

ORAL HISTORY INTERVIEW

CHESTER BUCHANAN



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“ . . . once they got Stampede in place the secretary decided to utilize the water out of Stampede for these fish. And, then there was a lawsuit. . . . a whole bunch of people that were suing over utilizing this water out of Stampede. So then, it went to district court and . . . he issued an order that said the water was ‘to be utilized for threatened and endangered species until they were recovered or until no other water source,’ or excuse me, ‘until they were recovered or another water source was found.’ . . .” 43

“Well, that, that was appealed to the Ninth Circuit Court of Appeals in . . . San Francisco. . . . it was mainly the Pyramid Lake tribe was on the other side. . . . the Appeals Court basically said that ‘if a threatened and endangered species is part of a project it must be satisfied 100 percent first before any other elements of that project may be implemented.’ . . .” . . . 44

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“ . . . I started looking at a flow regime . . . What made it possible was Judge Solomon, . . . when he made the decision . . . on Stampede. All of a sudden we had Stampede to utilize. Now, we started to manipulating, trying to come up with these flow regimes. . . . it actually took us several years . . . before we started coming up with the flow regime that we used quite a bit. In fact, we ended up using the Cui Ui Recovery Plan. So, we utilized Stampede in ‘82, under the court decision, to start manipulating flows. . . .” 46

“In ‘83, Secretary [James] Watt did us a big favor, because he wouldn’t let us use Stampede. . . .

The fish run went to hell. . . . we didn't have any attraction flow. . . . we had hardly any fish run at all. So that's why we were . . . He proved the point that attraction flows were important. Because the year before, we had good attraction flows, we got a pretty good run for that time of year, 5,000 fish. The next year, the bottom dropped out of it because we had no attraction flows. The next year after that we had attraction flows, the fish were back. We just said, 'Thank you.' . . ." . . . 47

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“It's a model that had a lot of holes in it because we lacked a lot of knowledge. It did not predict the population we have today, but it did show the population increasing tremendously. . . .”

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“I think Bureau of Reclamation probably didn’t trust the Fish and Wildlife Service, and we didn’t trust the Bureau of Reclamation. And so, they felt they needed their own biologist. . . . It was really interesting, in some of the early, very early meetings . . . They had a saying, ‘Never meet with the Bureau of Reclamation by yourself.’ A horrible, horrible attitude. Horrible trust amongst the two agencies. . . .”

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“ . . . that’s when we started working on OCAP [Operating Criteria and Procedures], and trying to formulate different types of OCAPs . . .”

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“ . . . one of the things we had to take a look at was the Newlands Project, and water diverting over there. And, that’s when the tribe got involved with OCAP, Operating Criteria and Procedures for the Newlands Project. And, that’s basically determining the timing and amount of water to divert at Derby Dam over to the Newlands Project. . . .”

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“ . . . that was just getting started when I got here in about ‘82. And then, we were trying to figure out, ‘How do we do that? How do we come

up with an OCAP?’ . . .” 55

“ . . . I realized the big problem here was water.
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water, and that’s when I gradually started
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involved. . . .” 59

“ . . . one of the things that had dawned on me is that .
. . . they were diverting water from the river
when the river was at its highest flow. . . . in
the spring. . . . [and] That’s when cui ui and
LCT needed the water, was in the spring. So,
I came up with the idea, ‘How about if we try
to take as much water as we can in the winter

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how many variations on that. I mean, for
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“... so that’s how I got involved with TROA.
Basically, the way you broke it down is that you had Bill Bettenberg, for policy. . . . Fred Disheroon had the lead for Justice, legal. And then, you had the technical people. And we had me for Fish and Wildlife Service, technical. You had Tom Streckal for BIA technical. . . .” 112

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“... we have, I think, a copy of every single one of the drafts of TROA. Some of them may be marked up but at least we found that very first one. . . .” 116

“... it’s really interesting. The first . . . at least four years, if you go back and you take a look at the issues . . . people were really not putting the hard issues on the table. They were

holding them back. . . .” 117

“ . . . it wasn’t until, I guess, about ‘86 that we finally started tackling some of the hard issues. . . .” 118

“Sierra Pacific was constantly looking at their availability of water. And, for example, one of the issues that came up was that I wanted to be able to put Fish Credit Water in Tahoe. And, there was no problem against that, except Sierra wanted to be able to establish against our releases. That means, they would allow their water to continue to flow downstream, we would retain, retain our water in storage, and that would be transferred over to them. And so, we’re all whole. But, the issue that I had was I needed water in the stream below Tahoe, if we’re every going to reestablish LCT, Lahontan cutthroat trout, all the way upstream. That became quite contentious. That was one of the things I had to start drawing the line on. And, Sierra’s point was, ‘You’ve never worried about that before, and you’d only managed water out of Stampede and Prosser for cui ui and LCT.’ And I said, ‘But, this is a new issue.’ 119

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“I said, ‘You got to use consistent language,’ (Seney:

Right.) ‘and your methodology has got to be consistent.’ California said, We can’t do it because we negotiated each one of those subsections separately with different parties. In order to do that we’d have to go and get all the parties together and come to some kind of an agreement.’ And, they said, ‘That would be almost impossible.’ . . .” 127

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“I couldn’t follow the format of TROA. . . . I started going through TROA and reading it . . . pulling out subject matters . . . to put them

into categories. And then when I got all through I took a look at all the categories I had and tried to figure out, ‘Now, how can I use them to try to put together a narrative?’ . . . it took about twenty pages. And, that’s what I got TROA down to. . . . you’ll notice there, there’s a disqualifier in there. It says for people that want more details, ‘Please read TROA. It’s attached or an appendix,’ . . .”

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“... TROA is so different. There’s totally two
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in Stampede. Now, Sierra’s got their water in
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Why? Because Stampede hardly ever spills. .
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utilizing empty space. You’re also given an
opportunity for a private water holder, water
right holders, to use federal facilities. . . To
give you an example, we would like to see
more water retained at Independence during

late spring, early summer, because there's a strain of Lahontan cutthroat trout in Independence that goes upstream out of the lake to spawn. Sierra Pacific has the tendency to bring some of that water out and utilize it for M & I, especially during drought season. If they bring it down they can cause a delta in the lake, upstream to Independence Creek coming in, and the fish can't get upstream to spawn. . . ." 146

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TCID “. . . had an opportunity. . . . they sat in on negotiations for a while, but their demands were unrealistic. . . . the parties just couldn't go along with it. So, TCID just basically threw their hands up and left negotiations several years ago. Which, I think, was a mistake. They may not have agreed to it, but I think they should have stayed in negotiations. . . . they dropped out of negotiations. And, by doing so they have a knowledge disadvantage of what TROA is, and what the impacts are. . . .” 153

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“They had a lot of things they were trying to do. . . . wanted to make sure they got every priority as possible . . . And, number two, once the—the credit water . . . [was] established they wanted to make sure it was protected as much as possible, both from evaporation, from spillage, transfers, or whatever. Sue [Oldham] was very, very effective on doing that. . . .” 158

“Sierra wants to have their water readily available. They do not want to have it in Tahoe, and Tahoe start to get low, because when Tahoe gets low you don’t have a lot of head because there’s only six feet of head on the lake anyway. And, you get down to a couple feet of head they can’t get their water out of there very fast. And so, during low water years they wanted to transfer their water into Stampede and force us to move our water into Tahoe. Well, guess what, we may not be able to get our water out now. And, just the

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Bureau of Reclamation History Program

STATEMENT OF DONATION
OF ORAL HISTORY INTERVIEW OF
CHESTER C. BUCHANAN

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, CHESTER C. BUCHANAN (hereinafter referred to as "the Donor"), of RENO, NEVADA do hereby give, donate, and convey to the National Archives and Records Administration (hereinafter referred to as "the National Archives), acting for and on behalf of the United States of America, all of my rights and title to, and interest in the information and responses (hereinafter referred to as "the Donated Materials") provided during the interviews conducted on and JUNE 21, 2005 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.**
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Date: 4/21/05

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CHESTER C. BUCHANAN

INTERVIEWER: DONALD B. SENEY

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Introduction

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

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

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

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

**Oral History Interview
Chester Buchanan**

Seney: Reno, Nevada. This is our first session, and this is our first tape. Today is June 21, 2005.

Chet, why don't you first talk about where you were born, and where you grew up a little bit?

**Born in Hawthorne, California, and Raised in
California and Missouri.**

Buchanan: Oh, I was born November 11, 1943 in Hawthorne, California. And, I spent many years moving back and forth, as a child, between California and Missouri. But, that's my dad, not me. (Laughter)¹ So

Seney: What was he doing just working here and

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

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

there?

Buchanan: Yeah. Odd jobs, and etcetera. He was the first of the family, when he was a youth, to leave Missouri and go west. And, he went West as a hobo. He rode a freight, and worked for the CCC. And, he was quite a rough character. And, there's the telephone. You want to turn that off?

Seney: Yeah. (Tape paused). Go ahead.

**After the Family Settled in Indio, California,
Attended San Diego State University for a
Bachelor's Degree in Biology and a Master's
Degree in Zoology**

Buchanan: Anyway, I went to San Diego State. Actually, backup. We finally settled around Indio, California, and that's where probably the fifth grade on through high school I was down in Southern California. Then I went to San Diego State for seven years. I got my bachelor's degree there in 1966, in biology, and then I got my masters in zoology, both of them from San Diego State.

**Went to Work for the Bureau of Sports Fisheries
in New Jersey**

I got that in 1968, and that's when I went to work with the Bureau of Sports Fisheries in

New Jersey. We moved from San Diego to New Jersey in a pickup truck. My wife Sue and I, and our daughter, who was about three months old. (Laugh) And a dog.

Seney: This is for the Department of the Interior, of course?

Buchanan: At that time, yes. (Seney: Right. Yeah.) Yes. And so, anyway, I went to work for the Bureau of Sports Fisheries, the Marine Division, in New Jersey, Highlands.

Seney: What were you doing there?

Was Working on Artificial Reefs on the New York Bight

Buchanan: I was in research. We were working on artificial reefs. We were basically putting man-made junk in the ocean and then study it and see how it would attract fish. And, my job, primarily, was to take a look at the sports fishermen that were utilizing the reefs, and take a look at how successful they were over these, over, versus natural reefs. Well, up there in the New Jersey, the New York bight there's a lot of shipwrecks, etcetera. So.

Seney: The New York Bight?

Buchanan: The New York Bight. That's the ocean area

that is formed by Long Island and New Jersey. And, that's called the New York Bight. (Seney: Oh.) And, my survey area was about 750 square miles, and I spent a lot of time trying to figure out how to survey these people. How do you get a hold of these people when you have this vast area? And so I ended up using boat numbers and going to the states and finding out who owned the boat, and sending them a letter and saying I notice that you were fishing this day. And, hopefully the guy told his wife he was going fishing, (Laugh) and [inaudible] was supposed to be. (Laugh) Oh, we, I did a large number of things to try to zero in on what was going on there. But anyway, to make a long story.

Creation of the National Marine Fishery Service and the Fish and Wildlife Service

So, I started out with the Bureau there, and then we were changed over the National Marine Fishery Service. They dissolved the Marine Division. Actually, that's when the Fish and Wildlife Service was formed. (Seney: Uh huh.) And, the people that were in the Fresh Water Division went to the Fish and Wildlife Service. I was in the Marine Division, so we went with the National Marine Fishery Service. And, BCF is the Bureau of Commercial Fisheries, also went over the National Marine Fishery Service.

Bureau of Reclamation History Program

Seney: Go ahead.

Buchanan: Yeah. Where in the heck was I?

Seney: The fisheries, the Marine fisheries.

Buchanan: Oh yeah. Yeah. Anyway, so we went to the National Marine Fishery Service, that is the program, the artificial reef program.

Transferred to Beaufort, North Carolina, and Then Miami

So, they transferred us from New Jersey. I was in New Jersey for about three years and they transferred us to North Carolina, down on Beaufort to the office down there. And, we were in ~~New Jersey for—excuse me,~~ in North Carolina for about two years with that program. And then, I left the Artificial Reef Program and we moved to ~~New Jersey—excuse me,~~ to Miami, to the Bill Fish Program.

Worked in the Bill Fish Program—Blue Marlin and White Marlin—on a Volunteer Tagging Program

And, the Bill Fish Program was looking at the recreational fishery on Bill Fish. That's blue marlin, white marlin.

Seney: You mean fish with bills?

Buchanan: Yes. (Seney: Yeah.) Yeah. [inaudible]. And, my job was basically to head up the Volunteers Tagging Program. And, that was a tagging program that I took over. It was actually worldwide, but primarily concentrated on the East Coast of the United States. And so, I dealt with the public a lot, sending out tags, getting information from them, and etcetera, and trying to get enough fish tagged so we could get an idea of the movement, of the migratory patterns.

Seney: In other words, if they caught one that was too small to keep, you'd want them to tag it for you?

Buchanan: No, there wasn't any size limit. There aren't any size limit. Usually, there's an awful lot of catch and release (Seney: Ah.) in the program. The people that fish for these fish are very, they have a lot of money. (Seney: Yeah.) They're very wealthy. Usually they have their own boats and crews. And, for example, I knew this one fellow, he fished 200 days a year either in the United States or Australia. He inherited a lot of money and so all he did was fish. And so, we would go to a lot of bill fish tournaments, whether it's in the Bahamas, and down in Jamaica, or wherever, and travel around an awful lot. (Seney: Ah.) And, that would be collecting sports fishing information, at the same time I was seeking

volunteers to tag fish.

“ . . . I was with that program for about four years, and got the sailfish migratory pattern down pretty good. We could start to identify different stocks. . . .”

And, so I was with that program for about four years, and got the sailfish migratory pattern down pretty good. We could start to identify different stocks. And then we had some theories as to blue marlin and white marlin. But, and again you could start seeing the different stocks by the types of movements we'd get. (Seney: Right.)

“ . . . some of these fish, like tuna, they circle the entire Atlantic every year, blue fin tuna. It's just amazing. I was also involved with trying to determine how to age these fish, and that's extremely difficult. And, I was not very successful in that. . . .”

But, some of these fish, like tuna, they circle the entire Atlantic every year, blue fin tuna. It's just amazing. I was also involved with trying to determine how to age these fish, and that's extremely difficult. And, I was not very successful in that. (Seney: Yeah.)

“ . . . after about ten years of being in research in the Marine section, I said, 'Well, maybe it's time to

get back involved with fresh water.’ So, we moved from there in 1978. We left Miami and went to Anchorage, Alaska . . .”

Anyway, so I decided, after about ten years of being in research in the Marine section, I said, “Well, maybe it’s time to get back involved with fresh water.” So, we moved from there in 1978.

Moved to the Fish and Wildlife Service When He Moved to Anchorage

We left Miami and went to Anchorage, Alaska, with the Fish and Wildlife Service.

Seney: Quite a change?

Buchanan: Yeah. And, we drove all the way. (Laughter)

Seney: Oh man.

Buchanan: It was fun.

Seney: I’ll bet.

Buchanan: We took two, we took two weeks and we stopped off across the United States and saw relatives, and went up through Yellowstone, and then finally ended up in Seattle, and caught the ferry, and took the ferry up to Haynes Junction, and then drove from there

out and around. And, it was, it was an enjoyable trip.

Seney: I'll bet. I'll bet.

“ . . . in Alaska I was involved with the Fisheries Division there, but it was primarily in administration, in the regional office, doing budgeting and planning. We were there for three years . . . ”

Buchanan: And so, in Alaska I was involved with the Fisheries Division there, but it was primarily in administration, in the regional office, doing budgeting and planning. We were there for three years, and Sue had pretty much had it with Alaska. (Laughter) In the three years we were there I can remember the five days where it was greater than seventy degrees. (Seney: Yeah.) And see, that's around Anchorage, because it's a maritime-type climate. (Seney: Right.) You get up in Fairbanks, and Fairbanks can get ninety degrees in the summertime.

In 1981 Moved from Anchorage to Reno

But, anyway, down there in Anchorage we figured it was time to get out. So, 1981 is when we transferred down to the lower forty-eight. And, actually, what it is, interesting how I got here. I put out several applications.

There was two jobs I was looking at, basically. One in Redding, California and one here in Reno. And, we knew there was getting ready to become a freeze on, because this is January '81, and I think Ronald Reagan was just elected, (Seney: Right.) and we knew he was going to put a freeze on.

To Avoid a Hiring Freeze in the New Reagan Administration He Told the Two Offices Interested in Hiring Him That He Would Take Whichever Job Was Offered First

So, I had a conversation with Don King, he was the Field Supervisor here, and then the other fellow, I forgot his name, over in Redding. And, I just told them, the first one that would commit to me I would commit to them, because we had to get something going.

Came to Reno as Deputy Head of the Office

And, finally, (Seney: Yeah.) and that's how I got to Reno. Don was the first one to commit. So, I came down here as his deputy. It was a very small office at that time. We had about, we had a secretary, administrative officer, and probably five biologists. That's all we were.

His Job in Reno Was to Become Part of the Cui ui Program Working on the Water Management Issue

And, my job, at that time, was to look at, to become part of the Cui ui Program.² And, we had some fellows there that were already working on cui ui, but I got involved with primarily the water management issue, not the life history portion of it, but the water management. The other fellows were working on the life history.

Seney: What does that mean, the life history?

Life History of Cui ui

Buchanan: Basically the biology of it, the population dynamics, how old the fish would be, when did they spawn, how old do they have to be before they start spawning, what's their longevity? Things of that nature.

Seney: How old do they have to be before they start?

Buchanan: Oh my gosh. Now I'm really shaking off the cobwebs. If I remember correctly, it seems like we start seeing males at about age seven, which are sort of precocious. They're not that productive. I'm thinking that the females start coming in at about age nine. And, my gosh, some of the cui ui, I'm trying to remember how old Scott Atoni [spelling?] was finding them. They were in their twenties. But see, they don't start reproducing really with any

2. The cui ui is a sucker—*Chasmistes cujus*.

significance until they're at least ten years old. If you get a fish that's twenty years old, she's carrying a lot of eggs, a lot of eggs. And, they spawn thousands of eggs, because the survival on them is very, very low. (Seney: Yeah.) And, the, hmm, they only come in at a certain time to spawn, as based upon fresh water inflow and water temperature, and things of that nature. Then it takes about a month or so, a month to six weeks, for the eggs to hatch. And then the yolk sack larvae on the gravel for about a week or so before they emerge. Once they emerge they're swept downstream. As you can see, they're going to be highly vulnerable. (Seney: Yeah.)

“... the physiology of the [cui ui] larvae is really in tune to the fresh water. When you get into Pyramid Lake it's quite saline. . . . they get there about two weeks old . . . about the time they enter the lake they go through a transformation, and their mouth parts start forming and they start feeding. At that time they become very tolerant to salt water. . . .”

It's really interesting, the physiology of the larvae is really in tune to the fresh water. When you get into Pyramid Lake it's quite saline. About the time the fish enter the lake, they get there about two weeks old at that time, about the time they enter the lake they go through a transformation, and their mouth

parts start forming and they start feeding. At that time they become very tolerant to salt water. (Seney: Ah.) If you took the yolk sack larvae and threw them in salt water, or the eggs, they'd die. (Seney: Ah.) And, it's just the reverse. If you took the larvae and put them in fresh water, they're going to have problems.

Learning What Flows the Cui ui Needed

So, anyway, but I wasn't involved with doing that research. My job was primarily to try to determine what is the river environments for the fish in terms of flow. And it was really interesting when we first, I remember some of the first meetings that we had we would go with the Bureau of Reclamation and they were pretty much the ones who were controlling the water then. (Seney: Right.) And, the Fish and Wildlife Service would try to figure out how much water we needed. And, I remember going to one meeting and the people with the Bureau of Reclamation asked my boss, "Well, how much water do the fish need?" And, his reply was, "As much as they can get." And, I thought, "That's a bad answer, (Seney: Yeah.) because guess what? Then, the Bureau of Reclamation is going to tell you how much water you're going to get."

“So, we were trying to figure out, ‘What the heck do we really need to get recovery of this species?’

...”

And, I thought, “That’s not the way, we got to figure out, ‘What do the fish need?’ and we go from there.” So, that was a, actually, a difficult question because there seems to be a relationship between river discharge, the size of the population of fish, and the amount of fish that move upstream to spawn. So, if you have a low-flow year you’re not going to get that many spawners upstream. (Seney: Right.) Where, if you have a real good flow year, then you’re going to get a lot of fish moving upstream. So, we were trying to figure out, “What the heck do we really need to get recovery of this species?” And, by the way, the cui ui is an endangered species. (Seney: Right.)

So, you’re going to need a lot of years of data of varying flows, varying populations, etcetera. really try to zero on this. So, my approach was, “Let’s just try to mimic nature in sort of an average water year.” So, I took a look in a lot of the historical flow data and used that to try to come up with what I call the “traction flows”—it’d be January, February, and March—trying to track the fish to the delta and get them stimulated to start moving. And, actually, back then, the fish wouldn’t move

until about end of April, first part of May.

“We didn’t know it at the time, but we had some structural problems, or barriers. . . .”

We didn’t know it at the time, but we had some structural problems, or barriers. (Seney: Uh huh.) And, I’ll get into that in a bit. (Seney: Sure.) So, then, so we used that average flow, and then the other thing was we was trying to figure out, “Well, what do we do once the fish are in the river?” Well, the main thing is to try and hold constant flow, because we were concerned about the redds, the nests. We didn’t want to have fluctuating flows, because then the fish may spawn in shallow water and then the river will drop and we’ve exposed them. Or, the reverse may happen, they spawn in shallow area and the flows come up and then they get eroded away. So, we try to maintain a constant flow. Well, there’s a definite temperature relationship between there and larvae survival, embryo survival. And, we found out that sixty-three degrees Fahrenheit was about the best temperature. If you have the fish incubate in warm water, they incubate very quickly. Like, the eggs could hatch in like two weeks versus six weeks. The only problem is you have a lot of larvae that are deformed. We did some studies on that, one of the guys that was working for me. And so, we tried to hold it at

about sixty-three degrees. During an average year, usually that's about 1,000 cfs. So, we would try to maintain the flows for about 1,000 cfs until the majority of the larvae were out of the gravel and then we would start cutting back on the flows. So, it was sort of—sort of, it was—it was artificial the way we were managing the river, (Seney: Right.) but it was highly productive. Highly productive. In fact, today, oh my gosh.

“I don't know the numbers, but the population's in the millions of fish. When I first got here . . . about '81, '82 when we really started looking at it, we had one year class that was supporting the whole population, and that was from 1968. And that just happened to be – that was a high water year, and they produced a lot of fish that year. . . .”

I don't know the numbers, but the population's in the millions of fish. When I first got here we were dealing with basically one year class. When I started working about '81, '82 when we really started looking at it, we had one year class that was supporting the whole population, and that was from 1968. And that just happened to be – that was a high water year, and they produced a lot of fish that year. So now, we have one year class. We have a number of other year classes, but they're very small. When I say one year class,

we're looking at about 80,000 females, and that's it. I mean, that's reason why you can see why they were endangered, (Seney: Right. Right.) because of water management. I'll get into that issue. So. . .

Seney: Let me ask on this one (Buchanan: Yeah.) year class, these, once they begin to spawn they'll spawn for a number of years (Buchanan: Right.) and then increase the number?

Buchanan: Right.

Seney: Right.

Cui ui Spawning Patterns

Buchanan: See, what happens—let's back up. Let's talk about the problem on the cui ui. Cui ui try to spawn every year, and again they have to be sexually mature before they're going to spawn. As I said earlier, that's roughly age ten, and they'll spawn until, I don't know, age twenty, twenty-five or so. And then, they'll still be alive but they sort of, sort of burn out. (Seney: Yeah.)

Paiute Exploitation of the Cui ui as a Food Resource

So, go back in time and the cui ui were

very important to the Paiute tribe as a food source, because there'd be a huge number of fish, and the fish would come in the April and May, and they come in in big swarms, and pods. And, it's almost like a tidal wave going up stream. You can see it move. And, the Indians used to get out there with some types of nets. They'd use stones, big large stones, and they'd serrate them around so they could use them as anchors on these things. And, they would corral these fish, and then they would take the fish, filet them, and then air dry them. And, from some of the reports back in the 1800s it was a pretty smelly operation. You can imagine?

Seney: Yeah. Right.

“ . . . it was a real good food source for them, because it would get them through the winter. . . .”

Buchanan: But, it was a real good food source for them, because it would get them through the winter.

“Then what happened was people started to doing things upstream. . . . the first big impact was the lumber industry . . . But, the biggest impact was really the development of agriculture, both in the Truckee Meadows . . . the Newlands Project came in, and with Derby Dam. . . .”

Then what happened was people started to doing things upstream. Everything—the first big impact was the lumber industry back in the 1800s, and they would put a lot of their sawdust in the river. They'd also have logs and stuff, and they had a dam up at Tahoe. Then, they'd open that up and flush the sawdust out, move logs down, and etcetera. Well, the sawdust would go all the way down into Pyramid Lake and it created a big delta down there, just old logs, and sawdust, and etcetera. So, this was starting to have an impact. But, the biggest impact was really the development of agriculture, both in the Truckee Meadows, primarily in the Truckee Meadows in the early years, but they weren't diverting enough water to really have a severe impact. It wasn't until the Newlands Project came in, and with Derby Dam.

Water Diversion for the Newlands Project Meant There Was Not Enough Water in the River for the Cui Ui or the Lahontan Cutthroat Trout to Spawn

Once they built Derby Dam, and they started taking [water] over to Lahontan Reservoir, they started taking out a major portion of the water, to the point that a lot of times it was not adequate water for the fish to come upstream and spawn.

The Original Lahontan Cutthroat Trout Went

Extinct in the 1940s

In fact, the Lahontan cutthroat trout, the original strain of Lahontan cutthroat trout became extinct in about the early '40s, primarily because of that. And, there was two problems with the LCT, the Lahontan cutthroat trout, is number one, they have to go upstream, way upstream in the Tahoe area, the Little Truckee River and up in through there, to spawn. There's not much spawning habitat in the main stem of the river.

The Fish Ladder at Derby Dam Was Poorly Designed and after Washing out Twice Was Abandoned

They put in Derby Dam. It had a very poor fish ladder on it, a very poor fish ladder. In fact, the original one was washed out, then I think they put another one in in the '20s, and then it washed out, and they pretty much gave up on it. Well, the fish couldn't get upstream to spawn anymore. (Seney: Ah.)

“ . . . there was some spawning going on in the lower river but I don't think it was very productive, because the last documented Lahontan cutthroat trout, I think, was 1938 . . . they probably died out by 1942 or so. . . . ”

And, there was some spawning going on in

the lower river but I don't think it was very productive, because the last documented Lahontan cutthroat trout, I think, was 1938 or so. And so, they're guessing they probably died out by 1942 or so.

Seney: The last documented spawning of them?

Buchanan: Yeah.

Seney: Yeah.

“ . . . Lahontan cutthroat trout, Pyramid Lake strain. So, they basically died out. And that was because of Derby Dam and the water diversion. The cui ui, because of their longevity, were able to survive. . . . ”

Buchanan: The last time somebody saw a Lahontan cutthroat trout, (Seney: Ah.) Pyramid Lake strain. So, they basically died out. (Seney: Right.) And that was because of Derby Dam and the water diversion. The cui ui, because of their longevity, were able to survive. And, if you go back—and Gary Scopettone, he works with the USGS [U.S. Geological Survey], he's the one that's been doing research on cui ui since, oh my gosh, about '82 or so I think, when he got involved with it. Before that he was doing Lahontan cutthroat trout. So, anyway—where was I? I just got lost. (Laugh)

Seney: You were talking about the longevity of them.

