra Pacific Power wanted to maximize return flows?

Westergard: Yes. Yeah. And you know that's, that, in our last interview you talked, you asked me for an example of complicating things that had prolonged the discussions and one of them I alluded to was the prerogative of California to develop groundwater and the insistence on all of us in Nevada that the development of that groundwater not impact the 10,000 acre feet of surface water. (Seney: Right.) So yes, you're right.

### **Rapport Among Negotiators**

Seney: We have a little more on that. The tape goes all the way to the end. So, even if it stops it'll have all of our words on it. One of the things that was interesting to me, and I know I mentioned this to you last time in the few TROA meetings I've gone to, which I couldn't really understand. I mean it all went straight over my head. (Laughter) Was the rapport among all the individuals involved who had been in this so long, you, and Bill Bettenberg from the feds, and Fred Disheroon, and Sue Oldham, and Gordon De Paoli, and Bob Pelcyger, of course. (Westergard: Uhm-hmm.) And the other people on the side of the feds, the California people have been there a long time, Carol Hamon, (Westergard: Yes.) and what not? How, can you comment a little bit about how that, the long-term service of all of you had an impact on these negotiations?

Westergard: Well, I guess, I guess it had probably two impacts. One was that may have been a factor in contributing to the length of the discussions, because people were so knowledgeable and knew the history and the background, that they knew what to guard against as far as protecting their interests, their interests were concerned. But the flip side of that there was also a consistency in wanting to conclude this thing. So, I don't know how those two balanced. We do know the result was it sure extended a long period of time. (Laugh) (Seney: Right.) But I think the rapport and the demeanor and . . .

END SIDE A, TAPE ONE. JUNE 1, 2006.

BEGIN SIDE B, TAPE ONE. JUNE 1, 2006.

Seney: Let me ask you, I know you, if I asked you to criticize someone, I know you won't because I know you don't do that, but were there any of the participants who were particularly helpful in moving things along and were good at finding compromises, and looking to see what could be done for the other person if they wanted something done?

Westergard: You know, I'd have trouble identifying any specific person who played that role. I think that was the general attitude once you got by the original hurdle of the basic disagreement. There were people – well, Gordon De Paoli, you know, I would have to mention Gordon as one that has real institutional knowledge of all of this and the ability to retain it. And sometimes Gordon could relate back to things that related to the specific discussion or to precedent, you know. And others too, but I don't know that there was one faction or one person that necessarily played a more important role than the others in that.

Seney: You know, I've heard it said that you began really by tackling the easier issues and deferring the more difficult ones?

Westergard: You know, I suppose, I suppose that's true. The compact had pretty much been concluded. All we had to do was remind people that it was good, (Laughter) and that it did what it was supposed to do. So, I think we got that out of the way fairly soon. The credit storage issues, some of the issues in California that you raised

(Seney: Right.) were injected. And, you know, the concern about whether Truckee Carson Irrigation District was or was not going to be included in how, how their interests would be protected. Those things were, I don't know that they were put off. You know, the issue of Fernley is a primary example. Fernley and the Newlands's Project Credit Water, which are still outstanding issues, are some that (Seney: Right.) in a way have been put off, I guess, because they, because they were going to be difficult. But I'm not sure that they were put off because they were going to be difficult, it was just, we just hadn't gotten to the point where the, of the real, you know, down to, down to the brass tacks negotiations had to take place to resolve those issues.

Seney: Was the fact that the Preliminary Settlement Agreement was done helpful?

### **Preliminary Settlement Agreement**

Westergard: I suppose it, I suppose it was. I think it was helpful to the tribe and Truckee Meadows particularly people, to those people particularly, I suppose to the extent that they were able to resolve that. It was helpful to the rest of us not to have to get involved in the details of that and it was something that, you know, that was, was accepted after it went through the process.

Seney: Was any of their, their kind of notions of the management of the, the reservoir for fish and drought protection, was that helpful as a precedent in suggesting how the other reservoirs might be, might be managed as well, just the whole concept and the fact too that the, in that agreement that the power company had given up the Floriston Rates?<sup>27</sup>

Westergard: Yeah, I think those, I think those were, things were helpful. You know, I would have to say, and I can't even remember specifically, there are parts of that Preliminary Settlement Agreement that were of concern to me.

Seney: You don't recall what those were?

