

ORAL HISTORY INTERVIEW

Francis (Bill) DuBois



STATUS OF INTERVIEW:
OPEN FOR RESEARCH



Interview Conducted and Edited by:
Donald B. Seney in 1994
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Sacramento
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“. . . something in the order of 8,000 acre-feet of water. Once they reach that amount that’s in the act, then it no

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automatically. . . .” 47

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or reserved rights, although they’ve
never articulated that in the courts.
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doing that. They are still afforded
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the reservation because of . . . let’s
say all of the farmers were not

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“ . . . it certainly would be a vehicle for the Fallon Tribe to convey operational concerns that they have out here, which heretofore it’s been difficult for them to do . . . ” 73

“ . . . the last four years while I have been here, I think have been exciting times for the tribe, because there has been a tremendous amount of activity here in all areas, an awareness on their part. The tribe has “come alive,” you might say. . . . ” 74

Truck Farmed for a Few Years on Swingle Beach While Also Engaged in Mining Activities 75

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through the years, those numbers are
dwindling. The land is being subdivided: it
has a higher value and a higher use. . . .”
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“. . . I think under constitutional rights and those
sorts of things that if a landowner only has
five acres of water-righted land, and he
wishes to have five acres of alfalfa, he has a
constitutional right, if he elects to do that, to
farm those five acres. And the Federal
government ought not to determine that
that’s not an economical farm unit. . . .”
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“There’s a lot of money being paid to get the water
moved upstream one way or another. . . .”
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“And so in . . . development of the TROA . . . if the
government is sincere in meeting its
obligations under the contracts it has with
the water users in this project, it ought to
figure out a way during severe drought
conditions to make water available to the
Truckee Division, just as it is available to
those on the Carson Division. And
regardless of endangered species
requirements and those kinds of things. I
mean, they have a contractual obligation
here. They’re not honoring it . . .” 93

STATEMENT OF DONATION
OF ORAL HISTORY INTERVIEW OF
FRANCIS DuBOIS

1. In accordance with the provisions of Chapter 21 of Title 44, United States Code, and subject to the terms, conditions, and restrictions set forth in this instrument, I, FRANCIS DuBOIS, (hereinafter referred to as "the Donor"), of FALLON, NEVADA do hereby give, donate, and convey to the National Archives and Records Administration (hereinafter referred to as "the National Archives"), acting for and on behalf of the United States of America, all of my rights and title to, and interest in the information and responses (hereinafter referred to as "the Donated Materials") provided during the interview conducted on AUGUST 26, 1994 at FALLON, NEVADA and prepared for deposit with the National Archives and Records Administration in the following format: tape recording and transcript. This donation includes, but is not limited to, all copyright interests I now possess in the Donated Materials.
2. Title to the Donated Materials remains with the Donor until acceptance of the Donated Materials by the Archivist of the United States. The Archivist shall accept by signing below.
3.
 - a. It is the intention of the Archivist to make Donated Materials available for display and research as soon as possible, and the Donor places no restrictions upon their use.
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5. The Archivist may dispose of Donated Materials at any time after title passes to the National Archives.

Date: 8/26/94Signed: Francis DuBois
FRANCIS DuBOIS

INTERVIEWER: DR. DONALD B. SENEY

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

Date: _____

Signed: _____
Archivist of the United States

Bureau of Reclamation History Program

Introduction

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

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

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

- water transportation over great distances;
- three Native American groups with sometimes conflicting interests;
- private entities with competitive and sometimes misunderstood water rights;
- many local governments with growing 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.

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

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For additional information about Reclamation's history program see:
www.usbr.gov/history

**Oral History Interview
Francis (Bill) DuBois**

Seney: Today is August 26, 1994. My name is Donald Seney and I'm with Francis (Bill) DuBois at the Fallon Tribal Headquarters of the Paiute-Shoshone-Fallon Indians, just outside Fallon, Nevada.

Seney: Good afternoon, Bill.

DuBois: Good afternoon, Don.

Seney: First of all, as I said, I'd like to have you tell me a little about yourself, about where you were born and when and what your parents did and something about your life.

Born in La Jolla, California, in May of 1933

DuBois: Okay, I was born in La Jolla, California, in May of 1933.

Seney: May what?

DuBois: May 9, 1933. My father was Francis DuBois, Jr., my mother was Josephine Anne McClintock [phonetic spelling].

Seney: Was your father in the Navy? A lot of Navy people down in La Jolla.

DuBois: He was working in the San Diego area at the time and met my mother. Her parents were—I

guess he made investments.

1936 Moved to Escondido, California

And then in 1936, we moved to Escondido, which is nearby in San Diego County. My father built a large avocado and citrus ranch.

Moved to Bishop, California, in 1941

Then in 1941, of course, when the Second World War broke out, we moved to Bishop, California, where my father obtained his flight instructor's license, because he was previously taught and learned to fly by Claude Ryan [phonetic spelling] the Chairman of Ryan Aeronautics in 1927 while he was in San Diego County.

1942 Moved to Hemet, California, Where His Father Trained Pilots

We then moved to Hemet, California, in 1942, where he was employed as an instructor for the Ryan School of Aeronautics, training pilots for service in World War II.

Sent to His Grandmother in New Jersey Where He Attended a Boys' Preparatory Boarding School

Shortly after moving to Hemet, I was sent back to stay with my grandmother in New Jersey, for the duration of the Second World War, during which time I attended a boys' preparatory

boarding school in Morristown, New Jersey. In 1945 or thereabouts, my father came back to New Jersey and picked me up. He purchased a small airplane and we flew across the United States to San Diego.

Seney: Do you remember that? (DuBois: Yeah.)
Pretty exciting?

Moved Back to Bishop in 1950

DuBois: Oh, it was fun, yeah. So I moved to Bishop in 1950 and spent the last year of high school there, finished there, because my parents moved to Bishop at the same time.

Went into the University of Nevada– Reno in Premed for One Year

Then in 1951 I started as a premed student at the University of Nevada in Reno, and spent a year doing that, and then went back to Bishop for a couple of years.

In 1954 Returned to the University and Spent Thirteen Years Before Graduating with a Bachelor's Degree in Geological Engineering

And then, in 1954, I returned to the University and spent more or less thirteen years there, and graduated with a bachelor's degree in geological engineering from the Mackay School of Mines.

Seney: Why such a long time?

DuBois: I was in and out of school three or four times. I was raising a family at the time, so I'd go for a year or so and leave and then work for a year or so and then go back.

Seney: What sort of work did you do?

After Graduating in 1964 Opened an Engineering Office in Tonopah

DuBois: It was all related to the mining industry. I worked as an engineering trainee or contract mining, or those sorts of things. So following 1964, the year of graduation from the University of Nevada, I opened an engineering office in Tonopah and spent some time there.

Seney: What do you do in an engineering office in Tonopah? What kind of work did you do?

“ . . . operated an analytical laboratory for testing mineral samples and ore samples . . . And I performed some surveying for folks in the area and did mining claim location work . . . ”

DuBois: Well, in that instance, I operated an analytical laboratory for testing mineral samples and ore samples and those sorts of things.

Seney: If I wanted to know if what I had was really gold, I'd bring it to you?

DuBois: Exactly. And I performed some surveying for folks in the area and did mining claim location

work, and a fair amount of consulting work for companies such as Foote [phonetic spelling] Mineral Company and Silver Peak—we did some work for them.

Seney: What would consulting work mean for a company like that?

DuBois: We did some sampling work out on the playa, we did some mining claim location work, we did some design work with respect to their process, things of that nature.

“ . . . about 1966 or so, I moved to Ridgecrest, California to manage a small mining company. . . ”

Then in the early, let's say about 1966 or so, I moved to Ridgecrest, California to manage a small mining company. We operated silver and tungsten deposits there, mining operations in the area.

“ . . . about 1967 I moved to Fallon and we purchased a small, forty-acre ranch on Swingle Bench, which is approximately ten miles west of Fallon. . . . ”

Then about 1967 I moved to Fallon and we purchased a small, forty-acre ranch on Swingle Bench, which is approximately ten miles west of Fallon.

Seney: What brought you to Fallon?

DuBois: My wife and family [and I]¹ were looking at the time for a location that was fairly close to Reno, and that would be kind of east of Reno so that I would kind of have an advance mileage, you might say, of traveling to areas in the eastern part of the state.

Seney: You were still doing consulting work?

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

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

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

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

**Chose Fallon Because They Could Build an
Airstrip and it Put Him Somewhat Closer to His
Consulting Further East in Nevada**

DuBois: Right. And also the property was large enough to build an airstrip on it, because I've been flying since I was sixteen years old.

Seney: Yes, I understand you have quite an interest in flying. Why don't you talk a little bit about that?

**“ . . . when I moved to Reno, while going to college
I finished the flying up here, and purchased a
small Piper aircraft, and then later upgraded to a
more sophisticated, faster airplane. . . . ”**

DuBois: Okay. Of course, as I mentioned earlier, my father was a flight instructor, so aviation was always a part of the family. So when I moved to Reno, while going to college I finished the flying up here, and purchased a small Piper aircraft, and then later upgraded to a more sophisticated, faster airplane. So anyway, that was one of the reasons that we kind of settled here in Fallon was because there was enough room to build a little airstrip out behind the house.

Seney: And you built that on your forty acres here in Fallon?

DuBois: Yeah.

Seney: Is that hard to get a permit to build an airstrip?

Or did you tell anybody?

DuBois: No, at that time I just did it. Purchased enough land from my neighbor for a strip to add onto my strip.

Seney: How much do you need for a strip?

DuBois: I wound up with a 2,000-foot-long strip.

Seney: And that's plenty for the size of plane you were doing?

DuBois: That's correct.

Seney: I take it you build a strip before you bring the plane in.

DuBois: Yeah. So that was another criteria. And then we wanted to have a place to raise the two children—a son and a daughter.

Seney: What are their names?

DuBois: John and Diane. So we've lived there since 1967 on the same place.

Seney: Plus having the acreage up on the Swingle Bench? Or is this where you lived?

“ . . . until July of 1990 . . . I was engaged in various positions within the mineral mining industry. . . . ”

DuBois: We live there on Swingle Bench. So until July

of 1990, I guess, I was engaged in various positions within the mineral mining industry.

Seney: Still on a consulting basis?

“ . . . from 1975 to 1981. I was the state inspector of mines for Nevada. And then in 1981 I was nominated to be assistant secretary of labor for the Mine Safety and Health Administration by the Reagan administration. I possibly made a career error by not accepting that nomination . . . ”

DuBois: Kind of consulting. I did a stint with the State from 1975 to 1981. I was the state inspector of mines for Nevada. And then in 1981 I was nominated to be assistant secretary of labor for the Mine Safety and Health Administration by the Reagan administration. I possibly made a career error by not accepting that nomination, because it was a pretty important job.

Seney: Why didn't you?

DuBois: I guess too much sagebrush in my veins. (both chuckles) So when I returned

Seney: What do you mean when you say you “maybe made a mistake” when you didn't take that job?

“ . . . had a lot of support across the United States from various major mining companies and congressional people, and Senator Paul Laxalt . . . ”

DuBois: Well, you know, that was a (Seney: It's a big

job!) big career opportunity, and had a lot of support across the United States from various major mining companies and congressional people, and Senator Paul Laxalt and people like that, who sponsored me.

Seney: Let me ask you a little about that. Laxalt was no longer Governor when you were Head of Mine Safety here.

DuBois: Yeah, he was a United States senator.

Seney: That's right, he'd become senator. You obviously knew him, though. (DuBois: Yes.) When did you first meet him?

DuBois: Probably during the period I was State Land Inspector. He had been governor previous to that. (Seney: Right.) And then when I was appointed, Governor [D. N.] O'Callaghan was in charge.

Seney: Forgive me, was O'Callaghan a Democrat or Republican?

DuBois: He was a Democrat.

Seney: Okay, I know Laxalt was a Republican.

DuBois: Right. Then Governor [Robert] List came in after that. So anyway when I returned from Washington, for about a year I tried to get a large mining operation going.

Seney: Wait a minute, when you returned. You did

actually go to Washington?

DuBois: Yeah, very briefly, just for a very brief time.

Seney: To do what?

