

ORAL HISTORY INTERVIEW

Kathleen Eagan



STATUS OF INTERVIEW:
OPEN FOR RESEARCH



Interview Conducted and Edited by:
Donald B. Seney in 1998
California State University-
Sacramento

For the Bureau of Reclamation's
Newlands Project Oral History Series



Interview edited and desktop published—
2011
By Brit Allan Storey, Senior Historian

Oral History Program
Bureau of Reclamation
Denver, Colorado

SUGGESTED CITATION:

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

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

Table of Contents

Table of Contents i

Statement of Donation xiii

Introduction xv

Oral History Transcript 1

 The Beauty of the Sierra Nevada Mountains 1

 “. . . people come to Truckee . . . because they choose to be here, not because they’re drawn by employment opportunities or some of the more typical things that would cause people to move to one location versus another. . . .” 2

 “You find that the vast majority of people who choose to be here are people who really like being out in nature. . . .” 2

 Moved to Truckee in 1986 4

 “I was Truckee’s first mayor . . . The town’s been in existence for 140 years, but it didn’t incorporate until just 1993 . . . The mayor is elected by his or her fellow town council members . . .” 5

 Town Council Rotated the Job of Mayor ... 5

 Truckee Is Very Open to Newcomers Who Become Actively Involved in the Community 6

 “So to me, breaking into the political system

assumed there was some kind of structure there before, and if there was a structure, it would be just community involvement. . . .” 7

Residents’ Breadth of Experience and Proximity to More Developed Areas Are Important Factors in the Community 7

“You have a lot of people who have great ease in getting here. And just that tourism component creates the sense of the community, also. . . .” 9

Incorporation of the Town of Truckee 10

“... different individuals over time . . . made several attempts at incorporation, none of which succeeded at the polls . . .” 10

“I got involved in the latest attempt . . . which ended up being successful. . . .” 11

Truckee Decided it Wanted the Self-determination of Having a Local Town Government to Deal with Local Issues since the Sierra Nevadas Separate Truckee from its County Seat 11

How Supporters of Incorporation Addressed Concerns about Incorporation as They Came up 12

“There was, I can’t remember the number [exactly] now, 72-, 77 percent

positive vote for incorporation. . . .”	
.....	13
Biggest Issues Were Road Maintenance and Snow Removal	13
It Was Felt the County Wasn’t Giving the Area its Fair Share of County Revenues	13
Truckee inherited \$32 million dollars worth of road work required “. . . to bring them up to snuff. . . .”	14
“. . . he says, ‘The best thing you guys could do is incorporate . . .’ . . . He was saying, ‘The real state of affairs is, people over here really just don’t even think about you guys, or, worse, they don’t care. . . .’ . . . which was a real shot in the arm. He was being very straightforward, very forthright, which I gather was his character . . .”	16
The water for most . . . all of Truckee, comes from the Martis Valley Aquifer. It does not come from surface water diversions.	17
Martis Reservoir	17
“The first cut at safe yield [for the Martis Valley Aquifer] is something on the order of 13,000 acre-feet. . . .”	21
Developing an Interest in Water	22
Gary Elster Began Trying to Get Her to Focus on Water Issues	23
Participated in a Sierra Pacific Power	

Company Water Tour	24
The Truckee Area, Lacking a Town Government, Wasn't Aware of the Water Issues	24
“So, anyway, Gary is tugging on my sleeve, and he finally convinces me to go to an EIS/EIR [Environmental Impact Statement/Environmental Impact Report] scoping meeting here in Truckee . . .”	25
Areas Affected by TROA Were Very Active—except along the River Between Lake Tahoe and Reno ...	26
Until the Town of Truckee Incorporated There Was No One Keeping Track of Water Issues for the Area	26
“ . . . in the discussion on the Truckee River Operating Agreement, I could see the huge long-term impact . . . could really do some huge damage unwittingly. . . . But without a voice and without an understanding, without recognition and without analysis and without information, there could be a huge risk to the area . . . sometime in the future. . . .” ...	27
Learning about the Water Problems in the Truckee Basin	29
How She Learned about Water Issues	29
“I was struck by . . . the layering of decisions that have occurred. . . .”	

.....	30
“... we tinkered and fooled around with the natural system significantly by diverting flows from one river system to another, and it took us a long time to even understand the implications of those decisions on an environment . . . and a culture . . . So here, in our attempt to manage nature, we have done some serious damage. . . .”	30
“... so a lot of what we see right now is this effort now to correct that damage . . . all of that tremendous demand on a system that’s closed and probably over-tapped right now. . . .”	31
Allocation of Water on the Upper Truckee Through Public Law 101-618	33
“... it is the interest of the downstream users to get as much of that water in the river as they possibly can, and therein lies the natural adversarial kind of struggle between upstream and downstream. . . .”	33
California Is Allocated 32,000 Acre Feet Between River Ranch on the Truckee River and the Nevada Border	34
Testifying Before the Senate Subcommittee on Water and Power	37

“That was the first I was getting a sense of how big this issue was or how far- reaching in terms of thought and content the issue was, with Senator Bill Bradley and Senator Harry Reid . . .”	38
Concerns Expressed to the Committee about Operation of the River System	39
“‘The reality is that there are multiple effects to those kinds of things. One is, you’ve got the recreation uses. . . .’”	39
Reestablishing Cottonwoods on the River in Order to Cool it	42
“‘. . . You know, it’s really a lot better, a lot more successful, if you just let nature do it itself.’ . . .”	42
“‘. . . the watermaster, together with the Fish and Wildlife Service . . . manage the flow so that they probably are dropping like an inch a day . . . [cottonwood] roots have the ability to follow that and establish a very deep root system within one year, if you ramp down properly.	43
“‘So how it is managed is critical . . . it should not be managed in a way . . . that is at the expense of the environment up here. . . .’”	44
Increasing Complexities in the Negotiations for the New Truckee River Operating Agreement	45

“In my view we’ve gotten further and further away from really being able to assure all the risks don’t flow to the environment if it doesn’t work once that document is signed. . . . So I have some real heartburn about TROA right now. . . .”	45
Establishment of the Truckee River Basin Water Group in 1994	46
“ . . . they’ve looked down the road and . . . the benefits they see fifty years down the road from TROA are a function of the assumptions . . . right now . . . nobody ever goes back and looks at the primary assumptions and whether those assumptions are really going to materialize. You’ve got people thinking . . . ‘Oh, boy, if we do this, somebody could do this to us. So let’s hard- wire it now.’ . . .”	49
If Interests Can’t or Don’t Look down the Road They Could Be Affected Later During Implementation of TROA	49
Secondary Stored Water and Article 9	50
“ . . . how the thinking is making it less and less flexible. . . .”	53
While TROA Negotiations Are Tying down the Parties’ Interests, They Are Resulting in less Flexibility for Dealing with Unforeseen Consequences down the Line	55

Sierra Pacific Power and the Pyramid Lake
Paiute Tribe Have an Advantage 56

The Truckee-Carson Irrigation District and
the TROA 59

Stopping Diversions from the Truckee River Basin
to the Newlands Project 63

Relationship with Pyramid Lake Tribe 64

“... running the river system, I think we’re
in very close harmony with the
Pyramid Lake Paiute tribe, their
interests, as well as the interests of
the Fish and Wildlife Service. I
think we’re in really close harmony,
but I don’t think everybody realizes
that. . . .” 65

Sierra Pacific Power 65

Sierra Pacific doesn’t “have any interests
that really relates to the environment
. . . .” 65

“There is belief that there’s many plans that
they’re making that are fifty years
out that are at cross-currents with
what would be a healthy upstream. . .
.” 66

The 32,000 Acre Feet Allocation to the Upper
Truckee 69

Truckee- Donner PUD 70

Glenshire Water District 71

Donner Lake Mutual Water District 71

Northstar Community Services District 71

The Truckee River Water Basin Group	73
Plans in 1994 to Provide Water out of Stampede Reservoir to Support a Cui-ui Spawning Run Caused Issues for the Upper Truckee Area	73
“. . . it’s big events like that that cause people to realize that something’s going on. . . .”	74
For most people water issues are “. . . a crushingly boring topic. . . .”	75
Helped Organize a Meeting with the Fish and Wildlife Service to Discuss Concerns about Radically Lowering Stampede Reservoir for a Cui-ui Spawning Run	77
Bob Drake Organized the Truckee River Basin Water Group in 1994	78
“Part of it was just to get the players . . . together and start to be operating from the same base, which is a tall order, given the complexity . . .”	78
The Organization Served as a Sounding Board for Doug Osugi, of the California Department of Water Resources	78
The Group Has Been Following Work on the TROA	79
The upper Truckee’s three primary objectives are to preserve the water allocation of 32,000 acre feet and “that the upstream system is not managed in a way that’s to the detriment of	

the environment and help to build the
economy. . . .” 79

The Issue of Depletion in the Upper Truckee Basin
..... 80

Modeling Assumptions Said There Would
Be 50 Percent Return Flow in the
Truckee River Basin, but People
Realized That System Efficiencies in
the Future Might Reduce That and
Result in Depletions 80

Public Law 101-618 Says Gross Diversion
Is 32,000 Acre Feet on the Upper
Truckee River, but it Is Silent on
Return Flows and Depletion 82

Depletion Became an Issue in TROA
Negotiations 83

“ . . . as I observe those sessions, it is clear to me
that really . . . there is nobody that really
knows how this is all going to work out . . . ”
..... 85

“I’m still a town of Truckee representative on this
issue, and the reason for that is continuity . .
. . .” 90

Working with Tony Lashbrook
Representing the Town of Truckee
..... 91

California Is Working on Making Water Available
for Exchange 91

State of California Isn’t Pursuing the Issues
Far Enough into the Future 92

John Kramer Is Representing the State of

California	93
“It’s like anything else. It’s just what are people really good at and what aren’t they so good at, and hopefully you’ve got a team where they all work really well together and all the necessary pieces are there. . . . so it comes together as a whole. . . .”	94
“The one criticism that I think that our area has of the Department of Water Resources, the general, the big-picture criticism, is that they are very tuned in to the water allocation. It’s their area of business. They are not as tuned in to the environmental thing. It is not their area of business. . . .”	95
There are Issues That Might Prevent TROA Reaching its Final Form	96
“The EIS is saying forevermore there will be no significant impacts, and they haven’t analyzed anything. Now, how can you say that? . . .”	97
The Environmental Statement Was in Preparation Before the Final TROA Was Reached	98
“From my perspective, the effort is to make this a forever agreement, and I think that’s horribly naïve. I mean, nobody wants to go back and revisit it, I realize that, but there are going to be things that occur that we have got to be able to respond to. . . .”	99
“As difficult as that may be, and if there need to be things that are off the table, that can’t be touched so that	

those very basic things are
preserved, so be it. . . .” 100

“The human race is not smart enough, with
this many parties, to really anticipate
everything. We’re attempting to
hard-wire everything we can
anticipate, but, please, we shouldn’t
be so arrogant to think that we are
that smart. . . .” 101

“. . . there’s some agreement between Sierra
[Pacific Power] and the tribe in the PSA
[Preliminary Settlement Agreement] that
deals with depletion, and has to do with who
gets more water. . . .” 102

STATEMENT OF DONATION
OF ORAL HISTORY INTERVIEW OF
KATHLEEN EAGAN

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, KATHLEEN EAGAN (hereinafter referred to as "the Donor"), of TRUCKEE, CALIFORNIA, 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 JULY 24, 1998 at TRUCKEE, CALIFORNIA 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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KATHLEEN EAGAN

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 Transcript
Kathleen Eagan

Seney: My name is Donald Seney. I'm with Kathleen Eagan in her home in Truckee, California. Today is July 24, 1998. This is our first session and our first tape.

Good morning.

Eagan: Good morning.

Seney: This is a lovely setting you're in here. Say something about the mountains surroundings and your feelings about them. We like to get a sense of the emotion of the issue, too, if we can.

The Beauty of the Sierra Nevada Mountains

Eagan: Well, I think certainly for us and for many people who live here, they enjoy the ruggedness of the rock, whether it's granite or lava or volcanic, whatever it might be. They enjoy the trees, the wildflowers. It's a very rugged existence up here, as I'm sure it is in the desert. It's rugged up here because the winters are harsh.

“ . . . people come to Truckee . . . because they choose to be here, not because they're drawn by employment opportunities or some of the more typical things that would cause people to move to

one location versus another. . . .”

In fact, one of the things we say is that people come to Truckee or to this region because they choose to be here, not because they’re drawn by employment opportunities or some of the more typical things that would cause people to move to one location versus another. The people are drawn here because they want to be in the area, and a big part of that is such ready access to, I don’t want to say the wilderness, because the wilderness, to me, means no population, no human intervention at all, but to pretty rural, pretty much rural and very rugged areas. And so hiking.

“You find that the vast majority of people who choose to be here are people who really like being out in nature. . . .”