“ . . . he noticed that he had a year class, and I think it was 1946, another year class 1950, ‘63, ‘86, and then a couple little [Inaudible], and that was it. So, you could see the fish were only getting up and being successful every ten years or so, and it was because of their longevity they were able to survive. . . .”

Buchanan: Oh yeah. Gary Scoppettone was doing aging. And, he noticed that he had a year class, and I think it was 1946, another year class 1950, ‘63, ‘86, and then a couple little [Inaudible], and that was it. So, you could see the fish were only getting up and being successful every ten years or so, and it was because of their longevity they were able to survive. Lahontan cutthroat trout, they start spawning about age four, and by age seven they’re pretty much over. Whereas cui ui, they’re going to be around for twenty or more years, still available. So, that’s why they were surviving.

“ . . . we started to manage Stampede . . . now, we started creating opportunities almost every single year. So, we were creating smaller year classes . . . you will see that the population increased tremendously, and exponentially, because we have a small year class and all of a sudden once the progeny from the ‘86 year class . . . I think we

had something like 30-some-odd-thousand fish run, and we . . . couldn't believe it. . . ."

So, then when we got involved then we started to manage Stampede—I'll get into that in a minute—now, we started creating opportunities almost every single year. So, we were creating smaller year classes but we didn't have a lot of adults. If you go back and take a look at the population dynamics, from today back to about '82 when I got involved, you will see that the population increased tremendously, and exponentially, because we have a small year class and all of a sudden once the progeny from the '86 year class – and remember we're going to have several year classes from them now—(Seney: Right.) once they started coming back in we started seeing good numbers and now we're talking about a couple hundred thousand running, versus a spawning run of 5,000 fish back in 1982 we thought was great. Okay? Then all of a sudden I remember, in 19– oh I said a year class '86. Forget that. That was '68. Sorry. I just thought about it. Nineteen eighty-six, I think we had something like 30-some-odd-thousand fish run, and we were just, we couldn't believe it.

"In fact, we weren't even really set up to handle that many fish. And now, what, are they running, 500,000 fish? . . ."

In fact, we weren't even really set up to handle that many fish. And now, what, are they running, 500,000 fish?

Seney: What do you mean "set up to handle that many fish?"

Diversion of Water to the Newlands Project Resulted in Pyramid Lake Dropping in Elevation and Head Cutting Started Going Upstream and the Cui Ui Couldn't Find the Fishway to Get to Their Spawning Areas

Buchanan: Getting back to – what happened, when there was so much water being diverted from the Truckee River, Pyramid Lake started dropping in elevation. When that happened you started getting head cutting going upstream. So, this is back in the '50s and what they did was they built was a dam where Marble Bluff Dam is.

Indian Dam, Marble Bluff Dam, and the Pyramid Lake Fishway

It was called Indian Dam then. I think that's what it – and then they replaced it later on with Marble Bluff, and Marble Bluff was built in '76, '78, right in that neighborhood, when it was built. Well, the way they had planned on getting the fish upstream, and Marble Bluff is about three miles upstream from the delta, and

it has a fishway going around it called Pyramid Lake Fishway. And, they were planning on using that to have fish to get access upstream around the dam, because you had the delta and it was very difficult for fish to get over the delta. (Seney: Right.) Well, the fishway was highly ineffective. It was only passing about 50 cfs. It was about, oh I don't know, a mile or two miles from the mouth of the delta. So, the fish would [go] over [to] the delta, because that's where most of the flow is coming in, and they wouldn't know where the fishway was. (Seney: Right. Right.)

Issues Related to Trying to Assist the Cui ui to Spawn

Then, once we got the fishway, the fish into the fishway, attracted there, the ladder design was not really designed for cui ui. It was designed for trout. Trout can move up it very easily, but cui ui couldn't. So, we had to do . . .

Seney: They don't jump as well as trout?

Buchanan: That's right. It's they do not have the swimming ability nor the desire that trout have. Cui ui, you can turn them off real quickly. If you put a barrier in front of a cui ui they just say, "Hey, spawning's not worth

it,” and they go back to the lake and say, “Forget it.” For a trout, they’ll just sit there and just keep pounding their head, and pounding their head, and pounding it to get up stream. So, you have to make it easy. And the problem is each one of the ladders, each one of the weirs in the ladder, each one of the steps in the ladder, was about a foot drop. And so, the cui ui couldn’t get up that. (Seney: Ah.) A trout could jump right over it in nothing flat. (Seney: Right.) So, we had to reduce them and get them down to six inches and reduce the volume of water going down through there so the cui ui could get up. So then, we had four ladder systems in the canal to get them up to the building, the fish facility. And then there we would have a crowder where we could pen them up, and etcetera, and then we put them in an elevator and hoist them up, and then release them. (Seney: Ah.) It used to be, when I first got here they were trucking the fish. They were taking them out of there, putting them in trucks, taking them upstream in the [Inaudible] and then releasing them. Well, that was not very good for the cui ui, because they’d open the doors and just blast the fish out of there. And, I think they were probably killing as many as were getting out. It wasn’t very effective. (Seney: Yeah.)

So, we had to do some modifications on the facility there to try to get the fish to

move upstream. Once we released them at the fish facility, above the damn, we had to modify that to try to get them upstream. And, one of the problems that we were having is that, as I said if you put up a barrier in front of a cui ui you could turn them off in a hurry. So, we would release them up there. We, we'd release them out of the building and a large percentage of them would go right back over the main spillway, because we ended up catching them later, on and we were tagging them, we'd find out, "They're back in the lake." And so, (Seney: Uh huh.) we had to find ways of getting around that. And, there was a very large trap associated with the fish facility where you could catch fish that came up the delta. Well, the lake was so low the fish couldn't get over the delta. Well, in '86 the lake came up and they could get over the delta and we started noticing there were a lot of pelicans working downstream of the spillway, which is part of the fish facility, part of the dam.

The Fish Lift at the Dam Was Very Dangerous and the Regional Office Was Reluctant to Improve it

So then, we started utilizing this big lift they had there, and it was a monster, just a monster. The fish had a hard time, again, being attracted to the proper entrance. Then it was one of these systems where you'd let so

many fish get in, drop a gate down and then you had this big elevator that would hoist them up. And, it would be like a big bucket with water in it. And it was just a—I don't know who designed this thing but it was, it was as system designed to kill somebody is what it was going to do. And, they'd hoist this thing up and then you'd release it into this other pass and hopefully the fish would swim out. (Seney: Yeah.) And, it was extremely, extremely dangerous. The opening to this thing was fifteen feet by fifteen feet, and it was probably a forty foot drop. And, there was no fence around it or anything. In order to open the chute from this bucket you had to hang on the rail and lean out over this thing and reach out and grab a lever and pull it down, and then a door would flop out. If you lost your balance, you were dead. You fell down. So, we tried to get money to get that fixed. And, the facility was operated by Dwayne Wainwright [spelling?]. He's with the hatchery in Gardnerville. That was, they operated that. We managed the run, the fish run. So, we tried to get money to improve that. In fact, at that time we even explored the idea of doing a fish lock, which would – you'd change the design and make it into a lock whereby you'd have the fish come in and congregate down there. You'd put a door in and then you'd fill the thing up with water (Seney: Right. Right.) and then you crowd it

up from the bottom and spill it in. That's what they have today. (Seney: Ah.) So anyway, we tried to get money to do something about this basket. And, we didn't get any money out of the regional office.

Seney: How much money were you talking about?

Buchanan: I don't remember, \$100,000. (Seney: Yeah.) It wasn't much. And, what we wanted was a different basket. (Seney: Right.) Well, the regional office wouldn't do it. And so, Wainwright [spelling?], he came to me and he said, "Chet," he said, "We can't get the money." I said, "Dwayne, this is very easy. Shut it down." He says, "I can't shut it down because it's endangered species." I said, "You shut it down because of human safety problem, and tell them 'You're going to kill somebody. I don't want to be responsible. We're shutting it down.'" I said, "As soon as you do that, they're going to have to do a Section Seven Consultation and we're going to give them a jeopardy opinion and we'll the money."

Seney: What's a "Section Seven," you say?

Buchanan: Section Seven is associated with Endangered Species Act. (Seney: Oh.) And, whenever the federal government or somebody that's using a federal permit, or money, or etcetera, does

an act, does an action you have to sit down and review that action, and what is the impact on threatened and endangered species.
(Seney: Oh.) And, if you think that that action is detrimental . . .

END SIDE 1, TAPE 1. JUNE 21, 2005.
BEGIN SIDE 2, TAPE 1. JUNE 21, 2005.

Buchanan: Anyway, if it's, if it's going to be harmful to the continuing existence of the species, give a jeopardy opinion and they're not going forward. It's dead right then. The last thing the Fish and Wildlife Service will want to have another office give the regional office a jeopardy opinion. And, when they found that out through consultation—you have to go through a consultation before you do a formal—(Seney: Right.) last thing they want to do is see a formal. That would, that's a big black eye.

Seney: Yeah. You had a nice smile on you, and you do now, (Laugh) as you recall this. This is a good ploy?

Buchanan: Oh yeah. It was, well Wainwright [spelling?] and I got together, as I said, and we put our head together on this and I said, "We got them on this one." (Seney: Yeah.) And so, we, we set it up and we got the money. We didn't get the money for a fish lock but we got the

money for a new basket. The new basket was so-so. (Seney: Yeah.) And, they put a fence up, and etcetera. At least it was safe to humans, number one. (Seney: Right.) Number two, it was more effective than the old one, and it was easier on the fish, but it was still not the final solution.

Wanted to Replace the Fish Lift with a Fish Lock

We wanted a fish lock, but there wasn't any money for that. The, about—you see, I guess all that was occurring about, oh man, when was that, '85? I think that's when it took place, in '85. And then, I pretty much got out of the cui ui program pretty much about '93. And now, they have the fish lock, but I won't go there. That's pissing me off. (Laugh)

Seney: No. No. Talk about it.

Buchanan: Well, the person that took it over, all of a sudden about five years later they decided "Hey. We could do a fish lock." And, they got all kinds of credit as if it was original thought, nobody else had ever thought about doing this. And, Tom Strekal³ and I just had to bite our lips so many times. (Laughter) It just irked us to no end.

3. Tom Strekal was interviewed by Dr. Donald B. Seney as part of his oral history interviews on the Newlands Project.

Anyway. Let's go back to—where was I? Oh, let's see. I brought you up to there.

Seney: You were talking about you weren't—I asked you, you weren't ready for the run. You were talking about 30,000 fish coming in '86 and you weren't ready. (Buchanan: Oh.) And I said, "Tell me about that."

The Fish Facility Was Not Set up to Deal with the 30,000 Cui ui That Came up the Truckee in 1986

Buchanan: Yeah. That's what I was getting at (Seney: Right.) is that the facility we had was not set up to pass that many fish. We just couldn't do it. In fact, we were having a lot of deaths. In fact, we had so many fish in the building – remember these fish are coming up the fishway, not over the delta, up the fishway into the building. And, we'd get there in the morning and there'd be so many fish crowded in there that we'd have to start putting them in the pens. You start running into oxygen problems and you start losing fish.

Seney: Ah. Too many fish, too little water?

“Too many fish in there. . . . you'd have to do is crowd the fish in—it's a primitive system . . . We would cut fish in half. It was just an awful system. And here we are dealing with an endangered species and we're being very rough. . . .”

Buchanan: Yeah. Too many fish in there. And then, what you'd have to do is crowd the fish in—it's a primitive system—crowd the fish in a passageway and let so many of them in out of the pen, crowd them in, and then we had a lift that would raise them about, oh I don't know, six feet, dump them into an elevator, and then we'd raise them up again another twelve feet, and then release them either upstream or out into the trucks, and etcetera. We would cut fish in half. It was just an awful system. And here we are dealing with an endangered species and we're being very rough. And, I remember once, I was out there, down there on the crowder and you get down there in these hip waders. And, I saw once we were bringing it up we cut a fish in half and we had a news man out there with his, with his camera, I immediately just stepped right in front of him so he couldn't see it. (Laugh) I just thought, "Oh man. This is the last thing we need, (Seney: Yeah.) is having this shown on TV, decapitating cui ui."

Tahoe Suckers Were Mixed in among the Qui ui

So, and it was really interesting, this crowder—and we'd lift them into this small elevator and bring them upstream—well, the Tahoe suckers were also coming up the same time. And, this is a smaller sucker, oh I don't

know ten inches long or so. Well, the bucket that we were crowding and letting them into had some openings on the sides. So, the Tahoe Suckers would get by and get down into the bottom of this tank that was going down about four feet that had water in it, and it would create what we call “creamers.” Each day we’d have to go down there and drain that and get that out of there. Other than that you’ve got creamers. You know what I’m talking about?

Seney: Absolutely smashed fish?

Buchanan: Oh. It’s just. . .

Seney: Liquified fish?

Buchanan: Oh, yeah. And if you left it alone it’d really, really get rotten. I mean, you’d have to have a good stomach for all that.

Seney: Wow.

“So, it was an accident where we killed a lot of fish, but yet Gary Scoppettone got a lot out of it. . .”

Buchanan: And, that’s the same thing, once we were bringing the fish up to the building then we created this chute to put them out in this little bypass that left the building and went

upstream. And, we got so many fish that we were moving them very, very quickly – this is the time I told you that if you handle the fish too much you could turn them off. We were putting them into this bypass, they weren't moving. They had an opening to go upstream but they wouldn't leave. All of a sudden we realized we killed about 300 fish. And, that was another mess. Gary Scoppettone was doing research on aging fish. It worked out fine for him, because he has to sacrifice the fish to get their gill plates, their [Inaudible], to age them. So, he got a huge sample (Laughter) at that time. And, that's when he really started zeroing in on how to age the fish, because he got a good variety of fish at that particular time. So, it was an accident where we killed a lot of fish, but yet Gary Scoppettone got a lot out of it.

Seney: Yeah. It wasn't completely a waste, then?

“ . . . so the Marble Bluff fish facility really, really was not designed to pass cui ui. The fishway was a poor design. The building itself was a poor design. Bureau of Reclamation was the one that built this and it was fine for trout. It was fine for small fish runs, but that was about it. . . . ”

Buchanan: Yeah. Yeah. So, so the Marble Bluff fish facility really, really was not designed to pass cui ui. The fishway was a poor design. The

building itself was a poor design. Bureau of Reclamation was the one that built this and it was fine for trout. It was fine for small fish runs, but that was about it. And, they were doing research on the ladders before I got here. They continued to do it after I got here. We did all kinds of modifications on the ladder. They went around the building, so we didn't have to handle that. We let them go around the building and swim upstream on their own, which was not working. We tried to modify that in many, many different ways. And, the Bureau of Reclamation was paying for a lot of this. (Seney: Yeah.) Yeah.

“ . . . the system they have now, they have the fish lock, which is automated. It works real, real good. And, they also have an automatic passage around the building now they put in, in case the fish do use the fishway. . . . ”

But now the system they have now, they have the fish lock, which is automated. It works real, real good. And, they also have an automatic passage around the building now they put in, in case the fish do use the fishway. And, they have a number of ladders in there that they can adjust to what is the amount of water and in the [Inaudible] upstream of the dam for the flows, and etcetera. And, that's what we had to do. We did a study on this back in—well, the Bureau of Reclamation and

the Fish and Wildlife Service together–no, I take that back. It was just the Fish and Wildlife Service, right, engineering people, they’re the ones. We did a report–my gosh, when was that?–mid ‘80s, where they made some recommendations, and that’s when the fish lock came out. That’s when we talked about these automated, automated gates and things of this nature.

Betsy Rieke Got the Money for Many Improvements for the Fish While She Was Area Manager of the Lahontan Basin Area Office

And that’s what they finally got around, see, to put it in at that time. Back then, I think the price tag was–I don’t remember–it was like a million dollars, or something like that. (Seney: Yeah.) But, they finally got the money about, had to be late ‘90s. And, I think the Bureau of Reclamation is the one that came up with the money. I think that’s why they were able to get that, (Seney: Right.) get the work done. (Seney: Right.) So. Anyway.

Seney: Was Harry Reid⁴ helpful in that, do you know? I would expect so.

Reclamation has “. . . also put in a new fishway at Derby Dam. . . .”

4. Senator Harry Reid was interviewed by Dr. Donald B. Seney as part of his oral history interviews on the Newlands Project.

Buchanan: I don't know. I don't know. All I know, it was money that came through the Bureau of Reclamation, and Betsy Rieke⁵ was, I think that was one of the first things she got involved with here was getting the money for that, and getting that work done. And, they've also put in a new fishway at Derby Dam.

Seney: Was this when she was assistant secretary or project manager?

Buchanan: No, when she came here. I can't remember how long Betsy's been here now. Hmm. Let's see, she, it had to be early '90s, late '90s when she came over, or something like that. It seems to me it was '98.

Seney: Right. She's been here quite a while?

“So now, as I said, we have all these year classes. We have easy passage, and we have Stampede water and Prosser water secured. . . .”

Buchanan: Yeah. Yeah. She's been here a lot longer than I thought she'd be here. But anyway, she was the one who was instrumental in getting that money, instrumental in getting the money for the fishway at Marble Bluff Dam, and she's pumped the money into improving these

5. Betsy Rieke was interviewed by Dr. Donald B. Seney as part of his oral history interviews on the Newlands Project.

facilities. So now, as I said, we have all these year classes. We have easy passage, and we have Stampede water and Prosser water secured. Don't let me forget (Seney: Right.) to get into that one.

“ . . . now, the fish population of cui ui is huge. . . . It's to the point that there are now discussions going on between the Fish and Wildlife Service and Pyramid Lake Paiute Tribe to delist the cui ui. . . . this is not sitting well with the tribe. . . . ”

And so now, the fish population of cui ui is huge. It just really is huge. It's to the point that there are now discussions going on between the Fish and Wildlife Service and Pyramid [Lake Paiute] Tribe to delist the cui ui. The tribe, this is not sitting well with the tribe. (Seney: Right.)

“ . . . before I retired in January 2003, I tried to get our regional office to down-list the qui ui, that is reclassify them from endangered to threatened, because at that time we were dealing with a population of over 500,000 fish, adults. I'm not even talking about the juveniles that are out there, because then we were into the millions. . . . ”

I tried, before I retried, before I retired in January 2003, I tried to get our regional office to down-list the qui ui, that is reclassify them from endangered to threatened, because

at that time we were dealing with a population of over 500,000 fish, adults. I'm not even talking about the juveniles that are out there, (Seney: Right.) because then we were into the millions. And, I told them, I said, "We've got to down-list these fish. If nothing else, we've got to do it for credibility and PR." I said, (Seney: Right.) "If we don't, we're going to get eaten alive on this thing." Well, Mike Spears [spelling] would not do it because, he says, "It gains us nothing transferring from threatened to endangered and just costs us a lot of money. It doesn't gain us anything." That's when I said, "It gains us good public image, (Seney: Right. Right.) is what it gains us. And also, we're acknowledging what's going on." So anyway, they wouldn't do it. So now, they're getting ready to, they're talking about delisting totally. And, this is not sitting well with the tribe, but I don't think they have any choice. I mean, we have millions of fish out there. All they have to do—they have, they need two guarantees. Number one, there will be enough money to continue to operate the fish facility, and number two that their water resources will be secure. If they can get those two, then they should delist. (Seney: Right.) And, those are probably conditions of delisting.

Seney: Public Law 101-618⁶ writes a lot of good things into that law for the tribe there. It wouldn't be affected if it was no longer, if the cui ui was no longer an endangered species, isn't that the case?

**Prosser and Stampede Dams and Reservoirs,
Their Water, and the Washoe Project**

Buchanan: Uhm, you got to read it closely. (Laugh) We haven't talked about Stampede, and there's pretty much (Seney: Yeah, why don't we . . .?) yeah, we'll get into it. (Seney: Yeah.) Well, let's go back to Stampede.

Seney: Okay. Yeah.

Buchanan: Yeah, because Stampede's got some history to it. (Seney: Sure.) And, you have to know that to understand P.L. 101-618. Oh my gosh. The Washoe Project Act approved the construction of two reservoirs, Prosser and Stampede. And, Prosser was—gosh, when was Prosser built? I even forgot. I don't remember when Prosser was built, but it was built before Stampede.⁷ Stampede, I think,

6. Public Law 101-618, passed Congress in 1990 and was signed by President George Bush. There were two main sections: Title I—The Fallon Paiute Shoshone Tribal Settlement Act, and Title II—The Truckee-Carson-Pyramid Lake Water Rights Settlement Act.

7. Prosser Creek Dam and Reservoir, completed in 1962, are located on Prosser Creek above its confluence with the Truckee River.
(continued...)

was built in—when the heck was Stampede built, ‘72?

Seney: That’s – yeah.

Buchanan: Something like that. (Seney: Yeah. Yeah.)
Something like that.

Seney: We can add that in later on.

Buchanan: Yeah. Yeah, because I think Marble Bluff
Fish Facility—was that also part of the Washoe
Project Act? And, that came out in ‘76, and I
think that’s why the Bureau of Reclamation . .
. .

Seney: I think it was. Right. Yeah.

Buchanan: Yeah. Dusting – I told you there were going
to be a lot of cobwebs here.

Seney: Well, that’s all right.

**“ . . . when Stampede was built it was going to be
the salvation of the water problems, both
municipal and industrial use, . . drought relief. . . .
agricultural purposes. And, . . . the fisheries at
Pyramid Lake. It was going to be used for all this**

7. (...continued)

Stampede Dam and Reservoir, completed in 1970, are located on the
Little Truckee River above its confluence with the Truckee River.

stuff. . . .”

Buchanan: This stuff is hard to remember. Anyway, what was very interesting about Stampede, is when Stampede was built it was going to be the salvation of the water problems, both municipal and industrial use, and Reno-Sparks drought relief. It was going to be used for agricultural purposes. And, it was also going to be used for the fisheries at Pyramid Lake. It was going to be used for all this stuff. So, when they talked about the fisheries at Pyramid Lake, well then that included cui ui, and LCT, which are, at that time were not threatened or endangered species. They were grandfathered in with the Endangered Species Act in '76, I think it was. So, they were grandfathered in.

“ . . . once they got Stampede in place the secretary decided to utilize the water out of Stampede for these fish. And, then there was a lawsuit. . . . a whole bunch of people that were suing over utilizing this water out of Stampede. So then, it went to district court and . . . he issued an order that said the water was ‘to be utilized for threatened and endangered species until they were recovered or until no other water source,’ or excuse me, ‘until they were recovered or another water source was found.’ . . .”

So, when they first started talking

about Stampede, Stampede was gonna be all these things. Well, what happened was, once they got Stampede in place the secretary decided to utilize the water out of Stampede for these fish. And, then there was a lawsuit. And, I think it was TCID [Truckee Carson Irrigation District], probably Sierra Pacific,⁸ Reno-Sparks, whoever. It was a whole bunch of people that were suing over utilizing this water out of Stampede. So then, it went to district court and Judge Solomon said that, he issued an order that said the water was “to be utilized for threatened and endangered species until they were recovered or until no other water source,” or excuse me, “until they were recovered or another water source was found.” So, he was saying the Secretary was right. (Seney: Right.) and they became the number one priority.

“Well, that, that was appealed to the Ninth Circuit Court of Appeals in . . . San Francisco. . . . it was mainly the Pyramid Lake tribe was on the other side. . . . the Appeals Court basically said that ‘if a threatened and endangered species is part of a project it must be satisfied 100 percent first before any other elements of that project may be implemented.’ . . .”

8. Sierra Pacific Power Company, which also had a municipal and industrial water utility business along the Truckee River. In July 1999 Sierra Pacific Power, Nevada Power, and Sierra Pacific Resources merged to form NV Power.

Well, that, that was appealed to the Ninth Circuit Court of Appeals in California, in San Francisco. It was really interesting. The federal government actually appealed the District Court decision. They were against it, even though the federal government won (Seney: Right.) they were against it. And, so it was mainly the Pyramid Lake tribe was on the other side. And, they went to the District, the Appeals Court, and the Appeals Court basically said that “if a threatened and endangered species is part of a project it must be satisfied 100 percent first before any other elements of that project may be implemented.”

The Appeals Court Decision Has Proven to Be an Important Precedent Setting Case

And, it’s really interesting, this is coming out of this case law that’s utilized by a number of people now, and I saw it even written up in the, a law publication put out by Stanford. And, they refer to this particular case. (Seney: Right.) And, when you read about the, there’s been another book out about the Endangered Species Act, and that uses the Stampede case as an example. (Seney: Right. Right. Yeah.) So, now you have Stampede to use.

“ . . . in the last decade the tribe started pushing it, ‘Hey, Prosser Creek Reservoir is also a Washoe Project Act reservoir.’ And, Betsy agreed with them. So, they didn’t go to court. But, so they started using . . . Prosser Creek water and Stampede water. . . .”

Well, it’s very interesting, in the last decade the tribe started pushing it, “Hey, Prosser Creek Reservoir is also a Washoe Project Act reservoir.” And, Betsy agreed with them. So, they didn’t go to court. But, so they started using Washoe, I mean Prosser Creek water and Stampede water. So, we use both of them now. That’s an important fact to remember when we talk about P.L. 101-618. (Seney: Uh huh.)

“ . . . I started looking at a flow regime . . . What made it possible was Judge Solomon, . . . when he made the decision . . . on Stampede. All of a sudden we had Stampede to utilize. Now, we started to manipulating, trying to come up with these flow regimes. . . . it actually took us several years . . . before we started coming up with the flow regime that we used quite a bit. In fact, we ended up using the Cui Ui Recovery Plan. So, we utilized Stampede in ‘82, under the court decision, to start manipulating flows. . . .”

So, when I got here—we’re going back now to about ‘82. We’re trying to figure out,

“What kind of water do we need?” And, I started looking at a flow regime, which I mentioned earlier. (Seney: Right.) What made it possible was Judge Solomon, I think it was, in ‘83 was when he made the decision—not ‘83, ‘82—on Stampede. All of a sudden we had Stampede to utilize. Now, we started to manipulating, trying to come up with these flow regimes. And, the flow regime that I gave you, it actually took us several years to try to zero in on that. It wasn’t until—oh my gosh—probably ‘84 before we started coming up with the flow regime that we used quite a bit. In fact, we ended up using the cui ui Recovery Plan. So, we utilized Stampede in ‘82, under the court decision, to start manipulating flows.

“In ‘83, Secretary [James] Watt did us a big favor, because he wouldn’t let us use Stampede. . . . The fish run went to hell. . . . we didn’t have any attraction flow. . . . we had hardly any fish run at all. So that’s why we were . . . He proved the point that attraction flows were important. Because the year before, we had good attraction flows, we got a pretty good run for that time of year, 5,000 fish. The next year, the bottom dropped out of it because we had no attraction flows. The next year after that we had attraction flows, the fish were back. We just said, ‘Thank you.’ . . .”

In ‘83, Secretary [James] Watt did us a

big favor, because he wouldn't let us use Stampede. And people kept, were saying "Well, you don't need Stampede." Guess what? The fish run went to hell. By the time he said, "Go ahead and utilize it," it was in May, I think it was in May, we didn't have any attraction flow. We started releasing water, we had hardly any fish run at all. So that's why we were . . .

Seney: And, he proved the point?