DuBois: This Mine Safety and Health Administration project.

Seney: Oh, you worked on a project there, and that led to the offer of the job?

DuBois: No, the offer was made while I was State Inspector of Mines.

Seney: Okay, I'm missing something here. Did you become assistant secretary?

DuBois: No, I was nominated, but did not accept the nomination, but I did go to Washington and spend a little bit of time there.

Seney: Instead of taking the job.

DuBois: That's right.

Seney: Okay. Forgive me, I'm not trying to belabor this, but it's interesting, and we want it on the record, and I think you'll want it on the record too, and your family will when they come to read this some day. I expect Laxalt must have been instrumental in the appointment?

DuBois: Oh, very much so, very much so.

Seney: And when you say you knew people in the mining industry, this would have come from your consulting work?

DuBois: And as mine inspector.

Seney: Did that take you outside of Nevada? (DuBois: Yes, it did.) And/or are there so many national mining companies *in* the State of Nevada, that just being Chief of Mine Safety is enough to get you known in the mining industry throughout the country? Would that be safe to assume?

1976 on “. . . I was appointed by Interior Secretary Thomas S. Kleppe to serve on a Federal non-metal mine safety advisory board. . . . advised the secretary on the matters of adopting regulations regarding mine safety. . . .”

DuBois: Yeah, I think so. I mean, as an example, I was appointed by Interior Secretary [Thomas S.] Kleppe to serve on a Federal non-metal mine safety advisory board. I was one of two state people to serve on a thirteen-member committee. We traveled around the United States, holding public hearings, and advised the secretary on the matters of adopting regulations regarding mine safety.

Seney: When was this?

DuBois: That was in 1976 on.

Seney: So that was under President Carter? or Ford?

DuBois: Ford, I believe. And you're right, we dealt with a lot of the major mining companies in Nevada, like Kennecott. As a matter of fact, I have a file full of letters from CEOs and presidents of major mining companies writing to the secretary and the White House, recommending, sending support. And a lot of national associations, the Sand and Gravel Association, cement industry, things like that, coal people.

Seney: How does that work? Does Senator Laxalt stimulate that kind of support for you? Or was that something that you might have had a hand in too?

Working for Nomination to a Job at the Mine Safety and Health Administration

DuBois: Well, I indicated my desire. I knew, of course, the administrator at the time in the Mine Safety and Health Administration—a lawyer by the name of Jim Day [phonetic spelling]. And going around and attending various conferences and that sort of thing, why of course it's like anything else, it's a fairly small community and you get to know these folks. (Seney: Sure.) So we kind of explored the idea. It was actually like running a campaign, in a way. You just have to go out and muster up support from all these industries, and I wrote a letter to Senator Laxalt, indicating my interest in it, and my desire. And so he kind of "paved the way," you might say, I'm sure, back there. So it involved several interviews in the White House personnel office and meeting with the Secretary of Labor

and things like that.

Seney: But once you were successful and the job was offered, you

Declined the Nomination Because He Did Not Want to Move to Washington, D. C.

DuBois: I declined it, which is a really unfortunate thing at that time. (chuckles)

Seney: Are you sure? You feel that way?

DuBois: Yeah. Everybody was disappointed, of course. So later I was asked to go back and consider a position in the Mine Safety and Health Review Commission . . . It was the same reason: I just didn't want to move to Washington. I mean, that was one of the reasons.

Seney: Well, it seems to me when you get a couple of chances and you say "no" both times, you should be satisfied in your own heart with that decision.

DuBois: Yeah, but you always wonder whether you made the right decision.

Seney: Well, I suppose the old saying is, "You don't regret what you do—it's what you *don't* do that you regret." Is that how you kind of feel about it?

DuBois: That's probably it.

Seney: But you did have some Washington experience.
(DuBois: Oh yeah.) You went back. Did you like it?

“ . . . this agency had 160 offices around the United States. I would have been living in an airport. We had 4,000 employees, we had \$160 million budget, and a lot of political pressures—major decisions. And I’m just not sure whether I really wanted to do that. . . .”

DuBois: Well, I don’t think I would have really relished the idea of living back there. I mean, that was . . . I mean, this agency had 160 offices around the United States. I would have been living in an airport. We had 4,000 employees, we had \$160 million budget, and a lot of political pressures—major decisions. And I’m just not sure whether I really wanted to do that.

Seney: My question wasn’t so much about the weather in Washington, D.C., it was more about the political situation you’re going to find yourself in. Are you that kind of person, do you think?

DuBois: Not really.

Seney: I mean, if you’ll forgive me, it sounds to me like you probably made the right decision.

DuBois: Probably did.

Seney: Yeah, and you should feel good about that.
(DuBois: Yeah.) Yeah, exactly, right. I mean, it’s flattering to be asked. I mean, obviously

you made some moves in this direction, and you give yourself a chance to be considered, and then you say, “Well, no, I don’t” It must have been flattering to have them say, “Well”

DuBois: It also upset a lot of people, because there was a lot of effort put forth.

Seney: I’m sure it did, right.

DuBois: Well, anyway, after coming back, we attempted to put a medium-size mine on [stream?] out here east of Fallon.

Seney: Mining what?

DuBois: It was a precious metal deposit.

Seney: Meaning gold?

DuBois: And silver. Metal prices declined to the point where it was not economical to go ahead with the project.

Seney: What kind of a gold price did you need to make it feasible, do you remember?

DuBois: No, but we were in declining markets.

Seney: Right, the market was going down during that period, yeah.

Asked to Establish a Department of Industrial Relations for Nevada

DuBois: So then Governor List called me up and asked if I would start the Department of Industrial Relations for the state, which I did.

Seney: This is a new department?

DuBois: New department. It was created by the previous legislature. The department consisted of a division which regulated the workers' compensation in the state—namely the Nevada Industrial Commission—had the State Occupational Safety and Health Act program, and also the mine inspector's program. And another division for kind of an administrative division. So I had about a hundred employees and \$4 million budget or something like that.

Seney: Is this a little more to your taste (DuBois: Yeah, it was fine.) than the one you described, the Federal job?

“ . . . I was charged with the responsibility of starting from scratch, in one month, a state agency: put in a building, everybody hired, funded, and the whole thing. . . . ”

DuBois: Well, I think it was a tougher job. (Seney: How do you mean?) Because I was charged with the responsibility of starting from scratch, in one month, a state agency: put in a building, everybody hired, funded, and the whole thing.

Seney: How did it go?

DuBois: We did it! And then I inherited a lot of personnel problems, because some of these agencies were out there functioning, and I inherited all of these problems and had to bring all these people together.

Seney: People who were used to running their own show, and now it's a different situation for them.

“ . . . there was a lot of controversy associated with it . . . departure from the way the Nevada Industrial Commission and the State Industrial Insurance System had previously functioned. And now there was somebody to regulate them . . . tell them how to do it. We were also supposed to tell the 1,800 doctors in the state what they could charge for all their procedures. . . . ”

DuBois: Yeah. And then there was a lot of controversy associated with it, because it was a brand new departure from the way the Nevada Industrial Commission and the State Industrial Insurance System had previously functioned. And now there was somebody to regulate them, to look after them and tell them how to do it. We were also supposed to tell the 1,800 doctors in the state what they could charge for all their procedures.

Seney: I can't imagine they were enthusiastic about that. Did you get a lot of political pressure on that? More on that than . . .

DuBois: Oh, there was a lot of political pressure, I'm

sure.

Seney: Did *you* get a lot, I mean, trying to regulate the physicians?

DuBois: I didn't feel it. I think Governor List just said, "Do it." I reported occasionally to them in the office that everything was fine, and we felt they were getting along okay. And then, of course, half-way—I did this for a year—half-way through this year, Senator Bryan was elected Governor, and so he left me in there for six months, and then I was asked to resign.

Seney: You're a Republican, I take it?

DuBois: Yes.

Seney: So it was a partisan move. You're [nodding] "yes," the tape won't pick that up.

Ran a Mining Company for a Swiss Bank for Three Years

DuBois: Yes, it was a partisan move. So then I bounced around doing some more mining consulting type work and built a couple of pretty good-sized mine processing plants, and then was asked by a private Swiss bank to be the president of a mining company that they owned. It was a NASDAQ [National Association of Securities Dealers Automated Quotations] company.

Seney: The Stock Exchange NASDAQ, right.

- DuBois: So I operated that company as president for three years.
- Seney: How was that? Did you like that?
- DuBois: That was good.
- Seney: How were the Swiss to work for?
- DuBois: Excellent. They allowed me to travel to South Africa and to Switzerland and to London.
- Seney: Had you been able to do much travel like that before?
- DuBois: Not overseas. So the chairman of the board lived in London, and operated their offices there.
- Seney: Would he want to see you in person from time-to-time to discuss matters?
- DuBois: Once a month he would travel over, because this was just a very small part of what the bank was doing.
- Seney: Which bank was it?
- DuBois: It was the Sarasin Bank, S-A-R-A-S-I-N. The bank had been in existence for more than 400 years . . . and they made the election to go public, become a publicly-owned bank, at least in part. And so for the first time in the history of the bank, all their financial records were then under Swiss banking scrutiny by the authorities,

and they were essentially told to divest themselves of this small mining venture in Nevada.

Seney: Why was that, do you know?

DuBois: I really don't know, probably because it was not appropriate for them to be holding it as an asset or something. So that whole picture, they sold the company and so I was out of a job again.

Became Water Resources Director for the Fallon Paiute-Shoshone Tribe

So I looked around and the Fallon-Paiute-Shoshone Tribe was looking for a Water Resources Director. And I thought, "Well, it's close to home, I know a little bit about water," so I applied, and immediately was thrust into developing language for Public Law 101-618,²

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

The main topics of the legislation are:

- Fallon Paiute-Shoshone Tribal Settlement Act
- Interstate allocation of waters of the Truckee and Carson rivers.
- Negotiation of a new Truckee River Operating Agreement (TROA)
- Water rights purchase program is authorized for the Lahontan Valley wetlands, with the intent of sustaining an average of about 25,000 acres of wetlands.
- Recovery program is to be developed for the Pyramid Lake cui-ui and Lahontan cutthroat trout

(continued...)

at least from the Fallon Tribe's perspective.

Seney: Helping to write the legislation, you mean?
(DuBois: Right.) Why don't we go ahead and talk about that?

“ . . . during the . . . the third quarter of 1990 . . . many trips to Washington, D.C., working with the Senate Select Committee on Indian Affairs, and high-level people in the Interior Department and Bureau of Indian Affairs, to develop a settlement for the Fallon Tribe for various promises the Federal government had made . . . ”

DuBois: So we, during the latter part of, let's say the third quarter of 1990, we made many, many trips to Washington, D.C., working with the Senate Select Committee on Indian Affairs, and high-level people in the Interior Department and Bureau of Indian Affairs, to develop a settlement for the Fallon Tribe for various promises the Federal government had made early in the century, in the development of the Fallon Reservation and its irrigation facilities and so forth.

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2. (...continued)
- The Newlands Project is re-authorized to serve additional purposes, including recreation, fish and wildlife, and municipal water supply for Churchill and Lyon Counties. A project efficiency study is required
 - Contingencies are placed on the effective date of the legislation and various parties to the settlement are required to dismiss specified litigation.

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

Bureau of Reclamation History Program

Seney: Why don't you be a little specific about those promises.

**Dawes Allotment Act of 1887 and the Fallon
Paiute-Shoshone Tribe**

DuBois: Okay. Under the Dawes Allotment Act in the late 1800s, members of the Fallon Paiute-Shoshone Tribe were allotted approximately 30,000-33,000 acres of land in the Lahontan Valley, up and down the Carson River. Then in 1902 when the Reclamation Department . . .

Seney: And this is allotment as individuals, 160-acre parcels?

“ . . . in order to build the Newlands Project . . . they would have to move the Indians off of the 33,000 acres onto a smaller area of land. And so the Indian agents were instructed to approach these families for an exchange proposal: If they would exchange the 160-acre allotments they had without an irrigation facility . . . any water rights, in exchange for a ten-acre allotment with fully-paid-up water rights *and* an irrigation system to deliver water to those ten-acre allotments. And so 194, I believe it was, families agreed to make this exchange over a short span of time. . . .”