You find that the vast majority of people who choose to be here are people who really like being out in nature. They like hiking, they like biking, they like rock climbing, they like skiing, they like snowshoeing. They want to be out in the environment, whether it’s recreation or exercising or whatever they want to be in the environment. Boating, swimming, you pick it. So that seems to be what draws people to this area.

You get a real sense of the power of the

area because of the magnitude of the trees and looking out at the Sierra crest from I-80, whether you're looking from I-80 East toward Mount Rose, across Meadows and up to the Carson Range, or you're looking west toward the Sierra crest, which is still snow-peaked. In fact, right now is kind of our favorite time, because Tinker Knob, which is one of the main features, Tinker Anderson, Castle Peak, whatever, main features of the Sierra crest, looking at it from the east has this little spot of snow, and just this time of year. All of the rest of the snow is gone, but there's this one spot, and we call it the eye of Tinker Knob, because this time of year it's always up there.

It's a powerful place to be, and it's powerful in many ways—the rugged winters, which is characterized by snow, but then, of course, the snow turns to water in the spring and summer, and that gives the power to the river and the streams contributing to the river. It's a good place to be. People, when they come up and visit us here, say, just even sitting out on the deck, “This is wonderful. How could you be so lucky that you're in this kind of an environment.”

Seney: As I look out from your kitchen windows here, of course what I see are trees, massive trees. You're surrounded by them. You mentioned the rocks, but the greenery is important, isn't it? I mean, that's part of the appeal.

Eagan: Right.

Seney: And not only for people like yourselves, year-round residents, but for the visitors who come to take advantage of the recreation.

Eagan: Oh, no question about it. There's an element, even with the human intervention—their existence, population, and traffic—there's an element of peace here and an element of quiet, and if you stop long enough to just pay attention. Actually, I think this would be very true in the desert, too, but if you stop long enough to pay attention, you're going to see things. There's going to be a lot of movement around you that you don't normally see in more urban environments.

And there's topography. Topography, in my view, is very powerful, like the range from the Sierra crest at 9,000 feet or Mount Rose at 10,000 down to 6,200, which is where we are here. So it has a very peaceful feel to it, and it's just inviting to be out in it in the middle of it, standing right in the middle of it.

Seney: How long have you lived here?

Moved to Truckee in 1986

Eagan: We've lived here since 1986, winter of 1986. Prior to that, we had been coming up for years

and years in the winters to ski.

Seney: Did you own before that?

Eagan: No.

Seney: You bought and moved in '86?

Eagan: Right.

Seney: Are you still mayor of Truckee?

“I was Truckee’s first mayor . . . The town’s been in existence for 140 years, but it didn’t incorporate until just 1993 . . . The mayor is elected by his or her fellow town council members . . .”

Eagan: No. I was Truckee’s first mayor, when the town first incorporated in 1993. The town’s been in existence for 140 years, but it didn’t incorporate until just 1993 as a municipality. So I was the first mayor. The mayor is elected by his or her fellow town council members, so we had five town council members and I was elected by my council members to be the first mayor.

Town Council Rotated the Job of Mayor

And then probably within eighteen months, we started to rotate that job, because teamwork was very much a part of the notion of the community

and we wanted to demonstrate that teamwork by having different members of the council be mayor.

Seney: This is seven years, if my math is right, after you moved to the community you're mayor. And it is a small town, although you're out of the town of--the business district of Truckee would be how far from where we are now?

Eagan: We're two miles.

Seney: It seems further, but it isn't, I guess, is it? Frequently in small towns--and as you say, this is an old one--it takes a while to break into the political system. How did you manage in such a short time?

Truckee Is Very Open to Newcomers Who Become Actively Involved in the Community

Eagan: Well, you used the term "political system," and I kind of don't think in terms of political systems, but Truckee--and Truckee especially, but certainly the region--is a very community-oriented entity, or community. It's very self-sufficient and capable. Unlike, perhaps, some communities where there's a kind of a wall of old-timers and newcomers, I think anyone, if you become active in the community and you're doing things in the community, the community's very open to

anybody coming in. That's abundantly clear to me that all you need to do is get involved and start working on some community-wide projects, and you will be welcomed with open arms.

“So to me, breaking into the political system assumed there was some kind of structure there before, and if there was a structure, it would be just community involvement. . . .”

So to me, breaking into the political system assumed there was some kind of structure there before, and if there was a structure, it would be just community involvement.

Seney: First of all let me say, before we started you mentioned you had been a banker, and that's your professional background, I guess. When you say a sufficient and capable community, I take it you mean a lot of the people who are attracted here are people like yourself who have had a professional career and perhaps have been prosperous enough that they can now move to a place like this and take it easy. That's what you're talking about, I take it, that there's a good deal of skill and knowledge in the community.

Residents' Breadth of Experience and Proximity to More Developed Areas Are Important Factors in the Community

Eagan: Yes. Well, for two reasons. One, just what you described. I think there are a lot of people who have come here who have had various kinds of experiences, whether professional careers or business experiences or whatever, whether they've grown up here or whether they came from outside. There are a tremendous number of people—my fellow council member, Breeze [phonetic] [Embree B.]¹ Cross, who owns Truckee-Tahoe Lumber, he was one of the first council members, the second mayor of Truckee.

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

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

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

Breeze was born and raised three generations in this area, most capable individual. So it's not a question of just people coming in and out, but I think that's some measure of it.

I think the other measure is the access to more largely developed areas, or more urban areas, that have some breadth of experiences. It's quite readily available. We're only three hours or three and a half hours from San Francisco. We're only an hour from Reno. So you have a lot of people who just come up and visit who are really from a very broad—whether it's Silicon Valley or it's the financial world in San Francisco or in Los Angeles.

“You have a lot of people who have great ease in getting here. And just that tourism component creates the sense of the community, also. . . .”

You have a lot of people who have great ease in getting here. And just that tourism component creates the sense of the community, also. So I think it's a combination of things.

Seney: What I'm trying to get at, I'm sure you can see, is the difference, say, between this community and one like Fallon in terms of the Newlands Project, where that's quite a different community than this one in terms of . . .

Eagan: I'm not familiar enough to make any . . .

Seney: Well, broadly speaking, educational level and range of experience and experience with cultural institutions and so forth, this is quite a different community.

Eagan: Probably.

Seney: Certainly income level would be very different here, on the whole, as well.

Eagan: Yes.

Seney: You must have been involved in the incorporation machinations. What was the impetus for that? Why did you decide that was necessary?

Incorporation of the Town of Truckee

Eagan: Well, I didn't decide anything was necessary, first of all.

Seney: I appreciate your modesty, but you must have been in on it. Weren't you in on the discussions?

Eagan: Yes, I was. I'll explain what I mean by that.

“ . . . different individuals over time . . . made several attempts at incorporation, none of which succeeded at the polls . . . ”

But the town of Truckee, really the community or different individuals over time, at different times made several attempts at incorporation, none of which succeeded at the polls, and I'm sure for a whole variety of reasons.

“I got involved in the latest attempt . . . which ended up being successful. . . .”

I got involved in the latest attempt, what was the latest attempt, which ended up being successful.

Truckee Decided it Wanted the Self-determination of Having a Local Town Government to Deal with Local Issues since the Sierra Nevadas Separate Truckee from its County Seat

The driving thing behind every attempt was the desire for self-determination, in my view. I think what Truckee experienced as a community is very similar to what other communities on the eastern side of the crest experience in California. The counties are long and they're broad. The county seat is in the west, and then you go over [the crest]. You can't get over the crest, but then there are these communities that are on the other side. The necessary evil, it almost appears in those situations, is the east side communities feel as though they're stepchildren, and they don't really get quite the attention they feel they need in

order to focus on their issues, whatever their issues might be. That feeling clearly was very strong for decades in Truckee, and it would be, what, kind of caused the effort to incorporate to happen from time to time to time.

How Supporters of Incorporation Addressed Concerns about Incorporation as They Came up

I think what was different in this case is that rather than dismiss apprehensions about the downside of incorporating—and there are a whole broad range of them. Rather than just dismiss those kinds of things, we really made a serious effort to include everybody. That takes a very long time, but to be listening to everybody, and when an issue came up, a concern about the implications of incorporation in a particular area, we just got real serious about getting as much information as we could and tried to be as intellectually honest about it as we possibly could. I think the community, it seemed that they began to feel it, certainly not 100 percent, but they began to feel that this is a serious effort. Every issue that's being brought up is being taken seriously and investigated and people are being real open with what they're finding out, and so we move from there. No preconceived notions about what the structure should look like, but we just took information and went with that, and the community responded.

“There was, I can’t remember the number [exactly] now, 72-, 77 percent positive vote for incorporation. . . .”

There was, I can’t remember the number now, 72-, 77 percent positive vote for incorporation. It was quite dramatic.

Seney: I take it probably land-use control would have been one of the issues.

Biggest Issues Were Road Maintenance and Snow Removal

Eagan: In a survey we did, the biggest issue was road maintenance and snow removal, but road maintenance clearly was the biggest issue. This community felt that the county had really failed to keep the roads up here up to snuff.

It Was Felt the County Wasn’t Giving the Area its Fair Share of County Revenues

And they also felt that, on the expense side, we weren’t getting our fair share, but on the revenue side, we were contributing a tremendous amount to the entire county.

Seney: Was that true, do you think?

Eagan: I think it was. But I think they may have equaled

themselves out, too, on a net-net basis. You know, you live in an environment like this, where you've got a community that's probably too spread out because of much earlier land-use decisions, you've got long roads that need to be maintained in a tremendously difficult environment, where probably the cost of maintaining a road is twice what it would be in a more temperate environment. So the cost just to the taxpayer—it costs a lot of money to live up here, more than it might in other places. And so I think they probably equaled each other out. However, the extent to which the county may not have been putting plowing money back into roads, and they were using the tax revenue for other purposes and not really reinvesting it up here, there was probably some truth to the concern of the community.

Truckee inherited \$32 million dollars worth of road work required “. . . to bring them up to snuff. . . .”

We inherited a \$32 million road deferred liability when we incorporated. That was probably the biggest thing that we inherited, which was the biggest risk.

In other words, if all the roads were brought up to where they should be, to a good standard, it would cost us \$32 million, in three

years ago dollars, to bring them up to snuff. And so that's a huge weight to carry when you take on your financial independence.

On the other hand, I know I always felt, and I think other people did too, and clearly the community felt, that even with that, we had such strength and capability on our own, we would always be able to focus on our problems, or our challenges, better than somebody who had fifteen other things that they were worrying about in addition to trying to think about, "What are they talking about up in Truckee?" The fact that we're here and we know what they are, we can probably get to it and get it done better. So to me, looking at the \$32 million road liability, deferred liability, that means that we can also manage that, because we're going to come closer to correcting that problem than we ever will with the county. We're Nevada County, and the Nevada County seat is in Nevada City.

Seney: That's quite a ways away, isn't it, emotionally and physically?

Eagan: Sixty miles. Emotionally it's very far away. Emotionally it's very far away.

“. . . he says, 'The best thing you guys could do is incorporate . . .' . . . He was saying, 'The real state of affairs is, people over here really just don't

even think about you guys, or, worse, they don't care. . . . ' . . . which was a real shot in the arm. He was being very straightforward, very forthright, which I gather was his character . . ."

I was talking to a fellow, it was before the incorporation vote and it was while we were working on incorporation. I was at a going-away party for the planning director for Nevada County, and there was an elderly fellow there, who has since passed away. But I had come to find out that he was quite a character and well known in that region, and he turns to me and he leans over and he says, "The best thing you guys could do is incorporate, because there's no way that . . ."—and he wasn't challenging me. He was saying, "The real state of affairs is, people over here really just don't even think about you guys, or, worse, they don't care. But they just don't think about you guys. Don't think it's anything else. They just don't think about you guys. So the best thing you could do would be to incorporate," which was a real shot in the arm. He was being very straightforward, very forthright, which I gather was his character and part of his charisma down there. But that was an interesting thing to hear from a western. Sometimes you try, "Well, no, we really do care," but he was being quite practical with it.

Seney: Did water play any role at all in the

incorporation? Was that an issue that was--

Eagan: No.

Seney: Tell me about water supply. Where do you get your water from?

The water for most . . . all of Truckee, comes from the Martis Valley Aquifer. It does not come from surface water diversions.

Eagan: The water for most of Truckee, most all of Truckee, comes from the Martis Valley Aquifer. It does not come from surface water diversions. It comes from the aquifer.

Seney: I think there might be some who would say that-- which is it fills Martis? Excuse me for forgetting. Which river fills Martis?

Martis Reservoir

Eagan: Martis Reservoir?

Seney: Yes. Martis Creek, is it?

Eagan: Martis Creek.

Seney: Right, which would flow into the Truckee if it didn't . . .

Eagan: That's right.

