ORAL HISTORY INTERVIEW

WILLIAM BETTENBERG

♦ ♦ ♦ ♦ ♦ ♦

STATUS OF INTERVIEW:
OPEN FOR RESEARCH

♦ ♦ ♦ ♦ ♦ ♦

Interview Conducted and Edited by:
Donald B. Seney, Emeritus
California State University-Sacramento
For the Bureau of Reclamation's
Newlands Project Oral Histories

♦ ♦ ♦ ♦ ♦ ♦

Interview conducted–1994
Interview desktop published–2009

Oral History Program
Bureau of Reclamation
Denver, Colorado

SUGGESTED CITATION:

Bettenberg, William, ORAL HISTORY INTERVIEW. Transcript of tape-recorded Bureau of Reclamation Oral History Interview conducted by Donald B. Seney. Edited by Donald B. Seney and desktop published by Brit Allan Storey, senior historian, Bureau of Reclamation. Repository for the record copy of the interview transcript is the National Archives and Records Administration in College Park, Maryland.

Record copies of this transcript are printed on 20 lb., 100% cotton, archival quality paper. All other copies are printed on normal duplicating paper.

Table of Contents

(INTENTIONALLY BLANK)

STATEMENT OF DONATION
OF ORAL HISTORY INTERVIEW OF
WILLIAM D. BETTENBERG

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, WILLIAM D. BETTENBERG (hereinafter referred to as "the Donor"), of WASHINGTON, D.C., do hereby give, donate, and convey to the National Archives and Records Administration (hereinafter referred to as "the National Archives), acting for and on behalf of the United States of America, all of my rights and title to, and interest in the information and responses (hereinafter referred to as "the Donated Materials") provided during the interview conducted on DECEMBER 5, 1995, at RENO, 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.

   b. The Archivist may, subject only to restrictions placed upon him by law or regulation, provide for the preservation, arrangement, repair, and rehabilitation, duplication, and reproduction, description, exhibition, display, and servicing of the Donated Materials as may be needful and appropriate.

   c. For Donated Materials with restrictions, the National Archives will provide access to the Bureau of Reclamation, if the Bureau of Reclamation presents written permission of the Donor specifying the types of information and proposed uses of said information.

4. Copies of the Donated Materials that do not have Donor restrictions on their use, may be deposited in or loaned to institutions other than the National Archives, including the Bureau of Reclamation. Copies of unrestricted Donated Materials may also may be provided to researchers. The Bureau of Reclamation may retain copies of tapes, transcripts, and other materials if there are no Donor restrictions on their use, and Reclamation may obtain copies of tapes, transcripts, and other materials at the time that Donor restrictions on the use of the materials ends.

5. The Archivist may dispose of Donated Materials at any time after title passes to the National Archives.

Date: 12/5/95

Signed: Wm D Bettenberg
WILLIAM D. BETTENBERG

INTERVIEWER: DONALD B. SENEY

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

Date:_____

Signed:_____
Archivist of the United States

Introduction

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

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

In the case of the Newlands Project, the senior historian consulted the regional director to design a special research project to take an all round look at one Reclamation project. The regional director suggested the Newlands Project, and the research program occurred between 1994 and signing of the Truckee River Operating Agreement in 2008. Professor Donald B. Seney of the Government Department at California State University - Sacramento (now emeritus and living in South Lake Tahoe, California) undertook this work. The Newlands Project, while a small- to medium-sized Reclamation project, represents a microcosm of issues found throughout Reclamation: water transportation over great distances; three Native American groups with sometimes conflicting interests; private entities with competitive and sometimes misunderstood water rights; many local governments with growing water needs; Fish and Wildlife Service programs competing for water for

endangered species in Pyramid Lake and for viability of the Stillwater National Wildlife Refuge to the east of Fallon, Nevada; and Reclamation's original water user, the Truckee-Carson Irrigation District, having to deal with modern competition for some of the water supply that originally flowed to farms and ranches in its community.

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.

Brit Allan Storey
Senior Historian
Land Resources Office (84-53000)
Office of Program and Policy Services
Bureau of Reclamation
P. O. Box 25007
Denver, Colorado 80225-0007
(303) 445-2918
FAX: (720) 544-0639
E-mail: bstorey@.usbr.gov

Oral History Interview

William Bettenberg

Early Life and Education

Seney: This is December 5, 1995. My name is Donald Seney. I'm with William D. Bettenberg, the deputy director of the Office of Policy and Analysis for the Department of the Interior, and we're talking in Reno, Nevada. This is our first session, and this is our first tape.

Good afternoon, Bill.

Bettenberg: Good afternoon.

Seney: Why don't you just begin by giving us your birth date and where you were born, and a brief, not too brief, biography of how you got to these responsibilities.

Bettenberg: First off, these days I'm the Assistant Director of the Office of Policy Analysis. As part of our streamlining, in most of the offices of the secretary, we did away with deputy directors and changed responsibilities around a little bit.

Let's see. I was born in Inglewood, California, in 1940.

Seney: What's your birth date?

Bettenberg: March 18th of 1940. And grew up mostly in the state of Washington, went from grade one through twelve to school in Richland, Washington.

Seney: Was your father working for Boeing?

Bettenberg: No, for the Hanford Project.

Seney: Oh, of course. What am I thinking. Right.

Bettenberg: My father passed away in June of this year, but my mother still lives in Richland, and he did up until that time.

Went to college at the University of Washington, majored in political science. I did a bachelor's and a master's degree there between 1958 and 1964, and then I went back for another school year as a National Institute of Public Affairs Fellow in the Public Affairs School, studying natural resource policy.

Seney: What year was that?

Bettenberg: That was 1969-70 school year.

I went to work for–

Seney: Let me ask you. What drew you to that program?

Bettenberg: The National Institute of Public Affairs Program?

Seney: Right. Obviously this is something you applied for.

Going to Work for the Bureau of Mines

Bettenberg: Yes. I had gone to work for the Interior Department in the Bureau of Mines in 1964, directly out of college. I had applied to the government, almost as an afterthought, if you will. Matter of fact, I was offered a job through that process by the Bureau of Reclamation on the Columbia Basin Project, but I had applied under what's now referred to as the Presidential Management Intern Program. It was some sort of a management intern program at the time, which was considered to be highly competitive. [I][1] passed the written exam and passed through the oral process and had a number of offers that immediately came flooding in from different government agencies. The Bureau of Mines was the only one that actually said that they would put me to work directly on a project. Everybody else wanted to put me into a rotational administration training program

1. Brackets indicate information inserted by the editors.

for two years. Having been in college for six years at that point, almost continuously, right through the summers and so forth, I was ready for something other than a training program, and the Bureau of Mines offered to put me to work designing computer systems, which was kind of interesting, because I told them that I'd seen a computer once through a window of a bank in downtown Seattle.

Seney: This was a very new field at that time.

Bettenberg: It was a very new field, and they said that I probably knew about as much as most people entering the field at that point, outside of electrical engineering, electronics, or that sort of thing, and that I'd learn it.

So I went to work, initially adapting a Bureau of Reclamation payroll system for use by the Bureau of Mines and the Bureau of Outdoor Recreation, and then leading a team to design an accounting system for the Bureau of Mines and ultimately several other agencies. Shifted from there back to D.C. I had started out in D.C. for something like eight months, moved to Denver, then went back in the budget business, and then moved on to the policy shop in the Bureau of Mines.

Returning to the University of Washington

As I was doing these things, I recognized that having designed one major administrative system in what I personally would describe, and I guess a lot of other people would describe, as really well, that it would be really boring to do another one. I wanted to do other kinds of things, and as I got into mineral policy issues, budget policy, and that sort of thing, I concluded that I really liked what the Interior Department did. I was beginning to see that for the first time, and that I had a generalist political science background, I was well trained for budget, matter of fact, academically, and for congressional dealings and that sort of thing, but not really in natural resource policy.

A brochure came around the office providing notification that the National Institute of Public Affairs was accepting nominations for the next school year. I asked the Bureau if it would be willing to sponsor me and ultimately they said yes. I put down three schools that offered a natural resource policy curriculum, and for whatever reason, they sent me back to the University of Washington for another school year. So that was why I ended up doing that.

Seney: And you had a master's degree in that year.

Bettenberg: I didn't get a second master's degree. I got a master's degree in political science back in '64. It was a non-degree certificate program. Matter of fact, one of the really nice things about it was that it was pretty free form. I could take about anything that I wanted, and so I took a full credit load as a graduate student, taking natural resource economics and natural resource policy courses and public policy courses and that sort of thing, and then I audited a second full load, took things like modern European fiction and Scandinavian drama and things like that. So it was a very good year.

Joining the Staff of the Assistant Secretary for Program Policy

About two years, year and a half, after completing that program, I was asked to join the staff of the Assistant Secretary for Program Policy.

Seney: This would be about 1972.

Bettenberg: This is would be right at the beginning of 1972, January, right at the beginning of January of '72. The department had abolished its old program budgeting system office, PBBS. You might have run across it.

Seney: Right.

Bettenberg: And had gone through a budget phase in developing the budget without it, and it had dawned on people that there was no policy input to the budget at all. So I was basically hired to correct that and to add a policy quotient, if you will, to the budget development process.

Seney: Sounds like a pretty important job.

Bettenberg: Well, it was a staff assistant type of job. I don't remember what my title was; it was probably program analyst or staff assistant or something like that.

Seney: Well, whatever the title is, it sounds like a pretty important assignment.

Bettenberg: Well, it was an important assignment, yeah. Matter of fact, during the fall of that year, I wrote a series of papers. Matter of fact, Austin Burke [phonetic] contributed a couple to the series, titled *Policies for the Mid-Seventies*. It was basically kind of a road map of some areas that I thought the department should pursue. It covered a number of themes, some bureaus. It proposed some major reorganizations, the creation of the Mine Enforcement Safety Administration out

of the Bureau of Mines, tackling the energy problem, creating an Office of Energy Data Analysis, an energy conservation program.

Rog [Rogers C.B.] Morton [Secretary of the Interior] picked up a very large part of that. That was the initial federal step that is now the Department of Energy's conservation program, for instance. We started it, got the first few million dollars for it, and then moved it on the Federal Energy Office when it was created, and then the Federal Energy Administration. The Office of Energy Data Analysis became the energy data arm of the Energy Department.

At the beginning of '74, I moved over as the deputy director of the department's budget office. Actually, I was detailed over there during the fall of '93.

Seney: This is for the whole Department of the Interior.

Bettenberg: This is for the whole Department of the Interior.

Seney: Sounds to me like you're moving pretty quickly up the ladder.

Moving up in the Department of the Interior

Bettenberg: Yeah, I moved very fast from a promotional standpoint in the department. To the best of my knowledge, I was the youngest supergrade in the department at that point. I would have been thirty-three, I guess, when I was a GS-16. Probably a lot of serendipity in that. Also, I think, one of the factors working at that time was that there was a large number of federal retirements through that period. A lot of people who had come to work in the government in the early to mid- and even late forties were reaching retirement age, and there was a lot of opportunity during that period for younger people.

Deputy Director of Budget for the Department of the Interior and Other Responsibilities

As the deputy director of budget, I was responsible for, amongst other things, budget formulation for the department, and so during the two previous years, and then through the next series of years, I was working kind of on issues across the whole spectrum of department-wide responsibilities. Dennis Dint [phonetic] was the Acting Assistant Secretary for what was then Energy and Minerals, during the natural gas crisis of 1977, was the coordinator for the department for those missions that were spun off to the Energy Department and Federal Energy Office and

Administration, kind of through the mid-seventies. I was [Secretary of the Interior] Cecil Andrus' [phonetic] point person for the creation of the Energy Department, did a lot of testifying on the natural gas crisis, because the Conservation Division of the Geological Survey that was responsible for all the oversight of federal oil and gas wells came under my jurisdiction at that point, as well as being the go-between between Andrus and Don Hodel, who didn't appear to be on speaking terms, but Hodel was still the administrator of Bonneville at that point.

One footnote, I was shanghaied to do the public hearing on Auburn Dam during that period. That was the period of the water hit list.

Seney: During the [Jimmy] Carter administration.

Bettenberg: During the Carter administration. Andrus was the only political appointee at that time, and they were setting up all these hearings, and he could only go to one or two of them, and so people who were in acting capacities, who were usually senior career persons, drew straws to see where they went. My straw was Auburn Dam in Sacramento.

Seney: And obviously you were assigned to reflect the administration's policy here, whatever your own views may have been.

Bettenberg: Well, actually, it was just a hearing. It was just to take testimony, get views, and so forth.

Seney: Rather than your giving testimony.

Bettenberg: Right. Had to do a lot of that on natural gas, but not on this particular issue.

Brief Assignment in the Energy Department

In '78, I did what I've since referred to as a cameo appearance as the budget director of the Energy Department. That didn't work out well, and I was back over in the Interior Department in a couple of months.

Seney: I'm duty bound to ask why that didn't work out well.

Bettenberg: Oh, a whole bunch of things. It was during the Schlesinger-O'Leary period, and kind of the name of the game at that point was shoot messengers.

Seney: So this is the end of the [Gerald] Ford administration, beginning of the Carter.

Bettenberg: No, this is mid-Carter. They had created the Energy Department in late '77, and hired a fellow that I respected a lot as their comptroller in maybe about March of '78, by the name of Jerry Miles, and he was one of the handful of budget directors around town that I thought that I could learn a lot from. He asked me to come over. He had come from the Ag[riculture] Department, where he had been the budget director. He asked me to come over and be the budget director under him. Actually, the very first weekend I was there, I concluded that the culture that Schlesinger had created was going to be very, very destructive of everybody in the process.

Seney: This is James Schlesinger.

Bettenberg: Yeah.

Seney: Who's been [Department of] Defense Secretary and CIA [Central Intelligence Agency] director and so forth.

Bettenberg: Yeah. The first two weeks I was there, I sat in a morning budget briefing that started seven or eight o'clock, and sometimes went as long as until noon. He decided, for his first budget, he was going to take personal charge of this and hear out all the programs, and it was really slash and burn. There was no sense that

he was pulling people together as a new department. He was basically destroying anything that was there.

But at any rate, by the end of August, they had called in Miles and told him that they suspected it was more their fault than his fault, that things hadn't quite jelled, and they would like him to move on, and on his way out take his budget director with him. So the next week he was back in the Ag Department, I was back in Interior. Fortunately, we both had a number of opportunities available to us in our previous departments.

Returning to the Department of the Interior as Budget Director and Other Responsibilities

January '97, I moved up as budget director in Interior. The previous director retired.

Seney: January of–you said '97.

Bettenberg: Of '79. In the fall of '81, I moved up to deputy assistant secretary covering policy, budget and environmental affairs, during the period when they still had career deputy assistant secretaries.

Seney: This would have been under the [Ronald] Reagan administration.

Bettenberg: This would have been under the Reagan administration, Jim Watt [was Secretary of the Interior]. In that capacity, I was dealing not only with budget issues, going through some of what they're going through right now, you know, the downsizing in the first Reagan budget, for instance, but also working on policy responsibilities related to the Office of Policy Analysis where I am now, and environmental kinds of issues with the Environmental Project Review shop.

Serving as Acting Director of the Minerals Management Service

One of the highlights during that period was that I was the department's coordinator for the Lennos [phonetic] Commission on coal fair market value. Also, had a fair amount to do with setting up the Office of Minerals Management, and did a stint as the acting director of that while they were searching for a political appointee in 1982, I guess it was.

Bill Clark became secretary [of Interior] in the fall of the year, and, in December, asked me to move down and become director of the Minerals Management Service. At the time, there was quite a scandal going with regard to–I guess at the time the scandal hadn't really started in earnest, and Clark obviously knew

more than I did at that point, but there was the possibility that one or two high Interior officials might even be indicted.

Seney: These would have been political people?

Bettenberg: Political appointees. One of them as the deputy director and acting director of the Minerals Management Service, and the other was the deputy assistant secretary, and, I guess, acting assistant secretary, in what was then Energy and Minerals.

But I had been dealing with Clark on budget issues and on offshore oil and gas leasing issues. He apparently felt that he needed a career person to go in and clean up the act at the Minerals Management Service, and was an amazing nonpartisan individual, anyhow. So I'm not sure that I know where he would have looked if he had decided that what he needed was a Republican appointee for this. I suspect that he didn't have any idea where he might have looked for it, but he was very close to Reagan, cleared me in a day at the White House, and put me into the job. I was there until 1990.

Seney: As head of the Minerals Management Service.

Bettenberg: Well, I was head of the Minerals Management Service for about five years. In the fall of '88, with the Reagan years coming to an end, and Hodel planning to depart [he] wanted to put a political appointee in as the director, and asked me to step down. I was offered a variety of assignments, and said that I'd really like to stay with the Minerals Management Service and run the offshore program. There was a vacancy there. So I stayed there another year and a half. The political appointee that had been put in, Bob Coleman [phonetic], was expected to be confirmed again by the new administration.

