

ELUID L. MARTINEZ
Commissioner, Bureau of Reclamation
December 22, 1995-January 20, 2001

ORAL HISTORY INTERVIEWS

ELUID L. MARTINEZ

COMMISSIONER, BUREAU OF RECLAMATION

December 22, 1995 to January 20, 2001



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**STATEMENT OF DONATION OF
ORAL HISTORY INTERVIEWS OF
ELUID L. MARTINEZ**

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, Eluid L. Martinez, (hereinafter referred to as "the Donor"), of Washington, D.C., and Santa Fe, New Mexico, 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 interviews conducted on April 12, July 31, and December 6, 1996; on March 25, 1997; on January 6 and 29, and September 18, 1998; February 10, 1999, May 4 and 5, 2000, and March 8, 2001, at my office in the Main Interior Building in Washington, D.C. in the Denver offices of Reclamation, and in Santa Fe, New Mexico, and prepared for deposit with the National Archives and Records Administration in the following format: cassette tapes and transcripts. This donation includes, but is not limited to, all copyright interests I now possess in the Donated Materials.
2.
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Signed: _____

Eluid L. Martinez

Eluid L. Martinez

INTERVIEWER:


Brit Allan Storey
1.27.2006

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

Date: _____

Signed: _____
Archivist of the United States

INTRODUCTION

In 1988 Reclamation hired Brit Allan Storey as the bureau's senior historian to create a history program and work in the cultural resources management program of the agency. While headquartered in Denver, the history program was developed as a bureau-wide program. Since 1994 the senior historian has been on the staff of the Commissioner, Bureau of Reclamation, in the Program Analysis Office in Denver.

Over the years, the history program has developed and enlarged, and 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. It is also hoped that the oral history activity may result in at least one publication sometime after 2000.

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

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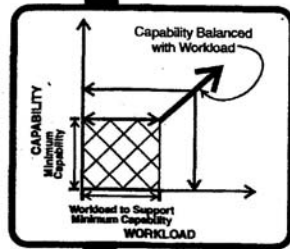
**Maintaining Construction
Capability**
in the
Bureau of Reclamation

January 1997

**Project Construction Engineers Work Group
and the
Engineers Work Group**

*United States Department of the Interior
Bureau of Reclamation*





Profile of Design Capability *in the* Bureau of Reclamation

January 1997

Project Construction Engineers Work Group
and the
Engineers Work Group

*United States Department of the Interior
Bureau of Reclamation*





IN REPLY REFER TO:

W -6000

United States Department of the Interior

BUREAU OF RECLAMATION
Washington, D.C. 20240

DEC 11 1996

MEMORANDUM

To: Regional Director, PN, MP, LC, UC, GP
Attention: PN-1000, MP-100, LC-1000, UC-100, GP-1000
Director, Reclamation Service Center
D-1000

From: Eluid L. Martinez **SGD ELUID L MARTINEZ**
Commissioner

Subject: Reclamation's Design and Construction Capabilities

By memorandum from Steve Magnussen dated September 18, 1996, the regions and the Reclamation Service Center (RSC) were asked to provide comments on two draft reports: *Profile of Design Capability in the Bureau of Reclamation*, and *Recommendations for Sustainability*, and *Profile of Construction Capability in the Bureau of Reclamation*. These reports were the culmination of a year-long effort to address the future of design and construction capability within Reclamation.

Responses have been favorable on the conclusions and recommendations contained in these documents, and reflect a belief in the vital role that a strong design and construction capability can continue to have in support of our many responsibilities. It is important that the momentum that has been generated by this process will continue as we move ahead to implement recommendations.

All the recommendations and supporting information can be obtained from the referenced reports, but I would like to emphasize a few of the more critical actions needing immediate attention.

1. Establish Reclamation Design Coordination and Construction Coordination Teams (RDCT and RCCT): I have asked each region and the Reclamation Service Center to nominate a representative for the RDCT and RCCT and to submit their names to Felix Cook, D8000, by December 20, 1996. The individuals should be familiar with and have access to the processes used to distribute workload and fill design and construction positions for the region/office they represent. These groups will be assembled quickly after members are selected, and are expected to play a major role in implementing many of the recommendations pertaining to design and construction capability. After implementation of the recommendations has been

completed, the teams will assume permanent roles in the monitoring and coordination of our design and construction activities.

2. Pursue opportunities to stabilize and supplement the workload: Reclamation design and construction management organizations shall be the providers of choice for all Reclamation's program related work, provided the organizations can demonstrate quality, cost effectiveness, and customer service. To achieve this goal, I am asking that each Region use their RDCT and RCCT representatives and their Technical Service Center (TSC) contacts to jointly develop work plans each year when final information on budget and workload are known with certainty. This collaborative process will ensure that we utilize our engineering staff resources in the most effective manner. Our goal is to utilize our own staff resources as well as consultant resources in a balanced manner that fully enhances our own staff capability and meets our work load objectives in a timely and efficient manner. In addition to our own work, individual regions and the TSC are encouraged to evaluate opportunities to perform reimbursable work. Reimbursable work may provide opportunities to maintain capability when our own program activities are temporarily limited. Each Director, however, should establish management review processes to ensure that financial; liability, and other issues are appropriately addressed and that the work is consistent with our mission as a water resources management agency.

3. Develop processes in the regions that support the goal of maintaining capability: The mechanisms used in each region to determine who will perform design and construction management activities on individual projects should be evaluated to ensure that they adequately consider factors relative to maintaining and developing key capabilities. Personnel actions that further disperse technical expertise should be discouraged, and opportunities to consolidate design and construction organizations as the workload allows should be considered.

4. Establish a construction management focal point through the Technical Service Center: The TSC should begin immediately to assemble the necessary resources to provide training, policy development, and resource management services for corporate issues relating to construction management. This organization would also contain a construction management core capability that would be available to perform work within the regions and also serve the purpose of retaining key construction management personnel within Reclamation as the workload shifts between locations. The TSC is currently analyzing the most efficient methods of providing these services to create an organization that is fiscally responsive to the needs of Reclamation.

Implementing these actions and recommendations contained in the reports will have a positive affect on our ability as an agency to maintain a high standard of design and construction management capability. It will also provide more stability and job opportunities for the many Reclamation employees who have built their careers around these disciplines. It is incumbent upon all of the managers in Reclamation to facilitate the actions necessary to accomplish these activities, and to recognize and support the technical resources in our organizations that are so important to our future.

I have asked Bob Johnson, Regional Director for the Lower Colorado Region, and Felix Cook, Director of the Technical Service Center, to monitor this effort for the Policy Team, and to provide guidance to staff who are working on implementation.

I would like to express my thanks to the staff who worked on this review and developed the reports and recommendations. They have done an excellent job.

cc: Director, Technical Service Center

Attention: D-8000, 8100

Regional Director, PN

Attention: SRA-1000, GCP-1000, UCA-1000, LCA-1000, UCY-3100, BCO-3100,
HH-3000, EPH-2000, CRCO-6113, SRA-6300; PN-3000, 3400

Regional Director, MP

Attention: KO-100, LO-100, NC-100, CC-100, SCC-100, CVO-100, WCO-100; MP-105,
110, 200, 400

Regional Director, LC

Attention: PXAO-1000, 2000, 2800; LCD-1000, C100, DIO, PIO; SCAO-1000,
YAO-1000, LC-2000

Regional Director, UC

Attention: ALB-100, AFD-400, C-10, RG-600, RG-100, S-10, FCO-100, UC-600,
GC-100, CCI-100, FG-100, PRO-100 (CDeAngelis, PSchumacher); UC-200, 205

Regional Director, GP

Attention: DK-100, EC-100, NK-RJG, OT-100, MT-100, WY-100; GP-2000, 2200

ORAL HISTORY TRANSCRIPTS OF ELUID LEVI MARTINEZ

Storey: This is Brit Allan Storey, Senior Historian of the Bureau of Reclamation, interviewing Eluid L. Martinez, Commissioner of the Bureau of Reclamation, in his offices in the Main Interior Building in Washington, D.C., at about nine o'clock in the morning on April 12, 1996. This is tape one.

Mr. Martinez, I'd like to ask you where you were born and raised and educated and how you ended up at the Bureau of Reclamation.

Born in Cordova, New Mexico

Martinez: That's a long story. That would take probably a while to answer that. I was born in a little village in northern New Mexico in Rio Arriba County called Cordova. It's been there, to my knowledge, since about 1742. That's the earliest record, written record, although it indicates the village was there prior to that date. It's a Hispanic village. Before the mid-1930s, early 1940s, principally it was an agrarian subsistence-type village. In other words, people raised crops and grazed livestock and made their living that way.

It was after, I think, the 1940s when Los Alamos was developed that northern New Mexico in general became—folks from that area started working for the United States Government, and that era saw a transition in agricultural-agrarian economy of northern New Mexico, at least in that area, to folks leaving the villages going to work for the Federal Government. Anyway, I was born in that little village in April of 1944.

Mother Is a Member of the Family of Lopez Woodcarvers

My mother, on my mother's side, she is a member of a family called the Lopez woodcarvers, referred to as the Lopez woodcarvers in Cordova. That village is internationally known and famous for its woodcarvers, folk artists. On my mother's side, there's nine generations of woodcarvers. I was born into that family and I carve, myself, and I'm considered to be a folk artist by some in the profession.

Moved to Santa Fe

At any rate, my mother left Cordova when I was about a year and a half old to Santa Fe, both myself and my two sisters. During my early years from about

the age of three 'til about the age of ten, I would spend the summers with my uncles in Cordova and the rest of the year with my mother in Santa Fe.

Educated in Santa Fe Public Schools and at New Mexico State University

I was educated in the Santa Fe public school system, went to New Mexico State University in 1963 under a co-op program that was in place by the New Mexico State Highway Department and New Mexico State University.

Attended NMSU in a Co-op Program Sponsored by the New Mexico Highway Department

Selected high school graduates were selected by the Highway Department and New Mexico State University to enter a co-op program which involved six months of work rotated by six months of schooling.

Bachelor of Science in Civil Engineering in August of 1968

I entered that program in June of 1964—I believe that's when it was—and graduated in August of 1968 with a bachelor of science degree in civil engineering.

I'm leaving out a lot of information, but I'm going basically through this and then if you want to pick up, you can pick up.

Worked for Bureau of Public Roads in California

So after I graduated from college, I went to work for the U.S. Bureau of Public Roads and worked for them three months in northern California in an area adjacent to Willow Creek, California, on the Klamath River. I was in charge of a surveying crew that was laying out the alignment for a logging road in northern California.

I returned to New Mexico. ~~That was in August, I believe, August-September, 1968, I believe.~~¹ August '68 when I went to work for the Bureau of Public Roads.

1. Note that 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.

The transcriber and editor 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.

Returned to New Mexico in October of 1968 to Work for the New Mexico State Highway Department

Returned to New Mexico somewhere around October of that same year, went back to work for the New Mexico State Highway Department and worked with them principally in the area of developing software for computer systems dealing with highway alignment design and programming issues involved with highway design and construction, data processing issues.

To the New Mexico State Engineer's Office in 1971

I went to work for the New Mexico State Engineer's Office in 1971—I believe I was about twenty-seven years old—as chief of the hydrographic survey section, responsible for the staff that was involved in the surveying of water uses statewide for subsequent adjudication of water rights by the courts in the state.

"Between the Period of 1971 through 1984, I served in various capacities with the State Engineer's Office in New Mexico, including acting chief of the administrative services division . . ."

Between the period of 1971 through 1984, I served in various capacities with the State Engineer's Office in New Mexico, including acting chief of the administrative services division for about two years. These responsibilities were concurrent with my responsibilities as chief of the hydrographic survey section.

As chief of the administrative services division, I was responsible for preparing the budget for the agency, all contractual and personnel issues involving the agency. I also served for a period of time as acting chief of the Water Use and Planning Section, which was involved in the inventory of water uses in the state for future planning purposes—and how that water should be used and allocated.

In 1984 Became the Chief of the Technical Division

In 1984, I was selected by the state engineer to head the—I became the chief of the technical division and became responsible for that section of the office that was responsible for dam safety issues, a section which was responsible for water use planning and reports. The hydrographic survey section [was] responsible for inventory of water uses for adjudications and the hydrology section, which is responsible for groundwater modeling and providing the technical support for groundwater administration in the state of New Mexico. Basically, I was the chief

technical advisor to the state engineer of the State of New Mexico.

1986-1990 Served as Principal Hearing Examiner for the State Engineer

During the period of about 1986 through early 1990, I was also the principal hearing examiner for the state engineer. The state engineer in New Mexico has responsibilities for the permitting of water uses in the state and, as such, he holds the capacity such as a quasi-judge under state law where he rules and decides on whether water rights should be transferred or not, and whether new users should be appropriated or not. Applications made to the state engineer by a person seeking a use of water or a change in the use of water, the statute requires that that be advertised in public media and the state engineer hold a hearing in case the application is protested. At any rate, the decisions of the state engineer are appealable to the courts and ultimately by the state supreme court of the state of New Mexico. I served as the state engineer's principal hearing examiner during that period of time.

In April 1990 State Engineer Steve Reynolds Died

In April 1990, the state engineer of New Mexico, a fellow by the name of Steve Reynolds, who had been state engineer for thirty-five years, passed on. I was inclined at that time to retire from the state service. I had pretty close to twenty-five years. New Mexico has a twenty-five year at-any-age retirement program, and I was looking forward to retirement.

Asked to Apply for Position as State Engineer

State Engineer of New Mexico 1990-1994

Was asked to consider applying for the vacancy of the state engineer position, which I did, and was ultimately selected by a panel that was convened by the governor of the State of New Mexico to review forty-seven applicants, and was ultimately appointed state engineer, December 1990; confirmed by the Senate, I believe it was in January or February of '91; and served in the capacity of state engineer through December, the end of December, of 1994.

Retired from New Mexico State Government with Thirty-one Years of Service

I retired from New Mexico state government with approximately thirty-one years of service, and was looking forward to what I considered a well-earned retirement.

Contacted by the Department of the Interior about a Job There

February tenth of 1995, I was contacted by the Department of Interior to see if I'd be interested in a position that was to become vacant in the Office of Assistant Secretary for Water and Science. Three days later, I believe it was on the thirteenth of February, either thirteenth or fourteenth of February of 1995, which is Valentine's Day, I interviewed at the White House and the Department of Interior for that position.

A month later, I was contacted by the Department of Interior and asked if I would be interested in the position of commissioner of reclamation as well as assistant secretary for water and science. My response was that in whatever capacity the Administration thought I could best help them, I'd be interested in either position.

June 1995 President Clinton Announced His Intention to Nominate Me as Commissioner

I believe in June of 1995, my name was forwarded by the president, or an announcement was made by the President of intent to nominate me as commissioner of reclamation. Sometime in July, I believe, of 1995, my name was forwarded to the Senate. I appeared before the Senate Committee for Confirmation on the twenty-seventh of September 1995, and was confirmed, I believe on the twenty-second of December by the full Senate.

Reported to Work January 2, 1996

I was sworn in in Santa Fe by a local district judge on the twenty-seventh of December, and I reported to work on the second of January of 1996. And that just about brings us up to date on that question.

Storey: You said September you were confirmed by the Senate?

Martinez: That was by the committee. That was passed out of committee with a unanimous . . .

Storey: You were actually confirmed December 22, I think it was?

Martinez: Yeah. That's my understanding. It was in the evening, I understand, just before the Senate broke for Christmas recess.

Storey: Good. Would you tell me more about Cordova and your summers there, please?

Cordova, New Mexico, in the 1950s and 1960s

Martinez: Well, the only thing I can recall back in those summers is that Cordova is a village that up to, probably the 1960s, had not changed much, I think, probably from what it was in the 1700s. I recall that in Cordova in the 1950s there was one house with electricity, one house with a telephone, and that was at the general store, no indoor plumbing, and very rural. It has changed somewhat since then, just like, I guess, any rural area in the United States has.

Uncle George Lopez, Woodcarver

I recall growing up in the summers there principally spending the summers helping my uncle, which is a fellow by the name of George Lopez, who passed away a couple of years ago at the age of ninety-four, was a woodcarver, helping him cultivate the gardens and the irrigated orchards he used to have in Cordova. I used to enjoy myself in the summer, really. I was basically a kid growing up in an agricultural valley in northern New Mexico. No worries in the world, and a world that did not have the luxuries of what you would call Middle America in those days.

Storey: This was your Uncle George Lopez?

Martinez: Uh-huh.

Storey: Did you help him irrigate?

Irrigating Fields in Cordova

Martinez: Oh, yes, as best I could when I was that age. You know, I don't know whether it was help or getting in the middle, but basically we used to do that. My cousins and I would go out sometimes in the middle of the night, because you'd get water rotated. It's a water-short system. They'd rotate water to the water users and sometimes you irrigate in the middle of the night, and sometimes you irrigate in the middle of the day. I recall going to the fields at midnight or later, irrigating with lanterns. It was interesting. But, when you're talking about fields there, you're talking about small fields, half an acre to an acre in size. It's not the type of farms that you find in large agricultural areas in the West. These are small subsistence farms.

Storey: What kind of crops was your uncle growing?

Martinez: Well, vegetables. I mean, it was subsistence agriculture. So you raise everything from cantaloupes to watermelons to chiles to tomatoes to potatoes to corn, cherries, peaches, apples. It was subsistence agriculture. People raised the food that they ate back in those days.

Storey: Did he have more than one plot?

Martinez: Yeah, he had two plots. He had a plot in the upper reach of the valley where he basically had his garden and his fruit orchard, and they would have larger plots in the lower end of the valley that was basically devoted to wheat or corn or products that they would raise—alfalfa for their livestock, which consisted basically of horses and cattle and goats.

Storey: And I presume these fields were under Spanish and then Mexican *acequias*.

***Acequia* System of Irrigation**

Martinez: New Mexico is unique to the rest of the West, because New Mexico has, besides the Indian agriculture that existed in New Mexico and southern Arizona before the Spaniards came in, the Spaniards in the late 1500s brought in what is considered as the *acequia* system of irrigation. In the general area around Cordova, some of those settlements go back to the early 1600s, which were abandoned during the Indian uprising of the 1680s. But at any rate, Cordova, the ditches in Cordova, date back to the 1740s.

I used to have an ongoing debate and chat, with my fellow Western State Engineers. When I used to be a state engineer, we used to talk about water uses and regulation of water and administration of water, and I used to joke with an engineer from Wyoming that says that the earliest use of water is in the 1800s in Wyoming. I told him that in New Mexico some of the streams were fully appropriated before they even thought about Wyoming being a state. So I come from an area where folks have been managing water, you know, before Reclamation was even considered. The *acequia* system of managing water and regulating water basically has its basis in Moorish culture and in Spain.

Storey: Did you ever, while you were visiting your uncle, hear about water disputes or problems with water?

Martinez: Well, I didn't pay much attention to them, but it would appear to me that even

today in most of those rural villages in northern New Mexico, the *acequia* system serves as the only quasi-political organization in the community, and water drives those communities, especially back in those days. If you didn't have water, you didn't have anything. So I would imagine that a lot of the conversations centered both on either the *acequia* and the association and the water or in the religious *penitente* groups which are common to northern New Mexico.

But when you're talking about a village, you're not talking about one *acequia* or one ditch. Most villages have several ditches. In Cordova there was, I think, five ditches, each with their own set of what they called overseers or commissioners and a watermaster or a *majordomo*, and they each divide water to their respective ditches and to the water users on the ditch.

Storey: How did they coordinate if there were five different ditches and there was a limited river or a creek, in this case?

Spanish Era Water Law

Martinez: In New Mexico in those areas, those issues were resolved during the Spanish era. They were decrees. Even under the Spanish era, the *alcalde*, or the mayor of the local settlement, was vested by Spanish law the authority to resolve disputes amongst competing users. If there was a dispute between two ditches on a river, they would take that to the appropriate individual and he would enter a decree, a finding.

So water in those systems was appropriated and adjudicated in the 1600s, 1700s, and 1800s, and it's a rotation basis. They knew when there was plenty of water in the spring everybody could divert water because there was plenty of water in the river. After a certain date where the water in the river, you know, diminished because of the fact that you were into the low runoff season, they went into a system of rotating water. But you don't rotate water only amongst ditches within the community. The communities themselves rotate water during the days of the week. So you have more than one community on the system. So these are systems that have been using and allocating and administering water, you know, since the 1600s, in some places 1700s in other places.

Administration of Water is Different than Civil Construction Programs

So I find it interesting when the Bureau of Reclamation now finds itself in area water management and trying to transition from civil works to water management, I tell these folks that it's easier said than done. It takes a lot of

practical experience in this business. It's not like building dams. Administration of water is a lot different. A lot different issues have to be taken into consideration.

So that's sort of the history that New Mexico has in terms of small water administrations and districts. And in New Mexico, my understanding is there's over a thousand of these small ditches, each set up with their own governing body, each set up with their own way of distributing water.

Prior Appropriation Doctrine in New Mexico

In New Mexico, the prior appropriation doctrine came into being in 1907. It was basically modeled after the Wyoming prior appropriation doctrine. And it was adapted to accommodate New Mexico pre-existing Spanish and Indian water uses, and there has been, and continues to be, some conflict between the traditional Spanish-Mexican way of administering water and the prior appropriation doctrine.

In one area that was under Spanish-Mexican administration of ditches, there was no such thing as abandonment of a water right. Under an *acequia* way of administering water, as long as you paid your ditch dues, the *acequia* would recognize your rights. That was overlapped with the prior appropriation doctrine, which requires four years of nonuse. Four years of nonuse, automatic forfeiture in New Mexico prior to '65, which caused some interesting conflicts in the fifties and sixties in New Mexico when we were adjudicating their water rights.

New Mexico Pioneered in Groundwater Regulation

So the only thing that New Mexico has that was kind of unique to New Mexico and still is in some areas, is New Mexico was a pioneer in the regulation and administering of groundwater. New Mexico's first groundwater regulation statutes were passed in 1931, and New Mexico has managed its [ground]water resources along the same lines as its water resources since 1931. Some states in the West are fairly newcomers to groundwater management, and some states do not even manage groundwater.

So that was my extent of growing up. In those early years, my involvement with water was basically spending my summers in Cordova. I didn't give much thought to water issues at all until I went to work with the state engineer's office in 1971.

Storey: But you went out and irrigated. What kind of irrigation system did you use?

Martinez: Flood water. Basically all those ditches in northern New Mexico, brush and wire, brush, wire, and rock diversions on the river, they're not large rivers, and those diversions get washed out every spring in the floods and they rebuild them, and they channel water into earthen ditches. Those earthen ditches divert water to the farms, and each farmer has his headgate and diverts the water onto his field. And for the most part, the ditches run on the high side of—the irrigated lands are between the river and the ditches. The ditches on the high side, the river on the low side. And what you have is flood irrigation. You put the water across your field and field water goes back either into a lower ditch as tail water or into the river.

Storey: Flood irrigation in the sense of down rows or flooding a whole field or what?

Martinez: Well, depending on how much you were irrigating. If you're irrigating rural crops like chile and tomatoes, you put rows of them. If you're irrigating alfalfa, you flood the field. So it depends on the crop that you're raising.

Storey: Did it take much training for you to irrigate that way?

Martinez: I don't recall. I wasn't that much involved in it. But it does take some training to be able to manage that water, you know, especially in the middle of the night. I think it's like any irrigated farmer in the West. There were tricks to the trade on how you divert the water and how you spread it. If you were to take a layperson and put him out in the middle of the field and tell him to take some water from the high point to the low point and apply it across the field, it will take him a while to learn the tricks of the trade—like anything else.

Storey: Let's see if I'm understanding this. You have a number of ditches in each community. You have a number of communities along the river. When the *alcalde* issued decrees regarding water distributes, was he saying this ditch gets first right and then when it's done this one downstream or upstream gets a right?

Martinez: Yeah. That's what the right was. They would adjudicate the respective rights between the ditches. If there was a conflict between ditches or between communities, they were resolved through that process, just like an adjudication court does today or a court does. Back in those days, it was based on an individual had that authority. And in New Mexico, issues that arose on water after New Mexico became a territory, decrees adjudicating or partitioning water between ditches or individuals then were done in the territorial courts. Then after the territorial days, they were done in state courts. Even today you have disputes that are done by the present courts. So it was the way it was handled then under the

Spanish concept of law which set up that official as the official that had the authority to resolve those issues.

Storey: And did I understand you to say that New Mexico honors those prior decisions, Spanish and Mexican court?

Martinez: New Mexico laws give deference to those issues. In other words, if there is a decree in place, New Mexico law gives deference to those issues unless they fly blatantly against what they—because you’ve got a situation in the fact that in New Mexico you’ve got what is known as the Treaty of Guadalupe Hidalgo.

Storey: In 1848.

Martinez: [In] which the United States agreed to respect and honor all the rights of the citizens it was taking over. So you’ve got a situation where you’ve got the New Mexico courts and the Federal courts have to give deference to the laws and the rights and the property rights and so forth of people that existed prior, under the Mexican flag, under that treaty.

So, in New Mexico, the court will honor those unless there is a constitutional problem or something, and then they’ve got to work themselves through it. But they just don’t throw that out. As a matter of fact, the courts that are adjudicating water rights in New Mexico, not only state courts and Federal courts, look at the Mexican-Spanish era water administration in making some of their decisions. And that’s kind of unique in the fact that it’s basically the only state in the West that has that sort of thing. California might have a little. California was sort of a johnny-come-lately in water issues in the West in terms of the Spanish era. New Mexico predates at least [unclear] much, much earlier.

Storey: Where do you find the decrees and so on? How do you document these things?

Martinez: Those are documented because, you know, these folks have to keep records and so forth.

END OF TAPE 1, SIDE 1. APRIL 12, 1996.

BEGIN TAPE 1, SIDE 2. APRIL 12, 1996.

Storey: You were explaining where you have to go to get the records for these old decisions.

Martinez: You’ve got to realize that these were government entities that we’re talking about.

In Santa Fe, you had a governor under Spanish law that was vested the authority under the King of Spain and under Mexican law.

Storey: Yeah. Beginning after 1692, I think you said.

Martinez: Well, what happened is that in 1680 in northern New Mexico, in New Mexico in general, there was an uprising of the Pueblo Indians. It drove the Spaniards out of New Mexico, and there was a lot of records lost, burnt. My understanding is that any records that did not make it with the Spaniards on the way down to El Paso when they left New Mexico in 1680 were burnt and destroyed.

So in 1692 when the Spaniards came back into Santa Fe in northern New Mexico and reestablished the Spanish government and started the process of keeping records again, you'll find records that run from 1692 through the present housed in the archives, the Spanish archives, the archives of the state of New Mexico, archives in Mexico, archives in Spain, or you'll find information that you can glean from the deeds and documents that exist in families. Folks sometimes have documents on their properties that go back hundreds of years. Some do, some don't. So that's the kind of information you pick up.

It's kind of interesting, because I read every now and then that historians doing research on New Mexico water administration or law in general or just in general on New Mexico history are discovering things in archives in different places that is of interest. You know, one of the most interesting things I found was—I don't know if you're aware of this or not, but apparently during the Revolutionary War there was a contingency of Spaniards—I don't know where they came from—that provided support to the fledgling colonies in their fight against England. That was something that was not known. A researcher did that in some work a few years ago and found that out. Now, whether they came from New Mexico or Mexico, I don't know, but apparently there was both money and actual bodies provided to the colonies in their effort. So there are different sources, you know. And, of course, if you want to read about early New Mexico, there are several books out. It's a rich history.

The explorers that came through—in New Mexico they came looking for gold. That's what the Spanish explorers did when they first came in. In the early 1500s, they came looking for the seven cities of gold. They came looking for gold, and they had with them their chroniclers. I mean, they had a person that would travel along with them and would keep a daily record. What was interesting is that—and I'm not an expert on this—but one of the early explorers carried with him in his group a person that chronicled the day-to-day occurrences,

but they wrote in poetry and prose, and for a long time the historians didn't look at that as really a historical record. They thought it was a poetic prose of what had occurred in those days. But actually it was written in that form. And there's been some folks that have come back in and taken it from a Spanish poetic approach to actually a historical approach, and you've got some chronicles of these folks that came in and what they did and what they saw. They traveled throughout the West.

But in terms of water, remember that these early explorers that came in and these diaries that were kept and so forth, that was not the era of water rights issues. That was the era of coming in, looking for gold, and establishing a new frontier in an era that they were looking for riches. It wasn't 'til after 1562, I believe, that the first settlements under [Don Juan de] Oñate came into what is now known as Española,² which is north of Santa Fe, and settled—excuse me, 1592, settled the first settlement in northern New Mexico. That was actually agricultural.

Storey: I believe it was called San Juan.

Martinez: I thought it was Española. Then they moved to Santa Fe supposedly sometime in 1608 to 1610.

Storey: And then into Cordova in the 1740s.

Martinez: That's the earliest record. They might have been there before, but the earliest record that is found is a reference, that I've been able to find out about, is there was a grant document that was made to a family that settled a grant in Cundiyo, which is one valley over. In 1742 that document was given, and it refers to their neighbors to the north as being the *Valle de Llano Quemado*, which is Cordova. So that's the earliest record which indicates that that village was there before that date. But at any rate, 1742 is the earliest document that they can find that says there was a settlement there.

Storey: The Valley of the Burned Plain.

Martinez: No. No.

Storey: Isn't that it?

2. This Spanish settlement near present Española was named San Gabriel, and a nearby Indian pueblo was renamed San Juan de los Caballeros. Oñate's *entrada* occurred in 1598. The Spanish return to New Mexico after the Pueblo Revolt of 1680 occurred in 1692.

Martinez: No. Cordova has an interesting history, like most any other place. Most explorers, I guess, when they traveled the West, whether they be Spanish or whatever they are, they sort of have place names. In northern New Mexico, the Spaniards either used landmarks or names of saints. Simple. So adjacent to the village at Cordova, sitting up on a bluff, are the remains of a Indian village that supposedly was abandoned in the 1500s. At any rate, the local lore of Cordova is that either the Spaniards burnt the village or found a burned village, and the name of the valley was called Quemado, which means burnt in Spanish. So the documents referring to the little village of Cordova prior to about 1920 refer to that little village as Quemado.

When they started establishing—and this probably occurred in other places in the West—when they started establishing post offices, drops for the United States Post Office in New Mexico, there is another place called Quemado in New Mexico, out there by Gallup. That place got its post office, I guess, before Cordova did. So when Cordova wanted to use the name Quemado, they told them they couldn't use it because there was also another post office box in New Mexico that's named Quemado. So the village was then named Cordova for the last name of the first postmaster, which is a family by the name of Cordova. And that's how it got its name, Cordova. Interesting.

Storey: It's another woodcarving family, I believe.

Santeros, Woodcarvers and the Lopez Family

Martinez: No. There are some woodcarving families now. There's quite a few of them, because what has occurred in Cordova is that, from a woodcarving perspective, you know, if you're familiar with the term *santeros*, carvers of *santos*. That's my family on my mother's side, Lopez. We're related. I'm related by blood to some of the most famous *santeros* that ever carved in northern New Mexico in the 1600-, 1700s. The village of Cordova is sort of a birthplace of some of these more famous *santeros*. It always has been. They did polychrome images back in the 1700s, late 1800s, early 1900s.

José Dolores Lopez

It was my grandfather, a guy by the name of José Dolores Lopez that passed away in 1937. He was internationally famous. Never left Cordova, New Mexico, Santa Fe area, in his whole life. I think the most he probably ever traveled from Cordova was probably to Santa Fe Fiestas in the 1930s. Yet one of his works was here in New York City in the Museum of Modern Art in the 1940s.

There was two New Mexico artists in the collection at that time. One was Georgia O'Keefe and the other one was him. And they have his work in the Smithsonian [Institution], too. Considered to be a master in the artistic medium.

He started carving in the 1920s and did not paint his images. He left them unpainted. Instead he used a sort of a filigree effect on the outside of his images to sort of depict the clothing and so forth. And that is called Cordova style woodcarvings, unpainted, and it's referred to as Cordova woodcarvings.

The art of the *santero*, for all practical purposes, died out at the early part of the 1900s. What had happened, after the 1880s when the railroads went into New Mexico, people started to turn to plaster of paris, mass-produced religious images, and the art of the *santero* sort of died out. So there was one or two practicing individuals in northern New Mexico in the early 1900s and then, for all practical purposes, the art form died.

My grandfather, in the 1920s, started carving again, and there's books have been written about his work and why he did it and so forth. One of the interesting books you might want to see is written by Charles Briggs. It's called *The Woodcarvers of Cordova*, and it's a history of my family on my mother's side on the woodcarvers.

Anyway, he started carving in the 1920s, and his son, George, and his other sons—he had some other sons—took up the art form when he passed away in the 1930s and continued. Between the 1920s and the 1960s, the only woodcarvers in northern New Mexico came out of Cordova. There were a few individuals, one gentleman out of Taos and one out of Santa Fe.

1960s Resurgence of Hispanic Art and Culture in New Mexico

It wasn't until about the mid-1960s that there was a resurgence in northern New Mexico of Hispanic pride and art and culture, and there was a group of individuals, young artists at the time, about my age now that formed a group to try to revive the old *santero* art. They started experimenting and working with polychromed images. The Spanish market in Santa Fe, which in the early 1970s when I showed my work was about fourteen artists, now has over 200. Most of those artists today are working in the polychromed images. The only unpainted images you'll see either are from the village of Cordova or from a fellow by the name of Ortega of Tesuque, which became famous also.

The reason that Cordova, that the Lopez family is, at least by historians and

by folks knowledgeable in the field, still consider that family and the work produced by that family is sort of an unbroken—it was a continuation of a family that changes style and continues versus some of the work that’s being done today by folks that, you know, are just taking it up. There’s still that family tie to the system. And what’s interesting is that what will happen is you’ll go to these art shows, most people associate the work of the *santero* with polychromed painted images and will look at the unpainted work and, you know, will consider it kind of inferior or not as a good quality. But to the true collector, they go after the Cordova carvings, the good Cordova carvings, because it’s part of this rich heritage of the *santero*, and they know why that transition was made and where it goes.

The Cordova carvers, except for myself, will not work in polychromed images. There has not been a Cordova carver that has worked in polychromed images since the early 1900s. I did some pieces a few years ago. I’ve got about five or six polychromed pieces. They’re not difficult to do. It’s just a style that you work in. But that’s a completely different arena from water.

Storey: But I want to talk about this. This was one of my questions for you anyway.

Martinez: That’s the sort of thing that I enjoy doing, and I will do and continue to do. I don’t do it now because of—well, I do a little bit of it, but I don’t have the time now. I do basically paintings and watercolor sketches and so forth. But when I do retire again, I will go back to New Mexico to my woodcarvings and enjoy the rest of my days.

Storey: Who taught you how to wood carve, how to paint?

Learning to Be a Woodcarver

Martinez: Well, folks are not taught. The old saying is that it’s part of the blood. I’m the only member of the family that does oil paintings, lithographs, and sketches. It’s not that the rest of the family is not able to do it, because I’ve seen some of their works. They just don’t find it interesting, I guess, to work in the two-dimensional medium. Because when you do a *retablos*, you work also in two-dimensional. Most of the family that takes up the work just takes it up from the time they’re kids on up through.

No Family Member Owns a Piece of His Grandfather's Woodcarving

I didn’t do any work in this until I was out of college. I grew up with my

uncle and I saw the work they used to do back in Cordova, and over the years would visit and see the work that they did in their shops and so forth. I didn't become interested at all in that work until I graduated from college. And the reason I became interested in it is because after I graduated from college in '68, I started looking at some books and reading some material and understood the role that my grandfather had played in perpetuating this art form, and went to see some of his work. But the work was all in museums. There's not a single piece—he used to be a furniture-maker. I've got some of his furniture and so forth. But in terms of the *santos*, his carvings, there is not a single piece in the family under its ownership. All of it is in museums, from the Smithsonian all the way down to the museums in New Mexico.

Commissioned Pieces from Uncle, George Lopez

So In 1968, when I graduated from college, I made a conscious decision that I was going to ask my Uncle George, which was sixty-eight years old at the time, to do some pieces for me, because I also realized that there were none of his pieces in the family. And that, I think, happens a lot, you know, in families. You're too close to the forest to see the trees and always think, I guess, somebody's going to be there and you don't pay attention to that sort of thing. So I commissioned him to do some pieces for me and he did. He did twelve major pieces of art for me, large pieces. One of them he did at the Montreal World's Fair that I picked up from him. I think it was around that time. He died when he was ninety-two or ninety-three years old, in 1993, and I'm the only member of the family that has a collection of his work.

But, anyway, going back to 1968, when I asked him to do twelve pieces for me, I also picked up a piece of aspen wood from his shop and decided to carve and I started to carve. It didn't take very long to pick it up. Some of my earlier pieces were more crudely made than the pieces I make today. Most people ask me how long will it take you to do a carving of such and such. And I'll say, "Well, about three hours and twenty-five years." It's like a business, you know. You learn how to do it. So you don't measure an artist's work by the number of hours he puts into it, I guess which sounds like maybe a person writes a book on history or something like that. It's all that effort that goes into it.

You'll see some of these artists, also especially the artists that are not the realistic artists, but sort of a representational by color schemes and so forth. They'll get up there and they'll whip out a painting in maybe thirty minutes or something like that, you know. People say, "My kid can do that. Why should the guy be making \$50,000 for a painting like that?" They don't realize that it carries

a certain history with it, both the artist and the fact that for him to get there, he had to put a lot of time and effort into it.

Most of the things I find in the art world is that most of the artists that get to the point where they do this impressionistic-type work, color scheme and so forth, started off doing very detailed drawings of anatomy and so forth and learning the basics. Because what happens is in the area of art, a lot of times what will happen is that you'll have a transition.

Like in my work, if you look at my work, my painting work, when I first started doing pieces, I did western art, very detailed charcoal drawings of animals and western art. To me, realism was important. If you didn't get it down realistically, it was unimportant. And I transitioned to where my most recent work was just different colors and geometric shapes, and I'm now playing with colors and shapes as a way to get feelings out of people instead of whether it's a realistic painting or not.

Storey: So you're not doing *retablos*?

Martinez: I do *retablos*, yeah.

Storey: Also.

Martinez: Yeah. Yeah, I do *retablos*. Every now and then I do some pieces.

Storey: Have you ever tried any bas relief or anything like that?

In His Art Has Tried to Stay Close to Traditional Medium

Martinez: No. No, and the reason is because I've tried to stay as close as possible to the traditional medium that was used in New Mexico. None of that gold leaf, none of that baroque, none of that. It's a very simplistic color scheme and a way you depict things. Because in the Philippines you have *santeros* and *santo* art that go back that's probably about as old as the ones in New Mexico, and you have it in Mexico. And, of course, you have it in Spain and Europe.

What was unique about the New Mexico experience and what makes those *santos* is that really the folks that were doing it were untaught artisans. In Mexico and in a lot of these places, you had actually guilds where artists did that. Here in New Mexico what happened is you had somebody that had an artistic flair or talent, picked up the knife and a brush, and those pieces have a different feeling to

them. They're more naive. They're more folk-artish. But they have a certain quality to them that makes them unique. My understanding is that besides Indian art, it's the only indigenous folk art to the United States, and the only place you'll find it is in northern New Mexico. It's kind of interesting.