Seney: Martis Creek so-called Reservoir is rather notorious. You're smiling, too, because you know what I'm going to say. It leaks like a sieve, apparently, right? So the aquifer has to be replenished from water that would go into the Truckee if that reservoir were never there and impounding it. Is that a fair statement, do you think?

Eagan: I don't know. I've heard that, that it leaks like a sieve or like a colander, and then the other thing I've heard is that it's the dam that leaks. So to me, that's a timing question, and I don't really know which is which. I think, rather than continuing on with that notion, I mean, some people have kind of giggled and said, "Ah, ha, if we fill Martis Reservoir, we'll replenish the aquifer." I wouldn't even, if I was thinking about that, I'd want to know that that was the case as opposed to be guessing on some notion about what it is. I don't know what it is.

I do know that the [U.S. Army] Corps of Engineers—Chet Buchanan might be a good person to talk to about that. The Corps of Engineers did some work on the dam to enable it to hold more. I seem to recall people saying—I haven't spent a lot of time thinking about it, frankly, but I seem to recall people saying, they

were talking about trying to hold water back in the dam, and they were saying we can't hold any more, because it flows out of the dam at 60 or 80 cfs [cubic feet per second]. regardless, whatever the number was.

Seney: You mean, the dam face itself is leaking?

Eagan: Yes, the dam face is leaking. I would hazard to guess that it's probably a combination of both things, but how much is which and how much is lore versus reality, I really don't know.

Seney: And how much would it recharge naturally if there weren't a dam there is another issue.

Eagan: It would be another issue, yes. The Martis Valley Aquifer is quite huge. When you get into the increments of five's and ten's and hundred's of acre-feet it's an issue, but in terms of the size of the Martis Valley Aquifer, it's relatively small. I would never want to see decisions being made about Martis Valley Reservoir based on how much we think it might recharge the reservoir.

Seney: I can understand that.

Eagan: I mean, I wouldn't want to see us do that, unless we knew what we were talking about, because my gut reaction is that it's incremental.

Seney: To your knowledge, there haven't been any studies about what . . .

Eagan: Well, there may have been, but you wouldn't want to be talking to me about that. I'd be guessing.

Seney: But the water you served me this morning came out of Martis Aquifer.

Eagan: That's right.

Seney: What is the current Truckee usage, in terms of acre-feet, domestic usage? Do you have an idea?

Eagan: I'd say 2,500-, 4,500, something like that.

Seney: That's okay. I can get the technical. I want to talk to you more about political matters.

Eagan: Twenty-five hundred-, forty-five hundred acre-feet. The Truckee-Donner PUD is the one who really pays attention. The numbers of there, and then they kind of flow out. But order of magnitude is 2,500-, 4,500 acre-feet.

Seney: I'm going to ask you another question. What is the capacity of Martis Creek Aquifer?

Eagan: I think it's one-point-four million.

Seney: Do you have any idea what could be used annually? In other words, how much you could--

Eagan: The safe yield?

Seney: Yes.

“The first cut at safe yield [for the Martis Valley Aquifer] is something on the order of 13,000 acre-feet. . . .”

Eagan: The first cut at safe yield is something on the order of 13,000 acre-feet.

Seney: So that would allow, say, a doubling of the population in the area, at least, if that were right.

Eagan: If you get the build-out, Mal Toy from Placer County Water Agency has worked more on this than I have, but if get to his sense of build-out in the Martis Valley—it’s Placer and Nevada County who share the Martis Valley, so to speak. There would have to be a lot more studies on what the real safe yield was. I’ve heard some people say that that safe yield is conservative, and that typically, as you do sets of studies over time, that those safe yields kind of go up. That’s a very conservative number. I think it’s a pretty inexact thing to base years of decision making on.

Seney: Sure. That’s something you have to be very

careful about.

Eagan: I think so.

Seney: I agree. When did you become aware of the water issue, and how did that happen?

Developing an Interest in Water

Eagan: Well, it was funny. I mean, when I look at it, to me it's funny, because it was right after we incorporated. Gary Elster²—and when we incorporated, we were starting a business. I mean, there were five people, elected officials, who don't have any staff, they've got no history, nothing. Let's start a town.

Seney: Were you elected at large or from districts?

Eagan: At large. So let's start a town. The intensity of doing something like that is pretty darn remarkable. We were elected to office in March, the end of March 1993. Toward the end of that year, sometime in the fall, I get a call from—well, actually Gary Elster had called several times. He was aware of the Truckee River Operating Agreement, the negotiated settlement and all those kinds of issues, and we—and certainly I—was otherwise focused and was not aware.

2. Reclamation's oral history program includes an interview with Gary Elster.

Seney: Had you been unaware at this point of Public Law 101-618?³

Gary Elster Began Trying to Get Her to Focus on Water Issues

Eagan: Yes, completely unaware. So Gary just kept tugging on my sleeve and bugging me to death,

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

The main topics of the legislation are:

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

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

basically, “Kath, you’ve got to pay attention to this. You’ve got to pay attention to this.”

I kept saying, “Gary, we’ve got real basic things going on here that we’ve got to get started. I really can’t devote the time to it.”

Participated in a Sierra Pacific Power Company Water Tour

I actually might have been aware earlier, because at some point there was a bus tour put on by Sierra Pacific [Power Company] with regard to water issues. I don’t remember the timing, but it wasn’t a lot earlier. Or it may have been after Gary first started tugging on my sleeve.

Seney: They did that sort of thing frequently, or not infrequently.

The Truckee Area, Lacking a Town Government, Wasn’t Aware of the Water Issues

Eagan: But I don’t think any—see, there was no town here. When there’s no town here, there is no place you got that kind of represents the entire community. I’ve seen TTSA.

Seney: Meaning?

Eagan: Tahoe-Truckee Sanitation Agency, Truckee-

Donner PUD. Those are entities that exist, but they are not town governments. They were aware with regard to the water purveyor perspective and things like that, but the community in general, I don't think was aware at all.

“So, anyway, Gary is tugging on my sleeve, and he finally convinces me to go to an EIS/EIR [Environmental Impact Statement/Environmental Impact Report] scoping meeting here in Truckee . . .”

So, anyway, Gary is tugging on my sleeve, and he finally convinces me to go to an EIS/EIR [environmental impact statement/environmental impact report] scoping meeting here in Truckee, held at the Sanitation District, and just make comment. I believe it was the [U.S.] Bureau of Reclamation. I'm not absolutely sure. But the Bureau of Reclamation came up, and they were having a scoping session, And they, as they should be, had a scoping session in Truckee, in this region, and I went.

Seney: Scoping, meaning what is going to be the scope of the EIS, do you want to be involved.

Eagan: Right, kind of starting to get their arms around what needs to be involved in an environmental impact statement.

Areas Affected by TROA Were Very Active—except along the River Between Lake Tahoe and Reno

What struck me at that meeting, and, believe me, I'm not placing blame at anybody, but when questions were asked from the audience about the EIS/EIR, when it related to either Lake Tahoe or the heavily populated areas—Reno, Sparks, and certainly Fernley, Fallon, and the tribal area—there were lots of responses, there were lots of question/answer, there was a lot of context that the people that were there had about those areas. When questions were asked about this region between Lake Tahoe and Reno, it was a blank slate. People just really hadn't thought about it, probably because nobody had been talking about it. I mean, there is no substitution for being in the place that's going to be affected for paying attention to the place.

Until the Town of Truckee Incorporated There Was No One Keeping Track of Water Issues for the Area

Actually, that's the essence behind incorporation, when you really think about it. Nobody is ever, even if you wish it in your wildest imagination, they'll never care or be as aware or quite as in tune as those who are right there on the spot. And that got me hooked, because I realized that whatever this thing was,

this TROA, this negotiated settlement, that in the course of it being deliberated—and part of it had already been deliberated, the 101-618, which, in retrospect, it was unfortunate that this region wasn't around then. It just happened, things happened.

“ . . . in the discussion on the Truckee River Operating Agreement, I could see the huge long-term impact . . . could really do some huge damage unwittingly. . . . But without a voice and without an understanding, without recognition and without analysis and without information, there could be a huge risk to the area . . . sometime in the future. . . . ”

But certainly in the discussion on the Truckee River Operating Agreement, I could see the huge long-term impact of this kind of negotiation on this region, and if this region did not have some kind of a voice, we very possibly—and I mean the collective we of everybody involved—could really do some huge damage unwittingly. And maybe not. But without a voice and without an understanding, without recognition and without analysis and without information, there could be a huge risk to the area, or a huge impact, sometime in the future. So that's what really got me hooked, because I could see a big picture. And I hated it, because I knew it was going to be what I term a black hole of time.

Seney: So your banking background, do you think, helped you ?

Eagan: I would argue no. I would argue a liberal arts education is great, but that's old topics. Because I think you're trained in a liberal arts education to see all sides of an issue, and that's something that I kind always seem to think in terms of the domino or the chess move, eight moves out, and what are the implications and what are the implications. I don't know. I really don't know. You have to employ those kinds of things when you're lending, because you're lending today to a business that is going to be undergoing competitive challenges and changes in the market, the things that are within their control and things that are out of their control, and you've got to be thinking about their ability to handle those kinds of things and have they thought about X and Y and Z. If you're going to do a good analysis and make a good lending decision, you've got to be thinking of all those kinds of things.

Seney: I asked that because, you know, personality makes a difference in any context, and it certainly does in this conflict and controversy and policy area. That's why I ask that question, get a sense of view a little bit in this.

When you began to look at this problem, what was your reaction to it as you began to

become knowledgeable about the negotiated settlement and the Truckee River. You probably hadn't thought about it much below here, had you?

Learning about the Water Problems in the Truckee Basin

Eagan: No.

Seney: I mean, there's no reason to.

Eagan: Not at all.

Seney: Let me turn this over.

END SIDE 1, TAPE 1. JULY 24, 1998.

BEGIN SIDE 2, TAPE 1. JULY 24, 1998.

Seney: So again, we're saying you hadn't really thought about the water problems below here [on the Truckee River]. How did you make yourself knowledgeable about this, and can you think back to what your reaction was as you began to learn about these matters?

How She Learned about Water Issues

Eagan: Well, you know, to become knowledgeable you just have to try and get as much information as you can, in whatever form you can, whether that's

orally or written, read stuff, listen to people, what matches, what doesn't match, those kinds of things, went on a bus tour.

Seney: This would be a Sierra Pacific bus tour?

Eagan: Sierra Pacific bus tour, where we really talked about all the reservoirs and who manages which reservoir and who owns water within each reservoir right now, and all those complexities.

“I was struck by . . . the layering of decisions that have occurred. . . .”

I was struck by, as many people are, the layering of decisions that have occurred.

“. . . we tinkered and fooled around with the natural system significantly by diverting flows from one river system to another, and it took us a long time to even understand the implications of those decisions on an environment . . . and a culture . . . So here, in our attempt to manage nature, we have done some serious damage. . . .”

The most significant thing I was struck is that we tinkered in 1905—and I know people in the Fernley/Fallon area, their livelihood today is a function of this tinkering. But we tinkered and fooled around with the natural system significantly by diverting flows from one river

system to another, and it took us a long time to even understand the implications of those decisions on an environment, a species, and a culture, which is the Pyramid Lake Paiute tribe, in my view, two species. So here, in our attempt to manage nature, we have done some serious damage.

“ . . . so a lot of what we see right now is this effort now to correct that damage . . . all of that tremendous demand on a system that’s closed and probably over-tapped right now. . . . ”

And so a lot of what we see right now is this effort now to correct that damage, and the big picture, to me, is that as the most significant for upstream water are downstream and as we struggle to meet those demands downstream, whether it’s Fallon, Fernley correcting past sins, Pyramid Lake Paiute tribe, which I personally feel very strongly about, too bad we ever got there, or we meet the M&I needs for Reno/Sparks area, all of that tremendous demand on a system that’s closed and probably over-tapped right now.

The whole essence of the issue, one of the two key issues for our region up here is, this system should not be manipulated in a way that it’s done at the expense of the environment upstream. Everybody at the table ought to making darn sure that they don’t do any of that,

because otherwise they're just repeating history and shooting themselves in the foot. Yet another time, for fifty years from now or a hundred years from now, what is going to be some huge machination and we're going to have another train wreck, as Gary Elster would say, up here that involves an endangered species or something, and lots of money will be spent by lots of people because we just weren't wise enough eighty years earlier to figure it out or to give ourselves room.

The risk is that, even though the volume of water that runs past a point in Nevada—let's say, just west of Reno—is X, the way it's obtained from the lakes and stream system up here is through a lot of small capillaries, basically, and then a main artery, and how we manage the flows in those capillaries, in order to get to that constant number down there, is critical to the upstream environment. And it is not a pipeline. It is a living, breathing, organism, that system, and we have to, in my view, be doing everything we can to preserve that living, breathing organism, because otherwise we have just shot ourselves in the foot, and it's control of nature shooting ourselves in the foot. I mean, we really have to be wiser than that and get kind of outside of our interest and recognize that this is a much bigger picture that we all need.