Seney: The [George] Bush administration.

Bettenberg: The Bush administration. They surprised everybody by naming a fellow by the name of Barry Williamson. One of his claims to fame was that he was the son-in-law of the biggest donor to the campaign.

Seney: I guess a lot of people thought that might have been his qualification.

Bettenberg: And he had some ties to the oil industry. He was uncomfortable having the former director and so forth around.

Seney: Meaning you.

Bettenberg: Meaning me. And so we went into an extended process of trying to land a suitable assignment for me.

Joining the Senior Executive Service

Seney: Now, let me ask you at this point, forgive me if I've got the terminology wrong here. Are you a member of the Senior Executive Service (SES) at this time?

Bettenberg: I am, yes.

Seney: How long have you been a member of that?

Bettenberg: I'm a charter member.

Seney: When did it begin?

Bettenberg: It began in, I think, '79.

Seney: So this means that you were sent around from assignment to assignment, and it doesn't lower your salary or your grade, or whatever that is.

Bettenberg: Right. I've probably been far more mobile than most within the Interior Department, certainly, in the Senior Executive Service.

Seney: Well, it sounds kind of interesting.

Bettenberg: I've enjoyed it.

Seney: I mean, you know, it's kind of a privileged position.

Bettenberg: It's been a fun career.

Seney: Yeah, I would think.

Becoming a Special Assistant to Secretary of the Interior Manuel Lujan

Bettenberg: What we decided in early 1990, was that I would work as a special assistant to Manuel Lujan.

Seney: The Secretary of the Interior.

Bettenberg: The Secretary of the Interior, reporting in the main to Lou Gallegos, who was the Assistant Secretary for Policy Management and Budget, I guess it was still called then, and that I would be given just a series of special assignments during the year, and sometime in the future we would look for something that was a more permanent arrangement.

Seney: This didn't bother you or trouble you? This was the way the game works?

Bettenberg: Well, this is the way the game works. When I took the minerals management job as director, I told myself and told my wife that this is not the job that you retire in. You will be moved from here either for cause or for reasons that have nothing to do with you whatsoever, and it could be any of those or all of those.

Seney: But you liked that job a lot.

Bettenberg: I liked the job a lot, yeah, and I liked running the offshore program. Actually, departing from that program in the Minerals Management Service turned out to be a lot harder than I had expected it was. Moving from director to the associate director for the offshore program was quite easy. I had anticipated, with the new administration coming, I would be shifting to something anyhow, but I had a fantastically good staff. I had been basically present at the creation, had done everything from set the policies, staff it the way I wanted to, I designed the original organization of it, even specified what the seal would be for the organization. So leaving the offshore program was difficult.

Seney: So you had a little sense of parentage here, obviously.

Bettenberg: Yeah, a lot. But fortunately, I had good projects to work on. I was given an oversight role for the department on the Presidio transfer from the Army to the Park Service. I was asked to write some policy papers on general Indian policy, picking up on some things I had written back in 1972, matter of fact.

Seney: Excuse me Bill, is that uncomfortable, that light?

Bettenberg: No, that's fine.

Becoming Involved in the Newlands Project Controversies

Kind of in the ashes that followed the February hearing on Truckee-Carson.

Seney: February 1990 hearings?

Bettenberg: February 1990 hearings, was asked to take the lead assignment for the department on the Truckee-Carson-Pyramid Lake legislation, and that's how I got into this.

Seney: All right, good. Let me ask you in detail, because when I spoke to you on the phone, and you, of course, as we both know, urged me to read the testimony from those hearings,

which I have read, especially Assistant Secretary [John] Sayre's testimony, which was very unfortunate, to put it mildly.

Bettenberg: I have never read that.

Seney: Is that right?

Bettenberg: Matter of fact, one of these days I've got to go back and read that.

Seney: Well, I'm sure you must know this, because, as you know, I've interviewed Betsy Rieke, who was the Assistant Secretary for Water and Science, who didn't quite exactly succeed Sayre, but had his position after he did, and I know she prepared thoroughly for–

Bettenberg: Oh, she directly succeeded him.

Seney: Oh, did she directly? Okay. I know she prepared thoroughly for her hearings, and you must have assisted in that preparation–

Bettenberg: Yes. Yes.

Seney: –knowing full well that Sayre had bombed, and that your new boss had better not bomb.

Bettenberg: Yes.

Seney: It's interesting, you have told me that you didn't really know all the details, and obviously, as you say, you haven't read the testimony, so I'm kind of curious when I take it Secretary Lujan maybe calls you in, or the number-two person calls you in and says, "Bill we want you to handle this," what happened during that conversation, do you recall how that assignment was given?

Bettenberg: I don't recall it being an extensive conversation. It was with Lou Gallegos, and he said, "One of the things we want you to handle is the Truckee-Carson. That's not been handled well, and there was a congressional hearing at the beginning of the month." This was at the end of February. "There was a congressional hearing that didn't go well at all, and you need to pick up the pieces and figure out what to do with this, and we have no preconceived notions at this point."

Seney: That was essentially your assignment?

Bettenberg: That was essentially the assignment.

Seney: Let me turn this over.

END OF SIDE 1, TAPE 1. DECEMBER 5, 1995.
BEGIN SIDE 2, TAPE 1. DECEMBER 5, 1995.

Bettenberg: I think that it's fair to say that the department didn't have the slightest idea what to do at that point. I doubt that they put any great stake in me resolving this, but they had to do something different, was the feeling.

Seney: If I may, and you were kind of the man to be given special tasks, since you are now, in this special task business..

Bettenberg: Right. I'm in the special task business, right. For instance, a couple of months later, I was handed the task of negotiating the first self-governance compacts between the department and Indian tribes, under self-governance legislation.

Seney: Get Bettenberg in here, right?

Bettenberg: Somebody needed to do it. At that point I was beginning to establish some track record on the Truckee-Carson, and I think that that increased their confidence in me with regard to that.

Seney: Tell me how you got started on the task. I guess it's, what, the number-two man is the deputy secretary in the Interior, Gallegos?

Bettenberg: He was Assistant Secretary for Policy Management and Budget.

Seney: Okay. Good. How do you get started on something like this?

Getting Started on the Newlands Project: Learning a New Area

Bettenberg: Well, let's see. I read Senator [Harry M.] Reid's bill.

Seney: Just the bill?

Bettenberg: Just the bill.

Seney: You must be pretty good at reading legislation by this point, I would think.

Bettenberg: I've done a lot of that. I've written a lot of legislation. I visited with a few of the key players in interior, just to talk about what are the issues, and how do you go about this, and so forth, talked to [Fred] Disheroon over at [Department of] Justice, after I discovered that he was the attorney dealing with this, talked to Wayne Mehl;[2] went up and chatted with Tom Jensen[3] to find out what was going on, and went over to OMB [Office of Management and Budget] and talked to them to get their

2. Legislative aide to Senator Harry Reid.
3. Chief Counsel, Subcommitte on Water and Power of the U.S. Senate Committee on Energy and Natural Resources.

perspective on what's going on here, what's all this about, so forth. I had dealt very extensively over the years with OMB, and so I've always had a pretty ready entre over there. I talked to Jim [James P.] Bierne–

Seney: Jim Bierne being–

Bettenberg: Jim Bierne was the principal minority counsel.

Seney: On the Senate side.

Bettenberg: On the Senate side. Made a trip out here.

Seney: Let me ask you. I take it when the assistant secretary tells you, "I have a congressional hearing that went the wrong way here and I've got a lot of problems," that would lead you, I would think, immediately to go to the congressional staff people to get your bearings on what went wrong there. Would that be a natural sort of investigative progress for you?

Bettenberg: Yes.

Seney: Knowing that there were congressional problems?

Bettenberg: But I really didn't dwell on what happened at the hearing.

Seney: You were interested in the substance of the issues.

Bettenberg: I was interested in the substance of the issue and where do we go from here.

Seney: Do you remember your reaction as you begin to take in the information about this and what your thoughts might have been as you began to accumulate knowledge about this?

Bettenberg: Yeah. By early April, I thought that I had figured out what the department's problem was with this. It was really a combination of two things, I think. One was kind of the historic deference and defensiveness of the Bureau of Reclamation in favor of irrigators, and the second part of it was a major concern that, what, twenty years before, they had built Stampede Dam and Reservoir, and still had never gotten a penny for it. It had been built as a multipurpose project that had then been shanghaied, in their eyes, and dedicated to endangered species exclusively.

Seney: "Their" again being the Bureau of Reclamation.

Bettenberg: Being the Bureau of Reclamation. I remember going in on a Saturday and meeting with, I guess we had the assistant secretary

and a deputy, and maybe one other person in PMB, Gallegos and some of his crew, and talking them through the legislation and how I thought the department could get on board with it, and what needed to happen to do that. They seemed quite taken with the approach.

The following week I went down and visited with John Sayre, and told him that I thought probably the key on this one was compensation for the dam. I said–I'm just paraphrasing here; my memory is not remotely the type where I can quote conversations–I basically said, "John, as best as I can figure it out, from the prepared statement for the hearing and everything else that's gone on here, there are several hangups here on this legislation. The first is that we are not getting any money for this reservoir."

"Yeah," he said, "spend all this money, you've got this reservoir, and we're getting nothing for it."

I said, "Well, yeah, how long have we gotten nothing for it?"

"Since it was built."

I said, "Yeah, that was 1970–'69, '68, someplace back in there." I said, "It's been

over two decades we haven't gotten any money for it. If we don't have this legislation, how much do you think we're going to get for it?"

He said, "Well, nothing's going to change, I guess."

I said, "Well, that's the way I figure it, too. Nothing's going to change. We've already written this thing off. We're never going to get any money for this. What if I told you that I think that the key to it is charging Sierra Pacific [Power Company] for storage under the preliminary settlement agreement, and getting a good healthy amount of money for that?"

He said, "That'd be terrific." He said, "I could buy that."

One of the key issues with OMB was that they didn't feel that there was enough state cost-sharing, so I suggested that one additional element be added. The state was already willing to put up 13 million bucks. That, in addition to that, that they'd take responsibility in perpetuity for Carson Lake and pasture, because, otherwise, one of these days that was going to be a refuge, too, and we would be on the hook for the operation and maintenance

costs in perpetuity, and so forth. OMB bought off on that.

Who Should Pay for Irrigation Projects

Seney: Let me ask you here. When you talk to someone like Secretary Sayre and the people over at OMB and they're looking at the dam, in the case of Sayre, and the Carson pasture argument that you're able to make to OMB, are they reflecting a kind of fiduciary responsibility that these federal officials feel toward federal projects and federal responsibilities? Is there an equity sense here in terms of what the state should pay and what the feds should pay, and we shouldn't be the golden–"we" being the feds–be the golden cup here?

Bettenberg: Yes.

Seney: Am I getting this right?

Bettenberg: Very much so. That is especially strong in OMB, and has been probably the big theme in national water resource policy since the late thirties. The question of how much should you subsidize irrigation. The Newlands Project, a lot of it was written off. The part that was paid, was paid with no interest. You have people who come at it from an economic

standpoint, which I probably tend to do. I'm not an economist, but I've had a lot of economics training.

Seney: When you say coming at it from an economics standpoint, you mean the economic impact of the project?

Bettenberg: No, it's the question–you're looking at the economic impact of it, but who pays and who benefits? That's the main theme in all economic writing, I think, on water projects over the last forty, fifty years, and not only for the Bureau of Reclamation, but for the [U.S. Army] Corps of Engineers, and a tendency towards more and more local matches, interest rates more reflective of the market rates.

From an economist's standpoint, they would say that when you subsidize things you misallocate resources, and you put more into things than you should, and you take money from some people and give it to others, in effect.

From the environmental side, they latch onto these same economic arguments and add a moralistic tone to it as well. "Why are you taxing steel workers in Pittsburgh to subsidize agriculture in the Columbia Basin, when the government is already paying out billions of

dollars in price supports and so forth and so on? And by the way, these projects cause tremendous environmental damage." There some of the economists and the environmentalists kind of marry up and say that if you had your prices right and your allocations right and your costs right, and that kind of thing, then you'd have fewer of these and fewer environmental damages.

Seney: You get some of that here on this project with the Nature Conservancy's way of thinking, don't you?

Bettenberg: Oh, yes, and much more so EDF.

Seney: The Environmental Defense Fund.

Bettenberg: Environmental Defense Fund. You will get that with a more moralistic tone from the Sierra Club here.

Seney: I do want to ask you one more thing. Going back to Mr. Sayre and the OMB, the money would hang up the sound policy, I guess, is what you suggested to him by saying, "They haven't paid for it in twenty years. If we don't get this legislation which encompasses sound policy, we still won't get paid."

Recapturing Some of the Costs on the Newlands Project

Bettenberg: Yeah. We're going nowhere with this. Matter of fact, you'll notice in section 205D, that we just simply write off the debt on the project. There's no way that this project is ever going to pay out, but there is a means of collecting money, and there are benefits to be had by Sierra Pacific here, and we can tap into that for part of the storage costs.

I sold the department and OMB on putting the revenue above O&M costs into a special fund for the long term to help defray costs of the environmental restoration work on the wetlands and on Pyramid Lake.

Seney: Now, these were not elements that were in the bill before you became involved, I take it?

Bettenberg: No. No.

Seney: And this was your insight into getting the department to back the legislation, is, "This is what would have to be done."

Bettenberg: Right. How do you put together a package that we can sell.

Seney: Had you gotten from Tom Jensen, who was Senator [Bill] Bradley's staff person, Wayne Mehl, who was Senator Reid's staff person, that these two gentlemen, these two senators, really wanted this legislation?

Bettenberg: Oh, absolutely.

Seney: So you understood that there was pressure here–

Bettenberg: Yes.

Seney: –and the department better get on board with this or be–how did you feel? I shouldn't put words in your mouth.

Money for the Pyramid Lake Tribe

Bettenberg: Probably the issue that I was most uncomfortable with throughout the process was the amount of money in it for Pyramid Lake Tribe. If you go back and read the department's letters on positions that are included in the Senate report, there's a recurrent theme in there, that $40 million for an economic development fund is too much. That was a continuing problem right up to signature by the president, matter of fact, even post passage.

Getting the Agreement of OMB and DOI to Public Law 101-618: the Interstate Compact and the Preliminary Settlement Agreement[4]

I basically got the department and OMB on board with a set of concepts in April and very early May, and then came out here on a week-long trip with Fred Disheroon, one of our attorneys, a guy from the Bureau of Reclamation, and negotiated us into the interstate compact, bridged the remaining difference that had blocked that, and then negotiated us into the preliminary settlement agreement. That basically became our set of positions.

On the interstate compact, Section 204 of the act, basically we created a mechanism where, if the federal government had to go to California to get water for Endangered Species [Act] requirements, that there was a mechanism to do it, that it couldn't be thwarted, although it wasn't easy. That had been hanging it up for years, almost two decades.

4. Public Law 101-618, sponsored by Nevada Senator Harry Reid, passed Congress in 1990 and was signed by President George Bush. It contained two main sections: Title I–Fallon Paiute Shoshone Tribal Settlement Act, and Title II–Truckee-Carson-Pyramid Lake Water Rights Settlement Act. Senator Reid has been interviewed by the Newlands Project Series oral history program.

Seney: California's view was that the federal government should charge uses against the state in which they occurred.

Bettenberg: Yes.

Seney: And you needed to overcome that.

Bettenberg: We needed to overcome that, and we weren't willing to lock up California's allocations under this legislation, with no access if it became necessary. So that's what we took care of primarily in that negotiation.

Seney: Am I right in thinking that you've got a problem here with Pyramid Lake and California? Pyramid Lake Tribe doesn't think there's going to be enough water over time unless there's some access to California water.

Bettenberg: Well, in the United States, from an ESA, Endangered Species Act, standpoint.

Seney: Felt the same way.

Bettenberg: Felt the same way. We may have felt more strongly than the tribe did on that particular issue. Although it was just a very important issue. We couldn't do the legislation without that access, basically.

Seney: Right, and you needed to square up these interstate questions before the legislation was going to go anywhere.

Bettenberg: Right. It had failed between [Senator Paul] Laxalt and Reagan in the, what, 1970s.

Seney: '86.

Bettenberg: Then in '86 from a legislative standpoint again, it was kind of Laxalt's last hurrah.

Seney: And as a very powerful senator, and was not able to accomplish it.

Bettenberg: He was trying to get the president to sign the bill that the two had negotiated when they were governors, and Reagan had to take the position that it would be vetoed.

I remember at the end of the meeting–we did the meeting in, I think maybe it was a Public Utility District building up on South Lake Tahoe, on the Nevada side, I think. At the end of the session, David Kennedy looked up and said, "I think this is a historic occasion."