Wrote a Small Book titled *What Is a New Mexico Santo?*

I wrote a book in 1978, a small book. It's called *What Is a New Mexico Santo?* It's a bilingual book. I wrote it basically for it to be used in the public schools on the history of this art form and the history of my family. It's a small little black and white book. It's now in its second printing.

But what you had is you had that Catholic religion that came up through Mexico and the Spaniards and, you know, it was an outpost. People that moved up there, I guess weren't the wealthiest in the world, so they had to make do with what they had. And if they wanted religious figures, they had to make their own. So you had folks that took it up as a trade.

There was nothing magical, in my opinion, magical or secular in these folks that did these works. They were just in the business of making religious figures, and they would travel from village to village, and you would commission a piece and they'd make you a *santo*. The earliest pieces were probably patterned after lithographed images or maybe something that some *santero* might have seen in Santa Fe or something. And then that served as a prototype for other folks that came down. And even today, even the *santeros* that work today in New Mexico will use the same prototypes, same color schemes and everything else, just a reproduction being done. Kind of interesting, how it works.

Storey: Is that the way you operate also?

I Create Some Unique Pieces

Martinez: I create some pieces that are kind of unique sometimes. Like I created a temptation image that is now in the Smithsonian here, the Museum of American Art at the Smithsonian, and several museums across the country, that is a new image that is a serpent with an apple on it. I've got one in my office. That is a takeoff on the Adam and Eve, but it was not an image that existed. It's a new image. It's the only image made by a New Mexico *santero* in the last century that is not a replica of another image.

Artists Make a Living from Their Art and Tend to Repeat Forms They Know Will

Sell

But I think that I have that flexibility. In other words, the thing that you've got to remember in any art form, most art forms, especially folk artists, a lot of them do art to make a living. And like in any business, you provide art for the market. Okay? And this is common not only in artists but folks. Sometimes you find a niche. Okay? And very few artists, I don't care who they are, once they find that niche, will veer out of that niche and create another kind of art. One, is because their clients frown on it, because sometimes people collect art because they expect that artist to be continuing to be prolific in that medium, and if you're out there doing something else and don't return, they won't get that. The other thing is that sometimes artists are afraid they won't sell their work if they venture from that. So what you'll see a lot of times is that you'll see an artist, especially a folk artists and some artists that depend on the sale of pieces. I'm not talking about these guys that make six figures for a painting; I'm talking about folks that, you know, sell a painting for \$200 or \$300. Once they find their niche in the system, they're not very prone to go outside of that umbrella and create images just for the sake of creating imagery or experimenting.

Because He Doesn't Make a Living from His Art, He Is Free to Try New Mediums

That's the situation you find in my family. The artists in my family make a living producing art. They make very good livings at it. But at the same time, they have, except for my grandfather back in the thirties, created innovations of those images. I had the flexibility, because I'm an engineer and I had a job and I didn't depend on that, to experiment. And maybe that's one reason why I took up oil painting and did lithographs and do different things, because if I was sitting in Cordova carving images or carvings to make a living, it takes time to do those and you are going to be spending time doing something that's going to take away from the time that you need to do something to make a living. It takes a certain individual to do that.

It's just you've got to realize that the art form to them is like going to work. You know, you put in eight hours a day or ten hours a day to produce pieces that go on your table. Because if the piece is not on the table and a client walks in looking for something and it's not there, you've missed out on a sale. It's different. These guys, they're artists but not artists. They're making a living at it, and that's what you've got to keep in the back of your mind when you talk about these works.

Storey: You mentioned that you're interested in using traditional materials, and you mentioned aspen. Is aspen the only wood that's traditionally used?

Woodcarvers in Cordova Use Aspen

Martinez: Oh, no. They use pine. They use cottonwood. They use aspen. But the Cordova carvers use aspen. At least since the 1920s they've used aspen, and a lot of the work is aspen. You're familiar with the word *alamo*?

Storey: Yeah.

Martinez: *Alamo* in northern New Mexico and New Mexico has two meanings. *Alamo* is cottonwood, but *alamo* is also aspen.

Storey: Now, that I didn't know.

Martinez: A lot of folks that would go into northern New Mexico to the shops in Cordova would ask my grandfather in the 1920, "What kind of wood do you use?" And he'd say, "*alamo*." He didn't know English. "*Alamo*." But it was translated as cottonwood. So there's a big fallacy about how a lot of the images were made out of cottonwood. A lot of images were made out of aspen. Aspen is easier to work with than cottonwood, in a lot of respects.

Storey: I understand that cottonwood, when it cures, is very, very difficult to deal with.

Martinez: Well, the only thing you work with is the roots, see. The Indians, the Hopis, the Navajos, and even some *santeros* today and even in the old days would use the cottonwood roots. But that raises a completely interesting different scenario about cottonwood trees and so forth, because cottonwood trees were not very common to some of these regions in New Mexico. They were common along the Rio Grande down along the *bosque*, so forth, back, you know, before they started building the dams and so forth.

Those trees grow, my understanding is that 100 years is about the maximum, then they die. They are not trees that are there like, you know, for 300 or 400 years. About a hundred-year life-span and they die. So to get a good root of a tree, that tree's got to be pretty old, and it's got to have fallen over. I don't think these guys were out there—maybe they were—back in the 1600-, 1700s, or 1800s digging up roots. I think they went looking for roots of trees, you know, that were fallen over.

So that's another thing that one would have to look at, whether there were that many cottonwood trees in northern New Mexico of that size in those days to enable all these *bultos* to be made. I don't think there was. A lot of them were made out of cottonwood, I mean *alamo*, which is aspen trees. But that's another story, another interesting scenario.

END OF TAPE 1, SIDE 2. APRIL 12, 1996.

BEGIN TAPE 2, SIDE 1. APRIL 12, 1996.

Storey: This is tape two of an interview by Brit Storey with Eluid L. Martinez on April the 12th, 1996.

If you're interested in traditional methods, have you tried to duplicate the traditional paints?

Martinez: No. I haven't gone to that style, to that extreme myself. I just haven't had the time. Usually when I say traditional, I work with the watercolors, the colors that were used which are red, green, black, and so forth. Some of these younger *santeros* or some of the *santeros* that are my age now that started doing some work in the sixties and seventies actually went back to collecting rocks and plants and so forth to try to actually get from the plants and the rocks and so forth some of the colors that were used. Some of them have been successful at it, you know. I just have not had the inclination or the time to go back and do that myself.

Storey: When did your family come to Cordova?

Martinez: Well, they've been there since 1742, that I know of.

Storey: I know you say, or the material that was circulated to the staff said, that you're, I think, the ninth-generation *santero*?

Martinez: No. No. I'm probably the fifth generation, and there's generations below me. I've got some sisters that have daughters that have daughters that have kids that are starting to play around with it. So there's nine generations of folks that are doing work now, but I'm a fifth generation myself. Now, more likely, I might be more than that, because we only go back to a *santero* that was in Cordova. So you've got myself, you've got my grandfather, you've got his father, and you've got his father, and then another one that we know for sure. But Cordova has been there longer than that, but we can't trace it beyond that.

Storey: Do you remember their names?

Nasario Lopez

Martinez: I don't have them all handy with me. But you've got George Lopez and you've got José Dolores Lopez and then you've got Nasario Lopez, and I think his father's name was José. In northern New Mexico you either have Josés, Nasario--what's the other name? I can't recall right now. You were either José Dolores--you know what the dolores means, no? Pain and sorrows.

Storey: I think I do, yes. Pain, sorrows, yeah.

Eluid Levi Is an Uncommon Name

Martinez: You either have Marias, which are Marys, with another name, or José with another name. So when you go back and look at the records in New Mexico or even in Mexico, you'll see a lot of Josés, first names or middle names with another name, and if you're not careful you'll run into two or three folks of the same era in the same town with the same name, because they didn't have--my name is kind of a unique name. Eluid is Jewish. My name is Eluid Levi Martinez. Eluid Levi Martinez. Jewish, to a certain extent, comes out of the Bible. Eli--Eluid. Most everybody else in my family were Josés, Marlinas, Dolores, and so forth. Jesús. Jesús is a name common in the old days in northern New Mexico.

Storey: But when you say that your name is Jewish, you're not saying that you have Jewish ancestry.

Martinez: No, I'm not.

Storey: Now, you know, they've had that big project going on recognizing that there are a lot of families that have Jewish backgrounds.

Martinez: No. It was just, you know, it was just picked up. It's kind of interesting.

Storey: The way we got off on this was talking about--I was planning to do this anyway, I have to say. (laughter)

Martinez: Well, it's interesting.

Storey: Was talking about the old records. It would seem to me that if you had a water rights problem and you had to go *find* those records scattered from the archives of the Indies in Seville to Mexico City to the New Mexico State Archives, that you would have a rather difficult problem on your hands.

Managing Water Under the Spanish/Mexican System

Martinez: Well, for the most part, those kind of issues were, I would consider to be major issues. But like in Cordova, the fact that they distribute the water amongst themselves and the fact that they distribute the water amongst the villages is something that's been there for generations. So they don't question it. They know it's something there. Okay?

Water Rights in Northern New Mexico

Now, in the context of adjudication, there are water rights in northern New Mexico and that system, the historians have been able to pick up some documents, go back to territorial days that set that system in place, reference made to the fact that the system was there before. But those people don't operate on, "Show me a piece of paper." I mean, those are *customs* that have been in there and have been there for years. It's these adjudications that are occurring in northern New Mexico and now in water rights are sort of causing some problems because under prior appropriation doctrine, strict prior appropriation doctrine in the West, first in time, first in use, priority dates, if you got an early priority date and water shortages, you get the water first and so forth. Okay?

Well, there's no question that in some of these systems, some of the ditches have earlier priority dates than others, just by virtue of the fact that they weren't all built at the same time. But these systems have put in place a method of distributing water, of sharing water shortages, rotating, and so forth.

Storey: That is different than the prior appropriation system.

Martinez: So what is occurring in New Mexico now is some of these folks on some of these ditches saying, "Wait a minute. Now, we should be getting the water first." And it's causing some conflicts. I don't know where it will ultimately wind up. But I know that in the Taos area they're asking the adjudication court to adopt what has been traditionally done, of sharing water, which is not strict prior appropriation doctrine. Whether the court will adopt that in adjudication proceedings is yet to be seen.

But what you run into is you run into a situation where in northern New Mexico, like in other areas, you have folks that have moved into the system that don't have roots in the system that acquire lands and water rights and say, "Wait a minute. If I'm not on a ditch that has prior priority, I'm going to make sure we get our water first." It doesn't have the cultural history or the history in the

organization. That's causing some problems in northern New Mexico and probably causes problems throughout the West, where you have a system that has worked and continues to work good be upset by the fact you now have people coming in. One person/one vote type deals on ditches and water and so forth, or do you go by acreage?

In northern New Mexico they've got a big debate going on now in the Taos area. Traditionally the votes were one person/ one vote on issues dealing with water on the ditch. They had a doctor from Albuquerque that went in and bought a lot of acreage. He now owns a major part of the ditch. He's taking the position that it should be by acreage. And then, of course, since he owns most of the acreage, has most of the votes. So you could have one owner versus twenty owners, one owner, by virtue of the fact that he owns most of the acreage. And that went before a local court in New Mexico and the courts found in favor of the doctor, because the New Mexico law says in proportion to acreage. So it will be interesting to see what happens, if it's appealed up to the New Mexico Supreme Court.

But you have traditional ways of administering water and doing things that change because of laws and how they're put into place. Do you know why the prior appropriation doctrine came into the West sometimes?

Storey: Out of the mining law?

Prior Appropriation Established a Property Right

Martinez: No. Part of the reason for the prior appropriation doctrine came into the West was to provide, in my opinion, a document, a piece of document or a finality to a water that could be traded and used. Okay? Because what happens is unless you have some mechanism to quantify, to permit a right to be able to sold and to borrow money against, you can't do it. And at least in northern New Mexico that was not the concept. You had a water right, but you had a water right to use on your property, and there was no such thing as permitting water rights, or transferring water rights, or using water rights.

But bankers don't like to lend money on that basis. So part of the reason that these systems are put in place, are put in place to allow the economics to move forward. That's what adjudications aren't permitting this and a lot of cases are. If you didn't have a system in place to validate a water right, how could you move that water right or sell it?

Storey: Or use it as collateral.

Martinez: Or use it as collateral. So you've got to consider *that* as a reason why the systems were put in place as well as to try to determine who uses water first or who has a right to use the water.

Storey: Well, I would like to keep going.

Martinez: I don't know if you've run into that, but—

Storey: Well, I've not run into this concept before, and it's a very interesting one.

Groundwater Regulation in New Mexico

Martinez: In New Mexico, groundwater regulation in New Mexico, the laws in New Mexico arose out of a fact that there was an artesian aquifer that was being heavily depleted in terms of the heads on the artesian aquifer, down on the Pecos river stream system. In the late 1920s, bankers started saying, "We're not going to be lending you any more money, and we might be on the verge of losing our investment on some of these notes we hold, because the artesian heads are falling so quickly that people are going to be going out of business." So as a result of concerns by the banking community, New Mexico enacted its groundwater statutes, in order to protect an investment.

Storey: That's interesting.

Martinez: So it did not occur as a result of some foresight in managing water. That's how most things happen in the West, anyway, in water. It's not as a foresight, it's as a *reaction* to something. So it did not occur as a foresight on managing water or best utilizing the resource; it's a protection of an investment and ability to move forward with an investment.

Storey: Or a protection of a property right?

Martinez: Yeah. And that's where I tie the fact, and I have not seen anything in the literature, that if that occurred in groundwater, it doesn't take very long to realize that in the West, especially in New Mexico where you had land grant problems, and title problems, and so forth, in order to take the resource and be able to capitalize on that resource, you have to have some kind of document that gives you a right to the use of that water or land, whatever the resource is.

If you don't have the ability to quantify or to get some kind of authority to say that *is* a valid right, property right, whatever it is, and you can do this and that, it's yours and you can sell it and you can mortgage it. If you don't have that system in place, you *cannot* provide an economic base. And you've got to realize that when people moved to the West, they were looking to exploit the West, to move there, and from that standpoint to exploit it, I don't mean detrimental but to develop it, and in order to develop and invest and so forth, you've got to have some sense of who owns what and so forth, through titles or whatever it is.

It would be interesting to follow that line. But that's in the back of mind is that that is what drove the development of western water law to a certain extent, and I think it has some merit. Maybe some historian someday might follow that up. Because in New Mexico you had water that had been regulated, had been appropriated for hundreds of years, and I sometimes ask myself, why then was the prior appropriation doctrine put in place? Because the system put in place a system that recognized existing rights but allowed new rights to be permitted, and the permit was a document that gave you the right to use water.

In the other states, the other western states, you had a different scenario. You had no use. Maybe in that particular case, maybe the argument could be made that that system was put in place because we wanted to regulate the permit. But again, what was the reason? Was the reason behind it to regulate the resource, or was the reason to provide some kind of paper title to the resource which then would serve as the basis to be able to? And you still have the same issue before the Bureau of Reclamation today on an issue of a twenty-five versus forty-year-contract period. One period gets, depending on where you sit, a better sense of economic security than others.

Storey: Yes. And I gather in California they're writing the contracts. The contracts may be longer, but the cost of the water changes.

I've got to let you go, because I promised to have you out at 10:30. I'd like to ask you whether or not you're willing for the information on these tapes and the resulting transcripts to be used by researchers.

Martinez: I have no problem. Just let me see it to make sure that we don't have anything—

Storey: Good. Thank you.

END OF TAPE 2, SIDE 1. APRIL 12, 1996. END INTERVIEW.
BEGIN TAPE 1, SIDE 1. JULY 31, 1996..

Storey: This is Brit Allan Storey, Senior Historian of the Bureau of Reclamation, interviewing Eluid L. Martinez, Commissioner of the Bureau of Reclamation, in his offices in the Main Interior Building on July the 31st, 1996, at about 9:30 in the morning. This is tape one.

Martinez: My mother divorced my father and moved to Santa Fe when I was one year old.

Storey: You said she moved. You didn't say why. It didn't have anything to do then with farm to city movement or anything like that?

Martinez: Oh, no. It was just a breakup in the family, and she moved to Santa Fe and raised myself and my two sisters.

Storey: Tell me about why you became interested in engineering.

How He Became Interested in Engineering

Martinez: Well, I thought I had told you that, but maybe I didn't. It wasn't anything I had planned. When I was going through high school, especially in the—I think it was in the senior year of high school, I was taking a course in mechanical drawing or drafting, and I had a teacher, a fellow by the name of, I believe, Grant Reed, that perhaps saw some promise in me and asked me what my plans were after graduating from high school. Of course, I told him I didn't know what those plans were. I didn't have the family resources to go to college, and at that time I was thinking of entering the service. Of course, my grades in high school weren't the best in the world, so *he* suggested that I look at the possibility of a co-op program with the Highway Department in New Mexico that he had been instrumental in getting a couple of his students into this program.

He arranged a meeting, and I went with him to visit the Personnel Officer of the State Highway Department in New Mexico, and took along my transcript. As I recall, the gentleman by the name of Schaeffer [phonetic], later became a good friend of mine, the head of the Personnel Office for the Highway Department looked at the grades and said, "Well, you know, we've got some other students that have better grades," and I remember the teacher looked at him and says, "Well, I think young man has promise, and as a personal favor, you ought to consider him." So I had a small interview and left and didn't expect anything to come from it.

School came to a close and I was working at the time. I believe I was sacking groceries. I received a letter one day from the Highway Department and I thought [about] whether I should open it or not. I knew what the answer was going to be—that I was not selected. I opened it and was quite surprised to find that I was selected. And joined the co-op program and ultimately earned a degree in civil engineering. I graduated with honors. So that's the way I came about being an engineer. It was nothing that I preordained or preplanned from my perspective. I could very well have been something else.

Storey: How did the co-op program work?

Co-op Program at New Mexico State

Martinez: Basically it was a cooperative program where you work six months for your employer, in this case it was the Highway Department, there was other co-op programs with New Mexico State. You work and you save your money and you go to school six months and you pay your expenses, and then a job's held for you the following year and you go work six months and you go through a different organizational unit or department. When you graduate, the intent is that you stay with the Department. At least the hopes of the Department is that you stay with the Department.

They used that as a recruiting tool, ~~for bringing~~, at that time, for bringing in engineers, because that was back in the sixties, fifties and sixties, when that program was put in place and there was a major effort of building interstate highways across the United States. New Mexico was involved in that process. They were competing for engineering grads like any other institution that had a need for engineering graduates, and they were not very successful in the marketplace because of the salaries they were offering, so they put in place a program which I thought worked quite well, to get them some engineers.

Storey: So it was for engineers then, really?

Martinez: That particular program was for engineers, but there were other programs in New Mexico State at the time for business majors and so forth. It's a common practice that is used by a lot of institutions and universities nowadays to enable individuals to work their way through college and get practical experience. So when you get out of school, the thought is that you have from two to three years, depending on how quickly you get through the system, of actual practical experience, having worked in an organization and have your schooling also.

The interesting thing about it was that at about the time that these graduates were getting ready to graduate, the fact that they had gone through a co-op program, they were sought out by other institutions. Since it was not a legal requirement that you go to work for the Highway Department, a lot of these co-ops were recruited by other entities because of their experience. The Highway Department was not successful in keeping as many as they thought they would.

Storey: How long did it take you to go through school on this program?

Martinez: I started school in June of 1964 and graduated in August of 1968. So I moved very quickly, but in my particular instance, the last year I went to school full-time and in some cases took over twenty-one hours of semester credit in order to get out of school. I think that one of the semesters I took around twenty-three semester hours and was able to move through the system a lot quicker than I would have.

Storey: But that's very tiring.

Martinez: Well, it was interesting.

Storey: A little stressful, I would think.

Martinez: And challenging. I used to be the type of person that wouldn't worry about the test until the night before the test. I found myself at that stage in life, still do, that I can function better if I look at the issue immediately before I need to look at it instead of worrying about it weeks in advance.

Storey: What was your first co-op assignment with the Highway Department?

Worked Survey Crew for New Mexico Highway Department

Martinez: The first assignment was working as a member of a surveying crew. The first job I had was in Southern New Mexico. I worked for a survey crew that was charged with picking out an alignment for the interstate highway between Las Cruces and Albuquerque, and it was a crew of about, I would say, about ten to fifteen individuals. My first job was, I was given a brush hook and told to clear brush for a survey crew, which I found to be an interesting job. I worked basically in that capacity for that whole six months that I worked in Southern New Mexico. I worked in the area around Moriarty, which is an interstate highway that runs between Santa Rosa and Albuquerque. That was basically my first assignment, working in a surveying crew.

Storey: What kind of living accommodations do they provide?

Martinez: Well, the accommodations were typical accommodations. They paid you, I believe, about \$4 a day per diem and you bached with everybody else in the survey crew. Two or three individuals would rent an apartment, and you didn't rent the most luxurious places you could find, because everybody would throw in a couple of dollars a day. So like most surveying crews of that era, you stayed probably in the lower-end hotels, motels, and you bached. You cooked your own food, and you took turns at washing the dishes and commuted back to your hometown in Northern New Mexico. Most of the survey members were from Santa Fe or that general area. You know, the person that had the better car would drive it, and everybody else would pitch in for gas and a certain amount of money to defer some of his expenses on the vehicle and you did that. It was kind of interesting.

Storey: You went to New Mexico State then after the first six months?

Martinez: Well, yeah, and the reason I went to New Mexico State was because that was where the co-op program was. The fact that I selected that over any other institution, that's where the co-op program was with the State Highway Department. It turned out that New Mexico State is very good—well, at least at that time and still is, I understand, a very well-respected institution as far as engineering is concerned.

Storey: And where is New Mexico State?

Martinez: It's in Las Cruces, southern part of New Mexico.

Storey: What was your second assignment then?

Worked in Road Design for New Mexico Highway Department

Martinez: The second assignment was working in the road design section in Santa Fe, assisting in the design of highways. In other words, the cross-sectional design, determining volumes and doing the technical work. That sort of related to the work that I was doing the year before in the surveying aspect of it. I worked there for six months.

Storey: Was that a learning experience or something you'd already learned and you were just implementing from school?

"You learn two things: you learn the technical aspects of it and you learn the interrelationship of people. . . ."

Martinez: No, you know, every area that you work is a learning experience. You learn two things: you learn the technical aspects of it and you learn the interrelationship of people. My tenure with the co-op program in the Highway Department was not so much learning to design highways and how they're designed and constructed, because technically you can learn that through books. It was the interrelationship of people, of working with folks. Having worked with what you would consider, in that business, the lowest denominator, the survey crew's members, all the way through, by the time I ended my co-op program with the Assistant Chief State Engineer for the Highway Department, it gave me an ability to see how people function and how they relate amongst each other that I would not have gotten otherwise.

A lot of folks will go to school, you know, mix amongst their peers, graduate or go to graduate school, and then go work in an environment and stay in that environment for most of their lives without getting a full breadth of the experiences that life brings to it. So when I go out and I make a speech that, "I've been where you've been," to the employees of the Bureau of Reclamation, I've been every place from clearing brush to heading an agency. I've dealt with interrelationships with personnel and folks at every level. There's a lot of people in Reclamation that have also gone through that process.

Storey: What about your third year, third assignment?

Worked Testing Materials for the New Mexico Highway Department

Martinez: I want to recall that the third assignment I worked in the testing lab doing testing of earth and asphalt materials ultimately to be used for the construction of the highways across the State of New Mexico. Breaking concrete cylinders to determine their tensile strength, basically the work associated with working in the lab testing road building materials.

Storey: For six months you did this?

Martinez: Most of these assignments were for six months. Some of the assignments were shorter because I chose not to go the entire six months at work because I was trying to get out of school as soon as possible, so I would go back to school. But most of the assignments were six months.

Storey: Well, you mentioned that your grades weren't so hot in high school, but that you graduated with honors from New Mexico State. What happened? What changed?

Martinez: I don't know that anything changed, it's just growing up. When I was in junior high, I was a member of the Honor Society and the Student Senate and my grades were real good. When I went to high school, I guess it was just a stage of adolescence, I didn't pay much attention, couldn't care less. When I went to college, the first semester I was there, the middle of the first semester I remember coming home. I think I was on the verge of flunking most of my courses. I came home for mid-term break of that first semester and seriously thought about not returning. I don't know what happened, something must have clicked in the back of my brain. I went back, managed to get through that first semester, and then I think I was on the honor roll every semester following that. So it's just a stage of life.

Storey: You were obviously anxious to finish. How did you go about looking for a first job?

Martinez: Well, I already had the job. In other words, I had the job with the Highway Department, but I actually didn't go work for the Highway Department as my first job out of school. I decided to quit the highway program to go to school full-time that last year. In order to do that, I stepped off the program and went to school full time.

Worked Briefly in California for U.S. Bureau of Roads

The last semester I was in school, I was recruited by what was then the U.S. Bureau of Public Roads, and went to work for the U.S. Bureau of Roads in Northern California, and worked with them for about three to four months.

Moved Back to New Mexico to Work for the Highway Department

I had gotten married in the fall of 1967, and my wife and I went out to Northern California. After about three-, four months of being away from New Mexico, we decided to come back. That part of the country just has a tendency to lure you back. So I went back to New Mexico, went back to work for the Highway Department. So I did have a three-, four-month period in 1968 that I was a Federal employee. I worked for the Federal Government.

Storey: Working on a survey crew, I believe.

Martinez: Yeah, I worked in a place called Orleans, California, I believe, up by Willow Creek on the Klamath River doing the surveying work. It was kind of interesting.

Storey: What were you doing in the survey crew this time?

Martinez: I was actually the chief of the survey party that was responsible for alignment of logging roads up in the forest there in Northern California.

Storey: So that was a service provided by the Bureau of Public Roads to the Forest Service?

Martinez: I would imagine that was probably what was happening at that time.

Storey: What did they put you to work doing with the Highway Department back in New Mexico then?

Worked in the Computer Section at the Highway Department

Martinez: Well, to continue my co-op experience with the Highway Department, after working for the lab, I worked for a period of time in the computer section. At that time it used to be called the “computer section” of the Highway Department, which was involved in developing software for the design of highways. Having worked in that area for, I think four to six months, I wrote a few programs that were used by the Highway Department in its work.

So when I came back to work for the Highway Department, I was initially hired to fill a position in a new section having to do with design of drainage structures. I came in and worked in that area, but ultimately I found myself back developing software for the computer systems at the Highway Department at that time, and actually got quite proficient at it, in what was then called machine language, FORTRAN and COBAL. This was back in the early 1970s.

It got to the point where I was classified under the state personnel system as one of the two individuals in the state that had the credentials to meet the requirements in what they called the Systems Analyst Manager, or a person that would have the capability of developing system-wide capabilities for agencies. I was, you know, very interested in that. I think if I would have stayed in that arena, I would have been interested to see where I would have gotten, because I was really interested in software development and so forth.

Taught Courses at the Highway Department

But at any rate, in 1971 I was teaching a couple of courses on mathematics and computer languages to staff of the Highway Department. One of the courses that I was teaching was engineering, what I called engineering trigonometry. My course basically was to teach trigonometry to staff members, but use it in a practical way.

Employees from State Engineer's Office Suggest He Apply for a Job There

There was two individuals from the New Mexico State Engineer's Office, two technicians that were working at the State Engineer's Office that took that course. I don't know if I've told you this, during that course one of the individuals came up to me one day and said, "You know, you're a pretty sharp young guy." He says, "We have an opening at the State Engineer's Office. Our boss has just been promoted to Chief of the Technical Division, and you ought to apply for that position."

I wasn't looking for a job, but he kept pestering me and I said, "Okay, fine, why don't you go ahead and see if they set up an appointment."

So they set up an interview appointment and offered me a job, and my wife and I seriously thought about it, but I took it in September of 1971, and that's how I got into the water business. I went to work for the State Engineer's Office and worked for them from September 1971 through December 1994.

I had no inclination or thoughts of ever working in the area of water. *My* thoughts going through college were, I always thought that the best job in the world was a college professor job. At that time in my career and my status in life, I wanted to be a college professor. But there's an old saying that, "What I aspired to be and was not comforts me." I think that comes up someplace. I wound up ultimately working as a highway engineer and a water engineer and ultimately now as Bureau of Reclamation Commissioner.

Storey: What was the transition going from the Highway Department to the State Engineer's Office like? Was it a whole new world? Was it just a different way of doing engineering? How would you characterize it?

Martinez: Well, the work didn't bother me, because I had the technical background, education, and experience to do the work that was there. It was just a different culture. It was a smaller agency, about 130 people. It was just a completely different culture, different agency. I came from an agency that—he Highway

Department had a lot of technicians. The State Engineer's Office was predominately professional, very few technicians. They viewed things a little bit differently. It was a culture probably like the Bureau of Reclamation culture might have been back in the 1970s in that if you weren't an engineer, you weren't anybody in the organization.

In terms of my relationship with my fellow employees, it didn't make any difference to me whether I went to coffee with a secretary or with a technician. The organization was structured in such a way that if you were an engineer, you were expected to hang out with engineers and go to coffee with engineers. I mean, it was just the way organizations functioned back in those days, which I resisted all the way through my career. But it was just a different organization.

Moved to State Engineer's Office in 1971

I moved into an organization at the State Engineer's Office in 1971 that was kind of unique in the fact that I was the only Hispanic technical person employed by the agency at a level higher than a technician. So it was an interesting relationship that I had with the folks there. I wasn't a registered engineer at the time, but I was getting ready to be registered, and I was hired under the condition that I become registered.

Becomes Registered Civil Engineer and Land Surveyor

So I took my test, I think I was hired in September of 1971, took my test in April of '72 and passed it. Then I was told that in order for me to continue in my position I had to be registered as a land surveyor. So I took my test and passed my land surveyor's examination. Then I was told that I would continue in my job in an acting capacity until I had proved myself. So I proved myself and ultimately became State Engineer after "X" number of years.

State Engineer's Office Changed a Lot Between 1971 and 1990

But the organization changed a lot from 1971 through 1990. There's a lot of changes in the organization. So again, going back, it's what I gained more from working in those organizations, besides the knowledge that you gain from working in an area, it's the interrelationships of the personnel that you work with.

Many Staff at the State Engineer's Office Came from Reclamation

It was kind of interesting at the State Engineer's Office back in those days, in the 1970s, that a lot of the top management at the State Engineer's Office had been drawn from the Bureau of Reclamation. I guess for some reason or other, there must have been some RIF [reduction in force] of Reclamation staff back in the late 1960s, early 1970s, and the Highway Department picked up some Reclamation engineers, and they wound up heading most of the divisions of the State Engineer's Office. It was a close relationship there between the Bureau of Reclamation and the State Engineer's Office.

Storey: Am I correct in thinking that your entire career would have been under one State Engineer except when you were promoted?

Steve Reynolds Was State Engineer from 1955 to 1990

Martinez: Yeah. From 1971 through 1990, I worked under one State Engineer, Steve Reynolds, the State Engineer in New Mexico from 1955 through 1990, when he passed away, thirty-five years, which is a remarkable achievement in the western state engineer histories. He was quite knowledgeable. I learned a lot from him, both from a professional standpoint and from an interrelationship standpoint.

Steve Reynolds "was not very amenable to changes in philosophy or different directions. . . ."

He was an individual that thought about water and water uses and resources in a certain way, based on his experience and his job that he had carried out for thirty-five years and was not very amenable to changes in philosophy or different directions. He was just dyed in the wool and very strongly opinionated on certain issues, and that's the way he saw things. He was having a little difficult time in dealing with the realities of what was occurring in water management areas in the latter portions of his life.

Toward the End of His Career Steve Reynolds Had Difficulty Dealing with New Issues

He had moved from a role that he came in as State Engineer basically dealing with making sure that the water resources allocated to the State under the compacts were developed, and that meant projects, development of projects, and protecting those rights under interstate stream compacts and so forth, and was very successful at that. But then towards the end of his career he got into more of these environmental issues, water management, public welfare concerns and so forth, and he was having a little bit of difficulty dealing with that. He came from an era

where water conservation meant damming every drop of water that was flowing down the rivers, and that was what conservation was to a lot of these folks. And appropriately, they came from a certain era and they had difficult times adapting to the new thinking.

Storey: Yet you said a few moments ago that the agency changed a lot while you were in it. So it changed in spite of him, is what I am sensing.

Composition of the State Engineer's Office Changed over the Years

Martinez: Well, from a policy standpoint, it didn't change. It changed a lot from the standpoint of the composition of what had occurred. In other words, what happened is you went from an agency that was predominately engineering-oriented-directed to an agency that had more individuals that came from different kinds of backgrounds. While it was not a conscious decision, it was just that what was interesting is that between the era of 1970 and the 1990s, the State of New Mexico, and maybe in general, there's less and less engineers to draw upon. As we would go out and recruit for vacant positions, we just did not find young engineering graduates on those lists. They were either going someplace else, so New Mexico then turned to geologists, hydrologists, reworked some specifications and so forth.

It would be interesting to see right now, but my understanding is that even today at New Mexico State University, the number of students in the engineering professions has decreased substantially. There's not as many folks going into those professions. I was reading the other day where most of the engineering graduates, at least at the Ph.D. and M.S. level, now are foreign students in this country. So it changed culturally. Philosophically it didn't change much because this gentleman was basically directing the agency for "X" number of years.

Then there were some changes that were brought about as a result of constraints that were imposed upon the agency because you had Federal laws and state laws that came in place, notwithstanding individuals' thoughts about water for environmental purposes. If you had laws that were in-place, you had to deal with them, you see.

But let's put it this way, it changed. It was drawn along in the changes not because of its own initiative. I don't know whether that would apply to the Bureau of Reclamation also. In other words, if it has changed, it probably has changed from two perspectives. One is the change has been caused by the fact that it has *had* to respond, has had to change because the laws have changed.

Storey: You went to become the Chief of Hydrographic Surveys Division. What were you doing there in that division?

Became Chief, Hydrographic Surveys Section

Martinez: The Hydrographic Surveys Section of the State Engineer's Office in New Mexico is that section that is responsible for the surveying and reporting of water uses in the state for the purposes of adjudication of water rights. In New Mexico, they call it the Hydrographic Surveys Section, in other states they might call it some other section. But basically it was that unit that was responsible for providing the technical data necessary to adjudicate water in the state. The adjudications are done by the courts.

END OF TAPE 1, SIDE 1. JULY 31, 1996.

BEGIN TAPE 1, SIDE 2. JULY 31, 1996.

Storey: You ended up in that section because?

Prepared Data for Use in Adjudication of Water Rights

Martinez: If you go back, the individual that had been promoted, that had caused the vacancy in the State Engineer's Office that I was asked by these gentlemen in my class to consider going and applying for, had vacated the Hydrographic Surveys Section. So that's the position I was hired into. I probably could have been hired into some other position, but at any rate, that's the position I was hired into. I believe I was twenty-seven years old at the time, maybe a little younger. But at any rate, so I came in and actually was in charge of that unit, that section, I would say probably around maybe fourteen, fifteen individuals, surveyors, technicians, no engineers. Our job basically was to do an inventory and survey, and on these surveys we used to prepare maps that delineated the irrigated areas and the uses of water, points of diversion, and so forth. That information was then used by the courts for the adjudication of water rights.

"I then became somewhat knowledgeable of adjudication and the water rights in general claimed by the United States Government and by the tribes and was an expert witness in New Mexico from a state perspective . . ."

So my job was directing the staff that was responsible for putting together that information, and then also serving as an expert witness in the proceedings that followed, which were the state and Federal court proceedings on the adjudication of water rights as an expert witness to provide the testimony necessary to support

the documents that were prepared. The best part of that job, since you bring in the adjudication aspect of it and you bring in the Federal water rights and the tribal water rights, I then became somewhat knowledgeable of adjudication and the water rights in general claimed by the United States Government and by the tribes and was an expert witness in New Mexico from a state perspective on the quantification of those rights. I presented testimony as to what I thought the rights of the government and the tribes were with respect to their claims being made. Like I say, I appeared before both state and Federal Courts on that issue. That basically was the job I had as Chief of the Hydrographic Surveys Section.

Served in Various Acting Positions While Remaining Chief of the Hydrographic Surveys Section

During that tenure, and that was from 1971 through 1984, I held other jobs at the same time I was Chief of the Hydrographic Surveys Section, for a couple of reasons; one is I volunteered. Second of all, maybe the State Engineer or the Chief of the Technical Division saw some promise in me. But whenever there was a vacancy, I was chosen to sort of fill in that vacancy until the decision was made to bring in somebody.

Acting Chief of the Administrative Services Division

So the Chief of the Administrative Services Division retired, and I served, at the same time as I served as Chief of Hydro Surveys, I served for a period of a year, a year-and-a-half as Chief of the Administrative Services Division. Which I was in charge of the staff that was responsible for putting together the budget, testifying before New Mexico legislature on budget issues, administrative services, personnel, and so forth. So I became somewhat knowledgeable, at least at the state level, on how budgets are put together on issues dealing with the Administrative Services Division. So you could compare that job at the state level to your Chief of Administrative Services with the Bureau of Reclamation. So very early on in my career, I became exposed to those arenas.

Acting Chief of the Water Planning Section

I also served for a period of time as Acting Chief of the Water Planning Section. Having to do with water use planning. There was a couple other spots, other small jobs.

Chosen to be Chief of the Technical Division, Supervising Four Sections

But at any rate, in 1984 when the Chief of the Technical Division retired, I was selected by the State Engineer to head the Technical Division, which was then brought under my control not only the Hydrographic Survey Section, but the Dam Safety Section, the Water Use and Reports Section, and there used to be another section, it escapes me right now, but there was another section.

Storey: Groundwater?

Chosen to be a Hearing Examiner on Water Right Issues

Martinez: Yeah, it was groundwater, Hydrology Section. So I was basically in charge of the *technical* aspect of the State Engineer's office. Then around that time period, I was also selected by the State Engineer to be a hearing examiner on water right issues, and ultimately became the Senior ~~and~~ Water Right Hearing Examiner for the State Engineer's office and served in that capacity, basically, from about ~~1995~~ [1985] to about late 1988. I think I heard about forty-two cases.

Philosophical Disagreement in 1988 with the State Engineer

Then in late 1988, the State Engineer and I had a difference of philosophical opinion on one given application, and we professionally decided that he should hear some of these cases in the future.

Storey: During the water use surveys, it must be complicated, because some years they use more water, some years they use less water. How do you figure out what they're really entitled to and what they're "really using?"

Issues in Quantifying a Water Right

Martinez: What you need to do, and I can only relate to New Mexico, but I think this is common throughout the West, is in order to quantify a water right or adjudicate a water right, there's certain elements of that water right you have to determine. You have to determine the beneficial use, because the quantification of a water right is based on the beneficial use. Under prior appropriation doctrine, beneficial use is the basis of measurable water right.

Say you're talking about a irrigation right. You've got to identify the source of that supply, the point of diversion, the place of use, and the beneficial use component to it. So the Rio Grande is a source of supply of surface water. Point of diversion is the point of diversion of "X" ditch or whatever it is. The

place of use is a survey place of use. You've got to tie it down on the ground at ten acres, five acres, such and such a place and so forth. All of this is done on a mapping basis, because you've got to identify the place of use, diversion and so forth. It's got to be tied down.