DuBois: To families, yes, 160-acre parcels to approximately 216 families, I believe it was. In 1902 when the Reclamation Service was organized, they decided that in order to build the Newlands Project, under a proposal by Senator Newlands, that they would have to

move the Indians off of the 33,000 acres onto a smaller area of land. And so the Indian agents were instructed to approach these families for an exchange proposal: If they would exchange the 160-acre allotments they had without an irrigation facility on these allotments and any water rights, in exchange for a ten-acre allotment with fully-paid-up water rights *and* an irrigation system to deliver water to those ten-acre allotments. And so 194, I believe it was, families agreed to make this exchange over a short span of time. Therefore, it allowed the Reclamation Service to construct the Newlands Project.

“ . . . the Interior Department proceeded to deliver water to a few of the families on the reservation, and then over the subsequent eighty-year period, continued to build irrigation facilities for about sixty percent of all the ten-acre allotments on the now existing Fallon Reservation. . . . ”

So the Interior Department proceeded to deliver water to a few of the families on the reservation, and then over the subsequent eighty-year period, continued to build irrigation facilities for about sixty percent of all the ten-acre allotments on the now existing Fallon Reservation. So the settlement was an attempt to provide monetary resources to the tribe to

Seney: Because the government hadn't lived up to their promise—they really *hadn't* built the irrigation facilities, had they? I mean, they promised Is ten acres enough to support a family on?

“ . . . in 1978 there was a Public Law 95-337 which was an additional attempt to rectify the debt that the government had to the Fallon tribal members. . . . instructed the Secretary of the Interior . . . to finish building the irrigation facilities on the reservation, and it also added [land] to the reservation . . . building it up to slightly more than 8,000 acres. . . .”

DuBois: Well, at the time, it was felt that it was. I might add that in 1978 there was a Public Law 95-337 which was an additional attempt to rectify the debt that the government had to the Fallon tribal members. And that act instructed the Secretary of the Interior, as his first priority, to finish building the irrigation facilities on the reservation, and it also added a little more than 2,600 acres to the reservation in their land base, building it up to slightly more than 8,000 acres.

“ . . . the Congress ultimately agreed to award the tribe . . . \$43 million to be put in an endowment fund, basically. And the income was to be used for six authorized purposes . . .”

Now all of this can be adequately described, it can be found in the Report to Public Law 101-618 and also the Report associated with Public Law 95-337, as far as the history of it is concerned, leading up to the legislative package. So the amount of money that the Congress ultimately agreed to award the tribe was \$43 million to be put in an endowment fund, basically. And the income was to be used for six authorized purposes, and of course,

again, those are described in the act itself.

Seney: Yeah, that's okay. You can go ahead and repeat them here, that's fine.

DuBois: Which is certainly available.

Now the interesting thing to me, with respect to the development of Public Law 101-618 is that on a separate agenda, Senator Reid and others, in previous several-year periods—two or three years, perhaps—had been attempting to reach some sort of agreement among all the users of water on the Truckee River System, which would involve the Pyramid Lake Paiute Tribe, obviously the cities of Reno and Sparks and agricultural interests up and down the river. So there was a legislative process underway in that area for several years, and it culminated in mid-1990 as a title and a Reclamation reform package coming out of the Senate Energy Committee in the Congress, that had thirteen Titles in it. I believe it was in September of 1990 the Energy Committee conducted a hearing in Washington on the matter. It was felt by Senator Reid and others who had interest in this legislation that when the bill—and the number of it escapes me—I think it was Senate Bill 3025, or something, I'm not sure. But when it reached the floor, it was such a far-reaching piece of legislation that it would fall apart. The support for it was lacking. So at the conclusion of this hearing, the Chief Counsel for the Senate Select Committee, Pat Zell, Z-E-L-L—I think she's a lawyer of Cherokee

descent—approached us and said that Senator Reid had decided that he wanted to sponsor the Fallon tribal bill, along with Senator [Daniel Ken] Inouye [of Hawaii], and that subsequently his regional water settlement bill would be attached at the proper time as an amendment on the floor of the Senate, as Title II. And so the Fallon bill was very shortly thereafter introduced on the floor, and referred to the Senate Select Committee, and immediately passed out of the Committee. And all this happened in one week.

Seney: But this is something you'd been back working on for some time (DuBois: Yes.) so the groundwork had all been laid and everyone knew what was in it, and the compromises had all been made and all that sort of thing.

DuBois: We had, in rapid succession, a number of meetings with OMB [Office of Management and Budget] so we could get administration support for the amount of money involved, and also the other matters.

Seney: What were these, you say "other matters"? Believe me, I'm going to ask you when you say that. What were the crucial things that had to be solved?

END SIDE 1, TAPE 1. AUGUST 26, 1994.

BEGIN SIDE 2, TAPE 1. AUGUST 26, 1994.

“. . . during the last fifteen or twenty years I've been on the Mackay School of Mines Advisory

Board at the University of Nevada, and I'm currently Chairman of the Advisory Board to the Nevada Bureau of Mines and Geology. . . ."

DuBois: I'd like to add something in regard to my own personal career, and that is, during the last fifteen or twenty years I've been on the Mackay School of Mines Advisory Board at the University of Nevada, and I'm currently Chairman of the Advisory Board to the Nevada Bureau of Mines and Geology.

". . . I've been documenting the tremendous growth of the mining industry in Nevada, by taking aerial photographs. . . ."

And one of the things I have done, kind of on a personal endeavor, is I've been documenting the tremendous growth of the mining industry in Nevada, by taking aerial photographs.

Seney: I've been told that. No one else has done this?

DuBois: Not to the degree that I have. I started in 1975 while I was the mine inspector, and put together a collection. And then I believe in 1981 I gave the University a collection of about 1,400 pictures, transparencies that are on permanent deposit there.

Seney: And you do all this, I'm sure, by grid, so that they can go over it later and re-photograph it.

DuBois: Well, no, these are all oblique aerials of the operations.

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- Seney: What's an oblique aerial?
- DuBois: That's taking a picture at an angle. Instead of a vertical photograph, these were taken
- Seney: I have to ask you, why would you take it at an angle? I guess off the angle of the plane?
- DuBois: Yes, say at forty-five degrees from the aircraft, so that you have kind of an oblique look at the operation.
- Seney: In other words, you can show some of the elevations and whatnot?
- DuBois: Yes. And I did this with thirty-five millimeter, and then I operated my equipment to Hasselblad equipment and I've done it for . . . Let's see, I've taken pictures of all the major operations in the state, the entire state, about every two or three years. And I've done this about four times. So I now have a collection of maybe another 1,500 high-quality color transparencies of the industry, and when this photography is done, it requires about twenty-five hours of flying time, and it's all done within one week. So we have a stop-gap look at what the condition of the industry was at that particular point in time.
- Seney: Is this just all on your own hook? (DuBois: Yes.) Any of the mining companies interested? You sell some of the photos for their own purposes?

- DuBois: Yes, these photos have appeared in museums. I printed them, they've been in like the Northeastern Nevada Museum. They've been in banks, I've sold collections to private individuals, they've been in annual reports—things of that nature. There's a set on permanent deposit with the U.S. Bureau of Mines in Washington, and in some of their field offices. I've sold pictures overseas and things, so it's been fun. I've recaptured the cost of doing it that way.
- Seney: Yeah. Sounds interesting. Combines a couple of your real passions, I guess, mining and flying and photography.
- DuBois: Combines photography, combines flying, it combines geology. We see a lot of things that are interesting out there. It combines engineering. And some day will provide a valuable documentary record of a certain point in time of what was going on out there in the industry, because being a nonrenewable resource type industry, some day all these operations will be closed down.
- Seney: And it is an active period for the mining industry in Nevada, isn't it?
- DuBois: Very much so. So anyway, getting back to
- Seney: Yeah, what were the trouble spots and things that you had to work out in the legislation?
- DuBois: Such things as per capita distribution to tribal

members.

Seney: If you'd be specific when you mention these things, I'd appreciate it. Otherwise, I'm just going to have to ask you to do that for me.

DuBois: Okay. Apparently the Bureau of Indian Affairs at the time had some concern about a perpetual per capita distribution to tribal members.

Seney: Kind of a "dole" maybe?

"Another concern was to what extent could the tribe purchase water rights and land outside the reservation? . . . Or go to New York City and buy a hotel? . . . and have those lands and water rights up to a certain limit put into trust, automatically, by the United States as part of their reservation. . . . [the law limited that to] Lyon and Churchill counties."

DuBois: Another concern was to what extent could the tribe purchase water rights and land outside the reservation? As an example, could they go to the State of Oklahoma and buy land and use this money to buy land and water rights? Or go to New York City and buy a hotel? Those kinds of things. So the language of the bill limited to the geographical extent that the tribe could use, or could "range," you might say, and buy land and water rights, and have those lands and water rights up to a certain limit put into trust, automatically, by the United States as part of their reservation. And that geographical extent was Lyon and Churchill counties.

Seney: That's why that's in there.

December 17, 2011 Legislation Also Reduced the Amount of Water That Could Be Delivered to the Reservation as a Result of Negotiations Between the Pyramid Lake and Fallon Reservations

DuBois: That's why that's in there. And there was also a very important issue that was negotiated, and that is the amount of water the tribe could have delivered to its reservation. Previously to the legislation, their water rights consisted of more than 1,900 acre-feet, because there were 5,440 acres of water-righted land on the reservation. As a result of the legislation, they lost There was a water use cap, or limitation, placed on the reservation of 3,025 acres. That was a result of negotiations that occurred between the Pyramid Lake Tribe and the Fallon Tribe, and also the government had an interest in this because of their desire to reduce the amount of water that would be diverted from the Truckee River.

Seney: Were all those acres that they were entitled to actually to be used on the reservation?

DuBois: No, they were not.

Seney: How many were actually being used?

DuBois: Okay, 3,025 acres was deemed at that time to be served by irrigation facilities on the reservation. And that's how that number was derived.

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- Seney: So then they were just limited to what they were already doing. (DuBois: That's right.) They weren't reduced from what they were doing.
- DuBois: Originally, the Pyramid Lake Tribe wanted the limitation placed at 2,400 acres because that figure appeared in the 1988 operating criteria and procedure, known as the OCAP, for the Newlands Project. And so then we countered with a reference to a study that was conducted by the University of Nevada Department of Agriculture on the economic impact of the failure of the United States to provide irrigation facilities on the reservation, and in there it said that the reservation lands were served by facilities to farm 3,025 acres. So we countered with that, and so then the Pyramid Lake Tribe countered with, "Okay, we'll accept that if the Fallon Tribe will agree to do rehabilitation and betterment of their irrigation facilities on the reservation, therefore resulting in the requirement for less water use. And so the tribe agreed to that. And so you will see as one of the authorized uses of income, in the legislation, as R&B, known as rehabilitation and betterment.
- Seney: Now this means under the 3,025. Are these classified as bench-or bottomlands here?
- DuBois: All of the lands here are considered bottomland with a duty of 3½.
- Seney: And they were hoping to, I guess, stem losses in the transportation of that water through the betterment and rehabilitation of the mains and
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the laterals and whatnot. (DuBois: Yes.) How much did you figure you were losing in irrigating that 3,025 acres?

DuBois: Well, the delivery efficiencies on the reservation are probably comparable to those elsewhere in the Project.

Seney: A little more than fifty percent, roughly?

DuBois: Probably in the neighborhood of sixty percent, sixty-five percent, depending on . . . We should note here that as a result of the legislation in 1978, Public Law 95-337, there were several million dollars expended by the government, building irrigation facilities. (Seney: Here on the reservation?) On the Fallon Reservation. And those facilities were designed and constructed with concrete laterals and so forth, so there was, as an example, a concrete-lined delivery canal was constructed from the "S" Line Reservoir all the way to the reservation—several miles—and then there were a number of on-reservation concrete canals constructed, so there was a significant gain on reservation delivery efficiencies at that point, I believe. So that was another . . .

Seney: Was it hard to work out that agreement with the Pyramid Lake Tribe?

Working out the agreement with the Pyramid Lake reservation wasn't difficult, ". . . but it was pretty hard to swallow for the Fallon Tribe . . . there was a forty-four percent reduction in their water use,

and had they been able to retain that water, they might have been in a position to lease it to the U.S. Fish and Wildlife Service for use down on the Stillwater National Wildlife Refuge, or perhaps for other economic purposes. . . .”