Buchanan: He proved the point that attraction flows were important. (Seney: Yeah.) Because the year before, we had good attraction flows, we got a pretty good run for that time of year, 5,000 fish. The next year, the bottom dropped out of it because we had no attraction flows. The next year after that we had attraction flows, the fish were back. We just said, "Thank you." (Laughter)

We weren't saying "thank you" at the time, though. (Seney: Right. Yeah. Right.) Gee whiz. So anyway, so then we started utilizing these flow regimes. Then . . .

Seney: Well how much flow are we talking about, Chet? How much did you have to, you said 1,000 cfs was what you needed?

“ . . . by developing this flow regime, we had a tool

now that we could use, we thought, to evaluate the impacts of different water management plans for the river on cui ui. . . .”

Buchanan: Yeah. That comes out to about 60,0000. See, what we do is we use Stampede to supplement background flows. The, what I call, the flows that are out in the river that are not being diverted. So, two things came out of this. Number one, by developing this flow regime, we had a tool now that we could use, we thought, to evaluate the impacts of different water management plans for the river on cui ui. What is the impact? We had a tool now. We could also use this tool to try to figure out what was recovery.

Worked with the Instream Flow Group in Fort Collins, Colorado

But, we had to translate that information into population dynamics.

“ . . . they were looking at the suitability of different flows to fish. But then, Ken Bovee came up with this concept where he was trying to translate instream flows . . . into a population index. . . .”

So this, then I got involved with the instream flow group out of Fort Collins, Colorado, and in there they were—I took a couple of their

courses, and they were looking at the suitability of different flows to fish. But then, Ken Bovee came up with this concept where he was trying to translate instream flows—that is the way, the usual habitat, and that’s looking at the quality of the flow. He was trying to translate that into a population index.

“ . . . I got to thinking, ‘Maybe I could do something similar to that . . . trying to find a relationship between discharge and the size of the run.’ . . . ”

So, I got to thinking, “Maybe I could do something similar to that, but utilizing discharge, not really using the habitat but discharge, and trying to find a relationship between discharge and the size of the run.” But remember also, run sizes vary with the number of fish in your lake. (Seney: Right.) So, I took those three variables and put them together and came up with a model to try to utilize various flows to try to predict how many adults I would get to come in, then knowing the water temperature try and predict how many larvae we would have, trying to then to utilize a variety of survival rates associated with the different year classes based upon other fish to try to predict how these spawners would be coming back in ten years. (Seney: Right.)

“It’s a model that had a lot of holes in it because

we lacked a lot of knowledge. It did not predict the population we have today, but it did show the population increasing tremendously. . . .”

It’s a model that had a lot of holes in it because we lacked a lot of knowledge. It did not predict the population we have today, but it did show the population increasing tremendously. So, Tom Strekal⁹ got involved with this stuff. He started getting involved with the modeling with me. We worked on this quite a bit together. And, we found out that it was really good as an index to comparing one thing to another. So, you’ve had one way of managing a river. And, you could say, “Here’s the impact on the cui ui.” Then you could have another way of managing the river, “Here’s the impact.” You noted the relative differences between those impacts. And, we were basically saying you could not degrade it below where we were at that particular stage.

Seney: Why would Tom get involved? He was with Indian affairs at the time, right, still?

Buchanan: Oh no. Tom used to be involved—he worked in Pennsylvania for the state and then he went to work for the Fish and Wildlife Service in

9. Thomas (Tom) A. Strekal of the Bureau of Indian Affairs in Carson City has also been interviewed by Reclamation’s oral history program.

the Endangered Species Program in Washington, D.C. (Seney: That's right.) Then he transferred from there in '83, I think it was, to the Bureau of Reclamation in Carson City. And, he went to work with them as a biologist.

“I think Bureau of Reclamation probably didn't trust the Fish and Wildlife Service, and we didn't trust the Bureau of Reclamation. And so, they felt they needed their own biologist. . . . It was really interesting, in some of the early, very early meetings . . . They had a saying, 'Never meet with the Bureau of Reclamation by yourself.' A horrible, horrible attitude. Horrible trust amongst the two agencies. . . .”

I think Bureau of Reclamation probably didn't trust the Fish and Wildlife Service, and we didn't trust the Bureau of Reclamation. And so, they felt they needed their own biologist. And so that, I think that's why they (Seney: Ah.) hired Tom on. It was really interesting, in some of the early, very early meetings, I used to go with my office to the Bureau of Reclamation back in '81, '82. They had a saying, “Never meet with the Bureau of Reclamation by yourself.” A horrible, horrible attitude. Horrible trust amongst the two agencies. It did not improve until after Don King [spelling?] left and Doug Olson came in, and then we started working

together.

“ . . . that’s when we started working on OCAP [Operating Criteria and Procedures], and trying to formulate different types of OCAPs . . . ”

And, that’s when we started working on OCAP [Operating Criteria and Procedures], and trying to formulate different types of OCAPs and stuff of that nature. We started working, started developing a better relationship. Frank Dimick and Ann Ball, I think, our relationship deteriorated a little bit, but ~~we were, we were~~, it was still a lot better than it was in the early ‘80s. Excellent working relationship with Betsy, of course. And, but that’s important to understand what was going on there.

Seney: Right. And maybe we could talk a little more about that later, if you like?

“ . . . one of the things we had to take a look at was the Newlands Project, and water diverting over there. And, that’s when the tribe got involved with OCAP, Operating Criteria and Procedures for the Newlands Project. And, that’s basically determining the timing and amount of water to divert at Derby Dam over to the Newlands Project. . . . ”

Buchanan: Yeah. Yeah. So anyway, we’ve talked about

Stampede. So, one of the things we had to take a look at was the Newlands Project, and water diverting over there. And, that's when the tribe got involved with OCAP, Operating Criteria and Procedures for the Newlands Project. And, that's basically determining the timing and amount of water to divert at Derby Dam over to the Newlands Project. And, oh my gosh, it's going back to Morton, Judge Morton—no, Secretary [Rogers C. B.] Morton's¹⁰ case.

Seney: And, Judge Gesell?

Buchanan: Yeah. Yeah. Yeah, it was Judge [Gerhard] Gesell's decision. Was that '72, or something or other?¹¹

Seney: Right. Pyramid Lake Tribe against Morton?

Buchanan: Yeah.

Seney: Right.

10. Rogers C. B. Morton served as secretary of the interior from January 29, 1971, until April 30, 1975.

11. The Gesell decision is *Pyramid Lake Paiute Tribe of Indians, Plaintiff, v. Rogers C. B. Morton, Secretary of the Interior, Defendant*, 354 F. Supp. 252 (1972),. Civ. A. No. 2506-70. United States District Court, District of Columbia. November 8, 1972. As Amended November 29, 1972. Supplemental Opinion February 20, 1973. The appellate court subsequently awarded court costs to the Pyramid Lake Paiute Tribe.

**Judge Gesell's Decision in the Case of *Pyramid Lake Paiute Tribe of Indians, Plaintiff, v. Rogers C. B. Morton, Secretary of the Interior, Defendant*
Triggered development of the OCAP**

Buchanan: He said that you're supposed to maximize the use of Carson River Water for the Carson, for the Upper Carson division, and minimize diversions of the Truckee River. Well, how do you determine that? And, that's when we got into developing OCAP.

“ . . . that was just getting started when I got here in about '82. And then, we were trying to figure out, 'How do we do that? How do we come up with an OCAP?' . . . ”

And, that was just getting started when I got here in about '82. And then, we were trying to figure out, “How do we do that? How do we come up with an OCAP?” Well, we definitely had to take a look at, “What is the impact on cui ui?” At the same time, we also had to do a Section Seven Consultation on the Endangered Species Act, because this is federal action. So, that's when the Fish and Wildlife Service, myself, I got involved with it and worked with the Bureau of Reclamation. Actually, let's back up just a little bit. I'm going to make a statement. When I first got here, as I said, I was involved with cui ui. And, for the first year or two I

was trying to figure out, “What is my niche here?” Because we had one fellow that was doing biology. Well, he was, he moved to Alaska, then Gary Scopettone came in, and he was doing the research. There was no need for me to get into the research on fish life history.

“ . . . I realized the big problem here was water. Nobody knew how much water we needed, etcetera, so that’s when I got involved with water, and that’s when I gradually started changing from a fishery biologist to a hydrologist. . . . ”

And, I realized the big problem here was water. Nobody knew how much water we needed, etcetera, so that’s when I got involved with water, and that’s when I gradually started changing from a fishery biologist to a hydrologist. By 1991 I was a hydrologist. I was classified as history biologist, but I was a hydrologist. I hadn’t worked in biology for twenty years. (Seney: Yeah.) I had just been doing water management. So, that’s why, when they started to get involved with OCAP—oh gosh, when was that, ‘84, or someplace in through there – I was . . .

Seney: Probably more like ‘74? Would it have been under that act?

Buchanan: Well, it goes back, but there really wasn’t any

involvement in terms of trying to—I'm trying to remember that. What was that? It was that—I thought Gesell's, he came out with the OCAP, when was that, in seventy . . .

Seney: Two.

Development of the OCAP Was Delayed by a Lawsuit of the Truckee-Carson Irrigation District

Buchanan: Two. And then the federal government tried to put out an OCAP in '74, I think it was, (Seney: That's right.) which was never implemented. And then I think TCID had a lawsuit against that, and so that put everything in abeyance, (Seney: Right.) until '82, '84, (Seney: Yes. Yes.) sometime in through there? (Seney: Yeah. Right.) And, they lost that lawsuit (Seney: Right.) and then that opened it up to (Seney: Right. Right.) developing an OCAP.

Seney: Exactly.

Buchanan: See, because before that, you know, I had forgotten, I don't know what was controlling it then, back in the late '70s. So, in about eighty . . .

Seney: Well, I think what the, what the Bureau did and what the Interior did was simply put in effect, as the OCAP, whatever it was that they

had been doing already. And, that was what Gesell found fault with. ~~And~~ wasn't it?

Legal Background to OCAP

Buchanan: Well, you go all the way back to '64, 1964, is when the Sierra Club brought lawsuit. (Seney: Right.) Because at that, before then they were just talking water, all they wanted, (Seney: Right.) etcetera. (Seney: Right.)

“ . . . in 1968 there was an OCAP . . . that's when they said, 'You cannot take winter diversions that were meant only for power generation over at Lahontan.' And then I think the tribe sued on that one, and that's when Gesell's decision in '72. . . .”

And then, in 1968 there was an OCAP came in, and I think that's when they said, “You cannot take winter diversions that were meant only for power generation (Seney: Right.) over at Lahontan.” And then I think the tribe sued on that one, and that's when Gesell's decision in '72. (Seney: Right.) And then they—boy this is shaking a lot of cobwebs—and then in '73 and '74 there were some environmental documents that came out. (Seney: Right.)

TCID Sued Arguing They Didn't Have to Implement the OCAP under Their Contract to Run the Newlands Project

And, then TCID sued, and then we were . . .

Seney: Right. Over the contract?

Buchanan: Right. Yeah. That's it. That's it. That's what it was, the contract.

Seney: It would have void[ed] their contract to run the project?

Buchanan: Yeah, if they didn't implement OCAP?

Seney: Right.

“ . . . I think they ended up losing that, and I think that was '84. So, that's when we got into designing OCAP again, and that's when I got involved. . . . ”

Buchanan: And then they said they didn't have to, and I think they ended up losing that, (Seney: Right.) and I think that was '84. So, that's when we got into designing OCAP again, and that's when I got involved. And, (Laugh) it was really interesting. It took a while to start figuring out what was going on.

“ . . . one of the things that had dawned on me is that . . . they were diverting water from the river when the river was at its highest flow. . . . in the spring. . . . [and] That's when cui ui and LCT

needed the water, was in the spring. So, I came up with the idea, 'How about if we try to take as much water as we can in the winter . . . to meet these storage targets over to Lahontan.' . . . we went through I don't know how many variations on that. I mean, for years we were making computer runs, just one after another. . . ."

And, one of the things that had dawned on me is that when you took a look at what they were doing with OCAP back in '68, and even what they're trying to do in '74, and all these different OCAP, is they were diverting water from the river when the river was at its highest flow. So, most of the flows were being diverted in the spring. Very few flows in the late winter, or winter, and things of that nature. That's when cui ui and LCT needed the water, was in the spring. So, I came up with the idea, "How about if we try to take as much water as we can in the winter, and that should decrease the amount of water that we have to take in the spring in order to meet these storage targets over to Lahontan." (Seney: Right.) Well, my gosh, we went through I don't know how many variations on that. I mean, for years we were making computer runs, just one after another. And, it was just hit and miss, and you run them and try to figure out what was going on and then you'd make a suggestion, "Well, maybe if we do it this way, or this way. Let's run it that

way and see what happens.”

**The Computer Runs of River Flows Had to Be
Evaluated in Terms of the Cui ui**

It ended up, in the meantime, while we're doing this we're trying to figure out, "How do we evaluate all these computer runs in terms of cui ui?" And, that's when Tom and I started working on the model, using the idea I mentioned I picked up in Fort Collins, and we came up with this Cui ui Index. And, then we were able to key that in there. So then, we could use the eighty years, or whatever it is, of hydrologic data, run the thing with all the variables held constant, all the demands constant with one OCAP, and then you could see how the fish respond to that. You'd get what we called an "index", (Seney: Right.) an index based on that.

Seney: Let me change tape.

END SIDE 2, TAPE 1. JUNE 21, 2005.

BEGIN SIDE 1, TAPE 2. JUNE 21, 2005.

Seney: I'm in Reno, Nevada. Today is June 21, 2005. This is our first session, and this is tape number two.

Go ahead, Chet, you were talking about the indexes?

The alternatives studied for development of the OCAP looked at shortages on the Newlands Project and “by taking more water over early in the year, you do not have a good forecast of potential run-off . . . So, if you end up taking a lot of water over early into the year, you can end up taking over too much, ultimately. . . .”

Buchanan: Yeah. Anyway, so we had this model and it was good for showing relative impacts, not absolute impacts but relative impacts, on the cui ui population. So, we end up running a whole series of “OCAPs” to try to see what were the impacts. And, at the same time that we’re looking at impacts on cui-wi we’re also looking at potential impacts on the Newlands Project, in terms of shortages. And, we were increasing shortages. There was one thing that we were doing that we really never looked at, which has come to light pretty much in the last few years, is that by taking more water over early in the year, you do not have a good forecast of potential run-off, especially in the Carson River. So, if you end up taking a lot of water over early into the year, you can end up taking over too much, ultimately.

Seney: “Taking more” meaning diverting it from the Truckee into Lahontan Reservoir?

A Good Water Year on the Carson River Could

Mean a Lot of Carry over for the next Year If Water Has Been Diverted from the Truckee

Buchanan: Yeah. So, so, so if, because of the imprecision you have, in terms of earlier forecasts, especially on the Carson you're taking a lot of water out of the Truckee. And, by the time you get into April or May, when you really got a good idea of what's coming off, all of a sudden you may say, you may notice that I've got a lot of water coming down the Carson River much more than I thought I was going to have. And, all of a sudden you realize, "We are going to be beyond our targets for Lahontan Reservoir. So, you end up then having more water in storage and increasing the carryover capacity from one year to the next. Personally, that didn't bother me because by them carrying over that water decreased the amount of water they're going to take out of the Truckee River the next year. (Seney: Right.) So, that didn't bother me too terribly much. The only thing that you run into problems is you have a spill from Lahontan Reservoir. Now, you've lost the water out of the Truckee River system. And, because once it spills it's not going to the farmlands. It'll go out over to the wetlands, or out in the playa, or wherever. And, so that was water that was taken out of the Truckee River that won't be used the following year for irrigation. So, that was one

of the bad things you run into. And, later on in OCAP they tried to fine-tune that. I think that's what they call "adjusted OCAP," or the "97 OCAP." They tried to do some adjustments for that.

Some in the Justice Department Believe TCID Is Not Entitled to Any Carryover and TCID Believes it Should Be Able to Carry a Full Reservoir over

There's a huge disagreement between Justice and the Newlands Project. Some of the people in Justice believe that the Newlands Project is entitled to zero carryover capacity. They should only take enough water out of the Truckee to supplement the Carson, to totally use all that storage that year. That's one extreme of view. The other extreme view is TCID would believe that they are entitled to fill Lahontan Reservoir, and have it full, by the end of the irrigation year so they go into the new year with a full reservoir. (Seney: Right.) So therefore, the problem of really having a shortage is almost zero. (Seney: Right.) So, you've got the two extremes. (Seney: Right.) And, don't look at me as to what the answer is. (Laugh) It's someplace between there, of course. Anyway, I'm trying to remember.

Using Temporary OCAPs in the 1980s

So now we had the cui ui model. We're using these variety of OCAPs and I think the model was very effective in appraising the relative impacts of the different OCAPs. And, that's primarily what we use to come up with—which OCAP was that, '87, '86, '87 OCAP? Something like that. (Seney: Right.) We had a whole series of them. (Seney: Right.) In fact, if you go back and look at some of the preliminary E-I-Ss [environmental impact statement] back in '85, something like that – see what happened between '84 and I think '87, every year they had to continually put a temporary OCAP into place. And, we were doing Section Seven Consultations each year on the temporary OCAPs, because they were trying to come up with a final OCAP, which I think was the '87. I think that's what it was. But, they were coming up with environmental documents, E-I-Ss, and I think that—I think it was the draft E-I-S, one of them they came up with, (Laugh) and they had a chart in there comparing potential impacts of a variety of OCAPs. They used the names that we had used in the computer. That would be Chet1, Chet11, Tom13, Doug10. (Laughter) We got some flak on that. (Laugh) They shouldn't have done that, but that gives you an indication as to “Where did those names come from?” Well, because we were running all these variety of OCAPs. (Seney: Yeah.

Yeah.) And some of them were designed by Streckal, some were designed by me, some by Doug Olson, whomever. (Seney: Yeah.) And then the ones that we decided to compare in the E-I-S, those were those particular numbers that you looked at. (Laugh) It was, it was wild doing that stuff. (cough)

So, where do we go to next?

Seney: Let me ask you about something you kind of alluded to, and that is . . .

Buchanan: Hang on. I'm going to get just a little water here.

Seney: Sure. [Tape paused.]

I wanted to ask you about something you alluded to, and that is the spills out of Lahontan, watering the wetlands and so forth. And of course, that brings to me some of the schizophrenia of the Fish and Wildlife Service, because you actually had people out there running the wetlands, and running the sanctuary, bird sanctuary. Talk a little about the relationship between the people out in the, out in the Lahontan area. And I'm now, I'm drawing a blank on what I should call these people, the wildlife refuge out there.

Relations Between the Office in Reno and the

Bureau of Reclamation History Program

Stillwater Wildlife Refuge out near Fallon

Buchanan: Yeah, and that's what I was thinking. They've sort of bothered me a little bit. Our office here in Reno was Ecological Service Office. We were in charge of evaluating federal projects for potential impacts on threatened and endangered species, potential impacts on wetlands and etcetera. Then, you had the refuge out at Stillwater,¹² and their job was to manage those ~~refuge—I mean, yeah,~~ ~~manage those~~ refuges.

The Refuge Staffs Believed OCAP Reduced Their Water Supply While Buchanan Believed the Newlands Project Reduced the Water Supply

They sort of have a different point of view. Their point of view was, “We need water out here and OCAP is screwing up things.” (Seney: Right.) The thing that, because until they had OCAP they were doing fairly decent, and that used to just irritate the hell out of me because they were putting blinders on. ~~The impact of the Newlands Project was not~~

12. “The Stillwater National Wildlife Refuge Complex consists of Stillwater Refuge, Fallon Refuge, and Anaho Island Refuge in western Nevada. Together, these refuges encompass approximately 163,000 acres of wetland and upland habitats, freshwater and brackish water marshes, cottonwood and willow riparian areas, alkali playas, salt desert shrub lands, sand dunes, and a 500-acre rocky island in a desert lake.” Quoted, on August 19, 2010, about 10:50 A.M., from <http://www.fws.gov/refuges/profiles/index.cfm?id=84590>

~~OCAP~~: Excuse me, the impact on wetlands was not due to OCAP. The impact on the wetlands was due to the Newlands Project. It's just that the impact of the Newlands Project, the diverting water from the Carson River versus letting it go downstream to the wetlands, was due to the Newlands Project. It's just up until, hmm, '84 or so they had not seen that impact because of the uncontrolled diversions of Truckee River water.

TCID Used to Take an Average of about 250,000 Acre Feet Which Dropped to about 100,000 Acre Feet under the OCAP

Now all of a sudden OCAP cut that, reduced Truckee River diversions tremendously from about, I think on a long-term average, of 250,000 acre-feet they used to take pre-1984 down to maybe 100,000 acre-feet of water. Cut it more than half.

Seney: And, winter power generation, where they were just running it through the system?

Buchanan: That was pre-1964. Right. (Seney: Right.) And, of course, we talked about what was happening in the '70s. I don't remember what TCID had. They were managing the water in those particular days, but there was a lot of water going down until the decision was made on the TCID contract that they had to abide by

what Bureau of Reclamation was doing. Now, you're starting to see an impact on the wetlands, and the people at the refuge were saying, "It's OCAP's fault. It's Bureau of Reclamation's fault," etcetera. "This is just horrible what you're doing with OCAP." And, it wasn't OCAP, it was the Newlands Project.

"All of a sudden they finally see what the impact is. The wetlands had been surviving on Truckee River water. This is wetlands that were originally created by Carson River water. . . ."

All of a sudden they finally see what the impact is. The wetlands had been surviving on Truckee River water. This is wetlands that were originally created by Carson River water. And now, Carson River water was being diverted so much that it was the Truckee River water, the spills, the excess water, the power generation water, etcetera, that were maintaining those. You cut that way back and now the wetlands have got problems. And, I remember, my gosh when was that, '86 or so, that we were doing consultation on the final E-I-S.

"The refuge people were really giving us a hard time, and they started going their own separate ways and trying to evaluate what are the impacts on the wetlands, and etcetera, and pointing the

finger at OCAP. In fact, there even became a Wetland Coalition. . . .”

The refuge people were really giving us a hard time, and they started going their own separate ways and trying to evaluate what are the impacts on the wetlands, and etcetera, and pointing the finger at OCAP. In fact, there even became a Wetland Coalition. And, some of our refuge people were on it, and my boss at that time, Dave Harlow, asked me to sit in on it. A whole bunch of other individuals were in on it, that weren't associated with the government. And also, NDOW [Nevada Department of Wildlife] was involved. So, I started going to . . .

Seney: That's the Nevada Department of Wildlife?

Buchanan: Right.

Seney: Right.

Public Law 101-618 Solved the Internal Fish and Wildlife Service Dispute by Allowing Purchase of Water Rights—That Meant Taking Farmland out of Production to Provide Water to the Refuges

Buchanan: Yeah. And, I started going to some of these meetings. I'm trying to remember when this was. It had to be late '80s. I don't think it was—it had to be about '88 or so. Anyway, I

started to going to this Wetland Coalition group. And then, I realize they were lobbying. They were getting – they were formulating letters to write to Senator Reid and other people, and our refuge people were involved with it. NDOW was involved with it, plus some of the other people. And, I went back to my boss and I said, “This is lobbying. Somebody’s going to get in big trouble.” Because, as you know, we’re not allowed to lobby in the federal government. And again they were, you know, just up in arms about this. So, I don’t remember how it finally came about. Maybe that’s what it was is P.L. 101-618, that under Section 206 allowed for the acquisition of water rights. Because that’s when they were, (Seney: Yeah. Right.) see because between final OCAP ‘86 and 1991 when we had P.L. 101-618 we had a lot of this turmoil going on about the wetlands, what to do about it. And, what to do about it was to take farmlands out of production and take that water, versus changing OCAP and taking more water out of the Truckee River, because then you’re just pitting birds against fish. (Seney: Right.) And, my feeling is that a lot of people in Lahontan Valley that pushed that. They just loved it. When they saw, “Here’s the Fish and Wildlife Service fighting amongst themselves,” (Seney: Right.) you know, birds and fish. And, we were fighting. And, I tried to tell the refuge, “We’re going

the wrong direction. We shouldn't be doing this. Especially we shouldn't be doing it in public, because we're cutting our throats." And I said, "We've got a lot of farmers sitting over there just laughing their heads off." And, so when we, when Congress finally passed 101-618, that put that to rest, and then the, of course, the controversy came on applying water rights, (Seney: Right. Right.) and that type of stuff. So.

Seney: How did these conflicts between the refuge people, and the bird people, and the fish people, if you will, how did those play themselves out within the Fish and Wildlife Service, say in the Reno Office or in the regional office? ~~Where is reporting to the regional office isn't it?~~

Buchanan: It was.

Seney: It was.

Buchanan: It's in Sacramento now. But, at that particular time it wasn't playing out very well in the late '80s until—I don't know who was pushing. I don't know who got Section 206 through. But once they got that through I think that changed their direction and had them to stop pointing the finger at OCAP, and things of that nature. We, the two offices still were not getting along very well. Once we got Public Law

101-618, and we had to start implementing that, it was extremely complicated. So, the deputy regional director came down, and what we call the “Beachmaster.” In fact, Ron Anglin,¹³ who was the refuge manager, (Seney: Right.) and I was the deputy up here, we both agreed that we needed a, what we called a “Beachmaster,” somebody to come in and coordinate everything. (Laugh) So, that’s when we got Bill Martin, an ex-marine, to come in. And, Bill Martin, when you first, when you first meet Bill he scares the hell out of you. He come in with a butch haircut. I ended up just really liking him. (Laugh) He was a good guy. He made decisions. And then, he was replaced, later on after he retired, with John Doble [spelling?]. And, John Doble [spelling?] was the assistant regional director for refuges. And, we just cringed because they ended up—how did they do that? They ended up restructuring the office, and he was in charge of refuges and endangered species, and he became the Beachmaster. And, I always going, “Oh god, we’re dying again.” (Seney: Yeah.) I couldn’t believe it. The guy was well-balanced in his thinking. He understood endangered species. He understood refuges. And, he was extremely fair. And, I just loved having him here. I was disappointed when he retired, and then we

13. Ron Anglin was interviewed by Dr. Donald B. Seney as part of his oral history interviews on the Newlands Project.

went back to doing everything local again.

Seney: Right. Right. What kind of, can you remember some of the things that these people would, would have to decide between you, or mediate?

Buchanan: Oh my. Well, basically what it came down to is, I went through 101-618 and tried to go through all the sections and identify where the Fish and Wildlife Service is involved. And then, we would, the refuge and I would get together. Ron Anglin and I worked on this a lot trying to say, "Here's the responsibility. Here's what has to be done. And here's who should do it." (Seney: Right.) And, that was basically Bill Martin's agreement on that, would review that and agree, "Here's who should do it," or "You guys should do this together. You have the lead. You assist." And, that type of stuff. And, we ended up working, I think, a pretty good working relationship there during the, from 1991 through—gosh when did we finish all that—'98 or so. It worked out real good. We started having coordination meetings and having the regional office come down and do that type of stuff, I thought, was extremely effective. Very good.

Seney: I've interviewed Ron Anglin.

Buchanan: Oh.

Seney: And, I know he took a very active role in, probably too active a role even from his own point of view, in the lead up to Public Law 101-618.

Buchanan: Well, that's the Wetland Coalition.

Seney: Yes. Right. Right.

Buchanan: He was one of them that was there.

Seney: He was the moving force behind it, (Buchanan: Yeah.) and he admits to that. And, I think he's proud of it because he was committed to the wetlands.

Buchanan: He was, he was one that I said was working under the table for lobbying, and he was sitting there, along with Norm Sake [spelling?], working with the state. And, Tina Nappy.