The beneficial use can be measured several ways. One is, if you have measurements, gauged measurements of use for an extended period of time, then you can make an estimate on what that use is, how much has been diverted and how much has been returned to the system. But in most instances, there's lack of recorded gauges. So what you use is you make an estimate of the consumptive use associated with a crop based on empirical methodologies formulas.

The Blaney-Criddle methodology was used in New Mexico, and that's basically an empirical analysis, an estimate of how much water is consumptively used by the crop. That depends on the type of crop, the elevation, the temperature, and a lot of factors that come into the equation, but you can make an estimate. You can make a calculation on that. It's an average, and it assumes 100 percent water supply.

So when you report the type of use in a report and accompanying maps for agricultural purposes, what you've got is you've got a set of map sheets that show the point of diversion, the source of supply, and the irrigated lands. Each tract is identified with a number or given a certain code name that refers to the report, the ownership, location, and so forth. Then that information is then taken by the court to adjudicate the right. That's a completely different proceeding and it's interesting.

In the adjudication process, the compilation of the reports is the one that takes the least amount of time. It's the adjudication of the right itself through the court system that can take decades.

So in terms of uses for municipal purposes or purposes other than agriculture, again, you need to identify the point of diversion, the place of use, the source of supply, and in the absence of meter records, you've got to make an estimate of how much water is used, population, average use population and so forth. Then the same applies for any other type of use. Some states are more aggressive in their adjudications than others. Some states are undergoing massive adjudications now, some are not. It's in the context of those adjudications, because when you adjudicate a water right, the courts in the West generally have taken the position that you cannot adjudicate a water right in a vacuum. In other words, in order to adjudicate a water right, you've got to encompass all the rights

in the system. You cannot quiet title to somebody's water right, [because that's] basically what it is—a quiet title suit, in a vacuum. You've got to consider all the uses.

Adjudication of Water Rights Can Occur for Two Reasons

So in New Mexico and most Western states, an adjudication of water can come around as a result of two purposes. One is, the courts can order the adjudication. The other one is the State Engineer, in carrying out his statutory responsibilities of determining who owns water and who doesn't in order to be able administer water rights, can do surveys and ask the courts, the Attorney General of the state, and the courts to initiate proceedings for adjudication. In New Mexico, both cases have applied, and across the West also. You get two farmers or two users arguing over a water right, they go to a district court. The court says, "I do an adjudication of the system before I can determine your rights." So you get into a full-blown adjudication.

Federal Water Right Claims Must Be Considered During Adjudications

Where I was heading is that it's in the context of those adjudications that the Federal Government gets involved, to a certain extent, from the standpoint that if there's a claim of Federal rights, either on Federal lands or through its trust responsibilities, those rights have to be brought in through the adjudication process because you cannot adjudicate a system, the courts cannot adjudicate a system, in a vacuum. They've got to bring in all the rights.

In the McCarran Amendment the U.S. Waived Its Right to Sovereign Immunity

Initially the Federal Government resisted having their rights adjudicated in state courts. Ultimately it led to the McCarran Amendment,³ which said basically for adjudication purposes the United States Government waives its right to a sovereign immunity and will allow its rights to be determined in a state court. It's one of the few cases where the Federal Government has allowed that through congressional action.

So in New Mexico, you had Federal courts involved in adjudication processes, where the suits were brought in Federal court, some of those predating

3. Patrick Anthony McCarran served in the U.S. Senate from Nevada from March 4, 1933 until his death on September 28, 1954. The McCarran amendment is §208 of the State, Justice, Commerce, and the Judiciary Appropriation Act, 1953. (Act of July 10, 1952, ch.651, 66 Stat. 549).

the McCarran Amendment, and adjudications in state courts where the Federal Government then joined as a result of the McCarran Amendment. That brought in the Indian water rights, also. So I find that's kind of interesting now from a Federal perspective, looking at the Federal role, having been in the state perspective and the Federal with all these issues. But maybe I lost track of your question.

Storey: No, we're doing great.

Martinez: And New Mexico, again, was a leader in water rights adjudications. Since it was still using the same technologies and the same methodologies for adjudicating water rights that were being used in the fifties, sixties, and seventies. Maybe other states have come up with more novel ways of doing things, I doubt that. But at any rate, the New Mexico model for adjudication, at least with Hydrographic Survey aspect of how you can validate it and so forth, has been used by a lot of western states, because you've got to make sure that the data you collect withstands the scrutiny of the judicial process. Since you're dealing with individual rights, where you're quantifying these rights in a judicial process, your evidence has to be able to be supported substantially enough to go through this legal proceeding.

In Adjudication of Water Rights You Have to Do on the Ground Surveys

We found in New Mexico that when you're dealing with water rights adjudications of individual water rights, specifically irrigated lands, that you have to get on the ground to survey those uses. You have to have a ground inspection, because in some cases you're dealing with tenths of an acre of litigation over differences of the size of a tract of land.

There was a big push in the last decade to say whether we could adjudicate water rights by satellite imagery. Well, satellite imagery might be sufficient to give you a crop inventory, but when you're down to adjudicating a person's garden, satellite imagery doesn't cut it, unless the courts have accepted in the last few years that as a basis of meeting the requirements of the court for ~~determining~~ delineating an acreage issue.

It's just like surveying a piece of somebody's property. When you go out and you buy a piece of property, I think the standard still is that you've got to get out in the field and measure it. The technology has advanced to the point where you've got measurement's a lot simpler, but you've still got to get out in the field and measure it and walk it so you can say to the courts, "I looked at those four

corners,” and you’re a professional surveyor. I don’t think you can get away with saying, “Well, I sit here as a surveyor and ascertain the boundaries of this property from a photo image taken by satellite, and I’ve never been on the ground.” So maybe things will change, I don’t know.

Storey: There must have been a lot of disagreements between the owners and the State Engineer’s office.

Martinez: Not necessarily. There were some disagreements. For the most part, you’ve got to remember that it’s actually an on-site inspection, and most of the times the on-site inspection is with the farmer. So if a farmer’s farming a field and there’s no question about fallow lands or lands that have gone out of production, he’s irrigating a field and that field’s a 160 acres, and you go out and you measure a 160 acres and if he says, “No, I’ve got 161,” and you go out and you walk it and you measure it again, I mean, those kind of issues can work themselves out. So from the standpoint of how much acreage, those issues work themselves out. In other words, if he has a survey that says he’s got more acreage, you go out and you physically take care of that. It’s on the issues of how much water is used and the issue of forfeited lands, because there are lands that the water rights can be forfeited under State law by non-use, those are the issues that get more contentious, when you start making these kind of calculations on Blaney-Criddle formulas and so forth.

Then in an adjudication process, the courts will adjudicate an average consumptive use. You cannot adjudicate a consumptive use on each tract of land, otherwise you would enter decrees where every farmer had a different water right for a tract of land or every tract of land under a ditch would have a different water right. So what you do is you do an average for the system. Sometimes farmers will say, “Well, you know, that average doesn’t apply to me,” or, “It’s too low, I need more water.” So those are the areas where you get most of the controversy.

Quantifying Indian Water Rights Can Be Controversial

Then the other area of controversy is quantifying the Federal right, the Indian right. Those issues take a long time, and in a lot of cases they have yet to be resolved.

Storey: I gather with a staff of fourteen or fifteen people that this was a fairly large activity the State Engineer’s office.

Martinez: Oh, yeah. There was a period of time where we put out a lot of work, but we had individuals that had the experience and knew what to do. We went through there and did quite a bit of work for the staff that we had.

Storey: Were you adjudicating a watershed, or how was this working?

"The argument was that you had to adjudicate the main river and all its tributaries in one proceeding. . . ."

Martinez: You adjudicate a stream system—parts of a stream system. There are those that would argue that you cannot adjudicate a stream system unless you bring in all its components at the same time. We had a main river and the tributaries of a river. The argument was that you had to adjudicate the main river and all its tributaries in one proceeding. The courts have determined that you don't have to do that, that you can reach the objective by doing segments of it. In other words, you can do a tributary and another tributary, and then the main stem or portions of the main stem. It just makes sense. If you had to do the whole Colorado River or the whole Rio Grande in one whack, by the time you finished surveying uses on the system, your uses might have changed at the head waters, because there's continual change of uses that occur, changes of ownership and so forth.

It's Necessary to Adjudicate Both Surface and Ground Water

So to answer your question, you look at a system, a stream system, or parts of a stream system, and you do a survey of all the uses within the watershed, and if you've got groundwater uses that's associated with that, you make a conscious decision of what the groundwater aquifer looks like in that area and pick up the groundwater also. You've got to adjudicate both surface and ground. In New Mexico we did that.

Arizona's got a different story. It's moving forward adjudicating surface rights without adjudicating groundwater rights, and it's just going to cause them problems because you've got to come back in at some point in time and adjudicate the groundwater rights. So it depends on the state and how the laws of the state ; ~~how they~~ read and how those rights interplay. Because in most cases the ground and surface rights are interrelated to go in and just adjudicate the surface or just go in and adjudicate the ground doesn't take care of the picture, the whole picture.

Storey: How did your office set priorities about what was to be adjudicated?

Prioritizing Adjudication Efforts

Martinez: Well, there were several ways that those were set. One, the most obvious way was that the court would say do the survey and do it in a certain period of time. Most of the surveys in the West, hydrographic surveys, and I'll draw on New Mexico experience, the New Mexico water law was based on the Wyoming model law, which supposedly was based on the Colorado law for prior appropriation. In other words, if you look at the Wyoming statutes that were enacted, the States that enacted their water statutes after that basically modeled along the same law with the little quirks, but basically the law says that you create a State Engineer or a water official whose purpose is to administer water in the state, issue permits and so forth, and to survey uses in the state for the purposes of administering the waters of the state and to survey reservoir sites and so forth. The survey aspect of this was folded into this Hydrographic Survey Section.

So, in order to administer water in a state, a State Engineer might say, "Well, in this particular stream system there's a lot of activity and I see a lot of activity in terms of water permits coming before me. So in order for me to act on these applications and get a better handle of how much water I have to work with, I need a survey of water uses, which is supply and demand." That can be done independently of an adjudication. It's just for his purposes of administering the system.

So you'll see these old surveys in these Western states principally of those stream systems that had early activity in them, where applications were being made to the State Engineer for new appropriations and so forth.

The other thing that you saw in New Mexico and that probably you'll see in some other Western states, I haven't looked at it, is the fact that as Federal projects were being proposed under the Reclamation Act, because the responsibility of the State Engineer is to address and to protect—"protect" is probably a proper word—prior rights by junior appropriators. And since these projects were going to bring in new water supplies to an area that weren't there, the supplies were there, but new ability to capture this water supply and use it. These were, in some cases, going to be new sources of water ~~that~~ supplies that weren't available in a system.

For instance, let me explain. In New Mexico you had the transmountain diversion of the San Juan Project waters into New Mexico and the Rio Grande stream system. You were going to bring in supplies from one basin to another. In order to make sure that that supply was not taken by users in the Rio Grande stream system, you had to determine what the uses of the Rio Grande stream

system were in order to be able to make sure that these waters were not taken up illegally.

San Juan-Chama Project

So the State Engineer in New Mexico initiated a bunch of hydrographic surveys of the tributaries of the Rio Grande, especially in those areas where there were going to be units of the San Juan-Chama Project. So we undertook a lot of hydrographic surveys and subsequent adjudications. So this is what generates some of these things and what sets priority.

So in New Mexico, the State Engineer was convinced that about the time the San Juan-Chama Project was developed, he needed to go in there and ascertain what the existing uses were in the tributaries of the Rio Grande stream system, because they would be impacted by the San Juan-Chama Project. Because the way the San Juan-Chama Project works, it's an offsetting supply. In other words, because you have downstream requirement on the compact to Texas under the Rio Grande Compact and you've got to deliver "X" number of acre feet of water, because you're bringing waters into non-virgin waters or waters from the San Juan River into the Rio Grande stream system and storing them, you can allow additional and new depletions to occur on the tributaries of the Rio Grande because the water that is taken up by these new uses or increased uses can be offset by releasing waters on the main stem of the Chama River down the Rio Grande.

So that's an interesting way for allowing additional uses of water on tributaries from virgin supplies by offsetting the effect of that new depletion by releasing water in the main stems of rivers. This is a concept that is useful and is used West-wide.

Now, that doesn't get you past the fact that you get into these environmental issues dealing with when you start depleting systems because you're offsetting it with supply someplace else, you can dry up a system that way. Then you start getting into these issues of endangered species and so forth. But *surely* from a water supply compact situation, you could release water out of one spigot and take water from another source.

Closed-Basin Project in Southern Colorado

That's the real reason for and, as you know, the basis for a lot of these transmountain diversions and Closed-Basin Project in Southern Colorado which takes groundwater and puts it into the Rio Grande to allow the offset to occur.

So some of these projects that were brought in across the West were not brought in necessarily to provide a new source of supply but an offsetting supply, because if you bring in the new source of supply, you've got to bring in the plumbing with it. But with the offsetting effects, you can allow new uses on tributaries and other parts of the basin from existing sources, as long as you bring in that offsetting effect.

Storey: How often would adjudications like this be internally generated as opposed to externally generated?

What Generated Water Adjudications

Martinez: I would say between the era between the early 1900s, about 1950s, most of them were externally generated. I would say that between probably the 1950s to about the 1970s, in the era of water of project developments, which correspond with Bureau of Reclamation projects on something like this, they were internally generated. Then as you start moving more into quantification of Indian water rights and some of these issues, they're getting more externally oriented, in New Mexico. In other Western states, it's a little bit different. There wasn't much initiative to do these things until fairly recently, and it's been brought about because of competing demands for water supplies.

Storey: I take it in New Mexico water rights adjudication is done in the courts only?

New Mexico Adjudication Occurs in the Courts

Martinez: My understanding, of course, you need to look at each law, but unless the legislature has specifically carved out an exemption, these are rights that are adjudicated by the courts. It's a personal property right. It's like if you want to have a suit quiet title on your property, it's a judicial proceeding unless the legislature, I guess, or somebody has said no in this state and it stands judicial scrutiny, we're going to allow some official to determine whether your property, through a quiet title suit, is your property or not. Usually they're judicial proceedings.

So it's the judicial process that quiets title, too, because water right is a quasi-private right. It's a use of [unclear] right, the water is owned by the state,

but you acquire the right to use it and it's like a property right that you can transfer and sell. So, the question is, what's a proper umbrella to quiet title to that? And the proper umbrella is an umbrella that meets judicial scrutiny. It might be the court system, it might be an administrative system that the courts have blessed and said this is—because, see, it's due process is what it's all about. It's a due-process question. You've got to put the procedure in place that provides the ability and the processes to occur for people to object and to have their day before a hearing officer or before the court.

So it would be interesting to see, and I haven't—

END OF TAPE 1, SIDE 2. JULY 31, 1996.

BEGIN TAPE 2, SIDE 1. JULY 31, 1996.

Storey: [This is tape 2 of an] interview with Eluid Martinez on July the 31st, 1996.

Martinez: And I bet you that most of them are under some kind of judicial proceeding. And the reason for that is, especially, it would appear to me, that especially if you got Indian water rights and Federal water rights, it would be interesting whether you would subject those rights to be quantified through a body or an individual that does not have all this umbrella of making sure that it will stand up in courts.

Ultimately, all those rights, whether they're adjudicated in a court proceeding or not, at the state level, will get appealed to the United States Supreme Court. So it's a court proceeding. I mean, it's just a question of where it gets to. I mean, you can't appeal your decision on a state level to another state tribunal. It comes to the U.S. Supreme Court. So ultimately it's a court proceeding, in my opinion.

Storey: Now, let's see if I'm understanding this. So the State Engineer's office goes out and does these water use surveys and then has administrative systems?

Martinez: No, the State Engineer goes out, does the surveys, makes a conscious decision of what he believes those rights are, and reports those to the court. The individual owner of the water right, if he differs with the State Engineer, can have his day in court to present his evidence. Ultimately the court jurisdiction enters a decree. Once that decree is entered as to what the water rights are or are not for a stream system, then the engineer uses that decree as a way of administering water in the river. The State Engineer only has authority to administer water rights based on the permits issued by himself or his predecessors or the decrees of the court.

Inchoate Water Rights

If you have a water right that does not have a permit—and there are some water rights that exist, water rights that exist that predate the statutes— inchoate water rights. So if you have water rights in a state that are not permitted by a State Engineer or not adjudicated by the court, but are valid water rights, the engineer has no mechanism, unless that water right comes before the State Engineer with some kind of proceeding, change of type of use and so forth, for that engineer to be able to administer.

Case in point, somebody comes to a State Engineer or a water official and says, “I want you to administer priorities on the river under the prior appropriation doctrine.”

The engineer says, “I cannot do that because I don’t have an inclusive determination of what those priorities are.” So he does a survey, if he feels, and does an adjudication. And that adjudication might take thirty years. And until that adjudication is complete, he really has no legal handle on which to call those priorities, unless he carves himself out of part of that big pie a section of the adjudication and he says, “I want to administer priorities within this sub-element of the stream system, and I now have the information necessary to get the court to enter a partial decree on that.”

So while the State Engineer or state water official has general authority under the law, he has to have all the facts before him before he can do that. And that’s what these processes are all about. So the engineer then in the adjudication process makes a finding of what he believes the water rights are to the court.

I don’t want to get away from your interview, but these might be important for somebody someday. A State Engineer or a state water official also under the authority vested in him in law has to make a finding of what he believes the validity of the water right is in a proceeding before him, because once an owner of a water right or a user of water rights makes an application to the water official for a change in type of use or change in location of water right or some modification of his water right, he subjects himself to the State Engineer’s authority. The State Engineer has to make a finding of the validity of that right, but he cannot make an adjudication of that right. Only the courts can do that. So what he does basically he says, “I find that there’s sufficient evidence for me to be able to move this forward.”

It's very important, because once he issues that permit, he loses jurisdiction after thirty days. In most cases he loses jurisdiction and cannot revisit that. So it's like a court, he's entered a decision, he allows it, and that use then goes on for twenty years and then major adjudication comes in—or that action of that State Engineer is going to be considered by the courts, probably very favorably in determining what that right is. So therefore, the Engineer's charged with the responsibility of making sure that in the absence of an adjudication, he determines whether that's first a valid right and so forth, the quantity is.

If he determines that the right is not valid, then the owner of the use or the applicant then has to go through the judicial process all the way up through the courts in order to get that right validated. And the courts, unless they order a hydrographic survey, might just say, "Yeah, that is a right," or, "That is not a right."

Various Ways Western States Use to Determine Water Rights

So what I'm leading to is, that State Engineer is a very pivotal engineer in the development in a state of how water is used because of that role. Some states, Colorado, those things are handled by the courts. They have the water issues, the water right issues are handled by the courts themselves, they have water courts. In some other states they have a commission and the State Engineer. In New Mexico it's the State Engineer. So you can see, looking back historically and even today, those State Engineers and those water officials, because of the authority vested in law by them, have great say-so on how a state will develop economically and so forth and how we will move. That's why you hear these old sayings about how State Engineers had more power than governors because they had that authority to either say yes or no on the water issues, and in that area that's very important.

Storey: How much of New Mexico would you guess has been adjudicated or is in a state where the water rights are not a big issue of dispute?

Martinez: Well, in any Western state, all the water rights issues are in dispute, but I would say in New Mexico, probably the percentages have been final adjudicated. The area that's under adjudication probably, 30 percent, maybe 40 percent. The area that has been ultimately adjudicated, maybe 5 percent. And the reason for that is that the decrees, while you can move forward with the adjudication of non-Federal, non-Indian rights, it's adjudications of these Indian rights and quantifying them that take the time, and you can't get a closure on your entire decree by the courts until they've addressed all the water right issues. In some of these cases

you're still litigating what is the Indian water right, how do you quantify it and so forth.

Storey: Is that because water rights law as it applies to Indians in the Federal Government is different than for other people?

Martinez: Well, I'm no expert at this, but other people acquire their rights under state law. Their water right is a creature of state law. The Indian water right and the Federal water right, it can either be a creature of Federal law or its genesis is state law. If the Bureau of Reclamation files an application with the State of New Mexico for a Bureau of Reclamation project, it has created its right under state law, okay. So Bureau projects, the Reclamation Act, basically said you've got to apply it under state law.

Federal Claims to Water Rights

But, say you've got a right for instream flow for forest reserves or claims of that type or Indian water rights, water rights can be created by state law, they can be created by Federal law, or they can be created by judicial interpretation. So you could have Congress create the water right by virtue of congressional action. The Federal courts basically say there are rights pertinent because of Federal law, a reserved water right, and that's basically what they said about the Indian water rights. They said by virtue of the fact that the reservation was created, enough water was set aside for the purposes of the reservation.

Indian Reservations and Pueblo Water Rights

So what's interesting, from my perspective and my knowledge, is that there's no question that Indian reservations, and when you deal with Indian reservations you're dealing differently than Indian pueblos, we're talking about Indian reservations now, Indian reservations are set under the boundaries and the dates set by Federal statute. Indian water rights exist as of the date of the reservation, creation of the reservation, and it's questioned whether the creation of the reservation is the date that the reservation was contemplated or the date that the reservation was actually enacted by Congress.

In New Mexico there's been conflicting rulings by the Federal courts. But at any rate, there's a date associated with that, and the date of the water right, then, is senior to any other user, but it's junior to existing uses prior to the date of that reservation.

In New Mexico there were Hispanic and other uses predating some of these reservations because of the way the area was settled. In most of the West, the reservations predated any of the Reclamation or other kind of uses. So there, not only do you have the fact that you've got a reservation right or Indian water right, but it predates any other use in the system. So it depends on where you're at. But at any rate, so the use exists, it's a priority date, in most cases it's earlier than any other uses. Then the next question then comes, what is the quantity. And that's where most of the litigation has occurred. What is the quantity of water associated with that right and how should that right be administered? Because while the courts have basically said that the measure of the right is the amount of water necessary for practical irrigated acreage, that's been under litigation and continues to be under litigation. What is the practical irrigated acreage? Economically can it be irrigated feasibly or not? There you've got different court cases on that.

The Big Battles Have Dealt with Quantifying Indian Water Rights

So the big battles have been on quantifying the right. You've got some Federal courts that say, no, the right only is for agricultural purposes and should not be for the Indians up on Milk River, or whatever it is up in Wyoming Montana, says, "We want water for fish," and they said, "No, that right is only for irrigation. That was the intent." So you've got all this litigation. So that's the big area of Indian litigation right now is the issue of quantification and the type of use and the parameters imposed upon the ability to use that water.

State Position Is That the Winters Doctrine Does Not Apply to Pueblo Lands

In New Mexico and in Arizona, but specifically in New Mexico, you have Indian pueblos, pueblos that existed predating Spanish occupation, predating the United States Government and how that right plays in and whether it's a right that's created under a Winters Doctrine. In other words, practical irrigated acreage. The position in New Mexico basically has been, the state position is that the Winters Doctrine does not apply to pueblo lands, and the courts have agreed in part to that, because what applies to pueblo lands is maximum historically irrigated acreage. If a pueblo had 5,000 acres maximum and it now has 1,000, they're entitled to 5,000 maximum irrigated acreage. They're not entitled to 20,000 because there's 15,000 more acres that can be practically irrigated, because it's a different concept, brings in Spanish law, Mexican law, and so forth. And of course, the pueblo Indians, their position has been, "We shouldn't be treated any differently than the reservation Indians, our measure should be practical irrigated acreage." So there the issues are a little bit different in how they're being litigated and how you move forward.

Federal Claims to Water Rights

Then you've got the Federal rights, which is the Federal Government. You have the Forest Service, what those rights are. Of course, some of the Federal agencies have taken the position in the past, and might continue to take some positions, is that their rights are for purposes that they perceive, not necessarily the purposes the states perceive. The typical case is the water rights claim by the Forest Service in New Mexico under the Gila system where the Forest Service took the position that there were rights in the Forest Service, water rights for the purposes of instream flow for fish, and New Mexico took the position that, no, there was not. Ultimately what the Supreme Court said is that you need to look at the purposes of the reservation and the Federal lands for the purposes of reserving for forests, for the purposes of watershed protection and stands and so forth, and not for the purposes of recreation and so forth. So they said, "No, you cannot reach and get water for instream flow purposes and so forth. That's not the original purpose of the reservation." So there's been some case law on those issues.

Storey: When you went to that position as Chief of the Hydrographic Surveys Division, did they tell you you were going to be an expert witness and that that was going to be part of your—

Martinez: No. That was the furthest thing from my mind. I really didn't know what to expect.

Storey: What did you think when you found out for the first time that you were going to be an expert witness, and how did you prepare, or did you?

Two Aspects of Being an Expert Witness

Martinez: I don't know. I guess like anything else, you get thrown into the middle of a job and you just do the best you can. There's two aspects of being an expert witness: being technically competent in the area that you're going to testify, and the other one is being able to be at ease in the system. I felt technically competent in what I was doing because, you know, I was knowledgeable of the issues that I was discussing. But from the other standpoint, I felt a little bit at ease because I got involved in dealing with commissions and on the school board and dealing with the public, speaking before public groups, and I didn't feel intimidated. Most expert witnesses, where they lose it in their testimony is they lose their cool, they get frustrated, they don't know how to handle themselves before the courts or before a group of people. You get excited.

The worst thing that can happen to you as an expert witness is you get excited, then you completely lose your train of thought and you just fall apart. One of the simplest tricks that attorneys will do to a technical expert witness is they will ask him to compute something while he's on the stand, and if you don't come up with the right answer the first time, they'll point it to your attention and then you get flustered and you just fall apart. I've seen that happen a lot of times. And they'll just say, "Well, why don't you make this calculation up for me." You've just got to realize that if you know your stuff, you can answer it, and if you don't, you say, "No, I don't know the answer," and just move forward. It's like witnesses in general, there are good technical witnesses and there are witnesses you don't want to use, and there are some witnesses that some attorneys would prefer they not be put on the stand.

A technical witness, from my perspective, can either make or break your case. You can put a technical witness up there that falls apart on his testimony, and it can hurt you. Because the judge and the folks, they listen to you and they pay attention to you. But, you know, it's just a process like anything else. You just get up there and you talk.

Storey: Obviously they continued to use you.

Martinez: Well, in certain areas, you know, in certain areas they'll continue to use you. I've been away from it. At each stage, I guess, in a person's career you testify on certain things. Early on in my career, I testified on specifics, on specific calculations, on specific issues. I think today if I testify it would be more on policy issues—what's your perspective on this issue, what do you think? For instance, in the area of public welfare—and again, I address New Mexico on this, but it's coming across the West—officials have to make decisions on the use of water from a public welfare perspective, what's in the public interest of the use of water. Well, in most cases, that's not defined, it's just based on the credibility of the witness and what he would say. It would appear to me that to bring in a former State Engineer, a Commissioner of Reclamation and ask him, a client hires him and says, "What do you think is in the public interest of this particular application or not?" Well, to the extent that his credibility is weighed by the court one way or the other, you make a good expert witness on it, versus bringing in a person that doesn't have that breadth of experience.

But when you get into issues such as making calculations on a drawdown on a well and a groundwater aquifer based on a model, well, I would not be a very good expert witness on that because I'm not in the business of calculating what the numeric effects would be. But if you've asked me what the practical effects of the

drawdown would be, that's a different story, see. So which is more important, I don't know. It's an interesting argument.

Storey: How often did you do expert witness work?

Hearing Examiner

Martinez: I did quite a bit back in those days. Back in those days I did it quite a bit. After about 1985—well, actually, after 1990, I was no longer the expert witness, I was basically the decision-maker. Then I listened to the expert witnesses. During that period I was hearing examiner also, because my role when I became hearing examiner for the State Engineer's Office and became State Engineer, my roles changed. It changed from sitting in front of the decision-maker as an expert witness to the decision-maker listening to the experts. But the background that I had gave me the ability to weigh what they were saying and reach some conclusions. I found myself now in an interesting situation, because as State Engineer, the proceedings before me and the authority vested in me in law was sort of a regulatory quasi-judicial process where I made findings and decisions that were appealable to the courts. So I had to weigh the experts that came before me, and on an issue I could have four or five experts giving me four or five different opinions, and you just had to make the decisions on it.

Storey: We've sort of skirted this and talked about it in different ways, but let's try it from a different angle. The way you've described the water uses survey, it's sort of a cut and dried process. You know what land's being irrigated, you go out, you stand at the four corners or the six corners or whatever it is.

Martinez: Yeah, the surveying part of it.

Storey: You survey it, you apply the Blaney-Criddle formulas, and then you have what the state believes is the appropriate water right for that system. Where are the judgmental issues in all of this that cause differences of opinion?

Martinez: Well, first of all, you've got to make a decision as to whether you believe that's a valid right or not, okay. In the adjudication process and the surveying process of the water right, you've got to prepare a report that shows the water's being used, where it's being used, and the elements of that water right. The elements of that water right, one, some of it is physical. The physical portion of it, using your terminology, is cut and dry. The one portion that's sort of physical and could cause us some controversy is the amount of consumptive use, because there's

differences of opinions on that. You can use different formulas, you can use different cropping patterns.

But in preparing the report, you've got to make a conscious decision as to whether you believe that's a valid water right or not, because even if it's been permitted, if the right has not been exercised to the extent that the permit has, you have to make a conscious decision. So at that level you make the first cut of what you believe the right is as a recommendation to the court. So you've got to make some decisions that could be controversial decisions, especially on a case-by-case basis.

So, under New Mexico water law, under prior appropriation in some Western states, you have the forfeiture provision, four-year non-use, five-year non-use, water right's gone. In some cases it worked as a matter of law, other cases it requires notification by the Engineer. But you could theoretically have a water right that was in existence in New Mexico from nineteen—we're discussing from 1980 to 1920, then went out for ten years and then was put back in. If you have the physical information to reflect the fact that there was four-year non-use and you have to make a conscious decision as to whether the non-use was made was because of drought or because of other factors, you make the decision that the water right was forfeited. You show a no-right for that acreage, notwithstanding the fact it's been irrigated for fifty years. And you prepare yourself to testify in court as to what the basis of that was. That's a decision that's going to affect a person's livelihood, but you have to make those kind of decisions.

So there's some portions that are not priority of water use. What's a priority of their use? If it's a permanent right, it might be very simple as the date of the permit, assuming that the right was perfected in a diligent manner. But if it was not, you've got to make an estimate of the priorities. So there are elements to water rights that are not as obvious as it appears to be cut and dried. You've got to make some decisions, you've got to make some cuts, and you've got to make those recommendations to the court. And depending on what those recommendations are and your findings, you can either cause a lot of controversy in the system or not.

So in putting together a hydrographic survey for the court for adjudication purposes, the difficulty is *not* in surveying the uses, the difficulty is in compiling what you found in the field against what you find in the office records and making a conscious decision as to what your recommendations are going to be. Therefore, from that standpoint, these compilers, these folks that are going to be making these decisions and recommendations and filing it and getting into the report, work from

a practical experience. What we found in New Mexico and what the West has found is you can't go out to hire a surveying firm and tell them to do a hydrographic survey, because they'll do you a hell of a good job on surveying your lands and telling you where the points of diversion are and how much water is flowing down the ditch, but that's not a survey, a complete survey. The report requires all these other elements, that you go in and you look at the history of a water right file, see how that water has been moved back and forth.

For instance, what will occur is you could have a permit issued for a water right for 160 acres in 1920. That water right has been broken up into five or six different ownerships. As title has been conveyed, water rights have been moved. The water rights that were pertinent to half of that acreage are now been transferred and moved someplace else. You've still got to tie all that water right back, you've got to report each component of that water right, where it's at, who owns it, what the priority of that water right is, how it's associated. You've got to do all that work to put the survey together. It's not as cut and dry as it would appear. And there's a lot of folks that have this fallacy.

The irrigation components, the most part of a hydrographic survey, are the easiest things to deal with. It's when you start dealing with the municipal uses and other types of uses that have been transferred and so forth that cause you problems, Indian water rights, inchoate water rights, and these kind of things.

Storey: It becomes complex.

Martinez: Very complex. And it's reflected by the fact that some of these adjudications take thirty-, forty years to complete.

Storey: Well, I'd like to continue, but our time's up, I'm afraid.

Martinez: Well, we didn't get very far, but maybe one of these days we'll get—

Storey: We're going to get there. I'd like to ask you, again, whether or not you're willing for the information on these tapes and the resulting transcripts to be used by researchers.

Martinez: No problem.

Storey: Good. Thank you.

END TAPE 2, SIDE 1. JULY 31, 1996. END INTERVIEW.

BEGIN TAPE 1, SIDE 1. DECEMBER 6, 1996.

Storey: This is Brit Allan Storey, Senior Historian of the Bureau of Reclamation, interviewing Eluid L. Martinez, the Commissioner of the Bureau of Reclamation, in his office in the Main Interior Building on the seventh floor in Washington, D.C., on December the 6th, 1996, at about 8:30 in the morning. This is tape one.

Last time we were talking about your being Chief of the Hydrographic Survey in New Mexico. As I understand it, you came over from the State Highway Department to that.

Martinez: Correct.

Storey: I'm sort of interested in the transition, because going from the Highway Department to head of a technical branch like that that's very highly specialized in water rights, why do you think they selected you, and what kinds of transitions did you have to make to work into that job?

Martinez: Well, I don't know exactly what the reason I was selected other than what I heard. One was they were looking for young engineers at the time. The organization was top-heavy with folks that were either on the verge of retirement or within retirement in four or five years. And most of the senior staff at the State Engineer's office at that time had come over from the Bureau of Reclamation, as a matter of fact, and had gone to work for the State Engineer. And within a period of about, oh, I would say five years of the time I was employed, most of the top management, except for the State Engineer and a couple of his assistants, retired. So I think they were looking for an infusion of new blood.

On the other hand, you had had Governor King, who had been appointed, who had just been elected Governor by the electorate back in 1971, and he was quite concerned about, I had heard later on, much later on, about two agencies in state government, one being the Game and Fish Department and the other one being State Engineer, and their dismal record of hiring minorities in the State Engineer's office when I went to work, State Engineer's office in 1971, had never had a minority engineer on its staff in any position of any responsibility, even though it had been in existence since 1907.

Storey: In New Mexico?

Martinez: In New Mexico, which is kind of interesting. So I think there was a few things that came into play.

At any rate, I was hired by the State Engineer's office, and I was not a registered engineer at the time. I was going to take my exam in the latter part of September of 1971, and I was hired with a stipulation that I would take my professional engineer's exam and if I did not pass it, the job would not be available to me on a continual basis. In other words, I could not hold the position. That was an issue that didn't enter my mind. I didn't consider it, whether I was going to not pass it or not. It was just a matter of taking it.

So I took the exam and passed it. And then after I passed the exam, I was, interestingly, told that I now had to take and pass a professional land surveyor's examination in order to maintain the position, which I took and passed. And then, subsequent to that, I was called in to the office by my supervisor at the time and said, "Now, we're going to put you on a one-year probation and see how you do." So it was a different world back in those days, back in 1971, than it is today.

But at any rate, I went to work for the State Engineer's office. The transition didn't affect me. The work I had done for the Highway Department was very technical, but I had worked over the years in different areas with different kinds of folks and I felt very comfortable. Most of the employees at the State Engineer's office in the section I took over at that time were not engineers, they were technicians. Some of them had been there for quite a while. Very competent individuals, but they were not registered professional engineers. But they knew their work, and some of them took me under their wing, and I learned, and over the years, I assumed more and more responsible positions.

Changes in State Engineer's Office Over the Years

When I left the State Engineer's office, it was kind of interesting because when I had left, I would say that about 50 percent of our professional ranks were minority, either women or Hispanics, some colored folks. Which it was a completely different organization, the State Engineer's office, when I left it than what it was back in the early 1970s.

Storey: After you were there for a while, they started giving you acting assignments.

Martinez: Well, they didn't necessarily give them to me. I volunteered for them, and in volunteering for them, I took a lot of those responsibilities on, which was kind of interesting work.

Storey: Why did you decide to volunteer?

Volunteered for Jobs

Martinez: Well, at that time I was ambitious. I wanted to learn, and I wanted to learn all of the aspects of the organization for several reasons. One is I viewed it as an opportunity to build my career. The other one also was that that organization, like most technical organizations of that era, a lot of them, supervisors and directors, for the most part, were very protective of the knowledge they had and did not wish to share that knowledge, or did not share that knowledge with other individuals—on a need-to-know basis. And therefore, you could spend your career in a given section and not really learn what the other workings of the organization were. I viewed an opportunity to learn how the organization functioned only by volunteering to work in other sections. And even in this particular organization, I would assume that that was the case. It might still be the case, unless you have an individual that is assertive and wants to move and work in different areas of the organization, he could spend an entire career in one specialty and not get a good feeling of how the organization functions as a whole.

Storey: Do you think this was typical of state offices at that time? Do you have any sense for that? I mean, other State Engineers' offices in the West?

Martinez: My feeling is that it was probably typical. It's probably not only typical to state agencies, I think it was also typical of the Federal agencies because of the contacts and the acquaintances I had in Federal agencies, you know, working with Federal agencies even over those years, I've seen a lot of changes in the Federal agencies themselves.

And things have changed, you know. I mean, in those days, in fact, in the late sixties, early seventies, it was very easy for a supervisor, if they didn't like an individual, to move them off the staff. There were occasions when I would walk in and somebody's pink slip would be on top of the table and they'd say, "You're gone someplace else." I think that probably happened at Federal Government also. As in more and more over the years, as we got into these employee rights, rights of employees, and EEO and so forth, it becomes more and more difficult, to the point where now if you have an employee that is not functioning, it becomes more of a strain to move the individual than sometimes it's worth. But things have changed in the last thirty years in organizations.

Storey: The State Engineer, Mr. Reynolds, I presume, would have had a lot of influence on how this functioned. He'd been there for quite a while when you came, hadn't he?

Martinez: He was appointed State Engineer in 1955 or '56.

Storey: He'd been there almost twenty years.

Martinez: And had put in place a structure and way of organizational functioning that existed 'til the day he died. Except over the years, he mellowed. Like most individuals, they mellow over time. So I didn't have the opportunity to sit down and visit with him when a lot of people considered it was the prime of his career as a State Engineer, which was in the late sixties, early seventies. Even though I was employed by the State Engineer in the early seventies, I was employed at a level that didn't have much contact with him. I was, you know, a section chief, not division chief. And by the time I met him, I think he had started to mellow a little in his philosophy and the way he looked. He was a pretty tough guy. You know, he was one of those fellows that came from the old school and he didn't hold himself back.

Storey: That would've been, now that I think about it, just after Commissioner [Floyd] Dominy left, too. Sounds like a similar personality.

Martinez: Well, it would appear to me that they probably had their interesting periods when they debated water issues across the list.

Storey: You were acting Chief of the Administrations Services Division, I believe.

Chief of the Administrative Services Division

Martinez: That's right. For about a year, year and a half, I recall.

Storey: And what did Administration Services do for the State Engineer's office?

Martinez: Well, the entire gamut from preparing the budget to handling personnel issues to employee concerns. It's like the Administrative Services Section. In other words, it's the human resources. The job I held would've been comparable to probably the job that Margaret Sibley holds, plus Bob Wolf's job, plus other positions at the agency. At that time you had the division dealing with budget and human services, and a division dealing with engineering, and a division dealing with water rights. So I was actually the head person for the agency, responsible for those areas.

Storey: So what kinds of issues tended to occupy your time most as a division chief while you were in that job?