Westergard: Well, there were references to how much groundwater could be developed, as I recall. And there were some things like that. But, you know, again we respected the position of the people, of the people that were directly involved in negotiating

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<sup>27</sup> "Floriston rates are the rates of flow of the Truckee River at Floriston, California, as actually measured at the U.S. Geological Survey stream gaging station near Farad, California. Floriston rates currently vary between 300 cubic feet per second (cfs) and 500 cfs depending on Lake Tahoe elevation and season. The Floriston rates required that there be a mean flow of water in the Truckee River near Floriston of 500 cfs during the period from March 1 to September 30, and 400 cfs between October 1 and the last day of February. This agreement required that if there was insufficient flow from the remaining portion of the Truckee River system to meet the Floriston rates, water would be released, if possible, from Lake Tahoe to maintain those specific rates of flow." See Summary of Truckee River Operations, [www.waterboards.ca.gov/waterrights/water\\_issues/programs/water\\_quality\\_cert/docs/farad/deir/appendixb.pdf](http://www.waterboards.ca.gov/waterrights/water_issues/programs/water_quality_cert/docs/farad/deir/appendixb.pdf). (Accessed 1/2019)

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it. And so long as it met the two tests, one to protect other people's water rights and two, don't do something that's going to prolong resolution of all these issues, we felt that they, they, we should defer to them on some of those specific issues.

Seney: Right. Right. You know, one of the things that was, well I guess caused a delay in the negotiations was the so-called "Fork in the Road" ?

Westergard: Yeah. And, I'm having trouble recalling – it's amazing, isn't it, when you get down the road sometimes you forget those earlier forks in the road? (Laugh)

Seney: I expected you to be a [Inaudible] on all of these details Roland.

Westergard: That one I'm not remembering with specificity.

Seney: Well, it was, of course it was the tribe that came in.

Westergard: Yeah.

Seney: Ron Hall apparently got up at one of the meetings and began explaining some point and the tribe said, "Whoa. Wait a minute. That's not how we understand it." And I don't know specifically what they were objecting to, but in terms of dynamics, you know, the fact that the tribe was objecting to this was that particularly difficult? Or . . .

Westergard: It was for a period of time and I wish, you know, I should have thought about a lot of these things I guess before we talked because I'm not remembering the specifics of that, for which I apologize.

Seney: Well, I'm going to be talking to Bob Pelcyger, (Westergard: Yeah.) and Bob will remember them, I'm sure.

Westergard: Yeah. Yeah, he will. He was, yeah, he will. It was somewhat divisive for a while, but again, you know, cooler heads prevailed, so to speak, and we got past that, that hurdle.

Seney: Yeah.

Westergard: I think it had to do with, with well the ops, some aspect of the operation of the reservoirs, (Seney: Right.) and the interpretation of . . .

Seney: I'm not sure I understand it either.

Westergard: Well, I think I did at the time and I wasn't, maybe I didn't even at the time. Maybe that's why I don't remember it now. (Laugh) But, it had something with the way the credit storage and the operation of the reservoirs, (Seney: Right.) and

the interpretation of, of how that was going to be managed. (Seney: Right. Right.) But, I'm sure Pelcyger will remember with specificity.

Seney: Yeah. How much contact did you have with Senator Reid's office? Do you have on these issues in the TROA?

Westergard: I personally have not had, well, hardly any contact with Senator Reid's office.

Seney: You don't talk with Mary Conelly?<sup>28</sup>

Westergard: No. I have talked to Mary but, you know, it's, other parties will say, "Well, we've talked to Mary about this," or "I've talked to Mary about this," and you know I've kind of felt that I wouldn't be presumptuous and approach – you know, I think that Senator Reid and the Congress acted to tell us what to do and I kind of felt that the responsibility then (Seney: Yeah.) switched to us to do that and that it should be done, you know, through the process, the negotiating process, that was followed. And, you know, I don't mean to judge or criticize people that have had contact with Mary or contact Mary's had with others, it's just that (Seney: Right.) I've not been involved in that process.

Seney: Well, I guess I was thinking not so much that you would be getting in touch with them, but I know that Senator Reid's office pays close attention to what goes on, and I thought they might be in touch with you to share their views. But I guess not?

Westergard: If they have been in touch with others I don't know. But I, you know, I have not had, I've had very little direct contact with Senator Reid's office.