Seney: Norm Sake's [spelling?] the state guy for Nevada?

Buchanan: Yeah. Tina Nappy¹⁴ (Seney: Right.) they were, they were formulating a letter. And I just, I told my boss, "This is illegal," and he

14. Leontine Nappy was interviewed by Dr. Donald B. Seney as part of his oral history interviews on the Newlands Project.

says, "I agree with you." And, that was the end of it. I wouldn't go back. And, because I knew what Ron was doing, (Seney: Right.) and I thought he was, he was going way too far. And, if he got caught he would have been fired. And, but it might have come out for the good.

Seney: He did get transferred, in the end . . .

Buchanan: Well, that was something else.

Seney: Was that something else?

Buchanan: Oh. That had nothing to do with P.L. 101-618. That's personal stuff, and I'll let you talk to Ron about that.

Seney: Okay. Sure.

Buchanan: Yeah. Now, that doesn't belong on tape. (Laugh)

Seney: Okay. Right.

Early Involvement in Public Law 101-618

Buchanan: Anyway, but yeah, Ron was quite aggressive and I worked well with Ron. Yeah, but anyway. Interesting. Getting back to P.L. 101-618. I was involved with that very early on when it was Senate Bill 1554, or something

like that.

Seney: What was your involvement?

Buchanan: Well, the tribe was trying to get a bill through. I don't remember all the details, but they would send me copies of it and ask me to comment on it, and give them comments, and etcetera, which I was. Then . . .

Seney: And, you did that?

Buchanan: Hmm?

Seney: You did that?

Buchanan: Oh yeah. (Seney: Yeah.) Yeah. That was, again, another one of these things under the table (Laughter) I think. But . . .

Seney: And, should you have done that? I mean, was that . . .?

Buchanan: Well, I'm trying to remember. Because, I remember there was some of it was unofficial and some of it was official. And I, because it was coming down through the region—a bunch of it was coming from Bob to me, and I'd give him my comments. And, then other parts would come down officially from Washington, D.C.. And, god I'm trying to remember on this. A lot of it was supposed to

come down, officially supposed to come down through our regional office and down through, but it started coming right from Washington D.C. to me, from our office in Washington D.C., because I had so much background on all this stuff. (Seney: Right.) And, that was, they had some hearings, and etcetera, and the federal government ended up, if I remember correctly, objecting to it, so the Senate wasn't going to pass it. So then, the federal government got involved and said, "Okay, let's work out a bill that we would agree to." (Seney: Right.) And, I think that's when Bill Bettenberg¹⁵ got involved. And, that's the first time I met Bill. In fact, the first time I met Bill was on a tour that Sierra Pacific put together. We had two Greyhound-type buses and we went all the way up through this, all along the Truckee River drainage. And, oh, Senator Reid's office was involved. That's when Rose, Rose, Rose—what's her last name? No, the last name I don't—anyway, Senator Reed's assistant was involved. (Seney: Right.) And, that was the first time I met Bill. And, I remember driving from a lot of these places and getting out and giving talks to all of these people. And, I didn't know who Bill, who he was (Seney: Right. Right.), and etcetera. All I know is there was somebody there from Washington, D.C.. And, I

15. Bill Bettenberg was interviewed by Dr. Donald B. Seney as part of his oral history interviews on the Newlands Project.

remember standing up in the bus going from Boca Reservoir to Stampede on this weavy road, and I'm standing up with my back to the road with a microphone, talking to everybody on the bus (Laugh), going on, wondering, "Am I going to get car sick here?" (Laugh) That's been—god I remember the time—I wish I could remember her name. Anyway, Senator Reid's assistant—I remember several people mentioned it—when she came there she was dressed in tight silver ski pants, with a big fluffy ski coat on, (Laugh) which is, it just, you wouldn't expect somebody to be dressed for what we were doing. And, but it was in the wintertime, and it was cold. (Seney: Right.) But, ski pants? (Laughter) But anyway, that's, that's when I met Bill. And, I had been working with Sierra Pacific an awful lot before that, on a whole number of things. And then . . .

**Assistant Secretary of the Interior John Sayre's
Testimony Before Senator Bill Bradley's
Committee**

Seney: Let me go back there, because Bill Bettenberg comes on when there's that disastrous testimony by then-Assistant Secretary for Water and Science John Sayre?

Buchanan: Yeah. Yeah. Yeah.

Seney: Would you happen to be at that hearing?

Buchanan: No. No. No. I just, I read pieces of it, and heard about it later on.

Seney: Right. Right. And, apparently—I've read the transcript too, and it doesn't reflect—it has been edited, because apparently Senator Bill [William W.] Bradley, the committee chairman, really was unhappy with his lack of preparation, (Buchanan: Yeah.) and kind of canned answers?

Buchanan: Yeah, I remember he was just totally unprepared (Seney: Right. Right.) for it.

**Bill Bettenberg Assigned to the Newlands Project
as a Special Assistant to Secretary of the Interior
Manuel Lujan**

Seney: And, it was at that point that then-Secretary of the Interior [Manuel] Lujan had Bill Bettenberg come in, and assigned him the task (Buchanan: Yeah.) of kind of trying to coordinate?

**Bettenberg Was Faced Immediately with Trying to
Negotiate a Settlement Agreement for Stampede
Dam and Reservoir That the United States Could
Agree to**

Buchanan: Yeah, he came out as a special assistant,

(Seney: right. Right.) to the secretary, at that time. And, so one of the first things—again, I hadn't been around Bill at all. And, one of the first things he had to do was try to negotiate a preliminary settlement agreement that the United States would agree to. See, the Sierra Pacific and the tribe had previously negotiated the preliminary settlement agreement, which basically says how they thought the reservoirs should be operated, and this was the precursor to TROA [Truckee River Operating Agreement], you might say.

Seney: Right. This was Stampede Reservoir?

Buchanan: Right. And, this is, this is the precursor. Well, they really didn't have any authority there, and so they really needed the United States to sign on. So, Bill got involved with negotiating that. And I had, by then, been working with the tribe and Sierra Pacific a lot, and we had a real good working relationship with Sierra. And, I remember we were having a meeting at Sierra Pacific, Bill was, and Janet Carson¹⁶ was there, and Sue [Oldham] and Bob Pelcyger¹⁷ and etcetera, and there's probably about twenty of us there, and I wasn't in tune to how Bill negotiates. I'm just

16. Janet Carson was interviewed by Dr. Donald B. Seney as part of his oral history interviews on the Newlands Project.

17. Bob Pelcyger was interviewed by Dr. Donald B. Seney as part of his oral history interviews on the Newlands Project.

a biologist, you know. I, somebody asks me a question I answer it. So, Janet says, "Well Chet, tell Bill about the – you know how it is." She says, "I'm right." So, I popped up and said, "Yeah. You are right, Janet. This is the way it works." And, later on Bill said to me, he said, "Chet, we are in negotiations here so watch what you say." (Laugh) I said, "Bill, it is the truth." (Laughter) Anyway, I learned. (Laughter) I mean, you can give the truth, but you don't have to always say it. (Laughter) (Seney: No.) Go around it. So anyway, everything worked out fine, and Bill and I ended up working out an excellent, excellent working relationship. I just, I really enjoyed working with him. So, anyway, so the tribe had their PSA, Preliminary Settlement Agreement, and then there was the Senate bill, then there was that problem in Washington D.C., "The United States really wasn't supportive."

Eventually Ended up Working as a Special Assistant to Bill Bettenberg and Had to Give up His Job as Deputy Head of the Office in Reno

So, Bill got involved. And, for about—what was it—six months or a year, Bill got involved with trying to do something. And then, I was—Bill was shipping me pieces of it, to comment on and etcetera, and that's when I started working it very closely with Bill on

that. Then we got it through Congress, and got it passed—I'm working up to something here—and then I remember about that time Dave Harlow came over here.

And, Dave Harlow mentioned to me later on, he says, "Yeah," he says, "When I first got the job to come over here I was told to remember that Chet doesn't work for you, he works for Bill Bettenberg in Washington D.C.." (Laughter) And that's, that came pretty close to being it. I, after about 1991 all I did was P.L. 101-618, and then I just did TROA stuff. (Seney: Right.) And, I ended up giving up the deputy's job at our office here because there wasn't any way I could do that and do everything else I was doing. So, I became a special assistant in, when the heck was that, probably about, I don't know, '96 or so.

Got His GS-13

And, that's all I did was to do that type of stuff. In fact, the way I got my GS-13, because I was a GS-12 for several years doing all this, and I remember it was when Betsy was assistant secretary, was it? (Seney: Right.) She came out to a meeting and I got to looking around the room and I was the lowest grade person there. There wasn't any GS-12s in the room. They were all thirteens and

above, and so I ended up getting the desk audit, and that's why I got my thirteen, just because (Seney: Right.) of who I was dealing with. Because, I was dealing with the Mayor of Truckee, dealing with Senator Reid's office, dealing with Betsy, dealing with Bill. And, it was just the level I was dealing with, (Seney: Right.) they finally decided to go ahead and advance me.

Seney: A desk audit is what, actually looking at what you're doing?

Buchanan: Yeah, you know. There's two ways you can get a, or three ways you can get an increase in your grade. If your job was originally rated for, say, eleven, twelve, thirteen and you started at eleven, you can automatically go to a twelve once you qualify, and then automatically go to a thirteen. Well, my position was a twelve. The other way is, they could form a new position, the GS-13, and then you have to compete for it, (Seney: Ah.) and then they will dissolve your position. Well, careful, you can lose. (Seney: Right. Right.) Okay? And, the other one is the desk audit in which they say, they come in and review what you're doing and give you a grade based on the level you're working. And, they said, "You're working at GS-13 level." It's really interesting what happened there, and I feel sorry for Carlos. He was our

field supervisor at this time. This was after Dave Harlow. Carlos was a thirteen also, and I was a twelve. And, he had two deputies. Both of us were twelves. And, so he went to bat, got me a desk audit to get me a thirteen. And then, he wanted to get a fourteen, then. After I got my thirteen, he used that to go ahead and advance to get a fourteen. (Seney: Right.) They were going to make him compete for his own job. And, he says, "Wait a minute. I just want to do a desk audit on this." And they said, "Well, you can't because you have another thirteen in the office who is qualified for the job also." He got pissed off, and I don't blame him. (Seney: Yeah. Yeah.) And, he left and went to Texas and got a fourteen down there.

Seney: Is that right?

Buchanan: Yeah. And that was – we speculate that it was set up that way because his boss in Denver would have known better than to do me first. He should have done Carlos first, and then me. (Seney: Ah.) And, they went for me first, and that was the setup, I think. I think he got set up. And, Carlos believed he got set up. Gone in six months.

Seney: To get rid of him, you mean?

Buchanan: Yup. To get rid of him. And, (Seney: Ah.)

Carlos got perturbed, and in six months he was gone. He transferred out.

Seney: What does a—I know a thirteen means more money, (Buchanan: Uh-huh.) a fair amount more money? (Buchanan: Um-hmm.) What else does it mean?

Buchanan: Level of responsibility?

Seney: Level of respect (Buchanan: Yeah.) too, I'm sure.

Buchanan: Your pay relates to your level of responsibility. Your level of responsibility relates to the sensitivity, and the people you work for, or work with, and that type of stuff. (Seney: Right.) It's the level. (Seney: Right.) Yeah.

Seney: And, there's more respect?

Briefing Betsy Rieke on a Newlands Issue

Buchanan: Oh yeah, yeah. Definitely. Definitely. (Seney: Yeah.) That's, that's kind of one reason I wanted the job. I'd look around and I'd realize what was going on there. I remember going back to Washington D.C. once, and that was when Betsy was back there, and we had a meeting with the Navy—and this was part of P.L. 101-618. It was, I

don't know, Section 206©). I think that's the Navy portion of it there. And, I had to go in and brief Betsy because she was the one meeting with the Navy. And, she said, "Come on, I want you to go with me." So, she had a chauffeur-driven car and I sat in the front seat and she was in the back seat, and I was sitting around backwards briefing her as we're driving through all this Washington D.C. traffic, on what's going on. So, and I think Ron Anglin was there too. And, by the time we got over there she was up to speed and then could meet with the assistant secretary. (Seney: Right.) And, they had some kind of hearing there. And, Ron and I were there. We didn't have to say anything, but I just thought, "What a hectic pace of life back there." I mean, I thought I was going to have a nice time, be able to sit down with Betsy and, you know, give her a nice briefing. No. It's in the car, (Seney: En route?) and you're going to be backwards as we're driving down the road.

Seney: Oh man.

Buchanan: So, you had to zero in on in a hurry what the central points are (Seney: Yeah.) and don't beat around the bush. Get right to it. And, I don't even remember what we were talking about then, but something to do with the Navy.

Seney: Let me turn this over Chet.

END SIDE 1, TAPE 2. JUNE 21, 2005.

BEGIN SIDE 2, TAPE 2. JUNE 21, 2005.

Seney: All right, go ahead.

Buchanan: Actually, we're babbling. We're bouncing around all over the place.

Seney: No. No. That's all right. That doesn't matter. No, not, this is the nature of the way these things work. I'm not so interested in, you know, a straight line. It's more of a straight line than you think. (Buchanan: Yeah.) But, when something comes up I'd prefer to ask about it rather than think, "Gee, I'll ask him later," and then not (Buchanan: Yeah.) ask him later. Was Bill Bettenberg helpful?

Buchanan: Well, two things (Seney: Sure.) that I want to tell you about. One I want to tell you about reservoir management, and the other one I want to tell you about a briefing with the –

Seney: Let me ask you this, first, (Buchanan: Um-hmm.) because it sort of fits into what we were just talking about. Was Bill Bettenberg helpful in your getting a thirteen? Did he have anything to do with that?

Buchanan: If he did I never heard a word about it. I put

him down as one of the people that I've dealt with a lot, and Betsy, and etcetera. And, whether personnel contacted him to verify that I have no idea. (Seney: Yeah. Okay.) Well, I don't know. (Seney: Right.) They could have.

Seney: I take it he would have looked after you if he could have, (Buchanan: Hmm?) since you were working with him so closely?

Bill Bettenberg Tried to Get Him to Work for Him on the Klamath Project as a GS-14

Buchanan: Oh, Bill even tried to get me to go to work with him once for a GS-14, as his representative on Klamath. (Laughter) What do you think I thought about that one? (Laughter)

Seney: That's a tough nut, isn't it?

Buchanan: Yes. (Laughter) "No Bill, I think I'll retire." (Laugh)

Seney: No wonder he offered you a fourteen, huh?

Buchanan: Oh my gosh. I just, I mean that was a great compliment. I really appreciated him considering me for that, but no, no, no. I didn't need to (Laugh) take that kind of stuff on. Anyway.

Seney: Well, go ahead with the reservoir management and the other point you wanted to make.

Working with Bob Pelcyger and Sue Oldham

Buchanan: There's two things. One was meeting with the deputy secretary, and this was about OCAP, and another one goes over to P.L. 101-618. As I said, when I got here I thought my niche was water management, and trying to figure out how to get our flow regimes, and we were looking at OCAP and looking at the amount of water we had available in the various reservoirs, and the water that we could use. (Seney: Right.) And, I hadn't thought about that too much. I remember I did a lot of talking about it, and etcetera. And then, after we started getting down the road in PSA, and I remember I said something to Bob Pelcyger. I said, "You know, Bob," and I don't remember exactly. I gave him sort of a negative comment. He said, "Chet, this is all your idea." I said, "What are you talking about, Bob?" He says, "Remember way back when," he said, "You started talking to me about operating the reservoirs, and how the reservoirs are pretty much operated by decrees or permit for that reservoir, and you can only use that reservoir for this, and there's no interaction between the reservoirs, and how the reservoirs really and truly are operated inefficient." I said, "Yeah." He said, "Well,

that's all we're doing. We just took that idea and expanded on it." I said, "Okay. I'll keep my mouth shut now." (Laughter) I had totally forgot about that, (Seney: Yeah.) until he said that to me.

Seney: Well, he's very sharp. (Buchanan: Yeah.) He doesn't miss much.

Buchanan: But it, you know, in some ideas I'd had back in the early '80s, and it stuck in his mind. (Seney: Yeah.) And see, Bob Pelcyger, the Pyramid Lake Tribe lawyer, and Sue Oldham,¹⁸ the lawyer for Sierra Pacific, did not get along at all. They had some horrible, horrible meetings.

Then sometime in the late '80s I think they both came to the realization that to continue to fight like they were doing wasn't going to work. And, so they finally decided they got to get along, and that's when they started coming up with PSA, Bob Pelcyger and Sue, and Rod Hall [spelling?]. Of course, Rod was the one doing all the model runs. (Seney: Right. Right.) And so then, then that's when they started coming out.

It was really interesting—here I digress again—Sue was the first lawyer I'd ever had

18. Sue Oldham was interviewed by Dr. Donald B. Seney as part of his oral history interviews on the Newlands Project.

any kind of dealings with professionally. I had transferred down from Alaska, and I came down here, and you know, I didn't know what was going on. And, I was here for about a week or two, and Gary Sendeville [spelling?] he was leading up pretty much the cui ui stuff. I was wet behind the ears, so I went to this meeting with Sierra Pacific and it was about Stampede water. The first time I met Sue. This is about, I don't know, probably June '81. Oh, what a nasty woman. Oh. I think she was just vile. And, she was doing her job as a lawyer, an attack lawyer (Buchanan: Right. Right.) for Sierra Pacific. Well, I had never been around anybody like that professionally. And, you know, professionally I try to maintain a professional atmosphere. She was just plain nasty. And I just thought, "I'll never get along with this woman." And, I couldn't believe it. Here we are six or seven years later and I started, you know, liking her. And by the time we got involved with TROA I really liked Sue. I think she manipulates people. She's still a lawyer. So is Bob Pelcyger. He manipulates the hell out of people. They both know it. That's their job. But, I don't mind working with Sue. In fact, she calls me up sometimes. She just called me about Rod. When Rod was sick and dying, she'd call me and talk about him, and things of that nature.

Forest Service Was Unhappy Because Stampede Reservoir Was Being Drained of Much of its Water

So, anyway, getting back to when I was wet behind the ears. I just remembered going to that meeting with Gary Sendeville [spelling?]. Well, there's another one that occurred later on, and it was early in '81, about the summer of '81, and we went to, had a meeting with the Forest Service, and it was about operating Stampede. Because we were taking a lot of water out of Stampede, and the Forest Service had just put a lot of money into campgrounds at Stampede and they didn't put any money into Boca. Well, guess what? All the water was in Boca and we were draining, in the summertime, all the water out of Stampede. They were not happy. And, we went up there and that was a horrible meeting.

“ . . . here I am . . . just in from Alaska . . . and I've gone to just two miserable meetings. . . . And, talk about water wars, there's a lot of water wars around this place. . . . ”

So, here I am down, just in from Alaska, been here weeks, a couple of months, and I've gone to just two miserable meetings. And, I was wondering, “What have I gotten myself into?” And, talk about water wars, there's a lot of water wars around this place.

Seney: Yeah. People take it very seriously.

Buchanan: Yeah. Anyway, and as I'm remembering these things I'll throw them out to you. I had to go back to D.C. several times on the cui ui issue and on OCAP, and I met with Steve Robinson. He was the deputy director for the Fish and Wildlife Service. And, I had to go in and brief him on OCAP, and brief him on the cui ui model. And, because he wanted to understand it and everything. And, he says, "I want you to come back, I think, tomorrow." He says, "We're going to have a meeting with the deputy secretary and the model is going to be one of the issues." "Okay." (Laugh) So, I came back the next day and we take the back stairways upstairs, and we meet. And, there's only about eight of us in the room, and we'd start talking, and I'm not saying a word. I'm just sitting there. And then finally—gosh I can't remember his name—Gelding [spelling?]? I think it was Gelding [spelling?]. Anyway, he asked, "Tell me about the model," and he looked right at me. Well, so I told him about the model, and I tried to be very succinct, to the point, and spent about five minutes and then backed out. (Seney: Yeah.) And then, he seemed to be pleased. And then when we left Steve Robinson came up and he said, "Excellent job." (Laugh) That really made me feel so pleased at Steve because Steve is a pretty hard

person to get along with. And, for Steve to say something like that, I was, I was really pleased. I remember another meeting Steve Robinson came out to. What was his position? I think the same position. We had a meeting with Steve Robinson–this is about OCAP–Dave Houston, Bureau of Reclamation, several other people there, and Lyman McConnell.¹⁹ And, this was about, I don't know, '85, '86, '87, someplace through there. And, we got to talking about OCAP, and Lyman came unglued and yelled at me across the table, and he said, "You're nothing but an Indian lover." I just looked at him. Dave Houston²⁰ came unglued and got all over Lyman, and Lyman had to apologize. I never said a word. I just sat there. And, the reason I bring this up because after the meeting Steve Robinson came up and he says, "Good job." (Laugh) Meaning, "You kept your mouth shut." (Laughter) And, I said, "I didn't have to say anything," I said, "Dave did it all." (Seney: Yeah.) He did. I just couldn't believe it.

Seney: I was going to talk about some of these interests from your perspective, and especially now that you're retired and maybe have

19. Lyman McConnell was interviewed by Dr. Donald B. Seney as part of his oral history interviews on the Newlands Project.

20. David Houston was the Bureau of Reclamation's regional director in the Mid-Pacific Region in Sacramento from 1983 to 1989.

reflected on them a little. Talk a little about TCID and kind of your dealings with them, and your perspective on them.

“I’ve never understood why they [TCID] can’t see the writing on the wall. How they can challenge so many things in court, and lose so many times, and continue to spend the millions and millions, and millions of dollars they’ve been spending on lawyer’s fees. . . .”

Buchanan: I’ve tried two things. Number one, I’ve tried to understand them, in later years. And, I’ve tried to be more personable with them. I’ve never understood why they can’t see the writing on the wall. How they can challenge so many things in court, and lose so many times, and continue to spend the millions and millions, and millions of dollars they’ve been spending on lawyer’s fees. I just don’t understand how they do it. And, there must be a mindset out there. I don’t know what it is. I just don’t understand it. And then, later on, a few months ago, the Bureau of Reclamation asked me to go out and give a briefing to Newlands Project, TCID, and everybody else wanted to come on OCAP, excuse me on TROA. Go through it line by line. And, I remember walking in and Lyman was there. I just made a point of going over to shake his hand. I says, “Hi Lyman, how are you?” And, he startled and looked at me,

“Well, fine Chet.” And, I really made a point to try and be personable. (Seney: Yeah.) And, we did, we, it actually was a good meeting. And, it was his benefit to actually be good too, because I was opening TROA up to them. I was there to answer any question they wanted. I walked through the thing. As I was walking through it, if they had a question we’d stop. There was no reason to turn it into an adversarial meeting. There wasn’t. Because I’ve had a number of meetings with Lyman that were adversarial. (Seney: Yeah.) They’re not, not good meetings at all.

Seney: What did they want to know about the TROA?
What did they focus on?

The Truckee River Operating Agreement “. . . is extremely complicated. . . . 200 pages of legalese . . . It’s not a read-through document. You can’t start at the beginning, at the end . . . and you know what it is. . . . It’s a series of rules that are highly interrelated. It’s a big spider’s web, and you pull on one end of it and it’s going to wiggle all over the place. So, you have to actually know the whole thing in order to implement it. . . .”

Buchanan: They wanted to understand what TROA was, just really understand it. And, because TROA is extremely complicated. It’s 200 pages of legalese, technical-ese, etcetera. It’s not a read-through document. You can’t start at the

beginning, at the end, you know, sequential, got to the end (Seney: Right.) and you know what it is. (Seney: Right.) It's, it is not a cookbook. It's a series of rules that are highly interrelated. It's a big spider's web, and you pull on one end of it and it's going to wiggle all over the place. So, you have to actually know the whole thing in order to implement it.

Relationship with Lyman McConnell over the Years

So, that's what I was trying to do, trying to help them understand it. They had requested that of Bureau of Reclamation, and that's when Kenneth had me go down and spend a couple days with them. And, it worked out pretty good. But, Lyman and I have not had good working relationships. I remember once, in front of Judge Thompson, he was holding a meeting and it was before the meeting started and I noticed in the parking lot that Lyman had left his car lights on. So, I went upstairs and I walked by Lyman and I said, "Lyman, your car lights are on." He sort of looked at me and says, "Oh yeah, sure." And, I said to him. "Really. They are on." Then he went out and turned them off, and he came back. Oh, he was just, he had to say, "Thank you, Chet." (Laugh) He didn't want to do that. It just, oh that hurt him. (Laugh) But again, I think our working

relationship has changed too. He's got older and I've got older and we're not—at least, I was trying not to take it personally as much anymore. (Seney: Right.) And, he's gone the same route too.

Seney: He could sense they were going to challenge TROA in the courts?

“They’re going to challenge TROA. They’ll probably challenge the rule making. That’s the federal rules the federal government has to implement in order to implement TROA. And, they’re going to most likely challenge the E-I-S as being inadequate. . . .”

Buchanan: Oh yeah. Um-hmm. They're going to challenge TROA. They'll probably challenge the rule making. That's the federal rules the federal government has to implement in order to implement TROA. And, they're going to most likely challenge the E-I-S as being inadequate. If they do challenge the E-I-S, the weakest point, and everybody knows that's the model, everybody knows that. And, that's the piece that will be challenged. They will probably challenge the rule as to say that TROA is adverse to their water rights. So, they'll probably have two separate court cases. And they, now whether they'll just challenge the rule or whether they will challenge TROA in the Orr Ditch court—see,

TROA has to be approved by the Orr Ditch court. (Seney: Right.) And, they may just challenge it there and don't—I don't know how they're going to do it. They may do several lawsuits (Seney: Right. Right.) all at once. And, but I think they're going to have a difficult time challenging it. I really do.

Seney: Talk about Sierra Pacific Power a little bit.

Sierra Pacific Power and the Newlands Project

Buchanan: Hmm. Well, as I said earlier, you know, the working relation has changed over time. In fact, I remember, when was it, in the '90s—see, I had been working with them a lot by then—I had to do a Section Seven Consultation on Tracy Powerplant, the coal gasification plant, I think it is, out there. And, I got to understand a lot more on that, and etcetera. And, I remember once Sue even sent me a questionnaire about their environmental stewardship, about rating them. Because, their company was getting rated by somebody and they wanted me to answer some questions, and I don't know, etcetera. So, I helped them out there.

“ . . . P.L. 101-618 really changed, I think, the working relationship I started having with people. . . . ”

But, no, it's, P.L. 101-618 really changed, I think, the working relationship I started having with people. For example, Rod Hall [spelling?] in the '80s, you know, I just thought he worked with Sierra Pacific, and I didn't know him, didn't care for him too much. (Seney: Right.) And, the same way with Joe Burns.²¹

After Retiring Decided to Consult on TROA Because He Liked TROA

And, after I started working with them on TROA, yeah, I ended up liking the people. In fact, that's one reason why I'm consulting now because I like TROA. (Seney: Yeah.) I like the people. And, that's why Bill was really pleased to hear that I'd be willing to consult, after I retired. And, I told him, "No," I said, "I don't, it isn't really work to me. It's just continuing on what I've been enjoying." (Seney: Right. Right.)

“. . . the main reason I retired wasn't because I wasn't enjoying what I was doing, and it wasn't that I was burnt out on it, I didn't want to do what I was getting ready to do, and that was doing a lot of consultations . . . which are just drudgery to do. I had thirty-four years, and there was no sense in doing that. And, my workload with P.L. 101-618

21. Joe Burns was interviewed by Dr. Donald B. Seney as part of his oral history interviews on the Newlands Project.

and TROA was getting cut back. So, I wasn't going to be working full time anymore. There wasn't enough work there left (Seney: Yeah.) to be doing it full time. . . ."