Allocation of Water on the Upper Truckee

Through Public Law 101-618

The other key thing for the upstream interest is that, the other key upstream interest is that the negotiated settlement allocates, and presumably resolves forever, the litigation over the allocation of water to California versus the downstream interest. Two parts of California, but the Truckee River Basin is 32,000 acre-feet. So it gives a firm water allocation, and all those water wars over water allocation, never mind the quality of the environment and preserving that, but the water allocation are going to be resolved forever. So the preservation of that water allocation is of interest to the upstream users.

“ . . . it is the interest of the downstream users to get as much of that water in the river as they possibly can, and therein lies the natural adversarial kind of struggle between upstream and downstream. . . . ”

On the other hand, it is the interest of the downstream users to get as much of that water in the river as they possibly can, and therein lies the natural adversarial kind of struggle between upstream and downstream. Upstream wanted to preserve what they were given by P-L 101-618, and the downstream interests really, because their interest is to get water or to store it so they can get it when they want it, is to get as much water in the

stream.

Seney: You know, that's an interesting point, and let me tell you why. First of all, let me say that there are two allocations in the Interstate Allocation. One allocates surface water rights on Lake Tahoe, two-thirds/one-third, essentially, California getting two-thirds and Nevada one-third. Then there's the allocation on the Truckee itself, the river itself, and it's 90/10, 90 percent to Nevada and 10 percent to California.

Eagan: I don't know that split. That's the Tahoe Basin piece.

Seney: That Tahoe Basin is one-third/two-thirds. That's the surface water rights. Then below Tahoe Dam, Tahoe City Dam, when the Truckee flows, then there's an allocation there, and it's 90/10, 90 percent to Nevada, 10 percent to California. Now, your figure of 32,000 acre-feet . . .

California Is Allocated 32,000 Acre Feet Between River Ranch on the Truckee River and the Nevada Border

Eagan: Starts at River Ranch. The Truckee River Basin, the other basin, and allocation is the Tahoe Basin, Truckee River Basin. That starts at River Ranch. That's where everything, from River Ranch down, flows, that hits are aware of this, flows into the

Truckee River. It doesn't flow into Tahoe.
That's the notion. So about the four-mile stretch
to River Ranch.

Seney: Okay, I don't know, either. That's probably the . .
.

Eagan: The 32,000 relates to from River Ranch . . .

Seney: To the Nevada border.

Eagan: Yes.

Seney: You get 32,000 . . .

Eagan: Thirty-two thousand acre-feet.

Seney: Surface water.

Eagan: Ten thousand of which can be surface water.

Seney: And the rest will be . . .

Eagan: Has to be ground water.

Seney: The Martis Creek and aquifer would be probably
be charged against the 22,000 acre-feet, then,
wouldn't it?

Eagan: Right.

Seney: You know, I've been doing a lot of interviewing the last week or two and I've been down in Reno, and they are alarmed, the other reason, and that is, they think, "Oh, my God, we got such a good deal. We get 90 percent; they get 10 percent. They're going to wake up one of these days and they're going to want more." And you're worried you're going to have a problem keeping what you have.

Eagan: Well, you know.

Seney: But what I'm saying is that both sides are obviously concerned about this split. They think you'll want more, because maybe you're entitled to more, that they got a really good deal. Are you familiar, by the way, with how far that split goes back, that that was part of the . . .

Eagan: The 90-10?

Seney: Yes.

Eagan: That's the first I've heard of the 90-10.

Seney: Well, it's part of the Interstate Compact. It was actually negotiated in the late sixties, and always honored by Nevada and California and then put into Public Law 101-618. So there's some lineage . . .

Eagan: History to it.

Seney: At what point did you know that Senator Bradley was coming out, because I have here the committee hearings in which you testified. You wrote him a letter, wanting to—let me see. In fact, I have it.

Testifying Before the Senate Subcommittee on Water and Power

Eagan: It was probably in the fall, fall of '93. Was that in 1993?

Seney: This is December of '93, and if I look through here quickly, I might be able to find your letter really quickly. The date on the letter is December 6th, actually, and the hearing was December 11th. You faxed it to him.

Eagan: Yes, it was pretty shortly before. I mean, it wasn't very long before the letter was written, that's for sure. I mean, everything has been happening on like you've got two days to understand something's happening and respond or we miss it entirely. But, no, it wouldn't have been much longer.

“That was the first I was getting a sense of how big this issue was or how far-reaching in terms of thought and content the issue was, with Senator

Bill Bradley and Senator Harry Reid . . .”

I became aware—and probably through Gary Elster is probably the one who told me, certainly that stage. That was the first I was getting a sense of how big this issue was or how far-reaching in terms of thought and content the issue was, with [Senator Bill] Bradley and [Senator Harry] Reid were the two who were there. I’m pretty sure of that. And, of course, Bill Bradley’s name is a familiar name to anybody who pays any attention to politics, so that caught my attention right there. If Bill Bradley was going to be here, something was going on. And I considered him a very thoughtful man, so that was just—but weeks, in answer to your question.

Seney: The brunt of your testimony and your statement was, “We want people to pay attention to us here, and that the Newlands Project has drained a great deal of water out of the system and that things change and it’s time, maybe to re-evaluate that.”

And also, there was a more specific complaint, both by you and Mr. Elster, and that had to do with the lowering of Prosser Creek Reservoir on Memorial Day in 1992, when, it dropped seven feet over those three days. And Donner Lake had dropped very rapidly, too. So you were really complaining about the management of the river system too.

Concerns Expressed to the Committee about Operation of the River System

Eagan: Absolutely.

Seney: Why don't you talk a little bit about that.

Eagan: Well, that goes back to my analogy of, it's incredibly efficient to run it like a pipeline, which means, when you need to water and you can get it all out of one dam, you need X thousands of acre-feet. It's not quite this simplistic, because I understand that Prosser really serves the purposes of one water-right holder and storage holder and Stampede another, etc.

Seney: Stampede, which is upstream from Boca Reservoir and Prosser Creek Reservoir is separate.

“The reality is that there are multiple effects to those kinds of things. One is, you've got the recreation uses. . . .”

Eagan: Prosser is upstream from both of those. Yes, it's separate. But there you have—and I don't recall why that occurred, because always there's something. But there's always solutions to why these occur, too, or frequently solutions. But water was needed or needed to be—well, it was needed for a certain purpose at a certain time, and

they said, "Well, let's take it from Prosser."

If it is managed thinking that it is just a series of bowls with conduits and there is no effect with however you manage it, then fine. But that's not the reality. The reality is that there are multiple effects to those kinds of things. One is, you've got the rec[reation uses]. Our economy, why are people here? They are here because of the nature of the place it is, and the nature of the place it is, is 100 percent environment. So even though we kind of get in the way of it by being up here and building houses and doing things like that, that is why people are here. They like to be out in it, and whether they live here or whether they're visitors. So in the purest sense, you've got recreation is literally the industry at several levels, with the possible exception of the railroad. Everything else, the real estate industry, every restaurant, every service, is a function of people wanting to be here, and as far as government jobs. So recreation is truly what we are all about.

When you do something like that and you create a real negative experience for those people who are camping or up at the lake having a wonderful time on their Memorial Day weekend .

..

Seney: Get up in the morning and the lake has been dropped overnight.

Eagan: At Prosser Lake it's exceptional, because it's very flat. Remember, it's a lake that was created out of a stream, and it's a very flat shoreline. So dropping seven feet exposes tons of shoreline.

Seney: Muddy shoreline.

Eagan: Muddy shoreline. Now, some other lakes may have a different contour, where it drops down like this.

Seney: You're gesturing as though they have steeper sides. The tape won't see that.

Eagan: Right, as if they have steeper sides. But looking at the configuration of a lake is critical to understanding what the implications of what a drop is. So we had this huge drop.

The other thing is that when you have all that water evacuated at once, you've got stream flows. Prosser Creek, below Prosser Creek Dam, is flowing, let's say for the sake of discussion, at five cubic feet per second, and all of sudden you drop it seven feet in three days. You're blowing out the stream. You have more than a flood, and then you stop it. The natural system would be, you may have a flood event that blows out the stream—in other words, they have a huge volume of water flowing down—but it gradually ramps down and declines.

Seney: And gradually ramps up.

Eagan: Well, much more quickly, typically. But the drop is more gradual, usually, than the ramp up in a natural kind of a situation.

And so what happens, when you do these kinds of 5 cfs., 800 cfs., 5 cfs⁴, you do tremendous damage to the ecosystem, because the bugs are stranded, the fish food. You know, the macroinvertebrate are stranded up here. You just drop. They don't have a way of getting down.

Reestablishing Cottonwoods on the River in Order to Cool it

A great example right now is how the river is being managed to get cottonwoods back onto the system to shade the river, to cool the river, and that's better for the downstream cui-ui and it's better for the river system. So what do they do? I'll never forget. Paul Wagner, who used to be the fish biologist for the Pyramid Lake tribe, I was saying, "Why don't you guys go in and plant some cottonwoods?"

“. . . You know, it's really a lot better, a lot more successful, if you just let nature do it itself.' . . .”

4. These numbers refer to the rate of outflow from a reservoir as controlled by manipulating the dam gates.

He said, “You know, it’s really a lot better, a lot more successful, if you just let nature do it itself.”

“ . . . the watermaster, together with the Fish and Wildlife Service . . . manage the flow so that they probably are dropping like an inch a day . . . [cottonwood] roots have the ability to follow that and establish a very deep root system within one year, if you ramp down properly.

And what they do now—this is the watermaster, together with the Fish and Wildlife Service—is they manage the flow so that they probably are dropping like an inch a day from the system up here, down where the cottonwoods are. But you don’t want to drop it any faster than that, because the roots, once the seeds fly, the roots, the river starts to naturally crest down an inch a day, those roots have the ability to follow that and establish a very deep root system within one year, if you ramp down properly. So that’s a great example downstream of care in thinking about how you manage the river system can actually improve the river system, and nature can do it itself very effectively, much more effectively than we could.

Well, that same thing is true up here, whether it’s with the bugs or with the riparian habitat and how that affects bank stability and all

kinds of things. Excuse me, not riparian habitat, but the vegetation, can't handle those kinds of swings very well. So there are implications to doing those kinds of things.

“So how it is managed is critical . . . it should not be managed in a way . . . that is at the expense of the environment up here. . . .”

So how it is managed is critical, and that's why I say, the light at the end of the tunnel, for us, in so many ways is, it should not be managed in a way, or manipulated in a way, that is at the expense of the environment up here. Everybody, I believe—and I think you would see argument, “This is your problem, California. It's not our problem.” Just as human beings, we ought to be making sure, no matter what our needs are, we think our needs are, that we're doing it in a way that does not harm that environment upstream. It just makes no sense. That should have been the conversation in 1905, and it should remain the conversation.

Seney: But it was never brought up.

Eagan: Never brought up. It's being brought up now, and it's being resisted, in some ways. You're going to set precedent. Oh, my God. It's going to cost us more money, Oh, my God. I'm kind of at another level. Of course, some would argue, “Well, you're at that level because you're there

and it's your thing, and why don't you just buy water rights," and you get kind of into this, neener, neener, neener. But really, if you look big picture, isn't this what public policy is all about, that we're not wrestling with each other for turf? But we absolutely should be doing that, no question about it.

Increasing Complexities in the Negotiations for the New Truckee River Operating Agreement

So my feeling about TROA has gone from one of great hope in terms of presumed flexibility of the system and everything else, but as it has evolved and as it has been drafted and negotiated and everybody is trying to secure their place in ever and ever greater detail to assure sets of assumptions that they have, whatever, are maintained.

“In my view we've gotten further and further away from really being able to assure all the risks don't flow to the environment if it doesn't work once that document is signed. . . . So I have some real heartburn about TROA right now. . . .”

In my view we've gotten further and further away from really being able to assure all the risks [don't] flows to the environment if it doesn't work once that document is signed. That concerns me a great deal. So I have some real

heartburn about TROA right now.

Seney: Have you been taking part in the negotiations?

Establishment of the Truckee River Basin Water Group in 1994

Eagan: Oh, yes. We have formed pretty quickly, in 1994, the Truckee River Basin Water Group, which is made up of all the political entities, all three counties—Nevada County, Sierra County, Placer County—the town of Truckee, all the water purveyors in the Truckee River Basin (that's River Ranch, again), Placer County Water Agency. U.S. Forest Service has been involved. So we've been . . .

Seney: That state of California, are they . . .

Eagan: The state of California is the lead agency for the state of California.

Seney: They're actually at the table, and I take it you're behind them, whispering in their ear about matters.

Eagan: Right. They've been the lead agency all along, and we have been—I think our role is one of advising them.

Seney: I know that the TROA is a complicated

agreement, and I've actually attended a TROA meeting. It was seven of the longest hours of my life.