Martinez: Putting together the budget for the agency and justifying it. Appearing before legislative committees to justify the budget, and make sure that the expenditures were being done appropriately and correctly. Responding to audits. Making recommendations and making decisions as to who should and should not be promoted based on recommendations coming from the organization.

Storey: And how is Mr. Reynolds involved in all of that?

Martinez: For the most part, just from providing general direction. He allowed me to do what needed to be done. Mr. Reynolds did not preoccupy himself with those kind of things. He was more concerned about issues, water issues, on the Colorado River or these kind of things.

Storey: The big issues.

Martinez: The big issues, yeah. He didn't worry about the small issues, even though making sure that your budget is adequate and how it is spent, and making sure that you keep away from not spending money where you shouldn't be spending it, or making sure you're legal is an important function in an organizations. He did not worry about what he considered to be the small things.

Storey: Let's say the legislature had said to you, "We're cutting your budget in half." What would Mr. Reynolds have been doing?

The Legislature Never Cut a Proposed Budget of the State Engineer, but Generally Added Money

Martinez: Well, during those years, it was kind of an interesting scenario is that the State Engineer's office has, up to recently, as much credibility that there was no instance that I'm aware of in the last thirty years where budgets in State Engineer's office have been cut. In most cases, the legislature has put additional money into the budget. So the State Engineer in New Mexico always had the credibility with the legislature where if the Governor's budget did not provide him what he thought was needed, he had his sources through the legislature where they would add money to his budget. I think that's probably somewhat familiar with what had occurred in the Bureau of Reclamation in the past.

Storey: So the added money would probably be for pet projects?

Martinez: Well, not necessarily for pet projects. It's just for making sure that the function of his office was adequately maintained, because in the State Engineer's office and

state offices is a little different than some Federal offices, especially Bureau of Reclamation. And the State Engineer's office, I would say that probably 75 to 80 percent of the budget is associated with personnel—pay, benefits. In an organization such as this, that's not the case. There's more money in the budget for construction and operation and maintenance and these kind of things than for pay. So when you take a 10 percent cut in a budget that is 85 percent personnel-driven, you've got some real issues to deal with in terms of personnel.

So that's the differences on the budgets that you deal with. We weren't building large projects. We didn't have operation and maintenance. We were a water administration agency. A lot of it was, the majority of it was personnel-related costs.

Storey: Then Acting Chief of the Water Use and Planning Section. Was that different than what you were doing before in the hydrographic surveys?

Acting Chief of the Water Use and Planning Section

Martinez: The Water Use and Planning Section basically was that arm of the office that prepared data on population growth and anticipated future water demands of different parts of the state, and simple information that might be available on consumptive use by crops. It was sort of a catch-all situation for planning and reports. That's the section that worked with the U.S. Geological Survey ~~Service~~ or with the Bureau of Reclamation and in cases where they were working on joining projects where there was a manual to be published, a lot of times the reports would be published not under the auspices of the U.S. Geological Survey, but under the auspices of the State Engineer office. So they would coordinate those kind of things.

Storey: A manual to be published?

Martinez: Yeah, a study. A particular study.

Storey: Oh, okay.

Martinez: Say you did a study of a groundwater aquifer, and you did that in conjunction with the U.S. Geological Survey. Instead of it being a technical report of the U.S. Geological Survey, it would be a technical report of the State Engineer's office.

Storey: It occurs to me that about that time Reclamation had a proposed project in, I think it would be southwestern New Mexico, Hooker Dam. Did you ever get involved with that, by chance?

State Engineer is also Executive Director of the Interstate Stream Commission

Martinez: Just on the periphery of it. That was in the Interstate Stream Commission aspect of it. The Interstate Stream Commission is a separate state agency housed in the same complex, same facility as the State Engineer's office. The tie is that the State Engineer serves as the Executive Director of the Interstate Stream Commission, and therefore is Chief of Staff.

But going back to the history of organization for the work that you did was basically all you knew about, is whatever the Interstate Stream Commission was doing was, in a lot of respects, nobody's business other than the Interstate Stream Commission and the office, and even though you might work in the State Engineer's office, you had very little contact. So our contact would've been very, very small, if at all. Only in those areas that they might've asked for our input.

Storey: The reason that I asked you, in talking to Larry Morton down in Phoenix, he was talking about the fact that all these studies indicated there wasn't really a need for water down there. Water development, I mean.

Martinez: Well, that might be a case depending on what studies were done, but I know that there was a period in time when the city of Silver City and some of those small municipalities out there were concerned, and are concerned, as to where their water supply is going to come from.

Reclamation and the Red River Valley in North Dakota

We have the same situation today. We're doing studies on the Red River Valley in North Dakota where we have a difference of opinion, where Reclamation has difference of opinion, on the future water demands in that area where the cities are saying, "This is what our future demands are." The Bureau of Reclamation is saying, "No, we don't believe that's the case as to what they should be." So there's differences of opinion.

Storey: What were the principal things that occupied your time at Water Use and Planning?

Martinez: Most of my time, my activities basically were making sure that staff was addressing the work load that I would assign to them and that needed to be done. I didn't involve myself too much in the day-to-day activities. And it's been so long I couldn't recall, but whatever studies were being undertaken at that time, I was probably making sure they were being done and passing off on those reports.

Storey: Would it be typical of all of these branches and divisions that you would have a registered engineer heading them and you'd have technicians on the staff rather than registered engineers? How did that work?

Martinez: Both engineers and engineers. There was very few, in those days, the technicians were limited to surveyors, employees in the surveying crew or draftsmen. Any of the technical work and reports was done by engineers. At that time, the New Mexico state personnel system had five classifications for engineers, engineer one through engineer five, engineer five being your typical bureau head, engineer one being engineering graduate with maybe a few years' experience.

Storey: But not necessarily registered?

Martinez: They had to be registered in order to have the engineering classification. You have what was called Assistant Junior Engineer, classifications which were positions that you held before you became registered. But I want to recall back in those days as a State Engineer they did not have, if at all, that classification. What Reynolds did is he reached into the Federal Government. Folks that were leaving the Federal Government brought folks in and most of those were tenured a long-time, engineers that had worked for Federal agencies, and there were some of them, a lot of them, that I recall was registered.

We had an individual that had retired from the State Engineer's office at that time that retired as an engineer one, had been with the office for quite a few years. So that's just how the organization was structured. There was no classifications like today of water specialist or geologist or biologist or economist, and so forth. It was an engineering organization—engineers, non-engineers.

Storey: And were they all civil engineers?

Martinez: No. Some of them were electrical, some of them were mechanical. As a matter of fact, the State Engineer was a mechanical engineer. It depended on the expertise that was necessary.

Storey: When you went to the Technical Division, you mentioned that dam safety was one of the things. Is that a big concern?

Dam Safety Program in the State Engineer's Office

Martinez: It is a major concern, yeah. The New Mexico statutes have set up the Office of State Engineer, vest the State Engineer with certain responsibilities. One of those responsibilities would be in charge of dam safety for the state. He does not have jurisdiction over Federal dams in the state, but he does have jurisdiction over all other structures except for structures that either impound less than ten acre feet or are less than ten feet in height. Other than that, usually that was exclusion for stock tanks. If you have stock tanks, they're small tanks and you don't have to get a permit from the State Engineer. But other than that, any other type of structure involved a permit from the State Engineer. Before he issued you a permit, he had to make sure that it was adequately designed and safe.

He also has the authority to order a breaching of reservoir of dams that he finds to be unsafe. If, in fact, the owner does not breach, he has the authority to go in and breach, and then pass on the cost to the owner. From my perspective, I viewed and I still view in this position, that to be of paramount importance because I've been around. I wasn't Chief of the Technical Division in New Mexico when they had a failure of a tailings dam, but I can see what the ramifications of you being in a position of authority when you lose a structure, especially if things have not been up to snuff in terms of your program. Careers have been ruined, and will be ruined in the future when those things occur.

Storey: When did the safety of dams function—do you know when it came to the engineer's office in New Mexico?

Martinez: Yes, it's always been there. Yes, it was there in the 1907 legislation.

Storey: So it didn't happen because of Teton, for instance?

Martinez: No, the State Engineer functions in most western states, if you look at the act that set up the Office of State Engineer, they predate Teton and they pretty well parallel the dates of enactment of their statutes dealing with appropriation of water, because in order to appropriate water, you have to have diversion works. And in order to have diversion works, in most instances you have to have dams. And there was concern back in those days—talking about early 1900s, late 1800s—about structures, you know, that they be adequately designed and so forth.

So we have a review, we've reviewed, you know, the office has reviewed structures going back into the early 1900s.

Storey: That must be a very complex task. There're so many of them.

Martinez: Well, what you do is in the State Engineer's office it's like in the Bureau of Reclamation. We had a section of folks that that was their job, dam safety and review of plans. In the early days, I know it predates my time coming into the State Engineer's office, my understanding was that, and I would imagine that other state agencies also followed the same kind of approaches [as] in New Mexico, in the early fifties and sixties, the State Engineer had his own testing lab, and they did some of their own construction on certain dams in the state. That function was stopped, I guess—well, it was no longer in existence by the time I came in.

By the time I came to work for the State Engineer's office in 1971, the function of the Dam Safety Section was just an oversight and monitoring and making sure that the work was done by private contractors and not by the state. So it was kind of interesting. I found that kind of interesting also because what had occurred is, we had some of the old-timers in the organization that would lament on how things were back in the old days, and that they don't like the new transition and the way the office is now being handled, and that they were now just reviewing instead of designing. I find that kind of interesting, because to a certain extent you have that sort of transition going on in the Bureau of Reclamation right now, moving away from dam building to more of a supervised review and monitoring, and, of course, in this area, we're still involved with a—since we hold ownership to a lot of these structures, to making sure that they are adequately maintained and repaired.

But there is a transition that I tell the folks out in the field when I meet with them is that the transition that the Federal agency's going through right now is not unlike the transitions that a lot of the state agencies went through, except they went through those decades ago, that same transition on being a builder to being a regulator.

Storey: Why is that evolution occurring, do you think?

Martinez: In the Bureau of Reclamation?

Storey: In the states, then in the Bureau? I think there's, maybe, a trend there.

Martinez: Well, I think that in the states, I think part of it probably was involved in two instances. One is the state viewed itself, probably at one point, as being the agency that probably had the know-how or the ability or the resources to build these facilities.

Then in some of these Western states, you've got to remember, there weren't many consultants out there, there weren't many experts, so to say. So I think the state sort of fulfilled a role. And I think that over time, as you had more expertise available, and, interestingly, a lot of them were retired state employees or Federal employees, that the private sector could go to, or the municipality start taking over some of these responsibilities in building reservoirs and dams. The state just sort of moved away from that role.

And another thing is that I think that over the years, from a state perspective, what happened was that early on in the history of most state water administration agencies, water development was what drove the agency. In other words, when I say water development, is making sure that the state, first of all, solidified its claims which right to waters in interstate streams, and that went to the compact scenario. Second of all, that the state was aggressive in making sure that it reached out for projects for development of its water resources.

State Role Moved from Construction to Interstate Stream Compacts to Administering Water

So what I think happened was that you had a transition from building projects to a period of time of protecting your rights under interstate stream compacts, and making sure that you put your emphasis in trying to get Federal projects to develop those rights, and then it moved into a transition of administering water. Reynolds, his career was centered in that era which is what I call the second tier. By the time Reynolds came in, the Rio Grande Compact had already been entered into with the state of New Mexico, the Colorado River Compact had been entered into. A lot of the Western compacts involved in New Mexico were already in place. He viewed his charge as making sure that he protected New Mexico's interests under those compacts, and brought to New Mexico, along with a congressional delegation, those projects that enabled New Mexico to exercise its rights, and he placed emphasis on those. That was a period of 1950 to 1980s.

Then followed the era of you're no longer going to be building new projects. You've gotten no new water resources coming in. Now you've got to start administering the sources you've got, which is the era of a lot of water

management, which is a really interesting era that we are involved in right now. And basically that's sort of what the track of the Bureau--the Federal agency is, also.

Storey: They're lagging behind a little bit, I guess.

Reclamation Moving from Construction to Water Management

Martinez: Oh, yeah, yeah. Lagging behind because you had a Federal agency that was involved in developing projects westwide, versus developing projects within a state, you know. But relatively speaking, they're lagging behind, but it's two to three decades lagging behind in the context of time. It's just an evolution. So it's kind of interesting, what I see from my perspective. You see now the Bureau of Reclamation moving from a water development to a water management [bureau], and it has caused, and will continue to cause, concerns with the states, because they properly view their role as being the managers of water under--

END TAPE 1, SIDE 1. DECEMBER 6, 1996.

BEGIN TAPE 1, SIDE 2. DECEMBER 6, 1996.

Storey: You were saying that there's a conflict with the state view of their water rights responsibilities.

Many View Water Management as a State Prerogative

Martinez: Well, I think the states take a very strong position that they're the managers of water within their boundaries, in other words, that the Federal Government has always deferred to the states on the water management aspect of it--water administration, and most Federal laws will defer to state water rights. So when a Federal agency overreaches into what they consider to be their management prerogative, then that's when they start raising some concerns. And the Federal Government has done that through passing laws having to do with endangered species, water quality, and in the Bureau of Reclamation they'll try and move into that arena through its new mission.

Storey: A couple of questions come to mind about the Federal Government. In '88, when I came to the agency, there was a little booklet that had just been published, the name of which I forget, I'm afraid, which said, "The West has been reclaimed. All of the major water projects have been built." Do you agree with that?

Martinez: My philosophy is that you can find water projects if you look for them. I mean, I think it might have said all the ones have been built, and there's no more from the standpoint that philosophically and from an ecological standpoint, it was going to be difficult to build any more water projects. But my understanding is there's still water projects out West that are being constructed and are being contemplated.

I just read something in the paper yesterday where the state of Utah and the Governor of Utah and the Secretary of the Interior enter into an understanding for a dam that will be built downstream of a national park up there. In California, the municipalities, I think in Los Angeles, are building an off-stream reservoir for impoundment of water. I think if you did a literature search, probably quite a few dams and water development projects being constructed across the United States, not necessarily by the Bureau of Reclamation, but they are still being built. But I think the thrust, you probably saw in that article, and I probably read the same literature, is that, "It's the way we do work in the Bureau of Reclamation which was our job of building large water development projects. Those days have come to end. We've reclaimed the West."

The National Water Resource Association Would Like to See Reclamation Develop More Water

I think if you go visit with members of NWRA, National Water Resource Association, they'll probably say, "No, you have not done that. There are still some areas where we would like to have your expertise." So I think it's just a subjective point of view.

Large Water Development Projects Are Not Likely in the Immediate Future Because of Cost and Environmental Concerns

But my take on that is that the Bureau of Reclamation, at least for the immediate future, unless the priorities of this nation change, is not going to be into developing large water projects. From the standpoint of what I'm saying is, dams and reservoirs and water distribution systems, several reasons, the cost, but I don't think the cost is necessarily the reason. Mainly it's because of environmental concerns.

Storey: A second question I have about that is, for instance, in New Mexico I can see that the State Engineer's office might be concerned about the safety of Cochiti, for instance. Did you ever find yourself in a situation where New Mexico was talking to a Federal agency about one of its dams and safety issues?

Dam Safety Issues New Mexico Became Involved with on Reclamation Projects

Martinez: Oh, yes. Caballo Reservoir had a seepage problem. Navajo Reservoir⁴ had a seepage problem. When I was State Engineer, my Chief of my Dam Safety Section was involved and carried on dialogue with the Bureau of Reclamation and with our congressional delegation. But our involvement basically was to sort of ride herd over the Federal agency to make sure that they were addressing the issue, and if they needed support from the state in terms of appropriations through the delegations, that we would lend support, notwithstanding the fact that the State Engineer had no authority over Federal reservoirs. If a State Engineer in the West is aware of a Federal reservoir that has safety concerns, it's incumbent upon him to stay on top of it and ride the Federal agency to make sure that you don't place people at risk.

Storey: How would these things come to the State Engineer's attention? I presume you aren't going out and inspecting the Federal dams.

Martinez: Well, the Federal dams are inspected, and in some cases, I want to recall that I think the large Federal dams in New Mexico, when the inspections occurred, they had a member of the state along with them. So I would assume that that might be the case across the West if a state has a regulatory agency that has an effective dam safety program. Not all states have them. I would expect that you would probably find that the Federal agencies invite a state representative to come along.

The other ways you find out about it is that the Federal agency reports to the state agency. The worst-case situation is for a Federal agency to know it has problems, and try to hide those problems, because you're better off laying the issues on the table, and if you've got a regulatory agency in a state that has some responsibility over those issues, even though it might not be over Federal facilities, you let them know.

Storey: Did you ever get involved in a situation with one that was the state's responsibility, with the dam safety issue that was the state's responsibility, where it was a really tough issue for some reason? Maybe you had a landowner who was powerful and said, "No. Stay off my property."

4. Both Caballo and Navajo are Bureau of Reclamation facilities. Caballo Dam and Reservoir is on the Rio Grande Project between Truth or Consequences, New Mexico and El Paso, Texas. Navajo Dam and Reservoir is on the San Juan River in northwestern New Mexico to the east of Farmington. It is a component of the Colorado River Storage Project.

Costilla Dam and Issues with Reclamation

Martinez: No. The only involvement—they're all, I guess, difficult from a certain perspective, but the one that comes to mind is an interesting one, is Costilla Reservoir, Costilla Dam, up in northern New Mexico. The dam is owned by a private entity, Costilla Land and Water Company, I believe.

Storey: On the Costilla Grant, maybe?

Martinez: Yeah, and it was a reservoir, there was a dam that was identified as being deficient with respect to spillway design, inadequate spillway. And in New Mexico, we have a list, or had a list, of reservoirs that needed improvement for one reason or another. The legislature would fund the State Engineer's office with money to move forward and try to correct some of these facilities, even though they were privately owned. The legislature would appropriate some money.

Before I was State Engineer, the State Engineer entered into an agreement with the Bureau of Reclamation that the Bureau of Reclamation would design the modifications to the dam and supervise construction. An estimate was made, I can't recall what the amount was, whether it was 11 million or 12 million, I can't recall, to sort of buttress the dam and to provide a new spillway.

During construction, that movement at one of the abutments, as it turned out, the dam sat on an ancient slide that was not picked up by the designers. It increased the cost of the ultimate facility, and, of course, we had to stop construction and the State of New Mexico was faced with a claim by the contractor. The position that the state of New Mexico took initially was that the slide should've been picked up by the Bureau of Reclamation designers and adequately designed for up front, and that since that was an oversight on the part of the Bureau of Reclamation, my approach when I became State Engineer was to go up to Denver and sit down with people and tell the people in Denver, I think it was maybe Mr. [Joe D.] Hall or [Don] Glaser, I can't recall who it was up there, and impress upon them that it was in our best interests just to split the costs on the cost overrun.

Interesting reaction I had from the Bureau of Reclamation at that time was, "How dare you, you young engineer come to us and tell us we made a mistake?" So I walked away, hired my own set of experts, well-respected individuals, private consultants, who did an independent review and came down to the conclusion that the Bureau of Reclamation had erred in not picking up the fault.

Commissioner Daniel Beard Restricts Work Outside Reclamation Due to Liability Issues

Anyway, to make a long story short, ultimately we got an appropriation through Congress where Bureau of Reclamation shared part of the expense. What it sent to me, though, was an interesting situation is, and as a result of that, I think Commissioner [Daniel] Beard subsequently sort of issued a policy that the Bureau of Reclamation would no longer be working or seeking work with state agencies or other folks because you put yourself in an awkward position in terms of liability. But any rate, what I found interesting in that whole process was the mentality that was sort of existing in the top echelon of the Bureau of Reclamation at that time, a mentality that basically was, "We make no mistakes. We're supreme on these issues, and do not wish to acquiesce to the fact that people make mistakes and that you have to live with them." I thought that kind of interesting. Of course, that top management is no longer here, so it would be interesting how we would interact with each other. But I found myself, kind of interesting, now holding the position of Commissioner of Reclamation when, you know, six years ago we were sort of involved in differences of opinion on these issues. That's one that comes to mind in my relationship with the Bureau of Reclamation.

Storey: I'm a little confused, though. I thought you said initially it was a privately owned dam. I don't understand how Reclamation was involved.

Martinez: Because the state of New Mexico financed the repair. The private dam, State of New Mexico, was a banker. The State of New Mexico hired the Bureau of Reclamation. So the State Engineer in New Mexico hired the Bureau of Reclamation, *paid* them to be the designers and the construction overseers.

Storey: Of the modifications?

Martinez: Of the modifications.

Storey: I understand now. Okay. That's an interesting one.

Martinez: So it has an interesting history. That involved myself, it involved Commissioner Beard, which was kind of interesting because when he first became Commissioner, the issue was raised, I initially came up and talked to him, Manuel Lujan and [Dennis] Underwood, and Larry Hancock here in Washington early on when I first became State Engineer on this issue. The decision had been made to try to work out an arrangement where perhaps costs could be shared, and I think Commissioner Underwood had come to the conclusion that there probably was

some merit in the Bureau of Reclamation supporting legislation that would appropriate money to the Bureau for payment to the state.

What happened is that there was an election. Commissioner Underwood left. Commissioner Beard came in, and he was convinced by the folks in Denver, I guess, that the Bureau was not at fault. And when the legislation was introduced to get money to stay in New Mexico, Commissioner Beard took the position that the Bureau of Reclamation had not done anything that would result in having to support appropriations for the state of New Mexico.

After that testimony, I believe, is when I hired my set of experts, three experts that came in and did an independent study and found otherwise. And ultimately what it was is that there *was* an oversight on the part of the Bureau of Reclamation, and I think they have modified how they do their work.

Storey: Was it typical for Reclamation to be hired by the State Engineer's office for their technical consulting?

There Had Always Been Strong Ties Between Reclamation and the State Engineer's Office

Martinez: Well, yeah, I think it was typical. It was typical in New Mexico. I would assume it was typical in some other areas. That would be interesting to look at. But what you've got to remember, and the reason that occurred in New Mexico, is that there was always a strong tie between the Bureau of Reclamation and the State Engineer and the State Engineer's office. A lot of its employees had been Bureau of Reclamation employees. The State Engineer had worked hand in hand with Bureau of Reclamation in developing projects in New Mexico to enable the state to exercise its water rights under the interstate compacts. So for lack of a better word, there was probably a good boys' club, old boys' club, that you rub my back, I'll rub your back. It's not anything new that existed. Part of what is referred to as that old golden triangle, you know. But that existed in New Mexico.

Storey: When Bill McDonald was in Colorado, he had an agency which he described basically as trying to get the Bureau of Reclamation to develop water in Colorado. Was that the purpose of the Interstate Stream Commission in New Mexico also?

Western States Generally Have Two Water Agencies: One to Deal with Interstate Issues and Water Development and the Other to Deal with Water Administration in the State

Martinez: Yeah, that sort of parallels that. The state of Colorado, *most* Western states, have two agencies that are separated, each run by a different head. One deals with interstate issues and water development, and the other one deals with water administration within the state.

In New Mexico the State Engineer Heads Both Water Development and Water Administration

New Mexico, because of Reynolds' long tenure—over thirty-five years, he inherited a system that was both development and administration, and did not separate. In other words, he maintained control over both entities, and it still is that way. The State Engineer of New Mexico heads both the water development and the water administration. Most other states have split that function. So McDonald, probably, and Colorado had it—that element of water agencies out there that deal with involvement with interstate compacts and water development and so forth, while the State Engineer handles the administrative and permitting systems, and so forth.

Storey: It's interesting. What about water use planning? You mentioned that before when you were at the Technical Division. Was that another section, then?

Water Use Planning Section in State Engineer's Office

Martinez: It was part of this Water Planning, Water Use section. Basically in the State Engineer's office, you had the Technical Division, and then within the Technical Division, you had the Hydrographic Survey Section, the Groundwater Hydrology Section, the Water Use and Reports Section, which is water use, water planning, supply and demands, and so forth. And the Dam Safety Section.

So this Water Use and Planning Section was a catch-all for water planning, but back in ~~that and~~ the early days, that might've been, what I'm talking about, early days in the fifties and sixties and seventies might've been working hand in hand with the Bureau of Reclamation on water development projects. That's what probably the function of that was.

Storey: The Hydrographic Survey Section is what you started out with, right?

Martinez: That's correct.

Storey: So the Hydrology Section, I believe you said, is a separate one. What's the difference?

Martinez: Hydrology is groundwater–surface water–modeling. The hydrographic survey is sort of a misnomer. Hydrographic survey, if you look at it from a technical perspective, was surveying of water bodies, and that term probably predates surveying of water rights for adjudication purposes, in other words. So when these old parts of these agencies were set up, they had hydrographers, surveyors that surveyed sites for dams, water surveys. In other words, the soundings for dams or new dams can be put in place, and so forth.

When they start doing surveys of water uses, for adjudication, for water rights, they carried over the same term, Hydrographic Survey Section, but they don't go out and survey reservoir boundaries or take soundings in lakes and stuff like that, which are hydrosurveys. They do surveys of water uses, agricultural uses, and so forth. So it's sort of a misnomer.

So Hydrographic Survey Section in the State Engineer Office in New Mexico is a section that is involved, might have been involved in the early 1900s with water development projects, but since the thirties and forties, its primary function was to do surveys of water uses for adjudications by the courts. So their main function was to do an inventory of water uses and report those water uses for adjudication by the courts. The name just stuck with it.

So in different states it would be interesting to see what they call their surveying sections that do reports and surveys of water uses. And when you say "survey," you do two things. One, you physically *survey*, and the other one, you perform a *survey* of records and data, and bring them together. So it's not that they're out there surveying every particular piece of property.

Storey: And then the Hydrology Section?

Martinez: The Hydrology Section is a section that deals with studies on groundwater movement, modeling of groundwater movement, how aquifers respond to pumpage and so forth, and also is a section that would deal with sizing of culverts, sizing of dam outlet works, if necessary. This is your typical hydrologic-type work both with surface and groundwater.

Storey: It's both surface and groundwater?

Martinez: Yeah, yeah. But in New Mexico, most of the work that's being done now and has been done is involved with groundwater because the surface water development portion of it had already occurred early on, and since the state's no longer in the business of designing and building the works, basically what they did was review. If you had a plan for a dam that had a certain spillway, our Hydrology Section would do a review of the design to make sure that it was adequate, but they wouldn't do the initial design themselves. So this is what you call the traditional work like we would have in the Bureau of Reclamation where you have this area having to do with modeling over there in Denver, the Technical Services Center, or our engineers that do studies on conveyance of pipelines and structures and sizing of headgates and these kind of things, you know. That's your Hydrology Section.

Storey: You became ~~Head~~ Chief of the Technical Division in '84, as I recall. At that time, was groundwater a big issue for that division?

New Mexico Groundwater Legislation

Martinez: Oh, yes. It was primarily the principal issue, because New Mexico passed—New Mexico was a leader in the West, you know, in the states, of enacting groundwater legislation, in regulating its groundwater. New Mexico, the legislature in New Mexico, early in the 1930s, passed groundwater regulation statutes. So in the Pecos River stream system, in the artesian aquifer there, groundwater was being permitted since the early 1930s. And in order for you to permit the aquifer, to water from the aquifer, you've got to have a modeling system in place that tells you what the impacts on existing uses is or will be as a result of that.

Rio Grande Underground Water Basin

In the 1950s, the Rio Grande Underground Water Basin was declared. What that basically does is once you declare a basin and you administer groundwater, its engineer is charged with protecting existing water rights to determine whether water is there for the benefit of the applicant. So if you don't take water from a groundwater aquifer, technically you've got to determine whether the water is there to be appropriated, and, second of all, if you appropriate the water under the conditions that are being sought, how is that going to impact other water users, other wells, the surface supply and so forth? So you have to have a mechanism in place, an operation in place, that provides the technical data for you to be able to do that. So New Mexico put in place, early on, that system of administration and the technical expertise. Some states, even today, do not do that.

Storey: Does New Mexico have a goal of not reducing the groundwater, or how does this work?

Two Types of Aquifers

Martinez: Well, it depends. You have two types of aquifers. You have an aquifer that is connected to a surface source or a point of recharge, where you take water out, water comes in, and you have aquifers that depend only on rainfall for their replenishment.

Ogalalla Aquifer in New Mexico

The Ogalalla Aquifer, which is a high plains aquifer, is an aquifer that basically is you're mining water that's in the system. The rate of recharge is very small compared to the amount of discharge. In other words, that you're mining the aquifer.

In that particular case, what the state of New Mexico did is that it made a determination of how much water they thought was in the aquifer and said, "We're going to allow depletion to occur to mine the aquifer out within forty years." That's calculations they made as to how much water was in the aquifer, and the rate of depletion has not materialized to be correct. Either there's more—I doubt if there's more water, but the amount of discharge of taking water from the aquifer has not materialized to where they thought it was going to occur at the rate they thought it was going to occur. So the drawdowns were being expected aren't being realized, so it's the aquifer that has a longer time period than what was projected. But at any rate, it's a mined aquifer.

In those kind of aquifers, how you administer the aquifer is a little different. You either say, "If the aquifer has so much water in it, we're going to reserve a certain portion of it for future use, and I'm not going to allow us, the State Engineer, or the state of New Mexico, depletions below that level." In which case you look at what permits you've issued to date. If those permits are such that they will draw down the aquifer to that level, or even into that level, then you don't issue any new permits. You close the basin to new development. If, in fact, there is still room for additional development, then you allow that, and it also depends on what part of the aquifer you're in and the rate of discharge and so forth.

So there you consciously make a decision as to how much water's in storage, how much you want to leave in storage, or how much drawdown in the

aquifer you want to allow. You know, the aquifer that's stream-related or has a point of recharge, that recharges water into the system, you're still mining it. In some cases, when you're taking more water than is coming in, you're mining it, but at least you've got a rate of recharge that you've got, maybe you've taken out thirty gallons and you're giving ten gallons back in. Instead of taking thirty gallons out and, for all practical purposes, not getting thirty gallons in, you'd administer it a little bit differently. You take into consideration the rate of recharge. That is impacting your ability to use the aquifer, and you make the technical determinations as to what the drawdowns will be.

The decisions the engineer makes, the law in most cases in the West and in New Mexico, do not define what a permitable water right is. When the State Engineer makes a determination on whether to grant a permit or not, he has to make a finding whether he believes taking of the water will impair somebody else's water right. And the courts have not—the legislators most legislatures, in New Mexico particularly, have not defined what a permit is, and the courts have not set a standard. They basically have said, "You've got to look at each case, and the engineer has to make a decision. And once he makes his decision, if somebody feels that he has made the wrong decision, they can come back to us and we'll tell you whether he made an error or not." But for the most part, it's at the discretion of the State Engineer. The reason is, like I told you before, because it makes sense. Because if you are taking water from a groundwater aquifer, for instance, the first individual that goes and drills a well has a certain level of water in his well.

Discretion in Issuing Water Rights Permits

Any subsequent diverter of water from that aquifer, depending on how close he is to that well that's in there in the first place, will have an effect. So you could have an aquifer with a billion gallons of water below this guy's water in his well, and if you made the decision that any lowering of the first well's water level constitutes impairment, you could not access the water in storage. So the courts basically have said the gentleman has the option of deepening his well. So the engineer has discretion in granting permits.

Storey: As long as there's water there that he can eventually get to.

Martinez: Yes, amongst other things. So that's why you don't set numerical standards for impairment, because the engineer, in either approving or denying, has the authority to condition to protect existing water rights. So the courts, basically, and

the legislatures have said, “We don’t want to get into this business of setting standards because each case is different. Let’s give the engineer some discretion.”

Appeal of State Engineer Decisions through the Courts

Then the actions of the State Engineer, for the most part, in most states, are appealable through the courts. So you take it back. But in New Mexico, up to about the 1970s, the decision of the State Engineer could only be overturned for procedural matters; in other words, if he procedurally did something or did not allow testimony. In other words, the court would overturn him on procedural matters, not on the substance of his decisions. The legislature, for whatever reason, and I’ve never followed this up, in 1970 in New Mexico decided to change the law to have appeals from the State Engineer go to District Court *de novo*, which means the court hears a case brand new. It can defer to the State Engineer’s decision, but isn’t bound by it. I have a feeling that a part of that probably came as a result of somebody very concerned about the fact that the State Engineer just had too much power and authority, and they sent us a message by saying, “We’re now going to change the law for you making these decisions, but a judge can second-guess you.”

Storey: So now, if I’m understanding what this means—

END TAPE 1, SIDE 2. DECEMBER 6, 1996.

BEGIN TAPE 2, SIDE 1. DECEMBER 6, 1996.

Storey: This is tape two of an interview by Brit Storey with Eluid L. Martinez, on December the 6th, 1996.

... as State Engineer.

Martinez: Yeah. In other words, you cannot go to the court by going around me.

Storey: You have to act first.

Martinez: I have to act first.

Storey: Then I could go to the court and say, “I didn’t like his decision. Will you give it to me?”

Martinez: Yeah. And the court would, depending on who the judge is, would have a new hearing, and the state would participate. The transcript of my proceedings, or if

there were a proceeding or else my action as a State Engineer would be before the court, and the judge could make a decision. Of course, that judge's decision is appealable to the court of appeals in the state, and ultimately the Supreme Court. But they're expensive. So for the most part, unless you, as an applicant, have a lot of money or think you're right, that State Engineer still has a lot of control because he denies your application. You've got to look at the merits of going to court and trying to get it overturned. But at any rate, the law was changed where a judge could now issue an opinion.

Storey: Which would be binding.

Martinez: Which would be binding ultimately, unless a State Engineer appealed the decision. See, in other words, it would go to the judge. The judge would enter a decision. The Engineer could either accept it or appeal it. So he's still in the process.

Storey: Right. One other question, I think, today. The Ogallala Aquifer is an interstate aquifer.

Martinez: Correct.

Storey: Are there interstate issues involved in the way New Mexico administered the Ogallala Aquifer?

Groundwater Compacts in the United States Don't Exist

Martinez: There are no groundwater compacts, to my knowledge, in the United States. So what you've got in a situation in that whole aquifer is that who puts in the straw first takes water out. To the extent that it's hydrologically connected, you could have a situation where you have one state drawing water from underneath another state, and that has caused some interesting controversies in the past. But because the hydrological connection is not immediate, it doesn't cause much of a concern amongst the states.

But here's the situation I'm trying to explain to you. In New Mexico, New Mexico has a groundwater regulation statute in place, which means that if you're in New Mexico and you want to drill a well in the aquifer for irrigation purposes, you had to go to the State Engineer. The State Engineer has to approve it, has to determine if there is water there or not. Across the state line in Texas, up to the time I left, a farmer could just come and drill a well, punch a well in the ground, take all the water he wants, and irrigate. Well, interesting scenario, because the well's only separated by a fence line, and where is the water coming from? So

those are the kind of issues that New Mexico was starting to sort of get involved with. The farmers in New Mexico were real concerned about why they were being regulated, why in Texas were not being regulated. And at some point in time in the future, as these water resources start to diminish, you're probably going to get some interesting dialogue between the states and maybe even an attempt to apportion water.

But going back to your original question, each state, under its own water administration standards and laws, is administering how water is being taken from those aquifers. You know, some states in that whole aquifer area are probably regulating more than others. Now Texas, my understanding is, has turned in the last few years by law to set up water conservation areas that are *not* administered by the state, but by local water administration entities functioning under state law, whose job and authority is to impose sort of water conservation methodologies to try to reduce the rate of decline of the aquifers. And apparently they have been successful because the rates of decline in the aquifer that they were expecting and projecting are not come to—weren't—

Storey: Materialized.

Martinez: Materialized, yeah. There's still drawdowns, but not at the rates that they were thinking of.

Storey: Good. Well, I really appreciate it, but I've used your time and I know you've probably got another appointment waiting.

Martinez: Yeah.

Storey: I'd like to ask you again if you're willing for this material to be used by researchers.

END TAPE 2, SIDE 1. DECEMBER 6, 1996. END OF INTERVIEW.
BEGIN TAPE 1, SIDE 1. MARCH 25, 1997.

Storey: This is Brit Allan Storey, Senior Historian of the Bureau of Reclamation, interviewing Eluid L. Martinez, Commissioner of the Bureau of Reclamation, on March the 25th, 1997, in his office in the Main Interior Building in Washington, D.C., at about two o'clock in the afternoon. This is tape one.

Last time I think we had been talking about Mr. Reynolds and the fact that you had a disagreement with him about some—I guess it was a policy issue on hearings, running hearings.

Martinez: I can only recall what the issue was, was the question about—this is an issue that's not only unique to New Mexico, is under the prior appropriation doctrine, when a applicant makes an application for a new water supply or a change in type of use, usually the way it will work is the State Engineer will issue the permit, assuming he makes a finding that water's available and won't impact an existing user, and will then provide a period of time which the water will be put to beneficial use.

Requirements for a Water Right Permit

So Joe Blow files an application to irrigate a hundred acres of land. The State Engineer finds that the water's available, issues him a permit, basically will say on the permit—basically the permit is approved subject to the beneficial use being made within a four-year period, subject to extension of time, which basically gives the applicant four years in which to break ground, put the use in place, and perfect his water right, because a permit doesn't come into fruition until the proof of application of beneficial use is made on the water.

So what will happen, sometimes what would happen is that you have an applicant would get a permit to develop a water right, and for whatever reason the water right was not developed, but it was permitted for that purpose, and the State Engineer would continue to either grant extension of time or just if it fell through the cracks, the permit would just continue to exist without the use being perfected.

That being said, situations arose where an applicant could then come back into the State Engineer's office and say that his plans of development had changed and that he now wished to either sell the water right, which he had yet to perfect, or trade it off to somebody else, change the type of use. The Engineer in some cases will still accept the application because he had made findings in the prior application that water was available. In the subsequent application, he would not have to make findings of availability water; he would just have to make findings as to whether the change in location or type of use would now impacts somebody else's water rights.

That, in my opinion, led to potential speculation of water rights. In other words, my thought was, and continues to be, that in order for a water right to be moved from one location to another, it should be perfected for the type and purpose of use of which it was originally applied for.

Mr. Reynolds was a little different in opinion at that time. I don't know if his thoughts ever changed before he passed away, but at any rate, he had some merit in his logic, was it didn't make sense for a State Engineer to require the applicant to undergo the expense and waste of water to perfect the water right for a year or two and then turn right around and apply to change it. So from his perspective, speculation in water rights was warranted. He, as an Engineer, would not require the water right be developed, beneficial use for one year and then changed. For all practical purposes, he would not require that. We had a difference of opinion on that issue.

That issue has come up in the state of Nevada, and I think the state of Nevada Engineer has ruled, and I think the courts have upheld him, that the water had to be put to beneficial use—you cannot have a speculation of water right. But that was the basis of the difference of agreement that we had and understanding that we had on my being a hearing examiner. As a result of that, I didn't feel comfortable in hearing any more cases for the State Engineer for a while. Just philosophical differences.

Storey: So that was about '86, was it?

Appointed Chief of the Technical Division in 1984

Martinez: That was probably somewhere around there, '86, '87, might have been '88. It was probably somewhere around there, because I became Chief of the Technical Division, I think in '84. Must have been sometime around that time period.

Storey: Did your job change because of this?