DuBois: No, but it was pretty hard to swallow for the Fallon Tribe, as it ultimately turned out. When you stop and think there was a forty-four percent reduction in their water use, and had they been able to retain that water, they [might] have been in a position to lease it to the U.S. Fish and Wildlife Service for use down on the Stillwater National Wildlife Refuge, or perhaps for other economic purposes.

Seney: I’m not quite following. They lost forty-four percent of their water through this?

DuBois: The reduction of 5,440 acres down to 3,025 is about a forty-four percent reduction.

Seney: Okay, I see. Now it should be also recognized that as part of the \$43 million, there is a component in there that the tribe could use for off-reservation land and water right acquisition. So the Congress gave the tribe the money and the legal authority to go outside the reservation and buy that water back, if they wanted to do it, so they gave them an option. And the money to exercise the option, okay.

DuBois: And the authority to use the income from that money to do it.

Seney: Have they done that?

DuBois: Not yet.

Seney: Do you think they will?

DuBois: I think they will, eventually. I'm not sure about the water, but I know they'll go out and buy some land. As a matter of fact, they're always looking.

Closure of the Tj Drain and Dealing with Drainage Issues on the Newlands Project

Another issue was the closure of the TJ Drain. The TJ Drain was determined by various governmental interests and agencies to be contributing significant amounts of toxic water to the Stillwater National Wildlife Refuge. The TJ Drain was built as a result of Public Law 95-337, which include instructions to the secretary to subjugate up to 1,800 acres for farming on the Fallon Reservation.

Seney: What does that mean, when it's "subjugated"?

DuBois: That means to bring raw land into agriculture.

Seney: And that drain was to serve that 1,800 acres?

DuBois: Yes, to ultimately drain the high water table. As we all know, for adequate alfalfa production you need a root zone, a water table that's low enough to give you that. So the United States wanted the TJ Drain closed. So they had to do

that, you will find language in Public Law 101-618 that basically says the government is instructed to close the drain.

Seney: Specifically by name, or by letter designation.

DuBois: Yes. And all of its contributing drains. It's to do it at its own expense, it's to provide alternative drainage to the Fallon Reservation farmers, and to do it in such a way that it does not interrupt the ongoing agriculture. It also identified those lands that would be eligible for subsurface drainage or alternative drainage. So that's an ongoing process at the present time, and the ultimate closure costs probably will be six or eight, possibly as high as ten million dollars.

Seney: What's the option here to the drain? When they say "close it and provide an alternative," what is that alternative to the drain?

DuBois: Disposal of the water is the issue. Currently the government is looking at a couple of options. One is to pump the water out into the Carson Sink for evaporation, another is to go off near the reservation on public land and put in a sprinkler evaporation system. There were other alternatives that were considered, such as ground water injection, wells.

Seney: What does that mean, "ground water injection"?

DuBois: Where you would drill water wells down to a particular aquifer that had very poor water

quality, and then inject this water back into the ground, under pressure.

Seney: I see. What are they going to do? Have they decided yet?

DuBois: Well, that decision is yet to be made.

Seney: I see as I came in today, that just this last week, a day or so ago, there was a meeting on the TJ Drain. Was that to discuss some of these issues (DuBois: Yes.) and what ought to be done? When do you think there will be a resolution of this?

“ . . . the Interior Department is under a lot of pressure, as you know. The Stillwater Wildlife Refuge is a pretty important refuge, because of certain international agreements and a high percentage of the shore birds migrate through here . . . ”

DuBois: I would think within the next six months, because the Interior Department is under a lot of pressure, as you know. The Stillwater Wildlife Refuge is a pretty important refuge, because of certain international agreements and a high percentage of the shore birds migrate through here and so forth. So they're under pressure to get the thing cleaned up by the Congress and other interests—environmental groups and so forth. So the government, in an attempt to minimize the cost of closure is exploring all possibilities with the affected landowners. They've been in here talking to the landowners

to see what would work for them.

Seney: Is this the Bureau of Reclamation?

DuBois: And the Bureau of Indian Affairs, both. Bureau of Reclamation in the matter is a contractor for the engineering to the Bureau of Indian Affairs who has the responsibility to close the drain.

Seney: And the decision as to how, or the method, will rest with the Bureau of Indian Affairs?
(DuBois: Yes.) They will make the final . . .

DuBois: I think collectively the Interior Department, U.S. Fish and Wildlife Service, BoR, BIA, will all come to some sort of And of course the tribe. They have to do this in consultation with the tribe, so this has been an ongoing process.

Seney: When you say in consultation with the tribe, the tribe pretty much has a veto here, do you think, on what will be done?

DuBois: Well, I don't think a veto, but I think they have to be happy with the way it's done.

Seney: I guess that's what I mean. If they suggest one method and the tribe's not happy with that, they go into another one, until the tribe *is* happy.
(DuBois: Yeah.) That's what I meant to imply.

“ . . . some of the options that are being thrown out on the table by the government to the tribal members are that perhaps a cash payment for an agreement never to farm on that again . . . ”

- DuBois: And some of the options that are being thrown out on the table by the government to the tribal members are that perhaps a cash payment for an agreement never to farm on that again, which then reduces the amount of water that they have to dispose.
- Seney: Is that meeting with much enthusiasm on the part of the tribal members?
- DuBois: Some of them. It's a negotiation process that's going on, as to the amount of money that would be involved and so forth.
- Seney: What kind of numbers are being kicked around at this point?
- DuBois: I really don't know. I haven't been part of those. It's kind of probably a private matter between the Interior Department and these individual landowners.
- Seney: I see, okay. I would think if I were going to give up the right to farm, I'd want quite a bit of money for that.
- DuBois: It would seem that way. Of course, as you know, the U.S. Fish and Wildlife Service has an active water right acquisition program going on in the valley for water to be used on the Stillwater Refuge and so there's some history being developed there as to the value of the water. I think Interior Department is using that kind of as an example for their negotiating

standpoint.

Seney: Are they buying any water from the tribe?

DuBois: No, not at this point.

Seney: The tribe is not interested in selling at this point?

“ . . . the legislation provides for the long-term maintenance of 25,000 acres of wildlife habitat in the valley, and 800 acres of that is . . . on the Fallon Reservation. So I think the Interior Department is interested at some point in time in actually transferring a little bit of water in here to the Reservation . . . ”

DuBois: No. As a matter of fact, the legislation provides for the long-term maintenance of 25,000 acres of wildlife habitat in the valley, and 800 acres of that is now targeted, you might say, to be on the Fallon Reservation. So I think the Interior Department is interested at some point in time in actually transferring a little bit of water in here to the Reservation for wildlife habitat.

Seney: What's the Reservation's reaction, having 800 acres of that habitat on their reservation?

DuBois: They seem to be supportive of it at this point in time.

Seney: Am I right in thinking that that's kind of a return to their traditional way of life? (DuBois: Yes.) That that would be consistent with that?

(DuBois: Yes.) And that's probably how *they* would see it, I would think.

DuBois: That's the feeling I have.

Seney: What other problems had to be worked out here?

The Issue of Who Receives Water for Individual Allotments on the Fallon Reservation

DuBois: Well, there was a potential liability to the United States government that they were nervous about, with respect to the water use limitation. On the one hand you had 5,440 acres or 544 ten-acre parcels that are owned by individuals out here. And now we take and we remove, at least momentarily, the ability to deliver water to forty-four percent of these.

Seney: Because these are the ones, again, who have not been using the water.

DuBois: That could be. But that does not mean that at any point in time, the owners of those lands could decide to go into agriculture and make a demand for delivery of water to those lands.

Seney: Now, abandonment and forfeiture would not apply to these lands?

DuBois: No, they would not.

Seney: Because these were the parcels that were given out in exchange for the 160-acre parcels when

the project came into being, and they were promised water rights in perpetuity.

DuBois: Well, yes. And I mean the water right on the reservation, the water was reserved by the United States in 1902, or shortly thereafter, for the benefit of the Indians on certain lands that would ultimately become this reservation. And so a priority date was established, and furthermore, those water rights are still held in trust by the United States for the benefit of the tribe and its members. So there has always been irrigation. That predates, if you look at state law, which we presume at this point in time still applies to the matters of water in the state, if you look at forfeiture, abandonment, and perfection under state law, clearly these water rights are predated to state law, and they've *always* been used, so it's really a moot issue.

Seney: Okay, so that doctrine doesn't apply here, okay.

DuBois: That's my own opinion. But in any event, getting back to . . .

Seney: I don't mean to belabor this, but I guess that's why they'd have a liability problem, because even though they hadn't been used for a period of time, they hadn't been ever given up.

“So the legislation . . . says that the Fallon Tribe indemnifies the United States against any liability with respect to any claims that aggrieved water and land users on the reservation might bring. . .

”

- DuBois: That's correct. So now we have an individual who owns land who now wants to farm it for the first time, and let's say all of the water for 3,025 acres is being used, and now there is no water to service this person. So the owner of that parcel could make a claim against the United States for placing this water use cap. So the legislation, for the first time, in *my* mind, for the first time in history, did an interesting thing: It basically says that the Fallon Tribe indemnifies the United States against any liability with respect to any claims that aggrieved water and land users on the reservation might bring. And it further says that the United States will *defend* the tribe in the litigation, and if it loses the case, then the tribe has to pay. So it's a rather heavy piece of language.
- Seney: In other words, it says that the tribe can't sue, but if they do sue
- DuBois: No, it says that if an aggrieved landowner, if a landowner sues the United States, and the tribe, or a landowner sues the tribe, the United States will defend, and if it loses the case, the tribe indemnifies the United States against the cost. So to me that's a first. I mean, on the one hand, you have clear trust responsibility, which is memorialized in all kinds of legislation, and public policy and Department policy, et cetera, to be sure that Indians and Indian tribes, aren't at risk. In this legislation, we find that the Fallon tribal government, or the tribe, let's say, is indemnifying the United States against any

monetary loss as a result of successful lawsuits brought by (Seney: Individuals . . .) individual landowners (Seney: . . . against the United States.) Yeah.

Seney: What's the purpose here?

The Fallon Reservation Is Expected to Deal with Water Rights Issues on the Reservation Using the \$43 Million Trust Fund

DuBois: Well, the purpose is the United States said, "Look, we're giving you, Fallon Tribe, \$43 million to take care of this problem yourself."

Seney: Ah! Okay. Buy some water rights.

DuBois: Alright, so now you find in the language that an authorized use of income from this settlement fund, the investment of the settlement fund, is that the Fallon Tribe can acquire land and water rights *within* the reservation, by . . . retiring, if you will, from willing sellers.

Seney: So if I'm one of these people you've described, and now I've decided to farm my parcel, there are no water rights, the tribal council is really under pressure to buy them from somebody else and give them to me.

DuBois: So at the present time, the Fallon Tribe is developing an on-reservation land and water right acquisition code, a mechanism which will guide them and tell them how to buy these

lands.

Seney: Because that's another option is to go outside the reservation and buy the water rights and give them to me, or the person suing, in other words.

DuBois: They could possibly do that, as an exchange agreement or something.

Seney: Although the question of transfer of water rights within the Project is clouded at this time, is it not?

“ . . . the cap for the amount of acreage that they can purchase, and which will become automatically in trust, and added to the reservation, even though it might be a little satellite piece of land out there, is indeed 2,415 acres, the amount that they lost here on the reservation as a result of the legislation. . . .”

DuBois: Well, if they were to do something like that, they would obviously want to be sure that these were active water rights, and not under present question as to their validity. Under the scheme of due diligence, it would seem that they would ask the United States government to assure them that these were valid water rights and indeed could be transferred into trust, because if this transaction occurs in Churchill and Lyon Counties, up to a certain amount of acreage—and by the way, the cap for the amount of acreage that they can purchase, and which will become automatically in trust, and added to the

reservation, even though it might be a little satellite piece of land out there, is indeed 2,415 acres, the amount that they lost here on the reservation as a result of the legislation.

Seney: So that's all they can buy?

“They can buy *beyond* that, but it won't automatically become part of the reservation without going through the usual and customary process, which is long and tenuous. . . .”