Eagan: [laughter] That's a black hole in time comment I was making.

Seney: Well, you know, it was when I first began to get involved in this project, and frankly, I didn't know very much; and not knowing very much, none of this stuff seemed to make sense to me. But it is very complex.

One of the things that struck me about that meeting was that the usual players were there— Bill Bettenberg⁵ from the Interior Department; Fred Disheroon from the Justice Department; Gordon DePaoli⁶ and Sue Oldham⁷ from Sierra Pacific Power; I think John Kramer from California; Roland Westergard⁸ and/or Pete Morros, I think both of them from the state of Nevada were there; Bob Pelcyger,⁹ of course,

5. Reclamation's oral history program includes an interview with Bill Bettenberg.

6. Reclamation's oral history program includes an interview with Gordon DePaoli

7. Reclamation's oral history program includes an interview with Sue Oldham.

8. Reclamation's oral history program includes an interview with Roland Westergard

9. Reclamation's oral history program includes an interview with Bob Pelcyger.

from the Pyramid Lake tribe. Those are the signatories to the agreement, and they all know one another, have worked together for a long time. You could see this sort of rapport and camaraderie between them. But it's a very complex agreement—I mean, operating the river is. You said—and others have said this to me, as well, characterized just as you have—that it's become more and more and more complicated under this series of negotiations as time has gone on.

What I'd like you to try to do for us and the people who are going to read this elsewhere, and we hope long in the future, is maybe pick one or two examples of how it's become more complicated and more and more complications have been introduced into this TROA, sort of to illustrate that general statement.

Eagan: The best way I can describe it is by example. One of the presumed benefits of TROA is it's increased flexibility, and that's this notion of being able to exchange water from reservoir to reservoir and all that kind of thing. You hear a lot of conversation about that.

“ . . . they've looked down the road and . . . the benefits they see fifty years down the road from TROA are a function of the assumptions . . . right now . . . nobody ever goes back and looks at the primary assumptions and whether those

assumptions are really going to materialize. You've got people thinking . . . 'Oh, boy, if we do this, somebody could do this to us. So let's hard-wire it now.' . . ."

But as time has gone on, individuals who have interests, they've looked down the road and said, "Oh, boy, I could see this [a certain set of circumstances] happening." This would be a place where the benefits they see fifty years down the road from TROA are a function of the assumptions that they've assumed right now, is my favorite thing. If you try to fine tune it to the fourth decimal point, nobody ever goes back and looks at the primary assumptions and whether those assumptions are really going to materialize. You've got people thinking and they're saying, "Oh, boy, if we do this, somebody could do this to us. So let's hard-wire it now."

If Interests Can't or Don't Look down the Road They Could Be Affected Later During Implementation of TROA

In the course of hard-wiring it now, if other interests aren't also able to look eight chess moves down the road or what the implications of that might be, you could say, "Oh, that looks fine, because it doesn't really affect us." But it really does. When it all comes out in the wash, you're going to find out that what happened over in

Article 3, in specific language there in order to handle one particular problem, has a significant effect over in Article 9, and nobody realized it.

Secondary Stored Water and Article 9

We had a good example of that with what was called secondary stored water. Article 9 was drafted to, it's called mandatory exchanges, and it was drafted to help improve the fish flows on a more regular and consistent basis in the upstream, main stream, and the tributaries, the two primary ones being Donner Creek and Prosser Creek, because everything else has been blocked off by dams. They are the only ones that have a significant stretch. So a lot of work in Article 9, and these were exchanges that nobody, if certain conditions apply, then the Water Master will automatically make these exchanges, and all the model runs were run off those exchanges.

So then, subsequent to that, the discussion of secondary stored water comes up. I just happened to be at a meeting one day, and I could see Sierra Pacific, Sue Oldham, was talking about an issue they had, and their issue was, "Well, gee, if we have this secondary stored water and it comes in at times that we don't expect, what will it do to our storage space?" because space is their issue. They need space to store for drought supply, and if somehow their space was

consumed, they saw a risk to them.

Well, I started thinking about that, and the whole construct of Article 9 is based on storage levels. It didn't define what made up those storage levels, but if anything was over a certain amount, if the water levels in all these reservoirs were over a certain amount, nobody had to make an exchange. And so I'm sitting there saying, "Gee, if we get all this really low-priority water in there that raises the levels of these lakes, it may turn out that we don't get any mandatory exchanges."

And people are saying, "Oh, don't worry about it, don't worry about it, don't worry about it. It's going to be fine. Everything's going to be fine."

I said, "Well, let's do a model run on it and see."

Well, you know, two or three months later, I kept picking, picking, "I want to see a model run. I want to see what this really looks like."

Well, it turns out there are literally, in some stream stretches, because of that eventuality, there would be as much as a ten-point drop. Ninety percent of the time to 80 percent of the time it would meet absolute minimum flows,

as defined by the California Department of Fish and Game. I said, "That's an inadvertent outcome. All of a sudden we're not going to get the results that everybody says we're going to be getting in terms of benefits based on this little wrinkle. Everybody thinks they're dealing with this, including the California team, I might add, 'Oh, don't worry about it.'" I said, "Now, wait a second. Let's find this out."

So it's a good example of this tinkering, understandably Sierra Pacific trying to close a loophole for them is creating another effect, that in this particular case, in this example, I just happened to be thinking about. I know there are multitudes in that agreement of other issues where there will be effects like that. Either they may help with the in-stream flows in terms of our interest up here, they may help or hinder. But the point is, there could be other ramifications and unforeseen consequences of this very complex agreement that had an effect. Another thing you see . . .

Seney: Let me turn this over.

END SIDE 2, TAPE 1. JULY 24, 1998.

BEGIN SIDE 1, TAPE 2. JULY 24, 1998.

Seney: My name is Donald Seney. I'm with Kathleen Eagan in her home in Truckee, California. Today

is July 24, 1998. This is our first session and our second tape.

Go right ahead.

“ . . . how the thinking is making it less and less flexible. . . . ”

Eagan: Another good example of how the thinking is making it less and less flexible. This was a meeting last July, where I first became aware of it, where Sierra Pacific, again, spaces their issue, and they could see that, given the construct of some language elsewhere, that it was possible that if OCAP was changed and more water stayed in the upstream system and it was controlled by the Pyramid Lake Paiute tribe and Fish and Wildlife Service, that that was okay, but that storage had priority over some of their storage. And they could see the possibility that if also there was a change in how the Fish and Wildlife Service/tribe used the water from what it does currently, the current assumption is they continue using the water exactly the way they've been using it for the last ten years, cui-ui runs and all that kind of thing.

Seney: May-June, that time frame.

Eagan: Right. But if they change how they use the water, then they could lose storage space, because they

may park the water and keep it up there. And so the presumption in the model is, they're going to keep using it the way they've always been using it and now changing storage space.

They have a concern. That's why they're even at the table is storage. Well, I can understand that. But what they wanted to do—and I really don't know what's happened with it, but I'll be curious to see what has. They wanted the tribe and the Fish and Wildlife Service to write into the agreement that they would always and forever use 206,000 acre-feet by a certain date. In other words, they wanted to solidify the assumption in the model, because that would be their assurance that they would end up getting the space that they anticipated getting and therefore would have a ten-year drought supply.

Well, of course, the tribe and the Fish and Wildlife Service said, "You've got to be crazy. The chance of this happening are very low. We don't want to be bound by this forever. Changing circumstances, you don't know what's going to happen. But we'll be able to work it out, won't we? Now, we want that kind of language in there." So they've been working on that, and I have no idea [what's happening], but it's a great example of trying to nail down the assumption. Well, once you start doing that, it's got to be intuitive to anybody, or just understandable to

anybody, you're eliminating this flexibility.

Now, the dilemma that the upstream environment has is that water rights are a "shall" and beneficial uses may be enhanced is a "may," and so every time you say, "Gee, we'd like to write an assurance is so that we actually get what's promised, with all the assumptions in this agreement," they say, "Well, no, that's really a may, not a given; it's not a shall, [i.e.] water rights."

While TROA Negotiations Are Tying down the Parties' Interests, They Are Resulting in less Flexibility for Dealing with Unforeseen Consequences down the Line

Water rights—and I would argue even from the California team. They come out and they say, "Well, the water rights are king." But then how are we going to solve this? Well, we can't solve it. My point is that all of the risk failed in many ways, because people are being very successful in nailing down their interests, which I understand, but all of the risk of unanticipated consequences, complex agreement that has weird outcomes, changed circumstances, endangered species appear, new information on how to better manage systems, whatever, or the assumptions don't materialize in the model run. Those risks flow, in many, many cases, disproportionate amount of

cases, to beneficial uses upstream on the environment. So that's a dilemma. But those are examples of how it's getting [complicated].

Now you see the term mischief, anti-mischief language, and they're trying to say, "Well, gee, somebody could do this, and so let's nail down the language like that." And so each time I see those kinds of things occurring, it's telling me that the flexibility in the agreement is at risk.

Seney: This TROA is going to be much longer than the 1935 agreement, isn't it?

Eagan: I don't know that. Probably. I mean, I don't look at the 1935 agreement a lot. Yes, I'm sure it will be.

Seney: And Sierra Pacific Power is very, what do I want to say, they're very alert to their interests and very successful at pressing them, do you think?

Sierra Pacific Power and the Pyramid Lake Paiute Tribe Have an Advantage

Eagan: Well, you know, Sierra Pacific, I think both Sierra and the tribe, through Bob Pelcyger, have a real advantage over many of the other mandatory or not so mandatory signatories, people at the table, and that is, Bob Pelcyger's been dealing with this

issue for, what, twenty-five years, and he's seen everything. He has seen everything, experienced everything, lived with everybody on this agreement, and when an issue comes up and bubbles up in one area, Bob, because of that experience, has the ability to see immediately the implications for his interest and the risks and who could be mischievous and the fears. He just is quite capable in that regard.

The same with Sierra Pacific Power. Sierra Pacific has several very well-paid people who have been working on this for years. They've got the horsepower. They're a large corporation. They've got the ability to fund that kind of thing. I think they would argue that it's costing them too much money, and it probably is, but, still, they have the capability of doing that and tremendous experience. They've got a team of five or seven or eight people who get in a room and duke it out, who all have information about how the system works, whether it's the modelers, Rob Hall, and Joe Burns, or it's Rick Moser or Janet Carson or Sue Oldham and Gordon DePauli. I mean, they've got all of these—you know, the legal, the actual modeling [people]. The only guys who know the model are those guys who are the consultants for Sierra Pacific, and I think they're very upstanding.

Seney: Everyone seems to trust them.

Eagan: Yes. If I don't work with them on a day-to-day basis and if I don't ask them the right questions or don't know enough to ask them the right question, they will give me a straight answer. I'm absolutely clear on that. But the problem is, I don't always know.

Seney: Then they won't go beyond your question.

Eagan: I don't know why they would, you know. Sometimes they will. I don't want to create a bogeyman. I don't think there is one.

Seney: As I said, they're highly respected, Joe Burns, and their model is depended upon by others.

Eagan: That's right. It's also severely criticized.

Seney: Yes.

Eagan: Western water policy, that deal. You'll see that there are some real reservations that some people outside the process have with that law, and I would say the difficulties with many, many models. But as far as individuals go, just being good, I think good people and honorable people, setting the criticisms of the model aside, I think they are, definitely . . .

Seney: What role, from your observation, has the Truckee-Carson Irrigation District played in this,

in the TROA? They're not a signatory, but that doesn't mean they're not impacting the negotiations.

The Truckee-Carson Irrigation District and the TROA

Eagan: People would like them to be a signatory. They have consistently positioned themselves not to be a signatory and then resisting. So the role they've been playing, kind of as an observer without adding any judgement to it at all, is that they've been an antagonist and not really—they've been at the table. Russ Armstrong has been at the table. I'm guessing that Dave Overold took Russ' position.

Seney: I think so. Right, yes.

Eagan: So they've been at the table, but they had suits rolling around in the background and that kind of thing. So my sense is that's there's a lot of focus on the part of the federal team and all the other teams that while these negotiations are going on, it's what's the content of the suit going to be, and I would guess some portion of the structure of this agreement, which could be deleterious to the agreement, and maybe it's not.

Seney: Deleterious to the District, you mean?

Eagan: No, to the agreement, to all the parties. But they're trying to protect themselves from a suit, so how much is that shaping parts of the agreement, where there could be resolution very quickly, but because of this kind of thing over here, we're jumping over hoops and over obstacles that we wouldn't have, or we may be hard-wiring some things that aren't really in the best interest. This is just a gut feeling. I couldn't substantiate that. I couldn't tell you. But I can see in the nature of the—you know, when you see conversations, they can be talking in multiple levels. One is the absolute content of the words you're hearing, and the other are other messages that are being sent, and my gut just tells me there's probably something—well, it's certainly occupying the attention of the federal government.