And, see, the main reason I retired wasn't because I wasn't enjoying what I was doing, and it wasn't that I was burnt out on it, I didn't want to do what I was getting ready to do, and that was doing a lot of consultations, and etcetera, in my office, which are just drudgery to do. I had thirty-four years, and there was no sense in doing that. And, my workload with P.L. 101-618 and TROA was getting cut back. So, I wasn't going to be working full time anymore. There wasn't enough work there left (Seney: Yeah.) to be doing it full time. (Seney: Yeah. Yeah.) And so, I was going to start doing more and more other stuff. And I thought, "No. I don't want to do that. That's the last thing I want to do. And, I got thirty-four years. I've got a year's worth of sick leave, so I can retire on annuity for thirty-five years. (Seney: Yeah.) I want to retire." (Seney: Right. Right.) And then I just mentioned to Bill, I said, "You guys need some help with that E-I-S, I'd be willing to help." And, he said, "You'd be willing to help?" And, I said, "Yeah. I'd come back. That's no problem." So, that's, that's how I came back.

Seney: Did he have something to do with your working for the Bureau of Reclamation?

**Went to Work with the Bureau of Reclamation
after Retiring to Work on the TROA Environmental
Statement**

Buchanan: Well, that was the only way they, that they could do it. See, the Bureau of Reclamation – I was trying to remember back here. Was Kenneth here? I think Kenneth was here by then. See, Kenneth, I think Kenneth came just a few months before I retired, and he was getting thrown into something he didn't understand, TROA and etcetera, and he needed somebody that he could come talk to, and that kind of stuff. And so, that's why—and also, they had the lead for putting together the E-I-S. So, that's just how I just slid right in there. And so, I spend most of my time on E-I-S, but sometimes I'll work with Kenneth on TROA-type stuff.

Seney: What do you do on the E-I-S?

Buchanan: I was primarily responsible—I wrote chapter two, which is the description of the proposed alternative to the, the no-action alternative and the other alternative, other action alternative. So, I put those together. That's chapter two. And then I did a lot with Tom Streckal. Tom Streckal wrote chapter one, and I did a lot in

terms of rewriting, suggestions, etcetera, on that. And then, in chapter three, I wrote some of the analysis in chapter three, but it was primarily assisting people on trying to figure out “Why are they getting these results?” See, because everything, all results are in terms of water, and then the different disciplines have to translate those impacts on the disciplines, whether it’s biology, recreation, or etcetera. So, I would try to say, “Here’s why you’re getting this water. Here’s what, this in TROA is giving you this water. And now that’s, you translate that into that.” So, it’s helping to understand “What are the impacts?” Because, you got to translate it back into water.

Seney: The first attempt was to do the E-I-S before the TROA was done?

Buchanan: It’s worse than that. Uh, (Laugh) I remember the first meeting we had on OCAP, excuse me on TROA, was in Pete Morris’ [spelling?] office. He was the Department Lead, Department Chief for the Nevada . . .

Seney: Natural Resources?

Buchanan: Yeah. And, we had a meeting there. And, I remember our regional director, assistant regional director for endangered species came down to that. And, they were talking about OCAP at that time. Well, not OCAP, TROA.

They were talking about TROA at that time, and they thought (Snap) we could just fling TROA out of here in nothing flat. And then they were asking me, “Well, how long is it going to take to do an E-I-S on this thing.” And I said, “Well, it’s going to be quite time consuming.” I said, “It’s probably going to take a couple three years to do it.” Uh, my boss’s boss, the deputy regional director, he didn’t care for that answer at all. So, later on after the meeting he just told me, he says, “You can do this in six months.” I said, “Yeah, I can do it in six months, but it’s going to be a piece of junk,” and I said, “We’ll get, it’ll get challenged in court and we’re going to lose.” He says, “So what. We’re going to get challenged in court anyway.” And, I said, “But at least we’ll have a defensible document if we do it the other way.” He didn’t care. “Okay.” That’s ~~1961~~ [1991]. Look where we are . . .

Seney: ‘91.

Buchanan: I mean, excuse me, 1991. (Seney: Right. Right.) And, we still haven’t got the final out.

Seney: Yeah. Right. But, he didn’t—those were your marching orders, then? (Buchanan: Yeah.) “Get busy and do it?”

Fred Disheroon

Buchanan: Yeah. Well, we didn't. (Seney: Yeah.)
Because we didn't have a proposed action.
And so, '91 we start meeting and it wasn't
until, I don't know, when was that, '94, '95,
we got instructions from Fred—who was that?
I don't know if it's just from Fred. We got
instructions . . .

Seney: This would be Fred Disheroon?²²

Buchanan: Yeah. And, I don't know if it was just him.
But anyway, we got instruction from the
negotiators that they kind of wanted us to use
the E-I-S process to help identify different
"TROAs." So, I said, "Okay, we're formulate
a TROA that's good for recreation, one that's
good for T & E [Threatened and Endangered],
and one that's good for agriculture." We had
all these different TROAs.

Seney: One that's good for C & E?

Buchanan: Threatened and endangered species.

Seney: Ah. Okay.

**The Environmental Statement Addressed Several
Alternative Truckee River Operating Agreements
but at the Last Minute Was Converted into a**

22. Fred Disheroon was interviewed by Dr. Donald B. Seney as part of his oral history interviews on the Newlands Project.

“Report to the Negotiators”

Buchanan: And, we have all these different TROAs. They all have various impacts on people’s water rights. And, so we put this together in terms of a draft E-I-S. Well, Fred just went ballistic. He said, “You can’t do this,” etcetera, and I said, “Fred, this is what you asked us to do.” I got really perturbed about it. So, we ended up changing it from a potential draft E-I-S—I think we had an administrative draft at that time—from a potential draft E-I-S to a say “report to the Negotiators,” which was about three inches thick. And, we had done a lot of runs on this stuff. And, if you take a look at chapter two, there’s a section in there, I think, that says “alternatives considered but rejected.” That was part of it. We used that. (Seney: Ah.) We used part of that. And, basically what we were saying is that the negotiators had developed TROA, because we were going to have impacts on TROA.

**P.L. 101-618 Allowed Implementation of Work
Adverse to Water Rights If Voluntarily
Relinquished by the Holder**

And, P.L. 101-618 says, “You can use people’s water rights. You can be adverse to people’s water rights if they voluntarily relinquish them.” Okay? Sierra Pacific was

doing that. (Seney: Right. Right.) Okay. So, that's what we had to do. So, therefore, it became obvious that TROA had to be negotiated by the parties. When was that?

“In 1997 it looked like we had an agreement. The last bit, I remember, was over the Sierra Pacific’s—and California had some issues. Because California still was not getting anything . . . for them. And, they basically wanted to use other people’s water rights. And, that’s what the negotiators were trying to tell them. They said, ‘Hey, you’ve got no water here. You don’t have any right to take people’s water rights, and we’re not going to give them to you.’ So, that’s why you end up getting provisions in there about the environmental water . . .”

In 1997 it looked like we had an agreement. The last bit, I remember, was over the Sierra Pacific’s—and California had some issues. Because California still was not getting anything out, anything for them. (Seney: Right.) And, they basically wanted to use other people’s water rights. And, that’s what the negotiators were trying to tell them. They said, “Hey, you’ve got no water here. You don’t have any right to take people’s water rights, and we’re not going to give them to you.” So, that’s why you end up getting provisions in there about the environmental water—no—California Environmental Water

and California Additional Environmental Water. It provides a mechanism for them to acquire water rights. Then, once they've acquired those water rights they can store them under TROA. (Seney: Ah.) And, that's when this started coming to a resolution.

Why the Stream Restoration Fund Was Included

And also, what we did there, we agreed to the restoration fund. What's the name of it? Anyway, it, the stream, the instream flows and etcetera, restoration fund. Because what happened, a lot of the stuff that we were analyzing was based on an instream flow study that we had paid for years earlier, in the '80s, for Cal Fish and Game to do. And, they came out of their instream flow studies, said, "Here is the recommended instream flows that we would like to see. Here's the minimum and here's the preferred." Those were based, however, on habitat improvement. So, that's what Cal Fish and Game was giving us a hard problem. They said, "Hey, everything's—you're basing it on these instream flows, and here's what you're going to provide, but that's got to have habitat improvement." That's why we put the restoration fund in there, that the three main parties would provide money into this fund and then that money would be split up between the tribe, Nevada NDOW, and Cal

Fish and Game, over a thirty-year period for them to do things to improve the stream habitat. That's why that portion's in there. So, there was an agreement on that about '86, and so that's when we, or '87, so that's when we decided to go forward with draft E-I-S.

The Environmental Statement Went Forward While Negotiations Still Continued, and Then Sierra Pacific Pointed out That the Model Lacked Part of the TROA Agreements

When we went forward with draft E-I-S, the only problem is people really hadn't finished negotiating. And, that was a huge mistake on our part to go forward with that draft E-I-S, because they started doing major negotiation, and then I remember it was about '99, something like that, maybe '98, just around the same time. No, probably '99. That was the draft E-I-S. They had a meeting up at the Forest Service conference room up in Truckee. And, I don't remember who noticed it, but we had a question about some of the water that was – the model results. And, they had a question about "How is some of this water being stored? Well, where's this water coming from?" They gave us an interpretation of TROA that they had included in the model and hadn't told us about.

Seney: This is California?

Buchanan: Sierra.

Seney: Oh, Sierra?

Buchanan: Had done that.

Seney: I'm sorry.

The Sierra Pacific Issue Was a Fundamental One Regarding Storage in Stampede Reservoir Which Caused Negotiations to Stop for about Six Months

Buchanan: Well, that's all right. I didn't explain it. They were—you can store water rights based—you can store water in the reservoirs based upon your rights, okay? And, your rights are in priority. What Sierra Pacific was doing was creating credit water in Stampede with water that would have been stored as Stampede project water, or fish water. And, they said TROA would allow them to have that priority, and we're saying, "You're doing what? We don't agree with that." So, that was called the "fork in the road." Negotiations stopped for about six months.

"The way we resolved it is we gave up something. We said that 'during normal water years you're not storing your water adverse to our project water. You can't do it. During a drought year, yeah, you can store it. . . .'"

So then, we went back in the negotiations trying to resolve this fork in the road. The way we resolved it is we gave up something. We said that “during normal water years you’re not storing your water adverse to our project water. You can’t do it. During a drought year, yeah, you can store it. You can go ahead and put your, collect your M & I [Municipal and Industrial] water, up adverse to the water that we would be storing in Stampede or passing through to go to Pyramid Lake.” The reason I agreed to that is because that was a drought year. (Seney: Right.) The odds of us putting away any water in Stampede is going to be extremely remote anyway. So, that wasn’t going to have any adverse impact with us. (Seney: Yeah.)

“ . . . so that’s how I got involved with TROA. Basically, the way you broke it down is that you had Bill Bettenberg, for policy. . . . Fred Disheroon had the lead for Justice, legal. And then, you had the technical people. And we had me for Fish and Wildlife Service, technical. You had Tom Streckal for BIA technical. . . .”

One thing I, that I didn’t explain is going back around 1991, 1992, when we were starting, within the Fish and Wildlife Service, started to divvy up stuff associated with P.L. 101-618. It was obvious I had to do TROA, because I was the one that had the lead before

then on managing Stampede, and etcetera, on those reservoirs. And so therefore, we had all the background. In fact, you'll see that the Upper Truckee River is in California. And, for a while there, California, Sacramento, took care of California and we only took care of Nevada. (Seney: Ah.) But since we had the threatened and endangered species, we had charge of all the reservoirs, except for Tahoe. Okay? And, that's how they broke that up. (Seney: Ah.) And, so since I had all this authority they had me stay with TROA. And since I knew OCAP, since I was involved with OCAP (Seney: Right. Right.) before that too, so that's how I got involved with TROA. Basically, the way you broke it down is that you had Bill Bettenberg, for policy. You had Fred Disheroon had the lead for Justice, legal. And then, you had the technical people. And we had me for Fish and Wildlife Service, technical. You had Tom Streckal for BIA technical. I'm trying to remember if we had anybody else with the federal group. You see, because each negotiator had a policy, a legal, and technical people. (Seney: Right.) And so we have these five major parties, (Seney: Right.) you know, the five leads. (Seney: Right. Right.) And so, we had all these technicals and etcetera. And so, I was really and truly the Fish and Wildlife Service representative on it and really became the person that knew TROA.

**There Were Five Leads in the Negotiations:
Pyramid Lake Paiute Tribe, Sierra Pacific, the
Federal Government, California, and Nevada**

Seney: Now, these five leads would be the tribe,
Sierra Pacific, the feds, then California, and
Nevada?

Buchanan: Yup. You got them.

Seney: Let me turn this.

END SIDE 2, TAPE 2. JUNE 21, 2005.

BEGIN SIDE 1, TAPE 3. JUNE 21, 2005.

Seney: Don, in Reno, Nevada. Today is July 21,
2005. This is our second session and our
first tape.

We were talking about the fork in the
road, and running into the problems of that,
I think, Chet, weren't we when we
finished?

Buchanan: I think the last thing we started talking
about was organization.

Seney: Sure. Go ahead, how you want.

**P.L. 101-618 Specifically Addressed the Five
Mandatory Signatory Parties**

Buchanan: The five mandatory signatory parties. And, the reason they're mandatory is because P.L. 101-618 addresses them, and talks about the State of California, and State of Nevada and the federal government. But since you have to implement the PSA,²³ then you also, that brings in the Sierra Pacific and the Pyramid Lake tribes would be mandatory. But, there are also some other, other parties.

“ . . . the way they have it broken up, each one, at least the mandatories would have a policy maker, would have a technical team, and also a legal team. And, I was the, part of the technical team. . . . ”

As was mentioned earlier, the way they have it broken up, each one, at least the mandatories would have a policy maker, would have a technical team, and also a legal team. And, I was the, part of the technical team. Okay. Let's see here. Now, where do we go next?

Seney: Why don't you talk about the beginnings of the—you know, you talk about the E-I-S, but what about the meetings on the TROA itself? That wasn't the feeling to begin with, that it was going to take this long, was it?

23. Preliminary Settlement Agreement.

Buchanan: Yeah. And, we talked about that a little, little bit ago. Is we, when we started out we thought we'd get it done pretty quickly. In fact, Jeanine Jones with California, one of our first meetings sometime in '99—it wasn't the first one, but sometime shortly after—she came up with sort of a prototype of TROA. And, I think it was twenty pages long. In fact, I started looking for that. Lynn Collins²⁴ and I started looking for it, because I put all my records in the warehouse at Bureau of Reclamation, all my files.

“ . . . we have, I think, a copy of every single one of the drafts of TROA. Some of them may be marked up but at least we found that very first one. . . . ”

And, we ended up finding a copy. So, we have, I think, a copy of every single one of the drafts of TROA. Some of them may be marked up but at least we found that very first one. (Seney: Ah.) I thought that was good, because it's only about twenty pages long. (Seney: Yeah.) And, we're up to, a little, probably a little over 200 pages now, something that's extremely, extremely complex. But, yeah, TROA negotiations started out simple, but the more you talked the more issues were starting to surface,

24. Lynn Collins was interviewed by Dr. Donald B. Seney as part of his oral history interviews on the Newlands Project.

more that we'd have to try to find some solutions.

“ . . . it's really interesting. The first . . . at least four years, if you go back and you take a look at the issues . . . people were really not putting the hard issues on the table. They were holding them back. . . .”

And, it's really interesting. The first, oh my gosh, it must have been the first three or four years, yeah, at least four years, if you go back and you take a look at the issues, the subjects that were addressed, people were really not putting the hard issues on the table. They were holding them back. I can't remember what they were right now. But, I noticed at the time we were hitting the easy stuff, the little stuff. And, we would be discussing, as we would form, we would send it out to the technical team, and we'd have subcommittee meetings whether it was about biological resources or water, or whatever. But, there would be all these technical meetings. And, we did that for a number of years in the beginning, of the technical people looking at these things, but not the real hard issues.

“ . . . it wasn't until, I guess, about '86 that we finally started tackling some of the hard issues. . . .”

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And, it wasn't until, I guess, about '86 that we finally started tackling some of the hard issues. And, that's when we thought we had it resolved, was with the '87—was that, was it '89? Not '89, '98. It was '98 the draft E-I-S came out. No. No. The first one. The first one. When we, when we put out the—I'm getting them all mixed up now. I think it was '98. No, the first one, the '98, that's after we thought we resolved it in California but then we hit the fork in the road because the people had really not put the issues on the table. They still had not negotiated it. And, I think that's one of the reasons why it took us so long. Well, two reasons. Number one they were exploring issues. And, as they explored, new things came up. Then, number two, some of the hard issues really never came to the table until the end, and they just kept holding back, and holding back, and holding back. And, I don't know whether they were trying to find better positions from which to negotiate, or what they were doing.

Seney: Right. What would be these hard issues? What were the things that lengthened the process so, and were difficult, in your mind?

Buchanan: Hmm. Well, a lot of it would relate to the priorities of various waters.

“Sierra Pacific was constantly looking at their availability of water. And, for example, one of the issues that came up was that I wanted to be able to put Fish Credit Water in Tahoe. And, there was no problem against that, except Sierra wanted to be able to establish against our releases. That means, they would allow their water to continue to flow downstream, we would retain, retain our water in storage, and that would be transferred over to them. And so, we’re all whole. But, the issue that I had was I needed water in the stream below Tahoe, if we’re every going to reestablish LCT, Lahontan cutthroat trout, all the way upstream. That became quite contentious. That was one of the things I had to start drawing the line on. And, Sierra’s point was, ‘You’ve never worried about that before, and you’d only managed water out of Stampede and Prosser for cui ui and LCT.’ And I said, ‘But, this is a new issue.’ . . .”

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to continue to flow downstream, we would retain, retain our water in storage, and that would be transferred over to them. And so, we're all whole. But, the issue that I had was I needed water in the stream below Tahoe, if we're every going to reestablish LCT, Lahontan cutthroat trout, all the way upstream. That became quite contentious. That was one of the things I had to start drawing the line on. And, Sierra's point was, "You've never worried about that before, and you'd only managed water out of Stampede and Prosser for cui ui and LCT." And I said, "But, this is a new issue." My boss, at that time, was very interested in reestablishing LCT throughout the river. And so, therefore, it was an issue. We ended up resolving that, but it was a give and take in that any water below a certain amount of—if the water was at or below minimum thresholds, they could not establish against it. If it was above the minimum or below another higher threshold, they can use half of our water. And, if we release any additional water to make up for it they could not establish against that. Anything above the upper threshold, yeah, they could establish against. It was sort of one of these things we sort of worked out together. (Seney: Right.) And, that became quite a difficult one.

Another Difficult Issue Was Managing Fish Water in Stampede and Boca Reservoirs

Another one was the different water categories, or—not the different water categories, but the disposition of fish water, fish credit water released out of Stampede and held in Boca for potential release later on in the year. Or, if it wasn't released it was transferred back up. That's rather complicated.

Seney: Boca is right below Stampede, right?

Buchanan: Right. Right. About three miles.

Seney: So, you could release it from Stampede and hold it in Boca?

Buchanan: Yeah. See, one of the issues we had is that we were using the old flow regime we were trying to do 1,000 cfs. In some years . . .

Seney: That would be the minimum flow in the Truckee?

Buchanan: The 1,000 cfs was what we were trying to maintain the Lower Truckee River for cui spawning. In some years that may require us to release 800 cfs, because by the time you look at what's in the river and what's being diverted, there may be only

100-200 cfs left in the lower river. So, we would make up for that out of Stampede. You really saw that water in April and May, and you aren't doing, you're not creating a real good situation for the trout in the Little Truckee River between Stampede and Boca. You're flushing the river is what you're doing. (Seney: Yeah.) And, you were creating a real bad situation.

Seney: There's a lot of flow, in other words, to let out.

Buchanan: A lot of flow because the optimum flow is probably about 130. (Seney: Ah.) You know, we're close to eight to ten times that. So, it flushes the fish in the Boca. So, what we would do is work with the federal Watermaster, Garry Stone, we would try to look ahead and then start letting the water out early, out of Stampede, before we need it, put it in the Boca and then we can release it quickly out of Boca.

Seney: Oh, I see. That would be the reason for going from Stampede to Boca, (Buchanan: Right.) is not to mess up the river (Buchanan: Right.) between Boca and Stampede? Ah.

Buchanan: That's right, so we can meter it out over a long period of time, put it in Boca, build

Boca up. Now, Boca we had a problem. We could only get, what was it, about 450 cfs out of Boca because one of the stand pipes was down, and so they only had one and it had a limited capacity. So, we had to put enough water in Boca to bring Boca up so we could spill it over the spillway. (Seney: Ah.) So, now you got more water in Boca than what you need. Because, with the end of the year, all right, we've got, we're back down to spillway, here's all your water. What we would do then is Boca would still be filling and so we would transfer it. We would capture Boca water in Stampede, and the water we had, Stampede water sitting in Boca we'd just do a paper trade. (Seney: Right.) We'd just trade. Whether we knew it or not we were doing TROA. (Seney: Ah.) That's one of the elements of TROA. And see, that's back in the '80s. (Seney: Right. Right.) Remember I was telling you earlier about flexibility?

Seney: Yeah. Yeah. Right. Right.

Buchanan: We started doing this kind of stuff. I'm not sure we had an authority but Garry Stone thought he had the authority, so we went ahead and did it. We had no storage contract. Well, the federal government we didn't have to have. But, there was no

other agreements and we were just doing it. (Laugh) And, that'll give you a little bit of an idea (Seney: Right.) how you could do some of this stuff. (Seney: Right. Right.) Yeah. So, anyway. That's the only thing I can think of right now.

Seney: What about the issue of depletion on the, with, on the California side, the question of the water rights above the Nevada border, the 90/10 that California gets, the 32,000 feet that they get off the Truckee River? And, the whole question of how much of that's going to return? And, the question of depletion that Sierra Pacific raised?

Buchanan: Well, there's a couple of issues, issues there. Basically, what you do is, Section 204 of P.L. 101-618, brings in the California-Nevada Water Compact back from Ronald Reagan, who was governor, and [Paul] Laxalt. It was never implemented. And, that's basically what that is. (Seney: Right.) And, California has first priority, and this basically gives California rights to about ten percent of the water in the river, Nevada about ninety percent of it. There was a question as to, "If California had some of this water, or they bought water rights and then it actually went back into the stream, whose water was it? Did it go to Pyramid Lake?"

Did it – could Nevada irrigators, and stuff, acquire that?” I don’t think that was controversial because we did divide it up as to its origin, and then with, go through. And, the State of Nevada went along with that one. The depletions, there’s – and this is part of PS – yeah, it’s part of PSA – there’s a formula in there that the amount of water that Sierra Pacific can store as credit water is directly related to their demand, and it’s also related to the California’s depletion rate, in which they’re taking their water out. So, there’s a complex formula there. I don’t recall that being controversial. It hadn’t been changed at all.

California’s Concerns about its Claim to 32,000 Acre Feet of Water

Seney: Well, there was some question—the California people were concerned about it because you had a situation in which they had the right to take 32,000 acre-feet off of that area, some of it from the stream, some of it from wells and so forth, 10,000 out of the stream, (Buchanan: Uhm-hmm.) the balance of it out of ground water, (Buchanan: Ground water, right.) so long as the wells were far enough from (Buchanan: Right.) from the Truckee that it wasn’t drawing from the Truckee.

Buchanan: And, that's Article X in TROA. (Seney: Yeah. Yeah.) That's what addressed that, because they wanted to make sure—the federal government really did not get involved in negotiations of Article X. This was Sierra Pacific, California, and the tribe. They were the ones that really had the interest there. And, the main thing that they were trying to do is to put in some kind of system on the wells so that they were drawing groundwater and not surface water. (Seney: Right. Right.) That was the main issue. To me, though, that's short term because in the long run everything balances out. (Seney: Right.) You've got to go to a mass balance. Water's going someplace. If it's going to go to groundwater it's, only so much is going to go there and then it's going to come back out in the surface water, or you're going to have evaporation. You've got to have the mass balance. (Seney: Right.) So, we didn't get into too much involved with that, "we" the federal government. We left that up to the tribe.

Seney: You left them to negotiate that (Buchanan: Yeah.) among themselves. (Buchanan: Yeah. Yeah.) Yeah.

Buchanan: And, I'm glad we did because it was—they had

-
- Seney: They had quite a time with it?
- Buchanan: Well, they had so many different water companies. (Seney: Yeah.) They had all these water companies, and so they had to come to some kind of an agreement on all of that, and I, again, I wasn't involved. The only thing, if you notice, if you read Article X, excuse me, the concepts are the same in all the different sections in Article X except they developed them differently. They used different terminology. The net result's the same, so therefore it makes that section very difficult to read. And, I read it once from an editorial standpoint and I made those suggestions.

“I said, ‘You got to use consistent language,’ (Seney: Right.) ‘and your methodology has got to be consistent.’ California said, We can’t do it because we negotiated each one of those subsections separately with different parties. In order to do that we’d have to go and get all the parties together and come to some kind of an agreement.’ And, they said, ‘That would be almost impossible.’ . . .”

I said, “You got to use consistent language,” (Seney: Right.) “and your methodology has got to be consistent.” California said, “We can’t do it because we negotiated each one of those subsections

separately with different parties. In order to do that we'd have to go and get all the parties together and come to some kind of an agreement." And, they said, "That would be almost impossible." So, we just said, "Okay, leave it alone."

Seney: Leave it the way it is?

Buchanan: Yeah. So, that's why Article X is rather difficult to follow sometimes, because of the way it was negotiated.

Seney: Right. You know, you said you went down and made a presentation to the Truckee Carson Irrigation District and answered their questions. Is there anything in the TROA that should be troublesome to them?

There Are Sections of the TROA That Might Be Adverse to TCID's Interests

Buchanan: Yeah, (Laugh) 7(a), 3(a), 2(I), I think it is.

Seney: Well, go through those for us.

Buchanan: What it is, 7(a)(3) tells how you can establish credit water. And, one way that you can establish credit water is that you have a right to divert water from the Truckee River and you say, "I'm going to forgo that. I'm not going to divert it here."

I'd like to just withhold it upstream."
"Okay, that's fine." Well, there's another provision in there that says, "Sierra Pacific can store their water rights under two special conditions." There are some other right ways, but these two special conditions. And, one of them I mentioned earlier, that during a drought they could store it adverse to Stampede Project water. Another one is that they can store

Seney: "Adverse" means instead of?

Buchanan: Hmm?

Seney: "Adverse" would mean instead of or in place of project water?

Buchanan: Uh, yeah. No. No. It would be adverse. Yeah, it would cause harm. That is, we would not be able to store our project water, water that was coming in that could have been stored as project water would become their water.

Seney: I see. Okay.