Seney: He was the Director of Water Resources for California.

Bettenberg: He was the Director of Water Resources for California.

Then I came back down here to Reno and met with Sierra Pacific and the Pyramid Lake Tribe, and we went through the preliminary settlement agreement, which mentioned the United States frequently, but the U.S. had not been a party to it. So we negotiated ourselves into that. There were things that we had to lay on as some requirements and resolve those. That gave the foundation, then, for the legislation to go forward.

Seney: On the preliminary settlement agreement and the department now coming into the preliminary settlement agreement, my understanding is–and please correct me if I have this wrong–that you didn't really do much to the preliminary settlement agreement.

Bettenberg: No, there wasn't much to be done.

Seney: It was kind of, I don't want to say ego, but it was kind of a matter of, and I don't want to say prestige, I'm fighting for the right word, but you had to say, "Gee, we've got to have a piece of this, and can we change this a little bit and that a little bit, and, okay, now we approve."

Bettenberg: It was almost more a matter of the boilerplate being wrong from a U.S. perspective, and we had to get that squared away. If we hadn't needed a change of word, I'd have been comfortable not changing a word, but we needed to change some words, but there weren't a lot of words that we needed to change. I had satisfied myself and the department that the basic concept in the preliminary settlement agreement was beneficial to us, and that we would buy into that.

Matter of fact, one of the first things I had done back in March of '90 was called Geological Survey and told them I needed a hydrologist pronto, full time, to go through the modeling and see just exactly whether this agreement was doing what it looked like it was doing. They detailed Ernie Cobb [phonetic] to me for about three months or so. He did a nice job on it.

Seney: Satisfied your concerns.

Sierra Pacific Power Company's Interests

Bettenberg: Satisfied my concerns there. I had an economist with the Office of Policy Analysis do an examination of Sierra Pacific and their portfolio and what their interests were.

Seney: When you say their portfolio, you mean–

Bettenberg: Who is this company? What's their interest in this?

One of the things I discovered was that obviously a large part of their interest probably dealt with real estate. They owned a company called, I think it was called Lands of Sierra. As a regulated public utility, they could only make a certain amount of money from water, but as a broader company with all sorts of interests, they had to be pretty interested in the long-term development of this region, and that showed in their negotiating positions, I thought.

Seney: But you were satisfied they were just doing what business corporations do to enhance their standing?

Bettenberg: Yes, I didn't see anything that told me that there was anything nefarious, that they were going to increase the value of a piece of property, like you hear about somebody who knows that a road is going to come through and buys it three days before they announce they're going to put a road through here, or a year before. I've heard those kinds of stories in the state of Washington, for instance. I

didn't come across anything that looked like smoking guns from that standpoint.

Seney: But you felt obliged to check it out first.

Bettenberg: Oh, yeah.

Seney: What made you do that?

The Department of the Interior Agrees to Public Law 101-618

Bettenberg: Well, we were talking about entering into agreements with these people, and I wanted to know what we were doing from a public policy perspective. Basically, by June we were on board with the basic concepts in the legislation, and working closely from then on with Mel, with Jensen, with Bill–

Seney: Condit?

Bettenberg: Condit, over on the house side, with Jim Bierne.

Seney: Now, when you mention Bill Condit, he, of course, was an assistant to Congresswoman [Barbara] Vucanovich, a Republican, Mr. Bierne's the minority counsel on the Senate side, and this is part of your general way of

operating, I take it, to involve both sides of the aisle?

Bettenberg: Yeah. I've never been partisan in my dealings. Part of the time that I was director of the Minerals Management Service, we had a Republican Senate. I was involved in high-level negotiations on California issues with Republicans and Democrats, including [Congressman] Leon Panetta, matter of fact. [Senator] Barbara Boxer was part of that California coastal negotiations in about–must have been '86, probably, '85, '86.

Seney: This would be offshore oil drilling?

Bettenberg: Offshore oil drilling off California.

It was actually useful to involve all parties. When Tom Jensen wanted to move a little further than I was comfortable with on something, I could go talk to Jim Bierne.

Seney: And have Jim help you put the brakes on Tom Jensen a little bit?

Bettenberg: Right.

Seney: That would have to be done, I would think, fairly tactfully and subtly on your part. You're sort of looking–the tape won't see the gesture

you just made, but you just sort of shrugged your shoulders and look–I would like, yes, of course, right?

Getting Public Law 101-618 Through the Congress

Bettenberg: Well, yeah, you have to deal with the people that are there and the cards you are dealt with. It was a Republican administration. This legislation would not pass with any congressional opposition in the Senate, because any senator could put a hold on it.

Seney: That's just the way it is with any piece of legislation.

Bettenberg: That's the way it is. Well, it's not true with any piece of legislation, but it was with this piece of legislation. This was not a big national–

Seney: Oh, I see what you're saying.

Bettenberg: –an issue of overriding national concern, where it might go down to the wire and you have a fifty-one to forty-nine vote, or the vice president comes in as a tie-breaker, or those kinds of things. This one effectively passed on the consent calendar in, what, probably the last thirty-six hours of Congress, through the Senate and the House.

Seney: Well, it was not even opposed in the Senate. It was on, as you say, the consent calendar, and no one objected, so I guess in the Senate, under the rules, it's automatically passed.

Bettenberg: In effect.

Seney: Do you have an insight into why it passed in that way? Because it was, as long as we're talking about this, it was moved out of an omnibus bill in the Natural Resources Committee, and tacked onto the Fallon Paiute-Shoshone Settlement Act in the Indian Affairs Committee at the last minute.

Bettenberg: Matter of fact, that's the only thing that made the Paiute settlement go, the Fallon Settlement go. The Fallon Settlement was, I believe, specifically introduced to be a vehicle for the Truckee-Carson Act. I've never talked to Wayne Mehl about that, but I guess I would detect his fine hand in that, and Senator Reid's fine hand in that. Reid was on that committee.

Seney: Right, the Indian Affairs Committee.

Bettenberg: The Indian Affairs Committee.

Just a little bit of background on that. In probably sometime in 1993, I had a conversation with Dan Beard.

Seney: Who was then Reclamation Commissioner.

Bettenberg: Who was then Commissioner of Bureau of Reclamation. Dan told me what a debacle the hearing had been, and he said that–

Seney: Now we're going back to the hearing to the Sayre hearing.

Bettenberg: We're going back to Sayre's hearing. His comment on that was, they had been approached by Harry Reid on this legislation, and that Miller had committed that if they could get it through the Senate, he'd get it through the House. But Dan said they didn't think this had a chance of passing.

Seney: You're referring now to the fact that Dan Beard was George Miller's chief of staff.

Bettenberg: He was George Miller's chief of staff at that time.

Seney: So Mr. Miller was thinking he was making a promise he'd never have to keep.

Bettenberg: Right. They were in favor of the legislation as a general matter, and more than willing to push it through the House if the opportunity came, but they doubted they'd have the opportunity. It was part of the omnibus

reclamation legislation for that year. At one point it was Title VII, which is why, when you see the report, it's referring to Section 701 and 702 and that sort of thing, out of that committee. But it was being held hostage for legislation dealing with the Central Valley Project.

END SIDE 2, TAPE 1. DECEMBER 5, 1995.
BEGIN SIDE 1, TAPE 2. DECEMBER 5, 1995.

Seney: This is December 5, 1995. My name is Donald Seney. I'm with Mr. William D. Bettenberg. This is our first session, and this is our second tape.

Bill, a little bit of that would have been cut off, the fact that this legislation was part of an omnibus act.

Bettenberg: Okay. The Truckee-Carson legislation was part of an omnibus act, it was Title VII, and that's the reason why the Senate report out of that committee refers to Section 701, 702, and so forth, and you read the bill and it's Section 201 and 202 and 203. But at any rate, it was being held hostage. The whole bill was being held hostage to the Central Valley. As Congress was winding down towards adjournment *sine die*.

Seney: That means the end of the Congress.

Bettenberg: The end of the Congress. [Senator Daniel K.] Inouye introduced a bill on the Fallon Settlement. I don't recall whether Reid was a sponsor, but I think he was a co-sponsor of that.

Seney: He was.

Bettenberg: This, in effect, became the vehicle to legitimize doing Truckee-Carson through the Indian Select Committee, the Select Committee on Indian Affairs in the Senate. That committee proceeded to report out the legislation, and I had done some work on the Fallon Settlement and I guess I probably did the final negotiations for the department on that one as well.

Seney: But that was relatively less important, much less important, than the Truckee-Carson part.

Bettenberg: Politically it was, and counting the interstate compact provisions in it, probably substantively as well. But it was actually a very important settlement, and settled more issues with Indians than the Truckee-Carson part.

The legislation from Bradley's committee, the Natural Resources Committee, was just simply taken over in total. The report–let's get more light around here.

Seney: Yeah, it's getting a little dim.

Bettenberg: It was reported out of that committee, and some holds were immediately put on it by both, I assume by both Bradley and, was it Simpson that was on that committee, or [Malcolm] Wallop?

Seney: Wallop.

Bettenberg: Wallop. Because it was still part of the hostage-taking, if you will, and the battle between the House and the Senate on the water bill. It was not clear if they were going to have a breakthrough on the omnibus water bill, and on the Friday in October before Congress adjourned, there were still some discussions going on, but apparently the possibility of getting an act was dying.

Harry Reid apparently went to the two members, personally, that had the holds, and had them taken off, and sat over on the floor, what I was told, for a couple of hours, waiting for his opportunity, caught an opportunity, got up, moved it out on the consent calendar. I

got a call from Wayne Mehl, perhaps an hour after that had happened, to tell me that the Senate had passed the bill, it was now up to the House, and they were going to work on the House, and that they would need my assistance on some issues.

Seney: At this point you're completely on board with the bill and you're helping to push it through?

Bettenberg: At this point, we're trying to be helpful, but there's still an issue over funding.

Seney: That is that there's still too much money for these–

Bettenberg: For the Pyramid Lake economic development fund.

Seney: What about for the Fallon fund? Was that all right?

Bettenberg: From the department's standpoint, we were very comfortable with that.

Seney: That was 40 million for the development fund for the Pyramid Lake, and 25 million for the fishery fund.

Bettenberg: Fishery fund.

Seney: In the Fallon side it was a straight–

Bettenberg: Forty-three.

Seney: Forty-three for development fund and that was it.

Bettenberg: Right. I could come back to both of those points if you want me to.

Seney: Sure. Please do when you think it's appropriate.

Bettenberg: The passage was done without either Jensen or Bierne realizing it had happened. I have the best of confirmation of that because I was the one who told both of them that it had passed. And they were both stunned. I called Jensen to talk to him about it and to see what kinds of issues we were likely to have on the House side, and whether there was any chance of getting it through the House so far as he knew, and he didn't realize that it had already passed.

So then I called Bierne. My recollection is that it was a surprise to him. I suspect that there may have still been some conversations going on with regard to an omnibus bill.

The only issue that arose in the House, that I was aware of, was with the Merchant Marine and Fisheries Committee on sequential referral. They were concerned that this legislation was kind of a Super Endangered Species Act, and they had not been on board. Miller's committee had been on board, but apparently no one had really scouted out the Merchant Marine and Fisheries Committee and dealt with them on this. So I don't know what deals were struck in getting them to back off and say that they wouldn't object.

Seney: Let me tell you what I've been told, that Gerry [E.] Studds, of Massachusetts, who was the chairman of the relevant subcommittee here, had been approached by TCID [Truckee-Carson Irrigation District] people to the effect that these was very bad for endangered species, and that Harry Reid had to go to him and say, "This is good for the endangered species. Take the hold off of it." Were you unaware that that had gone on?

Bettenberg: I was unaware of that.

Seney: Were you aware at all of the fact that TCID was now trying to scuttle the legislation?

Bettenberg: Oh, I knew that they were trying to scuttle it, and they basically were all year. There was

never a point at which I thought that they were likely to become supportive of the legislation.

Getting President George H. W. Bush to Sign Public Law 101-618: the Problem of Money for the Tribes

Seney: Once it was past the House, and now, of course, the hurdle is President Bush's signature, were you involved at all in trying to get the administration to go along now?

Bettenberg: Yeah. The first thing I did was check with the front office, if you will. I don't recall who the front office was at that point, but it was probably [Tom] Weimer, chief of staff.

Seney: Chief of staff to the Secretary of the Interior?

Bettenberg: To the secretary, about the price tag on it. I had gone to him earlier. At one point, we had concluded that we would be willing to go 20 million bucks, in constant dollars, or thereabouts.

Seney: For Pyramid Lake.

Bettenberg: For the Pyramid Lake economic development fund. We, frankly, thought that the issues being settled with the preliminary settlement agreement probably didn't call for more than 5

million, and you'll see that in our written communications. But behind the scenes, I had gone up to the front office and said, "The tribe has really built a hole for itself. They have sold themselves on $75 million, and that is an outrageous number."

Seney: This was for the development fund alone.

Bettenberg: This was for the development fund alone, was what they went for in the legislation, and the original bill, I think, had $75 million in it. SR what, 1554?

Seney: Right.

Bettenberg: I had pared that down in part by a compromise that said, "Let's put together this $25 million fishery fund," and I sold that to both the department and OMB, as $25 million which the tribe could claim credit for as part of a big settlement, but they couldn't touch the principal or part of the interest, and it offset a million dollars a year that we were already spending, and we ceased to be responsible for operating their fisheries.

Seney: That's all spelled out in the legislation.

Bettenberg: Yes, that's all in Section 207, and I guess I would say that that's largely my writing in there.

Seney: So they want a total of 75 million. You say, "Well, let's take 25 million off of that, set it up as this fisheries endowment fund. That get's us out from underneath the million bucks a year."

Bettenberg: Right. And the 25 million always stays in treasury, so it doesn't score.

Seney: When you say it doesn't score, that's a budget term.

Bettenberg: It's a budget term, yes. From an OMB perspective, or a congressional budget office perspective, you're going to appropriate $25 million, and you're going to deposit it into the treasury. So what goes out comes right back in. The only thing that scores from a budget perspective for them is we stop appropriating a million dollars a year, and they start earning interest of perhaps a million and a half a year. That interest would be paid to somebody on the debt in any case. So it takes some budgetary magic, if you will.

Seney: If you've got something in there that says that if this endowment is more money than they

could spend, that goes back to Fish and65 Wildlife.

Bettenberg: Yes. Actually, that was Jim Bierne's requirement. He was concerned that the tribe at some point would build that money up and then the pressure would build for a per capita distribution. He wanted to make sure that could never happen.

Seney: Because there is language, am I right, permitting a per capita distribution in the Fallon Settlement funds?

Bettenberg: Only from some of the profits.

Seney: Okay. The likelihood of that happening is not great.

Bettenberg: Oh, yeah, they will earn profits.

Seney: So there will be at some point a per capita distribution.

Bettenberg: At some point there will be per capita distributions. I'd be surprised if there haven't already been some.

I was one of the people who had a hand in writing that part as well, that basically said you can't touch the principal, except for a loan

for water projects, and you have to pay it back. I'm the one who pushed that policy.

Seney: What was your thinking on that?

Bettenberg: There have been a lot of cash settlements with Indian tribes where the money has disappeared within a few years, and there is nothing left to show for it. The way the fund is set up, the tribe is responsible for managing it, which is something useful for the tribe to do; it brings them together in a common interest. They can plow the profits into various kinds of enterprises that create jobs or do other sorts of things, but they can't just simply sign a bunch of checks and have all the money disappear. So this goes on in perpetuity. It seems to me that that's an important principle in Indian settlements of this type.

At any rate, because of the environmental aspects of this legislation, what had grown up in Section 206 dealing with Lahontan Valley wetlands, the interstate compact, and that sort of thing, the department said, "We can go in the ballpark of about $20 million in present value spread over five years," which comes out around $30 million. I was deputized to pass the word that we couldn't vouch for OMB, but that if it came out $6 million a year,

we would not recommend a veto. Throughout this period, we were never able to get a bottom line from OMB. Of what the total present value could be, or what the yearly could be, which was something that made negotiating this very difficult. I personally thought that $20 million was high, and there was a lot of sentiment, I think, at the staff level, and probably at the political level that that was high.

What Wayne Mehl told me after the fact was that the tribe had said, "Well, we'll buy this notion of the $25 million for the fishery fund, but then we've got to have our $50 million, but we could back off and make that $10 million a year for five years." What Mehl told me after the fact was that that was kind of where things stood at that point. The tribe said they wouldn't back down; we said we couldn't go any higher. Harry Reid said, "Well, at least part of the administration is saying that they would go with $6 million a year for five years, the tribe says they'd go at 10 million. I'll bet you the administration won't veto it at eight, and that the tribe won't turn it down at eight." So he just made that judgment, and that's the way they moved it through.