### City of Fernley

Seney: Well, let's talk a little bit about the, the current hang up with Fernley and this, the credit water storage. (Westergard: Uhm-hmm.) Let me say first of all I've been given to understand that, that the, as Bill Bettenberg was getting ready to leave it seemed like things were getting pretty much settled, that there wasn't much outstanding, and that Betsy Rieke<sup>29</sup> takes over, and that she kind of opened up this issue with Fernley? Now I know, or at least I'm told, been told, like with T-C-I-D you, as the representative of the State of Nevada see part of your role as to look

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<sup>28</sup> Mary Conelly participated in Reclamation's Newlands Series oral history project. 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](http://www.usbr.gov/history/oralhist.html).

<sup>29</sup> Elizabeth (Betsy) Rieke participated in Reclamation's Newlands Series oral history project. See, Elizabeth (Betsy) Rieke, *Oral History Interview*, Transcript of tape-recorded Bureau of Reclamation Oral History Interview conducted by Donald B. Seney, edited by Donald B. Seney and further edited and desktop published by Brit Allan Storey, senior historian, Bureau of Reclamation, 2013, [www.usbr.gov/history/oralhist.html](http://www.usbr.gov/history/oralhist.html).

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after Fernley's interest and I certainly understand that. So, can you kind of give me your take on what's going on here?

Westergard: Yeah, and I, if there was a change when Betsy Rieke came in on that issue, I'm . . . I don't know the details of that. I do know that there was disagreement as to, as to the Fernley credit storage, (Seney: Right.) and obviously a provision was written in to allow Fernley credit storage.

Seney: In 101-618?

Westergard: Well, inherently in 101-618 (Seney: Right.) but not specifically. I don't think there was specific mention of Fernley. But, certainly in the TROA document there is a, there's a provision in the draft TROA, and because of a concern about how water was going to be diverted and distributed in Fernley, and the tribe had some reservations about the language authorizing credit storage for Fernley under the language that's in TROA. And again, so that things wouldn't be held up there was an agreement made that the E-I-S [Environmental Impact Statement] process would move forward, evaluating Fernley, and out of TROA.

Seney: There are two versions, right?

Westergard: Right. Yeah. So that hopefully by the time we got to about where we are now the Fernley/tribal issues would be resolved and so it could go forward.

Seney: Well, there's been a good deal of change over in Fernley, to say the least (Westergard: Yes.) in terms of building and development, and a new municipal arrangement? Apparently, it's not a town anymore. It's now a municipality. (Westergard: Yes.) It was, is subservient to Lyon County Board of Supervisors? It's now not. It's a city under Nevada law. I'm told the new mayor Mr. Stix and the new attorney, that Rebecca Harold's<sup>30</sup> no longer there, have taken a different view of the credit storage and the tribe and what not, and that's had a large impact, this change in the leadership over there. Would you say so?

Westergard: You know, I, I . . .

Seney: Roland, we can, now remember we can restrict this so no one will see this interview for, until there's no water left in the ground. So, I want you to be as candid as you can be with me.

Westergard: Yeah, I will, the only concern I have is, you know, there's pretty much an agreement that these things aren't going to be discussed outside the negotiations. But obviously others have talked to you about it?

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<sup>30</sup> Rebecca Ann Harold participated in Reclamation's Newlands Series oral history project. See, Rebecca Ann Harold, *Oral History Interview*, Transcript of tape-recorded Bureau of Reclamation Oral History Interview conducted by Donald B. Seney, edited by Donald B. Seney, desktop edited and published by Andrew H. Gahan, historian, Bureau of Reclamation, 2012, [www.usbr.gov/history/oralhist.html](http://www.usbr.gov/history/oralhist.html).