Martinez: No, my job was Chief of the Technical Division. That was my primary job. I was also doing work as a hearing examiner, which is a separate, distinct function that I did for the State Engineer. That was a role that, under law, the State Engineer can either hear an application if it's protested or he can appoint the hearing examiner. So he appointed me as his hearing examiner.

So it just got to a point where it was a difference of policy on some issues that I didn't necessarily agree with the State Engineer, and rather than potentially come up with a conflicting situation, I thought it was best that I just not hear any more cases.

Storey: I think we discussed last time your relationship as Chief of the Technical Division and your dam safety responsibilities, the relationship to Reclamation. You said, of course, New Mexico had no powers as far as Reclamation dams were concerned.

Martinez: Federal dams. There's a provision in the statutes that the State Engineer has jurisdiction over dams in the state—private dams, but not over Federal. That's exempted.

Storey: That's the state law?

Martinez: That's state law.

Storey: That's the official situation. Was there a difference as far as the unofficial situation was concerned in terms of working with Reclamation and that kind of thing?

Martinez: The only Federal agency that took sort of a position that the state should not be in the Federal Government's business as related to their dams was the Forest Service. Both the Corps of Engineers and the Bureau of Reclamation invited us, even though the law does not require that we be invited on the inspections, both the Corps of Engineers and Bureau of Reclamation would invite our folks to go along with them, keep us advised, and I think they did it for a couple of reasons. One was for a good working relationship and the other one basically was that any problems that arise with respect to Federal structures requires appropriate Federal appropriations to correct them, which usually are driven by the desires of the local congressional delegation. The congressional delegation turns to the states for advice on whether they should or should not support a particular project or the need for that project, so it appears to me that it might only make sense in the world for the Federal agencies to have the state agencies working with them, versus against them, in an issue that might arise with some conflict. So I think one way of avoiding that is to make sure that their state agencies are informed and kept apprised of potential situations that might arise down the road.

Storey: Did that work pretty well?

Martinez: It worked pretty well. In New Mexico, it's typical, and it works throughout the West.

Storey: Good. I think we had talked about Mr. Reynolds dying in 1990. Been State Engineer for thirty-five years. How did it come about that you ended up in that position?

Applies for and Receives Job of State Engineer

Martinez: I was looking toward retirement in April of 1990 when Mr. Reynolds passed away. I was asked by—not asked. A good friend of mine, a college professor, suggested that I consider applying for the position. He basically said, “I think you have a good chance. You’re as talented as anybody else out there, and I think that when it’s all said and done, you’ll probably rise to the top two or three people that will be considered for the position if you apply.” I thought he was a little bit optimistic, but at any rate, I did apply.

I think they had forty-some applicants from throughout the United States that applied for the position. It took a while to go through the interview process, I guess, and the application process, and by that time an election had taken place for a new Governor of the state of New Mexico, or it was in the process of taking place. The Democratic Party had selected their candidate for the general election, and so had the Republicans.

The Politics of Appointing the State Engineer in 1990-1991

They had a Republican Governor at the time, his name was Governor Carruthers,⁵ used to be Assistant Secretary for Water and Science for this Department. He was then Governor of the State of New Mexico. He had his choice as to who he wanted to be the next State Engineer, but my understanding was that the gentleman was not from New Mexico, and needless to say, the Republican running for Governor in New Mexico was not going to support an out-of-state candidate for the position, and neither was the Democrat running for Governor of the State of New Mexico.

So I think they more or less advised Governor Carruthers that it would perhaps be best if he waited ‘til the elections took place, and then he’d consult with the new Governor as to who might be the next State Engineer in the State of New Mexico, because they probably wouldn’t want to get themselves into an awkward situation about supporting somebody that wouldn’t be good for them politically as they were running for office, or that they felt they couldn’t support once they became Governor and they would have to let go.

5. Garrey Edward Carruthers was governor of New Mexico 1987-1991.

So what happened, New Mexico then had a couple of Acting State Engineers until the election took place in November of 1990, and Governor ⁶King was elected to be the Democratic Governor starting the following January of 1991. He met with Governor Carruthers and advised him that I was his candidate, and then [I] was appointed in December of 1990 as State Engineer of the State of New Mexico by a Republican Governor, and served for four years.

Storey: You came in after a thirty-five year term by Mr. Reynolds. I think most people who know western water would characterize him as a “water buffalo.” Did you find it difficult to move in? That’s not the right question. Excuse me. Did you find it difficult to move into that position after somebody had been in it so long and was so set in their ways?

Martinez: I didn’t find the job difficult. What I had expected was an attempt to undo the water laws of the State of New Mexico, because basically what had happened is during the policies that Reynolds had put in place and his resistance to change in the laws and his sort of reverence as a water demigod, sort of, a water official in New Mexico, people that had been wanting to change the law or policies on water had not been very successful. So there was the thought that the day he left the office there would be a run at the state courthouse and the state legislature, and it would change the laws. So I viewed the challenge I had was to make sure that that did not occur, and was successful in making sure that did not occur.

Interested in Broadening the Constituencies of the Office

With respect to the ability to carry out the duties of the position, I didn’t have much reservation about my capability, because I had worked basically for the gentleman and had been his second-in-command. A lot of people thought that I was his successor anyway—within the agency. So the technical challenges of the position and the political challenges of the position didn’t bother me. It was just how I would carry that job out. Being a different individual than Mr. Reynolds, I saw that I needed to sort of bring a little bit of moderation to the job. In other words, Mr. Reynolds came from the old school where he was pro-water development, and he didn’t—the proper word is he didn’t have much to say or do with environmental issues. He dealt with them, but he thought that a lot of those people were just causing a lot of problems needlessly. He was not really in touch with the environmental movement because he came from a different era, and he was having problems coping with that.

6. Bruce King was governor of New Mexico 1991-1995.

I saw that I needed to sort of bring that agency from where it had been under Reynolds, and try to sort of make it more accessible to different constituencies across the state that dealt with water issues. And I think to some extent that sort of parallels, I guess, the history of the Bureau of Reclamation, and that's the issue that Reclamation saw I was trying to work with now in the last few years by its traditional base of support saying that Bureau of Reclamation has abandoned them for the benefit of other stakeholders across the West. Same kind of situation.

Storey: But, for instance, Mr. Reynolds had taken over the hearing examiner activity because you had a philosophical difference. Did you then go in and change the approach that New Mexico made to implementing proving up water rights, or did you then find yourself in a different seat with a different thought process about all of that?

Martinez: Well, the thought process is different, and it's always easy to second-guess the decision-maker. It's a completely different role when you're the ultimate decision-maker. Of course, being the State Engineer is not the ultimate decision-maker; his decisions are appealable to the courts. But sometimes people don't have the resources or sometimes the court will uphold the State Engineer, so in a lot of respects you are the ultimate decision-maker, and that bears heavy. It's different from making a recommendation and actually making a decision. It's a different set of circumstances and what your thought process is.

I don't know if I'm being clear about that, but there's a world of difference between being a judge and being a special master appointed by a judge and recommend to him how he should act in a particular situation. The judge might very well adopt what you recommend to him, but he's got the ultimate decision to make, and sometimes he weighs things a little bit differently.

Storey: For instance, on the issue of implementing water rights, did you see any evolution in New Mexico's thinking because you became State Engineer?

New Mexico Law Changed in the 1980s to Require Consideration of the Public Welfare in Water Issues

Martinez: Well, the reason I sought some changes is because the law had changed. In the late 1980s, middle 1980s, New Mexico changed its law that the State Engineer would consider the public welfare in his decisionmaking process.

El Paso Applied for Groundwater Inside New Mexico

That came as a result of the application of the city of El Paso for groundwater inside New Mexico.

Even though the state law was changed before Mr. Reynolds passed away, there was no application of any significance that caused Mr. Reynolds to engage in that decisionmaking process as to what the public welfare constituted or not. In other words, applications for water changes or water uses occur every day, but every single one of them evolves itself to a hearing or a decision by the State Engineer that's appealable to the courts or could be appealable to the courts because of the process. In other words, if an application is not protested and the Engineer either approves or disapproves and doesn't have to make any findings, he doesn't issue an order, doesn't have to give his thought process, and the thought process is not subject to review unless the applicant, within a thirty-day period, appeals to the courts, but usually that doesn't occur.

But when you go to a hearing situation on an application, usually it's a formal process where you have the applicant and his attorneys representing one position, the protestants, and their attorneys representing another position. You go through a sort of quasi-judicial process. The Engineer has to make his findings, it goes on record. That usually is appealable to the courts.

Intel Corporation's Application for Water Rights in the Albuquerque Area

There was no application that came to that level of scrutiny that Mr. Reynolds had to engage with from 1986, '87, to 1990. After I became State Engineer, there were several applications that rose to that level, one of them being Intel Corporation's application to take water for microchip processing in the Albuquerque area, which brought into debate this whole issue of public welfare and whether water should be used for one benefit versus another.

So it would have been interesting, how he would have handled that and what his conclusions might have been and what his order would have been in this case, but he didn't deal with that because he was already dead. So I came in and we had those kind of cases and had to deal with them. The way I approached them and my decisions, I made several decisions on some cases. What was interesting is never—not a single one of them was appealed to the courts, so even though they stand as precedents in New Mexico from an action from a State Engineer, they were not appealed. I guess the decisions I made either everybody agreed with them or they felt that there was no basis for which they could appeal to overturn.

But, at any rate, so my decisions on some of these issues were not dealt by the courts, but they stand on the record. Since I left the State Engineer, I don't think there's been any other applications that have risen to that level either in New Mexico since I left. So it would be interesting how a new State Engineer would deal with those kind of issues.

Storey: Did your relationship with the Bureau of Reclamation change when you became State Engineer as opposed to being head of a technical—

Martinez: No, because my relationship with the Bureau of Reclamation was very limited. The relationship with the Bureau of Reclamation basically, as Chief of the Technical Division, was through two bureaus or sections. One was the Dam Safety Section and the relationship we've talked about before. The other one was the Planning Section which might have involved our folks working with the Bureau of Reclamation on water planning and land-use planning and these kind of things. You know, New Mexico had prepared, was in the process of preparing an updated water use plan where the Federal agencies were cooperating and providing financial resources and technical support.

My personal relationship with the staff in the Bureau was almost nonexistent, other than maybe once a year as a courtesy visit, visiting with the Area Manager, how things were going, and so forth.

Became Executive Director of the Interstate Stream Commission

Once I became State Engineer, I also became the ~~Chief of the Interstate Stream Commission~~, Executive Director of the Interstate Stream Commission, which had a staff of folks that would engage with the Bureau of Reclamation on activities on the Pecos River and on the Rio Grande, levee maintenance, phreatophyte control. Bureau of Reclamation was secretary to the Rio Grande Compact Commission and secretary, I believe, to the Pecos River Compact Commission. So I sort of got to know some people in the Bureau of Reclamation and so forth, but it was not a professional relationship other than the fact that I knew who they were and I'd see them once a year and that was about it.

So the Bureau of Reclamation, even though it had major impact in New Mexico, was not to that point in time a player on water issues as far as I was concerned, because it had been a major player during the era of water development when San Juan Chama Project was being developed, when the Middle Rio Grande

Conservancy District was being developed, when Brantley Dam⁷. . . . And during the era of Reynolds, when they were building projects across the West and New Mexico, he probably had more of a day-to-day involvement with the Bureau of Reclamation because he was trying to bring projects into New Mexico and dealing with Congress and Bureau of Reclamation folks. I imagine he probably had some interesting discussions with Floyd Dominy at the time.

But by the time I had become actively involved in the hierarchy of the State Engineer's Office, that era had sort of passed and we were no longer involved in those kinds of things. So it was a completely different relationship. So after I stepped down as State Engineer and was asked to come as Commissioner of Reclamation. To me, it was like learning what this bureau is all about, the Bureau of Reclamation was, and that their activities were, and so forth. It was not something that I had a big institutional knowledge about.

Storey: Were there any other major changes moving up into the State Engineer's Office besides working with the Interstate Stream Commissions?

Martinez: Well, I mean, the big change—several changes. One is your relationship with the political structure at the state level. In other words, as State Engineer, you find yourself in a completely different arena in terms of ~~instead of~~ interpersonal relationships and so forth with state Senators and Representatives and with agency heads and with the power structure in the state government, and, to a certain extent, also in the Federal Government, but not as much as in the state.

It's just like a person gets appointed Cabinet Secretary for the Department of Interior. I mean, you find yourself into a completely different arena as to who you relate with on a day-to-day basis. And most of those relationships, I have found over time is that it's not the individual that causes a relationship, but the position that causes a relationship. In other words, Steve used to tell me—and I've come to believe him—is that it was not he that—I guess what he in so many words told me is that the position of State Engineer was what was the power, not Steve Reynolds. And if you're a capable person and you're astute, you can use that position to better your objectives better than if you're not astute. But if you're not State Engineer, you're not the same person. I've come to realize that. I've been in several positions, and it's the position that makes the power behind anything. This sounds naive, but the day a man leaves the President of the United States, he's just another guy working down the street, but as long as he's the President of the

7. Brantley Dam is on the Carlsbad Project in New Mexico on the Pecos River to the north and east of El Paso, Texas.

United States, he holds that position and holds that power. And you see the same thing in how you're treated and how things function. It's just the way life is.

So when you're in a position of authority or you're in a position where you make decisions and when you're in a position of having significant impact on people's lives, you deal in a completely different arena and how you're perceived and how people deal with you. What's interesting is that folks that you believe—most people have vested interests, and they protect their vested interests. As long as people have a perception that it's in their interest to know you and to have access to you and to have your ear, they treat you differently than when you're not in that position, that it's in their interest to try to have your ear, and it just happens, and it's difficult to explain if you've never been in a position like that.

Storey: I believe you talked about the fact that there was a new election and the Republican Governor requested your resignation, which he wasn't entitled to request, and that you were thinking it was time to retire anyway, and you went ahead and chose to retire. How long were you actually retired from the state of New Mexico?

Martinez: Well, I guess I'm still retired from the state of New Mexico.

Storey: (laughter) Okay. Before you went back to work, I mean.

Nomination and Confirmation as Commissioner of Reclamation

Martinez: Actually, I retired on the 30th of December of 1994, and was confirmed December, I guess, the 22nd of 1995.

Storey: When did they approach you?

Martinez: I was called on—I think it was on the tenth of February of 1995. I was called a couple of days before Valentine's Day; it was on a Friday. And came to interview that following Monday, which was Valentine's Day 1995, and as best I can recall, it took—

END TAPE 1, SIDE 1. MARCH 25, 1997.

BEGIN TAPE 1, SIDE 2. MARCH 25, 1997.

Martinez: It was in June, I believe, that the President officially announced his intent to nominate me as Commissioner of Reclamation. Then I want to recall that I came

to Washington, it must have been the latter part of July, I guess, of 1995, latter part of July or first part of August, in anticipation of a confirmation hearing. The confirmation hearing was held on, I think, the 22nd to the 24th of September, and then I was voted on by the full Senate, I believe it was the 22nd of December 1995, and was sworn in a couple of days later in Santa Fe, and reported to work on the 2nd of January 1996.

Storey: I'm very interested in this process. Did you have any inkling that you were going to be asked?

Martinez: No.

Storey: Or approached?

Martinez: No. I had resolved myself to the fact that I had put this career behind me, a water career behind me, and I was just going to move on to other things in life. I got a call, like I say, on the 10th of February of 1995. I was working outside at the house, and my wife says, "You've got a call from Washington, D.C." So I walked in and there was a lady on the phone that said that they had an opening in the Department of Interior for Assistant Secretary for Water and Science, and if I would be interested and that my name had been mentioned as a potential candidate for the position, and if I'd be interested in coming to Washington to interview for the position.

I didn't give much thought to it. I said, yes, I would. I think my first reaction was who was going to pay for the ticket to get to Washington, and my second thought was I could probably get there within a couple of weeks. The lady said, "No, we'll pay for your way to get here and we'd like to have you here next Monday morning."

So I came, kind of an interesting experience. It was the second or third time I'd been to Washington. Both previous occasions, I'd only been here twice overnight. I came and interviewed, and was told that they had other applicants in mind and that I'd probably be hearing from somebody within a couple of weeks.

A couple of weeks later, I received a call from the Secretary. He was quite surprised about what had happened in New Mexico. I think his words were something to the extent that New Mexico State Engineer is like Gods; Governors don't screw around with them. He didn't use that word—"don't monkey around with them." He was surprised to see that this Governor did what he did. "Needless to say," he says, "I think that I've been watching your career over the

years, and I think you can probably bring something to the Bureau of Reclamation.” I mean to the Department of Interior. At the time we were not discussing the Bureau of Reclamation Commissioner. He said, “I think that you could bring some—“ I can’t remember exactly the words he used, but he said, “Bring your expertise to the Department of Interior.” He said, “I’ll recommend to the President that they appoint you to a position.” I want to recall he said something to the effect that would I be interested in a position other than the Assistant Secretary of Water and Science, and mentioned the position of Commissioner of Reclamation.

To me that was a surprise, because the position I knew they were going to have a vacancy for was the Assistant Secretary for Water and Science, not the Commissioner of Reclamation. I think my response to the Secretary was, “Well, I’ll be more than glad to serve in whatever capacity you and the President feel that I can best help you on.”

Sometime later I got a call back saying that I was going to be recommended to the President for appointment as Commissioner of the Bureau of Reclamation, and that started the process. The process is an interesting process, going through the vetting, what they call vetting, a background clearance initially in the Department and then at the White House, and then through the FBI.

Then once the vetting process is completed and the President decides that he’s going to make the announcement of intent to nominate, he issues the announcement intent to nominate. Instead of saying, “I nominate,” he says, “I intend to nominate,” and I think the reason they do that, they explained to me, was that puts your name out in the public limelight and see if there’s going to be any big reaction to a recommendation by the President to appoint. If it generates a lot of controversy, then the President reserves the right not to make the announcement, the formal announcement. If it doesn’t raise that kind of controversy, then they go ahead and send your name up to the appropriate committee on the Hill.

Once they send your name, then, of course, you get papers from the Senate side that you have to fill out and go through this whole vetting process from their perspective. Then they have to schedule you for a hearing. Then once you get scheduled for a hearing, they’ll vote on you, up or down, and then they send your name to the Senate floor, and it can linger there for months or years or never come to a vote. Until you get the vote of the Senate—then you have to get sworn in. So it’s an interesting process.

Storey: What thoughts do you have on why your name came up?

Selected for the Job for Several Reasons

Martinez: I don't know. My take is that the Administration was looking for somebody from out West to come into the Department of Interior, in the area of water and maybe in other areas. You've got to remember that we are talking about late 1994, early 1995. The Department of Interior had made some initiatives out West that were not very well received—grazing reform and some of these issues. I know there was quite a bit of dissatisfaction with the Department of Interior and the Administration policy on some issues, including water policy. Maybe they just wanted to send a message that things were going to be a little bit different. I don't know. But at any rate, I was available. I'd just stepped down as State Engineer, and I was asked.

I think part of it might also have been, I think, that the Administration was sincere in trying to diversify the Federal work force, especially in the political appointees. In this business that I'm involved in, in water and water administration, there ain't many minorities floating around out there because of the type of the work and the fact that a lot of this work is through experience.

This kind of business, water administration, I think I've told you this before, you don't learn this business in a classroom. It's a lot of practical experience. It's not like certain parts of engineering or certain professions where you can learn how to wire an electrical board or something like that or how to make a calculation or design a certain chemical component or stuff like this. In all these issues you're dealing with, it's like a lot of it is practical experience, and there ain't that many folks floating around there with that kind of a background.

Storey: This interview process on Valentine's Day, you were there literally three days later, I presume, getting ready for the next morning, and, of course, I think it's the Associate Secretary right next to the Secretary, and then there are these Assistant Secretaries. So they're really, my impression is, sort of the right-hand people of the Secretary. Was he involved in the interview?

Martinez: No. No, when I came to interview, the two folks that interviewed me, one was the Solicitor. The thrust of that interview was that generally I knew the Solicitor and he asked me some questions about California water issues, which I recall my response was, "Come on. I was the State Engineer of New Mexico, not California. I can't specifically address California water issues other than from a general perspective." And that was just about the extent of the discussion.

Then I interviewed with another woman that at that time was the Deputy Chief of Staff, and the discussion with her was whether she thought I was competent or capable of doing the job, and I think my response to her was I wouldn't be interviewing for the position if I didn't feel comfortable. That was just about the extent of the interview.

Storey: Did they interview you together or separately?

Martinez: Separately.

Storey: How long do you think total, probably?

Martinez: I'd say probably ten minutes each.

Storey: Then you went home?

Martinez: Then went home.

Storey: And waited.

Martinez: Waited.

Storey: And the Secretary called?

Martinez: Yes.

Storey: And then you came to Washington, I believe you said, in late July.

Martinez: Yes.

Storey: After the intent to nominate. What happened to you after the President had announced his intent to nominate? Did anything change for you? Were you getting calls? How did that work?

Martinez: From the time the interview process started 'til the time that the intent to nominate took place, you go through a rather extensive vetting process. In other words, if I recall the way the process worked was they have a portion of the Department of Interior, their attorneys that are assigned to working with potential political appointees, to send them paperwork and documents that have to be filled out and sent back to the Department so they can sort of make a cursory review and see if, in fact, they even want to send your name up for recommendation to the White

House for a political appointment. So you have to fill out these papers and they go into some detail on your background and where you've worked and these kind of things. They don't get into financial issues at that point in time.

Once you fill the paperwork out and send it back to them, and I guess they feel comfortable with elevating your name to the White House, then the way the process works, at least the way I understand it works, is the Department will then transmit a recommendation to the White House. At this point it has not gotten to the President. It's a standard procedure. There's variations to the procedure, but the standard procedure is by that time the President is not even aware of what's being recommended unless the name is coming from the President. There's two ways for a political appointee to come—one from the President, from the White House, and the other one is from the Department Secretary—coming and working its way up.

But let's talk about the process of it coming from the Department, working its way up to the White House. The Department sends over the paperwork, sends over a recommendation. The White House Office of Personnel then sends the applicant, or the potential appointee, some more paperwork, and you fill out the paperwork and you answer the questions and so forth. If they feel that they need to get to you on the phone, they pick up the phone, they talk to you and clarify certain issues and so forth.

Once they feel comfortable of elevating your name to the President, my understanding is that until the President signs off that he is going to intend to move you forward, the FBI will not get involved in your background checks, because the FBI background check is rather extensive, it goes into your financial matters and other things that have not been checked before in the process. You sign some of your rights away when you do that, because if they find certain things, especially from a financial standpoint, that's illegal, they can refer to the appropriate officials. In other words, if they find out that you've been cheating on your taxes and so forth.

I was led to understand that both this Administration and the past administration will not subject a person to that kind of scrutiny unless they feel comfortable that they're going to move them forward, because it is putting your life out there on a platter for everybody to look at, for all practical purposes.

So once the President says, "Let's move forward with this," then the FBI will get involved. The FBI visits you, and you go through the process. Once they complete the FBI background check, which can take anything, I guess, from a

couple of weeks to a couple of months, depends on the number of things they have to look at and how complicated your life has been—in my particular case, I’d worked for one employer for twenty-some years in the same town, same house, same address, didn’t have any complicated investments and all these kind of things.

So once you go through that process, the FBI background check comes back to the Office of Personnel at the White House, and if they have any questions, they’ll call you and follow up questions and so forth. Once they feel comfortable with it, then it goes to the President. The President then says, “Intend to nominate.” Then your material goes over to the Senate. Then that can begin another process. If the committee in question feels that for whatever reason they want to have their investigators investigate any of the issues that have been raised, or something comes to their attention, then you can go through that whole process on their end of it, getting questions and so forth.

In my particular case, I got the standard set of documents from the subcommittee, financial disclosure statements and so forth, and that was the extent of it. But then what happens is, the way the process worked was once your name was forwarded to the committee for scheduling for confirmation, the Administration wants the folks to be available to be interviewed by Congress, by Senators or folks that might want to question. So usually what will occur is that potential appointees will come to work for the Department as a consultant, and they’ll put you on the payroll as a consultant, and you’re in Washington, available to meet with whoever wants to meet with you up on the Hill, in the Senate, to expound on your philosophies or whatever they want to discuss with you, and you’re available there as a consultant.

So I came as a consultant and sat on the sixth floor of this building for a couple of months on and off while they closed the Federal Government and reopened it and so forth. Then the next issue is whether you’re going to get scheduled for a hearing or not, and it’s up to the committee chairman, the subcommittee or the committee that you appear before for confirmation hearing, to schedule you.

If you get scheduled, you appear before the committee. If you don’t get scheduled, you don’t. I mean, there were people that went up with me that never got scheduled. Mike Dunbeck [phonetic] and I went up at the same time to the same committee. He never got scheduled for a hearing. I was fortunate and got scheduled.

Then once you go to the committee and you get scheduled for a hearing, you have your hearing. The committees will not vote. I understand that it's very rare that they'll take a vote right at the committee hearing as to whether up or down on a recommendation for confirmation. They usually will hold back and sometime later take a vote, and they'll send your name down to the Senate floor. There's a certain time period in which your name cannot come up for a vote on the Senate floor to allow any Senator time to raise issues or questions they might raise. It's a three-day hold, or whatever it is.

Then at that point, any Senator can, for any reason, put a hold on you and you don't go to a vote on the Senate floor. At the time that my name went to the Senate floor, there was some ambassadors were being held up for confirmation, and they weren't moving any political appointees through the process, so it took a while to get me confirmed. I was noticing in the paper the other day that as far as Federal judges are concerned, there hasn't been a Federal judge confirmed by the Senate for almost a little over a year. They finally confirmed somebody the other day.

Each of these steps, you risk the chance that for whatever reason you'll be dropped from consideration or you'll be sort of just floating in the breeze, waiting for a vote to be taken, and a vote might never be taken on you. So what'll happen is that as you'll read in the papers every now and then about how things are getting so nasty in Washington in the confirmation processes, a lot of people will not volunteer their time and effort to go through the process.

I was just reading the paper the other day where as a result of what had happened to Anthony Lake on the confirmation proceedings, I was reading in the paper that it's not unusual for the President to ask two or three people, and the people say, "No, I'm not interested," for whatever reason, either, one, they don't want to subject themselves to the process or the position might be controversial enough where they figure they don't want to get involved in that.

Then the other thing is also that sometimes you've got to be a glutton for punishment, because these are not the best-paying jobs in the world. It would appear to me that people that get involved in this business are either, one, independently wealthy; two, have made careers someplace else and want to come and provide a service to their country for whatever reason; or, three, they're early enough in their careers where getting involved in this type of a process gets them the contacts to be able to go someplace else at a later point and advance their careers.

The Frustrations of Political Appointees

The turnaround time on these positions, my understanding is that the average political appointee in Washington survives about two years, and a lot of that process is, like I say, some folks come in and they figure in two years or three years, they've built the base that they need to go out and do something else. Two, they get frustrated with the system. What you see a lot, what I read a lot was sometimes you come to Washington full of ideas that you can do things and affect things even as a political appointee, and then find yourself in a process that's like trying to turn a locomotive, you know, by hand. It's next to impossible to stop it. The bureaucracy itself will not lend it. A lot of people get frustrated and sort of throw up their arms and in a couple of years go do something else.

I found that it takes, for a political appointee type of position, you can be most effective on it if you've got an even-keeled temperament. If you're the type of person that gets overly excited, you are either going to go bury yourself or you're going to throw up your hands and walk out the door. Not only in the Federal Government, but also in state government.

What I found most interesting in this position, and continue to find most interesting in this position is that coming from the position that I held as State Engineer, I was in the position of ultimate decisionmaking authority, and it didn't bother me to make decisions that had major impacts on folks in the state and do it rather quickly. What I find in this position and in Federal Government is that the bureaucracy does not enable you to be as effective as one might think they can be, because it just doesn't operate the same way. It's an interesting scenario, how things work.

Storey: What kind of guidance was the Secretary's office or somebody giving you as you went through this process?

Martinez: I didn't get much guidance at all. I think what the Secretary basically said in so many words, "I think you're competent." I'd been running a state organization, I'd been in the business for quite a few years, I knew my business, and didn't know the organization, but I knew the water business. I don't know if he felt that what he could have said that might have given me some guidance. In other words, I came and I still have a wide base of support from all different segments of the water community out West. People know who I am, which was indicated by the support I had even in the Senate. So I'm sure that somebody made a conscious decision and said, "Here's a gentleman, here's where he comes from, his background. Here's his reputation—the type of man we need to do the job." I

don't know how I would have reacted if somebody would have sat down and said, "Here's what we want you to do." I might well have said, "No, I don't want the job." So it's been an interesting experience.

Storey: Is what you're saying that the Secretary hasn't given you any guidance on what needs to be done?

Martinez: No, other than I know what his general philosophies are, but if you're saying, "Eluid, this is what I expect of you," the only guidance I've gotten is, "You do a good job." That's it.

Storey: Interesting.

Martinez: I know what the parameters generally are of what the Administration's feeling on certain things on the water issues, but I don't know what kind of guidance he could give me other than to say, "This is where I think we should be heading on some of these issues," but for him to come and say, "This is the way you ought to be managing water," it's like me telling him, "This is the way you ought to be managing the Department." He knows better about his business than I do about, and I know probably more about my business of water because that's my business, than he probably does. So I think he just feels—my take is that he probably feels that there's not much he could bring to the discussion on water management other than general philosophical approaches as to how things should be done.

Storey: You mentioned, I think, that you came in June as a "consultant."

Serving as a "Consultant" to the Department in 1995

Martinez: No, that was later—July.

Storey: It was in July when you came to do that. That's when you came to D.C. Did they have you doing things for them, or was your job sort of to be here and to go work the Hill?

Martinez: Basically what I did is I sat down and I read material on the Department of Interior and the Bureau of Reclamation, and was available in case somebody on the Hill wanted to talk to me. So that gave me an opportunity to sort of read through the material and the history of the Bureau of Reclamation and policies and so forth.

Storey: Begin to get acquainted.

Martinez: Except that with this kind of agency, what I have found is that there's so many things on the table that you can never become an expert at this. Most projects have been developed and most activities that Bureau of Reclamation undertakes are specific by law, by project. I remember when I first came as State Engineer, I asked my attorneys, "Give me the set of statutes that give me the sideboards of how I should do my job and what I need to consider in doing my job as State Engineer." They brought me a section of the law of the state of New Mexico, and there's a section that had to do with water administration.

I asked the same question when I came to the Bureau of Reclamation. I said, "Give me the set of laws that govern what my responsibilities are," and so forth. They brought me five or six volumes of laws, everything from 1902 through 1995 appropriation. Not a single one of those that I could recall had specifically what the job of the Commissioner was, and so forth. I have no doubt that the Commissioner really was originally not even required a confirmation until 1981. So it's a different situation. Sometimes I wonder how an organization like this continues to function. I tell my staff it's like a giant machine, and everybody's got to be doing their job, the gears have got to be moving and meshing and everything else for it to continue. You're sitting here at the top just trying to make sure that it's going in sort of the right direction and that you're keeping out of trouble and so forth. But it's just surprising how bureaucracies work.

Storey: Keep it oiled properly.

Martinez: Yes. And if it's not oiled properly, then you'll find out. You know, maybe that's one reason why I haven't, like you say, either the White House or the Secretary hasn't sat down and said, "We want you to do this," because its been running properly oiled. I would imagine that the day it starts to fall apart—

END TAPE 1, SIDE 2. MARCH 25, 1997.

BEGIN TAPE 2, SIDE 1. MARCH 25, 1997.

Storey: This is tape two of an interview by Brit Storey with Eluid L. Martinez on March 25th, 1997.

A couple of months, in July, August, and September, when you were here, did you have anybody who wanted to talk to you?

Martinez: Yes, I had four or five Senators that chatted with me over particular concerns that they had. There were other special interest groups that wanted to chat with me, but I thought it was inappropriate, and I did not do that, and I was advised that I

not do that. But mainly it was just being here. And then, of course, the process was kind of interesting because they were closing the Federal Government down and shut it down two or three times. That's what extended the period that I was here before the confirmation hearings.

Storey: That was the disagreements over the budget between the Congress and the President.

Martinez: Yes.

Storey: What was your confirmation hearing like then? How were you notified, and how long did they schedule, and what do you remember about the hearing?

Confirmation Hearing

Martinez: There was quite a concern as to whether they would schedule or not schedule because of what was happening at that time. Not very many people were being scheduled. Like I say, I did have a wide base of support from *outside* of the Administration and from Congress. You've got to remember that I came from a select group of Western water officials. I have been a former State Engineer and a Chief Water Official for a state out West. It puts you in a unique fellowship. In other words, I knew and dealt with the key players of water out West in a completely different role than I interact with them now. I was one of the group, in other words, and I know what the concerns are and what they have to deal with on a day-to-day basis and everything else.

So when they found out that I had been recommended to the President, they lined up support. Not only them, but other folks across the West started making appropriate calls to the U.S. Senators across the West. Some of these folks that didn't know who I was, but if I was State Engineer of New Mexico and called a U.S. Senator and said, "Here's Joe Blow from California who is being considered for an appointment in water. I want you to do whatever necessary to help the gentleman out," they listen to their state water officials, especially when the majority of these Senators are state's rights advocates anyway. So I never had a question of credibility. It's a question of when I would get into the process.

Then I didn't bring any, at least I didn't perceive I'd be bringing any kind of baggage to the position. I didn't have any qualms or reservations of ability to do the job. I had appeared before groups across the United States representing the state's interests, making decisions, and appearing before congressional committees

and so forth. So, to me, I've always had a better relationship with the congressional aspect of it than the administrative aspect.

Even when I was State Engineer, even today, I get along fairly well with senators and congressmen up on the Hill, and a lot of that is because I bring to this job sort of a balanced approach and no perceived baggage in terms of ideologies or so forth. I can work with the other side, and I do that, because that's what I had to do in New Mexico. In other words, even with the other positions I held as School Board Chairman and so forth, there's an art of compromise in a lot of issues, to get things done. You have to realize that. There might be philosophical differences on certain issues, but you can't be philosophically opposed on every issue with somebody else on the other side of the aisle, or you'll never get anything accomplished. So that's where it's at. And maybe that's one of the reasons why I was selected is maybe somebody in the Administration said, "Maybe this is one gentleman we can get confirmed." Because you had a Republican-controlled Senate in an area that was somewhat controversial out West was the issue of water, and the Bureau of Reclamation was a little, still is, continues to be a little controversial out West.

It would appear to me that Reclamation Commissioners, today and in the future, it will be a little bit more difficult to get a big consensus on who they should be versus what it was twenty or thirty or forty years ago. There just appears to be more special interest groups out there with their own particular concerns and desires and so forth. Same thing with state water officials, the same thing.

Storey: How did the hearing go? What kinds of questions were they asking?

Martinez: The hearing went fine. It was very cordial. Most of it was what's my philosophy on state water issues and state water law. They knew who I was. Like I say, I had good support in the committee from both sides of the aisle. So I think the decision was made not to cause controversy, in other words, not to ask questions that would cause controversy because the more questions you ask and the more you put on the record, the more potential there is for you to say something or be asked something that is going to cause a concern to somebody. So, "We know who you are and what you think about these issues." It was very cordial.

Storey: So you felt pretty good after the hearing?

Martinez: I felt very good. My sponsors were Senator [Pete] Domenici and Senator [Jeff] Bingaman. Senator Domenici still, in this Congress, carries quite a bit of weight

with his counterparts. I recall the Chairman of the Committee said, "Well, Senator Domenici is supporting you. I don't see any reason why we're here today." Those kind of things. But on the other hand, I've known Senator Domenici for years. He's not the type of person who is going to support somebody unless he feels that the person merits his support, you know.

Storey: Yes, there's a credibility issue in that kind of thing. If you recommend somebody who turns out to be a flop, then you're tainted by that flop.

Martinez: In my particular situation, when you look at credentials, there was nothing in my—at least nothing that is on the public record of me being overboard on any given issue on water. In other words, I'm sort of a centrist, middle-of-the-road-type person. I don't bring to the table any biases. I'm not the type of person that gets up there and says, "Oh, the environmentalists are a bunch of kooks. They shouldn't even be involved in this process," because I know they need to be at the table and we need to consider their issues just like anybody else. I don't stand up for one group or another.

Neither Traditional Water Users Nor Environmental Interests Opposed the Nomination

Then the other thing, I fell into an interesting situation where Dan [Beard], which had been strongly supported by the environmental community, and still is, even though once the decision was made by him, whatever the reason was that he would leave, there was no big outcry and no fight over who his successor would be once my name was floated and came out. In other words, there was no big opposition. So I didn't run into a controversy either from the traditional water users out West or the environmental community, which I thought was kind of interesting, because this kind of a position, it's like a lightning kind of thing.

". . . I don't think there's anybody out West that has the breadth of experience on the issues dealing with water and water administration that I bring, or brought, to the position . . ."

Then when you look at the background that I bring to the position, I don't know if, for good or bad, whatever you want to take it, I don't think there's anybody out West that has the breadth of experience on the issues dealing with water and water administration that I bring, or brought, to the position, probably one of the most qualified Commissioners of Reclamation to come into the position in terms of experience in water and water resource management. There's very few folks out there that are anywhere close that are not retired and active right now

that go that far back, because I've been in this business since the late 1960s, been in the business since the eighties, actually being in the position of having to make decisions and dealing with these kind of issues.

The Decisionmaking Process in Washington, D.C.

So, to me, it was sort of second place, second nature. The only concern I had, and the only problems I continue to have, is the decisionmaking process, how it works, the decisionmaking process. And to give you a quick example—and that's not to say that the process is defective, it's just the way the process works—usually in New Mexico or most western states, a water official, whether it be a State Engineer or it be a State Water Administrator, there will be legislation introduced—and he'll either propose legislation himself or there will be legislation introduced having to do with his area of expertise. He'll go to Congress and the bill is submitted in the New Mexico legislature or Arizona legislature or wherever it is. Standard operating procedure is you look at the bill, you put your thoughts together, and you go and testify, and you tell them what you think you need to tell them, and you walk away from that hearing, and this will be it.

Testimony Before Congress

The way the process works in the Federal Government is an interesting process. Because of the size of the animal, you'll have a congressional affairs person that makes the first cut at the testimony that will be presented on the part of the Administration. Generally, it has to follow the outlines of the administrative position, whatever that position is, whoever puts that position together. And sometimes you wonder who is ultimately responsible for the position. But at any rate, you have the administrative position in place, make a cut of that presentation. You look at it and generally agree or disagree. If you disagree, they make another cut at it. If you generally agree, then it goes out of your shop. It goes to an Assistant Secretary, who is somebody in that part of the organization who makes their comments and makes their edits.

Then it goes to some other place in the department, and what I'm saying is it's probably coming across the Federal Government. So they change it. It goes [to the] office, OMB [Office of Management and Budget], they make their changes to it. Then it becomes available to all the cabinet departments that might be interested in it. They make their changes in it.

But the day you go testify, you might not recognize what's on the testimony and you might not necessarily agree with everything that you're

testifying, but it is the Administration's position, and you are the Administration person. It's a completely different position and awkward situation than coming from an organization that operates completely differently, because, on the one hand, you are constrained as to what you can or cannot say. Either that or you completely walk out of the position and leave. That's the way it functions.