Seney: As a member of the Appropriations Committee, he'd have a pretty good handle on what the committee would go for and what Congress would take and so forth.

Bettenberg: Yes, of what could be done.

Seney: And he was right.

Bettenberg: He was right. He managed the entire enterprise just absolutely beautifully.

Seney: You know, this doesn't seem to me, given, of course, the scale of the federal budget, and while that's always one factor, you're clearly focusing on this problem, and when what you've got in front of you, that doesn't seem like a lot of money, say the difference between twenty million and forty million, to achieve these other goals. I guess that's what the administration must have come to in the end. Have you ever said, "Oh, the heck with it, that's okay with me," or do you still think, "Damn it, it ought to have been twenty"?

Deciding to Spend Federal Money on a Project

Bettenberg: I don't think I've worried about it since. It is what it is. Having spent all the years that I did in the budget business, I would have to describe myself as–if I wasn't naturally a

fiscal conservative, doing that makes you a fiscal conservative. You see money wasted many times and you think that that money could have been put to better use or left in taxpayers' pockets. It's important that you build up–sometimes they're referred to as dikes–build up policies that circumscribe. What is it that we will fund and what won't we fund as the federal government? Where do we draw the line?

Benefit cost criteria are one of the ways of doing that. If you can look at a project and say, "This requires taxpayers to put more in than the benefits to the nation that you get out of it," then that's one way of doing it. On Indian settlements; let me backtrack. One of the reasons why the government does Indian water settlements and other Indian settlements is that these things can take forever, they can be very nasty, and it could be decades before any benefits are realized. On the other hand, in nearly all cases, the rights being attempted to be restored to a tribe effectively have been taken over by somebody else who's benefitting. If you pursue this through the courts, you may ultimately win, causing great bitterness in the process. But then you ask yourself, "What would you win?"

In some of the Arizona cases, for instance, it may be that the federal government would never have to pay a dime, that it would be private parties that would lose water that they have been claiming as theirs. The government goes into these, and one of the things it does is it assesses. If we were sued for breach of trust, what's the worst that could happen? That's one way of trying to size that up, but the political process at some point takes over and makes some judgments, and that's what's happened here.

Seney: I think that these funds are probably a combination of bait to entice an agreement, and maybe conscience money.

Bettenberg: I think both of those apply. But at any rate, that's some of that background there.

Learning the Ins and Outs of the Newlands Project Controversies

Seney: I want to take you back again to as you get into this, and your own learning about this, because I take it you've never been out here before. You came out and you must have, when you came out to negotiate these things–

Bettenberg: I was in Reno when I was in college during spring break with my folks once. That's the last time I've been here.

Seney: So I'm interested in how someone who has such a decisive position as you do in all of this business, how you gain your knowledge and form your judgments about what's going on, and you said one of the people you contacted was Fred Disheroon of the Justice Department. As you know, I've interviewed Mr. Disheroon. I like him very much. I'm very impressed with him. I think he's very bright, a very capable man, but he certainly has a point of view on the parties and the issues and so forth, and I can't help but believe that he must have given you that point of view as he briefed you on these matters.

Bettenberg: Oh, he's very open about it.

Seney: I know he is.

Bettenberg: And virtually everybody in this has a point of view. I came into this as the new person on the block, if you will.

Seney: Pretty much a clean slate.

Bettenberg: Clean slate. I had had some very minor dealings with the cui-ui hatchery, probably in

the 1970s, and that's about all I knew about Pyramid Lake. I'd never seen Pyramid Lake. I don't think I'd ever seen Tahoe. I'm sure I hadn't seen Tahoe. Didn't know the parties. I really came into this with a clean slate.

Seney: Do you recollect your first contact with people out on a project, the Truckee-Carson Irrigation District people?

Bettenberg: It's a little hazy, but basically I made a trip out here in early March, and they were running a tour. Blaine Rose [phonetic], who worked for Harry Reid here in Nevada, was kind of the tour guide for it, and we went up and looked at Stampede. Don't think we made it as far as Tahoe. Yes, we did, too, come to think of it. We made it as far as Tahoe Dam. We were in a bus. Then we went all the way down to the project and the wetlands and we met with the irrigators and so forth. John Sayre was along on that trip.

It was crystal clear where everybody was coming from, and that they were at loggerheads with one another.

Seney: And you'd probably handled enough of these kinds of things, although maybe in the minerals area or in the offshore area, that you could come to grasp pretty quickly with all of

these things? Did this seem like a–"Jesus, what a terrible mess this is," or "This is kind of on average"?

Bettenberg: I just needed to work through it. It was complicated. It's very complicated. Some people have said, who know better than I do in terms of the whole West, that in a compact microcosm, if you will, Truckee-Carson has virtually every issue that you deal with on Western water, Western environmental problems, and it's all in this one system, these two valleys that are hooked together, you know, with rivers that are only 120 miles long and don't even go into the ocean. The only thing it doesn't have is salmon.

Seney: That apparently really complicates things, too.

Bettenberg: That can complicate things, too, yes.

Seney: Do you recall your first contacts with Mr. Pelcygar, Bob Pelcygar, the tribal attorney for Pyramid Lake, who's a very interesting and capable individual, and has been a player in this for some time?

Bettenberg: He's been representing the Pyramid Lake Tribe since, I think, 1972. So he has the longest history of any of the major players, except possibly for a couple of irrigators or

something like that, I would suppose. I can't say that I do. I don't remember whether he was on that trip or not, and I don't remember where I first ran into him.

Seney: Certainly throughout the legislation, obviously, he played a role.

Bettenberg: Yes, and we were in a variety of meetings together. I think we tended to see the issues a lot alike in many cases. I was writing papers on Indian policy at that point, for instance, and trust policy and that sort of thing, was formulating ideas for creation of an Office of American Indian Trust in the department that got established, and we got it funded and established it. And in part, it was from some of the things that I had learned in the Minerals Management Service. In part, it was from some of the things I was learning on this project, some of the things I was learning on the self-governance projects and so forth. I think it's fair to say that we had differences and we had agreements, but on a lot of the basic concepts in the legislation, there was general agreement.

Seney: You know, what I'm trying to do here, and what I'm trying to get at is, as you know, I've interviewed a number of the irrigators and people out on the project. As I've said to you

over the telephone, that they don't regard you particularly negatively, as they do, for example, Mr. Disheroon, and he knows that, and everyone does. I don't mean to impugn Mr. Disheroon at all, I mean, I think he's a very able advocate for the Justice Department and the Justice Department's views, and those happen to be contrary to the district's, and I want to say this here on tape as I say this, but there's a general perception out there in the project that the Interior Department has a kind of negative view now of the project, including Fish and Wildlife and Bureau of Indian Affairs, and Bureau of Reclamation as well, who used to be their friends, and that you as the key official, permanent official in the Interior Department, have perhaps kind of a negative view as well.

Difficulty of Reaching Agreement with the Truckee-Carson Irrigation District

What I'm trying to get at here, maybe I'm not doing it very well, is how you form your judgments on these things, and what, in fact, are your judgments on the issues out here on this project, and do you have a kind of negative view of the project itself?

Bettenberg: Yeah. Well, a negative view would be probably not the right word.

Seney: It isn't the right word.

Let me turn this over.

END OF SIDE 1, TAPE 2. DECEMBER 5, 1995.
BEGIN OF SIDE 2, TAPE 2. DECEMBER 5, 1995.

Bettenberg: I've met with lots of people from the Truckee-Carson Irrigation District over the last, what, five years now, six years, a lot of very nice people and a lot of very sincere people. The district, during the first year that I was working on it, when I was working on the legislation, was pretty much represented by [TCID Manager] Lyman McConnell and a few of the members of the board.

Seney: Certainly Ted deBraga.

Bettenberg: Ted deBraga, for instance. That, I think, was my prime image of the project at that time. I had a meeting in–I'm pretty sure that it was in 1990, and I think that literally it was in between the meeting on the interstate compact and the meeting with Truckee-Carson Irrigation District, where they wanted to talk about the possibility of settlement and including recoupment.

Their idea of a just settlement was basically that we buy up, I think it was something like

$40 or $50 million dollars worth of water rights in the upper Carson, and increase the flow down the Carson so that you could back up some of the diversions from the Truckee, and that the federal government bear the entire expense. I don't recall what else was involved in their proposal right at the moment, but basically there was not a single thing that they were giving in it.

Over time, I've come to conclude that it's not likely that we could reach amicable settlements with them. I think that either they don't see their own future very clearly, or, [because of] internal politics, they are unable to act on what they see, and that makes them incapable of making the kinds of compromises that would be necessary to reach settlements. We are beginning development of a new set of Operating Criteria and Procedures (OCAP) that would be going into place perhaps three years out into the future, and we would expect to be reducing the amount of water that goes to the project. They are still fighting the 1988 Operating Criteria and Procedures. In 1988, they were still fighting the criteria imposed by the courts.

Seney: In 1973.

Bettenberg: In 1973. In 1973, they were still fighting the criteria put in place by the department in 1967. A telltale sign is the controversy over awarding the unappropriated waters of the Truckee River to the Pyramid Lake Tribe. There are a number of claimants to that water, including TCID; there's Sparks, there's Reno, Washoe County, Sierra Pacific. Compromises have been reached with all those parties, and they have all agreed that if the operating agreement goes into the place, Truckee River Operating Agreement goes into place, that they release all their claims on that.

Seney: These are essentially flood waters, am I right?

Bettenberg: Well, it's called flood waters. It's just whatever is left after everybody takes [their share].

Seney: What's already appropriated. Whatever's left will go to the Pyramid Lake Tribe.

Bettenberg: And it goes there now.

Seney: Then part of this is to have the Nevada State Engineer to give those unappropriated waters to Pyramid Lake and declare the river fully appropriated.

Bettenberg: Right.

Seney: So that this won't come up again.

Bettenberg: Won't come up again.

Seney: Hasn't the district revived an old petition from the 1930s that–

Bettenberg: Yes, and that's what they're fighting. They are continuing to advocate that and make that difficult to resolve this. The legislation deals with it in a fairly clever way to satisfy states' rights, since Congress doesn't want to come in and tell the state, "You have to give this water right to the tribe." It says that for the preliminary settlement agreement and the interstate compact to go into effect, the state and the tribe have to resolve this to their mutual satisfaction, which means that the state is going to have to give the tribe the water, otherwise we won't have these other things.

Seney: Because they want the interstate allocation.

Bettenberg: They want the interstate allocation.

Seney: And they want the TROA [Truckee River Operating Agreement] in place.

Bettenberg: And they want the TROA in place, and they want the drought backup supply for Reno,

Sparks, and so forth, and so that is where the state's going.

Seney: And this is only one example, by the way, of this sort of interlocking incentives in Public Law 101-618, isn't it? I mean, it's filled with these, really.

Bettenberg: Yes. Yes, we built it that way. It's what you do when you can't resolve all issues up front. There is very little in the act that is self-executing. Watashemu Dam is deauthorized. That's self-executing. Stillwater National Wildlife Refuge has expanded in the act, and it might be worth coming back to that at some point.

Seney: Sure, when we talk about this latest negotiations.

Bettenberg: That's self-executing in the act. We weren't willing to sign on to the Truckee River Operating Agreement without doing a National Environmental Policy Act [NEPA] analysis. Despite the fact that the legislation looked good, it was based on a black box model, our best quick assessment of "did this look like it was in the right direction, did it look approximately right", we wanted to really understand what the implications were

before we signed on to this thing. So NEPA is the way to do that.

But we have been at this issue on the remaining waters, now, for two and a half years. We signed an agreement; [Secretary of the Interior Bruce] Babbitt signed it, providing for an accelerated determination by the state, and the Truckee-Carson Irrigation District knows that the state can't afford to give them that water, that the Pyramid Lake Tribe can't afford to have that water go away, that it would put us right back into the throes of the Endangered Species Act, and jeopardy, and we would therefore have to rachet down the Newlands Project water by an equivalent amount, of whatever they took. We have gone on record saying that there are no circumstances in which we would allow the facilities of the Newlands Project to be used to transport the water.

Seney: And that's pretty final, isn't it. They can't convey it except through a Department of the Interior-owned facilities.

Bettenberg: Well, they could run trucks over there. But it would take a lot of trucks and it would cost a lot of money.

Seney: Why are they doing this? What is your gut feeling on this, or judgment?

Bettenberg: I don't think that they understand what's in their interest over the long term, and where things are going to go. Matter of fact, in the negotiations that went on last winter, in February, we reached a point where they said, "We have some questions of the latest proposal on the table, of the parties." Some of them were for the federal government, some were for the Pyramid Lake Tribe, some were for the state. I think there were some for the state, but at any rate, they asked their questions, they got the right answers, and they said, "Given those answers, we think we can buy that deal." And I did not for a moment believe that they could buy that deal, because there wasn't the political leadership in place, and they hadn't led the community to the point that it could be an acceptable deal.

Seney: So you didn't join in the jubilation that apparently occurred.

Bettenberg: But we all clapped.

Seney: But in your heart, you knew.

Bettenberg: By that night and the next morning they were walking away from it as fast as they could,

and we never saw it again. I knew that that was the case, because they hadn't prepared the ground. What they had prepared the ground for was a lot of rhetoric, most of which is incorrect, that "They're taking our rights," a lot of sagebrush rebellion type of rhetoric, that sort of thing. Given those circumstances, you can't settle those kinds of things. You have to have your group with you, and you have to have brought them there. Leaders have to have developed, that have seen that, and been able to carry that message back, and it hasn't happened.

So I guess I would say I'm not negative towards TCID. I'm sympathetic in some respects–[they're] hard-working people. They're not, I think, able to coalesce around figuring out what their long-term interest is and negotiating for their long-term interest. It's just unfortunate, but those are the circumstances.

One interesting facet of that is that at various points they could have negotiated for deals that will never be on the table again. I was rereading some of the congressional report recently, and I was struck by the discussion of a settlement of OCAP, and you recall at the time the legislation was introduced, the department had promulgated its OCAP, Earl

Jeldy [phonetic] had signed that in 1988. TCID had sued on one side that "This takes too much water away from us." The tribe had sued on the other side, "This doesn't give us enough water." Jeldy had fine-tuned his decision and had reduced diversions only to the amount necessary to avoid a jeopardy opinion. Now, if he'd have let another 1,000 or 2,000 acre-feet come over on average, the Fish and Wildlife Service would have said, "This is jeopardy, you can't do it." So he had been as friendly as he could be.

Seney: Jeopardy to Pyramid Lake and the endangered species.

Bettenberg: Jeopardy is a technical term under the Environmental Species Act. So he had made as friendly a decision to Truckee-Carson Irrigation District as he possibly could. There was the possibility of TCID saying, "Legislate this and we'll live with it," at that point. I presume that we would have bought it, don't know about the tribe, but if there was $40 million out there over five years, maybe they would have bought it, who knows. It could have become part of the deal, perhaps.

They would have none of that, and that will never be on the table again. That's what I would describe as an example of trying to

understand what your interest is and where the future is headed.

I remember being told, and this is purely second-hand, may be even third-hand, that one political figure in Fallon said, "The future of Fallon is anything but water." But that's not the view that's getting expressed.

Seney: Why don't we stop.

END OF SIDE 2, TAPE 2. DECEMBER 5, 1995.
BEGIN SIDE 1, TAPE 3. DECEMBER 5, 1995.

Seney: Today is December 5th, 1995. My name is Donald Seney, and I'm with Bill Bettenberg. This is our second session and this is our first tape.

Becoming Deputy Assistant Secretary for Indian Affairs

Why don't we talk about now that the legislation is passed. It's time for the coordination of implementing the legislation. Tell me how that task came to you.

Bettenberg: Well, it basically was automatic. I had been the point person for the legislation, and the secretary, assistant secretaries, and so forth, were quite pleased at how it had ended up and

how I'd handled it. I had kept them on board all the way through the process, and so they had an interest in me continuing it. I was going to be moving over as the Deputy Assistant Secretary for Indian Affairs, but I knew that that wasn't a permanent kind of assignment. It's like the Minerals Management Service, not something that I would retire from, and I figured probably about two years was going to be about the right amount of time.

Seney: How did this assignment come up? You'd been on sort of special assignments of one kind or another, now this position comes available and the secretary wants you for that?

Bettenberg: Yeah. As we were getting towards the legislation in the end of the session, I thought that it was time for me to be moving into some different assignment. I had put together a list for Lou Gallegos, who was going to be leaving the department, and I basically said, "Here is a list of some of the things that I would be interested in as a permanent assignment," and someplace on my list, it wasn't at the bottom, but it wasn't at the top, was this deputy assistant secretary post in Indian Affairs, which was vacant. I had a good rapport with Dr. Eddie Brown, who was the assistant secretary, and thought they

needed a lot of help and that I could help on some of their issues. So I gave him the list and he said, well, he would discuss it amongst the leadership in the department.