- Seney: Right. Right. But I haven't had anybody concerned about that.
- Westergard: Oh, okay. Well, just so long as I don't violate that. (Seney: Right.) And, as you say that these thing will hopefully be history by the time this comes (Seney: Right. Right.) out. I wouldn't want to, you know, be ethically challenged by virtue of (Seney: Right.) violating a (Seney: Right.) the confidentiality. And I don't feel we're doing that, and you're assuring me that we're not.
- Seney: No. We're not. Right.
- Westergard: And you are, in effect, working for the Bureau who's a party to this too?
- Seney: Well, remember this, the copyright goes to the National Archives (Westergard: Yeah.) not to the Bureau. (Westergard: Yeah.) And the National Archives is exempt from the Freedom of Information Act. So, it can be (Westergard: Yeah.) kept confidential.
- Westergard: No. You know, I don't have any reservations at all talking about anything. (Seney: Right.) I've tried to be as candid as I can, (Seney: Sure.) and I think you know that, just short of, you know, I'm not jeopardizing the process.
- Seney: Short of blasphemy and slander? (Laugh)
- Westergard: No. No. No. I don't mean that. I mean, I don't want to jeopardize the process (Seney: Right.) by going outside the confidentiality.
- Seney: Right.
- Westergard: And now I've probably forgotten the question that you asked.
- Seney: Well, the question really has to do with the change in leadership in Fernley and how that may have impacted the current squabble?
- Westergard: You know, in the earlier discussions when Rebecca Harold and others were involved I really was not involved in that. I think Mike Turnupseed handled quite a bit of that and, well I think Mike handled most of it.
- Seney: Why would that have been? He was the state engineer then?
- Westergard: No, he was the director at that time.
- Seney: He was the director then?
- Westergard: Yeah. And, you know, I think his effort was probably to try to just to move these discussions forward.



- Seney: Would these have been the discussions between the tribe and Fernley (Westergard: Yeah.) about the sinking of the wells the tribe was proposing that it could (Westergard: Yeah.) sink some wells (Westergard: Yeah.) near the Truckee to draw their water from?
- Westergard: Yeah. And I don't know how much Mike was involved in the details of that. I was not involved.
- Seney: That was a side negotiation wasn't it?
- Westergard: Yeah. Yeah. But, as far as the leadership it may have changed some but you know I think Rebecca Harold was a, from what I could see, outside of those specific negotiations she was a, she was a good advocate for Fernley (Seney: Right.) and I thought, and I'm not sure the goals have changed any with the change in leadership. Maybe the, you know, maybe the approaches and so forth have changed but it's hard for me to measure. Because when Allen Biaggi [spelling?], the current director took over, you know, this issue of Fernley and the tribe was still in play, and the negotiators had pretty much said, "We're going to write this provision in TROA, and then we'll also put a sentence in there that says, 'Not all parties have agreed to this.' We'll go ahead with the E-I-S process." And I know when Allen got involved in it the position that he took was that the State is not going to be a party to supporting either, either faction here. (Seney: Right.) We . . . he and the State would serve as a mediator if that would be helpful, but we're going to honor what the negotiators have said. "You guys go out and do your thing and come back with an agreement." And, if we can help by being mediators, we'll do that."
- Seney: Well, I understand that there's a move now going on to take that Fernley credit water dispute out of TROA, settle it separately so that TROA can be signed. And I guess it's now, they're working on language to accomplish that?
- Westergard: Yeah. When it, you know, when it became obvious that Fernley and the tribe were not moving forward, and you know at the negotiating sessions Betsy and others would say, you know, "You guys get together and meet and come back with a recommendation." And we, others of us supported that. I think I even suggested, "Let's give them a deadline and say, you come back to us with a resolution to this." (Seney: Right.) And so, to the extent that maybe Betsy was encouraging them to do that. Maybe that was what you were referring to earlier about a change. I don't know that there were any specific changes from the government's, from the government's position. But because there's an apparent impasse there, you know, at a meeting, a couple of meetings ago, I suggested and others, even Fred Disheroon I think at one point had suggested that maybe there should be a separate agreement. So, that's what the State has advocated in the last couple of meetings that we've, what we've called the parallel path. "Let's sign TROA and maybe make some modifications in the provisions that relate to Fernley to call for a separate agreement to be entered into by parties that then will

be, can be encompassed in the operation of TROA subsequently. (Seney: Right.) But, you know, pursuing the premise that we want to conclude this as soon as possible, (Seney: Right.) that seemed to us like a reasonable alternative. Let's get TROA going, get the E-I-S process, get the federal regulations, get it to court, and provide for a separate "parallel path," as we called it, to resolve the Fernley/tribal issues.

Seney: Fernley's all right with that? The tribe's all right with that?

Westergard: You know, I don't know. I have not been involved in discussions with Fernley. We've had some discussions with the tribe, and I think there was a reluctance a number of years ago to do this. I think that there's a, on the part of the tribe, I'm not sure. This isn't a new concept. (Seney: Right.) It was advocated some time ago. But, you know, in the spirit of trying to get this thing moving I'm hopeful that both the tribe and Fernley will be, at Fernley, will be amenable to some sort of a, some sort of a process. And, you know, you might say in your next question, "Doesn't that . . ." (Laugh) I'm not anticipating but (Seney: Well, go right ahead.) I'm anticipating my . . .