Then, in nine cases out of ten, well, in all cases, your testimony has to be presented in sixty copies or whatever it is. So it goes to a committee, and everybody on the committee gets it. They've read it before. They know what questions they're going to ask you. You go sit over there, and you read from the document, very little comments off the top of your head. So it's part of the process. Sometimes the process is frustrating. That's why I think sometimes you have folks, after a couple of years, they just move through the process. And it's coming from that outside system into this kind of a system, it makes it difficult to operate.

Storey: You mentioned Dan Beard a few minutes ago. Were there any particular issues that you had to deal with that were left over from Mr. Beard's term as Commissioner?

Issues Inherited from Commissioner Daniel Beard

Martinez: Well, I think just about every issue I deal with is, one way or another, but the biggest one and the one I *continue* to deal with is, as we've discussed before, there was an extensive, massive reorganization of this Bureau of Reclamation from a sort of a top-down to area-manager-type dissemination of authority and so forth. There was "reinvention." "Blueprint for Reform" and everything else. The mission was changed. The statement was changed. We're now going to go under water management, and everything else. And it was done very quickly, even though the thought process was there since the late 1980s.

But there's a difference between saying we're going to do it and implementing it. I think what we've been trying to do over the last year, year and a half, is how we're going to implement that transition. I remember what Dan basically told me in so many words, "I came in. I accomplished what I set out to do. Now *you* settle the place down." And there are still people in the organization who continue to have concerns as to where this organization is heading and what's our proper role. I was asked even by the Chair of the Subappropriation Committee for our budget just the other day as to why we should even continue to function as an agency. We're going through a transition, and that transition is sort of shaking itself loose right now. What is our proper role?

I don't think there is any silver-bullet answer to it. In other words, it's going to take time. Dan came in and put some policies in place which caused some controversies out West. In retrospect, probably some of those policies were proper. In some other respects maybe they were a little bit premature, but he did it. Now I've got to sort of figure my way how I bring this agency back in place. And it's been—the word is not “difficult,” but it's been trying at times because what happened was that you had an organization that consciously set about being reinvented. In going through this reinvention, over a short period of time there were some decisions that were made that in retrospect probably were a little bit too impulsive, but yet the policies have been put in place and the decisions have been made, and for me to come in and try to reverse those overnight have met a lot of resistance from folks in the organization and in the Department that feel that those changes were necessary in order to move the organization away from what it was. And therefore, suggestions that I made to try to modify some approaches that were taken were viewed initially as “This guy's wanting to go back to the way it was instead of moving forward to the way it should be.” I've sort of had to deal with that. In other words, it's only over time that I've been here and will be here, if I stay, that the powers-to-be feel comfortable that I'm not trying to undo what was done, but trying to move the agency forward into its new mission will I become more successful in making changes.

To give you a typical example on an issue that is kind of interesting and is yet to be played out—and I don't know how familiar you are with this issue, on the issue of contract limits, term limits, on water renewal contracts—

Storey: I know about it.

Water Contract Renewals

Martinez: – on twenty-five-year decision. Somebody made a conscious decision, based on what I consider to be probably not adequate forethought, that we were going to put a twenty-five-year cap on contract renewals, unless the Commissioner of Reclamation saw fit, for whatever reason, to modify that. It caused a lot of problems out West. The intent of that one, as I saw it, was to provide the Federal Government with flexibility on revisiting the use of water in the West and not be tied up for long periods of time. I think the *objectives* are good.

The end result is not good because there is no logic, other than the twenty-five-year law in California that is now being challenged, as to what went into the twenty-five year [limitation]. My point is that aside from that, if you look across the West in general, historically water permits were issued in perpetuity. Water

officials across the West and water administrators and courts are beginning to look at the wisdom of issuing water permits in perpetuity, because things change. And as things change, you want to have a mechanism to be able to accommodate that change.

So I think that's good in Federal water contracts, but my point is that in some areas of the West, where the area is not undergoing rapid change, and you don't expect, based on studies, to see major urbanization or changes in water use, that you should have more flexibility there to work with your length of term of contract or what you're trying to accomplish, versus if you've got an urban area adjacent to an agricultural area that's undergoing rapid expansion, maybe their twenty-five-year period is too long. Maybe you ought to look at five-year. So my point is that you have to have flexibility in looking at what you're trying to accomplish and not just come up with something that says farmers have been getting too much of an advantage over the past century because they've been ripping off the Federal Government, and now we're going to put a twenty-five-year extension limitation because we want to get more control of the water. That's a kind of mentality situation you set up, and it causes you problems.

So right now I'm facing that issue, what to do with that issue. I know, as a water official, that out West municipalities and counties, for water development purposes, are requiring in their laws or in their ordinances a hundred-year supply of water to be assured by the developers of tract homes, or whatever it is. I know that that's what the states are requiring and the counties are requiring because they want certainty of water supply. And I also know, in a lot of areas, the certainty of water supply is from Federal projects, but yet the Federal project says, "No, we will not allow you a certainty beyond twenty-five years for a municipality." And it's causing a conflict because a municipality or somebody is saying, "We need some certainty. We just can't operate in a system where twenty-five years down the road, we don't know whether we're going to have a supply or not. So let's sit down and talk about it and see how we can address these issues."

But I sit down and say, "Well, let's sit down and talk about it." And somebody says, "Hey, wait a minute. This guy is wanting to undo this philosophy that we have about flexibility in the system to all the water to be moved from one purpose to another." That's one typical example that is something that I'm having to deal with and try to come to grips with. But the moment I raise the issue about revisiting contract terms, it causes like a shudder amongst certain people in the organization, but it has to be looked at. Those are the kind of issues that I'm going to have to deal with.

Storey: One of the things then-Commissioner Beard said was that he wanted Reclamation to be the premier water resource management agency in the world.

Issues Around "Water Management"

Martinez: It can never accomplish— first of all, you've got to define what he means by water management. And the way I look at it is from two standpoints. One is the physical management of the water and the legal, administrative management of the water. I try to make it very simple when I explain this to folks. Take a farmer. A farmer has a water right to take water from a river, or takes water from a groundwater source. It's incumbent upon *him* to make the best and most efficient use of the water supply he has, to manage it as best he can. And what does that entail? That entails efficient delivery, efficient systems, proper applications, state-of-the-art technology, those kind of things. He manages his water. It appears to me that at the Bureau of Reclamation we hold permits under state law for most of the water in the West. It's incumbent upon us to make sure that this water is being efficiently managed from the standpoint that some beneficial use is being made of that water resource, and that we lend our resources, both through research and through our expertise, to provide infrastructure and systems and research and everything else to manage water and do the best we can. That's one kind of management. And they don't have any problems, when you say that, across the West.

But it's a different thing for Reclamation to come and say, "What we're talking about management is, because we hold the permit to water out West, we're going to tell the states how that water should be used, or we're going to tell farmers how it should be used, and that you should manage that water and whatever sort of water you make, you should put it for environmental purposes in the river, or for fish purposes, or it should go to this and that." That's management from the standpoint of administration concept, and that's where you run into those problems.

So in the area of water transfers, what is the proper role of the Federal Government in water transfers? *If* the state has a process that says the State Engineer, in making a decision on water transfers, has to make findings that: one, the water is a valid water right; two, that the public welfare is being protected, and the public welfare means a process where you have open dialogue for any party to object and concerns be raised about whether water should be used for that purpose or not. If that process is in existence and it enables the Federal Government to become part of that process, what's the proper role of the Federal Government? Should it participate in that process or should it take the position, before you can

even get to the process, if you're going to be willing to transfer water rights off of Federal projects, the water that is going to be transferred first has to go this purpose, or first we have to make certain findings, which could be a conflict or double jeopardy for the farmer? So what is that proper role?

Reclamation and Water Transfers

On water transfers, the Federal Government takes a position that we ought to facilitate transfers of water. Well, one of the ways to facilitate transfer of water is to let the marketplace sort of handle the procedures. Yet we have people in the Federal Government that say, "If we're going to transfer water, if the farmer's going to get a hundred dollars an acre foot, and he's only been paying twelve dollars an acre foot, the rest of the money should go to the Treasury, or part of the water should go to the environmental end." It starts drawing some issues that need to be deliberated and discussed as to what we're trying to accomplish.

So, when you tell me that the Bureau of Reclamation is going to become the premier water manager in the world and when you say that to Congress or people out West, they're going to say, "What makes *you* feel that you can manage our water resources better than we can? And what are you talking about when you're talking about water management?" That's what caused a lot of the problems with that and the Bureau of Reclamation is that there was a message that was going out, probably not entirely due to Dan and Ed Osann, a dissertation of that message, but at least the way the people out West were receiving it was, "Here comes the Federal Government trying to take our water rights," and the Federal Government is saying, "It's not your water. It's our water rights, because we're the ones that got the permits." And you get into a whole debate. But, at any rate, "You're trying to take away our water rights and put them someplace else." And that caused a big conflict.

Then Dan went out and made a statement, and says, "And we are going to do it in partnership with you. Not only are we going to become the premier water managers of the world, but we're going to do it in partnerships. And let me tell you how that partnership is going to work. You either do it the way we tell you, or you don't get it." And that caused an uproar out West that has yet to settle itself down.

My approach on water conservation—and I think we've discussed this before, and the Bureau of Reclamation caused itself a lot of problems with the RRA [Reclamation Reform Act]—

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Water Conservation Issues

Martinez: All these issues that we're talking about, whether it be water conservation, water transfers, or contract term limits, whatever you name it, you've got to realize that these are issues that the states are facing and will continue to face, and if they don't face these issues in their decisionmaking process, the issues will be elevated because the same folks that are suing the Federal Government on environmental issues or other issues are the same folks that are suing and continue to sue state governments.

The issue of water conservation. Most states—and I've told you this before—if they do not now incorporate water conservation as one of the criteria to be determined in the permitting process for water rights, will shortly incorporate it. What does that mean? That means that if a farmer of an irrigation district wishes to somehow modify its water right permit—it comes under the jurisdiction of the engineer or the water official—change in location, or whatever it is, if that water official holds him accountable, if they've got a water conservation program in place, like Arizona does, that says you've got to conserve water, and you've got to do this and that, then that irrigation district and that individual is going to be held accountable.

So how do you go and approach an irrigation district if you're the Bureau of Reclamation and you want to push water conservation? Do you go tell them, "We're going to put in a regulatory procedure that duplicates the state that requires you, by our regulations, to conserve water, and that we're going to have to approve, and then we're going to have to do NEPA studies for that water conservation, and you're going to have to pay for the studies, and then we might have to be in the position of blocking whatever you're trying to do, and then we want to get water for environmental purposes"?

Or do you go to the irrigation districts and say, "Look, guys. We're in this game together. We hold the water right permit for you folks under state law. The day is coming, if it's not here now, that if we try to do something with this water right permit, the state is going to hold us accountable. And if the state is not, some Federal judge is, or some state judge is. So it's in our best interest, as the Bureau of Reclamation, and as the irrigation district, to put a water conservation program in place that will stand the scrutiny of a judicial review or administrative review.

So, that being said, let's go ahead and do it, because it's in your best interest and our best interest."

I found that approach to be a lot more acceptable, and that people can accept and say, "Okay, let's go ahead and do it," rather than to come in the other way, see, because all these issues that we're dealing with are issues that the states are dealing with. And that's where the states come from—I'm going into a long deliberation on this—is that the states themselves, the water officials themselves, are apprehensive about what the Bureau of Reclamation says and what it intends to do when it says, "We will become the premier water manager in the world."

First of all, the concern I had with this, is strike the word "premier," because it assumes that you could know better than anybody else. Anytime somebody tells me they're going to be the best, I just have some reservations about it. Now, it might be good to send your message out to your employees that we're going to be the best in the world, but it's perceived as a completely different message when somebody else sits out there and says, "Wait a minute. We've been doing this for years. What do you mean these guys want to tell us now that they're going to be the best, especially in an area that they have no experience in?"

So that's the awkward situation that I find myself in as the Commissioner of Reclamation in trying to take this agency where it maybe should be, to become an effective water manager. In my opinion, if you separate the water management that can be obtained without getting into the administrative jargon with the states, you can accomplish a lot by doing that, and then moving into these other arenas.

Native American Water Rights

It's like our involvement with the Native Americans program. We're involved in Native American issues. One issue we're involved in is with quantification of Indian water rights, issues involved with that. Those are very controversial issues.

There are other issues, that we, I think, as the Bureau of Reclamation can help the tribes in to increase their standard of living, provide them domestic supplies, provide them with some water resources on their reservations that will help them out. Some of those activities aren't threatening activities to other constituency groups. So what I told my folks is, "We're charged with doing all of them, but let's not get too hung up on this issue about that we're going to be a white knight on a white horse and running down there and protecting all the trust responsibilities for all the Indian water rights in the Western United States and

after ten years, or twenty years, not get anyplace in doing anything for the tribes when we could also be doing some small things that are not big, controversial, high-profile things to try to help the tribes.” So we sort of have separated those, and we’re going in those directions. And that’s the same thing that I’m trying to look at in Reclamation as we move forward implementing our new mission as managers and so forth.

Groundwater Management and Reclamation

The other issue is groundwater management. I don’t know how familiar you are with this issue or not. I don’t know if it came from Dan, or wherever it came from. I don’t think it came from Dan. I picked up, in reading some literature about a year-, year and a half ago, that at least the management at Reclamation at that time was thinking that we should not be involved in groundwater activities, and the reason we should not be involved in groundwater management activities was that you should not create a dependency by water users out West to go to groundwater instead of making more efficient use of their surface supply. And that makes sense. In other words, you should conserve surface supply, not extract groundwater supply to make up your differences. It makes a lot of sense. It makes a lot of logic. But on the other hand is that we have a lot of projects out West that overlie extensive groundwater basins, that the basins are interconnected to surface and ground, that a lot of these groundwater basins are undergoing a lot of degradation because of water quality issues.

We have a lot of districts out West that use groundwater as supplemental to the surface supplies in irrigation projects. Now, if we’re going to protect the interests of the United States Government in the expenditure and investments of these projects, it makes all the sense in the world that we’re up to date and we’re pretty knowledgeable about what the interaction between the ground and surface supplies is and how the contamination or the depletion of the groundwater aquifers might affect the yields of the projects and the ability of these farmers to pay the Federal Government back.

The other thing is that if you’ve got projects that have groundwater use and you don’t consider that use or somehow try to regulate that use by some form or another, by working with states, it’s going to dry up your surface supplies. So we’ve got a surface supply project downstream with groundwater use that’s extensive upstream that the state is not regulating. I know that if you’ve got a groundwater/surface water interaction, sometime down the road the surface supply of that project is going to be diminished. That’s our project.

So what should we be doing? We should be working with the states to try to push those states that are not now doing conjunctive management of groundwater to go out and start doing it. Issues like that. So what I have told my folks in Reclamation, I said, "Let's open up this door." They just had a meeting, I think, in Denver a couple of weeks ago to see where we should engage in surface/groundwater in our groundwater activities. Different philosophy, but I think the same objective. Those are the kind of things that it's kind of interesting. If you look at it purely from the first perspective, it's the Bureau of Reclamation, an argument could be made, don't get involved in groundwater resource development because it will create a dependency or an easy way for project beneficiaries to avoid the hard decisions of conserving water, the surface water supply. On the face of it, it makes a strong argument, but it's full of holes. Those are the kind of things that you're faced with.

Now, what should be our proper role in that groundwater management equation? From my perspective, I think the proper role is to use the resources of the Federal Government to provide support to the states to assist them in moving forward with proper implementation to give them the tools to be able to make the conscious decisions that have to be made. And we're doing it. On the Rio Grande, the Federal Government is working with the state on the middle valley trying to come up with better hydrological data on these issues. And that other position basically says we shouldn't be involved in that. So there's a myriad of issues.

I find that kind of interesting when you raise the issue about we should become the premier water managers, and we're still having some problems dealing with those issues. But the problems I run into goes back to—I told you a while ago—is that I'll bring to the table some discussions, and some folks in the organization still feel that to go back and entertain those kind of discussions is somehow still wanting to go back to what we were instead of what we should be.

We should not be engaged in a debate about spending a million dollars for groundwater development programs. We should be spending a million dollars to restore wetlands, those kind of things. And yet if you take a hydrological situation where, if you pump the groundwater aquifer to a certain extent, it will lower your groundwater table to where your wetlands will go out of production, I mean, they're all tied together. It's just an interesting situation.

Storey: I think I'm hearing you say that there have been changes in Reclamation because of the reorganizations that Dan Beard undertook. Is that right?

Martinez: Oh, there's no question about that. In the organizational structure of the organization, there's been tremendous change. But what I'm saying, it's still evolving as to what is meant by this water management.

Storey: What the results are going to be.

Martinez: The fat lady has yet to complete the song, you know. And I think that's what the Congress and what a lot of folks are saying. What is going to be that proper role? And one could take the position, I mean, the Federal Government could very well take the position and say, "Look, when we said that the deference be given to state law for them to administer their water rights, we meant that. And Reclamation, the Federal Government, as water managers, you make sure that the water is being most efficiently used as possible. But when it comes to whether that water be used for one purpose or another, that's not your business." Or they subscribe to the other point and say, "It is your business, because you hold the water right, and you are holding the cocked pistol. You hold control, as long as you hold the water right, and you're responsible for control of those gates. You have a great deal of say so as to how that water gets used." And you've got different constituency groups driving you.

Glen Canyon Dam—typical example. Depending on how you release the water, it can produce more energy or not, sand beaches, whatever it is. I mean, they've all got competing interests on it.

Storey: And depending on which approach drives Reclamation, it could make a lot of difference in the agency and its role in the West.

Martinez: Yes. And the irony of it is that unless Reclamation and the Federal Government really gets its act together as to what it wants in the long term, what you're going to have is changes with administrations. I mean four years from now, or even—I guarantee you that if we have a change in administration, you probably would have had probably a change in direction. More of a state-right's-advocacy-type situation, see. Is it good for the country? Is it good for the West to have flip-flopping? I don't think it's good. I don't think it's good for a state to have flip-flopping, also.

And that's why I'm saying is that it would appear to me that if a state has mechanisms in place to address public concerns in terms of the use of water, and if you make a leap of faith that the states can protect the public, then the question is what is the proper Federal role? That's what the whole debate is. And I think it's

basically like the debate on welfare. If the states are capable of doing it, Federal Government, get out of the business.

But then the issue [that] arises is the states are not able to do that, because they're too provincial. They can't look out after the public interest. And therefore we have to be, as a Federal Government, involved in that process. That's what the whole debate is about, from my view.

Storey: Well, we got to a very interesting area, just as I must close down.

Martinez: We didn't get very far.

Storey: I think it's very interesting, though. Let me ask you again whether or not you're willing for the information on these tapes and the resulting transcripts to be used by researchers.

Martinez: I have no problem, except on some of these issues that we're getting into, some of these philosophical decisions, we won't release the information until after I leave.

Storey: Okay. Good. Thank you.

Martinez: Okay.

END TAPE 2, SIDE 2. MARCH 25, 1997. END OF INTERVIEW.
BEGIN TAPE 1, SIDE1. JANUARY 6, 1998.

Storey: This is Brit Allan Storey, Senior Historian of the Bureau of Reclamation, interviewing Commissioner Eluid L. Martinez in his offices on the seventh floor of the Main Interior Building in Washington, D.C., at about one o'clock in the afternoon on January the 6th, 1998. This is tape one.

You had just started to talk about reestablishing good relations with stakeholders in Reclamation, and I thought maybe we ought to pursue that further. This was about a year ago now we talked.

Martinez: It's been that long, huh?

Storey: Yes.

Opening Communication with Traditional Stakeholders

Martinez: Time flies. That basically, I think, was along the lines of trying to—I don't know if the proper word is "reestablish," but trying to open up a line of communication with what was called the traditional stakeholders.

Reclamation Stakeholders Feared Their Particular Needs Might be Neglected as Reclamation Reinvented Itself

I think that centered around the fact, I want to recall, that the irrigation districts felt that because the Bureau of Reclamation was now moving towards water management, more of an environmentally sensitive agency, that it was sort of not going to pay as much attention as in the past to their particular needs, and the perception on the part of the traditional water user that the Bureau of Reclamation was sort of turning its back against their needs.

I guess the point I was trying to make, and made, with individuals at that time—it was about two years ago—was that I viewed the job as Bureau of Reclamation Commissioner to comply with the law, carry out the responsibilities of the position, and to deal with all the constituency groups on an even keel from the standpoint that I wasn't going to play no favorites. I was going to do the best job I could, and that I was going to listen to them and weigh their concerns and their comments on any specific issue and then make my decisions, and that I didn't come into the position with any perceived agenda, either being pro-environmentalist or pro-traditional water user, but I was going to use the logic and the approach that I used as State Engineer to weigh the issues and make the best decision for the country.

Reclamation Has Worked at Environmental Issues More

I think that has stood me well, because the issues that the traditional water users are facing today and the Bureau of Reclamation are facing today are the same issues we were facing a year-, year and a half ago, trying to become more environmentally sensitive to our operation of our projects and incorporate those environmental concerns in the decisions we're making. Those issues have not gone away, but the dialogue with the traditional water users has gotten to the point where I think we can sit across the table and express our differences of opinion, and they realize the decisions we have to make, they might not necessarily agree with them. Ninety percent of the time I think they do, but the other ten percent, they just realize the basis for those decisions, and to the extent that they don't agree with them, they've tried to get legislation passed through Congress to try to change the law.

Storey: Going back to all of this, the stakeholders and so on, you came to Reclamation, now it's been almost two years, hasn't it?

Martinez: It's been two years. Actually, I came to work on the 28th of December.

Storey: So it's just over two years.

Martinez: A little over two years.

Storey: That was after the Republicans had gained control of both the House and the Senate.

Martinez: That's correct.

Storey: And since that time, they have been blocking a lot of nominations, yet yours went through fairly smoothly. Do you have any insights into why that happened?

Nomination Had Bipartisan Support

Martinez: Well, there might be a couple of reasons. One of the key reasons, I believe, is that one of my sponsors was Senator [Pete] Domenici, my senator from New Mexico. I've known Senator Domenici for years. Even though we're from different parties, we respect each other. He's very professional, and I think he thinks likewise of myself. He supported me in the process, as well as Senator [Jeff] Bingaman, so I had support from both sides of the aisle in terms of sponsorship from my own state, and I think that was crucial and important.

The other reason, I believe, that I was able to get through without much controversy is because of the background that I brought to the position in terms of some twenty years of water rights administration experience, including a little over four years as a State Engineer, as a sitting State Engineer in one of the western states.

"So I think that I brought to the position . . . probably more experience in water management and the water issues than probably any Commissioner that has ever served in this position . . ."

So in terms of being suited for the position, in terms of practical experience and knowledge, I would say that if I wasn't one of the longer-term tenured water officials in the West, I was pretty close to it, and I had seen quite a bit of change since 1971 that I started in this business, of the water management, water

development business. So I think that I brought to the position, and bring to the position, probably more experience in water management and the water issues than probably any Commissioner that has ever served in this position, especially as we're going into water management activities.

As a State Engineer in New Mexico, I was able to build a broad base of support, not only from the environmental community, but also from the irrigators, because of the way I treated the individuals and the way I made my decisions. So, to my knowledge, there was no opposition to the nomination, notwithstanding the fact that there's vested interests by different stakeholders as to who should be the Commissioner of Reclamation.

National Water Resources Association Supported His Nomination

So the National Water Resources Association went on record endorsing my appointment and supporting my confirmation. While the environmental groups did not especially come out and endorse me, they did not vocally express any opposition. So I think that had a lot to do with it.

Storey: Going back a little bit, when you were State Engineer, were there changes that you saw that you made from when Mr. Reynolds was State Engineer that you could identify? Was there an evolution of what was going on in New Mexico? What was going on there?

". . . the major evolution that was going on . . . was the concept of considering the public welfare in the decisionmaking process by a State Engineer. . . ."

Martinez: Well, the major evolution that was going on, is still going on in the West, was the concept of considering the public welfare in the decisionmaking process by a State Engineer. As we had discussed previously in our discussions was that prior appropriation doctrine, basically, had always included the State Engineer or the water official consider whether the water was available, whether the taking of the water would impair somebody else's water right, and also to consider the public interest in making these decisions, and the water allocation.

But, as I explained to you early on, from the early 1900s through at least through the late 1970s, 1980s, that public interest basically dealt with whether, at least in New Mexico, and I would assume that was probably throughout the West, was it dealt on economic issues as to whether two competing applicants for the same water supply, the Engineer might consider the public interest in giving the

permit to the applicant that was lower economically positioned to be able to develop the water right. That constituted public interest.

At Time He Was State Engineer Public Welfare Issues Were Overtaking the Technical Issues Which Previously Dominated the Processes

But what was happening in the late 1970s, 1980s, even into the 1990s is now that most of the states are now turning to this public interest, public welfare as to encompass issues such as the environment, growth, public welfare in terms of issues that are very difficult to measure, growth being one. So what I saw in the state of New Mexico was that during the four years I became State Engineer, the opponents to an application for a new use of water were beginning to become more vocal in the aspect of the public welfare aspects rather than the technical water issues that had been discussed in the past.

In other words, as I related to you, the application that I dealt with Intel Corporation and their application to take ground water out of the middle valley of the Rio Grande in the Albuquerque area, a lot of the testimony went to the fact that the water use should not be for that purpose because it would change the lifestyle, it would increase congestion of traffic, it would pollute the atmosphere, it would bring in more people from the West Coast to New Mexico, and so forth. These are kind of issues that are now playing across the West—and not only in New Mexico. So that change was occurring.

The other change that I tried to implement was, at least in the State Engineer's office of New Mexico, and I would assume that this might have been the case in other Western states, is that historically the staffs of the State Engineer's Office, for the water administration office, were individuals that came in, worked almost their entire careers, and then left and retired, and I think that's probably the same thing with the Bureau of Reclamation.

State Government Is Seeing Much More Turnover than in the past

That's not the case, at least in the last ten- fifteen years. We began to see more and more of a turnover of staff, and today I think that if you were to find somebody that's worked for state government for more than five or ten years, it's long tenure. So, as your staff turns over, it becomes more difficult to get an institutional knowledge, so you've got to begin to put processes in place that the operation of an agency can continue, notwithstanding the turnover of staff. What I'm talking about is that you need to put things into rules or regulations from criteria that, at least for the State Engineer's office—the way it operated in the past

was because you had people there for so long that they knew how things were done or why they were doing things, that they carried all the information in their heads.

You've got to make sure that you put it in place of process as simple as record keeping, for instance, as silly as it might sound, is that, in the State Engineer's office, and I assume that might be the case in a lot of other agencies, at least through the early 1990s, all the records were on paper and everything was filed. There were people walking around that could remember where things were filed, where they were categorized and so forth, but a new person coming in was sort of at a loss.

Automation in the State Engineer's Office

Now, today, if you put that database in a computer system and search by certain words or certain files, you can access to that information, but just a simple thing of trying to access information, past information, depending on what filing system you have in place, can be difficult, can make it difficult if not impossible. So one of the things I tried to do as State Engineer was to try to bring the State Engineer's office into the modern era in terms of automation. That was begun and was in the process of being put in place when I left the State Engineer.

Storey: That's interesting. I want to go even a step further back. You've talked before about your wood carving, and you mentioned, I think, that you started wood carving while you were in college.

Martinez: Just shortly after I graduated from college.

Storey: But I never got you to talk about what sort of triggered you and how you went about beginning that process.

Became Interested in His Family's Heritage in Woodcarving

Martinez: Well, I thought I sort of related that to you. Even though I grew up in a family of woodcarvers and I saw the work, I did not pay much attention to it, other than in passing. In other words, when I would go spend some time with my uncle up at Cordova, I'd see him carving, and I'd see the work in his shop, but I was engaged in other things as a kid. When I went to college and I was in college, I began to read about the heritage of my family, especially my grandfather. My grandfather, who passed away in the 1930s, was quite famous by the time he died. The work,

like I say, it was in several museums, major museums in this country and probably overseas, as well.

The Family Doesn't Own a Single Piece of His Grandfather's Woodcarving

But yet there wasn't a single piece that he had created by his hands in the family. All of it had been sold or acquired by collectors.

No Family Member Owned a Piece of his Uncle George Lopez's Carving Work

In 1968, my uncle, George Lopez, which passed away a few years ago at the age of ninety-four, was already sixty-eight years old, and I also looked around and noticed that there was none of his work in the hands of any family member. In other words, most of his work, and he was already famous at the time, was also in museums or collections of other persons.

Commissioned George Lopez to Do Twelve Major Woodcarving Pieces

So what I decided to do was to commission my uncle to create for me twelve major pieces, and I selected the different subjects, the different *santos*. He created for me twelve major carvings that are now in my collection. As it turns out, he passed away at the age of ninety-four. This was when he was sixty-eight years old. I'm the only member of the family that has any substantial collection of his work.

But at any rate, at that time when I commissioned him to do the twelve pieces, and he did them for me, I decided to try it myself. So I went up to Cordova, and I asked him for some wood, and I got me a knife, an old saw, and I started to carve, and that started the process.

Storey: What were the things that were hard for you to learn and easy for you to learn to do?

Learning to Do Woodcarving

Martinez: In terms of wood carving?

Storey: Yes.

". . . the hardest things to learn . . . is how not to cut yourself. . . ."

Martinez: Well, the hardest things to learn were—it might sound silly—is how not to cut yourself. [Laughter] The actual mechanics of carving, in other words, it's a skill. In other words, you just don't pick up a piece of wood and just start to hack away at it. You've got to be careful, because the implements you work with are sharp, and all it takes for you to cut your hands and you're out of commission for a while. See, so it's like a surgeon, you know, his hands are his business, I mean, the tools by which he creates.

Well, if you're not careful, you can damage your hands and you're out of business. So for a wood carver, or for a carver of stone, you've got to really know what you're doing and be very careful or else you'll put yourself out of business very quickly. So you have to learn the mechanics of it. That was the most difficult part, is cutting with the grain or against the grain, these kind of things. That was the most difficult part.

Designing a Woodcarving

In terms of what you're going to carve or what the product's going to look like, I guess that was an inbred sort of skill. I can sit, pick up a piece of wood, and, in my mind, sort of formulate or sort of a thought process, put the piece together as to what it's going to look like when it's completed, and, therefore, I will create out of that piece of wood the finished product.

Some Woodcarvers work from a standard pattern

Not all carvers work that way. Some carvers, what they'll do is they have a standard pattern. For discussion purposes, I'll say that you've got a piece of wood and you're going to knock off wheels out of it. You get yourself a template, you put it on the board, you draw the template, and then you cut around it, so you create wheels.

Storey: That's for a *carreta* say.

Martinez: Okay, well—

Storey: Whatever.

Martinez: Whatever, okay. Say you're going to make stars, or say you're going to make a San Isidro, and the shape of the body is the top one-third is the upper part of the body, the bottom two-thirds is the bottom two-thirds. So therefore you make

yourself a little template of what this body's going to look like in its rough form in terms of perspective, and you put it on a piece of wood and you cut it out, and then you start carving it, chipping away from it.

The way I operate usually is I just get a piece of wood and I start hacking away, and I cut so much for the upper torso and so much for the lower torso, and so forth. When I create some images, say I create three images of the same saint, they're all a little bit different, because in terms of the size of the upper torso, this is the lower torso, or the size of the arms, and so forth. I'll use a template to cut them out.

Some *santeros*, some woodcarvers, they use templates. That's what they call the cuts. If you look at the book of woodcarving, or the Lopez woodcarvers, they'll say, "What's the most important thing to learn?" and someone will say, "The cuts, how to cut the wood." In other words, what they're talking about is the measurements and so forth, but that's reflective of the work product, because if you have a San Isidro, or, say, St. Francis by some of these folks, they all basically look about the same size, ~~same sort of like~~ sort of semi-mass-produced.

Storey: Same proportions.

Martinez: And everything else, okay. If you want Guadalupe, and you want it a certain-- they'll say, "Well, we can carve it for you at twelve inches, eighteen inches, or twenty-four inches." If you say, "No, I want a nineteen-incher," they might say, "Well, no, twelve inches, eighteen inches, or twenty-four inches," because they already have their cuts, they already have their templates.

Storey: So my *nicho* is twenty-one.

Distinction in Woodcarving between an artist and a craftsman

Martinez: Okay, well, you got a problem. You got a problem, okay. But what I'm saying is those are the technical skills involved, okay, because most *santeros*, and a lot of woodcarvers, are craftsmen, and there's a distinction between craftsman and artist.

Earlier *Santeros* Used Two Dimensional Lithographs to Create Three Dimensional Pieces

Some of the earlier *santeros* created their three-dimensional forms from two-dimensional copy, in other words, from lithographs. So you take a two-

dimensional lithograph, look at it, which was the old lithographs that came from Spain, and so forth, the offset lithographs, of *santos*, and somebody, these first folks, looked at those two-dimensional images, and they created a three-dimensional piece of art.

The ones that followed them used a three-dimensional piece of art as the model on which they created, and very few of them did anything different other than to copy what somebody else had created. Now, that's what I'm saying, which is the artist and which is the craftsman, see. Even a lot of artists today have no original idea of creating things; they just copy. That's where you get this and what are the cuts and the sizes, and so forth.

But in any art form, and especially in the *santero* art form, the most difficult for a true artist, I think for an artist the most difficult thing is to learn the technique and the mechanics. Once you master that, then you let your mind create.

Storey: Did you ever, for instance, experiment with some of the older styles like doing a carved torso and then maybe a skirt of a framework in gesso and cloth or anything like that?

Martinez: I've thought about it, but I never got around to it, but it makes sense, because what happens is that that's a part of the mechanics of being able to put together a large piece without having to do a great amount of work. Just for discussion purposes, say, assume that you're going to do a torso three-quarter size, or life size. Well, if you carve the upper portion of the body, and then use lathes for the lower portion and then wrap it around with cloth and gesso, you don't have to carve out the lower part of the skirt. See, it gets a lot easier to sort of *papier-mâché* a piece than it is to carve it out of a piece of wood. Couple of reasons, one is it's a lot less work, and the other one is you don't find large pieces of wood that you can work with that are not somehow cracked because of the weathering process, and so forth.

What you've got to remember is that some of these old artists, and so forth, were somewhat limited by the size of the pieces of wood they could work with. I mean, you're not talking about Michelangelos that had a piece of marble, you know, that they hacked away at the marble and they carved out a huge piece. These *santeros* up in northern New Mexico were working with pieces of wood that only grew to a certain size, certain dimensions.

Storey: Maybe twelve inches, eighteen inches in diameter?

Martinez: And in some cases, even less than that, because, like I've told you, is because you've got to find the right wood with the right grain, see. So it was sort of—they improvised.

Storey: Yes. I think we haven't talked about this particular part of it before.

When you came to Reclamation, of course, you were following Dan Beard, and one of the comments that you've made a couple of different places is that Mr. Beard relied on reorganization within the structure instead of legislative changes to alter where Reclamation was going. Do you think that was a good way to do it, or what? I'm interested in your reaction to that approach to redirecting Reclamation's programs.

During the 1987-1988 Reorganization There Was a Lot of Criticism Because Congress Was Not Consulted to its Satisfaction

Martinez: Well, what I found interesting was that—and, you know, information's come to light since over the last year or so I wasn't aware of, but you know in the late 1980s when the Commissioner of Reclamation—I can't remember who the Commissioner was—but [James W.] Ziglar, I guess, was Assistant Secretary.

Storey: Yes, Dale Duvall.

Martinez: When they went up before the Congress in the late 1980s with their reinvention of Bureau of Reclamation and trying to move the organization out of the Commissioner's office to Denver. If you look at that, that was an approach that went before Congress that tried to sort of restructure the Bureau of Reclamation, and in a certain way they also addressed changing sort of the mission, the implied mission.

If you look back at that history and you read that history, the Commissioner of Reclamation and the Assistant Secretary came under criticism because of the fact that they had apparently unilaterally decided to do this without consulting Congress. I think it was Representative [George] Miller at the time that was the most vocal and concerned about it.

Dan Beard Was Able to Effect Major Changes Without an Outcry from Congress

Well, after it's all said and done, there wasn't much of a structural change, moving people around or making much of a change, yet Dan Beard was able to effect

pretty close the change that he sought without having to go through legislative change, and there was no outcry from Congress, at least from my perspective, that I was able to read. That might be attributed to the fact that maybe he did a lot of homework before he implemented the changes. But if you contrast the late 1980 proposed changes of mission and structure that was contemplated by the Bureau of Reclamation management at that time, they ran into a buzz saw in Congress, and yet Mr. Beard was able to accomplish most of that, to a certain extent, including substantially reducing the number of employees in the Bureau, without the outcry that occurred. I think there's several reasons for it. I won't go into it in this record.

Storey: But I want you to go into it.

Congressman George Miller Was Very Supportive of the Changes Beard Made

Martinez: But I think part of it had to do with—probably the one that was most critical of what was occurring back in 1988 might have been Mr. [George] Miller [D. 7th Congressional District, California] , was probably very supportive of what Dan was trying to accomplish in the 1990s, and, therefore, not much scrutiny was brought to what was occurring in the Bureau of Reclamation, and due in part because at that time, I want to recall, that Mr. Miller was Chairman of the committee [Natural Resources Committee which he chaired from 1991-1994], at least in the House.

Government Performance and Results Act (GPRA)

So the point is, what I've said is that the changes occurred principally without much scrutiny on the part of Congress. Now, that being said, and, of course, I don't have all the information before me so there might have been quite bit of scrutiny, but at least not public scrutiny.

Questioned in Congress about Where Reclamation Has Authority to Do Water Management

The GPRA [Government Performance and Results Act] plan, which is the Bureau of Reclamation Government Performance and Results plan, for five-year, long-term plan of what the Bureau of Reclamation will be involved in, which was just submitted to Congress this September of this past year, 1997, when that was submitted to Congress, I was questioned as Commissioner of Reclamation as to why we were in the business of water management, who had given us the authority to move forward and change our mission.

Of course, my response to that was that Congress had done that, Congress and the Administration, because none of this has been done in the back room. The Bureau of Reclamation, for the last three-, four years, has been making very outward gestures that it's now in the water management business, and our budgets have been put together on that format, and those budgets had gone before Congress, and the Congress has approved those budgets, incorporating those concepts.

The GPRA Process Has Resulted in Determination That Reclamation Build Projects Arrived at Through a Consensus Process

The one issue that drew some controversy was whether in fact the Bureau of Reclamation would be building new water projects. The first draft of the GPRA plan that was put together by my staff based on, I guess, on their perceptions of the Dan Beard era, is that we would no longer be developing water development projects. I allowed that to go forward in the first draft to see what kind of comments it would generate, and I knew what kind of comments it would generate, but after it was all said and done, we got input from Congress and the water users, and the final draft document says the Bureau of Reclamation will be involved in water development projects, but it will be those projects that will come out of consensus-driven initiatives.

It was careful, and it was not stated to say that it will be a consensus project, it'll come out of a consensus initiative, because, notwithstanding the fact that you might get people at the table together, they might not necessarily agree on one given project, for instance, the Animas-La Plata Project. Let's assume that that project is built. In whatever form it is, it will result from this process that Governor [Roy] Romer put in place, which was supposedly a consensus process to try to bring consensus, but they weren't able to come to closure on consensus, but at least it was a process that went through that.