I think they believe they're [T-CID] are trying to come up with solutions. They want to be listened to. They feel they're not being listened to, and vice versa. Many of the other parties who have been dealing—well, these folks have been dealing with each other all along, feel that they haven't been serious about it, that they tend not to be at the table. They like the role of being outside firing into the inside, and so there's some loss of trust there. But as far as their absolute strategy, I don't really know.

You probably are aware—certainly more

than I am—of the whole Peter Morros attempt to get the parties together and work on a solution, and that ended up not going, for whatever reason. I do not know the reason.

Seney: Apparently, they're still meeting from time to time.

Eagan: That's great.

Seney: Whether they're accomplishing anything. I think everyone's being very quiet about it. I know Pete Morros, after the failure of the facilitated negotiations, or Settlement II negotiations, got the tribe and T-C-I-D together, although, again, the Western Water Policy Review Commission report says that after, I think, sixteen meetings, they couldn't even agree on what to talk about in those meetings. But now apparently the feds are there and some others. Well, you know.

Eagan: Yes.

Seney: And the state of Nevada and the District and the tribe, and whether anything will come of it, who knows? It's hard to know.

Eagan: I don't know. Because they're only there with their representative, it's harder for me to get a sense of them. It may be that I also don't--you know, I know what the issue is. Basically, less

water, change of lifestyle, change forced upon them for those areas, and some wetland issues, too, some environmental issues there, Stillwater [Wildlife Refuge] and all like this.

Seney: Yes. Well, one of the big issues is the storage levels, carryover storage levels in Lahontan. T-C-I-D would like the maximum. The tribe would like the minimum. The wetlands would like somewhere in between, perhaps.

Eagan: Well, nobody wants to give anything up that they've had. I saw this, again from a distance, but I saw this last effort at OCAP—I don't know what the status is—where they were saying, "Okay, well, you've only used this much, and you don't have any intention of using any more. In fact, you'll probably use less because people are selling their water rights, at least to some degree. So don't use more than you really have typically needed, and let's reduce it there." But as I understand, they've resisted it. I don't feel entirely comfortable talking about that, because I'm not sure I'm right. But I can see this tug.

Seney: Well, that's the other end of the system, which is not necessarily of interest to you, is it? I mean, I guess it is, because they're managing the reservoirs based on the demand down there on the lower end.

Stopping Diversions from the Truckee River Basin to the Newlands Project

- Eagan: That's right. I think, you know, simplistically, or just kind from a purist standpoint, I'd rather see no diversions. Personally, I'd rather see no diversions, rather than it never got started.
- Seney: Well, I think Mr. Elster feels that way, too, according to his testimony, and I think that would not be an uncommon view up here on this end of the Truckee, would it, that decoupling the river might be a good thing for everyone on the Truckee River.
- Eagan: Right, on the Truckee River. I understand it would not be a good thing for the people on the Carson, in the Carson Drainage. That is a huge issue, and you need to think carefully about those kinds of things. But if there was no pain, it makes ultimate sense to me, because I think you would solve truckloads of problems. But we have the legacy of that decision.
- Seney: And the wetlands people are very opposed to decoupling, because they see that as detrimental to the maintenance of the wetlands in Stillwater, and even in the Truckee Division of the Newlands Project.

Do you see Pyramid Lake as an ally in

these matters or an adversary? People won't see that big smile you just got when I asked the question.

Relationship with Pyramid Lake Tribe

Eagan: Personally, I think they're an ally. One of my criticisms of myself is that I either haven't been able to or haven't been willing to develop relationships there. But I think, setting aside all the posturing and all the notions and all the misinformation, I really think that our fundamental interests are quite similar and quite in line with their interests.

I have heard that there are folks within the tribe who are resentful of the conversations about the environment up here, these johnny-come-lately environmental people who are concerned about the environment. There are definitely people up here who think they are competitors of ours. I have no problem, and really quite some success, convincing them that the enemy is not the cui-ui, from our standpoint, I don't think at all. But I think, you know, when you only have a smattering of information on this whole complex issue from either side, either the part of the tribe or the part of the upstream interests, you kind of get caught up in the rhetoric and the ideologic stuff and not kind of really pay attention to the issues.

“ . . . running the river system, I think we’re in very close harmony with the Pyramid Lake Paiute tribe, their interests, as well as the interests of the Fish and Wildlife Service. I think we’re in really close harmony, but I don’t think everybody realizes that. . . .”

I think when it really comes down to running the river system, I think we’re in very close harmony with the Pyramid Lake Paiute tribe, their interests, as well as the interests of the Fish and Wildlife Service. I think we’re in really close harmony, but I don’t think everybody realizes that. I think there’s a big gap, in a sense. I think the fact that we also have an interest that’s a water allocation interest kind of gets in the way of that perception, and just basic distrust, lack of information, lack of communication, those kinds of things kind of get in the way. But I think we’re very close.

Sierra Pacific Power

Seney: What about Sierra Pacific Power?

Sierra Pacific doesn’t “have any interests that really relates to the environment . . .”

Eagan: I think Sierra Pacific Power’s interests are just—they don’t have any interests that really relates to the environment, other than what they may want

to do. But their absolute business interest is not related to the environment. It's related to storage and stream flows when they want it. And when it works for their benefit and you can do both, I think they're very interested in doing that. Their interests are really kind of opposed to anything environmental. They would rather have this kind of a cut, because it's more efficient for them to operate it like a pipeline, given M&I demand, all that kind of stuff. There is a lot of concern up here about Sierra's ultimate game plan that's not really on the table with TROA, but is somewhere down the road. I think if you look at *Chinatown*¹⁰ and L.A. [Los Angeles] Water and Power, you look at that whole construct, that whole kind of story, I think people take that story and the players are just different, and the players in this case are upstream and Sierra Pacific.

“There is belief that there’s many plans that they’re making that are fifty years out that are at cross-currents with what would be a healthy upstream. . . .”

There is belief that there’s many plans that they’re making that are fifty years out that are at cross-currents with what would be a healthy upstream.

10. Apparently referring to the movie *Chinatown* which is a 1974 film by Director Roman Polanski starring Jack Nicholson, Faye Dunaway, and John Huston. It features water issues in southern California.

On the other hand, they've done—and what's driven them to do it, I don't know. But they've done some good things as far as agreeing to do storage in Stampede and improve the flows into Independence Creek from Stampede so that they're not essentially too dry or too low in the fall or certain time of the year. So they've done some good things. But the big picture is that their interests are really not the same. I think they can be very similar, but they play a very long-term game plan, and the only thing longer term than their game plan is probably really what the environment needs to survive.

Seney: You're aware, I'm sure, that at the time Public Law 101-618 was passed that the usage in the Truckee Meadows through the utility, the Sierra Pacific, was about 60,000 acre-feet, that 101-618 allows them 119,000 acre-feet. They thought they had a twenty-year supply with that, but they're growing much more quickly and it looks like maybe fifteen years, maybe twelve, even. You're shaking your head yes. You know that.

Eagan: Uh-huh.

Seney: Mr. Elster, in his testimony, did draw the analogy that you just did, and that is the L.A. Water and Power, and, of course, it was Mono Lake and in that area where they behaved in their own interests completely. And I guess there's some

fear—he expressed that—that that might happen here, and that’s what you’re expressing.

Eagan: You ought to talk to Tim Bealls in Sierra County. Tim is the planning director there, and Tim has spent a lot of time—and I haven’t—reading and paying attention to Sierra Pacific’s water plan, and that it is apparently approved in Washoe County and all this kind of stuff. Tim is the one who is seeing how they’re going to get that water, what their plans are fifty years out in order to really solve those long-term problems. So it would be good to talk to Tim, because I think he could give you . . .

Seney: Nevada County?

Eagan: Sierra County, planning director. Very long view. Tim has quite a jaundiced view of Sierra Pacific Power, quite a jaundiced view.

Seney: Okay. I’d like to speak to him. Well, they’re clearly major, major, major players here.

Eagan: And are very capable.

Seney: Yes, absolutely. I’ve interviewed quite a number of them, and one has to be impressed, there’s no question about it. Who owns these 10,000 surface acre-feet and the 22,000 ground water acre-feet that are allocated?

The 32,000 Acre Feet Allocation to the Upper Truckee

Eagan: I don't think anybody owns the 22,000. I don't, purposely, I think, for survival don't, and I probably should, but there's only so much you can do, but I don't pay attention to how somebody gets—nobody owns it now. It's an allocation. And then it's a question of being able to—the California Water Resources Control Board, I think, is the entity that gets to decide how that 10,000 acre-feet would be divided up.

It's my understanding that if we have 2,200 acre-feet in diversions right now, surface water diversions, in the entire system, the notion is in my head definitely that there are applications pending that would take it all the way up to 10,000 if they were all granted, or maybe even more than 10,000. They've just been sitting in abeyance waiting for this agreement to be done and all that kind of stuff.

Seney: Until TROA is finalized, they're unwilling to make the allocation, I guess, or perhaps they can't. I'm not sure what the status is. I know there are incentives built into Public Law 101-618 with the signing of TROA. The tribe will get its development money when it signs. I can't remember what everybody gets, but Nevada and California get the firm allocation. Do you recall

the others?

Eagan: And therefore, lawsuits are gone. Sierra Pacific gets the flexibility and the ability to store.

Seney: Right. The Preliminary Settlement Agreement goes into effect between the tribe and Sierra Pacific Power, doesn't it?

Eagan: Right. What was your question before that, though?

Seney: We were talking about who owns these 32,000 allocation.

Eagan: I think the answer is that it's an allocation, but it's yet to be owned.

Seney: So if you and I wanted to do a development, we would put together that development and project our water use.

Eagan: And probably have to go to Truckee-Donner PUD and get . . .

Seney: Apply to them for the water.

Truckee- Donner PUD

Eagan: I really don't know the process, but we'd have to do something like that, I would think. You would

approve a letter from Truckee-Donner PUD.

Truckee-Donner PUD right now, with a couple of exceptions, is the only one who really drills into the big aquifer, the Martis Valley Aquifer. They've got well right back over here and a big tank up here. But they're really the main water purveyor.

Glenshire Water District

And then there's Glenshire Water District that has wells.

Donner Lake Mutual Water District

There is Donner Lake Mutual Water District, which has, I think, primarily surface water off Donner Lake.

Northstar Community Services District

Northstar Community Services District probably use a combination of wells and spring water. Lahontan, the big development out there in Placer County, they ran into some kind of snags with Truckee-Donner PUD, so they work with the Placer County Water Agency and they're drilling their own wells. But in the main, the vast volume of water that comes out of the ground water aquifer is from Truckee-Donner PUD today.

Seney: Are you on a meter here?

Eagan: No.

Seney: Like others around here, you're getting a flat rate?

Eagan: Right.

Seney: What do they charge you for water?

Eagan: Thirty-two dollars.

Seney: A month?

Eagan: A month.

Seney: That's not a lot?

Eagan: I don't know anymore. It seems like a lot. It seems like I paid less in the city, but I don't know.

Seney: What can one do, right?

Eagan: Well, yes. I guess you could run for the border, get on a plane. I really don't know how that relates to what you pay in Reno or what you pay in other areas. I really don't remember. I just really don't remember. It seems high.

Seney: It does seem high, yes.

Eagan: It's always seemed high to me.

Seney: I can't remember what we pay on the South Shore, but it seems to me it's water and sewer combined. Are you talking about water and sewer here?

Eagan: Water only.

Seney: It's about a hundred and twenty for three months for the two of them, for water and sewer. And then there, there are no surface rights. They're all ground water rights that they're allowed to pump.

Let me ask you about the entity that's been created on the California side to advise and apparently influence the state [of California] in the TROA.

The Truckee River Water Basin Group

Eagan: The Truckee River Basin Water Group.

Seney: Right. What was the impetus for that? How did that get started.

Plans in 1994 to Provide Water out of Stampede Reservoir to Support a Cui-ui Spawning Run Caused Issues for the Upper Truckee Area

Eagan: The impetus was, in 1994 the lake levels, coming

off the drought, were very low, and the Fish and Wildlife Service, according to their *cui-ui* recovery plan, wanted to do a spawning run, and the natural flow was not sufficient to do it.

Seney: The lake was below the natural rim at that point.

Eagan: Lake Tahoe was below the natural rim. The natural flow wasn't sufficient to do it, and they were going to be taking water from Stampede Reservoir to have the *cui-ui* run occur. I can't even remember how we found out it was going to happen, but the issue here was, it could have gone down as far as being down to 20,000 acre-feet. It's a 226,000 acre-foot reservoir. Down to 20,000 acre-feet is basically it's dry.

Seney: At the beginning of the summer.

Eagan: At the beginning of the summer.

Seney: May-June period.

Eagan: Right. So you have a decision that has significant impact on this area in terms of recreation. It's a huge recreation—all the lakes are, but that's a huge one. So there was a big hue and cry.