Seney: It'll probably be better than my question.

Westergard: No. No. No. "Doesn't this fly in the face of the idea of concluding all of the issues?" And this specific one I don't see as doing that. I think that can be worked out in a subsequent agreement that then (Seney: Right.) can just be incorporated in TROA. There may little be an inconsistency there, but we've got to do something to move this process (Seney: Right.) forward.

Seney: Right. As you know, probably only too well, the tribe has wanted to close the Truckee Canal for some time and in these negotiations with Fernley they've wanted to trade off the upstream storage for the closure of the canal. Fernley's objected to that. Their trees will die. Their groundwater recharge, you know, all the (Westergard: Uhm-hmm. Uhm-hmm.) all the issues. Do you think that – and I'm asking you to speculate about the tribe here and I'll certainly ask Bob this, but, do you think the tribe will be reluctant to go along with this parallel path because they'll lose some of the leverage that they have when this is part of the TROA negotiations and the TROA signing?

Westergard: Well, and I think that's going to need to be addressed in whatever criteria is established for development of this subsequent agreement. And right now, I don't know exactly what, how that specifically is going to be addressed.

Seney: Okay. That's enough – anything else on TROA that you want to add?

Westergard: No. No. I don't think so. I'm just hoping by the next time we talk it'll be at a celebration ceremony.

- Seney: I hope so too.
- Westergard: No, I don't want to wait that long to talk to you. (Laugh)
- Seney: No. No. I know what you mean.
- Westergard: But I do hope that that is (Seney: Yeah.) that we do see that. You know, there's a long ways to go. I haven't, I will say this. I have a concern about the public perception of what's going to happen when the parties sit around a table and sign TROA, like the wars, the water wars on the Truckee are concluded. (Seney: Yeah.) You know, there are a lot of hoops to jump through yet.
- Seney: Yeah. Right. Right.
- Westergard: Potential for a challenge, which we have tried to insulate against. (Seney: Right. Right.) But, you know, there are processes, by law, that people are entitled to follow, and they should be entitled to follow those processes. But, if there are challenges, and I hope they're minimal if any, those challenges are going to have to be addressed. There are just the time frame of, the time requirements for publishing, you know, federal regulations. And, as I said, the ratification of change, of the completion of change applications to implement the credit storage, and certainly the approval of the two courts to the provisions as they affect modifications of the operations of the reservoir. And I hope we don't in this process every get to the point where we're asking the court to go beyond what 101-618 prescribed and directed. Because if we do that, you know, we're going to take a lot of steps back. (Seney: Right.) So, better, we want to move it as fast as possible, but it is going to take some time.
- Seney: What's your gut feeling about T-C-I-D? Are they going to challenge it, do you think?
- Westergard: I don't know.
- Seney: There has been a change or a change in leadership is going on out there with Dave Overvold<sup>31</sup> stepping in for Lyman McConnell.<sup>32</sup> Will that matter do you think?
- Westergard: You know, in an earlier discussion you had asked me if the district, because of their representation of different parties down there, had difficulty coming to a

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<sup>31</sup> David Overvold participated in Reclamation's Newlands Series oral history project. See, David Overvold, *Oral History Interview*, Transcript of tape-recorded Bureau of Reclamation Oral History Interview conducted by Donald B. Seney, edited by Donald B. Seney; further edited and desktop published by Andrew H. Gahan, 2017, [www.usbr.gov/history/oralhist.html](http://www.usbr.gov/history/oralhist.html).

<sup>32</sup> Lyman McConnell participated in Reclamation's Newlands Series oral history project. See, Lyman McConnell, *Oral History Interviews*, 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, 2018, [www.usbr.gov/history/oralhist.html](http://www.usbr.gov/history/oralhist.html).

conclusion or establishing a position and I told you at that time I, I didn't think so, you know. (Seney: Right.) That's a district established in accordance with state law, and they have their processes, and they make their decision. I would think that even though there's a change perhaps in staff there's going to be stability in that board, although they (Seney: Right.) change from time to time. And I don't know if there's going to be any overall change.