Bay-Delta Process and the Central Valley Project

So, in California, Central Valley Project, the Bureau of Reclamation will probably be involved in building some physical works out there as part of this Bay-Delta initiative. Again, it will come out of a process that brought people to the table, but probably not everybody agrees with what the final resolution will be, but at least it will be a process. So I guess basically what I've been able to do in convincing the Administration, and if it's accepted by Congress, is the Bureau of Reclamation is *still* in the dam-building business, but it will be those dams and those water projects that will come out of a consensus process that, in general,

addresses the public welfare of the country and the area—and some tough decisions have to be made.

Storey: I think [John T.] Doolittle is the Chairman of the GPRA Committee, oversight committee.

Martinez: In the House, he's our authorizing Committee Chairman, and therefore has oversight on that issue.

Storey: He wants to build Auburn, I believe.

Congressman John T. Doolittle, Auburn Dam, and Flood Protection in Sacramento

Martinez: I think he's concerned about, and properly concerned about, the—

END TAPE 1, SIDE 1. January 6, 1998.

BEGIN TAPE 1, SIDE 2. January 6, 1998.

Martinez: . . . flood potential in the Sacramento area.

Storey: Yes, below Auburn and Folsom.

Martinez: The [U.S. Army] Corps of Engineers has been looking at that dam, whether it should or should not be built. The latest I heard was that the recommendation that might move forward would be to enlarge Folsom, to address some additional storage capacity. So I think that as far as Chairman Doolittle is concerned, he has a valid concern, an appropriate concern, being do we have adequate flood protection.

You must look at alternative approaches to flood control in Sacramento

The issue is, I think, you can address that flood protection concern by different methods other than maybe building Auburn. I don't know to what extent the chairman sometimes, maybe he's dug his heels in, and says I'd like to see Auburn, but I think the issue should not be whether it's Auburn or not, the issue is, is there a way to provide flood control and flood protection. If there's a way to do it without building a new structure, should we do it, and if it's less expensive, and if that analysis doesn't bear fruit, then you look at another structure. But at least at this point in time, it appears that Auburn will not be necessary if you can do some modifications to Folsom.

Storey: Central Valley Project Improvement Act has been quite an effect on Reclamation.

Martinez: Let me go one step further.

Storey: Oh, excuse me.

Martinez: Because I think I need to do this. But then you'll also have folks on the other side of the aisle will say, "In no instance should we even build a dam, or even enlarge an existing dam for flood protection, because the solution to that is to move people out of the flood plain." What you could do is nonstructural solutions to flood-damage protection. So there's a combination of that occurring in the Central Valley also as the Administration is very supportive, and I think it's appropriate as well as the state of acquiring properties along the river where people should not have built in the first place, to move them out of those areas.

In Considering Water Issues You Should Be Open to Both Structural and Nonstructural Solutions to Issues

The problem you have is that you get into people that sort of lock themselves into positions of saying the solution is structural, and other folks saying the solution is not structural, and they're not willing to give one way or the other. From my perspective, it's got to be open to both the structural and nonstructural and come up with a solution that is the best solution, and if it requires some structural modification, you do some structural modification, if it does not, then you don't do it. That's really what is at issue.

To a certain extent it's what is at issue at Animas-La Plata is that you've got some people that have said, "We're going to build a dam," and some people say, "You're not going to build a dam. Come hell or high water, you're not going to build it." You've got the Indians coming and saying, "Well, we need our water rights." The issue should not be whether you're against a dam or for a dam, but is a dam appropriate, and if so, to what extent, and to what size, and should we bring it forward. Get off the debate as to whether a dam should be built or not.

Like I say, there's groups of folks, not only in this country but across the world, that believe that there shouldn't be another dam in the world, *period*, because they're no good. I'm not of that mind-set.

Storey: Well, seems to eliminate one of the alternatives, doesn't it, for sure. The Central Valley Project, from your perspective as Commissioner, how is it affecting Reclamation?

The Central Valley Project Uses Almost One-third of Reclamation Budget

Martinez: It's affecting it for a couple of reasons, significantly. One is from a financial standpoint. California, especially the Central Valley Project, now accounts for almost, if I want to recall, a third, if not a little bit more, of our budget. So in terms of the Bureau of Reclamation budget committed out West, the Central Valley Project is really using about a third of our budget. So to the extent that that money wasn't going to the Central Valley Project, we'd have a lot more money to develop other initiatives across the West.

So I want to recall—you might want to look at the budget, but, you know, we've got this 140 million dollars a year that's coming to the Bureau of Reclamation for use by the Bureau of Reclamation and other Federal agencies on the Bay-Delta CALFED Initiative. That's legislation approved by Congress, a three-year appropriation of 140 million dollars a year. That's not counting the some 90 million dollars, I want to recall, or somewhere around there, that's built into our budget on a given year *anyway* for California initiatives, principally a lot of them having to do with the Central Valley Project.

Central Valley Project Initiatives Are Bringing Reclamation more into Water Management

So, those initiatives out there are impacting our budget. On the other hand, though, from a water management perspective, it's bringing into play exactly what role the Federal Government has, or the Bureau of Reclamation has, in-place in water management. You know, we're having to implement the Central Valley Project Improvement Act, which sets strict criteria as to how water should be managed in that valley. We're becoming the water managers to the extent that the Central Valley Project Improvement Act mandated certain actions or certain decisions that had to be made as to how water would be used—to the extent that the Bureau of Reclamation or the Department of the Interior has to make that decision as to what was meant by the law, which is like this 800,000 acre foot, how it should be used. It puts the Bureau of Reclamation and the Department of the Interior as the decision-maker that other parties might agree or not agree with the decisions being made.

Central Valley Project Improvement Act

What I find interesting in the Central Valley Project Improvement Act, in retrospect, is that the act, if you look at it, was an act to really micromanage the

operation of a system. I've never seen an act that basically goes through so much detail as to how a system should be managed. It really, to a certain extent, I could say, was probably structured that way because somebody didn't trust somebody else's way of doing things.

Central Valley Project Improvement Act Is an Attempt to Micromanage

In other words, when you put together legislation or a package that micromanages, one, the assumption is that you want to make sure that that gets done that way because you don't trust somebody else doing it.⁸ So my take is that whoever put that legislation together had a very clear idea of how they wanted that system managed and operated. That being said, the irony of it is that this 800,000 acre feet of water that was reserved supposedly for fish purposes and environmental purposes is yet the most contentious issue right now facing the Bureau of Reclamation and water managers out there, because the act, even though it went into great detail as to how to micromanage the project, left pretty vague, at least how you read the act, how the 800,000 acre foot should be used or should not be used for water.

So what I found was kind of interesting is that somebody missed the boat. My feeling was that the supporters of those bills got so tied down with the microdetails of how that system should operate, and then it looks like at the last minute they said, and now we're carving out 800[thousand] acre feet of water, and this is the purposes to be used, and the environmentalists said they think it should be used one way, the farmers think it should be used another way, and probably some other third party thinks it should be used another way.

So I just thought I'd throw that in, because it's kind of interesting is that a piece of legislation that on the *face* of it appears to be so detailed to micromanage things can leave such a big void that continues to cause problems.

Storey: I think it was at the policy team meeting in Las Vegas that Roger said that the Peripheral Canal is back again.

Peripheral Canal

8. The chief staff person in the House of Representatives responsible for the act was Daniel P. Beard who subsequently served as Commissioner of Reclamation.

Martinez: As I understand it, it's one option. My understanding is that they're no longer calling it the Peripheral Canal, they're calling it some other thing, but the physical work will be the same.

Storey: Yes, because a politically very hot potato that was voted down in California, I've forgotten when, but it's a case study in a lot of books. Have you run into any more about the Peripheral Canal, had any thoughts?

Martinez: I'll talk about the concept of the Peripheral Canal. I'm not that knowledgeable about the specifics of it, but the concept of the Peripheral Canal is bringing water from one location to another. The issue, as I saw it in California, was bringing water from the North to the South, and therefore it would appear to me that if I was in the southern part, I'd be very leery about financing the mechanism to bring water from North to South. So I think that was, in my opinion, what was probably driving the concern and probably why it was defeated, is should water be brought from one location for another.

Storey: Yes, that's exactly it, the North didn't want any water going South.

Martinez: That being said, that's the same issue facing water managers throughout the world and throughout the country. I was in Spain last April, April of 1997, and in the country of Spain, their water supplies are in the North, the major water demands are in the South. I haven't been to southern Spain, but they tell me that northern Spain is like the state of Washington and southern Spain is like the Imperial Valley down in California—desert.

So the proposals are to take water, and there are water projects in Spain now that take water from the North to the South, but there's a proposal in Spain now being under consideration to take *additional* water from northern Spain to southern Spain, and it's run into a lot of controversy, run into a lot of controversy from the environmental community, which is a new thing for Spain, because of taking water out of one watershed to another and what the environmental impacts will be, and it's run into opposition from the basin of origin, because folks say there "we will need that water in the future; it shouldn't be taken out."

Basin of Origin Versus Basin of Use

So this same kind of conflict in basin of origin versus basin of use is something that's occurring all over the world. Here in California it's magnified because of the size and the number of population and so forth, but I think they're issues that are not isolated to the United States.

Storey: How are we doing on transferring projects to O&M with the irrigators?

Title Transfer Isn't Yet Successful

Martinez: Not successful to this point. I think what happened was, and I think we maybe have discussed this before, is the Administration, in looking for ways to make this government less costly and more efficient, looked at program elements of different agencies that could probably be turned over to the private sector or done for less Federal expenditure. As I recall, the story I've been told is that the Bureau of Reclamation, along with different bureaus in the Department of Interior, were asked to look at parts of their program where you could probably either divest some Federal facilities or at least terminate the programs and save some money for the Federal treasury, programs that could probably be done better by the private sector.

So the Bureau of Reclamation targeted some of their loan programs, Small Reclamation Projects Loan Act,⁹ and those kind of programs that they thought that maybe the private banking community would be a place where water users will get loans and so forth. Bureau of Reclamation also, I guess, took the position that there were certain facilities out West, water user facilities, that would probably be more appropriate if they were turned over to the private sector.

So, the Department of Interior, Bureau of Reclamation, their proposal was to the Administration we offer up this as a mechanism to reduce the Federal expenditures and to do away with some Federal programs that needs to be managed by other folks. This was the Facility Transfer Initiative, and we believe that over X number of years, we can save X number of millions of dollars for the Federal budget and reduce our FTEs. If you look back at the Regal [phonetic] report, the figures are there.

The thought process at that time was, and I want to recall was it made sense, it makes sense from this perspective, and I think I've told you this, is that we have a large infrastructure, the Federal Government has a large infrastructure and a large investment in water development and water projects out West. A lot of this infrastructure is aging, and like our highways, it requires constant maintenance and upkeep. And, at some point in time, it's going to require replacement.

9. The Small Reclamation Projects Act of 1956. Act of August 6, 1956, ch. 972, 70 Stat. 1044. This act has been amended many times over the years.

Well, the question is, from my perspective, it looks to me like there's a benefit to the Federal Government to transfer these facilities to the irrigation districts or to water users, to relieve itself of these future expenditures that are going to have to be made. So I think that there is a benefit to the Federal Treasury, the Federal Government, to have these private entities take over the responsibility and the maintenance of these facilities.

There Are Public Interests That must Be Considered in Title Transfer, e.g., Recreation and Downstream Flow Benefits, Environmental Concerns, and Indian Trust Responsibilities

The kicker comes in, in transferring these facilities there are public welfare, or public interests that have to be addressed that go along with the transfer of the facilities, such as how these facilities will be operated, because there's recreation benefits that have been put in place as a result of some of these facilities, there are downstream flow benefits, there are environmental concerns that might need to be addressed by how the project is operated, Indian trust responsibilities, and so forth.

In Title Transfer the Federal Investment in the Project Is Often an Issue

So what has happened is that what appeared to be a simple proposal is we would come up with a proposal to transfer this project from Federal to non-Federal hands. Fine. But what does that mean? One, if the Federal Government has made an investment, should the private party acquiring the system now have to pay the Federal Government back for part of that investment or not? If there's a loan still outstanding on the construction of that facility, what should be the appropriate pay-off by whoever acquires the system? When I say whoever, we're basically talking about the irrigation districts now.

Should there be constraints on how that water is used in the future? Because as long as it remains in Federal hands, the Federal Government has some ability to maybe utilize that water a little bit differently to address issues that a private owner might not. Should the water right be conveyed to the individual? Should there be minimum instream flows? Should easements be granted for recreation purposes, and so forth? When you start talking about all these issues, it complicates what appears to be a very simple initiative of transferring projects.

So what has happened is that the Bureau of Reclamation put forth this initiative, and they said, "We're going to transfer facilities." When I came in as Commissioner, we said, "Okay, it's easier said than done. Let's try and figure out how we're going to put the process together and how it's going to work," so I put

together some groups of folks that put together sort of an implementation plan of the steps that have to be followed in order for us to support, in Congress, a transfer of facilities, and since the facilities are Federal property, they require a congressional action in order to divest us, in order to convey them to private individuals or private parties, it has to be by Congress.

Some Districts Bypassed Reclamation and Went to Congress for Title Transfer, Apparently Fearing the Way Reclamation Would Manage the Projects

Well, some of the districts, some of the original districts that were seeking title transfers, sought to go to Congress directly without coming to the Bureau of Reclamation. What was driving them? From the district's perspective, apparently what was driving the facility transfer was a little bit different than the Federal perspective. Naively, the Federal perspective was to move these facilities off of Federal expenditures into private hands, private expenditures down the road.

From the district's perspective, what was driving some of the districts was their concern about where the Federal Government is heading in terms of how they were going to operate those projects and how that operation of those projects and those water rights might impact their ability to exercise those rights on those waters for the purposes exercised in the past. So I think the districts were viewing these as if we were able to acquire the systems, the projects and the water rights, we have better control of our destiny than relying on the Federal Government. So that's where the initial thrust was coming from some of these districts, and I think it was probably, from their perspective, it was appropriately placed.

Storey: Was one of the underlying aspects of this—then we don't have to mess with all this other stuff?

Martinez: Yes, and we're not subject to a lot of this other bureaucratic red tape, and so forth. Then when you put that in the context that the traditional water users were quite concerned about where the Bureau of Reclamation was heading in the future, because of its change in philosophy, which was being perceived as not very friendly toward traditional water users, you could see where the traditional water user districts were interested in acquiring these facilities and these projects.

NEPA and Title Transfer

So what has happened is that some of these districts went to Congress and they had the congressional folks drop in bills on facility transfers. When those

bills got to hearing, it was opposed by the Administration, basically because principally most of those bills wanted to skirt the NEPA [National Environmental Protection Act] process, and some of them still do. In other words, we consider a transfer of facility to be a major Federal action which requires NEPA analysis. The decision in some of the districts and some of the congressmen, senators, says it's not a major Federal action, it's just going to change a title, not do anything else, should not require NEPA. Needless to say, I think we've gotten past that point. I think any future title transfer initiative will have a NEPA analysis.

Title Transfer Issues Include Valuation and Transfer of Water Rights

The other was valuation, what should be the proper value? The other one was whether water rights should be transferred or not. So these bills that are trying to move through Congress now, or have been trying to move, have been hung up because of Administration's concern with respect to certain issues. So what was perceived just to be a simple initiative has gotten somewhat complicated.

Each project has to be looked at differently, because they're all different projects. So, that being said, it is my hope that in this next session of Congress starting in 1998, we will at least move water to projects from Federal hands to the districts. Now, you also need to take into consideration that at the time that the original proposal was put on the table for transfer of facilities from Federal to non-Federal entities, it was wide open. The thought process was that anybody could come in and seek to own these facilities, which meant environmental groups or cities or whatever it was, but that caused quite a concern on the part of the irrigation districts.

Some Folks Wanted Transfer of Powerplants

So I think where we're at right now is basically while we have not said any particular body is precluded, I think the message has gotten out that it makes sense for the irrigation districts, for the ones that have been under contract to be the ones that are moving forward, because when I first came in as Commissioner of Reclamation, also I was lobbied by certain folks and groups that wanted to take over part of our power-generation capability. In other words, there was the thought that the Bureau of Reclamation should be divesting itself of its powerplants, and so forth, separately from, in other words, if a dam had a powerplant, somebody'd come in and say, "Well we can operate that powerplant. We'd like to acquire it," and so forth.

I took that off the table very early, because most of our projects are operated for multiple purpose, and we need the Bureau of Reclamation to the extent that it needs to operate a project, it needs to operate it in its entirety and not in a part of it. For instance, in the Colorado River, these kind of things, there might be some small plants where we can turn over all the facilities, but the larger interstate projects and so forth, I don't think I would recommend that we divest ourselves of part of those projects.

Storey: Is there still pressure to do this?

There Is a Potential for Conflict Between Water and Power Generation

Martinez: Well, I haven't heard anything about it in about a year, and, as I understand, this debate going on in Congress now and in the Administration of electric diversification has to do with transmission facilities and not necessarily the power generation facilities. I would have some concern of transferring out of Reclamation's hands, out of the government's hands, our power generation facilities, because you've got to operate a project to meet all its needs, and primarily operating it to maximize electric generation might not necessarily be the best way to operate the project.

Since we right now have the flexibility of operating the project ourselves, considering all the aspects of how we should operate it, I'd hate to be put in the position where I have to deal, or some future Commissioner has to deal, with a private entity that owns the powerplant in our facilities bringing pressure to bear as to how we should operate the facility because of their need to maximize profits from the electrical-generation capability. It's still a vital concern, and we seriously consider that.

We work with the power entities to make sure that we operate in such a way to provide, as best we can, maximum electric generation capability, but that's not the overriding operation of our facilities.

Storey: Water resource management is another thing we've talked about off and on. How has Reclamation changed, in your perspective? You came in after this new initiative had come in, and the idea was we would go to be being a water resources management agency. Some people in Reclamation reacted very confused about that. I was sort of saying, well, isn't that what we've always been anyway? Where do you stand on all of this? What do you think?

Managing Water

Martinez: Well, what I've told you is that from the most simplistic standpoint I just want to separate this issue into—I come from two perspectives. It has to do with basic interpretation of management, of the definition of management. To the extent that you're a farmer or operate or use water for any given project purpose, it's incumbent upon you to manage that water resource in a way to make it more efficient and to get the best utilization you can out of it.

So a farmer, given a water supply, manages that water supply, he becomes a manager, in my opinion. How he manages that supply, especially if it's a scarce supply that's less than what he needs, dictates whether he's successful or not. So since we have these irrigation projects and we contract water to farmers, it's incumbent upon us to make sure that that limited water resource is utilized efficiently, it's managed efficiently. What does that mean? Proper facilities, water conservation, water use. From that standpoint, we are water managers, and we'll continue to be water managers, and we're engaged in that, and will continue to be engaged in that.

Water Management in the Context of Administration

But when you're talking about management from the context of administration of how water should be used, that's a completely different perspective. That's also management. The question is what the Federal *role* should be in the administration or management of water rights, of water, the use of water. The state's perspective basically is, "That's the state's perspective. You acquired Bureau of Reclamation water rights under state permit subject to the administration of water rights of the states that you acquired those permits from; therefore, the Federal Government, you should not be in a position of telling us or telling somebody *how* that water should be used or not, whether it should be used for environmental purposes, instream flow purposes, or whether water rights can be transferred or not."

Wastewater Recycling

What Will Be Reclamation's Role in Transferring Water from Agriculture to M&I

Because, in *most* Western states, most of the water resources that have been developed have been developed on Bureau of Reclamation projects, and *most* of that water resource is for agricultural purposes, and since they're not creating any new sources of supply out there in the West, except for maybe some of the

recycling that we're doing, wastewater recycling, if you follow the line of logic that you read in all these books on how to meet water demands in the future, there'll be a change of ag to M&I purpose. What's going to be the role of the Bureau of Reclamation and the Federal Government in that transition?

Since we hold *title* to the water right that's being litigated as to what the Federal interest is right now is being litigated in New Mexico. But let's assume, for discussion purposes, the Federal Government holds title to that water right, and if they hold the title to that water right and they're the holders of the permit of those water rights, before a change of use can go before even a State Engineer, it has to be made by the person that holds the permit. So from that perspective that puts the Federal Government in the position of saying we will or will not support the movement of water unless it meets certain criteria or a certain policy.

"So what I envision as an interesting scenario coming down the road is that if the Federal Government takes the position that it is going to play the role of a water official in determining how water be used or not . . ."

So what I envision as an interesting scenario coming down the road is that if the Federal Government takes the position that it is going to play the role of a water official in determining how water be used or not, it's going to have to address some of the same issues that the state official does. One is, can the water be taken without impact to the rest of the water users? [Two,] ~~Three~~, what should be the quantity of the water? Should be diversion or consumptive use? Three, under what public-welfare criteria should we allow this? What constraints should be placed on it?

What Happens If the Federal Government Uses Different Criteria than the State in Dealing with Water Issues?

What's interesting is that in that the Federal Government official might come up with a different set of criteria for answers to those questions than a state official does, and yet the process might have to go through the same state official. So you put the farmer or the beneficial user of water through a double jeopardy process, well, you cause yourself some conflicts, because the state water official might very well say, could very well take the position, and if I was a state water official I'd take the position, there already—

END TAPE 1, SIDE 2. JANUARY 6, 1998
BEGIN TAPE 2, SIDE 1. JANUARY 6, 1998.

Storey: This is Brit Allan Story, interviewing Eluid L. Martinez, Commissioner of the Bureau of Reclamation, on January the 6th, 1998.

. . . Government, you come to us.

Martinez: If you don't like the decisions, then the process is in place for you to participate. In other words, the Federal Government can say, "We support the transfer of water from this use to this use." Farmer comes in, and he says, "I want to transfer water from ag to M&I." Before the farmer can get to the water official, depending on which state you're at, must go through the state process before the transfer can occur, a change of use. But before the farmer can get to the water official, he has to have the Federal Government come along with him. So, the Federal Government takes a position, "Yes, we think that this use is appropriate, but under only certain conditions."

Now, do they go to the water official at the state that has authority to allow this to be effective and say, "Under the public-welfare criteria, we believe you should only transfer this right only if it meets these conditions that we think should be met, instream flow purposes and so forth?" And if a water official says, "Fine," and approves it subject to those, fine. If he doesn't approve it, then he'll appeal to district court. Or does the Federal Government take the position of saying, "Hey, farmer, before you can *even* go to the state, and before we will even *allow* the state to act, they have to acquiesce to the fact that this is how we want the water to be used, and this is the decision we make as to what the public welfare criteria is"? I see that as a conflict, it's conflict as you see more and more of these issues being moved—potential for conflict.

Storey: As a matter of fact, right after the last policy meeting, the Secretary announced the Lower Colorado Water Regulations, I believe, for comment. What's your response to all of that and what's going on there?

Martinez: With respect to the water banking, or with respect to the water transfers?

Storey: Either one.

Martinez: With respect to the water transfers, I can address that, because I had more input into that because of what went into the Secretary's speech on the water transfers was sort of an idea that I had that we should address, and the bottom line is that the Secretary, to a certain extent, is the water administrator of the lower Colorado River, just like a State Engineer is administrator of water within a state. By virtue

of Federal law and Supreme Court decision, the water taken out of the Colorado River in the lower basin is administered by the Secretary.

The Secretary Administers the Lower Colorado River, but State Water Law Could Challenge Decisions Made by the Federal Government

So, when an application comes before the Secretary to change water from one purpose to another, his decisions could be subject to challenge, legal challenge, so, therefore, he's going to have to put in place a structure and a process that is defensible, just like a State Engineer. On what basis did you make this decision? Was it capricious, or what is the basis? So he's going to have to make these determinations on how much water should be transferred, just like a State Engineer would, and that goes to the issue of part of his speech that has to do with beneficial use, concern about some of the districts diverting more water than what they need for beneficial use to try to inflate what they might be able to transfer in the past. They still have to make those kind of decisions. So that goes in part.

Issues in Dividing up California's Share of Colorado River Water

The other issue is, who owns what water? What's happened in California now, as I understand, you got the seven-party agreement that says so much water goes to California, and then the seven parties got together and they sort of divvied it up, but there's some difference of opinion as to a certain quantity of water goes one entity, they get their quantity of water, and whatever's left over goes to another entity, and it's a pecking order.

The concern is that the first user says, "We want to sell some of our water right, and we want to sell it out of a conserved water." So the next user down the road says, "Wait a minute, because that water that you're now wanting to sell and conserve should be water that should be return flow or somehow belong to us."

So that's what's sort of driving this concern in California amongst the seven parties, trying to come to closure on how they're going to divvy up this water amongst themselves to allow this transfer to occur. I guess what the Secretary has said, based on my advice, is that whenever you have a conflict as to who owns what in what amount, you have to make a cut, just like a State Engineer. You have to make a cut one of two ways. One is, either you have no jurisdiction, and they have to go to a court to get that adjudicated before they come back to you for an application of move, or if you think you've got jurisdiction, you're going to have to make a decision as to who you think owns what in what quantities. So, subtly, the speech basically says is when I get an application for transfer from ag

to M&I, in the absence of you folks in California coming to closure on how that water's going to be partitioned in terms of what we're talking about, I'm going to make that decision. So you're sort of saying, to the extent that you can come to closure or make it easier for me, and you'll make it easier for yourself.

Water Banking Across State Lines

From that standpoint, we're now past—the water banking deal had to do with moving water across state lines, for the water banking. The second portion of the speech has to do with water moving within the state, within the state of California. What he's saying, basically, is, "We'll move ag water within the state of California to M&I purposes. I'm going to pay more attention as to what that beneficial use has been, because I'm going to have to make those decisions. Second of all, if there's still questions as to how much water can be transferred or who owns what, and you folks haven't come to closure on that issue, I'm going to make it."

". . . that's the perfect world. You continue to irrigate all the acres you had in the past, and you sell water to someplace else because you conserved it. . . ."

From a district's perspective, the ideal situation would be for any given district to say is, "We want to improve our water efficiencies and we want to conserve water, and therefore, we want to sell conserved water, but yet we want to irrigate all the acres we've irrigated in the past." I mean, that's the perfect world. You continue to irrigate all the acres you had in the past, and you sell water to someplace else because you conserved it.

How Proposing Transfer of Conserved Water Might Be Perceived Differently in Different States

From the part of the country that I come from, the traditional way of viewing it is that you transfer the consumptive use. If you're going to transfer, you transfer consumptive use. So if an irrigation district wants to move water from ag to M&I purposes, you dry up acreage. California is a little bit different from that, because California is a basin of origin, basin of use. In other words, the water that's going into California, they're entitled to 100 percent consumptive use. So all the water that goes from the Colorado River into California can be theoretically 100 percent consumptively used. So, therefore, the concern with respect to return flows manifests itself in the relative priorities of the different users as to how much water they get, and if you get that first user wanting to irrigate all his acreage and sell conserved water, and sell water someplace else,

that means that's water for the next user down in the priority ranking, and that's where the concern would be.

Having said that now, let's shift water conservation to the Rio Grande. The Rio Grande, you've got an upstream user. If he says, "I want to irrigate all the acreage that I'll continue to irrigate, and I want to sell my conserved water," the downstream user says, "How about my return flows?" Something's out of whack here. It's not going to work. How can you continue to irrigate all your acreage and sell your conserved water and still claim that you've got the right to irrigate all your acreage? It's a duty that you need to irrigate, because somebody downstream is going to lose out.

Storey: Let's see if I'm getting this correctly. Because when you go to the tail end of the water rights lineage, as it were, that water filters down through each person. Number two is entitled to X, number three is entitled to Y, number four is entitled to A, and so on, and down at the end you have—what do they call it—supplies that are intermittent.

Martinez: What happens is, for discussion purposes in California, first user is entitled to a certain quantity of water. Second user gets whatever's left over if that first quantity is supplied and there's water to be left over. You can see that second user says, "Wait a minute. To the extent that you want to continue to irrigate all that acreage and sell the conserved water, it's going to reduce at some point the amount of water I get, because if you weren't selling that conserved water, it'd be coming to me as the second user. So, unless you can hold me harmless by some kind of mechanism, I'm going to object to you selling that water."

In Mexico, it's the Coachella. IID is basically saying, Coachella is basically saying, irrigation district, is, "We want a certain guarantee, 100,000 acre feet of water. IID, once you guarantee that to us, you can do whatever you want within California." On the Rio Grande, basically would be the same way. You had a downstream user. If you can envision the All-American Canal being a river, you've got different diverters coming out of it, but it's like a Rio Grande, you've got different ditches coming out of it. You've got an upstream diverter. If he irrigates, if he transfers his water right, the State Engineer will require him to transfer only the consumptive use to allow the historical return flows to run into the system, because somebody downstream has depended upon them. In New Mexico, of course, on the Rio Grande, it's by tradition and use. In California, it's because of the seven-party agreement as to how they divvied the water up, but even that is subject to question as to what that really means, and that's what they're trying to come to closure on.

Wastewater Reuse

Which leads us to another interesting point—and I had to get off your subject—it has to do with a new initiative of wastewater reuse that Bureau of Reclamation is involved in. There's a lot of interest out West of providing new water supplies by reusing water that has gone through the system. In some areas, it makes a lot of sense, and I think I've told you this before, in California it makes a lot of sense on the Colorado River water, because to the extent that that water is not reused, it goes out to the ocean, because the water taken from the river is entitled to be 100 percent consumptively used. If it's not 100 percent consumptively used, it goes back into the ocean.

"It goes back to this management of water, how we approach these things. One solution doesn't fit every particular project. . . ."

So therefore, it makes all the sense in the world, especially at the end of the pipeline, to try to figure out some way how to recycle that water and reuse it. However, let's go back to another stream system where you've got a downstream user that has been dependent on return flows. To the extent that you recycle that water and reuse it, and reuse it, and consumptively use it, [you] reduce the return flows. So wastewater reuse projects that are involved in, on the Rio Grande or in Colorado or some other places, you got to approach them a little bit differently. It goes back to this management of water, how we approach these things. One solution doesn't fit every particular project.

I guess going back to your original question is to the extent that the Bureau of Reclamation has engaged in the water management side of the equation that has to do with how water should be used, I think we're just getting our feet wet—that's a pun—and we're going to learn as we go along. To the extent that we're talking about management of the water supply to better, more efficiently use it, I think we're in that business, we've been in that business, and we'll continue to be in that business, and it's incumbent upon us as a permittee under state law to maximize and make the best efficient use of the limited water resources we've got.

How Will Reclamation Become Involved in Water Transfers?

The other issue is on the transfer of water, how we will engage. I've got a team together right now looking at policy. We've got a policy that was put in place by Assistant Secretary [James W.] Ziglar that basically says that we will facilitate the transfer of water from ag to M&I purposes, but the devil is in the detail. It's like one of those comments about we will facilitate the transfer of

facilities from Federal to non-Federal hands. The devil is in the detail. When you get to do that, you get into complications. So for us to say that we will facilitate the transfer of ag to M&I water is easily said, but when you get to the *specifics* of it, then that's where you run into problems, because there will be folks that will say, "Ah, only under these conditions."

It can get as contentious as—and this has come up already across the West—is that if it has not occurred, it will occur in the future where the Commissioner of Reclamation or the Secretary of the Interior or some other Regional Director will be asked not to look favorably at the conversion of water from ag to M&I purposes in that given location, because the place of use of the M&I water might be 300 miles away, and it's fostering undeveloped growth in an area.

Storey: Unfettered growth, yes.

Water Transfer and Land Zoning Issues

Martinez: Is that a decision that the Bureau of Reclamation should be making, or should that be a decision that the local zoning authority should be making? Because under the public welfare, if you take it to its ultimate conclusion, one could say that the water official, whoever is sitting there making that decision or has the authority to make a decision on how water could be used, could be asked to not supply water or to not approve water for any kind of enterprise, because somebody doesn't like the way it should be.

Issues Around Water Use for Gambling

An example I pick up very easy was—and that has a lot to do, I think, with the values that are placed in different areas—the use of water for gambling purposes, racetrack, casinos, might be viewed differently by the population of the state of Nevada than the state of Utah, because, basically, there's different values. Should the State Engineer of Utah be making the decisions as to whether water should be used for a racetrack or not, or should the local zoning authorities be the ones that should be making those decisions, or the legislature?

How Do Local Zoning and Promotion Efforts Mesh with Reclamation Projects and Who Should Be Making the Decisions?

The interesting thing is what is occurring across the West to some water officials is that—let's take, for discussion, without naming any given state—state A.

The legislature enacts legislation that says, “We’re going to provide incubators for economic development in our state. We’re going to go out and recruit business, industry, because we need to do that, and this is an industry we’re seeking to recruit.” So they go out and they recruit industry and they do their PR. They lure a business to the state. The *state* [company] says, “Okay, we’re interested in your state, but we need zoning for the property. We need bonding to help us build our facilities.” Government-financed bonding.

So they go to the local city, local county, and the county and the city, they rezone the property through a public process, but yet the business end needs water, and it turns out that this particular instance, the only place they can get water is from a Bureau of Reclamation project, just for discussion purposes. Now, there might be opposition to the use of that water, and there are differences of opinion as to what use that water should be in terms of whether it should be used for one purpose or another. Should the Federal official then, *or* the state official, be put in a position of being lobbied or pressured or having to make a choice as to whether the water use is appropriate or not?

In essence, they’re being asked to circumvent the process that’s been put in place. That’s where I can see, if the Bureau of Reclamation and the Federal Government is not careful, get into this state rights–local rights issue in water. I don’t know if I’ve been clear on that, but it’s kind of interesting.

Storey: Yes, it is interesting, but it’s parallel, for instance, to people who come to Reclamation or any other Federal agency and try and use NEPA or the National Historic Preservation Act or other laws to prevent something from happening that they think shouldn’t happen, even though it’s been approved through the local–

Martinez: Anyway, so it’s kind of interesting.

Storey: Yes, the local things.

Martinez: So what time have we got, about fifteen more minutes?

Storey: Yes, fifteen to twenty minutes more.

Martinez: Didn’t get very far.

Storey: We’re doing fine—from my perspective, anyway.

One of the things that's been going on, I think before you came, we had the gate failure at Folsom. I think maybe also before you came we had the explosion at the Flatiron Powerplant.

Martinez: And a problem with a dam up in, what was it, Montana or someplace.

Storey: Flaming Gorge, when it flooded the powerplant.

Ochoco Dam Safety of Dam Problems

Martinez: But this was even earlier on, it was—I can't recall what dam it was. After I had been nominated by the President, I became aware of the dam failure at Folsom. There was a dam, I can't recall the dam now, up in the Pacific Northwest¹⁰ where the Bureau of Reclamation had done some modification work, had put water in the dam, and it started to leak again. The Bureau of Reclamation had to go back and do that, refix it. There was another dam out in Texas.

I was a little concerned that if many more of these happened, and being Commissioner of Reclamation, I was going to be held ultimately personally responsible for this; what was happening, in other words. I was concerned at the same time because I was told by some professional folks that in the reorganization of the Bureau of Reclamation, perhaps we were placing too much emphasis on environmental issues and not enough emphasis on dam safety and structural issues, and that because of the reorganization and the delegation of authority to the area managers, perhaps maybe we had some people making decisions on dam safety that weren't really the best persons to be making those decisions.

Decides on Independent Group to Look at Reclamation's Dam Safety Program

So I made a conscious decision that if I became Commissioner of Reclamation, I was going to have a special outside group of folks, experts in dam safety, come in and look at the Bureau of Reclamation Dam Safety Program. First of all, to tell me that the reorganization had not really caused any problems in

10. Ochoco Dam on the Crooked River Project near Prineville, Crook County, Oregon, required considerable safety of dams work in the early 1990s. After completion of the work and upon first filling in 1995, a large increase in seepage was suddenly observed in a downstream inspection well. The seepage was cloudy and later determined to originate from a sinkhole located on the upstream slope in an area just left of the outlet works. Ochoco Reservoir was drawn down, and considerable additional work was undertaken to deal with the concealed sinkhole and retrofitting of both original and new work. The dam and reservoir then were placed back in use.

terms of the decisionmaking process, and, second, that our program was still an effective program.

The concern I had was how I was going to approach staff, because I didn't want to be perceived by staff as my saying that what we were doing was not what should be done, not appropriate. As it turns out, the last time they had an outside review of the Bureau of Reclamation projects was in 1979, I want to recall. So it was timing. So when I mentioned it to the dam safety people, they jumped on it and said, "We've been wanting to do that for quite a while, so let's do it."

Contacted Association of State Dam Safety Officials

So we went through the Association of State Dam Safety Officials. Actually it was a state association of dam safety officials the national headquarters. We contracted with them. They, in turn, contracted with five consultants that we had some input as to who they should be. These five consultants then looked at the Bureau of Reclamation, and they also looked at the other bureaus in the Department of Interior, but at any rate, they looked at the Bureau of Reclamation process, and they looked at how we had responded to some of the dam problems that we were having in terms of leakage and failures. They interviewed key staff in the Bureau of Reclamation, including myself, all the way down to area managers, and they prepared a report.

Basically, the report said we have an effective program, there's some improvements, made some recommendations, and we've implemented those recommendations. We're placing more emphasis today than we probably were. I'm not saying that we weren't paying—at no point, I think, was our program was on the verge of not being acceptable, it's just that what had happened after Mr. Beard is that there was a mentality occurring in the organization to try to shift more resources towards the water management or conservation, environmental initiatives, and since we weren't getting new appropriations, in other words, our budget was going down instead of up in terms of our total appropriations, and these new activities were draining money from existing uses. It would come from our other ongoing programs on operation and maintenance, and so forth.

Dam Safety Has Received More Emphasis in the Budget Process

So what I've done as Commissioner of Reclamation is sort of basically ruled it out and said, "Nope," I mean, we've got to maintain these facilities. Dam safety is an important issue. All we've got to do is lose a dam out there, and we'll find out how important it is. So, in the preparation of the budgets in the last two or

three years, we have not scrimped on those line items for the expense of the other ones. So that's basically where we're at, and I don't know if that's where you're heading with your question or not.

Storey: Well, it is. I'm interested in the O&M. Are we getting adequate O&M funds? You can gold-plate O&M, or you can scrimp on it.

O&M at Reclamation

Martinez: The best information I've been able to get is, you know, we're doing an adequate job of operating and maintaining our facilities. There's nothing out there that is an imminent threat of loss or cause of damage to property or loss of life. There are some things that have come to light, like as a result of this failure up in Colorado where we need to modify some of our electrical mechanisms, it's at—

Storey: Flatiron.

Martinez: Flatiron, yes. Same thing with Flaming Gorge. We lost part of a tube there, and so we've gone back in now and we're checking all our tubes across the West. I understand that was caused not by lack of maintenance, but it was of a vibration-type problem, maybe somebody could have picked it up. But at any rate, given unlimited resources, I guess, there's a lot of things that we could be doing, painting and doing a lot of things, cosmetic things, to our facilities, and maybe replacing things a little sooner than we would otherwise. But given the resources that we have, I feel comfortable that we're not putting anybody in danger.

Those items that we identify as being more in need of replacement are the ones I've given greater priority. So I think we've gotten past that point about criticism about Bureau of Reclamation not paying enough emphasis on its operation of its facilities and maintenance of its facilities.