Buchanan: That's what I mean by "adverse." It means a lot more. It's worse than adverse. It eliminates it. The other provision there relates not directly but indirectly to the Newlands Project. And, I have to

paraphrase it. But, basically it says that Sierra Pacific can store their M & I water with water that is over and above Floriston rates but is needed to exercise a water right downstream of Reno. That's Truckee canal water. (Seney: Ah.) Okay? Remember, OCAP—the Newlands Project is entitled to water from Floriston rates that is not being diverted upstream. Okay? Anything that's left out of Floriston rates they can divert. Now, there is water that comes down out of the Little Truckee River that would float on top of Floriston rates. It's called Truckee Canal Water, called Truckee Canal Water in the 1935 Truckee River Agreement. Okay? That's over and above. They have a right, under OCAP, to divert that. If OCAP says, "Yeah, you can take it," they would take it. That's the only water that I know of that would meet this category. And, Sierra says that they have a right to store adverse to that right. That is, they can use that water to store upstream in Stampede, that is reduce the water flowing through "Truckee Canal Water," that would, that is water that is needed to exercise a water right downstream. There's only one water I can think of. That's water that's going to the Newlands Project. And so, that's, that was one of the, on September—the day before September 11, 2001. I happened to remember that. We

were meeting in—in fact, that’s where we were on September 11, we were in Oakland having a TROA meeting, several team meeting. (Seney: Ah.) And, the day before that I specifically brought that up. I remember talking to Fred Disheroon. I said, “Fred, this could be adverse to the Newlands Project.” And, I said, “How come we’re agreeing to it?” He says, “Well, because it’s a legal issue. Sierra seems to think that they have a right there. We don’t think that they do, but we don’t know, so we’re going to let the judge figure it out. And the way we let the judge figure it out is we leave it in TROA. And, then when it goes to through the Orr Ditch court to be approved it will come up.” (Seney: Ah. Ah.) I did point this out to TCID. I just said, “You might be interested in that section.” And, I said, “I’m not a lawyer. I can’t interpret it, but you might be interested in that section.” (Seney: Yeah.) Because, when I met with TCID I told them, I said, “Now, I’m not a lawyer and I’m not a policy maker. I’m here as the technical person to tell you my interpretation.” (Seney: Right. Right.) And, I said, “There are some legal things in here I’m not going to be able to answer. I might point them out to you, if I happen to think they might be important.” I said, “But, it would be up to you guys to ask

other people about them.” But, I did say,
“You might be interested in that section.”

Seney: What was the tone of the meeting?

Buchanan: Which meeting, with TCID?

Seney: Yeah.

The Meeting with TCID to Explain TROA

Buchanan: Well, as I said, when I first got there I decided to set a good tone by going right up to Lyman and talking to him, and then I sat next to him during the presentation.
(Laugh) And, we had a little chit chat, and etcetera. Actually, it went very well. There’s only one person that did not go well, and that was Van Zandt [spelling?], I think he was there.

Seney: The lawyer?

“ . . . I told Kenneth . . . ‘You know, if they want to turn this into a big debate, I’m not going to debate with them.’ And, I said, ‘It would be suicidal on their part to do that.’ I said, ‘Because, I’m a golden goose here.’ And, I said, ‘I’m going to give them all kinds of information and if they want to turn it into an argumentative thing they’re going to get nothing.’ . . . And, I think Lyman realized that . . . ”

Buchanan: Yeah, the lawyer. And, he was argumentative, and challenging, and I was just telling him, "I'm only the messenger here." You know, he started to debate TROA. I said, "You're debating with the wrong person." (Seney: Yeah.) I said, "I'm not the policy man. I'm just telling you what it says." And, of course, he got irritated at that. (Seney: Right.) "Hey, go ahead and get irritated." And, I told Kenneth, going over there, I said, "You know, if they want to turn this into a big debate, I'm not going to debate with them." And, I said, "It would be suicidal on their part to do that." I said, "Because, I'm a golden goose here." And, I said, "I'm going to give them all kinds of information and if they want to turn it into an argumentative thing they're going to get nothing." (Seney: Yeah.) So. And, I think Lyman realized that, because he was good. He asked good questions. And, we got along fine. In fact, the second day, the second meeting, Van Zandt [spelling?] didn't come back. Hmm. That's fine. (Seney: Yeah.) Yeah.

Seney: What's the point?.

Buchanan: So. Yeah. So, I think Lyman, Lyman learned a lot out of that. He learned a lot.

But, that took about twelve hours of talking.

Seney: Over two days? Two different days?

“If you go through TROA in any kind of detail, it takes a long time to go through it. . . .”

Buchanan: It takes a long time to go through TROA. (Seney: Yeah.) If you go through TROA in any kind of detail, it takes a long time to go through it. (Seney: Right.) A long time.

“. . . I’ve written reader’s guides to TROA. The TROA Companion. You know, to help people. . . . you want to read the reader’s guide first. It’s sort of the *Reader’s Digest* version of TROA. . . .”

I remember—I’ve written reader’s guides to TROA. The *TROA Companion*. (Laugh) You know, to help people. You know, it’s, you want to read the reader’s guide first. It’s sort of the *Reader’s Digest* version of TROA. (Seney: Right.) I’ve written those before. And, when I got ready to put chapter two of the draft E-I-S together it took me a long time to figure out what to do. I tried to figure out, “How am I going to write TROA so that Joe Blow Public can understand it, but yet I can get enough detail in there to satisfy the needs of describing the proposed action?”

“I couldn’t follow the format of TROA. . . . I started going through TROA and reading it . . . pulling out subject matters . . . to put them into categories. And then when I got all through I took a look at all the categories I had and tried to figure out, ‘Now, how can I use them to try to put together a narrative?’ . . . it took about twenty pages. And, that’s what I got TROA down to. . . . you’ll notice there, there’s a disqualifier in there. It says for people that want more details, ‘Please read TROA. It’s attached or an appendix,’ . . .”

And, or whatever it is.

Seney: Is this with the TROA, your reader’s guide? Does it come with the TROA?

Buchanan: No. No. No, I didn’t use the – the reader’s guide was something I developed back when we put the first draft E-I-S out. And, we had public meetings and I would hand them out there. And, that type of stuff. And, I used them for other people, like Kenneth when he first came on board, let him read that. And, my new boss, Bob Williams, I gave him that and let him read that. People like that. (Seney: Right.) It was used, and that was effective, but I did not use it associated with the official E-I-S because the negotiators would have had to approve it. (Seney: Ah.) The document I wrote was for in-house use, or for the open-

house meetings we had. And, I had a big disqualifier on that, in that, “This is only meant for educational purposes, and didn’t” and etcetera, etcetera. (Seney: Right. Right.) “For people that really want to know TROA, go read TROA.” But, when I wrote chapter two, for the draft E-I-S, that, the negotiators did read. And, I didn’t have very many comments on it. I was pleased with that. (Seney: Good. Good.) And then, but again I do refer people, to let them know, “This is an abstract. I’ve left out a lot of the details. You’re going to have to go to the TROA and . . .” She’ll pick it up. She’ll pick it up in the other room.

Seney: Okay.

Buchanan: Getting back to the workshops, what we did back in— . . . [Inaudible] telephone ringing. It’ll stop now. Anyway. Back when we put out the first draft E-I-S, back in—when in the hell was that, ‘88? We put it out in ‘98.

Put on Workshops for the TROA Negotiations

So, ‘88, before we had scoping meetings—I’m trying to remember. No. I think we had scoping meetings first, well before that. Then, we decided to put on some TROA workshops, where we, we

basically gave a little seminar on TROA. And, we would give the people a good, a brief overview, even more than just an overview, a brief overview of TROA, but we had a lot of slides. (Seney: Yeah.) And, very simple slides. You know, arrows pointing here, and that kind of stuff. And then, we would present some of the preliminary results we had, and things of this nature. And, that's where I used the reader's guide, because we were passing out TROA, but also, "Here's a little reader's guide, *The Companion*. You might want to read this first." (Seney: Right.) So, we were taking them from a very high, a very broad level, of our presentation, and then the reader's guide, and then a little, and then TROA itself. Because, we could tell the people that had that before they could, should see the draft E-I-S before it hit the street, and give them a little bit heads up what they're getting into. (Seney: Right.)

"We had a lot of comments on that first draft [E-I-S]. I was really surprised. . . . several hundred comments. Different people. We got a lot of different comments. And, we worked up our answers for those and we were getting ready to use them in the final one, and that's when we decided, 'No. We're going to have to rewrite the draft E-I-S all over again. We're going to have to

revise it, because things have changed so much.’ And then, the number of comments we got on this latest draft, very few. We got a lot of comments from a few people and that was it. . . .”

We had a lot of comments on that first draft. I was really surprised. I’m trying remember back, several binders full, several hundred comments. Different people. We got a lot of different comments. And, we worked up our answers for those and we were getting ready to use them in the final one, and that’s when we decided, “No. We’re going to have to rewrite the draft E-I-S all over again. We’re going to have to revise it, because things have changed so much.” And then, the number of comments we got on this latest draft, very few. We got a lot of comments from a few people and that was it. For example, some of the people, they must have had over a hundred comments, and they were almost all associated with the Newlands project one way or the other.

Most of the Comments on the Environmental Statement Were the Same—which Made it Easy to Respond to Them

And they’re almost all the same comments, just phrased a little different. (Seney: Oh.)

So, it made it easier for us to answer. Because, you answer the first one and you go down to somebody else's and go, "Oh, that's the same one. Refer to that. Refer to that." They're all the same. They just phrased them a little different, but not enough to disguise it.

Seney: So, these were generated by the Newlands Project obviously?

Buchanan: Yeah. Yeah. Yeah. That's where they came from. Whether it was from Churchill, or Churchill County, or Fallon, or TCID, or the Environmental Alliance, and somebody else, they were all the same. (Seney: Yeah.) And, it made it easy for us to answer.

Seney: Newlands Water Protective Association, maybe?

Buchanan: Um-hmm. Um-hmm.

Seney: Yeah.

"But, the variety of comments we got on the first draft E-I-S, there was a lot of comments. A lot of comments from diverse people. So, there wasn't a lot of, 'refer to that comment.' You had to do a lot of commenting on them. . . ."

Buchanan: So, so it, it made us easier to answer those, those particular questions, so we only had to do it once. But, the variety of comments we got on the first draft E-I-S, there was a lot of comments. A lot of comments from diverse people. So, there wasn't a lot of, "refer to that comment." You had to do a lot of commenting on them. (Seney: Right.) So, It worked out. It was a harder job.

Seney: Did you take these comments from the first go around pretty seriously, (Buchanan: Oh yeah.) and try to incorporate them when they made sense?

“ . . . TROA is so different. There's totally two different proposed actions between that back in '98 and that in 2003, just totally different. So, we had those comments [from 1998] that are part of the administrative record, and they'll be available but that's about it. . . .”

Buchanan: We, we went through and tried to put the comments in categories, because it had been very difficult for us to do a lot of referencing, and there were so many comments that we tried to catalog them. Then when, and then within each grouping we would have subdivisions. And then, each one of these subdivisions we would say, "This relates to comments one, two,

three, four, and five. The next subdivision relates to all this.” So, we had a broad category and then the small categories within there. And then we would write answers to those small categories that would relate to a whole series of comments. (Seney: Ah.) It took a long time, (Seney: I’ll bet.) a long time to do that. And, we had finally finalized those and that was what were going to use in the final E-I-S, and so they’re part of the record decision now. They’re still there, it’s just that they will not show up in the final E-I-S that we’re doing now, because they’re not relevant to that because TROA is so different. There’s totally two different proposed actions between that back in ‘98 and that in 2003, just totally different. So, we had those comments that are part of the administrative record, and they’ll be available but that’s about it. (Seney: Right.) I don’t think they have relevance now.

Seney: Let me turn this over.

END SIDE 1, TAPE 3. JUNE 21, 2005.

BEGIN SIDE 2, TAPE 3. JUNE 21, 2005.

Seney: When you’re making a presentation on, you say, the general point of TROA would it be that it’s a mechanism that allows water to

be transferred from one reservoir to another for purposes of regulating the meeting of water rights on the rivers? Would that be a statement, sort of?

Buchanan: Well, the concept I came up with, because it was my responsibility to basically explain TROA to somebody that had no idea what the acronym even meant. And so, the main thing was to give a little bit of background on how the rivers operated today, and talk about where the reservoirs are, and where the water's used, and etcetera, and then talk about the concepts of TROA. And, I tried to do this in a cartoon fashion, almost. And, by describing reservoirs and say, "Here's project water, and this is empty space that is available. Now, with TROA, we can put credit water in there." Then I used some drawings of arrows of the river, with and without TROA, and you can see how the size of the arrows changed because you're putting water in storage, and this type of stuff. I talked about making exchanges and things of this nature. So, it was, it was just, just an overview of the basic concepts behind TROA. And, I didn't want to get into a lot of detail on it. And then we had question and answers, (Seney: Right.) and you know, again, you just give enough to answer the question unless you see the

party really, once more, and can understand it.

Seney: Could you be, could you elaborate a little more on the concepts? Tell us about what you mean when say “concepts”?

“Stampede’s, other than Tahoe, it’s the biggest reservoir on the system but it’s last in line for storage. . . .”

Buchanan: Oh, oh well, for example, “concepts.” Stampede’s a good example. Remind me later on to tell you about a radio conversation I had. (Seney: Okay.) Stampede’s a good example. Stampede’s, other than Tahoe, it’s the biggest reservoir on the system but it’s last in line for storage. Tahoe can store 226,000 but on long-term average – whew, my gosh. What was it? Roughly 40,000 acre-feet a year, it can capture. Okay? So, we got a lot of empty space up there. (Seney: Right.)

“So, if somebody could find a way of retaining their water . . . they could retain it in Boca, retain it in Stampede. Now, Sierra’s got their water in . . . They have it in Tahoe and they have it in Boca. They would love to get it in Stampede. Why? Because Stampede hardly ever spills. . . . capture Boca water in Stampede, do a paper trade, and now you have M & I Credit Water in Stampede and

the Boca water is down in Boca. . . .”

So, if somebody could find a way of retaining their water, say, Floriston rate water, people that have Orr Ditch Decree water rights and were served out of Orr Ditch Floriston rates, they could say, “Hey, instead of releasing that water out of Tahoe or releasing that water out of Boca to meet Floriston rates, keep my portion back. Keep my consumptive use portion back.” Because the non-consumptive use portion you have to let go downstream to the next water right user. (Seney: Okay.) So, they keep the consumptive use portion back. Well now, these are the federal reservoirs. Now, you’re holding private water. Well, they need some kind of an agreement to do that. So now, they could retain it in Boca, retain it in Stampede. Now, Sierra’s got their water in Stampede and they have it in Boca. Well, they would love to get it not Stampede. They have it in Tahoe and they have it in Boca. They would love to get it in Stampede. Why? Because Stampede hardly ever spills. You put your water in Boca, the project—excuse me, Credit water’s going to have a very low priority in terms of spill. (Seney: Ah.) So, it’s going to be the first to go. Project water’s sitting on the bottom, because you can’t interfere with Floriston rate water, because that’s

Orr Ditch Decree water. Okay? You can't touch it. So now, they can put it up. If they can find a way of getting it transferred into Stampede, well it's easy. You capture ~~Stampede water—excuse me, capture~~ Boca water in Stampede, do a paper trade, and now you have M & I Credit Water in Stampede and the Boca water is down in Boca. You got to watch out for the instream flows though between, in the Little Truckee River. (Seney: Right.) So, that's one concept. Utilize the empty space, and then allow exchanges so there's several different ways.

Another Way to Do Exchanges to the Benefit of Water Rights Holders

Another way is that we may be releasing water out of Stampede, and Sierra Pacific's got their credit water in Tahoe. They could easily say, "How about holding back some of your water, giving it to us in Stampede. We'll give you a like amount in Tahoe, and release it out of Tahoe so the water, by the time it gets [Inaudible] with your water coming out of Stampede, what remains, you're whole." (Seney: Right.) We say, "That's great."

“. . . we'd love to have our water coming out of Tahoe for instream flow purposes. . . . You're

utilizing empty space. You're also given an opportunity for a private water holder, water right holders, to use federal facilities. . . . To give you an example, we would like to see more water retained at Independence during late spring, early summer, because there's a strain of Lahontan cutthroat trout in Independence that goes upstream out of the lake to spawn. Sierra Pacific has the tendency to bring some of that water out and utilize it for M & I, especially during drought season. If they bring it down they can cause a delta in the lake, upstream to Independence Creek coming in, and the fish can't get upstream to spawn. . . ."

Because we'd love to have our water coming out of Tahoe for instream flow purposes. That's a why we can get our water out of Stampede up there. (Seney: Uh huh.) And, so now you've got exchanges. You're utilizing empty space. You're also given an opportunity for a private water holder, water right holders, to use federal facilities. And, you're also giving them the right to take their water that they're allowed under Orr Ditch Decree, which goes back to the 1935 Truckee River Agreement. Now, they can take that water, instead of just—see that was—I'm digressing—that water, that was meant to have a constant flow in the river and you take your right, your water out of

that constant flow whenever you need it. Well, that's highly ineffective, (Seney: Right. Right.) because you got constant flow. And, basically we're saying is, "You have a right to take it. Well, just go ahead and retain it upstream so you reduce Floriston rate." You're not reducing rates, you're reducing the water that's released to achieve those rates. So, you're not achieving the rates. (Seney: Right.) So, that's what's going on. So, that was another critical element, element that goes on there. So, those were the basic things that we were getting. It takes a lot to implement all that, all these special rules and regulations, and etcetera.

To give you an example, we would like to see more water retained at Independence during late spring, early summer, because there's a strain of Lahontan cutthroat trout in Independence that goes upstream out of the lake to spawn. Sierra Pacific has the tendency to bring some of that water out and utilize it for M & I, especially during drought season. If they bring it down they can cause a delta in the lake, upstream to Independence Creek coming in, and the fish can't get upstream to spawn. (Seney: Oh.) So, we sort of have a deal in TROA that if they want to bring that water out, we'll do an exchange

and put our Fish Credit Water in Independence and give some of our Fish Credit Water in Stampede to them at Independence, and now their credit water's down there. Now, we hold our water up there and then we let it out slowly to maintain a good instream flow after the spawners have used it. Because, Sierra likes to take their water out rapidly, (Seney: Right.) which destroys the instream flow also.

Seney: Because what, it's a more efficient way to do it? From their point of view they get more of it down where they want it at their intakes for the municipal system?

Buchanan: Several different things are going on. It depends on if they're going to use it, unless you're in a drought situation. And then, then they may meter it out. But, in most years they hold it up there as long as they can until they get to have to meet some flood control criteria. And so, then they let it out then, and they can capture some of it in Boca. I think that's called [Inaudible], and it's something like 800 acre-feet, they could put that in there. So, they usually keep the water back up there as late as possible and then they release it and it tells the hell out of everything. We even have an interim storage agreement with them,

which is called for under Section 205(b) of P.L. 101-618, which we negotiated. And, the whole deal was is that we were going to allow them to utilize some storage space in Stampede, until TROA was implemented. So, this would only, this only would go on for twenty-five years. Anyway, they could bring their water out of independence and put it down here, and then come September 1, any water in excess of 5,000 acre-feet they'd have to turn it over to fish water. (Seney: Right.) Well, they were sort of pulling a little sneaky on us. What they did was they got their water down there and they got about 5,000 acre-feet in Stampede, and they were, it seemed like they were not going to utilize it. You know, they carry it over from year to year. Now, all of a sudden, here's this Independence water. Well, if they let it go down before September 1, from September 1, they lose it all. They let it come down after September 1, they get to hold it in storage until the next September 1st. So, that's what they were, that's what they're doing now. They wait and let the water out of Independence after September 1. It destroys the river. I mean, the Little Truckee River and Independence Creek downstream. (Seney: Yeah.) California's been trying to negotiate this. And, I told them, "All you have to do is do the same

thing we do it in TROA. The cutoff is not September. The cutoff is April. Because, April 1, let them bring their water down, keep it in there until April 1, and now they know whether they will or will not need it because of a drought. And then, I said, “If you give them that protection, now they can start metering the water out of Independence, through the summer, through the fall—because they’re not worried about losing it during the winter—and it’s not until next spring when they know whether they need it or they don’t need it. Because the Interim Storage Agreement has a clause that if you’re in a drought situation, they can have more than five thousand in storage. So, therefore, their water’s safe. (Seney: Right.) That’s exactly what we do in TROA.

Truckee Meadows Water Authority

Seney: Ah. Has it made any difference that the Truckee Meadows Water Authority [TMWA] has succeeded Sierra Pacific as the water utility?

“ . . . Sierra Pacific was really behind this agreement because it was going to save them a lot of money. They didn’t have to build a reservoir. Can you imagine building a reservoir in California today, with all the environmental laws?

...”

Buchanan: Yeah. That’s–Sierra Pacific was really behind this agreement because it was going to save them a lot of money. They didn’t have to build a reservoir. Can you imagine building a reservoir in California today, with all the environmental laws? I don’t think you’re going to get it built. So then, they started talking about doing things in Nevada, which were unrealistic. They’re going pump water up in the reservoirs and hold it up there. And, their evaporation would be horrible. So, TROA was a good, good deal. Now, that TMWA has got this, they’re not necessarily in love with TROA, because they see some alternatives out there that would be just as sufficient and just as effective, and might be, might be, I’m not sure, economically better, whether it’s water importation, rapid groundwater infiltration, or well recharges or whatever. That’s the kind of stuff they’re looking at. (Seney: Yeah.) So, Sue Oldham is working very hard to try to make sure there are good things in TROA for TMWA. And so, she’s been trying to add some things in the last year and a half, to TROA, and it’s primarily because of this. She tried on it recently, 4(b)(4), and it’s, the federal government just finally just said, “No.”

- Seney: What did she want to put in?
- Buchanan: I, I just don't recall it's, I just don't recall right now. All I remember it was ~~4(b)(1)-~~ ~~No~~, 4(b)(4) is what it was, that she wanted to change. And, I saw what it was going to do and it had the potential of reducing the amount of M & I water that would be converted to Fish Credit Water, therefore it could be adverse to threatened and endangered species. And so, I was recommending to our people that we not go along with it. And then, Fred Disheroon got involved with it, and he approached it from a totally different angle. He just said "No" (Laugh) and it died. (Laugh) And, I don't remember what were a couple of things that she was trying to do. There were, there was a little bit of easing on a couple of elements, and I don't remember right now which ones they were in the last couple of years, that people have agreed to. And, that's mainly because, you know, that's her client now, (Seney: Sure.) is TMWA. And, she's trying to keep John in there and going along with it. Because they can see what would happen too, because if they would say, "No, we're not going to go through, go along with it," and the TROA dies, and then we don't have an Interstate Compact, and the tribe doesn't get their hundred-plus million dollars. (Seney:

Right.) We're back to fighting with State of Nevada. It's just, it's not a good situation. (Seney: Right. Right.)

“TROA is going to solve a lot of problems. It's not going to solve TCID's problems. . . .”

TROA is going to solve a lot of problems.
It's not going to solve TCID's problems.
They're an interested party.

TCID “. . . had an opportunity. . . . they sat in on negotiations for a while, but their demands . . . were unrealistic. . . . the parties just couldn't go along with it. So, TCID just basically threw their hands up and left negotiations several years ago. Which, I think, was a mistake. They may not have agreed to it, but I think they should have stayed in negotiations. . . . they dropped out of negotiations. And, by doing so they have a knowledge disadvantage of what TROA is, and what the impacts are. . . .”

They had an opportunity. We invited them to negotiations and they sat in on negotiations for a while, but their demands—and I'm trying to remember what they were—were so high that they were unrealistic. Different kinds of storage that they wanted, and that type of stuff and the parties just couldn't go along with it. So, TCID just basically threw their hands up

and left negotiations several years ago. (Seney: Right.) Which, I think, was a mistake. They may not have agreed to it, but I think they should have stayed in negotiations. They may not have signed TROA, but they at least should have stayed in negotiations. And, I think they probably had some internal differences amongst themselves, what was going on. And so, yeah, they dropped out of negotiations. And, by doing so they have a knowledge disadvantage of what TROA is, and what the impacts are. They've got a real learning curve now, (Seney: Right.) to go back through. But, they definitely should have stayed in negotiations.

“ . . . the State of Nevada has done real good in trying to look out for the interests of TCID. . . .”

And, the State of Nevada has done real good in trying to look out for the interests of TCID.

Pete Morris and Fred Disheroon

When Pete Morris used to come to the meetings him and Fred Disheroon, oh god would they yell at one another. And, at one point it got to be embarrassing, and then it got to be a little comical, because one of them would say, “Well, I’m just, I just feel

like getting up and leaving negotiations.” And, the other one said, “Well, let’s go. I agree with you.” “Well, come on. Let’s go.” “Yeah, I agree.” “Yeah, let’s leave here.” “Yeah, I agree.” And, they wouldn’t do it. (Laughter) They were just sitting there bluff, bluff, bluff. And, we’d all start laughing when they start that. Because it started out as a real nasty (Seney: Yeah. Yeah.) argument and then they’d pull that kiddy stuff. (Laughter) I just couldn’t believe it. I remember—digressing—oh my gosh this was, I’m trying to remember when it was, early ‘90s, had to be. It had to be in the early ‘90s, about ‘91 or ‘92. We were – where in the heck was that? My gosh, two, yeah it must have been right around that neighborhood. We were utilizing a lot of water out of Stampede that year, and I think it was a drought year.

The Hatchery Staff Wanted to Get Involved in the Water Management

It got to be very controversial. It had to be ‘94 or so, because about the last time I was involved— I wasn’t involved with water management at that time. Lisa Hakey [spelling?] had taken over. The hatchery people had taken over, that year, and they demanded they wanted the responsibility so

I said, "Fine. Here it is." I spent a year with Lisa teaching her what to do, and then the next year it was supposed to be theirs. Well, the shit hit the fan politically because we were going to use all that water. And, so they were basically saying, "Chet, you have to take over now." I said, "Well, wait a minute, you guys gave me a hard time last year and you went and told me to get out." I says, "I'm out. Now you want me to come back in." Well, what happened is they had a town hall meeting in Truckee, and about 200 people showed up and I had to get there and explain what we're doing with cui ui, and why, and the law, and the Endangered Species Act, and Judge Solomon's decision. And, "We don't have any choice. We have to do this." And, at that time I told them, I said, "You do have a golden opportunity here." I said, "TROA negotiations are just getting started," actually had been going for a couple years, but they had an opportunity to get involved. (Seney: Right.) And, that's what I told them, I said, "Get involved. Get with your representative from California." And that's when the,—what is it called—Truckee River Basin Water Group, or whatever it is, (Seney: Right.) up there in Truckee—that's when they got formed. And, Kathleen Eagan [spelling?] was involved with that. But, I had to sit up there for about two

hours and take all that heat, and the Congressman was there, and etcetera. And, it just pissed me off, because there was Lisa Hakey [spelling?] and—oh god, I can't remember the hatchery's name. I just mentioned it earlier. Anyway, Wainwright [spelling?], Dwayne, they're sitting in the audience. I was thinking, "I shouldn't be taking this heat. I'm not managing the water anymore. (Seney: Yeah.) They are." (Laughter) Oh gosh, so anyway the net result, I think, came out pretty good because it got them involved. (Seney: Right.)

Put Live on a Talk Show Without Any Warning and Talked for about an Hour

And then, about that same time, I remember I was working, and I got a telephone call from a radio station. And, he says—oh, he asked me if I'd—that they were on the air and would I mind answering some questions? Well, you know, that's not very kosher to call somebody (Seney: Yeah.) at work like that. You should give them a heads up. I said, "Yeah. I'll answer some." So, I must have talked for twenty minutes, and etcetera, and then they had to take a break. And, he says, "Oh, would you mind sticking around longer?" I said, "No, I'll stick around

longer.” This is a radio station out of Truckee, I think it was. I’ll bet I talked for an hour. And, and I was telling them the same thing, “Get involved.” (Seney: Yeah.) “You got P.L. 101-618, negotiations are going on, TROA is going to be formulated, now is your opportunity.” And, so I felt pretty good about those.