“ . . . it's big events like that that cause people to realize that something's going on. . . . ”

I mean, it's big events like that that cause people to realize that something's going on.

I think the failing of the Fish and Wildlife Service at that time—and it has changed since then—is that nobody talked to anybody up here about this decision. Nobody knew what was going to happen, which is also typical. Nobody kind of says, “By the way, something's going to happen.”

Seney: Your local newspaper in Truckee doesn't keep abreast of these things?

Eagan: No. It's a small newspaper, only two staff members, a weekly newspaper. It doesn't support any kind of investigative reporting. What they publish is really kind of pretty much what comes to them, with some isolated exceptions.

For most people water issues are “. . . a crushingly boring topic. . . .”

This is a crushingly boring topic.

Seney: Yes, it is. It's very difficult.

Eagan: I mean, it's absolutely boring as can be to most people. I mean, the eyes glaze over. Yours aren't, but you've been immersed in it for a long period of time and it's what you want to be doing.

Seney: Once you know enough about it, it is fascinating.

Eagan: Oh, it is, kind of. It's human condition, and there's a lot of stuff in there and lot of complexity that does make it pretty fascinating.

Anyway, that was a precipitating event.

Seney: Let me ask one more. Do you think that they didn't say anything up here because they didn't want to deal with the complaints or it never occurred to them to say anything?

Eagan: I think it never occurred to them to say anything. It may have been the other, but I think it never occurred to them to say anything.

So anyway, that really started it. There was a huge big public meeting. Wally Herger-

Seney: The congressman.

Eagan: Congressman, representative from [Senator Dianne] Feinstein's office, representative from [Senator Barbara] Boxer's office, Barry Richter, state assemblyman. [State] Senator Sam Leslie's office was represented, and on and on. The meeting room was absolutely packed. Chuck Buchanan was there from the Fish and Wildlife Service and several other individuals.

Seney: Were you instrumental in getting this meeting going?

Helped Organize a Meeting with the Fish and Wildlife Service to Discuss Concerns about Radically Lowering Stampede Reservoir for a Cui-ui Spawning Run

Eagan: I was instrumental in organizing the meeting, yes, because you need to talk to people and you need to be communicating with an area. And I still disagree with their decision to have done that, because I think that when they—they claim that they had not had many cui-ui runs in the prior five or so years, but if you really look at a longer period, they had quite a few. The cui-ui is a fish, it's a being that's used to having periods of not having a spawning run every year, just if you look at their history and the history of the water flows in natural circumstances. But to do something that would be so drastic up here and not to be considering the ramifications of that on another area, in order to follow through with the cui-ui recovery plan, causes me great concern, and I think it's arguable that—I don't argue with . . .

END SIDE 2, TAPE 1. JULY 24, 1998.

BEGIN SIDE 1, TAPE 2. JULY 24, 1998.

Eagan: It was really arguable that they really had to do it in that year. Anyway, that ended up producing a

lot of activity and a lot of attention, and from that formed another council member, Bob Drake, who was on the town council, still is on the town council.

Seney: Are you still on the town council?

Bob Drake Organized the Truckee River Basin Water Group in 1994

Eagan: No. Got the political entities together and organized the Truckee River Basin Water Group. The first meeting was May 21, I think, of 1994, and it's been meeting, for the most part, monthly since then.

“Part of it was just to get the players . . . together and start to be operating from the same base, which is a tall order, given the complexity . . .”

Part of it was just to get the players who have an interest of one form or another in how water is dealt with in this area, whether from water purveyor to economy, environment, whatever, get all those players together and start to be operating from the same base, which is a tall order, given the complexity of this agreement.

The Organization Served as a Sounding Board for Doug Osugi, of the California Department of Water Resources

And that was the [California] Department of Water Resources. Doug Osugi was on the department's team at that time and was kind of the lead. He was thankful to have some sounding board on what's going on in this region. He was having to make it up, because there was no voice. Nobody was paying any attention.

The Group Has Been Following Work on the TROA

So that really was the precipitating event and that's when that group organized, and it's been following, in various ways, the negotiations since then, up to and including responding to the EIS/EIR as of June 30.

Seney: What kind of issues come out of that? What have you learned from this group and the meetings that you've had? How has it broadened your outlook or informed it?

The upper Truckee's three primary objectives are to preserve the water allocation of 32,000 acre feet and "that the upstream system is not managed in a way that's to the detriment of the environment and help to build the economy. . . ."

Eagan: Well, a good example, and a very dramatic example of that is—remember, there are two

primary lights at the end of the tunnel—preserve the water allocation, 32,000 acre-feet, since it's not eroded, and the other is that the upstream system is not managed in a way that's to the detriment of the environment and help to build the economy. So those are the two lights at the end of the tunnel.

The Issue of Depletion in the Upper Truckee Basin

One of the big issues that came up in negotiations within the last year had to do with depletion.

Modeling Assumptions Said There Would Be 50 Percent Return Flow in the Truckee River Basin, but People Realized That System Efficiencies in the Future Might Reduce That and Result in Depletions

Again, the assumption was in the modeling that 50 percent of the water taken either from the aquifer or from surface flows in the Truckee River Basin would be returned to the river, so everything's based on that assumption. People start realizing, "Well, gee, if California twenty years out starts re-using its water, it gets efficient with using its water, we may not see a 50 percent return flow. It may be something less than that." So the whole issue of depletion then kind of reared its ugly head.

I remember talking to Bill Bettenberg about depletion, and it was a real head-knocker between the tribe and Sierra Pacific and the California negotiating team and the state of Nevada. Bill Bettenberg, I remember him saying to me, “Well, isn’t there something that can be done in this depletion thing?”

I didn’t appreciate, because I didn’t move in that business, water affair business, what that I meant, and I remember saying to him, “I think there might be something.”

I remember talking to Carol Hammond [phonetic] and saying, “Gee, isn’t there something we can do?” It was just as simple as that.

Well, it was at a subsequent meeting that all the water purveyors were there, and they were really ticked off that California had agreed to convert from 32,000 acre-feet to a depletion limit. And it was in the course of listening to all those people talk about what that meant to them, just from a realistic standpoint, that I learned a boatload of information about what’s doable, what’s not, what’s easy, what’s not, just really what the issues are with depletion versus gross diversion, and I did not appreciate it. That’s a great example of sitting in with those people and listening to the comments around that particular issue where I just by osmosis learned a

tremendous amount, and have since become a very strong defender of their position. I just didn't know.

Seney: Let me see if I understand this.

Eagan: That's the kind of thing you're getting at.

Seney: Yes, right. Exactly. The 32,000 acre-feet is a gross diversion, based on the assumption that 50 percent of that will be returned to the river for use downstream.

Eagan: Well, it's a gross diversion. The model that everybody's going by as far as how this whole thing works out for them assumes that it's a 50 percent return flow.

Seney: Right. Now what you're saying is, let's say there are greater efficiencies, so only 25 percent of that would be coming back. So what that would mean is that instead of a 32,000 allowable diversion, you would have to have the diversion reduced to the point . . .

**Public Law 101-618 Says Gross Diversion Is
32,000 Acre Feet on the Upper Truckee River, but
it Is Silent on Return Flows and Depletion**

Eagan: No. This is why I said the 101-618 says that the gross diversion is 32,000 acre-feet. It is silent, it

is silent on depletion and return flows.

Seney: Ah. That's part of the TROA.

Eagan: The underlying assumption . . .

Seney: You're shaking your head yes.

Depletion Became an Issue in TROA Negotiations

Eagan: It was never part of the TROA until a year ago.

Seney: Oh, okay. Now it is, okay.

Eagan: Right. Now it is, because the downstream is saying—remember, I was saying the assumption is, people are saying, “What if they get better at?” So all of a sudden, now it's an issue.

The water purveyors just absolutely came unglued at the state of California for caving on that issue, and there are a couple of reasons for it. First of all, how do you even define depletion? Gross diversion you can define. We have now set up a forever argument on how you define depletion. The other thing is that, how do we even know—why did we trade an easy way of measuring something for an unknowable way of measuring something? Where it's been tried, as I understand from Jan Goldsmith, who is one of the attorneys for Placer County Water Agency, in

either Putah Creek or some creek down, this has just been a disaster, an administrative nightmare. That was their solution, and basically it wasn't a solution. It was an administrative nightmare to ever really figure it out, so you have a huge problem on your hands.

Seney: So this simple statement of Bettenberg's to you, "What can we do about the depletion? . . .

Eagan: And my simple statement, "Gee, it doesn't seem like that big a deal for me," was totally wrong, totally naïve, totally didn't appreciate. Once data came in and information came in—and the Truckee River Basin Water Group was the place where I got that information—it gave me a brand-new appreciation for that.

It's a very similar thing to what I was saying about, the dilemma is that nobody is paying attention to this region, they're not really caring. You could do something that you think is really fine, and it's really not fine at all, and you don't know until you're really talking to the people.

Seney: Even someone like yourself, who has become knowledgeable.

Eagan: Absolutely.

Seney: There's so much information.

Eagan: And I think that's true of anybody. I don't care who they are and how much experience they've had, and again, Sierra Pacific and the tribe have the most benefit there because of the longevity, as well as . . .

Seney: The continuity of involvement.

Eagan: Continuity, and the California team keeps flipping. The continuity of the people, as well as they're all paid. I'm a volunteer. No one's paying me to be doing this. So you've just got a different mix.

“ . . . as I observe those sessions, it is clear to me that really . . . there is nobody that really knows how this is all going to work out . . . ”

But as I observe those sessions, it is clear to me that really nobody, there is nobody that really knows how this is all going to work out, because you see the discussions between them. One person will say, “It's this way. Of course, it's this way.” And the other person says, “No, it's not.” These are people who have been working on it forever. I'm not being critical of them. You just see that and you realize that this is not . . .

Seney: It's not science; it's art as much as anything.

Eagan: It is a lot of art, or it's a lot of guesswork based on assumptions, and your assumptions may be wrong. That depletion case is a very vivid case where my very naïve assumption was really wrong. I didn't know what I was talking about.

Seney: What's the status of that now? Has the state [of California] agreed to the depletion business?

Eagan: The state agreed. The dilemma was that they never contacted the water purveyors on this. I mean, they're a core group of people, so they agreed to it.

Seney: Which means they probably didn't understand the issue, either. You're shaking your head, no, they didn't.

Eagan: No, I don't think they did. And so what the water purveyors come back now, "One, we really think you blew it big time by doing this, and if you really want to know what we think, we think you ought to stick to the 32,000 acre-feet. And you've got to go back to everybody and say you blew it."

The next level down from that is, "Okay, but we don't want you to sign anything until we define what is depletion, how is that going to be determined." And that's signed before TROA is

ever signed. That is agreed to by everybody before TROA's ever signed, because we want to know what it is. We don't want to go into the future being tinkered with by the downstream interests who want stream flows more than they want anything else. We want to be in that position, and you put us in that position, and you didn't need to put us in that position. But California did no analysis to understand when they said seventeen-six and picked that number, whether it was beneficial, or the depleted amount. Never mind how you measure it, which is still a big question, and how do you account for it and how are we going to do this. It's converting a known, easy-known gross diversion, to a huge unknown.

Seney: So the 17,600 acre-feet is the new number that they've agreed to?

Eagan: The depleted amount, yes. But now there's a big effort going on in the state of California, and I'm pretty critical of them, said, "Yes, we'll figure it out," and then they didn't do anything for five months. And so finally the water purveyors, led by the Placer County Water Agency, worked to hire a consultant, because they needed some effort at figuring out had we really shot ourselves in the foot or hadn't we, and what's going to be the depletion before the agreement's signed? So I'm very critical of the state of California, the quality

of that team and effort.

Seney: I can understand why, clearly. Part of it, along with hiring a consultant, has it been to go to Congressman Herger's office or Senator Boxer or Senator Feinstein, the state representatives Leslie and Oller.

Eagan: Most of the activity has been trying to work within the system administratively, up to David Kennedy at the Department of Water Resources. To me, the message is very clear that Kennedy thinks everything is fine. In the course of doing that, that's also been done through Senator Leslie's office. So that's really where it is right now.

Seney: I really appreciate that illustration, because it's a superb illustration of how complicated this is and how alert you have to be. The others certainly are, there's no question. I mean, the tribe is very alert. Every time something happens, they're there to respond if they think it impacts their water flows in any way. And I can understand that.

Eagan: There are a lot of areas—I want to say that I'm very critical of the state, and that's one where I'm very critical of them. There are areas where they've been more alert than we have. I don't want to create the impression that somehow only

we're the alert ones, but I do not think that—the dilemma is that California has not put the resources into it that they need to in order to really match wits with the folks downstream, and matching wits is what it's all about. That's really what it's all about. It's not a negative thing. That's just being smart. You're going to do well for yourself if you're as smart as the other guy.