DuBois: That will go into trust. They can buy *beyond* that, but it won't automatically become part of the reservation without going through the usual and customary process, which is long and tenuous.

Seney: Ah! But if they buy 2,415 acres, that will automatically be added to the reservation, even though it's an isolated parcel. (DuBois: Yes.) It would have a little sign on it that says, Paiute-Shoshone Reservation.

“. . . something in the order of 8,000 acre-feet of water. Once they reach that amount that's in the act, then it no longer comes into trust, automatically. . . .”

DuBois: Yes. About the same as water rights, up to a little over . . . It's listed in the act, but it's something in the order of 8,000 acre-feet of water. Once they reach that amount that's in the act, then it no longer comes into trust, automatically. They can hold it, I guess, as an

investment.

Seney: You see, that's what would strike me, if I were on the Tribal Council, and I'm thinking, "Gee, there are people who want wildlife out here, want some water rights. Well, we'll sell them some of our water rights, one price. Then we'll go out and buy them here, add them." Is that possible to do that?

DuBois: Well, it is possible, I suppose, but it doesn't seem like it'd make much sense to do it that way. I think the tribe feels that water is going to have increased value, and at this point in time, I don't believe there's any desire at all to sell water.

Seney: It would be simply to acquire it at this point.

DuBois: Yeah. They may be acquiring land that is not water righted, and so they would wish to perhaps transfer water onto those lands so they could farm them. So I think they have a number of options here. As an example, this year, they are under a special use permit, farming a piece of contiguous land *to* the reservation, that was acquired by the U.S. Fish and Wildlife Service, which intends to strip the water rights off that land and send it down to the refuge. So the tribe next year could continue to farm those lands, if it could transfer some water over there. Where is this water going to come from? Possibly water acquired off the reservation, or transferred from this reservation to those lands.

Seney: When you say “a special use permit,” that would be a special use permit issued to the tribe by the Fish and Wildlife Service?

DuBois: Yes.

Seney: What other things are in this legislation? I find this very illuminating. This is exactly what we want, this is very helpful.

DuBois: Do you have a copy of the act?

Seney: I do, I think. Not the act, I have this.

END SIDE 2, TAPE 1. AUGUST 26, 1994.

BEGIN SIDE 1, TAPE 2. AUGUST 26, 1994.

Seney: This is August 26, 1994. My name is Donald Seney, and I’m with Francis (Bill) DuBois, Water Resources Coordinator for the Paiute-Shoshone-Fallon Tribe, and we’re in the tribal offices near Fallon, Nevada.

Seney: Go ahead, Bill.

Congress Intended the Settlement Fund Be Used Flexibly for Tribal Economic Development

DuBois: Okay, another issue that was discussed during formulation of the language in Public Law 101-618 with respect to the Fallon Tribe was the use of the income from the settlement fund, with respect to economic development. The tribe felt very strongly that this was really the whole issue of the conversion from the requirement of

the United States to complete their construction of agricultural water delivery facilities on the reservation. If the tribe did not intend to engage in extensive agricultural activities, perhaps as an alternative economic development in other areas would be more desirable. And so that was primarily the thrust of a reason for a large cash settlement to the tribe.

Seney: To provide them with both options . . .

DuBois: To provide them primarily with the opportunity of developing economic development opportunities, you might say.

“Normally when cash settlements are made with Indian tribes, the money is managed by a very large trust department of the Bureau of Indian Affairs. The Fallon Tribe was pretty insistent that they would be given the opportunity to manage this money on their own. . . .”

Another issue was the investment of the funds. Normally when cash settlements are made with Indian tribes, the money is managed by a very large trust department of the Bureau of Indian Affairs. The Fallon Tribe was pretty insistent that they would be given the opportunity to manage this money on their own.

Seney: Any reason why they were so insistent?

DuBois: They felt that they could do, perhaps with the right money managers and so forth, that they could return more for their investment.

Seney: Was there a little history there with the Bureau of Indian Affairs, maybe, that they had in mind?

DuBois: Well, the Bureau of Indian Affairs is restricted to the type of investments that they can make, and so that more or less tells you what sort of total return you're going to get.

Seney: Government instruments?

**In Return for the Settlement They Agreed to
Dismiss a Claim in the United States Claims Court**

DuBois: That sort of thing. And the tribe felt it should have the option to try it on its own. Some other aspects that were talked about during formulation of the language was release of some outstanding claims that had been ongoing in the United States for a number of years. Notice Docket Number 87-A in the United States Claims Court—this was kind of an aboriginal type claim in conjunction with several other Paiute and Shoshone Tribes around the state. And so they agreed to dismiss with prejudice that claim in the court.

Seney: That means it can't be reinstated?

DuBois: That's correct.

Seney: What was that claim?

DuBois: Oh, it had to do with fishing rights and rights to large areas of land and things of that nature. They also were required to release the United

States from any claim resulting from the failure to comply with Public Law 95-337, with respect to completing the irrigation facilities. So the government now was relieved of its responsibility to build the irrigation facilities. So there's obviously an increment in the cash settlement for that.

Seney: So they made up for that in the cash settlement. "If you want to build it, here's the money, go ahead and build it."

DuBois: Yeah. So although you probably will not find it in public documents, when you examine all the components of \$43 million, which was how much the Congress, over a period of time, awarded the tribe, you can find there is a component in there for releasing the 87-A claim, some dollar value. There is a dollar value in there for allowing the United States off the hook to finish building its irrigation facilities. That certainly has some value. There's a value in there to go out and replace the water that they lost.

Seney: This is from the 5,000-plus to the 3,000-plus.

DuBois: That's correct. There's a value in there for the tribe indemnifying the United States.

Seney: On these suits on the acreage.

“. . . it was truly an agreement and a release of claims between the tribe and the United States. . .

”

DuBois: Yeah. And there's a value for the inconvenience of the closure of the TJ Drain. So the United States sat down, I'm sure, and figured out all of these things and said, "That's worth so much money." And the tribe agreed to sign off on all these things. We agreed to a plan for closure of the TJ Drain, we released the United States off of 95-337, we released 87-A. There were a number of things the tribe signed. So it was truly an agreement and a release of claims between the tribe and the United States.

Seney: You know, I've interviewed a number of people in the community at this point who are involved with T--C-I-D--some who are on the board and so forth, and water users--and whenever this issue comes up, it's invariably put that the government *gave* \$43 million to the Fallon Indians. And you'd quarrel with that, obviously.

DuBois: I certainly would, yeah.

Seney: And that's the point you're making here, is that there are specific components to compensate them for these various parts that you've listed.

DuBois: I mean, we went through the same exercise. We said

Seney: "We," meaning?

**The Tribe's Valuation of the Settlement Started at
\$60 Million**

DuBois: The tribe. . . . when we were trying to arrive at a number, and obviously, our number was more than \$43 million.

Seney: What was it, do you remember?

DuBois: We started at \$60 million, and that number wouldn't fly in the Office of Management and Budget, it didn't fly with the Interior Department, but we said, as an example, "Listen, if we have to go out and purchase 2,415 acres of land with water rights, we're going to have to pay \$2,000 an acre. So there's \$4.8 million." We said, "If we're going to sign off on the 87-A claim, that's worth \$1½-2 million to us."

Seney: Harder to estimate, but that's about what you thought it was going . . .

DuBois: Yeah. I mean, we had to sit down with the tribe's lawyers and say, "If we were successful in litigating this to conclusion, what would you expect the tribe would be awarded by the Claims Court? So we came up with a number. And so we added all these things up and came to about \$60 million. Now, obviously the United States felt it was too high, and we compromised. The Congress said, "You're going to get \$43 million over a six-year period of time."

Seney: Because it's paid-out in blocks.

“ . . . the tribe was not ‘given’ money. They waited eighty-some years and the government never *did* make good on its promises. Fallon Tribe is the only entity in the Newlands Project that lost water as a result of the legislation. . . .”

DuBois: That’s right, it’s all identified and in the act. So no, the tribe was not “given” money. They waited eighty-some years and the government never *did* make [good on] its promises. Fallon Tribe is the only entity in the Newlands Project that lost water as a result of the legislation.

“Granted, they were provided money . . . to go back and replace it, but as a result of the legislation, they lost forty-four percent of their water use on this reservation. Nobody else on this Project did. . . .”

Granted, they were provided money over a period of time, to go back and replace it, but as a result of the legislation, they lost forty-four percent of their water use on this reservation. Nobody else on this Project did.

Seney: How did the tribe feel about the loss of the water?

Tribe Is Uncomfortable with the Fact They Will Be Unable to Enter the Market for Some Time Because First the Trust Fund Has to Earn Revenues

DuBois: They’re still very uncomfortable with that. It’ll be some time before they will have accumulated

the fiscal resources to be able to go out and compete in the open market and acquire these water rights. And they're afraid that by the time they *will* have these resources, that the price of the water and the land will be much higher than it is now. So instead of being able to purchase it for \$2,000 an acre, it may be \$3,000 or \$4,000. And so there is a concern for that.

Seney: Is there, in your judgement, maybe a—because they were given money to purchase that, as you say, it may not be as much—it may be more costly, so they're going to have to put more of this settlement money into the repurchase of these water rights. But is there a symbolic value here too, to the loss of these water rights here?

DuBois: I'm sure there is.

Seney: I don't know how else to put it.

DuBois: I can't feel that, (Seney: You perceive that?) but I perceive that, yes.

Seney: I'll certainly ask Mr. Burton about that part of it.

DuBois: Oh yeah, he'll probably address that very strongly. They're pretty upset about it.

Seney: I know that there are certain things you can tell me on their behalf, and certain things you probably can't tell me, and one of them would be the depth of feeling about this, or the nature of that feeling.

DuBois: That's a good point you've raised. I'm responding to your questions and talking as a professional engineer, geological engineer type, who is an employee of the tribe, and I'm responding in a way as *I* see it, not necessarily the way the Fallon Tribe sees it. These are my own perceptions and my own observations, as a result of the four-year employment.

Seney: Right, I appreciate that. And what you're telling me about all the details of this legislation is absolutely great. This is just the kind of thing we want. But I know, and obviously you do too, that I'm going to ask Mr. Burton and other Native Americans here in the tribe, different kinds of questions, and I'm going to get a different kind of response, because we both know that we view the world in a different way. (DuBois: Sure.) And there's just no question about that.

Let me ask you one thing, because I do recall, as long as we're talking about the dismissal with prejudice here—and I'm not sure I can find it here. There was another suit, and this one had . . .

The Operating Criteria and Procedures (OCAP)³ for the Newlands Project

3. OCAP are Federal rules governing how Reclamation will manage water to assure various entitlements are met. Various versions of the OCAP have been in place since 1967, and the latest version went into effect in 1997. Source: <http://www.usbr.gov/mp/lbao/ocap.html> accessed on December 16, 2011, at about 3:00 P.M.

DuBois: That was the OCAP case. Good point. Yeah, I forgot that.

Seney: This is the tribes have dismissed *without* prejudice. If you'd comment on that for me.

DuBois: That was the OCAP. Now that means, "without prejudice," as I understand, that if the matter does go to trial or something, the tribe can get back in. (Seney: Right.) When the OCAP was being developed, that process started, as I recall, about 1978, and then culminated in 1988 with the promulgation.

Seney: Well, the first ordered one was "73, with Judge [Gerhard] Gessell.

“ . . . the Fallon Tribe was never afforded the opportunity to articulate it's interest or it's matter in that case. . . . ”

DuBois: That's correct, you're right. Okay, so the Fallon Tribe was never afforded the opportunity to articulate it's interest or it's matter in that case.

Seney: When it certainly *does* have an interest in that.

DuBois: Yes, very much so. Until the very last moment, and they filed as an intervener. I don't remember when the filing was done—possibly in 1988. And so they became part of the case. And so the government had an interest to get the Fallon Tribe out of that—obviously because it's treated elsewhere in Public Law 101-618, primarily as we know, it was put on hold,

remanded back to the Secretary of Interior until 1997. And no changes. The court was not allowed to make changes. However, I guess the secretary has discretion to make some changes. But in any event . . . So they agreed to step out of that case. We fought that, we wanted to stay in, because the OCAP applies to the delivery of water *to* the reservation. It doesn't necessarily, if you read it liberally, apply *on* the reservation, although we have been following it on the reservation.