They came back and they said, "We'd really like you to move down as the Deputy Assistant Secretary for Indian Affairs," and called me in for a session with Lujan and we talked it over. I said that I had a couple of requirements, I said, "Because that's a post that's usually occupied by a political appointee and somebody who's Indian, and I'm neither of those." I said, "The first is, that if I work for Eddie Brown, I'm going to have to work for Eddie Brown. I can't be the secretary's person working for Eddie Brown or the chief of staff's person working for Eddie Brown. I've got to work for Eddie Brown."

Seney: Who was the assistant secretary.

Bettenberg: Who was the assistant secretary. "The second is that since this isn't going to be a career, I'd like to keep a couple of the projects that I'm working on as sidelines so I've got some relationship going with other parts of the department on other issues, and when I'm through, I'll need a little bit of help on whatever the next assignment is." They thought that that would be just dandy. They

understood that, so that was what we worked out.

Seney: They obviously probably wanted you to continue to do the Truckee-Carson legislation.

Bettenberg: I think they did.

Seney: What did you start out to do? What were the steps that you take when you have an assignment, now, where the legislation is passed and signed?

Coordinating and Implementing Public Law 101-618

Bettenberg: Well, I started out going through the bill and cataloging everything that needed to be done. Then I started working with the representatives out here with the bureaus to identify who were the people that needed to do these things and who's going to do all these things. My hope was that it wouldn't be an intensive assignment, and in the Assistant Secretary for Indian Affairs role, it couldn't have been.

Seney: That was too big a job?

Bettenberg: Yeah, I didn't have the time for it to have been all that intensive. So I was probably out here,

I think I remember figuring out once that it was about five times a year, so just a little more than once a quarter but not every other month.

Seney: Would these specifics include–obviously there's the wetlands restoration, 25,000 acres on average, so that's on the list.

Bettenberg: Get the water acquisition program funded and going, get the EIS [Environmental Impact Statement] under way for the long-term program there, get the Truckee River Operating Agreement negotiations started, get the EIS for that started as a multi-bureau EIS between Fish and Wildlife and Reclamation, get the Fallon settlement things going to wrap those up.

Seney: Cui-ui recovery.

Bettenberg: Get the cui-ui recovery plan effort cranked up.

Seney: Did you need to do anything in terms of the allocations between California and Nevada or is that something they would have worried about themselves?

Bettenberg: Well, the allocations are really set in the legislation. That was largely negotiated in the 1960s.

Seney: Right. So would it be the federal water master who would manage those allocations?

Bettenberg: Well, see, none of that goes into place until the Truckee River Operating Agreement is done. It's part of the set of incentives to keep everybody working on this and at the table, and having a positive interest in getting it signed.

Seney: My understanding is that from the time that both legislatures passed that interstate compact back in, I think, what, '68 for California, '70 for Nevada, that they've actually adhered to that.

Bettenberg: Yeah.

Seney: And gone by the allocation that's in there. Is that something that the federal water master then does, or do you know what the mechanism is for overseeing that?

Bettenberg: My recollection is that basically, if you think the other side's violated, you take them to court and enforce it.

Seney: So when you say begin the wetlands restoration, what is involved in that?

Bettenberg: Well, one part was getting an EIS effort under way, getting that assigned out.

Seney: That goes to Fish and Wildlife Service.

Bettenberg: Goes to Fish and Wildlife Service.

Seney: Out in the Fallon area?

Bettenberg: Well, originally the person that they designated to be their leader was their deputy regional director up in Portland. Fish and Wildlife Service is a little complicated to deal with in Nevada because the traditional organization for Fish and Wildlife is to have an organization for refuges, an organization for ecological services, and an organization for fish. They have that in the headquarters, they have it at the regional office, and all the hatcheries and fishing people report to the assistant director for fish in Portland. All of the refuges report to the assistant director for refuges in Portland. All of the ecological services people, like those in Reno, report to the ecological services people in Reno. So the only place where it comes to a head is with the regional director and the deputy regional director. So I nabbed the deputy regional director as their representative on this.

Seney: Clearly there are tugs and pulls within, say, Fish and Wildlife Service over these kind of things. You had the fish hatchery people up at Pyramid, and the refuge people out in Stillwater, they have different interests and obviously see these things differently. What kind of authority do you have to make them agree on things, and how does that work for someone like yourself?

Bettenberg: I have never asked for any specific authority. The authority that I carry is basically kind of my reasonableness in working with the people out here and the knowledge that I can take the issue back to Washington at any time and elevate it.

Seney: Have you ever had to do that?

Bettenberg: Oh, yeah.

Seney: Give me some examples of when you've had to.

Bettenberg: Well, let's see.

Seney: Because I would think not only would you need a reputation for reasonableness, but you'd need a reputation for kind of toughness at the same time, and that is that you would really do this if it were necessary.

Bettenberg: Yes. Yes, and they all understand that. Let's see. Recently we've had an issue on–I think we had two issues with John Leshe, and probably the best of those is making some interim adjustments to the OCAP. The 1988 OCAP were predicated on the irrigation project growing to 64,800 acres, and they were predicated upon certain water duties that are no longer applicable.

Seney: The bench versus bottom lands.

Bettenberg: The bench-bottom [categories]. So there is some good reason based on that, they're really operating about 59,000 acres or around there, some good reason to adjust the targets down, because they don't need as much water as was assumed back in '88. We decided in coming out of the winter negotiations that we should have a two-pronged effort: one, to make kind of what you could call technical adjustments, kind of within the scope of the '88 decision, but just adjusted downward for less acreage, but given less acreage then you won't have quite as good efficiency as was assumed, so you've got to reduce the efficiency and so forth to make those tradeoffs. Bringing the bureaus together on that was difficult.

Seney: Now, these target storage levels are important because that has an impact on how much

Truckee River water is diverted over into Lahontan.

Bettenberg: Yes. Well, you can measure the difference in tens of thousands of acre-feet for different storage targets.

Seney: Who had the different viewpoint, Reclamation and Fish and Wildlife?

Bettenberg: Yeah. Well, the group out here, Reclamation, Fish and Wildlife, Indian Affairs, seemed to have a lot of trouble coming to grips with it in the first place. We were doing computer run after computer run, different assumptions and so forth. I finally said, "Well, this run is mine. I'm willing to take however many views you all have to the solicitor [Leshe] who is, in effect, set up as the policy person now for dealing with this."

Seney: Mr. Leshe.

Bettenberg: Mr. Leshe, since Betsy's [Rieke] left. I said, "As many of you want can join me on this one, but this is my recommendation to Leshe. Now, let's get everybody else's down on paper here and let's get in and see him." They did some more runs, and I actually was persuaded to come off of my position and adjust it, but we ended up coalescing with kind of

Reclamation way out as an outlier, and everybody else on one position, and took it to Leshe and he made a decision.

Seney: Did he accept your recommendation?

Bettenberg: Well, that's not for public consumption yet, but yes.

Seney: Okay. We're not going to talk–it'll be a long time before this sees the light of day.

Bettenberg: Yes. Yes. And presumably we will be out with this quite a bit sooner than that.

Seney: Yeah, and you weren't surprised that he went along with you.

Bettenberg: I was not.

Seney: I mean, I assume he sees you as his man. You're his agent, and he's going to support you unless you're wildly off the mark somehow, but that's not likely to be the case.

Bettenberg: He's perfectly capable of making up his own mind and isn't necessarily going to be swung by numbers and that sort of thing. He's a very bright, able, and experienced attorney.

Seney: I would think, still, given all that, his disposition would be to look with favor upon–

Bettenberg: Right. We've done some other things together, so he's built up some confidence from that standpoint. Betsy Rieke had passed on good words about me. Cecil Andrus had passed on some good words about me, and Leshe was an associate solicitor under Andrus, and knew me and knew something of my reputation, although we didn't do much business then.

Seney: Well, you must be pretty much a known quantity in the department, I would think.

Bettenberg: To a lot of people, yeah.

Dealing with Other Federal Agencies and Entities

Seney: When you look at the various federal agencies you've got to deal with here, Indian Affairs, Fish and Wildlife Service, Bureau of Reclamation, to some small extent the Bureau of Land Management, a little bit, not a lot–

Bettenberg: Geological Survey.

Seney: And who else?

Bettenberg: National Biological Survey.

Seney: Soil Conservation Service a little bit maybe?

Bettenberg: I've dealt with Soil Conservation Service a little bit. They're in another department.

Seney: They're Agriculture, of course.

Bettenberg: Right. Justice, maybe. The [Army] Corps [of Engineers] on occasion. Who else? The Energy Department. WAPA, Western Area Power Administration, in the legislative battles, back in 1990. I think that that's it for the–oh, EPA [Environmental Protection Agency].

Seney: When you look out at all this spread of agencies, some you deal with more than others on this, what's your general view of how the national government, the federal government, is discharging its responsibilities out here?

Bettenberg: On this project?

Seney: Yeah, in this area.

Bettenberg: Well, it's getting better. I guess I think that the Fish and Wildlife Service is doing a very good job in their ecological services unit.

Seney: Chet Buchanan heads this?

Bettenberg: Chet Buchanan is kind of the number-two person in the unit here.

Seney: What do they bring to you? What is it that they're doing?

Bettenberg: They look at wildlife in a broader context. As the name implies, they're looking at broad ecological issues and relationships, compared to, say, a refuge manager that is managing that piece of land and whatever wildlife shows up there, which is a difficult thing when you're dealing mostly with migratory species, some of which come from the North Slope of Alaska and some go to Panama, and some come from the Rockies and some from the Pacific Coast. They are used to dealing on a policy plane more, and in a broader scope, since they're more typically the people that make the news and rub elbows on endangered species issues and mitigation issues and that sort of thing. They're more used to looking at all sides, and where other people are coming from, and trying to figure out appropriate compromises to solve problems.

The Bureau of Indian Affairs is often pretty difficult to deal with. The first two years after enactment, I didn't actually have to deal with them all that much because I was the deputy

assistant secretary. So it was easy to get cooperation–

Seney: I'm sure it must have been.

Bettenberg: –and assistance and so forth. They're extremely fortunate in having Tom Streckle, who's one of the broader-gauged people involved in this issue. They've recognized that and recently they have him also heavily engaged in the Klammath issues. But he's worked for Reclamation, he's worked for Fish and Wildlife Service. He was working as an endangered-species biologist in Washington, D.C., on the 1988 OCAP, so he's got eight, ten years of experience with this issue, loves this country, so he's very, very helpful on it.

Reclamation has been the most difficult to deal with. They're the group least likely to say, "We're in this together, and we have to work this out in a mutual and amicable way, and we have to present kind of a common view." Last spring–you know, I keep trying to get as much coordination out here as I can and as little on my shoulders as I can. Amongst other things, I've got other things I've got to be doing.

Seney: What percentage of your work is on this project?

Bettenberg: Right now I would guess that it may be running 40 percent. Last winter it was probably running–

Seney: During the negotiations?

Bettenberg: During the negotiations it may have been running 65 percent. The first couple of years, it was probably not 20 percent. It varies depending on what the issues are and if we get over a few of the issues that are front burner right now, get the water-quality agreement behind us. I'm hoping that it'll drop back down to something under 25 percent.

Seney: I interrupted you saying the Bureau is least likely to act as part of the federal team.

Bettenberg: Right.

Seney: Let me say, it strikes me as interesting because, of course, I don't know who they'd be siding with, because the people out on the project certainly view them as part of the federal team and as antagonistic. I mean, they're kind of betwixt and between, are they?

Bettenberg: Yeah. And it's difficult, I think, sometimes for them to figure out who they're working for and what they're working for. The new

bureau concept as a water management agency has not taken hold.

Seney: They're still dam-builders are they?

Bettenberg: Well, they sure would like to be. The notion of managing the reservoirs they have for multiple purposes doesn't come natural to them, and elevating a cui-ui or water rights for a refuge still doesn't strike a responsive chord, if you will, with most people that I deal with in the Bureau of Reclamation. There are some that it does, but–

Seney: Are they here in the local Lahontan Basin office?

Bettenberg: No.

Seney: Then you think probably mid-Pacific region, maybe?

Bettenberg: Well, there are some that I have met, especially from some other parts of the country, that I would put in more the progressive category. I've not worked with Roger Patterson that much, but I think he's–

Seney: He's the regional director.

Bettenberg: He's the regional director, and I think he's generally considered to be in the progressive camp, but like I've said, I've not dealt with him very much.

Seney: How about Frank Dimick, the assistant regional director?

Bettenberg: There's nobody that I know who would describe him as in that camp.

Seney: In the new bureau camp?

Bettenberg: In the new bureau camp.

Bureau of Reclamation and TCID

Seney: There's been a recent change here in Lahontan Basin projects office. The project manager, Ed Solbos, has been replaced by a new project manager, Ann Ball. Has that made a difference? Because that change was made because maybe Mr. Solbos didn't quite have, some people thought, the right views, this sort of new bureau views?

Bettenberg: Yeah. I guess I think he was probably caught in the cross current of some considering that he didn't have enough of a new bureau sense and, at the same time, possibly not handling relationships with the irrigators adequately. I

tended to think of his handling of the Fallon Tribe water delivery last year as perhaps his finest moments here, but, frankly, I think that got him in trouble.

Seney: Yes, it did, I think. Why would you think of that as his finest moment, maybe?

Bettenberg: The Truckee-Carson Irrigation District is elected by the non-Indian irrigators. It represents the non-Indian irrigators. Our responsibilities for water delivery to the Fallon Tribe are separate from our responsibilities to TCID.

Seney: They're part of the trust responsibility.

Bettenberg: They're part of our trust responsibility. The TCID board considered the question of whether they should have late deliveries or just use up all the water and when it was gone, it was gone. It was a difficult issue for them, and in the spring they met and considered those people arguing for late deliveries versus those arguing against them, and made a decision.

So far as they were concerned, if they made that decision, that was good enough for those Indians, too, but it wasn't their decision to make. Ed basically stood up to them, told

them that he would be required to deliver water to the tribe, and when they still refused to deliver, he moved people in and actually physically moved water to meet the department's trust responsibility. The tribe had taken a responsible position. They said, "There will be some water lost because of this. We'll take the loss." So TCID wasn't out any water.

Seney: This was water the tribe had a right to.

Bettenberg: This was water the tribe had a water right to and they just simply wanted their delivery on a different pattern. TCID basically thinks, or acts as though, they run the community and can act on behalf of anybody. They can't do that. That's not their decision to make. And that's why I say I thought that that was his [finest hour]. Reclamation has done that far too few times, where they've stood up for an important principle like that.

The more typical situation is up through the mid-1970s, they appear to have largely been looking the other way when TCID was diverting large amounts of water. They were diverting simultaneously as they were spilling it. They were running water all winter so they could generate more hydropower and get more

revenue from it, when they didn't need it for irrigation at all.

Seney: Water they had no right to divert.

Bettenberg: They had no right to divert it. They were applying as much as seven acre-feet per acre when there were no water rights in excess of three and a half and four and a half under the decrees, allowing land that didn't have water rights to be irrigated. Where was the Bureau of Reclamation and its compliance responsibility? And that is not a mid-Pacific [Region] problem, it's a national problem.

Seney: And they still haven't gotten to this new bureau outlook.

Minerals Management Service

Bettenberg: Just to give you a contrast, when I went to the Minerals Management Service, my first round there I was acting director, but I landed there just at the time that the offshore program and the onshore program were all put together, and I had to design the organization for it. It became very obvious that they had no compliance program worthy of the name, and I wasn't going to be there long enough to put one in place. But in designing the organization, I designed two boxes for

enforcement and compliance, one for onshore, one for offshore, and went with the theory that if we have a box, we put somebody in charge of it, they'll think they have to do something, and anything they do has got to be better than what they're doing now. It worked out well.

When I went back, I strengthened it, but it developed training programs for inspectors, compliance programs, surprise inspections, and so forth, you know. But before that, the government had kind of a "good old boy" network, and that's kind of the way the Bureau of Reclamation has operated.

Fallon OCAP Office

Seney: Does the Fallon OCAP office play any kind of a compliance role at all at this point in terms of overseeing that?

Bettenberg: Yes, yes, yes, and it's much, much better. You know, that was put in place in '88. Before that, there wasn't anything like that down here. But, yes, they play an important role.

Seney: You know, for many years the Bureau office was in Fallon and then the Bureau of Reclamation office was moved to Carson City. I don't know if we could speculate on

whether it might have been better to have it in Fallon or Carson City.

Bettenberg: I didn't know that.

Seney: But at any rate, with the OCAP office there, they're keeping an eye on the OCAP on a day-to-day basis. That does make a difference.

Bettenberg: Yes.