Seney: That's right. Is part of it, do you think, because the Lake Tahoe allocation is firm and set and that this maybe is not so important—that is, the California stretch of the Truckee is not so important to the state?

Eagan: I don't know the answer to that question. I think you could make an equal argument that Lake Tahoe was very much involved in the 101-618 and we were off the map completely. So all of a sudden we have a 101-618 that's driving it. Had we been there beforehand, it might be a little bit different. And then again, it may not. So I think that may be part of it. I think the people are really tired of working on it.

Seney: Are you burned out yet?

Eagan: Intermittently. Intermittently.

Seney: It's very long term. The TROA negotiations have been going on, what, seven years now?

Eagan: Uh-huh.

Seney: At least.

Eagan: And we've only been, or I've only been involved since 1993.

Seney: And there's probably at least another year on TROA, isn't there, do you think?

Eagan: Yes.

Seney: There are a lot of loose ends.

“I'm still a town of Truckee representative on this issue, and the reason for that is continuity . . .”

Eagan: I'm just not able to devote the time to it that should be devoted to it. I'm still a town of Truckee representative on this issue, and the reason for that is continuity, because even though I'm off the council . . .

Seney: You're the designated person for them.

Eagan: Right. To expect another person to come in and be able to spend that amount of time, and really get up to speed and not be kind of—you know, things are just flying over your head and you don't even realize what's going on.

Working with Tony Lashbrook Representing the Town of Truckee

The other individual of the town of Truckee, Tony Lashbrook,¹¹ who's the community development director, he's a very sharp, quick study, thank goodness, because he's got a huge job beyond TROA. But the two of us are able to work together very well, and it means that the whole thing is not on his shoulders, and the town does not have the resources to devote even one full-time staff member to this. You're talking about very small units of government that really don't have the resources, and so you struggle as best you can.

Seney: You mentioned that [you didn't want] ~~not wanted~~ to characterize the state completely negatively, that they had picked up a couple of things that you hadn't. Maybe you could give me an example of that.

California Is Working on Making Water Available for Exchange

Eagan: Well, there's one thing that they're working on, although I think it may not be happening for a variety of reasons. In these exchanges, these mandatory exchanges, really having pooled water,

11. Reclamation's oral history program includes an interview with Tony Lashbrook.

which is a category water, be available for exchange, also. And what that does is, it opens up a much bigger store of water for various exchanges that might be helpful, which had not been on the table before.

I mean, they really are looking at all things. The people who have the most detail, probably the most hydrological detail, don't have—I think two things are important in negotiation. I believe in consensus. So trust, really putting yourself in the other guy's shoes and understanding what their interest is and all those kinds of things are really critical. But you have to have a healthy amount of skepticism. If you don't have a healthy amount of skepticism, and it's not because you're thinking everybody's a bogeyman, but you got to be thinking about those things. It can't just be you're naively trusting, without verifying or getting into it.

State of California Isn't Pursuing the Issues Far Enough into the Future

I think that probably the lead hydrologist person for the state, a wonderful guy, but he doesn't have that really, "All right, what's wrong with this picture?" and then go through it eight iterations and you find out, one, that there's nothing wrong with this picture, this is really okay. Or you do find out there's something

wrong with the picture and you see the chess move, where it could go sideways on you. They have some of that, but it's not as comprehensive as it might be.

Seney: Is John Kramer¹² still at the table for the state, because he's been there for a long time?

John Kramer Is Representing the State of California

Eagan: He's been there for a long time.

Seney: And is generally regarded as able, is he, do you think?

Eagan: I don't know. How do you define able?

Seney: I don't know. I was going to leave that in your hands.

Eagan: I think John is able. I think he doesn't quite have in his gut the environmental piece that some others may. I think that he listens, but he struggles to listen, whereas others can see it right away. When people are struggling to communicate, like from the Truckee River Basin Water Group, you don't say it very well, you don't say it legally right, whatever, but, "What is that person really saying, and is there something

12. Reclamation has an oral history interview with John Kramer.

there?” and that’s not John’s strong suit. He tends to say, “Everything’s fine.” And there are other people who kind of filter to John and play that role.

“It’s like anything else. It’s just what are people really good at and what aren’t they so good at, and hopefully you’ve got a team where they all work really well together and all the necessary pieces are there. . . . so it comes together as a whole. . . .”

It’s like anything else. It’s just what are people really good at and what aren’t they so good at, and hopefully you’ve got a team where they all work really well together and all the necessary pieces are there. They work well together, so it comes together as a whole. But I think that John is more aggravated with public input and communication than others might be.

Seney: How about David Kennedy? Do you deal with him much?

Eagan: No, I don’t. I haven’t dealt with him much.

Seney: I know he took an interest in this interstate allocation, obviously. That’s very important to him, and has been involved for a long time in the water issues up here along those lines, and must keep an eye on what’s going on, I would think.

“The one criticism that I think that our area has of the Department of Water Resources, the general, the big-picture criticism, is that they are very tuned in to the water allocation. It’s their area of business. They are not as tuned in to the environmental thing. It is not their area of business. . . .”

Eagan: I would assume he does. The one criticism that I think that our area has of the Department of Water Resources, the general, the big-picture criticism, is that they are very tuned in to the water allocation. It’s their area of business. They are not as tuned in to the environmental thing. It is not their area of business.

When I was in banking, whoever you had as the president, wherever his particular expertise was is the place that got the most attention. When Wells Fargo Bank, who I worked for, switched from Dick Cooley to Carl Reichardt, Carl Reichardt came from an incredible construction real estate lending background, and that bank really took on a construction real estate lending bent.

Anybody could argue whether that was a good move, not a good move, what about the other places, whatever, but when it is your main line of business, that is where your focus is, unless you’ve established a team that has an equal

focus to be thinking in terms of additional interests, California interests. But if you don't have a great spokesperson, you're going to stick with your line of business. I think David Kennedy's line of business is the water allocation and [he] probably gets aggravated with the other stuff.

Seney: Is there any chance TROA won't be finalized? I know the Truckee-Carson Irrigation District is contemplating a suit over it, and how far that will go . . .

There are Issues That Might Prevent TROA Reaching its Final Form

Eagan: Sure, I think there's a chance. In fact, I think the chance is growing as it gets more detailed. It's interesting because, I'll say the California team, but everybody has been saying, "Well, negotiations are over now, and all we're doing is drafting." Everything is in the drafting. Everything is in the drafting. It's kind of like, "Oh, we don't have to worry. We can pop the bottles of champagne." Everything is in the drafting, and it's what's happening in the drafting right now that is—and also the EIS coming out. I mean, we did not see the EIS in advance.

There's a great letter from the Tahoe-Truckee Sanitation Agency where they're very

concerned, have written comments on the draft EIS/EIR and implications for them, and they have been steadily told, “Don’t worry about this. You’re going to see it all in the EIS. It will all be analyzed in the EIS. Everything’s going to be fine.” Well, they get the EIS, and none of it’s there. And so they’ve been put off, advertently or inadvertently, and now at this stage they’re really starting to weigh in heavily, I think, a very real potential. So I don’t think it’s done until it’s done.

“The EIS is saying forevermore there will be no significant impacts, and they haven’t analyzed anything. Now, how can you say that? . . .”

I believe what is happening on the part of this region—especially with the EIS, where we saw still this incredible absence of information. The EIS is saying forevermore there will be no significant impacts, and they haven’t analyzed anything. Now, how can you say that?

Seney: Well, the problem here, too, is that this is an EIS that’s been undertaken simultaneously to the TROA negotiations. Normally, you get the final document. Then you do an EIS based on the final document. You’re shaking your head yes, which the tape won’t see.

The Environmental Statement Was in Preparation

Before the Final TROA Was Reached

- Eagan: That's right. You're right, and I understand that the reason for that is to try to move this thing along. You don't want it sitting there for fifteen years. My gosh, if you do it on a linear basis. I understand that.
- Seney: There are good reasons for it, right.
- Eagan: On the other hand, you have an EIS on an incomplete document. One of the comments that we had told the California team, more vocally from other people than me, "Don't send out this document that says this hasn't been finalized yet. This hasn't been finalized." It looks bad, number one, but it's going to be open for criticism in the EIS, and that is what's happened. It's come back, "How can you even say there are no significant impacts. These are still unknowns, big unknowns." I mean, it's not the unknown that we don't know what's going to happen ten years from now, but we know we don't know right now. Depletion is one of the ones.
- Seney: If I were an antagonist, I would be licking my chops over the prospect of a successful lawsuit against this EIS. I mean, I think it's a very complicated thing. But your comments about the increasing complexity as time goes on, and people trying to nail things down is very illuminating and

very interesting.

Eagan: Right, at least from my perspective.

Seney: What else should we know about this, from your perspective?

“From my perspective, the effort is to make this a forever agreement, and I think that’s horribly naïve. I mean, nobody wants to go back and revisit it, I realize that, but there are going to be things that occur that we have got to be able to respond to. . . .”

Eagan: From my perspective, the effort is to make this a forever agreement, and I think that’s horribly naïve. I mean, nobody wants to go back and revisit it, I realize that, but there are going to be things that occur that we have got to be able to respond to. And unless you have something in there that really compels people to come to the table, that not being at the table is worse, could have an outcome that’s worse than being at the table, I think that’s naïve. I think that’s remarkably naïve. It’s like denying everything we’ve ever known about western water policy and decisions in all of our last 150 years. So I think that’s naïve.

“As difficult as that may be, and if there need to be things that are off the table, that can’t be

touched so that those very basic things are preserved, so be it. . . .”

As difficult as that may be, and if there need to be things that are off the table, that can't be touched so that those very basic things are preserved, so be it. Let's talk about those. But to blanket say, "Once this is done, we can't change it unless we all—we'll kind of come together and mediate, maybe, but there's no hammer there. It really is a practical matter. There is no hammer, which means that . . .

Seney: It won't get done.

Eagan: Well, it may get done, and that's where my concern is, that the upstream area is subject to the most negative there, because it can't get the things hard-wired in that everybody else can get wired in because the water rights versus the may of beneficial uses mitigations and those kinds of things. So I think, to me, that's the biggest potential flaw in it, where we will be saying thirty years from now, "Boy."

Seney: And if depletion goes through, that will be one of those issues over which you'll realize a mistake was made.

“The human race is not smart enough, with this many parties, to really anticipate everything.

We're attempting to hard-wire everything we can anticipate, but, please, we shouldn't be so arrogant to think that we are that smart. . . ."

Eagan: We realize that right now. I'm talking about the unknown issues that we really don't even know. The human race is not smart enough, with this many parties, to really anticipate everything. We're attempting to hard-wire everything we can anticipate, but, please, we shouldn't be so arrogant to think that we are that smart. We're just not, and we ought to recognize that and build in a meaningful mechanism for adapting to that. That's what we ought to be doing.

I think that's the biggest—I think that kind of thing handles Sierra's [Pacific Power's] problems. It doesn't handle it as neatly as they'd like to in terms of being able to walk away and know that they're done with it, but I think it handles the issue of no space because Fish and Wildlife changes the way they behave, and it handles all kinds of things.

Seney: They must have a hand in this depletion business, I would think.

Eagan: Sierra?

Seney: Yes.

Eagan: Oh, definitely. Definitely.

Seney: That would be one way . . .

**“ . . . there’s some agreement between Sierra
[Pacific Power] and the tribe in the PSA
[Preliminary Settlement Agreement] that deals
with depletion, and has to do with who gets more
water. . . .”**

Eagan: There’s another thing, and I can’t speak to it. I always fuzz out on it. But there’s some agreement between Sierra and the tribe in the PSA [Preliminary Settlement Agreement] that deals with depletion, and has to do with who gets more water. One could argue—I have no idea if this is true. One could argue the depletion issue for California was brought in in order to position one or the other to get the best out of the other agreement. I don’t know. I don’t know. I really don’t know. There’s something else going on down there, so there’s a link. Depletion is an issue, in some form in the PSA, between Sierra and the tribe, and I’d have to go back and research it to tell you what it is.

Seney: Well, maybe I can find it.

Eagan: I think even on the surface, even having said that, there is an issue of 50 percent return flows and wanting to make sure they’re in the river and not

that when we become more efficient, it hurts them, if we become more efficient.

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

Eagan: No.

Seney: All right. Well, I really appreciate it.

Eagan: You're welcome.

Seney: You're a fountain of information. Your hard work has paid off, at least from my point of view.

Eagan: I don't know. I will see. I don't know. I feel like a voice in the wilderness right now.

Seney: Do you really?

Eagan: Yes.

Seney: Well, it seems to me you've been successful in getting these people organized and pressing your viewpoint, which is what politics is all about.

Eagan: That's right.

Seney: Well, on behalf of the Bureau, I really appreciate your taking part. Thank you.

Eagan: Good luck.

Seney: Thank you.

END SIDE 1, TAPE 2. JULY 24, 1998.
END OF INTERVIEW.