Seney: Good. I need to . . . [Tape paused]

You know, I’ve been told, I won’t say by whom, but someone you know well, but Sierra Pacific Power, probably alone, added a couple three years to the negotiation process?

Sierra Pacific Did Add Time to the Negotiations

Buchanan: I’d definitely agree with that. (Laugh)
And, in fact, when you see a lot of the highly technical and specific provisions in there, that’s definitely Sierra Pacific.

**“They had a lot of things they were trying to do . . .
. wanted to make sure they got every priority as possible . . . And, number two, once the—the credit water . . . [was] established they wanted to make sure it was protected as much as possible, both from evaporation, from spillage, transfers, or whatever. Sue [Oldham] was very, very effective on doing that. . . .”**

They had a lot of things they were trying to do. They were—they wanted to make sure they got every priority as possible to establish their water. And, number two, once the—the credit water—and once they got it in, once they got it established they wanted to make sure it was protected as much as possible, both from evaporation, from spillage, transfers, or whatever. Sue [Oldham] was very, very effective on doing that. And, some of the things they were worried about is that we would fill up Stampede, for example, with our project water and credit water, and not release it and not leave any room for them. And, I kept telling her, “That water is meant for fish, and if we keep the water in Stampede, and cui ui are in the river, they need water in the river. They’re not going to be walking up the river. They’re swimming up the river.” And, I just kept telling her, “It’s unrealistic.” But, they still wanted the provision that’s in there. So, we gave them every provision in the world to do that type of stuff. We also, there was also a great concern that once the fish are delisted and cui ui—excuse me—and the federal government is no longer involved with managing that water, is that they were afraid that the tribe might decide, “We’re going to keep the water up, and we’re

going to lease it to the waterskiers at Boca, and we'll put it down in Boca. (Seney: Oh.) And, the waterskiers can use it. Well, I made sure we had provisions that talked about Prosser Creek credit water, project water, fish water, and Stampede credit water, and saying that that water could only be used for certain things, and etcetera, which I thought pretty much eliminates that. But, Sue and her paranoia was—she still made sure that if the reservoir's at a certain level at a certain time of year during a drought situation, and etcetera, that we would make room for them, and that type of stuff. You'll see a lot of that (Seney: Yeah.) in Article VIII, (a)(f), I think it is, (a)(f)5 and 6.

“Sierra wants to have their water readily available. They do not want to have it in Tahoe, and Tahoe start to get low, because when Tahoe gets low you don't have a lot of head because there's only six feet of head on the lake anyway. And, you get down to a couple feet of head they can't get their water out of there very fast. And so, during low water years they wanted to transfer their water into Stampede and force us to move our water into Tahoe. Well, guess what, we may not be able to get our water out now. And, just the opposite. When Tahoe gets to be high, they would like to have it taken out of Stampede, because of potential spill, and put over in Tahoe. . . .”

And then there was the number of provisions in there that—it's the same thing with getting—Sierra wants to have their water readily available. They do not want to have it in Tahoe, and Tahoe start to get low, because when Tahoe gets low you don't have a lot of head because there's only six feet of head on the lake anyway. And, you get down to a couple feet of head they can't get their water out of there very fast. And so, during low water years they wanted to transfer their water into Stampede and force us to move our water into Tahoe. Well, guess what, we may not be able to get our water out now. And, just the opposite. When Tahoe gets to be high, they would like to have it taken out of Stampede, because of potential spill, and put over in Tahoe. (Seney: Oh.)

“ . . . they planned on doing a lot of switching back and forth and they wanted to make a number of these things mandatory. And, they did get some of that. . . . ”

So, they planned on doing a lot of switching back and forth and they wanted to make a number of these things mandatory. And, they did get some of that. And so, a lot of that took an awful long time to negotiate, to come down to the

wording.

“And, there were many times we’ll revisit a section, and Sue [Oldham] will say, ‘Oh . . . we can do this because of so and so section.’ I go, ‘What?’ I’d have to look at that, and all of a sudden I said, ‘Yeah. I guess you could do it.’ We never saw it when we first negotiated that. She’s, . . . really good. (Seney: Yeah.) And, I agree, she did add a lot to it, but it’s a very thorough document from their point of view. . . . I think Sierra had a much better game plan, and they knew exactly what they wanted . . . than the federal government. . . .”

And, you had to really watch out how the wording was, because you had to try to figure out their meaning. And, there were many times we’ll revisit a section, and Sue will say, “Oh by—we can do this because of so and so section.” I go, “What?” I’d have to look at that, and all of a sudden I said, “Yeah. I guess you could do it.” We never saw it when we first negotiated that. She’s, she’s really good. (Seney: Yeah.) And, I agree, she did add a lot to it, but it’s a very thorough document from their point of view. I think the, I think Sierra had a much better game plan, and they knew exactly what they wanted, a much better game plan than the federal government. The federal government is

more protective of what they had. (Seney: Yeah.) And, Sierra was out to get, and they knew what they wanted, and they knew how to go get it. And so, there was only a few times that I really had to put my foot down. And, then there was the couple times that I was just overruled, that I just didn't care what was happening, and I thought it was adverse to our situation, but I still basically said, "Bill [Bettenberg] makes policy."

Sierra Pacific's Decision to Sell Their Water Utility

- Seney: Right. Why did Sierra Pacific give up the water utility and let it go?
- Buchanan: Why did what?
- Seney: Why did Sierra Pacific give up the water utility and let it go to the Truckee Meadows Water Authority?
- Buchanan: I knew at one time. (Laugh)
- Seney: Yeah. I know they were taken over by Nevada Power. Did that have anything to do with it?
- Buchanan: I think it was the economic—I just, I just don't recall, but it seems to me it was like an economic situation, and Sierra Pacific

wanted to get out of the water business and they were going to sell it. And so, when they were talking about selling it, that's when Washoe County got involved and decided that maybe they would go ahead and buy it. So, they ended up buying it, that's why you got the Water Authority. If I remember correctly that's what happened.

Seney: But, they have it all written in such a way that it still works for the benefit of the power company who is selling the power. I mean, it hardly matters who is owning it now, and running it, does it?

Buchanan: See, here's

Seney: The way the rules have been spelled out?

**In Addition to Selling Their Water Rights to
Truckee Meadows Water Authority, Sierra Pacific
Power Was in Process of Also Selling Their
Hydropower Plants to Them**

Buchanan: Here's one of the problems you run into. Sierra only sold the water, they didn't sell the hydro plants. The hydro plants on the river Sierra still owns. (Seney: Oh.) And so, they still own those water rights. And, the reason they own that is because California, during their energy problems, said something or other about "People can't

just willie nillie sell their hydro plants.” They had to go through some kind of an approval process. So, that’s all got held up right there, right now. (Seney: Ah.) And now, so Fred Disheroon is still saying, he says, “Hey, Sierra and TMWA both have to sign this document,” and Sierra doesn’t want to sign it because they want out of it. So, they’re trying to get the paperwork done to make sure that the hydro plants are in TMWA’s name so only TMWA signs it. (Seney: Ah.) Yeah, that’s an interesting thing.

Seney: Huh. Why don’t they want to sign it?

Buchanan: They have no interests.

Seney: Yeah. They don’t want to be bound by something they have no interest in, huh?

Buchanan: But, yeah. I mean because they sold all their water stuff off to TMWA, and they were in the process of selling the hydroelectric plants to them. So, there would be no need for them to be involved (Seney: Right.) at all. (Seney: Right. Right.) So, no, they were out of it. They were just going to become an electrical company, and a land company.

Seney: Yeah. Right. Right.

Buchanan: So.

Seney: Well, anything else you want to add?
That's all the questions I have.

**Pushed out of the Negotiations Even Though He
Was the Only One Who Had Kept Them Going for
about a Year**

Buchanan: It was interesting, something I mentioned to you at lunch time. It's about '95 I guess when Senator Reid tried the second level of negotiations because TCID was saying, you know, "We weren't included in P.L. 101-618," (Seney: Right.) (cough) and so the senator started those negotiations. And, Betsy was coming down for those, and etcetera. Well, at that time—was it Carlos or Dave—I don't remember who the supervisor was at that time, they decided they wanted to be involved. So, I think it was Carlos, and then our regional office was involved, and etcetera. So, I got basically pushed out. They just said, "There's no need for you to get involved in those negotiations." And so, I didn't go to any of those negotiations. Almost all of the other TROA people, whether it was Sierra Pacific, the state, and even Tom Streckal from BIA, they were all involved with those negotiations. I wasn't. (Seney: Right.) So, I was the only one working on

TROA for about a year. I don't remember what I was doing, but I know I was the only one (Laugh) keeping TROA going.

Seney: You were TROA?

Buchanan: Well, I was, I was writing up some of the provisions and working with people, and sharing with them, but I was the only one spearheading it at that particular time. (Seney: Ah.) Which was interesting. God, and there's several other pieces.

Enjoyed Working on the Truckee River Water Quality Settlement Agreement

I remember I was involved with the Truckee River Water Quality Settlement Agreement, which was actually a fun set of negotiations. When the heck was that, '86, sometime, '96, something like that? That was trying to solve a water quality lawsuit. The new-not new-but at that time the sewage works in Reno, and the tribe was suing over that. And so, I got involved with that one. And then TROA allows now for the full implementation of that agreement, but that was a lot of fun (Seney: Right.) to work with.

Involved with Title I of P.L. 101-618²⁵

And then, I was also involved with Title I of P.L. 101-618, which is about the Lahontan tribe and trying to satisfy their claims. And, Fred Disheroon was the lead there, and I was asked to be a lead for the Fish and Wildlife Service in those negotiations. And, that's what resulted in Title I. It was supposed to be totally different. And, I remember that was, oh gosh, what was that? Anyway, Title I was over, going through Congress the same time that Title II was going through. And, Title II didn't look like it was going to make it. And, Title I, it was a different number. (Seney: Right.) And, that's when they picked up, I guess, S-15, whatever it is, and merged them with at the last minute (Seney: Right. Yeah.) to get them through.

Seney: Right.

Buchanan: Yeah.

Seney: That was the, well the . . .

Buchanan: [Inaudible] was involved.

Seney: But, yeah, exactly. And, it was the, Title I was the Paiute, the Shoshone, the

25. See footnote on page 41.

Settlement Act for the Paiutes and Shoshones out at Fallon?

Buchanan: Fallon.

Seney: Yeah. Right. And, the second part was in part of an omnibus bill which wasn't going to go anywhere, that had to do with, that we think of as 101-618. (Buchanan: Yeah.) And, that was added to the other one (Buchanan: Right.) to become Title II. Yeah.

Buchanan: And, because I guess Reid had Title I, and it was under a separate, different Title, which is basically P.L. 101-618. (Seney: Right.) [Senator Dan] Inouye had the other one, which I think was P.L. 101-618, (Seney: Yeah.) And that's why they made that Title I and they brought this other over and made it Title II. (Seney: Right. Exactly.) and then it went through on voice vote. (Seney: Right. Right.) And yeah, because I guess that was the only way they could get it. But, it was rather interesting because I was involved with both of them. (Seney: Uh huh.) But, I was involved much more in the negotiations of Title I because I was involved with the actual writing of the agreement itself. (Seney: Right.) Along with Fred, and Glenn, and representatives from the tribe out there.

END SIDE 2, TAPE 3. JUNE 21, 2005.

BEGIN SIDE 1, TAPE 4. JUNE 21, 2005.

Seney: Reno, Nevada. Today is June 21, 2005. This is the second session, and this is our second tape. Go ahead Chet, you were talking about working on 101-618.

Buchanan: Yeah, we were working on Title I of P.L. 101-618, and I said I was involved with original negotiations. And, I remember that we were writing the various sections in that Title. And, it wasn't the Title, it was an agreement at that particular time, with the tribe, the Settlement is what it was. And, I don't remember what it was but I think it had something to do with the drainage ditch. I can't remember the name of it right now. Anyway, the drainage ditch that goes from the reservation and goes north into the refuge. And, I remember we wrote it and we were in agreement with it, but somebody wanted to put a comma in it and it changed the meaning of it, and I kept telling them, "This changes the meaning of it." And, they said, "No. No it doesn't change the meaning of it." Guess how they're interpreting it today? They changed the meaning. And, I just go, "You know, that was not meant to mean that." So, it was really interesting just how one little comma (Seney: Yeah.) can do it.

And, yeah, that was too bad. But, it was a, it was an enjoyable . . .

TJ Drain Is Highly Saline

Seney: That was to the TJ drain, isn't it?

Buchanan: TJ, yeah. Yeah. That's it. That's it. Because

Seney: And it was highly polluted, and putting pollutants into the

Buchanan: It's, it's saline. It's salt. (Seney: Yeah.) What they did, when they cut that in there, without an E-I-S—there was no environmental documentation and the government did that. BIA built that without any E-I-S at all. And, no documentation. And, what they did, the way I understand it, they cut through a salt dome, a water table but it was salty, and they cut through it. (Seney: Oh.) And so, the drain water came down through there to mix in with this groundwater and it's extremely salty, and that's what was causing the problem. It seems like, as of now, they probably leached a lot of that, because wetlands out there were just shocked dead because it's so saline. (Seney: Yeah.) And, what they're going to have to do is gradually dry them up and

have the wind come in and blow the stuff out. Because, that's what they manage those wetlands. They gradually move the water from pond to pond to pond, and it becomes more saline, and more concentrated, (Seney: Ah.) and then you allow the last one to dry up and that blows off the salt and then they bring more down through.

Seney: I see.

Buchanan: That's how they do it. And, that's why you'll go out there and see some of the wetlands are in beautiful shape, and other ones just look miserable, just barren around them, just old mucky water and no plants. (Seney: Yeah.) And, that's what's happening there.

Seney: Now, this next week is supposed to be the final TROA meeting?

Buchanan: That's what they say. (Laugh)

Seney: And, what (Laugh) and what do you

Buchanan: Do you realize how many times that has been said?

Seney: Yes. I know.

Buchanan: Oh gosh.

Seney: I think I emailed Tom Streckal, “What is this the twenty-first final meeting?” or something like that?

“ . . . it was really interesting . . . Sierra Pacific was maintaining TROA, the version the people were negotiating on. And, they would take all the changes and put in there and then we’d have another negotiated meeting. They’ve give them back to us. We started noticing little changes in the document that they weren’t telling us about. And, they said, ‘Oh, well we noticed that. We realized that was a problem, but oh, I forgot to tell you that,’ or, ‘No. That’s no big deal.’ Bill [Bettenberg] got a little perturbed on that, and I don’t blame him. And so they, he developed a protocol and the federal government took it over . . . ”

Buchanan: I don’t know but we’ve, it was really interesting, digressing on that, Sierra Pacific was maintaining TROA, the version the people were negotiating on. And, they would take all the changes and put in there and then we’d have another negotiated meeting. They’ve give them back to us. We started noticing little changes in the document that they weren’t telling us about. And, they said, “Oh, well we noticed that. We realized that was a

problem, but oh, I forgot to tell you that,” or, “No. That’s no big deal.” Bill got a little perturbed on that, and I don’t blame him.

Steve Alcorn Took over Maintenance of TROA and its Changes

And so they, he developed a protocol and the federal government took it over, and that’s when Steve Alcorn took it over. And we had a protocol for making changes and we would have a computer file and we would freeze it. People could work on the sections all they wanted, but then once they finished in these subcommittees, had finished working on it, it would have to go through an editorial committee. Once they approved it, then it would go to the negotiators. Once the negotiators approved it, then the person maintaining the document that could make the changes to the master document. So, Steve and I got together. We wrote up the protocol for Bill, and we sent it out to all the negotiators. They all signed it and agreed to it. Then Steve was the keymaster, or whatever we were calling him. And then after Steve left then I took over the job. And I had that for several years. And then when I retired, Kenneth now has it. (Seney: Ah.) And, because we decided we

were taking it away from Sierra. There were too many little changes taking place, and we didn't care for that. Didn't care for that. (Seney: Yeah. Yeah.) That's the way some things could get slipped in. (Seney: Ah.) So, anyway, that's what happened there.

Uh, I'm trying to remember anything else that's—well, I'm sure you've talked to Jeff Zippin on the (Seney: Actually, I) in the Elko Office?

Seney: Actually, I haven't talked to Jeff. I had an appointment with him and we mis-connected and I'm going to go back to D.C. again and I'll talk to him then.

Buchanan: Also, you know, you want to talk to Steve Alcorn. (Seney: Yeah.) Because when Zippin left Steve stayed here, and then he went to work for Betsy as Betsy's assistant. And, he was, that was about the time that Bureau of Reclamation finally got somebody involved with TROA, because up until when Steve Alcorn came in here Bureau of Reclamation had nobody, had no technical representatives on TROA. It was Tom Streckal and me and that was it, (Seney: Yeah.) [Inaudible] from the Fish and Wildlife Service.

**Steve Alcorn, Chester Buchanan, and Tom Streckal
Worked on the Environmental Statement**

So, that's when Steve got involved, so Steve had a real good background, and Steve was one of the authors of the first draft E-I-S. Tom Streckal and I helped write major sections of it. And, but yeah, you definitely should talk to those two fellas, because they have the good background.

I'm trying to think if anything else.

Seney: Anything, anything outstanding that could hang things up to make this not the last meeting?

Fernley and Municipal Credit Water

Buchanan: We still do not have settlement on the Fernley M & I Credit Water, or Municipal Credit Water is what it's called now. Fernley's making a mistake. We've had them in there, day one, allowed them to store upstream credit water very similar to the way Sierra does their credit water, and any water that they have in excess of 10,000 acre-feet on April 1 becomes fish credit water. And, we basically said that, you know, you store it the same way. They haven't agreed to that yet. And so, we have

kept that water in the draft E-I-S as a—we analyzed it in the draft E-I-S. We actually, we analyzed TROA with that water and we analyzed TROA without that water. (Seney: Yeah.) Because in TROA right now it's only a placeholder. It's got resolved by the twenty-eighth. Fernley won't sign on because the tribe is also playing hard nose and they want something in return. ~~They want the tribe—excuse me,~~

“The tribe wants Fernley to agree to take their municipal water from the Truckee River by pipe, and not out of the Truckee Canal. The objective there is they want to get the Truckee Canal closed someday. . . . And, as long as Fernley's still needing it, they're going to have to keep the canal open. . . .”

The tribe wants Fernley to agree to take their municipal water from the Truckee River by pipe, and not out of the Truckee Canal. The objective there is they want to get the Truckee Canal closed someday. That's what the tribe wants to do. (Seney: Oh.) And, as long as Fernley's still needing it, they're going to have to keep the canal open. So, they're trying to get them to agree to this. They've even tried to get Fernley to agree to digging some, or drilling some deep wells around Wadsworth, where they could get their

water. So, that was what was—that was the deal the tribe was trying to cut.

“ . . . why Fernley wouldn’t agree to that, I don’t know. I’ve heard some things here that some of the locals have raised concerns if they shut off the Truckee Canal then a lot of the vegetation associated with the canal and the seepage from the canal would be gone. . . .”

And, why Fernley wouldn’t agree to that, I don’t know. I’ve heard some things here that some of the locals have raised concerns if they shut off the Truckee Canal then a lot of the vegetation associated with the canal and the seepage from the canal would be gone. And, that’s true. It would be.

Seney: It would be. Right. Right.

“ . . . a lot of the farmlands are being taken out of production because Fernley’s growing so much. . . .”

Buchanan: But, when you see what’s going on, a lot of the farmlands are being taken out of production because Fernley’s growing so much. I’ve heard no progress, none whatsoever.

Seney: Who is heading that for Fernley?

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- Buchanan: Who's what?
- Seney: Who's doing the negotiating for Fernley?
- Buchanan: Haggard [spelling?]. And, I don't remember his first name. But, the tribe and Fernley is supposed to be doing it. They're supposed to be doing this since '98 and they've made no progress whatsoever. Even after I retired, Bill approached me once and wanted to know if I'd be interested in maybe leading those negotiations, and I said "No. Those are deadly." And, Betsy tried it once and she just basically threw her hands up in the air too. I don't think Fernley really knows what they want.

Rebecca Harold

I don't know, now since they don't, they fired Rebecca Harold²⁶ who was a negotiator and also the county, town lawyer. (Seney: Right.) And so she's not involved with them anymore. I don't think they understand what's going on. So, at the last federal meeting Bill is looking at some way of keeping the Fernley option available. And, we had the category in TROA that's called "other water" and

26. Professor Seney interviewed Rebecca Harold for Reclamation's Newlands Project oral history program.

that's basically meant for people down the road can come in and join in. (Seney: Yeah.) And, if they have some water they can store it there or the United States can use it, etcetera. The only problem with other credit water is it's the lowest credit water on the totem pole. (Seney: Yeah. Yeah.) It's just, it has, has no priority over anybody. It's the lowest one around. And, Fernley may be wanting that, and that may be what they end up with.

Seney: If they go for it now, they'd have a higher priority?

Buchanan: The, a higher priority than other credit water. (Seney: Yeah.) It's not the greatest in the world, but it's better than other credit water. It's sitting up there with California Environmental Credit Water, I think it sits up there with, or is it Water Quality Water. It may be Water Quality. It's one of the two. They sort of share. (Seney: Yeah.) They share. So, it's a good opportunity here.

A Tribal Referendum Has to Approve TROA

We also have to go through a tribal referendum. The tribe's got to approve TROA. They haven't approved it yet. They got to vote on this thing. When it

comes to tribal politics you don't (Seney: I know. I know.) know what's going to happen.

Seney: I know. There's just no telling.

Buchanan: It's really hard. I mean, for example, when we did the Water Quality Settlement Agreement [Tape paused] Anyway—are we on?

Seney: We're on.

Buchanan: Okay. Let me give you an example of the tribe playing flip-flop. Remind me to tell you about the coin later. (Seney: Okay.) We flipped a coin.

The tribe played a flip-flop. During the Water Quality Settlement Agreement the tribal representative (Taps table)—God.

Seney: Is that Norm Harry?²⁷

Buchanan: No. No. Before Norm.

Seney: Oh, Mervin Wright.²⁸

27. Norman Harry was interviewed by Dr. Donald B. Seney as part of his oral history interviews on the Newlands Project.

28. Mervin Wright was interviewed by Dr. Donald B. Seney as part of his oral history interviews on the Newlands Project.

Mervin Wright

Buchanan: Mervin Wright. How could I forget Mervin. Anyway, Mervin was the tribe's representative. Of course Pelcyger was there and Ali [Ali Shahroody]²⁹ was there. (Seney: Yeah.) And, we spent, gosh, nine months negotiating that agreement, which I thought was a pretty good agreement. And, Mervin agreed with it.

Seney: This is the Water Quality one?

Water Quality Settlement Agreement Had to Be Approved by the Pyramid Lake Paiute Tribe

Buchanan: The Water Quality Settlement Agreement. And, Mervin agreed with it. And so then Bob Pelcyger asked us to come out and give the, Tom Streckal and I, to make some presentations on the Water Quality Settlement Agreement to them, because they had to vote on it, because the tribal members had to vote on it. So, we had to work up presentations to people that are ignorant to this stuff. They don't know what the heck we're talking about. So, it worked out pretty good except Mervin

29. Mr. Shahroody is a P.E., Professional Engineer, in the firm Stetson Engineers Inc. His professional résumé was accessed on August 27, 2010, at http://www.imperialgroup.info/PDF/Shahroody_SOQ121.pdf

Wright came out against it. He was recommending to the tribal members they vote against the agreement that he helped negotiate. I couldn't understand that. He had a lot of people really furious with him about that. Luckily it passed. (Seney: Yeah.) But, he, he came close to killing it.

Seney: Well, that may have been the reason it passed?

Buchanan: I, it's hard telling about the tribe. A lot of times tribes vote families.

Seney: I know they do, right. Lineages and families. (Buchanan: Yeah.) Yeah.

Buchanan: That's what they do up there. So, we have the referendum, "You have to come on this." And, I know there's members out there that don't like TROA. (Seney: Yeah.) But, if they don't vote for it there's about a little over \$100 million that's going to go out the window. The (Seney: Developmental funds) Settlement, (Seney: Yeah.) Section 208 I guess. (Seney: Right.) And, so they could easily, easily lose that. One of the things I remember, a negotiation meeting up at Tahoe (Seney: Well the . . .) City. Hmm?

Seney: And the Preliminary Settlement Agreement

aspects of the, of the TROA won't go through either will they?

Buchanan: Oh yeah, because it's tied to TROA. (Seney: Right. Right.) Because that's the only way you could implement PSA is through TROA.

Seney: Right. Right. So, they're going to lose both?

Buchanan: TROA would die.

Seney: Yeah.

Buchanan: Yeah. And so, never can tell. Never can tell (Seney: I know.) the power out there, and etcetera.

Norman Harry

Seney: Is Norm Harry the tribal chairman?

Buchanan: Yeah. Yeah. He's tribal chairman, and that's good. (Seney: Yes. Yes.) This is timely, because if Mervin was still chairman it could fail. (Seney: Yeah.)

The Flip of the Coin

Anyway, getting back to TROA negotiations, and you've probably heard of

the flip of the coin?

Seney: I have. (Laugh) Go ahead. Go ahead.

Buchanan: I'll give you my version of it.

Seney: Sure. Please.

Buchanan: It was, they were trying to look at the percentage of depletion from snow pack. And, because this was necessary because under Section 204, which TROA would implement, only so much water could be used for snow without it starting to count against your allocation. And so, they were trying to decide on, I think it was the evaporation rate of snow, I think that's what it was. And, it came down to a huge disagreement between California and the tribe whether it was fifteen percent, I think it was, or sixteen percent. I think that was the—and finally this guy that lived in Truckee—he's not involved with that Group. He was with the Water Basins Group up there. He was a lawyer and lived out by Prosser. And, they were just going on and on, and finally he just threw up his hands and he said, "I'll flip you for it." Everybody just went quiet and looked at him. He says, "I'm serious. I'll flip you for it." (Laugh) (Seney: Yeah.) He says, he says, "You call it. If you call it right,

it's sixteen. If I call it right, it's fifteen," or whatever the numbers (Seney: Yeah.) were. And . . .

Seney: Was that Gary Elster?

Gary Elster

Buchanan: Yeah. Yeah. That's him. I forgot. And, Pelcyger and Ali are, and finally Mervin said, "Yeah. Let's go for it." (Laughter) So, they flipped it. Of course, the tribe lost. (Laughter) I just thought that was, that was good because they were trying to settle on going halfway. It was either fifteen or sixteen and then going fifteen and a half, (Seney: Yeah. Yeah.) or it was sixteen and seventeen, whatever it was. They were going to go it the half way. So, they basically flipped over a half a percent. (Laugh) I thought that was good negotiations. (Laughter) Oh gee. So, I made sure I wrote that down in my notes.

Seney: You know, one of the interesting aspects of this that I've observed—I've been to a few TROA meetings, not too many, frankly because I can't understand them. It's kind of pointless for me to be there.

Buchanan: Oh, they get to be boring.

Seney: Well, they do. And, it's very much an inside game? (Buchanan: Yeah.) And I noticed, you know, there were you, and Tom, and Fred Disheroon, and Bob Pelcyger, and Sue Oldham, and Bill Bettenberg, and Lynn Collins may have been there. I'm trying to think of who all—Rebecca Harold was at one of them, and there have been some others. But mostly, it's this more inside group, (Buchanan: Yeah.) who have been at this for years. And, it was very interesting to watch the dynamics.