Bureau of Land Management and the Honey Lake Project

Seney: What kind of relationship do you have with the Bureau of Land Management? What are you doing with them and what are they doing for you?

Bettenberg: Let's see. Not a lot. I was pretty heavily involved with them on an only semi-related issues involving the Truckee Meadows Project, which was an out-of-basin water importation project that was proposed here.

Seney: Is that the Honey Lake project?

Bettenberg: Honey Lakes Project. I kept getting pushed–

END OF SIDE 1, TAPE 3. DECEMBER 5, 1995.
BEGIN OF SIDE 2, TAPE 3. DECEMBER 5, 1995.

Seney: The Honey Lake Project. You were being drawn into that.

Bettenberg: Yeah, I was drawn into that because many of the same parties were involved, and I was involved in Truckee-Carson water and so forth. So Lujan originally asked me to bring the tribe and the developers and the county together, and see if there was anything that could be worked out on it.

Seney: And nothing has happened with that project. Too many problems?

Bettenberg: Too many problems.

Seney: Was that BLM [Bureau of Land Management] land up there that they were going to be drawing some of that water from?

Bettenberg: What they needed was a pipeline right-of-way across the public lands, so that's where BLM came into it, but it turned out that there were some substantial problems with the Sierra Army Depot.

Seney: Water-quality problems.

Bettenberg: Water-quality problems, toxins in the water table, and they were spreading and could spread a lot faster if you were withdrawing

water from the other side. And there were some trust issues with the Pyramid Lake Tribe.

Seney: Because some of that might have drifted down into the Pyramid Lake area if that water had been drawn. Wasn't that one of the feelings?

Bettenberg: Yeah, there was a tie-in between the water that would be used and groundwater flows into Pyramid Lake and in the Smoke Creek Desert. As you start pumping in one place, you start drawing water away from where it would naturally have flowed otherwise. So I worked pretty closely with some of the people in BLM on that. Then there are some land issues that involved public lands, which land we're buying, possible exchanges with it with the Fallon Tribe, and then we have some land ownership problems at Carson Lake. BLM has been involved in all of those, but none of it has been major involvement.

U.S. Geological Survey

Seney: The U.S. Geological Survey has acted kind of as a staff in a way to you, have they not?

Bettenberg: On certain kinds of things, but mostly what they've done is, we concluded early on that we really needed much better models for long-

term implementation, and so I went to work securing the funds to fund them to build the models that they need–groundwater and surface interties, rain flow, precipitation, tie-ins to it, water-quality tie-ins to it, operations tie-ins to it, for both Truckee and Carson. So we're developing a whole new generation of much better models, probably about a year away from having that largely in hand, and, too, from having it well documented and completely usable.

Seney: I don't want to jump ahead too much, but some of this recent activity in modeling with the USGS comes out of the disputes, as I understand, over modeling that went on in the Settlement II negotiations, that you're trying come up with a model that everybody can agree on or will meet some–

Bettenberg: Well, it'll be a fully documented model that everybody can take a look at.

Seney: Maybe agree to.

Bettenberg: Maybe agree to, as opposed to a model where not very many people know even how it works and can adequately describe and explain it. This fellow that you mentioned to me earlier, Bill Siconia [phonetic], is out of their Tacoma office, and I've just recently

gone back to Survey and said, "We're beginning to get through some ticklish points in these negotiations, and I really need a really good hydrologist who can spend about six months with us, and at the end of the process become our expert witness when we present the final package to the courts and so forth." I've not met him, actually. We're hoping to get together tomorrow.

But that's primarily their role. But I call on John Noland [phonetic] from time to time to counsel me on hydrologic issues and what questions should I be asking. What do we know about this? That sort of thing. He really knows water resources.

Seney: John Noland being–

Bettenberg: John Noland is the head of the office for GS, the station chief for the state water resources office in the USGS, and extremely able, very knowledgeable.

Seney: I take it when you call on the people within the Interior Department you don't have much trouble getting cooperation. For example, when you ask the USGS to send you someone good, they send you someone good.

Bettenberg: Well, I was really pleased on this one, because when I called up, I asked John Noland to scout me out who I needed. He and I talked about what I needed, and I described my problem and he understood it, so I asked him to scout out somebody who might be coming off of a project and wasn't in the middle of a project, you know, and could be pulled for something like this, and he came up with this particular fellow.

Then I went to their headquarters and called in and said, "I've got this problem, and I'm a typical guy from the Office of the Secretary, I've got a problem and no money." They came back and said, "Well, yeah, the guy that you're talking about could do the job and we can make him available, but we don't have him financially covered either at this point, so you need money." At which point I was scratching my head and trying to think, now, where am I going to come up with money for this? They got back to me the next day and said they had concluded that they could figure out how to solve the money problem and then cover it.

Seney: Is that just good rapport, good cooperation among the various elements in the Interior?

Bettenberg: Probably. I don't know the leadership of the GS well right now, but I would guess that I have a reservoir of good will built up from previous years. When I was the budget director and all of that, I was heavily involved with their programs and budgetary issues, testified with them for appropriation hearings and that sort of thing. Then as the director of Minerals Management Service, we had a memorandum of understanding with the GS, and twice a year we had meetings to go over any kinds of issues that we had. We had some joint projects.

Then in 1990 when I needed somebody, I could just pick up the phone and call the chief hydrologist, Phil Cohen [phonetic], who I'd probably known for a dozen years at that point, and had a great respect for. He went to work in finding me somebody quickly and helped out. I think there's probably some of that residual still there. And they also know that it's an important issue to the secretary.

Seney: Yeah, that doesn't hurt either.

Bettenberg: That helps a lot.

Dealing with the Navy Department

Seney: What about when you get outside the Department of the Interior, say, with the Navy Department, the Defense Department, I guess it would be the Navy, really, dealing with the Fallon Naval Air Station, how are they to deal with?

Bettenberg: Turned out not to be too bad when we finally got them pinned down. Betsy Rieke and I went over and visited their headquarters in D.C.

Seney: Went over to the Navy Department?

Bettenberg: Right. And that helped a lot in terms of getting cooperation.

Seney: Whose idea was that, yours or hers?

Bettenberg: Mine. I had dealt with that office extensively when I was at the Minerals Management Service. As you can imagine, the minute you talk about putting platforms offshore–

Seney: You're talking Navy's–

Bettenberg: You're talking Navy, and the Navy doesn't want you to put those things just anyplace. They have submarines coming out of San Diego, out of San Francisco Bay, out of Newport News, and so forth. They have test

areas where they calibrate sonar and torpedoes and any number of those kinds of things. So I worked extensively with the Navy on offshore issues, and it's the same office that deals with environmental issues. So I knew who to go to over there.

Seney: And in a rank-conscious organization like that, it's probably politic to take the assistant secretary along.

Bettenberg: Oh, yes. Yes. I learned all about that. One of our issues when I was at the Minerals Management Service was leasing offshore Camp Pendleton. The Navy and the Marines concluded that I really needed to go down there and see for myself how they conducted operations and why it was necessary and so forth, so I went out to an LST carrier with them and came in on night maneuvers with them. When it came to figuring out where I would stay, they needed to know what SES level I was, because the Navy, and the military, I guess, has worked out this system that if you're an SES Level One, you're equivalent to some kind of an officer, and a Level Two some other kind of an officer, and I rated about a three-star general, I think it was, or something like that. So they put me up.

Seney: In pretty nice digs.

Bettenberg: They put me up in a place with a lot more room than my house. Yeah, they're fairly rank-conscious, and taking an assistant secretary along was the right thing to do. But the Deputy Assistant Secretary for the Navy basically put a hold on releasing money for implementing their water plan until we had agreement.

Seney: What more can you ask, really?

Bettenberg: We negotiated the agreement and it's a decent agreement.

Seney: Once the local people got the idea that the higher-ups were interested in this, that must have made it a little easier for you then.

Bettenberg: I assume so.

More on Implementation of Public Law 101-618

Seney: Let's go back to setting up all this implementation. You must have a book or however you keep records of these things and a list of things to do.

Bettenberg: From time to time I do that sort of thing, but I don't have anything like that running right now.

Seney: Because again, there are a number of fronts on which this all has to be conducted.

Bettenberg: I'm not trying to lead the orchestra, so to speak. It's probably not a real flattering phrase, but we had a BLM director who was sometimes a little bit earthy, and he said he'd given up on the idea of micromanaging his organization. Basically, all he wanted to do was keep them between the fences and moving the same direction. To the extent I can, I try to do that.

There are some issues that I'm directly responsible for. I'm the lead negotiator for the water quality negotiations in Furtrillo [phonetic] for the department, so I'm very heavily involved in those. Because of the lack of consensus out here, I've been forced to get into OCAP issues from time to time.

Seney: That is, the kind of lack of consensus you were describing before.

Bettenberg: Amongst the bureaus and so forth, and sometimes the lack of attention to trust responsibilities. When something's going

wrong out here, all of a sudden the Fallon Tribe or the Pyramid Lake Tribe are on my doorstep or on the phone, "Do you know what they're doing now?" sorts of things. "We've got a problem." If they don't get satisfaction from me, they're in to see the secretary or Leshe or the assistant secretary, and so forth.

Seney: They have pretty good entre, do they?

Bettenberg: I'd say reasonable entre, yeah. Most of the time they have a pretty strong case to make. Sometimes not, but a good part of the time they do, too much of the time, you know, which tells me that we never should have ended up with it in D.C. in the first place, if we had been handling it right.

Budget Process in Implementation

But on the water acquisition program for the wetlands, I try to stay in tune with it. I've critiqued their EIS, but you know, as long as the policies seem about right and they seem headed off the right direction–one of the things that I do is a fair amount of budget coordination. It kind of comes natural because of my background. So I've been the one responsible for kind of shepherding the budget together, budget through, and keeping it together through the process.

Seney: Well, you had a close call this year with the money for the developments, did you not?

Bettenberg: Yes. Yes. The 8 million. Yes. And that one came as a surprise.

Seney: Why don't you talk about that and your role in that.

Bettenberg: Well, let's see. We needed 8 million a year, and this would have been the fourth installment out of five, so we've been going just like clockwork.

Seney: This is the Pyramid Lake installment.

Bettenberg: This is the Pyramid Lake settlement. As a general rule–

Seney: Is the Fallon money all in place now?

Bettenberg: No.

Seney: But this happened to be the 8 million for the Pyramid Lake Tribe.

Bettenberg: This was the 8 million for the Pyramid Lake Tribe. Fallon has four installments behind them and one this year and one next year and then that'll be through.

Seney: But theirs didn't get hung up this year the way Pyramid's did.

Bettenberg: Theirs didn't get hung up.

Seney: Any reason why, or just a fluke?

Bettenberg: No, I've talked to the appropriation clerk who used to work over at OMB, and I know him, he's a good guy. He, I think, may have slightly misread the law in terms of interest that would come due on delayed payments, but he basically looked at it–well, let's see. Number one, he was in a situation where his job was to find savings everyplace, if you will. That's what's going on in Congress this year. He went through each of those settlements, each of the different Indian settlements, with a fine-tooth comb, because there's a lot of money there.

Seney: This is Indian settlements all over the country.

Bettenberg: All over the country. For instance, the money for Tohono-O'odham Tribe, it used to be called the Papago Tribe down in southern Arizona, was in for $3 million dollars, and that was cut to $1.5 million. He looked at what the requirement of the law was, and this money couldn't go to the tribe until after the fifth year and the Truckee River Operating

Agreement was done. So he said, "Well, we could save 8 million here, next year we'll have to come up with 16 million. We just have to recognize that we would have to do that, but the budget is really tight this year." So that's what he recommended.

Vucanovich's staff apparently wasn't paying attention, and by the time it became known, she wasn't able to get it fixed in subcommittee or full committee, and really got lucky on the floor and was able to get the money back in on the floor. But that required a fair amount of vigilance on her part to seize the opportunity, if you will. That occurred because–I can't think of the congressman's name, from the Ventura area in California, but he was bound and determined that there was too much money going to the territories and to the territories' office, and went out on the floor, and he was the authorizing committee chairman. He went out on the floor and proposed that they cut about 12 million bucks, and he wasn't proposing to put it anywhere, just cut 12 million bucks. That freed up 12 million bucks, and she immediately jumped into the breach with her project for eight, and was the first one through the door and so she got it restored. The pressure was really on her to do it. Here's somebody who's one of the cardinals; that's what they refer to the

subcommittee chairman on appropriations is the cardinals.

Seney: She's a subcommittee chair?

Bettenberg: She's a subcommittee chair, not that subcommittee, but for one of the other subcommittees. The subcommittee chairs take care of one another, and with all this newfound power and being in the majority, she couldn't hold $8 million that the administration requested. It wasn't as though she had to add it onto the budget, she couldn't even hold what was there. The *Reno Gazette* was running an editorial saying, "Well, this is really nonsense, but we're fortunate, because we now have a cardinal and as the subcommittee chairman and member of appropriations and on this very subcommittee as a member. We're lucky because we have Barbara Vucanovich, who can fix this for us." Well, it would have been really difficult to not fix it under those circumstances.

Seney: Right. Expectations had been raised.

Bettenberg: Expectations had been raised.

Seney: Did you play any part in this?

Bettenberg: Incidentally, she may be announcing her retirement today.

Seney: Oh, she has.

Bettenberg: Oh, she has?

Seney: Apparently, according to the news last night, she's leaving the Congress.

Bettenberg: That's amazing.

Seney: It is, isn't it?

Bettenberg: Yeah. Well, I went up and talked to her staff, about how important it was, some ideas on how you might finance something like this. I talked to the appropriation clerk to find out why it had happened. I worked with Reid's people to get them encouraged to put it back in, why it was important and so forth. I worked closely with the Pyramid Lake Tribe on providing them information on the need for it. Graham Chisholm called me and we talked about it. I provided him information on it.

Seney: I understand. So you kind of encouraged people to move along on it.

Bettenberg: I encouraged, but I would not consider what I did as being what turned it around.

Seney: Right. I understand what you're saying. Apparently, a lot of people played a role in it and were interested in making sure that this money stayed there.

Bettenberg: Yeah. One thing that's important to note here is–and we're talking about my role in this sort of thing, and in terms of getting the legislation, I would consider that I played an important role for the administration. But it must have taken seven, eight, key players, maybe ten or twelve, even, and there may be a number of them that I don't even know about, to get this done, and without any one of them, it probably wouldn't have gone. It's important that that be clear in the record, if you will. This is one of those, to the extent anybody can claim credit for getting this done, it's Harry Reid. But if you hadn't had a Joe Ely, if you hadn't had a Bob Pelcygar, if you hadn't had a Wayne Mehl and a Tom Jensen, you probably couldn't have gotten it done either.

Seney: Yeah. A lot of chefs at a banquet.

Bettenberg: Yes.

Seney: I guess Senator Reid would have been the host in this case.

Bettenberg: I guess so, yes.

Oversight Hearings on Public Law 101-618

Seney: You get busy overseeing this implementation, and there are oversight hearings are held. What was the origin of those? There were hearings held by Senator Bradley's subcommittee on water and power, in December of '93, about three years after the legislation was passed in Reno.

Bettenberg: Right.

Seney: Then in April of '94, hearings were held in Washington, D.C., where you appeared along with assistant secretary–essentially the federal people appeared at that hearing. What was the origin of those hearings? Why did those come about?

Bettenberg: I think the real origin of those was Reid's unhappiness with the Truckee-Carson Irrigation District and the issues related to them, his feeling that they were intransigent, weren't helping to solve any of the problems, were continuing to create problems. He took them on in a big way in that first hearing.

Seney: Yes, he did.

Bettenberg: Bradley has continuously had a genuine interest in this as well, and so was more than willing to play host to these kinds of hearings.

Recoupment Issue

Seney: Let me say that one of the things that was to be solved, mandated to be solved either through negotiation or litigation, was the recoupment issue. This water, 1,058,000 acre-feet is the number that's been agreed upon, that has taken between 1973 and 1987, diverted by the Truckee-Carson Irrigation District. Did you make any headway with them at all with them on that issue in that first phase?

Bettenberg: I conducted negotiations over a span of two years. Probably more accurate, it was little over a year and a half. I think my first meeting was with them in either February or March of '92, and wrapping up in October 1 of '93, and we never got close. There was one meeting in March of '93 when they had appointed some new people from the board, and we did some brainstorming, and it sounded like there were some positive ideas and maybe some slight glimmer that there might be a possibility of a settlement, and then over the course of the next months, they basically backtracked and walked away from

all that, never produced any of the analyses and paper that they were supposed to produce, and when we met the final time, they said, "We don't have anything new to offer."

Seney: Did they ever acknowledge that they owed the Pyramid Lake water?

Bettenberg: No.

Seney: They never have?

Bettenberg: They never have.

Seney: To them, this claim has no legitimacy.

Bettenberg: That's right.