Seney: Right. I mean, it's bound to impact you here at the end of the "S" Canal.

Tribe Feels That it Should Always Receive 100 Percent of its Water, Regardless of the Water Supply Situation on the Remainder of the Project

DuBois: Yeah. Basically what it means is that the annual allocation of water to be applied to an acre of land on the Fallon Reservation is the same as it is elsewhere in the project. The Fallon Tribe feels that that really shouldn't be, that they should have a full water entitlement, regardless of other allocations to the rest of the project.

Seney: This is a fifty-seven percent year in the project. (DuBois: Yes.) You mean the Fallon Tribe feels they should get a hundred percent? (DuBois: I would think so, yes.) Even though the rest will be getting fifty-seven percent.

DuBois: Or I think they feel they should have a higher priority for the water resources than anybody

else in the project.

Seney: What is the basis for that feeling?

“ . . . United States allotted them 33,000 acres of land up and down the Carson River, and therefore they feel they have kind of Winter’s Doctrine, or reserved rights, although they’ve never articulated that in the courts. And you’ll find in Public Law 101-618 that they’re not precluded from doing that. They are still afforded the opportunity, clearly, by the Congress, to go back into Federal court and seek reserved rights on the Carson River. . . . ”

DuBois: They were here first. The United States allotted them 33,000 acres of land up and down the Carson River, and therefore they feel they have kind of Winter’s Doctrine,⁴ or reserved rights, although they’ve never articulated that in the courts. And you’ll find in Public Law 101-618 that they’re not precluded from doing that. They are still afforded the opportunity, clearly, by the Congress, to go back into Federal Court

4. “The federal reserved water rights doctrine was established by the U.S. Supreme Court in 1908 in *Winters v. United States*. In this case, the U.S. Supreme Court found that an Indian reservation (in the case, the Fort Belknap Indian Reservation) may reserve water for future use in an amount necessary to fulfill the purpose of the reservation, with a priority dating from the treaty that established the reservation. This doctrine establishes that when the federal government created Indian reservations, water rights were reserved in sufficient quantity to meet the purposes for which the reservation was established.” Source: <http://www.blm.gov/nstc/WaterLaws/fedreservedwater.html> accessed on December 16, 2011, at about 3:20 p.m.

Legal citation is: *Winters v. United States*, 207 U.S. 564, 575-77 (1908).

and seek reserved rights on the Carson River.

Seney: These are Winters Rights? (DuBois: Yes.)
Winter's not meaning the season of the year,
but

DuBois: Winters Doctrine Rights, and Winters was a
Supreme Court Case that basically said that
whenever the United States reserved lands for
it's purposes, such as Indian Reservations and
whatnot, it is presumed that if the water was
being used at the time, that the government has
a priority.

Seney: It stays there.

DuBois: It stays there and is used for that purpose, or
something along that line. By the way, you can
find an excellent treatise of this in Cohen's
[phonetic spelling] *Indian Law*.⁵ It's a
handbook, and I'll show it to you before you
leave.

Seney: Good, okay.

DuBois: I'm not sure where it's available—it's kind of
out of print, but it's around. It's put out by
West Publishing, I believe.

Seney: Sure, the legal publishers.

DuBois: And it's a fantastic treatment of kind of the

5. Felix Cohen, *Handbook of Federal Indian Law*, in many
editions.

bible of Federal Indian law—up to a point in time.

Seney: Sure. Is there anything else in the legislation?

DuBois: I think we’ve covered Title I.

Seney: And Title II is not relevant to the tribe particularly.

DuBois: There are little bits and pieces of language in there that touch on the tribe.

Seney: Anything you want to comment on?

DuBois: The option to seek Winter’s Doctrine Rights is one. Another important statement is that nothing in the act is to compromise the trust responsibility to the Indian tribes. Certainly the business about the establishment about wetlands on a tribal reservation—that’s part of the Lahontan Valley Wetlands. And there’s probably a couple of others that escape me at the moment.

Controversy over Tribe’s Request for Delivery of Water in September

Seney: I know that there’s a current controversy going on with T-C-I-D over water deliveries this year, that the tribe has requested that September deliveries be made, and that pursuant to those deliveries, that that water be parked out here, nearby, in a holding reservoir toward the end of the “S” Canal, then to be shipped out. My

understanding is that the tribe fears that if they wait to deliver that water in September, it'll never get here, simply dissipate itself in the canal. The T-C-I-D Board has refused, at least initially refused—I don't know what the status of this is—that's what I want to ask you about. I see, driving in today, there was a meeting last night (DuBois: Yes.) about this. What's going on? I want to ask you this question to give you an opportunity to comment generally on the relationship between the Fallon Tribe and T-C-I-D.

“ . . . the tribe has felt through the years that the district has stored in Lahontan Reservoir all the water that the Fallon Reservation was entitled to, but all of it was never delivered to the reservation because of . . . let's say all of the farmers were not farming all of the land they were entitled to farm. And so that water would go to all of the other irrigators in the project. This year they felt that they wanted to extend the irrigation season to allow the farmers out here to utilize all of the water resources that they were entitled to. . . .”

DuBois: Okay, first of all the tribe has felt through the years that the district has stored in Lahontan Reservoir all the water that the Fallon Reservation was entitled to, but all of it was never delivered to the reservation because of . . . let's say all of the farmers were not farming all of the land they were entitled to farm. And so that water would go to all of the other irrigators in the project. This year they felt that they wanted to extend the irrigation

season to allow the farmers out here to utilize all of the water resources that they were entitled to. It was felt that if they did not use their water entitlement throughout the year and saved it for fall crops or something (Seney: For new crop, maybe?) For new crop in the fall, a winter grain crop or something, that that water should be available to them if they were entitled to it. So they approached the district to store in the "S" Line Reservoir to be available, and the district felt that if they did it for the tribe, that they should do it for everybody in the valley, and also the request was made too late in the season, and it just didn't fit with their operating scheme.

Seney: And the board's view was it had already turned down other farmers making similar requests, so equity required them to turn down the tribe as well.

DuBois: That's correct. So the tribe has probably turned to the United States under its trust responsibility to be sure that the Fallon tribal farmers get all the water they're entitled to. So it's still under discussion. There's a meeting Monday at one-thirty, which I'm sure will probably be the final resolution. I would hazard a forecast that probably 400-500 acre-feet will be stored in "S" Line and used to the tribe's . . .

Seney: Is that enough? Is that what the tribe's asking for?

DuBois: Well, they originally were asking for the entire

reservoir to be filled. But in examining it further and in consultation with the district and Reclamation, it appears that since a majority of the reservoir—you know, the back part of the “S” Line has been closed off for efficiency purposes. If they put water out there, probably two-thirds of it would just go into the ground before they could pull it out of there. So it’s probably not a good idea.

Seney: The Bureau of Reclamation, my understanding is, is prepared to *order* the district to do this.

DuBois: Yes.

Seney: Would the tribe prefer to work it out with the district, rather than have the Bureau order it?

“ . . . today the decision was made by the tribe to accept the district’s offer for a seat on the board . . . ”

DuBois: Yes. As a matter of fact, today the decision was made by the tribe to accept the district’s offer for a seat on the board.

Seney: Ah! That’s a big change, isn’t it?

DuBois: Yes. So the farmers here are going to have a meeting, they are going to select someone, and in the future we’ll probably have a kind of informal election, but at least in the interim they are going to designate a person. I spoke with Lyman McConnell, the district manager, and if that seat is open under those kind of

arrangements, he said “Absolutely.” So it’ll be on their next board agenda to swear that person in.

Seney: And the board under the 1991 legislation has the power to expand itself through its own vote. (DuBois: Yes.) And so this would be, what, District 8, essentially.

DuBois: Yes, and that would be known as the Fallon Reservation District.

Seney: Now, I know when the Fallon Tribe was invited to join the board, they had objections based on their status as a sovereign nation. (DuBois: Yes.) They clearly rethought that position.

To Avoid Issues about Tribal Sovereignty in Having Representation on the TCID Board, a Person Not on the Tribal Council or in Administration Will Be Appointed

DuBois: Well, the way the Fallon Tribe is doing it, is it won’t be a Tribal Council member, it won’t be a member of the administration, it will be a person who represents the tribal farmers.

Seney: Ah, okay, that gets around this problem of sovereignty then.

DuBois: Yes.

Seney: I see.

DuBois: So the tribe itself, technically, is not confronting

the sovereignty issue.

- Seney: I appreciate what you're saying. It's a kind of arrangement that permits them not to confront that.
- DuBois: That's right. So what we have here now, I think is the best of all worlds, because that's really the objective of the farming community here on the reservation, is that now they'll have representation on the board as their own little irrigation district. I think it's *better* than the other way.
- Seney: So this little "fracas," shall we say, over the "S" Line Reservoir has led to probably a good development.
- DuBois: Yeah, it's bringing them together. I think that on the one hand, the district will be instructed by BoR to do this, which is basically Interior Department's trust responsibility, and the district's board will be able to say, "We were ordered by the United States, who has the authority to do that. And there wasn't anything we could do about it, and that's that."
- Seney: And that saves them from their constituents.
- DuBois: And it's going to make a lot of people ornery. There are going to be some off-reservation farmers that are going to be incensed with it.
- Seney: Well, change always does, doesn't it?

DuBois: But on the other hand, as a result of the upcoming negotiations and possible additional legislation, et cetera, the Fallon Reservation, very likely will end up having its own irrigation district designated just like T-C-I-D.

Seney: Do you mean you think this will be the outcome of Settlement II negotiations?

DuBois: This'll be part of it. I mean, the district somewhat, I believe, endorses this. I mean, they've always talked about it. The tribe has talked about it extensively. It's a matter of whether or not the tribe can afford to do it. And if enough resources are made available, they will do it.

Seney: "Affording to do it," means they'll have the responsibility of maintaining their own canal system and so forth.

"A lot of details to be worked out here, because the water will be delivered to the Fallon Reservation boundary, and then what does the Fallon Reservation District do at that point? . . ."

DuBois: That's right. A lot of details to be worked out here, because the water will be delivered to the Fallon Reservation boundary, and then what does the Fallon Reservation District do at that point?

Seney: It needs its own ditch riders and watermaster.

DuBois: Correct. And et cetera, et cetera, and all the

rest. So a lot of details to be worked out. There's a cost to deliver water to the reservation—somebody's got to pay that. How much? And on and on and on. But when you look at sovereignty, someday the tribe hopefully can take care of *all* of its own affairs—irrigation being one of them. They probably want to get out of it. [?] So my guess is in 1995 they will have their own irrigation district. Now, there might not be enough money in it for them at that time, and they will continue to contract with T-C-I-D.

Seney: To run their own little district?

DuBois: To keep going the way we are. And so then they will have even *more* of an interest in being on some board up there. So I think it's neat that they're working it out.

Seney: This is to the advantage of T-C-I-D too, isn't it?

If Indian Representation Does Go on the TCID Board, There Will Be Advantages for TCID

DuBois: Clearly.

Seney: T-C-I-D needs friends.

DuBois: I mean, we've taken the initiative here. As an example, under one of the authorized expenditures of income, under R&B, rehab and betterment of the facilities, we have purchased one of T-C-I-D's ditch expeditors, and we have brought it out here and the tribe has used its

resources to help T-C-I-D maintain these facilities. So there is a cooperative effort going in that regard.

We are helping BoR and the district prepare an extensive map of all the facilities on the reservation, an updated map. So there is, I think, more of a spirit of cooperation coming about, but on the other hand the farmers feel that over the years the district has ignored them . . . in regard to maintenance of the facilities here. A lot of improvements have been made in the last three or four years.

Seney: Is that a fair feeling on the part of the farmers here on the reservation?

DuBois: Some of them are pretty upset—or have been.

Seney: I guess I'm trying to ask you for a judgement here. Do you think that their being upset at the district is legitimate?

DuBois: Previous years, probably.

Seney: Let me ask you this, has the district, do you think, made a political judgement that at this point it would be wise to get along with the Fallon Tribe and make allies out of them because of the situation that T-C-I-D finds itself in with the effective opposition of the Pyramid Lake Indians, and that the Fallon Tribe would be a useful ally? Do you think they've come to that conclusion?