Buchanan: In fact, the last, before I retired

Seney: And, I should say John Kramer and John Sarna from California, (Buchanan: Yeah.) and I can't remember who from Nevada was there, but Roland Westergaard was.

Seating at TROA Meetings

Buchanan: But, you probably noticed in the last three to four years of the negotiation, when I was still working, everybody had a way they sat. Bill would sit here. He wanted me on his right, and Lynn Collins on his left. Next to Lynn would be Fred, or Steve McFarlane. Next to me would either be Streckal or somebody else. But Bill always wanted me next to him because I got to the

point I've almost got that document memorized. (Seney: Yeah.) And I, and I really understand what's going on, (Seney: Right.) although sometimes it slips my memory. And, so we, and if you look on the other side there would be California. There'd be Carol, and then Kramer would be on side and John Sarna on the other one. (Seney: Yeah.) And, they had certain people who was lead technical, lead policy, lead legal. And, that's kind of the way it was--(Seney: Yeah. Yeah.) Although he had, a lot of the time, Lynn sitting next to him, and not Fred. Because Lynn was, I think, understood TROA, more of the details than Fred did. But, so that's why he had Lynn there. I'll take it back. No, he did have Fred there. Lynn would be on the other side. Lynn would sit there if Fred was coming late. And, I remember a lot of times him getting up and moving when Fred came. Yeah, I forgot about that.

“ . . . I'm a consultant now for BR. So, when I go to the TROA meetings I sit in the back row now. . . . it's not my job now to sit at the table anymore. . . . ”

But, it's interesting now, you go to the TROA meetings and I'm a consultant now for BR. So, (Seney: Yeah.) when I go to the TROA meetings I sit in the back row

now. (Laughter) I get up and I, and I talk to Kenneth and tell him certain things, (Seney: Yeah.) what's going on, and sometimes I'll even tell Bill. But, it's not my job now to sit at the table anymore. I sit in the back row where the consultants sit. And, Lynn is sitting in the back row with me. (Laugh) And, there's a couple other consultants, (Laugh) sitting in the back row. (Seney: Yeah. Yeah.) You know, your position at the table changes. (Laugh) Yeah, that just, that's interesting. No, I hope this other meeting makes it. I was at a meeting, model meeting, a couple weeks ago and Ali Shahroody was there. And, we got to talking about Newlands Project Credit Water. And, that's another thing that hasn't been resolved yet. Newlands Project Credit Water, and he got to talking about evaporation while in storage. No, conveyance losses, when we're delivering that water. And he says, "Well, it doesn't suffer it." And I said, "Yes it does." He said, "No it doesn't." I said, "Read 5(e)(2)." And he says, "No, that doesn't mean that." I said, "Ali, you can't be any clearer than what that says there. There's only one exemption, and it says it, and that 'prior undisturbed water.'" And, he said, "Well, that's wrong. That's wrong." I said, "If you're going to change it, you better get her changed by the

twenty-eighth.” So, I don’t know what he’s going do. I told him that when he changed it just put an exemption in it. You got layer, just add another name to it.” (Seney: Yeah.) And, I said, “I don’t know if it’ll fly or not.” But, this, this is

Seney: This is Newlands Project Water?

Newlands Project Credit Water

Buchanan: Newlands Project Credit Water.

After Twenty Years of Use They Were Trying to Fine Tune the Operating Criteria and Procedures (OCAP)

And they’re basically, what they’re trying to do, remember I mentioned to you earlier this morning about OCAP [Operating Criteria and Procedures] allows for more carryover storage? (Seney: Right.) The potential for spills because of the way OCAP is designed to take water early in the year? (Seney: Right.) And, you cannot predict that good to forecast. (Seney: Right.) Well, we’re trying to correct for that. So, we’re making a whole circle now. (Seney: Yeah.) Trying to correct for that thing that I came up with twenty years ago. What this does is that we could hold back water that OCAP would allow to be

diverted to the Newlands Project. We hold it back until we get a good target on “How much water is coming down the stream? How close are we going to be to meeting the storage targets?” Now, the question, “Do you need this extra Truckee River Water?” (Seney: Yeah.) If the answer is “Yes,” you only let go what is needed. The remainder of it stays in storage and goes to the party that would have acquired it, if they hadn’t, if the water hadn’t been released. This is Truckee Canal water, what they call Truckee Canal Water (Seney: Yeah.) is really what it is. So, that’s what we want to do. The only problem is, you may have to change OCAP in order to implement this, the way we had TROA written, the way we read OCAP. So, we’re trying to rewrite that section very simply. They’ll make minimum changes to allow this water to be stored upstream, if it was going to be diverted that year and if it could have been retained upstream under other authority. So, without mentioning OCAP. It reads pretty good, and the original language, 7(h), it was very difficult to negotiate with the State of Nevada. They’re very, very protective of the Newlands Project. That’s their responsibility.

Seney: [Inaudible]

Two Things Remain That Have to Be Dealt with

Buchanan: Yeah. That's their job. And, they were doing it very well. So we, it took us a long time to negotiate this. And now, we're messing around with the language primarily because of Pelcyger, and Pelcyger is just saying, "The tribe's not going to sign TROA until OCAP is modified." And so, he wants us to modify OCAP at the same time we're modifying TROA, and put the OCAP modification into the TROA E-I-S. And, we said, "We're not doing that. That's way too complicated." And, we said, "Let's do it later." He said, "There's no guarantee it'll ever get done later," and he's right. (Seney: Yeah. Yeah.) There is no guarantee. You change administrations. So now, we're trying to modify 7(h) to satisfy Bob, and not get Nevada concerned, but still accomplish that. Well, Bob gave his proposed language, and it was downright laughable, if you want the truth of the matter. (Laugh) Because he was trying to change OCAP and the people, Betsy and Bill have told him, with this administration, they said, "We barely got 7(h) sold to this administration as written. If you try to go forward with something like that, TROA is dead. You'll kill TROA." Because this administration, right

on the verge of saying “No.” (Seney: Yeah.) It’s just like TMWA. They’re right on the verge. And so, Bill’s getting ready to retire. He doesn’t want anymore roadblocks thrown up. “Let’s get this thing done now.” And so, now we think Mr. Pelcyger’s coming around. Again, we want to change one sentence, and I don’t know if there’s been any behind-the-door talks with, with the state or not. I hope there has been. You don’t want to spring this on them all of a sudden (Seney: Right.) because they’re going to say (Seney: Right.) “We got to study this.” And then, we’re dead on the twenty-eighth. (Seney: Right.) So, I don’t know what’s going to happen. So, we have friendly water. I don’t think that will kill TROA. Newlands Project Water, they’re trying their darndest to keep it from killing TROA. Those are the only two things I think are sitting on the table that I can recall right now. We have some other language that has to be modified, that’s minor, about the interim storage agreement. The tribe doesn’t agree with some of the language that—we’ve just realized there was nothing in TROA talking about the Interim Storage Agreement. The Interim Storage Agreement goes away within the implementation of TROA. The question is, what happens to the credit water under the Interim Storage

Agreement? Well, that's what this 7(a)(8) (Seney: Yeah.) I think it is, that's what it addresses. Well, I think it's pretty good. But, oh, tribe's have a little problem with it and, you know, they're going to wait until the last dog is dead, and we're going to try to run it through and see what happens. So, that's another one (Seney: Yeah.) that's sitting there.

Seney: Yeah. What is the effective date of Bill Bettenberg's retirement?

Buchanan: July. Sometime in July.

Seney: Sometime in July?

Bill Bettenberg Plans to Retire and Go to Law School

Buchanan: Yeah. This will be his last meeting here, next week on the twenty-eighth. So, that's why we're having a retirement party for him. (Seney: Right.) I don't, for some odd reason I think it's the end of the month in July. (Seney: Yeah.) And, I ask Bill, I said, "What, what do you plan on doing after you retire?" He says, "I'm going to law school." I said, "What?" I said, "I thought you'd come back and be a consultant like me, and Lynn, and some of the others." He says, "No." He says, "I've

always had a desire to go to law school.” He says, “I was set up to go to law school out of college, but I got an internship with the federal government, and that led to one thing, then another, to another, and the other, (Seney: Right.) and I started up a whole career.” And, he says, “I want to go into law.” He’s going into environmental law. And, I said, “Are you doing this just for education? Are you going to practice?” He said, “Both.” He says, “I’m going to do a little practicing, and also enjoyment.” He said, “I wouldn’t do it full time.” And, I guess, as of a few weeks ago, he had put in, put out thirteen applications, he heard from twelve, and he was accepted by twelve. That’s [Inaudible]. [Background Voices]. That’s my grandson. You might want to turn that off. [Tape paused.]

Seney: Go ahead.

Buchanan: What was I talking about?

Seney: You were talking about Bill going to law school.

Buchanan: Oh yeah.

Seney: And, twelve out of thirteen acceptances. I’m not surprised. He’s a very smart guy.

Buchanan: Yeah. And, he's heard from twelve and got accepted by twelve. So, he's waiting to hear from the thirteenth. I guess he was going to go to Madison, Wisconsin, maybe because that's where his son was working. (Seney: Right.) Well, his son stopped working there and he moved someplace else. (Seney: Ah.) So now, he may end up going to Georgetown. (Seney: Oh.) But, I just

Seney: Good for him.

Buchanan: I just, it's just amazing going to all that work to go back to law school. My god.

Seney: Well, that's not my idea of retirement.

Buchanan: No. I, I thought maybe he was going to go back to school and study Shakespeare or something like that, because he really loves Shakespeare. (Seney: Right.) But, he's going to law school. (Laugh)

Seney: Well, I'm not—it'll keep him off the streets.

Buchanan: Oh yeah. Yeah.

Seney: For sure.

"I'm increasing my time fishing and increasing my time in genealogy, and gradually cutting down on

the consulting. . . .”

Buchanan: I’m not planning on doing that. I’m increasing my time fishing and increasing my time in genealogy, and gradually cutting down on the consulting. When I started in 2003 I was working about a third time. Then last year I was down to quarter time. I’m down to about fifth time right now. And, I don’t know if there are going to be too much more next year. There might be a little bit, (Seney: Yeah.) next, (Seney: Yeah.) next year, and I kind of suspect that’s going to be the end of it. Kenneth’s been talking about keeping me on a retainer for a couple three years. But, I don’t see there’s much work there. (Seney: Right. Right.) But, that’s fine with me.

Seney: Well, I mean expertise on this subject is valuable. And, you know, it’s . . .

Buchanan: No. Have to shake the cobwebs out every once in a while. (Laughter) I mean, TROA, TROA’s not something you keep in memory all the time. (Seney: No. No.) It’s like when I went through this tutorial with TCID, I had to spend several days going through TROA and reading the whole thing again. (Seney: Right. Right.) And, refreshing it in my mind so then I

could sit down and just start talking about it, instead of just read, and so on. Hell, they could sit down and read it. (Seney: Right. Right.) I could tell them, “Here’s what it says,” in common words, “and here’s what it means.” And, that’s kind of the way I approached that (Seney: Yeah.) with them. (Seney: Yeah.)

Seney: How is this new administration being more difficult about it?

Bennett Raley

Buchanan: Well, Bennett Raley, from what I understand, I’ve met the man once in Cleveland.

Seney: Is this Assistant Secretary for Water and Science?

“I think he’s left now. I went back to Washington, D.C., a year before I retired and he was the assistant secretary then, and I was just amazed a person like that could exist. Just not a nice person whatsoever to be around. . . .”

Buchanan: Yeah. I think he was. I think he’s left now. I went back to Washington, D.C., a year before I retired and he was the assistant secretary then, and I was just amazed a person like that could exist. Just

not a nice person whatsoever to be around.
And so, anyway, I . . . (Child crying)
(Laughter)

WOMAN: ~~I'm sorry.~~

Buchanan: ~~It's, it's about his time for a nap.~~

Seney: Yeah.

Buchanan: Yeah. Yeah. It sure is. So it, yeah, we went back there.

Seney: What's he like? Is he just an unpleasant individual?

Buchanan: Very unpleasant. Very conniving. He's, he likes to bark orders out. And just, I was, he was just not a pleasant person to be around. And, we were in a meeting there with a lot of heads of divisions, and etcetera, and even Fred Disheroon was there, and he was just badgering people, just badgering people. I was just really surprised. And, there's a lot of people like that that's come out in this administration.

“ . . . I don't think Newlands and Nevada really, realize what advocates they have back there in this administration, and where they could really put the pressure on if they wanted to, and they haven't. . . .”

And, I don't realize, I don't think Newlands and Nevada really, realize what advocates they have back there in this administration, and where they could really put the pressure on if they wanted to, and they haven't. But if we, if we get Nevada perturbed about this Newlands Project Credit Water they may do it. And, Betsy said she spent a long time getting them convinced to support TROA. And she says it's very rocky and all they would be looking for is an excuse to back out. And, this Newlands Project Credit Water, if we changed it too much, would give them that excuse.

Seney: I wonder why? And, let me turn this over.

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Seney: As to why they would be opposed to it, or so rocky on it, and need (Buchanan: Well . . .) so much convincing? I mean, let me give you a theory that I think has applied in the past to a lot of things, and that is the Clinton Administration supported this, and this administration doesn't seem to like – although George Bush the first signed the bill, (Buchanan: Uhm-hmm.) Public Law 101-618. This administration doesn't seem

to like to be seen as supporting the previous, anything the previous administration did.

“ . . . the Clinton Administration . . . was very pro-environmental . . . This administration is very pro-farmer . . . and there’s nothing in TROA for the Newlands Project. In fact, it has minor impacts on it . . . primarily because we would be allowing Sierra Pacific to retain their privately-owned stored water upstream as credit water, whereas without TROA they have no place to store it and they have to release it and it goes down stream. . . . would allow the Newlands Project to divert it . . . Because it’s then unappropriated water. . . . Under TROA, that water’s going to be held upstream. So what? You’re going to have a reduction, in some years, the amount of water going to the Newlands Project. Legally, that is not an adverse impact to the Newlands Project, because that’s an incidental benefit they were getting because Sierra did not have the capacity to protect their water. . . . That’s the only adverse impact. . . . ”

Buchanan: No. No. I would look at it this way. I would say the Clinton Administration, with the Secretary that we have, and etcetera, was very pro-environmental and doing a lot of good environmental things. This administration is very pro-farmer, and etcetera, and there’s nothing in TROA for the Newlands Project. In fact, it has minor

impacts on it, adverse, and that's primarily because we would be allowing Sierra Pacific to retain their privately-owned stored water upstream as credit water, whereas without TROA they have no place to store it and they have to release it and it goes down stream. And then, if OCAP would allow the Newlands Project to divert it then they could take it. Because it's then unappropriated water. (Seney: Ah.) They could take it. Okay? Under TROA, that water's going to be held upstream. So what? You're going to have a reduction, in some years, the amount of water going to the Newlands Project. Legally, that is not an adverse impact to the Newlands Project, because that's an incidental benefit they were getting because Sierra did not have the capacity to protect their water. (Seney: Ah.) TROA gives them that capacity, therefore Newlands cannot use that water that Sierra could no longer store. That's the only adverse impact. The administration's gone along with that.

Now, if we try to implement some of the stuff that Bob was going to try to put in there, you're basically changing OCAP, and it would become very controversial, and the administration would just pull the rug right out. They're only looking for an excuse, and that's it, because there's

nothing in there for Newlands Project.

“I was at that meeting, but luckily I was in the back of the room. I did not want to be at the table. Betsy [Rieke] was there, and she was pretty quiet too, because that’s just the way Bennett Raley operated. He operated with an iron fist. And so, anyway, so things are very, very sensitive right now. So, that’s why we try to keep people from rocking the boat. . . .”

And, pretty much that’s what, if I remember correctly, that’s what Bennett Raley said, and that was in about 2002, in December, is when we had that meeting back there. And, that was a briefing on TROA. That’s what that was about. (Seney: Yeah. Yeah.) I was at that meeting, but luckily I was in the back of the room. I did not want to be at the table. (Seney: Right.) Betsy was there, and she was pretty quiet too, because that’s just the way Bennett Raley operated. He operated with an iron fist. And so, anyway, so things are very, very sensitive right now. (Seney: Right. Right.) So, that’s why we try to keep people from rocking the boat.

Seney: And, you say that you don’t think that TCID really understands how sympathetic this administration is to their point of view and how they might be able to get them to

pull the plug on this if they really worked at it?

Buchanan: They may not understand. When this first, administration first came in they went back there, okay, and lobbied.

Seney: TCID did?

Buchanan: TCID, Newlands Project, whoever (Seney: Right.) was in there. I don't know the individuals with that. We do know that they went back and they lobbied Bennett Raley and he did get their ear. And, that's why when he came to this meeting—I'm sure it was December 2002—Bennett Raley was basically saying, "There's nothing in here to Newlands Project," and la, la, la, la, la. (Seney: Ah.) Really hammering. Since then Betsy and Bill did their homework, and they convinced them there's nothing harmful in here. There may not be anything of benefit in here, but there's nothing of real harm (Seney: Yeah.) in here against them anyway. So, that's why he backed off. TCID, the only thing I can figure is they probably said, "Well, we lost that round. They haven't gone back." And if they were to do something in here that may be adverse and Betsy would have to go back and meet with the people in Washington D.C. and say, "TROA has

changed from what I told you two years ago. Now, here's what the impacts are going to be." Boom. That's it. (Seney: Ah.) Her and Bill basically said, "It's dead." (Seney: Yeah.) It would die right then. So.

Seney: Is Bob Pelcyger at all amenable to these indications and arguments?

Buchanan: I think he, again, I haven't been involved with the negotiations, right, and those, or any of those conference calls. But, I did hear, they had a conference call. Bob was still pushing it, and etcetera. Bill was getting perturbed. And then somebody, after the conference call got to ~~Bill—I mean~~ got to Bob Pelcyger. And, I think it was Betsy. (Seney: Yeah.) I think she got to him and told him how the dog hunts. (Seney: Yeah.) Just told him, "Bob, here's what you're doing. I'll guarantee you this is what's going to happen." And, I think he, I think he listened. (Seney: Ah.) (Laugh) And see, all that's taken place in the last month. (Seney: Right. Right.) So, here we are coming right up to the end of TROA, and those kinds of things are still taking place. And, here's Ali [Shahroody] saying, you know, "5(e)(2). Well, I don't agree with that." "Oh. Where in the hell were you eight years ago when we

negotiated that?" Whew.

Seney: Yeah. You made an interesting comment earlier when speaking of Betsy Rieke that she has lasted longer than you thought she would. What?

Betsy Rieke

Buchanan: I just thought she had more political ambitions. (Seney: Ah.) You know, to be where she was, in Washington D.C., and then come out here and take this job? (Seney: Right.) She's just marvelous with this job, and I just thought she'd be gone. I thought she'd be climbing the ladder. And, she was very much interested in the regional director's job in Sacramento, here three years ago, whenever it was. I thought she was going to get it, but there was some reason she didn't. I don't know whether she pulled her name, or what. But anyway, she's still here. She seems to be enjoying herself, and she's doing good work. (Seney: Good.) So, we were all surprised when she came here, that coming from Washington D.C.. But, she went to a think tank in, what, Colorado for a year?

Seney: Well, she was head of the, I'm trying, it was part of the law school program there, the environmental law program at the

University of Colorado.

Buchanan: In Boulder? Yeah.

Seney: Right.

Buchanan: And, I just got the feeling that, you know, that type of stuff, academia-type, egghead-type stuff wasn't her. She liked getting out and negotiating, dealing with people. (Seney: Yeah. Yeah.) And, this job came open and she knew a lot about what was going on here, and I asked her how come she's taking this job? She said, "Well, there are a number of things in there that I have, that needs to be finished." (Seney: Yeah.) And she says, "I didn't finish it in D.C. and I can finish it out here." (Seney: Yeah. Yeah.) So, that's why she came out.

Seney: Well, I think that everyone looked forward to her coming. (Buchanan: Uhm-hmm.) Yeah, because of her, the reputation she made as assistant secretary, (Buchanan: Yeah.) during those negotiations that were not fruitful, it turned out. (Buchanan: Yeah.) Yeah.

Briefing Betsy Rieke on the Negotiations Before He Retired

Buchanan: So, anyway I remember some TROA

meetings way back when. She was saying, "I'm not getting involved with TROA." She's been on the outside of it all the time. But, now with Bill retiring, she has no choice. (Seney: Yeah.) In fact, we're getting together next month sometime, a full-day briefing with her and the other people, giving her a full-day briefing. In fact, before I retired I sat down with her and Kenneth, and a couple of other BR people and gave them, god it must have been a half day to three-quarters of a day briefing on TROA. But, what I did, I first went through TROA and then I sat down and I said, "Now, here are the list of things that I think are important to you guys." And, I went through each one of the provisions, saying why it was important to them and how it related to them.

Briefed His Supervisor on TROA Before Retiring

And, I did the same thing with my boss in the Fish and Wildlife Service. (Seney: Right.) I told him, "Here's TROA," and then I went down through each one of the things and gave him a list. I said, "These are the sections you got to keep an eye on." Well, they didn't keep an eye on it. That's, I basically got back involved. (Seney: Right.) They have a new fellow, Steve Caicco that did get involved. But, he's

involved more from the E-I-S point of view. Because I was the only person really involved with TROA before then. (Seney: Right.)

Yeah, it's interesting how things are going every which way. But, they're still doing the same thing they were doing ten years ago, and it's time to quit people. (Seney: Yeah.) Put this thing to bed. And so, you know, like I told you earlier, Sue is still trying to get things for TMWA. I mean, Bob was still trying to get things on OCAP because—and Bob has a legitimate concern. (Seney: Yeah.) But, it's too late Bob. (Seney: Yeah. Yeah.) It's too late.

“. . . I have high hopes for TROA. . . .”

So I, I have high hopes for TROA. I think we've said we have enough regulations or ground rules in there that if people use them properly we can improve reparation, instream flow, drought relief, and—if they use them properly. If they don't—as screwed up as it is now . . . (Laugh) (Seney: Right. Right. Yeah.) You know, it, it's just, it's there. It's the opportunity. (Seney: Right.)

“But, the thing is, it's going to take people to stay on their toes. Because . . . one party that owns

some water could do things that were detrimental to you and you would never know it. And, you would never know what your rights were unless you have TROA. . . . TROA has scheduling meetings. And, in these meetings there's going to be a lot of give and take. . . ."

But, the thing is, it's going to take people to stay on their toes. Because if they're not on their toes, one party that owns some water could do things that were detrimental to you and you would never know it. And, you would never know what your rights were unless you have TROA. (Seney: Right.) So, I've always envisioned the scheduling meetings. See, that's one thing, TROA has scheduling meetings. And, in these meetings there's going to be a lot of give and take. People are going to say, "Well, here's what I want to do, and here's what I want to do." "Well, you can't do both of these." "Well, I'll do this and I'll do this." And, somebody's sitting over there, "Well, wait a minute, if you're going to do this, I'll do this." You've seen pictures of the New York Stock Exchange, (Laugh) all the bidding going on (Seney: Yeah.) and people running around frantic? I think that's what the scheduling meetings are going to be like.

Seney: This will be to schedule releases, I take it?

“Schedule releases, scheduling accumulation or establishment, exchanges. There’s going to be all kinds of stuff, because you’re not going to know what you have to do until you figure out what other people are doing. . . . And then once you figure out what they’re going to do, you may see an opportunity. Or, you may see something that they’re going to do is going to be adverse, and you’re going to have to do something else to compensate for that. . . .”

Buchanan: Schedule releases, scheduling accumulation or establishment, exchanges. There’s going to be all kinds of stuff, because you’re not going to know what you have to do until you figure out what other people are doing. And, they’re not going to know what they’re going to do until you know what you’re going to do. And then once you figure out what they’re going to do, you may see an opportunity. (Seney: Right.) Or, you may see something that they’re going to do is going to be adverse, and you’re going to have to do something else to compensate for that. And, it’s going to be very difficult to schedule. In fact, about seven years ago – way back.

Establishment of the Truckee River Operating Forum

Remember I told you one of my first

meetings was with the Forest Service, (Seney: Right.) back in '81? And, we were talking about operations to Stampede. Well, each year we would have scheduling meetings where we would talk about that. But, at those meetings it was only the water parties that got together. So, about four years before, maybe five years before I retired, I got the bright idea, "Why don't we start something that was called TROF, Truckee River Operating Forum?" And, what it was, it would bring the water managers and the interested parties together, and the interested parties could say, "Here's what we would like to see." Okay? There's no mandate anybody has to follow it. Here's the water managers. They're saying, "Here's what we're going to do. Maybe there's an opportunity to accommodate you a little bit, but at least I can hear what you want." (So, I organized that meeting, the first one, and I put Garry Stone in charge. He's the Federal watermaster. Wrong. The concept was good, but Garry Stone was the wrong person. He's too argumentative. He takes things personally. He gets mad. He tells people, in a wrong tone, "You can't do that, it's against the law," and etcetera, rah, rah, rah, rah, rah, like that. Not good. So, that went on for about three meetings. (Laugh) And, he even said he wanted to step down.

I said, "Okay." And, I didn't want the job because I really wasn't a water manager. That was Lisa and some other people. (Seney: Right.) All I did was formulate this thing, oversee it for about three or four meetings, and then I left. And, I forgot—I think it was Bureau of Reclamation took over the lead. But, it's still going, and it's very similar, but on a much, much smaller scale of what you're going to see under TROA. (Seney: Ah.) Then, and we did this on purpose because I wanted to show Kathleen Eagen and some of these other parties that aren't managing water, that there is an opportunity to come here and find out and make your concerns known. And, if people can accommodate them, then they would. (Seney: Right.) So, but that's what's going on now. (Seney: Yeah.) They're still working. They just had a meeting last month, which I was surprised. (Seney: Yeah.) So, I was pleased with that. And, yeah. That's all I can think of right now. I'll probably have a (Seney: All right.) million things later on.

Seney: As soon as the door slams (Laugh) and I leave, right?

Buchanan: (Laugh) Yeah.

Seney: Well, Chet this has been great. I really

appreciate it.

Buchanan: I probably said some things on there you might want to cover up for a while.

Seney: Well, that can be your choice. It'll be your decision.

Buchanan: Yeah. Well . . .

Seney: Have a look and see what you think.

Buchanan: Uhm-hmm. Yeah.

Seney: Have a look and see what you think.

Buchanan: Yeah. Yeah. I, for example, I said some things in there about Lisa. I said some things about what Betsy is doing, working behind the scenes. I'm not worried about what I said . . .

Seney: It'll be some months before it's published, (Buchanan: Yeah.) even if you don't do anything at all about it. (Buchanan: Yeah.) So, but you decide (Buchanan: All right.) what you want to do. (Buchanan: Okay. Yeah.) I mean, we'll be amenable. That's why we have the restrictions available, (Buchanan: Yeah.) if you want to use them.

Buchanan: I don't mind Lisa reading it, because she

knows what I think of her. And, Lyman, I think what I say in there was fine. (Laugh) He may not like remembering a couple of those things, (Laughter) but they were truthful.

Seney: Well, I've interviewed Lyman, and he's always been very blunt. (Buchanan: Yeah. Okay.) So, I wouldn't worry about it.

Buchanan: And, and the only one I would be concerned about were some of the behind-the-scene things that have taken place recently. (Seney: Right.) About Bill, and Betsy, and Newlands Project.

Seney: Well, we may hang onto it for a while, (Buchanan: Yeah.) and not publish it. All right. Well, thank you very much on behalf of the Bureau, I really appreciate it.

END SIDE 2, TAPE 4. JUNE 21, 2005.
END OF INTERVIEW