Seney: You know, in interviewing Norm Harry, the current tribal chairman of the Pyramid Lake Tribe, his view was, and I know you've heard this expressed, but I want to say it here, that their view was that the recoupment should go back before 1973, because water was illegally diverted well before that and in copious amounts.

Bettenberg: Well, large amounts were, but it wasn't until 1973 that a federal judge said that it's illegal and you have to do the following, but he did not go back historically.

Seney: When Norm Harry said this, when I interviewed him, I could understand what he was saying, his point of view.

Bettenberg: Yes. They were missing eighty feet of lake, and that's a lot of lake.

Seney: That is a lot of lake. The amount it dropped over the years of these diversions.

Bettenberg: Right.

Seney: I guess, what I'm trying to get at here is on both sides there are very strong feelings about this.

Bettenberg: Yes.

Seney: But the fact is that the law is on the side of Pyramid Lake in this matter.

Bettenberg: Yes.

Seney: Unarguably, unambiguously.

Bettenberg: Yeah. That's been recognized by Republican and Democratic administrations. Rogers Morton [phonetic], when he was secretary, said, "You have to comply with these requirements, and if you don't, we will reduce

your future supply to offset anything that you take illegally."

Seney: They were on record. That was as early as what, 1975?

Bettenberg: '73.

Seney: '73 was the ruling.

Bettenberg: '73 and '74. We every year republished the OCAP requirement for them. When the court–have you read the court decisions on this?

Seney: I have not read the full text.

Bettenberg: You ought to.

Seney: *Pyramid Lake v. Morton*?

Bettenberg: Well, *Pyramid Lake v. Morton*, but especially *TCID*–I suppose it's *v. Morton*. Who is it? TCID against whom, I can't recall. Well, it's the 1983, '84 decisions. The judge says, "You've made no pretense of complying. You've flaunted it." Matter of fact, I probably should have brought that opinion for tomorrow's meeting. I didn't think to do that.

Seney: Well, if you recall, it was *Pyramid Lake v. Morton*, and the Solicitor General elected not to appeal that decision.

Bettenberg: Right.

Seney: Judge [Gerhard] Gesell's decision.

Bettenberg: Right.

Seney: Then, the Secretary of the Interior–

END OF SIDE 2, TAPE 3. DECEMBER 5, 1995.
BEGIN SIDE 1, TAPE 4. DECEMBER 5, 1995.

Seney: It's December 5th, 1995. My name is Donald Seney. I'm with William D. Bettenberg of the Department of the Interior. We're in Reno, Nevada, and this is our second session and our second tape.

Let me go on to ask you if there's anything you want to add about those oversight hearings that were important.

More on the 1993-1994 Oversight Hearings

Bettenberg: I thought that it was important that the testimony presented was as comprehensive as it was, covered the issues in the way it did, laid out clear positions the way it did. It

seems to me that that will forever be a marker, if you will, against which we test our current actions.

Seney: This is, you mean, the interests out here in the December hearings, laying out what their positions were?

Bettenberg: No, I was thinking of Betsy Rieke's testimony in April of last year.

Seney: As I read that testimony, I got the feeling that maybe you might have drafted that.

Bettenberg: I wrote the first draft, yes. The way I work on drafts like that is, they go out for everybody to comment on, the bureaus all got several cracks at it, the attorneys got cracks at it, Betsy changed it as she felt she needed to.

Seney: Right. But it would be my feeling that would be yours to draft to begin with as a policy statement, being familiar with the positions and so forth.

Bettenberg: Right.

Origins of the Settlement II Negotiations

Seney: Not long after those hearings were concluded, my understanding is both the Nature

Conservancy and the Environmental Defense Fund and the TCID approached Senator Reid about new negotiations. Is that your understanding of how this came about?

Bettenberg: I guess I'm not sure who all approached whom in that, but I know that Reid felt that he needed to reach out one more time, if you will, to TCID, give them one more chance to negotiate. I think he concluded that he'd probably come across as overly harsh in the December hearing and this was a way of trying to go an extra mile and be seen as going an extra mile, if you will.

Seney: Were you at those December hearings? Did you attend them?

Bettenberg: No. No. I read the transcript from it. Well, I guess, actually what I read was the statements, I think. I don't remember whether I read the transcript or not.

Seney: Did you think he was harsh?

Bettenberg: I guess I thought maybe he was a little more personal than he needed to be.

Seney: Obviously this is a decision, as I understand, that Senator Reid really made, that we'll go ahead with these negotiations.

Bettenberg: Yeah.

Seney: Did he ask you for your input on any of this, or did Larry Werner give you a call and see what you thought about it?

Bettenberg: No, but there were conversations with Betsy Rieke.

Seney: Between the senator and Betsy Rieke?

Bettenberg: Yeah. I shouldn't say no. I guess there were probably conversations between Werner and me, that they were thinking of doing this, and my logistical problem became one of, we had laid out, including in the testimony, an agenda of actions, and the question was, if we're going to have negotiations, what do you do about all these actions. It had the effect of delaying us probably close to a year and a half.

Seney: You put all those on hold.

Bettenberg: We ended up putting them all on hold. At one point, we were going to put only some of them on hold, but eventually Betsy decided to put them all on hold, thought that they would poison the negotiations too much, knowing that we were losing a lot of time as a result of it.

Seney: If it had been your call, would you have put them on hold?

Bettenberg: I guess I think you probably would have had to put the OCAP and the O&M agreement on hold, because that was what the negotiations were about. Leastwise, it have been awkward to be proceeding simultaneously.

Stalling by TCID: the Demand for a Programmatic EIS

On the other hand, I guess I think that it was a mistake not to proceed with recoupment. One of the things that I worry about is, it's important that we not send mixed messages, if you will, or that we confuse the people that are supposed to be receiving the message. It would be easy for the TCID folks to think that this works pretty well. Now, what can we do to get the next year and a half? I suspect right now that what they're trying is the programmatic EIS issue, which is a well-orchestrated campaign. LVEA's [Lahontan Valley Environmental Alliance] writing letters, the Protective Association is coming to D.C. and holding meetings, and the county is suing, all on the same issue and with the same rhetoric.

Seney: This is currently going on over at NEPA, and whether or not the EIS is coming to pieces–

Bettenberg: Needs to have a programmatic versus a different course of action.

Seney: Well, there are several EISs. There's one on the TROA [Truckee River Operating Agreement].

Bettenberg: One on the wetlands.

Seney: Which has been completed?

Bettenberg: No, just the draft.

Seney: Just the draft has been completed. There's one on cui-ui recovery.

Bettenberg: No, well, there's going to be one more.

Seney: Which one am I missing here? I'm missing one.

Bettenberg: There's only three.

Seney: But I've missed one. The wetlands, which is in a draft form, the TROA, and I'm missing one.

Bettenberg: Then the third one is–I refer to it as the Lower Basin EIS, but it's going to cover cui-ui recovery, new OCAP, and water management on the refuge.

Seney: What's being argued now by LVEA, the Lahontan Valley Environmental Alliance, the Newlands Water Protective Association in Churchill County, is that all of these ought to be one.

Bettenberg: No, what they're arguing is that it's all a single program, and you ought to do one programmatic EIS that kind of sets the overall stage, if you will, and then you should tier off of that and do individual EISs for TROA, for wetlands, for other things, you know, which is two to three years for the programmatic, and then two to three years for the site specifics, and you're into the next century.

What we have actually going here is not a program, but a series of action, some of which are related, some of which aren't very closely related. TROA has only slight effects on the Newlands Project, and really the preliminary settlement agreement only has modest effects on cui-ui. It's positive effects and it's a good thing to do, but it's not a third of the answer, if you will.

Seney: This is between the tribe and Sierra Pacific Power.

Bettenberg: Right. If we also cover storage for a water-quality agreement, under the operating agreement, then maybe it becomes more important as part of the cui-ui equation. But when you normally do a programmatic is when you're doing rule-making on a national level. The department did a coal programmatic to cover its coal leasing program nationwide, the regs that cover the entire nation. Then you do a programmatic EIS. Then you go in, you're going to have a series of sales in a single basin area, like the Powder River Basin. So you do a basinwide EIS, and you do your leasing and so forth.

Then when actual mine plans are developed, you come along and you do an EIS on each individual major mine plan. You're going to go up here and dig a hell of a big hole in the earth, and maybe mine five or ten or twenty million tons of coal a year. So you're going to have a major environmental impact just with that one site. So you do a NEPA document there. But this isn't of that nature. All of our EIS experts have looked at it and said, "No, there's nothing to this argument."

Seney: Is Churchill County filing a lawsuit because TCID can't under 101-618? Are they precluded from this kind of litigation under 101-618?

Bettenberg: No. No, TCID could have brought it. I assume it's just a matter of kind of sharing, responsibility sharing. Lyman McConnell has provided them with an affidavit, for instance. Things are pretty well orchestrated out there. I have always presumed that Carl Dodge is the one that orchestrated them.

Let's see, summer before last–was it summer before last–I guess it was the year before that, they created LVEA and the Water Protective Association simultaneously, got the city of Fallon geared up to work on this, and the county geared up to work on this, probably some careful choice in calling it Lahontan Valley Environmental Alliance even, and the Water Rights Protective Association. No one has ever said that–anybody–everything that we're doing has to protect the water rights of the irrigators out there. But if you call it Water Rights Protective Association, you know, it connotes something. If you call it an Environmental Alliance, it connotes something. And these are names kind of out of the wise use movement, if you will. A lot of those committees are environmental

committees. In April, May, of last year, there were a series of delegations through D.C.

Seney: After the negotiations?

Bettenberg: After the hearing, before the negotiations were set up, but the city of Fallon was in and they had hired two attorneys, both with prior associations with Reid, and the Protective Association was through, and TCID was through. It sounded suspiciously to me as though they took up their topics even in the same order, but it was kind of like within a month or a month and a half, something like that. Right now the mantra, if you will, is, "We want a programmatic." I guess I think that they have done really poorly over the years in selecting their legal advice.

Seney: But you see this, even perhaps the request for negotiations last year, as a kind of stalling tactic.

Bettenberg: It bought them a year and a half. It worked.

Settlement II Negotiations

Seney: When you heard that there were going to be negotiations, were you elated? Did you say to the wife over dinner, "Honey, I think we're finally going to settle this"?

Bettenberg: No. No.

Seney: Or did you take a more cynical view? (laughter) I'm laughing when I say this, of course.

Bettenberg: Yeah. As Betsy said at one point, she recognized that I really doubted that this would be successful, but that I had put far, far too much work into it for anybody to think that I wasn't trying to make it successful.

Seney: Speaking of you, now.

Bettenberg: Yeah.

Seney: And it was a lot of work.

Bettenberg: Oh, yeah. It was a lot of nights, it was a lot of weekends. I had to put our position together for every meeting, and coordinate it with all the bureaus, discuss it with her, discuss it with other parties when there were key issues, put proposals on the table in written form that had been brokered, so that we had a federal team position.

Federal Government's Position in the Settlement II Negotiations

Seney: What did you bring to the table in those negotiations? What was the federal position? You know, to be honest with you, you were kind enough, through Jeff Zippin, to make available to me the federal documents, and I've been through them a number of times, but they're not all that easy to summarize, I must say.

Bettenberg: Well, I'm not sure that I would be any more successful in summarizing them. Well, let's see. Twenty-five thousand acres of wetlands wasn't negotiable, but some of what we counted was.

Seney: In other words, you got down in the final thing of counting the S-line Reservoir and the Harmon Reservoir?

Bettenberg: Well, we talked about how we would keep those, but we definitely had the gun club in there, if we could strike a bargain with the gun club, and so forth. We had to have a tighter OCAP, and we had to be getting Pyramid Lake levels up into the, what, thirty-eight, forty, thirty-eight, fifty range.

Seney: And this had to do with target storage in Lahontan.

The Possibility of a Municipal Water Supply System

Bettenberg: No, this was the level of Pyramid Lake. That was for cui-ui restoration. We were willing to chip in some money for efficiency measures on the project. We were willing to talk about chipping in money for municipal systems.

Seney: Because as you improve the efficiency, especially through linings of the main canals, that would have an impact on the groundwater seepage and therefore on the supply to the municipal system.

Bettenberg: Yeah. Actually, you have that effect, but more importantly is you're buying up water rights. But the principal source of percolation into the groundwater table is the water actually put on the land. If you bought up a lot of land in the area where you get most of your recharge, you would be diminishing the water table.

In actual practice, it's not clear that that's going to be a problem. Virtually all the property we've bought so far is not in the area of recharge. It's in the area of least recharge, and it's down dip, as a geologist would say, from town and from where the wells are, and so forth. The water is flowing in the opposite

direction. The groundwater is flowing in the opposite direction.

Seney: Recoupment was in there, but that's not negotiable.

Bettenberg: Recoupment was in there as a part of it, and we had figures with and without recoupment in there, and we were willing to treat it as a separate issue or as a joint issue. We would like to solve the whole package, if you will.

Changes in State Law and the Issue of Conservation

We were interested in talking about state legislation that would allow you to garner the benefit of water conserved if you pay for it, whereas Western water law generally doesn't work that way and it's not very helpful on that. I don't know if you've followed it, but there was a major agreement a couple of years ago where the Metropolitan Water District for L.A. [Los Angeles] agreed to put up about $100 million for lining canals down the Mohawk Project, and Mohawk will get nicely lined canals, and the water saved will go to the Metropolitan Water District. General Western law is not friendly with that. I was trying to think what else was in there. Those were some of the main–

Seney: There was some things having to do with Fallon Naval Air Station that we sort of discussed before.

Bettenberg: Yes.

Seney: There would be some contributions out of Fallon Naval Air Station. I don't really expect you to repeat the whole thing, because we've got the documents, and I hope some day they'll be in the archive where people who are interested can listen to, read the transcripts and go to the documents themselves.

Bettenberg's Reaction to the Negotiations

But tell me what your reaction to the negotiations were. First of all, did you feel like the federal team was pretty well organized?

Bettenberg: Yes.

Seney: And you were in a pretty good position? You felt pretty good about what you came to the table with?

Bettenberg: Yes. Felt very good about it and we seemed to win high marks from everybody else, from the environmental community, from the [Pyramid Lake] tribe, from Sierra Pacific,

from the Reno-Sparks-Washoe Group. We were kind of coherent, we were forthcoming, we were putting potential compromise solutions on the table. I think that we were seen as showing a lot of leadership in those. The congressional delegation seemed to be impressed, Republican and Democratic alike.

Seney: These were the representatives, Congresswoman Vucanovich and Senator Reid.

Bettenberg: Right, the local representatives who were attending sessions. I think that we were considered as having acquitted ourselves quite well in that.

Seney: How did the negotiations go? Was there any point in which you were kind of optimistic, that you got caught up in the euphoria of that first meeting?

Bettenberg: No.

Seney: Nothing swept you along?

Bettenberg: No. I thought that we had proposals on the table that they should have agreed to, but like I said before, I didn't think that they had prepared either themselves or the community to do so. Without some sense that the

community was prepared, I couldn't see how we could ever reach an agreement. The people at the table agreed they couldn't take it home and bank it, if you will.

Seney: The other participants were fairly unified; the Pyramid Lake Tribe was unified in what it wanted and didn't wanted. Fallon Tribe didn't have a whole lot on the table, as I understand it.

Bettenberg: No.

Seney: They wanted their own district, which apparently they're going to get.

Bettenberg: Well, actually, they've backed away from that more recently.

Importance of Sierra Pacific Power Company to the Negotiations

Seney: Oh, have they? All right. Apparently, the power company, Sierra Pacific Power, really didn't want much. They were there to protect the preliminary settlement agreement, and they made some moves on the power system down in Fallon, but by and large, they weren't–

Bettenberg: I had wanted them there because I thought that if we were going to reach a settlement, that it was going to need money from a power agreement, because one of the practical problems I had to deal with was, if you have a settlement, how do you finance it.

Seney: And that would have been the power system down in Fallon making a contribution to that?

Bettenberg: Right. There is a way of optimizing the power system down there that we are not taking advantage of, just like where in the Truckee River Operating Agreement we're taking advantage of optimizing reservoir storage upstream and using it synergistically, if you will, or in a coordinated way, so that we get much more benefit out of it. The same thing could happen with–there are three different power generators down there, and if we base loaded them differently and so forth, you could generate more power and more money, and especially more money, disproportionately more money. That is probably a relatively easy deal to make.

Seney: So you were discussing some of that with Sierra Pacific Power?

Bettenberg: So having Sierra at the table was important because they operate the generators down

there and acquire the electricity from them. They are part of the contracts for those, so they would have to be a party to a settlement of that.

The Conservation Caucus

Seney: Various participants have told me they thought that what came to be called the Conservation Caucus, since apparently the environmental name had been appropriated by the people from Fallon, and I understand there was some talk about what the environmentalists, as we would normally think of them, that is, the Sierra Club, the Nature Conservancy, the Environmental Defense Fund, I'm right in thinking the Sierra Club was there, too.