“ . . . this is just my own personal opinion—but I believe that if the Fallon Tribe for the most part supports what the district is trying to do . . . What’s good for the district is good for the tribe. . . .”

DuBois: Well, I think that—this is just my own personal opinion—but I believe that if the Fallon Tribe for the most part supports what the district is trying to do, recognizing the district delivers water to the Fallon Reservation, and that the amount of water they receive here is the same as everybody else in the district, that there should be some sort of marriage here. So I think there’s a positive aspect in both camps. That’s always been my opinion. What’s good for the district is good for the tribe. And certainly the district could possibly enjoy that relationship to some advantage because the government has the trust responsibility of the tribe.

Seney: You know, I find this acceptance by the tribe of this seat on the board through the arrangements you’ve described—I don’t want to say a “startling” development—but almost startling development, because in recent weeks, just *recently*, I’ve interviewed past members of the T-C-I-D Board and current members of the T-C-I-D Board: They have brought up the fact that they have made this offer, tried to include the tribe, and for the sovereignty issues that we’ve discussed, they’ve refused. I think I got from them real pessimism that the tribe would *ever* join in.

Fallon Tribal Concerns and Hopes about Representation on the TCID Board

DuBois: Well, I'll tell you the reason for the pessimism was, I believe, was because the tribe is saying, "Well, wait a minute, we're one of nine people." Or how many do they have? (Seney: Seven.) "We're one of eight on this board at this point in time. One vote out of eight isn't going to get us anywhere. So why do we even bother?" What was brought out last night in the meeting is that the business of the T-C-I-D Board meeting and voting on matters is necessary to carry on the general business of the district operation, just as any other corporation or any other business—just as the Tribal Council functions—it can't carry out *its* business without the Fallon Business Council meeting and approving expenditures and agreeing to enter into contracts and all those sorts of things. So that was probably the pessimism you're referring to.

“ . . . participation . . . brings them ever closer to the day-to-day problems of operating an extensive irrigation district. . . . ”

The other thing that was brought out last night is that the participation of the Fallon Tribe on the T-C-I-D Board brings them ever closer to the day-to-day problems of operating an extensive irrigation district.

Seney: It helps them learn how to do it in case they decide to do it themselves.

“ . . . this individual that will sit on the board will obviously become a member of different committees . . . and so there’s going to be a spin-off here of valuable information and those sorts of things. . . .”

DuBois: Very much so, exactly. So there’s a definite learning curve here. And this individual that will sit on the board will obviously become a member of different committees that the district has, such as irrigation drainage ditches and all the various committees they have, and so there’s going to be a spin-off here of valuable information and those sorts of things.

END SIDE 1, TAPE 2. AUGUST 26, 1994.

BEGIN SIDE 2, TAPE 2. AUGUST 26, 1994.

Seney: I suppose too, that T-C-I-D is going to learn to know the Fallon Tribe better, and become friends, colleagues, and there’ll be a payoff there too, do you not think?

“ . . . it certainly would be a vehicle for the Fallon Tribe to convey operational concerns that they have out here, which heretofore it’s been difficult for them to do . . . ”

DuBois: Very definitely, in my opinion. And it certainly would be a vehicle for the Fallon Tribe to convey operational concerns that they have out here, which heretofore it’s been difficult for them to do that, for a lot of reasons—communication problems and all sorts of things. I’m really looking forward to this, and I’m sure

it's going to work.

Seney: I want to ask you about your own experiences of water use, but first let me ask you if there's anything else you want to add about the tribe at this point, that I haven't asked, because believe me, I don't know all the questions. And don't feel embarrassed, you're not going to embarrass me if you say, "you should have asked me this," and then go ahead and answer your own question.

“ . . . the last four years while I have been here, I think have been exciting times for the tribe, because there has been a tremendous amount of activity here in all areas, an awareness on their part. The tribe has “come alive,” you might say. . . .”

DuBois: Well, I would have to say that the last four years while I have been here, I think have been exciting times for the tribe, because there has been a tremendous amount of activity here in all areas, an awareness on their part. The tribe has “come alive,” you might say. There have been a lot of difficult decisions for them, they've confronted these. They've acquired the assistance of good legal counsel. They have certainly established themselves in the community, established a presence. They're certainly going to have the opportunity to increase all their government services and facilities here now at a rapid rate because of the fiscal resources that they have available to them. In closing on that, I would just have to say that I

think it's going to be exciting for them in the future, particularly as the fund builds.

Seney: Yeah, more opportunity as a result.

DuBois: More opportunities. I think that would be all I would have to say about the Fallon Tribe.

Seney: Sure, okay. Well, let's talk then about your *own* experiences. You're up on Swingle Bench, which is part of the Truckee Division, and you bought that in the 60s, you've owned that. (DuBois: Yes.) And do you actively farm it?

Truck Farmed for a Few Years on Swingle Beach While Also Engaged in Mining Activities

DuBois: We did at the time. When we purchased it, the gentleman that owned it was a truck farmer. There was an operating fruit stand on the property which we perpetuated.

Seney: What does the term "truck farmer" mean?

DuBois: . . . corn, vegetables of all shapes, sizes, and descriptions: fruit trees, as opposed to alfalfa.

Seney: What kind of fruit trees?

DuBois: Oh, we had cherry trees, we had apricot trees, some peach trees.

Seney: "Had." I guess you don't any more?

DuBois: We have a few apricot trees.

- Seney: How are your apricots?
- DuBois: Oh, they're excellent every four years! (both chuckle)
- Seney: If you get some water on them, you mean? How long did you farm the property?
- DuBois: Probably we truck farmed through about "76, maybe ten years or so.
- Seney: What was your experience with that?
- DuBois: Very little, actually, except what was gained as a very young man down in Escondido, California.
- Seney: I mean, rather than what experience did you bring to it, what was your experience in that ten years of truck farming?
- DuBois: Well, we didn't make a lot of money, but it was a wonderful way to raise your children.
- Seney: Did you think you were going to make money? Did it look pretty easy?
- DuBois: Not particularly.
- Seney: You had an appreciation of this, you mean?
- DuBois: I knew that on thirty-six acres it was going to be difficult. At the same time, I was mining too.
- Seney: What's the difference between mining and

farming?

- DuBois: Well, they're both difficult. The major difference is, of course, farming is a renewable resource—mining is not. And I think the risks are higher in mining than they are in farming.
- Seney: I don't mean that sort of question/answer, I mean, here—and I'm pointing to the viscera—how does it feel, what's the feeling that a farmer has that you don't have in mining? Or maybe they're alike [in that regard].
- DuBois: Well, I think that if you're doing both of these for yourself, which I did a lot of, mining, I think it's the satisfaction of being in business for yourself. That's kind of the American dream. And in addition, I think as far as farming is concerned, there's the satisfaction of going through the requirements of planting the crop, and seeing it come up, and harvesting it, and marketing it, and all the steps in between, and the lifestyle that goes with it. It's a rural lifestyle, and I think that's one of the components of farming, is the rural lifestyle and being in business for yourself and not having the typical eight-to-five job.
- Seney: Does your farming experience, coming in the midst of engineering, really, and sort of a scientific, technical background, does this farming experience help you understand better why it's been so difficult for the farmers on the Newlands Project to compromise when they've had a chance in the past, and to make

adjustments that might have served them well? Now they're going to, I think, get a much tougher settlement. Does it help you understand that?

DuBois: Well, it certainly does. I can relate to what it means to not have one hundred percent water allocation.

Seney: What does it mean?

DuBois: It means when you have a twenty-eight percent allocation, and they're only able to deliver fourteen percent to me, that there is a disaster, economically.

Seney: It would almost make me think, "Gee, I'd better find something else to do here." But the funny thing is, it makes the farmers hang on even harder, doesn't it?

DuBois: More tenaciously, yes.

Seney: How do you explain that to me?

Views Farming as a Business

DuBois: First of all, they have a significant investment. To farm today as a sole source of income, takes a significant investment—I mean a substantial investment, not only in land and certainly in the value of the water rights, but equipment and investment in the field in planting. I mean, let's face it, alfalfa seed is not cheap today. To put an alfalfa crop in today probably costs \$150-

\$200 an acre. And you consider with the preparation of the land and fertilizer and seed costs

Seney: I'm not trying to be flippant here, I hope you understand: But that almost would say to me, "What the hell am I doing here?! This year I got fifty-seven percent water allocation, we don't know what the winter is going to bring—we all have our hopes, but we don't know what it's going to bring. I might have a hundred percent next year like I did last year, or I might have twenty-eight percent like I did the year before last."

DuBois: Farming is a business like any other business. And if you're a farmer, you should understand it as a business. And as an example, they know that every five years they're going to have to turn a crop over—alfalfa's a good example. They're going to have to take that land out of production. Probably it's not producing much at five years anyway. So this means then that it's going to take fifty acres of land—let's talk about that—to actually maintain forty acres of alfalfa. And so they should plan and incorporate all those sorts of things in. They know that if during drought, on a long-term average, if they're only going to receive seventy-five percent of their water-righted acreage in water, then in reality, they're farming seventy-five percent of fifty acres. So if you want to farm in perpetuity, seventy-five percent of fifty acres, then you'd better own fifty acres, and you'd better have water rights for fifty

acres. So it seems to me, for every farmer who does that full-time, it's an economic decision.

Seney: You see, I guess when I talk to these farmers out here—and my parents were farmers, they came from farm backgrounds, and we always had a garden. Up to my dad's last year of life, he had tomatoes on the windowsill. I mean, he *always* grew things. And I guess to me it doesn't seem so much like a business as it almost like it does a religion. It's a matter of faith. I guess that's what I was trying to encourage you to talk about a little bit more, in terms of kind of understanding the mentality of the outlook. And I was curious if you had picked that up in your experience in farming.

DuBois: Well, not to the extent, I don't believe, that a full-time farmer would have, because I knew that when we purchased our place that a thirty-six-acre farm is not going to support a family of four, although if properly farmed, very scientifically, with high-cash crops, like I grew a lot of cantaloupes, produced a lot of cantaloupes. As a matter of fact, I went out and leased forty additional acres to produce cantaloupes.

Seney: Did you make money on those?

DuBois: We made money on those, through the fruit stand, and I hauled flatbed truck after flatbed truck of those to Reno and sold them to the supermarkets. The Soil Conservation Service currently says that you should realize more than

\$2,000 an acre from the production of cantaloupes—it's a high-cash crop. And garlic is another one, and those kind of things. So those could be done here, although we have a short growing season. For cantaloupes, it's ninety days, and that's touch and go, and I did lose some to freezing, both in the beginning of the season and at the end. As a result, I built a hothouse and started 40,000 cantaloupe plants, early, and had to replant one year three times.

Seney: That must be heartbreaking!

DuBois: Well, it's disappointing, but what are the alternatives? You know, you have to rise to the occasion. So I can't say that I feel the same way that a full-time farmer does.

Seney: But you appreciate how they feel.

DuBois: That's right, I can appreciate it. And one of the reasons that we decided to buy this place was that we said to ourselves, "If this country ever went into another terrible Depression like they had in the 30s, '29 and through the early 30s . . ." I mean, I think everyone knows that the government is going to be broke here one of these days, unless we do something. And I said, "What can we do to self-sustain ourselves if everything goes to hell in a handbasket?" I mean, we could grow our own groceries, because all we need is water, and a little bit of minimal equipment, and we could hang tough on this place. And we experimented to that degree, and we determined that even with our

own well and a reasonable delivery of water, that you could raise your own beef, which we did; we could raise sheep, which we did; you could raise, basically, a majority of the groceries. And if things really got tough, you could pull all your horns in and survive for a short period of time. So that was one of the reasons we purchased that thing, and I still feel that way today. That's basically why we stay there. We've been there twenty-seven years—the average American moves every six years.

“ . . . I'm basically a natural resource person. I feel you're either in farming, or you're in timber, or you're in mining. . . . ”

And in the meantime, I went on and continued doing mining. And I'm basically a natural resource person. I feel you're either in farming, or you're in timber, or you're in mining.

Seney: What's the future up there on the Truckee Division, you think?