Seney: Right. Right. Let me ask you about a couple of other things briefly. One is there's going to be some importation of water, perhaps, into the Truckee Meadows from the north. "Honey Lake lite," I think, is what Bob Pelcyger called the water. (Laugh) And that's five to six thousand acre feet?

### Honey Lake

Westergard: Yes.

Seney: And then the other plan, and I can't remember the gentleman's name now. Kavanagh [spelling?] is it?

Westergard: Tom Gallagher [spelling?]?

Seney: Gallagher [spelling?] yes. (Westergard: Uhm-hmm.) And, that's a little bit more. What, fifteen, sixteen thousand acre feet coming maybe from the area out past Lake Winnemucca? Does the State have a viewpoint on those?

Westergard: You know, I really don't know, but the Honey Lake, the State did take some action in the form of applications there, so the State's position has been established there. I think the other, and I don't know a lot about that Aqua Track (Seney: Right. Right.), uh huh, proposal. But . . .

Seney: But they do, if I may, they do need for groundwater extraction of state . . .

Westergard: That's right so the State will play a role in that. (Seney: Right.) Yeah. But, you know, I am aware that those applications have been filed and I've heard that there have been protests to those applications. So, I don't think the State has a position on it now. What the state engineer will have to do, as we've talked about before is follow the process, listen to the applicant and the protestants and make a decision. (Seney: Right.) So, the State will have to take a position on the ultimately, yes.

Seney: What about A-B-380, did you play any part in that?

Westergard: You know, I really didn't. Pam Wilcox [spelling?], the administrator of the Division of State Lands handled that, I think, primarily with, under the direction of the director. But I did not. And, you know, that's a good question. I haven't had an update recently on how effective that is or just what the status of that is.

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- Seney: Well, it's maybe coming to an end, you know, the end is in sight and I guess they've come in with a little over three thousand acre feet as opposed to what, six thousand was it they were looking, sixty-eight hundred maybe?
- Westergard: I'm not sure Don. Sixty-eight does sound (Seney: Yeah.) something like that. Uhm-hmm.
- Seney: All right. Well, Roland unless you want to add anything about TROA or any other matters that's all I have to ask you about.
- Westergard: Oh wow.
- Seney: Because I know that, you know, we could get into the details of this but mostly I do that with each of the individual ones.
- Westergard: Sure.
- Seney: I'm going to have to read the whole thing and frankly the details are difficult to come by.
- Westergard: Yeah.
- Seney: You know, once you've – I'm sure if you're sitting there in the meetings with the memos in front of you the details come flooding back as you're reviewing these matters, but it is such a complex agreement.
- Westergard: Yeah. It is. And, you know, with time some of the, at least, maybe not with others, but some of the specific recollections like the "fork in the road" and things, you know, sometimes you do have to refresh your memory on (Seney: Right.) what's happened in those things. And to the extent I was not responsive to those I apologize. But . . .
- Seney: That's all right. Let me, let me just finish up by just asking if you were, if you were asked to give a short speech on what the important parts of TROA are and what TROA accomplishes, what would you say, do you think?
- Westergard: I would say that TROA is, accomplishes very major purposes for which the parties have been striving for and certainly as a representative of the State I strive for relates to the Interstate Compact. And I know that there are those that think that that's the only reason I retain an interest in this. That's not true. I do want to see that concluded, but I think it goes a long way to protecting not only the stability of the water supply for Truckee Meadows, but it also enhances the recreation components of the, of the local interest in the Truckee area and on the tributaries to the Truckee, and at the same time it provides an equitable share of California for use of the Truckee River water. It also does provide a mechanism to manage the reservoirs, to enhance the interest of the Pyramid tribe in protecting
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the endangered species. And it's going to enhance efforts to protect the water quality as well as, as I said, the stability of the water supply itself. And so hopefully it will accomplish those two basic purposes of protecting existing rights and concluding these issues for all time.

Seney: Do you feel kind of vindicated that a lot of the compact is in here?

Westergard: Oh yeah, as I've said, yeah. I feel somewhat vindicated, (Laugh) but I feel very gratified and (Laugh) that's why I remind Pelcyger every time I get a chance (Laugh) that we could have done this a long time ago. (Laugh) But with all due respect, you know, there were some changes to what we originally agreed to too. So, (Seney: Right.) but yeah. And it's been a pleasure doing this with you Don.

Seney: All right. Well, thank you Roland. I appreciate it.

END SIDE B, TAPE ONE. JUNE 1, 2006.  
END INTERVIEW