Bettenberg: No.

Seney: They were not?

Bettenberg: The Wetlands Coalition.

Seney: The Wetlands Coalition, I see.

Bettenberg: The Sierra Club is a part of the Wetlands Coalition, but they weren't at the table.

Seney: My understanding from others is that they played a positive role. Was that your feeling, too?

Bettenberg: Yes. Yes.

Seney: Let me say at this point, and then maybe I just want this to, I don't know, maybe for humor, I don't know why. Do you recall more than a year ago, I called you, I think the first time I ever spoke to you, and I asked you–

Bettenberg: You wanted to come to the meetings.

Seney: If I could come to the meetings, and you said you'd get back to me, and you did, telling me that you and Betsy Rieke had discussed it and decided that I should not come to the meetings, and I wasn't offended, by the way, because I had been to one TROA meeting where we first met, and it was seven of the longest hours of my life. [Bettenberg laughing.] So I didn't get to come to these meetings, and I think I want to thank you for that, here. But if I had been at those meetings, what would I have learned?

Bettenberg: Well, you would have learned a lot. There was a lot of information put on the table. You would have learned the varying theories about how much water it takes for the wetlands,

which wetlands might count and which ones wouldn't and why, what kinds of birds use these, and why is timing important. I don't remember the name of it now, but there's one bird that flies up, I think it's from Panama, flies from Panama from here in one flight, loses a good chunk of its body weight in the process, then puts down here and has to fatten up to fly to Grace Harbor, one more direct flight. Sits down there, fattens up once more and goes to Alaska, and at the end of the summer, turns around and comes back and does the exact reverse of that. This refuge out here is extremely important to them at a certain time in the spring and a certain time in the fall. It's a different time than when ducks are there and geese and swans and so forth, and it's a different time when stilts and avocets, you know, and so forth, shore birds and so forth are there.

You would have learned something about the power situation, all sorts of theories on how to help the cui-ui, a more in-depth look about water conservation on the Newlands Project, the conservation study that was done, extensions to that that I had done.

Seney: The efficiency study and so forth?

Bettenberg: Yeah, the efficiency study and then some add-on studies that I had Reclamation look at. It was kind of interesting when they finally said, "We can agree with that," it was the conservation proposal that they were really agreeing with.

Seney: This is the Fallon community.

Bettenberg: The Fallon community. The interesting thing was that we simultaneously had a proposal on the table that was a little more favorable to the community than the conservation group. Why they settled on the conservation group, I don't know, because the conservation group would have gone with ours, and vice versa. But again, they didn't have the community behind them, so they couldn't have an agreement.

Seney: Let me turn this over.

END OF SIDE 1, TAPE 4. DECEMBER 5, 1995.
BEGIN SIDE 2, TAPE 4. DECEMBER 5, 1995.

Seney: What else would I have learned? I'm getting a little annoyed now; I see I missed a lot. [Both laughing.] But what else would I have learned?

How the Negotiations Went

Bettenberg: Well, I suppose how difficult it is to do these kinds of negotiations. Sometimes the facilitator [Gail Bingham] was helpful in the process and sometimes she was in the way of the process.

Seney: Overall, did she do a good job would I have learned?

Bettenberg: I think a reasonable job. It's a difficult issue to do, and facilitating negotiations are difficult. I've actually sponsored the first one that Interior did dealing with Southern California Air Quality, and that one ultimately didn't result in a deal. That was because our political leadership ended up being too intransigent, and Congress ended up a couple of years later taking the entire program away from Interior. Another example of not looking down the road and seeing what you had and where you were.

Seney: Who got it, the EPA?

Bettenberg: EPA did, yeah, who had aces up their sleeves and we didn't. That was a difficult one to do.

The Participants and the Various Interests

Seney: What would I have learned about the participants and the various interests?

Bettenberg: Good question. The conservation community was fairly well organized, had good leadership. I tend to think of David Yardas and Graham Chisholm as part of my brain trust, if you will, on issues. They're creative and think in interesting ways about these issues, and if you hand them a problem, they will give it a fresh look and come back with some interesting things. Sometimes that's one of the key things we as feds are lacking, one of the more difficult things I've had getting out of the group here, if you will, but I think that they saw the issues pretty clearly.

Bob Pelcygar is very able, represents his clients well. Sue Oldham was trying to come up with ideas that would help reach settlement, and she's also very creative and very knowledgeable. The Reno-Sparks-Washoe crew was basically there for their own issues; they had no reason to be there otherwise. The Upper Carson group turned out to be kind of interesting there.

Seney: Glad you included them, finally?

Bettenberg: Yes. It became clear, number one, that they could represent the three upstream counties; number two, that they really do, in fact, have a long view. They're looking out there at 2015 and 2020, and what the water needs will be,

and water situation will be and so forth. They are not stuck in 1995, 1994, by any means.

The Newlands community had difficulty putting their proposals together, had difficulty putting things on paper, had difficulty getting them cleared and getting them out. In part, there, I think, you don't know what goes on behind the scenes, but my feeling was that they weren't well represented by their negotiator.

Seney: Mr. Clinton?

Bettenberg: Yeah.

Seney: Mike Clinton.

Bettenberg: Mike Clinton. He had far too much going other than this. I never heard or tried to dig out what was going on, but there were some personal complications simultaneously going on there. He didn't give it the time that it needed, and if anybody was going to bring the community around and get them to look at how the outside world, or the rest of the world, was looking at these problems, it was going to have to be a good part of his job, I think, and that didn't happen. But he often would be flying in from D.C., or from some

other part of the country, just in advance of the meetings, little preparation.

Seney: What about the Fallon Tribe?

Bettenberg: Fallon Tribe was basically there for kind of their own issues. They made a point of saying they didn't want to intrude into most of this, that they didn't have a dog in the hunt on a lot of it, but they had some specific issues, and they wanted to work with us, basically, on those.

Seney: You alluded to, a few minutes ago, that they have kind of backed off of having their own district. Why would they do that?

Bettenberg: Well, it's a split community. Like a lot of reservations, they have allottees and they have the tribe. The allottees have a lot of political influence, but they're not the tribe. The tribe, as a tribe, was saying, "We want to be a district," and that sort of thing, but when the individual allottees who get the irrigation water looked at it, they said, "Well, we're not sure that we would get the kind of service we need, and we're not sure that we want you."

Seney: The allottees are the ones who've been allotted tribal lands on which to farm.

Bettenberg: Right. The land is held–actually, the Interior Department's relation to the allottees, so far as trust is concerned, is precisely what it is to tribes. This is not tribal land. This is individually held, allotted land.

Seney: This was the land that was traded years ago for the water rights.

Bettenberg: For the ten acres. And it's within the outer reservation of the boundary, but the tribe doesn't own the land. The individual allottee, I guess in both cases, the U.S. holds it in trust, but in one case it's for the tribe, and in the other case it's for the individual allottee. That complicates relations on many, many reservations throughout the country.

Collapse of the Negotiations

Seney: So you weren't surprised, again, when the negotiations collapsed.

Bettenberg: No. I'd have been euphoric if they'd succeeded, and extremely pleased. I personally put a tremendous amount of time and energy into trying to do that. I was out here almost twice a month, from the first of August through March, the better part of the time for a week at a crack, and during the latter stages of it I was going through some

parental crises up in the state of Washington as well. There were sometimes I would come out here, go to meetings, go up to Washington, take care of things up there and then come back down here.

Seney: Your father was ill, as I understand.

Bettenberg: Yeah, he was ill. There was just a tremendous amount of work there.

Establishment of the Truckee-Carson Coordinating Office

Seney: One of the things that came out of it in terms of the federal side is that the Truckee-Carson Coordinating Office that was set up. Am I right?

Bettenberg: I've been in kind of the continual search for the right coordination mechanism out here. I can't remember if it was '92 or '93, but at any rate, we initially got together and talked about all the tasks and who had to do what. It seemed that everybody knew what they had to do and so forth, but as issues kind of kept cropping up and so forth, it became clear that we needed better coordination out here, and we were also really short of creative ideas out here.

So I worked with the regional offices and put together a team that consisted of Ed Solbos, Chet Buchanan, Tom Streckle, and Ron Anglin, I guess it was, to be our coordination team out here. They were supposed to try to make sure that we coordinated all of our activities and to come up with fresh ideas. I initially tried this out on taking a look at the federal perspective and interests in the Truckee River Operating Agreement. What were they? Were there some things that might be being missed? What things should we be asserting? They did a relatively nice job of that, but that's a relatively bureau-neutral thing, if you will. As soon as they started dealing with things like recoupment, or OCAP, or–

Seney: Where they could really quarrel.

Bettenberg: Yeah. It didn't work. At best we could get BIA and Fish and Wildlife together, and Reclamation in a different camp, was probably about the best. We weren't getting any ideas out of it. But anyhow, tried that for a while and that wasn't working.

As we got into things, it became clear to me that we were going to have to do a new OCAP, that the reasons for doing it were really abundant, and that if we were going to

do that, we were going to have to do a third EIS. I put that together with kind of the coordination responsibility and concluded that we really needed to pull some people in, kind of apart from the bureaus, to do some of that coordination. I raised that with Betsy on my first trip out here with her at the beginning of April, getting ready for the hearings, during the next month or so sold her on that idea, that we needed to do that.

Then I went to work on putting the team together. I basically reached out for people who were kind of long in coordination, facilitation, with a strong dose of NEPA experience, so that we would have a very seasoned NEPA team, and worked out the funding and staffing arrangements for that and started moving people out here in August of last year, before the negotiations started. In fact, we had everybody but one on board before the negotiations.

Seney: So Jeff Zippin, who was heading this team, was out before. You must have known him from the–

Bettenberg: From MMS.

Seney: Yeah, right. Right.

Bettenberg: Yeah. It may sound parochial, but I guess I would say during the 1970s, clearly the best-run bureau in the Interior Department was the Bonneville Power Administration, just kind of the intellectual quality, the staff work that you saw.

Seney: Was this Watt's operation?

Bettenberg: No, this was Hodel's operation, actually, but it was good before Hodel was the director. It was good when he was the deputy director, and probably was good before that, but I didn't deal with it before that.

During the eighties, I think if you asked any secretary, they would say the best staff work, kind of the best thinking, the best esprit de corps, was coming out of the Minerals Management Service. We had a really high intellectual plane, and I'd like to think that I had something to do with that, and I think I did, but there was a good foundation there before. The NEPA work during the 1980s was probably the best in government. I've been told that by outside NEPA people, and the reason was because there was such a history of litigation on NEPA, and so we organized to do it really well, and if we missed something, the courts would tell us what it was and we then fixed it. We had the

system fixed in such a way that we not only fixed it for that EIS, but we fixed it for all EISs, all regions.

We had an EIS team in every region, and an EIS core crew in headquarters. Steve Alcorn, who's on the team, headed the West Coast team, for instance, on that. I had had such an intense experience with NEPA kinds of issues in MMS that I knew what you were looking for.

The Fish and Wildlife Service was just floundering like a fish out of water. Every time they'd do a NEPA document, it's amateur night. They'd create a new team. They decided that they would take the Lahontan Valley one on at the regional office, because that was where things came together, so they would do it there. They were a year into it before they finally ended up turning it over to Ron Anglin, and they had part of one chapter in poor condition to turn over, and that was it, within two months of when they were supposed to be out with a draft. So Anglin then had to assemble a team. There was nobody on his team that had ever done a NEPA document.

They were clearly floundering, so I went to Bill Martin and said, "The Pacific Regional

Office and OCS is downsizing, and I just saw a notice come through. They're doing away with their entire NEPA group for leasing." It was one of the two NEPA groups they had. "The guy that heads that up is really good, and I think he could really help you. He's a wildlife biologist, actually a specialty in fisheries, but a good dose of wildlife as well."

He said, "Well, I guess I could talk to him." It was clear they weren't terribly interested in somebody from some other bureau, but they met him and instantly liked him and said, "Yeah, this guy could help us a lot." So they agreed to bring him on, so he became one part of the team.

Then Jeff had been my leader for the air-quality negotiations, had had a tremendous amount of facilitation training, and has just a good presence about him. He was also the star, I understand, of the training programs put on last year and the year before for the Russians on mineral leasing, as they privatized their economy.

Seney: So you have this team now in place out here to coordinate, and Jeff is the team leader to coordinate.

Bettenberg: And to do the EISs, especially, but one of the problems is things are going along in a bumpy enough fashion right now that too much time is being burned up in coordination and not enough time in doing it.

TROA Negotiations

Seney: How are the TROA negotiations coming along?

Bettenberg: Oh, I think that they're okay. It's a little hard to say.

Seney: They're not nearly complicated enough, you know, from my point of view, as a participant of one meeting only. You know, let me say, one of the things that struck me about that meeting, which was very interesting to me, and that is, you, of course, were there, and Lynn Collins from the Department of the Interior solicitor's office in Salt Lake City. Sue Oldham and Gordon DePauli from Sierra Pacific Power, Bob Pelcygar from the Pyramid Lake Tribe was there. Fred Disheroon from the Department of Justice was there, and there were a couple of guys from California, I think. Was John Kramer there?

Bettenberg: Probably.

Seney: What struck me was how all you knew each other so well and that you've been obviously doing this for such a long time. It was very interesting to observe.

Bettenberg: Yeah. One of the things that's really interesting about the Interior Department, I think, and I guess why I've had a career-long love affair with it, if you will, is that it's a microcosm of the outside forces. You've got the Bureau of Reclamation that usually represents the irrigation, Western water interest. You've got the Fish and Wildlife Service that is caught some place between the hunters and the environmentalists but doesn't give a damn about irrigation and irrigators. The Bureau of Land Management that's got all the grazers and a lot of critters out there, too, you know, including owls and so forth up in the Northwest.

We actually fight about these issues. We take them on big time, and we know that we will get decisions, and we will move on, and we will be fighting, if it's not least terns this year, it's otters, sea otters, you know, or whatever. So you get to know one another. It's different from how HEW [Department of Health, Education, and Welfare] used to be, you know, where the health people believed in welfare, the welfare people believed in

education, the education people all wanted to live a long life. There's no debate there. You know, it's a different kind of an agency. When you spend that much time negotiating and dealing with difficult issues, you get to know one another, and that's what's happening here. We've been doing this–I've been in it for what's going on six years now, getting close to that.

Seney: Well, you're a relative newcomer.

Bettenberg: Yeah. Some of these people, you know, go back another decade or more in this.

Seney: Well, that's about all the questions I have for you. Is there anything we've left out here that we should understand about this? You know, there's lots more details I could ask for.

Bettenberg: Oh, yeah.

Seney: But your interview, like others, are all pieces of the puzzle, so when you put them all together, we hope the whole picture will be there. But is there something that we need to add that I haven't asked you about?

The Advantage of Having a Wide Range of Postings Within the Department of the Interior

Bettenberg: No. Probably the only other thing that I can add is that probably one of the things that has helped me in this process is that I come at things trying to look at the whole administration, the whole federal government, certainly the whole Interior Department. I've had the luxury of having postings, if you will, in a variety of different parts, and having worked with all the parts of the department. My view is that the Interior Department doesn't do nearly enough of that, doesn't train enough people to do that. That's one of the reasons why you so rarely see things well coordinated amongst the bureaus in the field.

I guess one of the things that drives me on this is the importance of working together as a federal government, unifying it. Congress has done a great job. Political scientists, you know, do a great job of balkanizing the executive branch of government.

Got a call from Kathleen Eagan [phonetic], mayor of Truckee, or I guess she's now past mayor of Truckee, but had been mayor of Truckee, on the cui-ui spawning run decision made this past spring. She said she just wanted to let me know that her compliments were out to the Interior Department, that we had presented such a unified position, and it

was just good to see the bureaus working together and speaking as one.

That was coordinated entirely out here. I didn't have to get involved in doing that, and they did a wonderful job of it. I guess that's my vision of how the Interior Department ought to work and how the federal government ought to work. Instead, if we didn't have a Justice Department, the different federal agencies would be in court with one another all the time, and it's crazy. But that's one other theme that I have in these kinds of things.

I think it's important that we try to do things in-house and get a position and speak as a group instead of having the Bureau of Reclamation out with irrigators saying one thing, the BIA out with irrigators saying something else, and the same when they meet with the tribe and so forth, they really need to be coordinated in speaking with one voice. It's very difficult to keep that together.

Seney: Well on behalf of one part of the Interior Department, the Bureau of Reclamation, I appreciate your taking part in the project as a contribution. I may be back to see you again.

Bettenberg: Okay.

END SIDE 2, TAPE 4. DECEMBER 5, 1995.
END INTERVIEW.

(Intentionally blank)