DuBois: Pretty grim, really, at this point. On the one hand you have the Pyramid Lake Tribe, which basically would like to see the Truckee Canal closed—really closed, I mean filled-in, and Derby Dam blown up. If you look at *Turn This Water Into Gold* by Mr. Townley⁶ you will see a photograph in there of the dedication of Derby

6. John M. Townley, *Turn this Water into Gold: The Story of the Newlands Project* (Reno: Nevada Historical Society, several printings).

Dam where there is a train on the Union Pacific line, or whatever line it was there, with all the red, white, and blue banners and everything, which brought all of the dignitaries, who walked over to the Derby Dam, they had a celebration, and that's the photograph, and the dedication, and they dedicated it, and they all walked back and got on the train and went back to wherever it was—maybe Reno, or wherever it was. I see the same sort of thing happening where somebody will push a plunger and Derby Dam will evaporate off the face of the earth, and there'll be a big celebration, and everybody will go back and get on this special train and go back to Reno.

But let's assume that that's not going to be the case, that the Truckee Division will survive all of this. The problem we've had is that during the life of this project, previous to 1988, the only time the water level in Lake Tahoe, which is the only storage for the Truckee Division under present arrangements

Seney: Nothing in Donner for the Truckee Division?

DuBois: Only water that the district purchased, which is privately-owned stored water, along with the power company.

Seney: You can't drain that down in the summer anyway.

“. . . previous to 1988, there was only one time in history that the water was below the lake [Tahoe

rim] for longer than seven months—and that was for seven months. Since 1988, it’s been below the rim for three years. The first real squeeze play was in 1992 when we had a twenty-eight percent of normal for the project . . .”

DuBois: Yeah, there’s some release restrictions. Basically, it never gets to Swingle Bench. It gets to Fernley, some of it, helps them a little. But previous to 1988, there was only one time in history that the water was below the lake [rim] for longer than seven months—and that was for seven months. Since 1988, it’s been below the rim for three years. The first real squeeze play was in 1992 when we had a twenty-eight percent of normal for the project, and the Truckee Division basically, probably received half of that. I know I got one irrigation that year, in July.

Seney: Can you grow anything on one irrigation?

DuBois: I planted Sudan grass, thought I could get it up, I got one irrigation, got up about that high, and that was that.

Seney: A few inches high.

DuBois: Yeah.

Seney: Is this fodder, animal feed, pasture?

DuBois: Yeah. That’s the only thing I could do that year. And then of course ‘93 was a hundred percent year, and so I saved the water and

planted winter rye. It came up in great style, and we irrigated it this year a little bit and foraged it off.

Seney: By “foraged off” you mean animals would eat it?

DuBois: We put about forty cows in there . . .

Seney: You leased that to someone to feed their cattle on there?

DuBois: Right. And so that was the extent of our agriculture this year. So there’s been an attempt this year by all of the Truckee Division folks to get some provisions for upstream storage. As you probably know, we tried to do an exchange agreement with the United States. I approached the T-C-I-D Board in June, kind of as a spokesperson, I guess, and said basically, “The Truckee Division’s remaining water is sitting over in the reservoir. We would like to have that water dedicated . . .”

Seney: Is that Stampede?

DuBois: No, in Lahontan. It’s already gone by. It was diverted and it’s already over there. We didn’t get to use it, because the flow in the Truckee River is to zero—there’s nothing to divert. So I said, “We need to work an exchange, and after all, if we released 130,000 acre-feet for the *cui-
ui* from Stampede and the reservoir was originally constructed for drought purposes, drought relief, and then later dedicated for

fishery use, it would seem reasonable that you would exchange that water for release out of Stampede so that we can have as much water as the Carson Division's receiving this year. We're basically going to have a twenty-eight percent year. (Seney: Yeah.) So the Bureau was approached, they thought it was a good idea, until the Pyramid Lake Tribe was contacted, because of endangered fish, and they said "no."

Seney: What would have happened? You would have released a block of water out of Stampede, (DuBois: Yes.) brought it down and . . . (DuBois: Irrigated the Truckee Division.) Truckee Division, and then next year you would have (DuBois: Diverted 5,000 acre-feet less.) And that would have been a payback. (DuBois: That's right.) But they wouldn't go for that. (DuBois: That's correct.) Why not?

Recoupment Issues

DuBois: Robert Pelcyger, the tribe's attorney, indicated that because of the difficulty getting the district to repay previous releases and other various matters (Seney: Recoupment, for example.) Refusal to just talk about recoupment. And basically, I think just ongoing legal battles.

Seney: Well, there's 21,000-plus acre-feet at issue in previous exchanges, isn't it?

DuBois: Right. It was released in 1989, by a peculiarity

of a court decision, or a court order.

Seney: Well, the District Court said you could have it, the water's released, they go to the Circuit Court, the Circuit Court says, "Oh, no, no, no, you can't have that water." (DuBois: "You have to pay it back.") "You have to pay it back, and you haven't paid it back."

DuBois: Yeah, so there's a dispute going on right now involving the Pyramid Lake Tribe, Bureau of Reclamation, and the district as to whether or not it must pay back and how much.

Seney: So the district's view is, "We don't have to pay that back."

DuBois: The district agreed to pay it back, and then in 1993, they *felt* they paid it back. BoR said, "No, you haven't paid it back," I believe—now don't quote me. (Seney: Sure.) Pyramid Lake Tribe says, "You only paid back 4,000 acre-feet," or maybe it's the Bureau that says "you only paid 4,000." But anyway, there's a dispute going on, because as you recall in '93 there was (Seney: Plenty of water.) plenty of water. So because of the complexity of all these agreements in place, it takes four Philadelphia lawyers to figure out whether or not it *was* paid back. So because of that and other ongoing disputes between Pyramid Lake and the district through the years, they just (unclear) and said, "No, we're not going to get involved in another payback," or another loan and payback, or whatever it might be deemed to be. So I kind

of

Seney: Do you think they're putting a little pressure—"they" meaning the Pyramid Lake Indians—are putting a little pressure on you guys to discourage you from farming (DuBois: Oh, I think so.) and give up those water rights? (DuBois: Yeah.) It's not in their interest to encourage you to continue is it? You look kind of discouraged when I say that. Are you a little discouraged?

DuBois: Well, you've got to be discouraged. I mean, what the heck, you're just trying to get along and live a normal life, and then to have somebody come along twenty-seven years after you made a decision to do something and start making life miserable for you, it *is* discouraging.

Seney: And it affects your wealth.

DuBois: Well, yeah, substantially.

Seney: I don't know what that's worth now.

DuBois: That's true, I mean, you feel that if you say, as an example, the land is assessed and you pay taxes on the basis that it's water-righted land and irrigated and so on. And now, with all these threats, it's certainly going to diminish the value of the land.

Seney: I'm not interested in dollar amounts, but I would be curious about percentage amounts.

What do you suppose the difference between that acreage you own, is, if that water right were secure; and now that it's uncertain, what percentage are we talking about, of loss, here?

Land Values with and without Water Rights/Current O&M Charges for Water on the Newlands Project

DuBois: Somewhere between . . . I haven't looked at it from a percentage standpoint, but if you say you have thirty-six acres, just looking at land value, that's worth, as water-righted acreage, currently it's assessed as \$3,000 an acre.

Seney: So you're talking hundreds . . .

DuBois: I am paying taxes on it as thirty-six acres of water-righted acreage, and I don't have a full thirty-six acres of water rights—I don't know exactly what they are, I think they're twenty-seven acres or something like that.

Seney: A little more than \$100,000.

DuBois: Yeah.

Seney: And what would that be worth in this uncertain time, do you think?

DuBois: Probably half of it, I imagine. So in my mind, that's a hundred percent reduction in value there. You know, if you say, "Well, because of the uncertainty of water deliveries, it's basically non-water-righted, probably worth half of that, I

don't know.

Seney: What do you think the future is going to bring?

DuBois: Water will be more expensive, one way or the other. Currently we're paying \$6.22 per acre-foot for the water, under the current O&M [operations and maintenance] charges assessed by the district. It quite likely will be twice that, or perhaps three times that, maybe next year—either as a result of additional legislation, or negotiated constraints put in place, or rules and regulations adopted by Bureau of Reclamation. This can only be inflationary in terms of the sale price of products. It'll be a component of a squeeze play on the farmer. You'll have reducing commodity prices coming down on the one hand, and production costs is coming up on the bottom. So they're going to be caught in a squeeze play. So it's not going to be easy.

“One should recognize that there are not too many large, full-time farmers on this project. And through the years, those numbers are dwindling. The land is being subdivided: it has a higher value and a higher use. . . .”

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“. . . I think under constitutional rights and those

sorts of things that if a landowner only has five acres of water-righted land, and he wishes to have five acres of alfalfa, he has a constitutional right, if he elects to do that, to farm those five acres.

And the Federal government ought not to determine that that's not an economical farm unit.

. . .”

But I think under constitutional rights and those sorts of things that if a landowner only has five acres of water-righted land, and he wishes to have five acres of alfalfa, he has a constitutional right, if he elects to do that, to farm those five acres. And the Federal government ought not to determine that that's not an economical farm unit.

Seney: They shouldn't have changed the rules, in other words.

DuBois: That's right. I think everybody in the valley feels very strongly about that. There's been some discussion about hobby farming and those kinds of things that came from the Nature Conservancy, basically, David Yargas⁷ and folks like that, too many hobby farms here, and maybe they shouldn't be farming. But I mean, you have to recognize that when a person retires and has fixed income that may not be sufficient to maintain a reasonable lifestyle, that if he has an opportunity to produce five acres of alfalfa and sell that a year, that helps. And why take

7. Reclamation's oral history program includes an interview with David Yargas.

that away from a senior citizen? And I feel pretty strongly that way myself.

Seney: And again, there's a quality of life matter there too, isn't there? I mean, there's going to be a great deal of satisfaction out of farming that five acres. It's a manageable size and something to do.

DuBois: Maybe the guy raises high-priced Arabian horses and five acres of alfalfa is enough to take care of those horses. Maybe he realizes \$50,000, \$60,000, \$70,000 a year from his horse operation, and you can't say that a five-acre operation is not economical. (Seney: Yeah.) A dairy operation: most of these dairies buy their feed to augment what they grow. So say you have a 200-cow dairy with a ten-acre alfalfa patch attached to it, that's not a hobby farm. It helps cut his costs. So I think you'll find as this thing unfolds that these people are going to take issue with this, and rightfully so.

But anyway, I see it's not making it easier for these farmers, any way you want to look at it.

Seney: The political wind is blowing against them?

“There's a lot of money being paid to get the water moved upstream one way or another. . . .”

DuBois: That's right, it's blowing against them. There's a lot of money being paid to get the water moved upstream one way or another. Reno will

be a Las Vegas thirty years from now—houses all over the place up there—and the water resources are just not here. Speaking as a scientist, you might see that Lake Tahoe may never spill water in thirty years, again. I mean, all one has to do is look at the trees that are down there, and the history that’s happened.

“And so in . . . development of the TROA . . . if the government is sincere in meeting its obligations under the contracts it has with the water users in this project, it ought to figure out a way during severe drought conditions to make water available to the Truckee Division, just as it is available to those on the Carson Division. And regardless of endangered species requirements and those kinds of things. I mean, they have a contractual obligation here. They’re not honoring it . . .”

So getting back to the Truckee Division example, in my mind, I’m saying there is no upstream for the Truckee Division now, and may never be. And so in these upcoming TROA [Truckee River Operating Agreement] negotiations and development of the TROA and those sorts of things, if the government is sincere in meeting its obligations under the contracts it has with the water users in this project, it ought to figure out a way during severe drought conditions to make water available to the Truckee Division, just as it is available to those on the Carson Division. And regardless of endangered species requirements and those kinds of things. I mean, they have a

contractual obligation here. They're not honoring it . . .

Seney: Well, listen, I really want to thank you. The tape's about to run out here. I really want to thank you for spending this time, and I may come back and see you again.

DuBois: Feel free to do that.

Seney: Especially when this next phase of negotiations are over. I really appreciate it. Did you want to say one more thing?

DuBois: No.

END SIDE 2, TAPE 2. AUGUST 26, 1994.
END OF INTERVIEW.