Penstock Failure at Flaming Gorge and Relationship to Need for Improved Expertise

One thing that concerns me more than that issue, though, is staffing, because, for instance, our operations of our electrical facilities, our power-generation facilities, and so forth, of our powerplants, operation of our powerplants. With the retirements that we've had and the cutbacks in personnel, we've lost a lot of expertise. So we've turned our attention in the last year- year and a half, to see what we can do about bringing people on board or training some folks, training programs to train people. It's like the issue at Flaming Gorge, we

would have sustained a lot more damage except that we had one individual there that was knowledgeable about what switch to turn off, or what valve to operate in order to cut off that water to that valve. If he would not have been there—the first thing I did when I went up there and looked at it, I asked the manager of the facility, I says, “Can you—”

He says, “Well, you know, lucky Joe Blow was here and water was coming out and flooding this place, and the walls were vibrating and everything else, and he stood over there and he closed it by hand,” see, because what happened was the water hit the electrical circuits, everything tripped, shut off. So the only way that you could close that valve was by hand, see. So, naively, I just said, “Well, could you show me how he did it?”

He says, “Well, I don’t know. Only two people knew how to do that. Luckily he was here, the other one was in Page, Arizona.” Well, if he would not have been there, we would have flooded the generators, we would have lost the generators, I think. Now, what does that tell me? Well, it tells me that we’ve got some problems that we’ve got to address, and we’re trying to address manpower, those kind of problems we’re looking at.

Effects on Reclamation of the 1994 Reorganization

So there’s a lot of things that maybe next time that we sit down we can chat about, because one of the concerns I had was, when I came in as Commissioner of Reclamation, is we were going through this transitional period about a new management philosophy and a new mission, but I was concerned about, as we had made this transition and downsized and reorganized, my concern was that we needed to look at what I call our housekeeping activities. In other words, what has that done to the decisionmaking process, the budgetary process on some of these issues, what has it done to our expertise.

So I put together a list of, I guess, about fifteen different things that need to be looked at, and put together a bunch of committees, and I’ve been criticized to some extent for putting so many committees together, but I brought together like the design people throughout the organization to look and see what reorganization had done to our ability to maintain an adequate design staff, and whether the technical review of the designs that were occurring was being done correctly or not, whether we were setting ourselves up for a fall. The way it used to be done, as I understand, is that we used to have all kind of check levels of the design process. Now it doesn’t occur that way.

The other issue was construction expertise. Since we're no longer into a lot of construction activities, we had just, I guess, one or two, maybe three construction crews out there. One was in California, I think one was up in Yakima or someplace, and the other one was in Phoenix.

END TAPE 2, SIDE 1. JANUARY 6, 1998.

BEGIN TAPE 2, SIDE 2. JANUARY 6, 1998.

Maintaining Core Capabilities in Design and Construction

Martinez: I said, "Look, while we might not be building new facilities, we have to maintain what we have," and to that extent, if we have some problems with our facilities, we need that core capability, construction capability. So I brought together some folks and construction entities, and I said, "You look at it and make recommendations as to how we should proceed." As a result of that study, there is now a central construction unit in Denver, I understand. We brought in some core capability that was still available in the organization, and now if any of the regions or any of the Area Managers have the need for that expertise, that expertise is available and it's sort of farmed out and goes out. Same thing with the design. So those are the kinds of things we're looking at.

International Affairs Given More Emphasis

International affairs. The international affairs portion of this organization when I came in was withering away for a couple of reasons. Most of our work in that international affairs office during a certain period of time was providing technical support on construction projects, and since we were out of dam-building, it didn't appear very appropriate for us to be involved in that. I think that it was indicated by our pulling out of activities on Three Gorges.

Then there was criticism by some members of Congress that we should not be involved with other governments in providing services, and so forth. But needless to say, in the last two years, we have entered into, with the support of the Department of State, entered into several cooperative agreements, memorandum of agreements with different countries to provide support in water conservation, efficient use of water, water management, and so forth. I was even in Spain just, like I said, in April.

I think if you were to sit down with Dick Ives, he would probably say, "Here's where we've come in the last couple of years." It was kind of interesting, I got a piece of literature through my desk the other day that was an engineering

magazine, copy of a page that said that the Bureau of Reclamation had been instrumental in getting three private firms, American firms, contracts in China on water conservation initiatives. So we're getting more and more involved in that.

Working in Foreign Countries Can Help Reclamation Maintain Core Capability

My concern there, one, was that we need to maintain a core capability of expertise. If we don't have the work in the States, we can provide support to other countries. If it's in the United States' interest to do that, then we can provide the support, the assistance, and also provide a training ground for our staff, for new employees, to gain the experience of working in other places. I think the worse thing that can happen, in my opinion, is to gut the Bureau of Reclamation of all expertise in construction or design, because we don't know whether we're going to need that expertise in the future. Things go around.

So you look at a lot of little things that we've done internally to try to operate as a better Bureau of Reclamation. We sunsetted a lot of material. They tell me that, in some instances, we've sunsetted so much material that there's no cohesiveness in some of the decisionmaking process in some of the activities we're doing across the West. So now we're sort of revisiting that and putting teams together in certain specific areas to try to put them on paper, at least how to do things.

Storey: Yes, that's a frustration to some of the people who used to have oversight responsibilities, and now they're being told, "Well, you don't have oversight responsibilities anymore."

We have reached pretty close to the end of our time, so I'd like to ask you if you're willing for the information on these tapes and the resulting transcripts to be used one year after you leave the Bureau of Reclamation.

Martinez: That's fine.

Storey: Good. Thank you very much.

END TAPE 2, SIDE 2. JANUARY 6, 1998. END OF INTERVIEW
BEGIN TAPE 1, SIDE 1. JANUARY 29, 1998.

[Oral history interview by Brit Allan Storey, senior historian of the Bureau of Reclamation, with Eluid L. Martinez, Commissioner of the Bureau of Reclamation, on January 29, 1998, in the Commissioner's office in Building 67 on the Denver Federal Center. Tape 1 of 1.]

Storey: ... ask you about how staffing is. Now that we're after Dan Beard, we're after the cut. I remember I went in one time and said, "How are you going to really change the agency?"

He said, "Well, yesterday, 10 percent of the agency retired." How do you see Reclamation's overall staffing now?

Views on Staffing at Reclamation

Martinez: Well, in terms of FTEs,¹¹ total number FTEs, I think we're down around 6,000, because we had another wave of retirements just the last few months, I believe. So I think in terms of total FTEs, I don't envision any more cuts as a result of my initiating these, and I don't see any more cuts coming from the Department. In other words, the understanding is that each of the bureaus and each of the departments had sort of an FTE ceiling that they have to reach by 1999 or the year 2000, whatever it was. Reclamation's below that. So I don't see any more pressure being placed by the administration to reduce FTEs, across Federal Government in general.

What you will probably see is the possibility of more early buyouts being extended by some agencies. You might have some agencies that still need quite a bit of cuts, but as far as the Department of Interior, I think we're about there. That being said, the concern I have, and that management has, of Reclamation is that we've lost a lot of expertise in certain areas. So while we might have an adequate cap in terms of around 6,000 employees, we still have some deficiencies in certain areas of trying to replace that expertise, particularly in the areas of the operation and maintenance of our power facilities, and probably some of the more technical aspects of some of our engineering design and so forth. Some of our construction expertise has probably walked out the door. I've been trying to address that over the last couple of years by convening groups of specialists from within the organization that are involved in different areas of expertise so they can try to address this issue.

That led to several reports to the Commissioner, including the report on what could be done to increase our expertise or maintain our expertise in the area of construction, which I think ultimately resulted in the construction activity taking place out of Denver, instead of being, I think at one time the only construction activity was in, I think it was out north of Sacramento and someplace

11. FTE is a Federal acronym for "full time equivalent." Meaning that 1 FTE was one person working for one year, or, for instance, two people each working one-half year.

in Oregon, and we had, I guess, some expertise in Phoenix. My understanding is that there is a base core of folks here in Denver now that provide services to the regions as necessary. So those are the kinds of activities that are going on.

Storey: The technical-expertise issue was one of the things I wanted to talk to you about, anyway. You mentioned it in your speech to ICOLD [International Commission on Large Dams] in Florence last year. Do you think that we're up to speed now? How is this going?

Reviewing Programs to Determine Appropriate Levels of Expertise

Martinez: I think we've identified our deficiencies. Let me backtrack. One of the charges I have given Neil Stessman, which just started work this last week as the new Director of the Reclamation Service Center, is to look at, at least in his jurisdiction, which is the Technical Services Center, the appropriate level of expertise in each of the areas that we need it, and if we need to hire people, or whatever we need to do in order to make sure we maintain that expertise, we do it. So, like I say, I think it's an ongoing effort right now to try to assess where our gaps might be and what we need to reinforce our staffing.

"My position is that we have a large infrastructure to maintain, and . . . we need some capable people to . . . design modifications . . . also to have construction supervision . . ."

I can only assume by what I read, but if one reads in between the lines, the prior Commissioner, I think, was probably headed towards a situation where, if there was no technical expertise with respect to construction of large structures, probably would have said it would be fine for Reclamation, because that was not their business. My position is that we have a large infrastructure to maintain, and as long as we have that infrastructure under government ownership, we need some capable people to be able to not only design modifications either to existing structures that might arise, or as a result of failures to parts of the structures, but also to have construction supervision to oversee that. To the extent that that expertise can also be made available for the construction of new facilities, so be it, but I don't believe that the Bureau of Reclamation should find itself where it has to outsource for that kind of expertise.

Reclamation Was Losing Experienced Employees and Not Attracting New Employees

I think that's basically where we were heading until we sort of turned a corner about a year- year and a half ago. I think part of it also was from a standpoint that not only was Reclamation losing experienced employees, but I think that the message had gone out that Reclamation was no longer going to be in the business of attracting designers or construction supervisors and so forth, and these kind of facilities, which I think probably sent a chilling effect to folks that were looking for new careers, because that's sort of a two-sided sword. One is, you get rid of the expertise you have, and you don't attract anybody else into the workforce.

So I think what was happening is—I bet you we were having problems even attracting people. Anybody in this line that was looking for a job would probably have said, “Bureau of Reclamation's not the place for me to be,” notwithstanding the fact they might have liked to work for this organization. So, that's basically where it's at. You might want to talk to Dick Ives one of these days. You might find it interesting.

International Affairs Program Was Withering on the Vine

The other part of this organization that was sort of withering at the vine to a certain extent as a result of the reinvention of the Bureau of Reclamation was our foreign affairs activities. We pulled out of Three Gorges Dam, and I won't judge whether it was appropriate or not. That's behind us.

Dan Beard Speech to ICOLD

But, at any rate, the international community was quite leery of the Bureau of Reclamation and where it was headed, and, quite frankly, as a result, and this is common knowledge, as a result of the prior Commissioner's speech to a meeting of ICOLD a few years ago, generated such controversy that some of the international community wrote very blistering letters and articles in magazines about the Bureau of Reclamation and its chief.

But, at any rate, I've tried to sort of, in the last two years, present a different type of picture to the international community. I think I've been successful. I think they fully realize that we're not going to be providing the same level of expertise that we had in the past on construction of new dams, unless those dams are dams that are environmentally sensitive and supported by the World Bank and supported generally by Administration policies as it respects foreign policies. But we are engaged and will be engaged in helping them with watershed management, with water conservation initiatives and these kinds of

things. In my understanding, in the last year-, year and a half, we've had quite a increase in interest from other countries for us to provide these services. So I know our international affairs folks are a little bit happier today than they were a year- year and a half ago.

Dick Ives was just briefing me on the potential for Bureau of Reclamation to become involved in—apparently there's consideration being given right now by the State Department of engaging in a watershed—management initiative to help several countries in Africa on a watershed of a major stream system, and they're looking at the possibility of maybe the Bureau of Reclamation playing a vital part in providing services. Also I see that as an area where we might be able to maintain some expertise and provide some training that we're not doing inside the country. So that's where we're at with respect to that issue.

Storey: I think we've gone since maybe '93 or so from a staff of maybe 7,500 to 6,000 now. Is Reclamation having trouble doing what it needs to do because of that in any way?

"What has come to my attention is that we're lacking expertise in certain areas . . ."

Martinez: None that's been brought to my attention that says that they're not capable of doing it with the staff we have right now. What has come to my attention is that we're lacking expertise in certain areas, and that was even where we were at in '75, in other words, when the cuts were made, the initial cuts, you lose some people. So I think that if we're having some isolated problems, it's because we're having a difficult time replacing the expertise. But, like I say, we're looking at ways of making sure we replace that expertise in the area of operation and maintenance. On the power facilities, I think we've reinstated training programs to be able to do that. But if you want to follow up on that, you might want to chat with the head of the group that I put together to study this issue, or you might just want to look at the report. But it might be of interest for future researchers as to how we made that transition and whether it's been successful or not, and we'll see over the next couple of years.

Storey: Who is that?

Martinez: I can't recall right now.

Storey: It was a study on—

Martinez: On how to maintain our technical expertise.¹²

Storey: I've got a copy of that. With that kind of a staffing change, what is it that has changed about what we're doing? How have we altered what we're doing?

Martinez: It's difficult for me to answer that question, because I wasn't here when we were doing something else. In terms of the work that was being done two years ago and the work that is being done today, what I hear back from certain parts of the organization is that we've got less people doing more work, which might be good for some folks, but not very good for others. So, as we expand into new initiatives, reduce the workforce, the logical conclusion is that you're putting more responsibility on less people.

Now, in terms of total numbers, it would appear to me that, if five years ago, for discussion purposes, we were engaged in large construction activities that required, like in Phoenix, I guess, it required considerable oversight, you had a lot of employees. It would appear to me that—I was told that Phoenix took quite a cut in terms of total numbers. So maybe out of that 1,500, I don't know, maybe you had three or four hundred just at one place, which indicated a lot of RIF [Reduction in Force] of people that were involved with one construction project. So you could have theoretically a couple of construction projects that went off line, and you lost a lot of people because you didn't have construction projects to replace it. That's different than making a cut of five hundred people across another program, that the program continues.

I guess what I'm saying is that, if I looked at the figures, I would guess that maybe a lot of the cuts, a large percent of the cuts might have come out of programs that are no longer at the same level that they were in the past, but I don't have that information before me. As a matter of fact, I feel comfortable that the work that is required is being done with the staff we have.

Storey: You came to Reclamation from New Mexico. Different city, different political atmosphere. What kinds of things did you have to adjust to that were a lot different from New Mexico?

12. Two separate reports were published in January of 1997: United States Department of the Interior, Bureau of Reclamation, Project Construction Engineers Work Group and the Engineers Work Group, "Profile of Design Capability in the Bureau of Reclamation; United States Department of the Interior, Bureau of Reclamation, Project Construction Engineers Work Group and the Engineers Work Group, "Maintaining Construction Capability in the Bureau of Reclamation." In addition, in 1996 Reclamation's Power Program published their "National Performance Review: Power Management Laboratory" which presented a program for reinventing the bureau's power production.

How the Federal Government and New Mexico Differ in Political Atmosphere

Martinez: Well, the environment I came from was a political environment also. In other words, like I say, I've been involved for the last twenty-some years in one form of politics or another, as Chairman of the Planning Commission, as President of the School Board, as the State Engineer—politically appointed position.

If I was to sort of summarize the difference, it would be in two arenas, two areas. I relate back to the State Engineer I used to work for, Steve Reynolds. There was a story that he was offered the position of Commissioner of Reclamation at one point in his career, which would have meant that that was about the time that Floyd Dominy was in office, because Reynolds was quite powerful even back then in the area of water resources. He had strong supporters in the Congress, including Robert O. Anderson.¹³ But, apparently, what his response was, "I'd rather be a big fish in a small pond than a small fish in a big pond."

". . . as a State Engineer, you're really a bigger fish in terms of what programs you can carry out and what you can do, because, in Washington, a Commissioner of Reclamation is just one of thousands of similar-level public employees floating around . . . and people . . . go to Washington with political agendas, personal agendas . . ."

The significance of that, I've come to learn, is as a State Engineer, you're really a bigger fish in terms of what programs you can carry out and what you can do, because, in Washington, a Commissioner of Reclamation is just one of thousands of similar-level public employees floating around, political appointees, and people go to Washington with political agendas, a lot of them go to Washington with political agendas, personal agendas, which change from administration to administration, and that was difficult for me to get used to. I still haven't, because I came from sort of a background that I tried to do what was best for the State of New Mexico and tried to leave at the door, as I've told my employees in the past,

13. Robert O. Anderson was active in the oil industry from 1939 to 1994, serving as CEO and chairman of the board of Atlantic Richfield Company from which he retired in 1986 (after twenty-three years on the board) to found Hondo Oil and Gas Company in Roswell, New Mexico. In addition, he has served on the boards of both private and non-profit organizations, including the Federal Reserve Bank of Dallas; Chase Manhattan Bank; Columbia Broadcasting System; Pan American Airlines; First National Bank of Chicago; Weyerhaeuser Company; and Carter Hawley Hale Stores, Inc.; the National Petroleum Council; the University of New Mexico Anderson School of Management, the Board of Regents of New Mexico Tech; and he is a Life Trustee of the California Institute of Technology, the University of Chicago, and the International Institute for Environmental Development, London.

my personal beliefs and personal feelings and tried to do the best I could once I had all the information available to me.

There are individuals in this Administration and in prior administrations, I think, that come to their positions with a given agenda that basically says, "I'm going to turn this agency or do what I think needs to be done, because this is my personal beliefs," or, "I belong to a group of people that have common beliefs." That's the biggest problem I've had.

". . . you have so many layers of bureaucracy in Washington that it becomes very difficult to effect change and to do things . . ."

The other thing is the issue that you have so many layers of bureaucracy in Washington that it becomes very difficult to effect change and to do things, and it becomes very frustrating. I found it interesting that at the end of President [Bill] Clinton's first term, into his second term when there was being a transition of political appointees, there was a series of articles back in the *Washington Post* and the Washington papers where people were being interviewed about their thoughts of having served in the prior Administration, and there seemed to me to be from a lot of folks who were leaving some kind of disillusion, because on their part they thought that they would be able to effect change and found out very quickly that they were not being able to do it, either because you had higher-ups that had different agendas, or they met resistance within the rank and file of the civilian workforce.

Average Tenure of a Political Appointee Is about Eighteen Months

So the implication was that that, to a certain extent, had something to do with the fact that the average tenure of a political appointee in Washington is about eighteen months. So, one could say, well, why eighteen months? Well, I'm not being facetious. Either in eighteen months they've caught you doing something that you leave; two, you've made enough connections to get outside the organization to become a consultant; or, three, you become frustrated and you leave, go do something else, because, in the political arena, there's a lot of folks that come in to Washington, make good connections, make a name for themselves, then move on into the private sector, become consultants or become lobbyists. You see that, you see a lot of that. I think that has to do also with the tenure of the employees.

The Pay in D.C. Isn't Very Good

In my particular instance, I have that flexibility, because I'm already retired, but if I wasn't retired and had the individual income, I could not afford to be in Washington, because I have to maintain a house and a mortgage and costs in Santa Fe, and I have an apartment in Washington that costs me more than to maintain my house in Santa Fe. So I'm maintaining two households, and if I had to do that on the government income that I make, I could not afford it. So, if it wasn't for the fact that I was retired, I probably might have been one of these fellows that came in for a year, got the connections, got the experience, and gone out there, and I'd probably be working for a consulting company now, drawing two or three times the amount of salary, see. But because I've got this retirement coming in, it gives me that flexibility, because the salaries that are paid to top-level employees, the salary's not what drives them there. No way.

"When you're looking even at a Cabinet Secretary at \$140,000, you know, that kind of salary is insignificant when you're talking about the responsibilities that take place. . . ."

So, people go do them for different reasons. They each have their own different reasons. Some of them, I think, go because they honestly believe that public service merits the time and effort, but the point is that, I think, that those that have that philosophy also have a way of maintaining, from an economic base, their livelihood.

I go back to a former State Engineer I used to work for, the man worked for thirty-five years as State Engineer, to give you an example of what I'm talking about, yet when he died, was paid, I think, about 50,000 dollars a year, which was a ridiculous figure for that kind of salary [job]. When I came in, the salary was increased to 85,000, because the state of New Mexico saw that they could not attract a person with the credentials for the 50,000. I asked the question, "Why is Steve not concerned about salary?"

A Lot of People Don't Consider Going Because Salaries Aren't Very Good and Washington, D.C., Is Vicious

He says, "Well, his family inheritance is over a couple million dollars a long time back in his past." So, economics did not enter the picture. It was merely a public service type of thing. But the subsequent engineers that have come in, economics is an issue. Now, that being said, I think that two things in Washington, I think, that are occurring right now, I think, are instrumental for keeping a lot of people even considering going to Washington. One is that the politics of getting confirmed and the viciousness of Washington in general, a lot of

people don't want to put their lives out for public scrutiny, especially people who get confirmed, and don't want to get caught up in this kind of Washington mentality, one thing, so they shy away from that.

The other one, depending where you are in economic status of your life, the salaries aren't that great, unless, like I say, you're looking at going to make the necessary connections and the experience to become a valuable player when you leave the organization, and that occurs not only in the Federal Government, it occurs in the state government and so forth. But what one has to consider also is that once you enter that arena, you can very well leave that arena tainted as well as coming out feeling and looking better.

". . . it's not given that if you step into a position of authority that you're going to leave on good terms. . . ."

In other words, it's not given that if you step into a position of authority that you're going to leave on good terms. A lot of them don't. So you've got to sort of consider that.

Storey: What do you find about the candidness of Washington?

Martinez: I feel that a lot of people are reserved in what they say and what they do, and I don't know if that's a sign of the times. You look at the newspapers today, anybody that is any way tied to a controversy that's going on in Washington is going to have their name drug through the mud and hung out for public scrutiny. You get that kind of a feeling that you're sitting there, you're saying, well, you know, better be very careful what you say and how you say it and to who you say it, you know.

I think Washington, in general, you know, I don't to get off the subject, but since you raised it, I think it's in a state of like a phobia. I was watching TV the other night, and I found it kind of interesting that there's a business in Washington D.C., that sells microphones, little concealed tape recorders, and these kind of things, and it says they're doing a lot of business. They're selling these little things that if somebody is taping you on the telephone, it sort of clicks and tells you that somebody's taping you or something like that.

So that indicates to me that a lot of people are floating around out there very uneasy and not sure of themselves, and I don't know if it's GS-5s or GS-7s that are buying those; I think it's the other group of folks. So it's kind of interesting. But, you know, I don't want to divert from Bureau of Reclamation,

but I find Washington to be—it's a different environment, completely different environment.

"The reason I feel comfortable in my position is because I knew that the day I left Santa Fe, I was going to come back; it's just a matter of time. . . ."

The reason I feel comfortable in my position is because I knew that the day I left Santa Fe, I was going to come back; it's just a matter of time. I don't intend to go to Washington to stay in Washington, become a lobbyist, or get associated with a firm, or stuff like that. You see a lot of folks that will go to Washington, they'll say, "Well, I was only going to be here two years," and [and they're there] twenty years later.

I've got this dream of it's just a matter of time of coming back to Santa Fe and enjoying my retirement and doing what I really enjoy doing. The issue right now for me is, I've started some programs. I think, as an organization, we're making some progress of trying to make this transition from builders to managers, and I'm concerned that if I was to decide voluntarily tomorrow to leave, whether they would be successful in getting another engineer confirmed during this Administration or not, and what the implications of that might be to the programs that we've put in place. So that weighs heavily on my mind.

Storey: In your speech to ICOLD in Florence, you mentioned that the first thing you did when you came to Reclamation was order a safety-of-dams review. Could you talk further about that?

Orders Safety of Dams Review

Martinez: Yeah. What happened was when I was being briefed for my confirmation hearings, one of the things I picked up on was that—and I can't recall the name of the dam now up there, but it's in the Pacific Northwest Region¹⁴—Bureau of Reclamation had done some work, and we had repaired, or had had repaired, a dam up there that, upon its first filling after the repair work, started to leak, which required going back in and redoing the work.

Folsom Dam Gate Failure

At the same time, we had lost, just before I came on as Commissioner, a gate at Folsom Dam. At the same time I was being briefed for my confirmation

14. Ochocho Dam. See footnote 10 on page 151.

hearings. I was acutely aware that we had gone through a reorganization, downsized, and it came to my attention from current employees at that time and employees that had worked for Reclamation, especially in the technical area, that they thought that the reorganization and the lack of emphasis on operation and maintenance and technical activities, because they saw a lot more emphasis being placed and monies directed towards environmental issues, environmental concerns, water conservation, and so forth, because what was happening was that the agency was going in with a request for less money.

Reclamation's Budget Is Shrinking Yet We Continue to Have New Initiatives

The Federal Government was cutting budgets for agencies, so you were getting less total appropriation for the Bureau of Reclamation, but yet the Bureau of Reclamation was undertaking new initiatives, and we continued to take new initiatives in the area of environmental restoration and these kind of activities. The money was being shifted from one area to another. Those were the concerns that were raised to my attention. I couldn't gauge whether they were or were not, but it made logical sense to me that if, in fact, we're putting more money into another arena and not getting any additional money, it was coming at the expense of something.

So, two things. One, that I saw that we had two occurrences with our dams fairly close to each other, plus this input that I was getting from folks from within the organization and folks that left the organization about "Be careful because Reclamation might be setting itself up to have some major problems," because a couple of things were brought to my attention. One, they're not adequately putting money and emphasis on operation and maintenance of facilities, and, second of all, the review process for new construction work might have suffered as a result of the reorganization and the checks and balances that existed prior to the reorganization on design and construction of facilities.

Given that, and facing the possibility of me being a Commissioner, at the time we had another problem with a dam, I thought it would be good to see if, in fact, there was any deficiencies in the operation of our program—dam safety program. The concern I had is how I was going to broach that to our staff. Well, it turns out that when I asked the question about whether they had had a—and my gut reaction was that we should have a review of our program from outside, not that I didn't trust the inside folks, it's just that—

END TAPE 1 SIDE 1. JANUARY 29, 1998.
BEGIN TAPE 1, SIDE 2. JANUARY 29, 1998.

Martinez: ... appropriations for something.

Storey: You were saying you need an outside perspective.

Martinez: Yes. It helps you from two standpoints, is that they're not married to the organization, sometimes can be more objective, but anyway, that's another story. Plus, the other thing, if a deficiency is noted, and you're going to go seek appropriations, sometimes it's *easier* if you have an outside peer group to support, instead of the Congress or somebody saying, "Well, you guys are just trying to feather your own nest by doing your own report saying that you need more money."

Of course, whenever you appoint a committee, you are also subject to the fact that they could say, "Well, you appointed people that are going to tell us what you wanted to tell us." But at any rate, that being said, I told staff, I said, "When was the last time we had an outside independent review of our dam safety program?" They said it was in the 1970s. I said, "Well, I think it's time for another one," and they concurred.

Association of State Dam Safety Officials Conducts Review of Reclamation's Dam Safety Program

So we contracted with the Association of State Dam Safety Officials, which is the—states that have dam safety programs have banded together and have an organization, which has, I think, an office in Washington, an Executive Director—I think it's in Washington¹⁵—that represents the interests of this association, of these folks, and this association provides certain services. They'll go into a state, assess the state program, dam safety program, and make recommendations, and so forth.

When I was State Engineer in New Mexico, we contracted with this association for them to send in experts to review our program in New Mexico, tell us what they thought about the program, where our strengths and weaknesses were. So we went to ASDSO, and we made some recommendations of some folks that we thought we would want on the committee. Then some other folks got on there, I guess, because other people recommended, but anyway, we wound up, I guess, with a five- or six-member committee that looked at not only the Bureau of Reclamation. My original intent was to have them look at the Bureau of

15. As of December 2005 the Association of State Dam Safety Officials is headquartered in Lexington, Kentucky.

Reclamation, but it turned out, I found out later, that as a Commissioner of Reclamation, I'm also charged by the Secretary to be his advisor and sort of oversee the dam safety program for the rest of the Department. I'm not the person that's responsible for the program for the other bureaus, the bureau directors are, but I advise them and stay on top of this.

So then the decision was made after it was brought to my attention, that maybe we ought to expand this review to the other bureaus. So this committee of five folks was given a contract in two phases. They came in and looked at the Bureau of Reclamation, prepared a report, then they did the report for the other bureaus. They made recommendations, which we've implemented, are implementing, which I think, in essence, they found the program to be an adequate program and to be a good program, but they had some recommendations.

So some of the things that I was concerned about in deficiencies, they did not perceive to be deficiencies, but they did identify the loss of expertise. They did identify the fact that we needed to make diligent effort to make sure that our budget in that area was adequately maintained, and they identified other things. So, I think, as a result of that, our program is probably better today than it was two years ago.

Recommended an Independent Dam Safety Reviewer Responsible to the Commissioner

One of the recommendations that came out of that report, out of that team, was that I appoint an official that would be responsible to me, to advise me of dam safety issues, and that individual separate from the dam safety program. We hired Mr. [John] Smart for that, and he's working through that process.

So I think that there is a situation where, with less employees, but with the same number of employees that we had two years ago, we're probably doing a better, more effective job, but more responsibilities have been placed on the area managers and so forth, because, if I recall the report, one of the things we're doing now is we're having a yearly assessment of dams within the regions. It's just a concentrated effort now where, once a year, the regional directors, the dam safety folks and the area managers get together and discuss dam safety issues.

I've issued a policy statement on line of authority on dealing with these issues, and several things have come out of it. So I think those are the kinds of things that I think that have helped the organization, and similarly, coming out of

this, a report that I told you about, how do we maintain our engineer expertise, I think they made some recommendations, which we've implemented.

Storey: In a review like this, did you ever, for instance, meet with the committee or anything like that? How does that function?

Martinez: I met with them when they first met as a group after they had been contracted. We contracted with this association. They, in turn, contracted, I guess, with the individuals. I met with them, told them what I expected out of this. I told them to call the shots the way they saw them, that if we had a deficient program that they so tell me. I was not concerned with having to go to Congress or something like that with a report that says, you know, that the program's no good and it's falling apart and you're not putting kinds of money. I said, "No, you call the shots the way you see them. What I want to know is, one, are we putting adequate money into it?" If you look at the charge I gave them. "Has the reorganization affected the program in terms of being able to maintain the structures and respond to emergencies?" So I sort of laid out what I expected from them.

Now, that being said, there were some individuals within the organization that initially weren't too comfortable with me bringing an outside review team to look at the dam safety program, because, in fact, for discussion purposes, if, in fact, there was major deficiencies, who was responsible for that? So there's always that human nature. But, the message I sent out, was I wasn't out there on a witch hunt or try to crucify anybody; I was there to make sure that if we had deficiencies, we corrected them, and that *I thought*, from my perspective, that the maintenance of our facilities and the safety of our structures was a high priority, because my concern was that if we lose a structure from the standpoint of losing human lives or major damage, this agency will take a hit that will be difficult to recover.

I viewed that responsibility seriously, and I was not going to either continue to drain money away from that part of our activity or *redirect* money away from it, because I think that that's important. So if you look at our budget for the last two or three years, you have not seen an erosion; as a matter of fact, I think you've seen more money being put back into these areas.

Storey: More emphasis.

Martinez: More emphasis. And the message sort of went out to the organization that that's an important part of the organization, because I personally feel that at the time I came in as Commissioner of Reclamation, there was a lot of technical people in

this organization that were wondering what they were going to be doing from one day to the next and whether, in fact, this organization was just going to completely gut itself of all engineers. I would imagine that there was folks walking around wanted to make sure that nobody knew you were an engineer in this organization. I think, in some places, that there were some people like that.

Storey: Is the same true of the O&M budget, that it has grown?

O&M in Reclamation

Martinez: The way we're looking at the O&M, I can't directly answer that, but my first reaction would be, yes. But what we did in that area, I directed staff to see if, in fact, there was any areas out there in Reclamation, any of the facilities, and so forth, where we had not done maintenance or performed maintenance on facilities at the expense of potential safety or detriment to the facility. The response I got back was, "Everything that needs to be done is done. Now there's other things that we would like to do, like painting and stuff like that, cosmetic work, that, if we don't have the funds, we don't do."

However, that being said, there have been some incidents, like Flatiron—

Storey: With the runaway generating unit.

Flatiron Powerplant Accident

Martinez: — that have indicated that might have to do with maintenance, or the problem should have been picked up earlier than when it occurred. So that's sort of sending messages to me that we still have some deficiencies in that program, we need to improve them, and as a result of that failure—luckily, we didn't lose any lives—I think, as a result of that Flatiron transformer, whatever happened, blew up there, the committee came in, looked at that, made some recommendations for looking at other facilities and improving how we operate in that arena, so from that, I think, came an improvement to the program.

Failure of Gate at Folsom Dam and Outlet Tube Failure at Flaming Gorge

Same thing like the gate at Folsom, as a result of that failure, which turned out to be not a maintenance problem, it was a design problem, design deficiency, as a result of that, we now gone back and looked at all our drum gates. The Corps of Engineers is looking at drum gates and so forth. As a result of the failure of our outlet tube at Flaming Gorge, we're now looking at all similar facilities.

But there was a feeling from both outside the organization and from within the organization, from the technical employees, that as a result of the transition from civil works to water management that more emphasis was being placed on the environmental objectives of the organization rather than what I call the nuts and bolts of making sure our infrastructure is adequately maintained and that we have the capability to do that.

Like I say, in summary, I try to bring them both into balance, and I think we're moving in that direction.

Storey: We're almost out of time. Let me ask you a question I think will be a fairly brief one. We've already talked about your period in Washington, when you came in. You weren't Commissioner yet, you were a consultant to the Department, I believe. Today you mentioned that you were briefed. Tell me about that briefing. Who did it, how often, how many times, what was it all about?

Briefings Prior to Confirmation Hearings

Martinez: Each of the Regional Directors and the Directors here in Denver brought their staffs and briefed me on the function, how the organization functioned, its responsibilities and hot-button issues; in other words, issues that I should be aware of as you go through the confirmation process. Because as you go through the confirmation process, you're made available to senators and representatives, especially senators, that might call you up and say, "I want to talk to you. I've got a problem, my constituents have got a problem, or this has come to my attention. What do you know about it? What would you do?" and these kind of things. So they sort of prepare you, or when you go testify, in case you're asked questions. "Hey, do you know what you're getting yourself into? What kind of organization is it? Do you know anything about the Bureau?" Just generally.

In retrospect, the briefings that occurred didn't do much in terms of preparing me for the confirmation hearings per se, because I was not quizzed to the extent of having to have a lot of knowledge about the Bureau of Reclamation during my confirmation hearings. They mainly went through sort of my philosophy on certain things and my background to a certain extent. But the briefings did provide me the opportunity to learn about the organization in a setting that I was not involved in having to run the organization. In other words, I had several months where I was able to read material and absorb material which I have not been able to as you become the head of an agency, because you just don't have that luxury of spending that much time to contemplate things and do things like that.

So from that standpoint, it was helpful to me, especially coming from outside the organization, having no knowledge. In other words, to me, it was completely new, even though I had a tremendous knowledge of what I consider water management, and so forth, but not on the Bureau of Reclamation and its functioning, and surely not about the interactions between Washington and the regions, and the interactions in Washington even between the Commissioner and the Assistant Secretary or the Secretary, or how things function. That was a really interesting experience to me.

Storey: I'd like to ask more, but I know we're out of time, Commissioner Martinez. Once again, are you willing for the materials on these tapes and the resulting transcripts to be used beginning one year after you leave Reclamation?

Martinez: That's fine.

Storey: Good. Thank you very much.

END TAPE 1, SIDE 2. JANUARY 29, 1998. END OF INTERVIEW.
BEGIN TAPE 1, SIDE 1. SEPTEMBER 18, 1998.

Storey: This is Brit Allan Storey, Senior Historian of the Bureau of Reclamation, interviewing Eluid L. Martinez, Commissioner of the Bureau of Reclamation, on September 18, 199[8]6, at about three o'clock in the afternoon, in his office in the Main Interior Building in Washington, D.C. This is tape one.

The Government Performance and Results Act has become big business in the Federal Government, I think, lately. Would you like to talk about how that's affecting Reclamation?

Government Performance and Results Act (GPRA)

Martinez: Yes. As you know, one of the issues that faced me when I was confirmed as Commissioner of Reclamation was the implementation of our mission change, and it continues to be an issue that I have to deal with, where under Commissioner Beard, the Bureau of Reclamation had prepared a "Blueprint for Reform" and, in essence, undertaken a mission change from a water development to a water management agency.

Commissioner Beard Attempts to Change Reclamation from Water Development to Water Management

The concern raised by some of our customers—principally, our traditional customers—and by some members of Congress, centered on the fact that we had undertaken this mission without consulting our customers, and much less, not consulting Congress.

Concerns Raised That Reclamation Made the Changes Without Consulting Congress

So over the last couple of years, in various occasions where I have appeared before congressional subcommittees to testify on particular bills, it has been brought to my attention that the Bureau of Reclamation, one, if it completed its mission, should be giving thought to maybe not even having a Bureau of Reclamation in the future, what should be the proper role; and second of all, when the mission change occurred, it should have been with consultation from Congress.

GPRA Would Require Links to Long-range Strategic Plans

That being said, the Government Performance and Review Act, as I understand it, was legislation approved by Congress, adopted by the President. It basically requires Federal agencies to prepare long-range strategic plans, five-year plans, of what the agency, in essence, what its mission is, what its goals are, and how it will implement that mission, and tie that strategic plan to its budgetary process so that Congress can have an opportunity to look at the plan, comment on it, the public and stakeholders will have an opportunity to comment on the plan, comment on it, and then that plan will guide the agency in its future work and will drive its future budget.

Reclamation Developed a Strategic Plan for GPRA Purposes

When we began, the Bureau of Reclamation, as every other Federal agency, initiated preparing its five-year strategic plan, and in that process, we had to put together a plan which defined our mission and which set out our goals and our vision for the future and our goals that we would undertake, our goals in order to implement that plan. I don't have the plan here in front of me, but basically we went through a fairly lengthy process that involved customer input, that involved input from the Department of Interior, other portions of Department of Interior, that involved congressional review and input, and involved review by other executive departments of the Administration. That plan was put together, was adopted, and transmitted to Congress.

If I recall correctly, that plan basically says that we will, in general categories, be involved in operating and maintaining our facilities out West that we have constructed; that we will, as quickly and expeditiously as possible, subject to appropriations, complete the construction of the projects that we have ongoing; that we will not only maintain and operate our projects, but continue to have an *aggressive* dam safety program to make sure our dams are safe; that we will meet our contractual obligations with respect to delivery of water, will make every *attempt* to meet those, consistent with Federal law, state law; and in operating our projects out West, that we will take into consideration, as required by law and within our administrative authorities, the operation of those projects to address environmental concerns, principally endangered species issues, and our trust responsibilities with respect to Native Americans.

The plan goes on to how we will address our business aspects, different business part of the Bureau of Reclamation's operations. I won't get into that.

That generally lays out—also, the plan incorporates the fact that we will be involved in wastewater reuse, principally working with municipalities in Reclamation states for the reuse of water, for the better management of limited water resources; that we will aggressively undertake a program to try to work with irrigators and water users out West on our projects to implement water conservation methodologies and techniques to foster water conservation; that we will actively engage the tribes out West, at their request, to work with them to try to determine what their water needs are, and pursuant to authorization, will work with them to develop water development projects on Indian reservations; that we are engaged, and will continue to be engaged, as deemed appropriate by Congress and the Administration, in developing rural water distribution systems, particularly I draw attention to the ones in the Dakotas.

I guess, in summary, that plan basically, the five-year Strategic Plan, basically says, we're moving away from a development agency to a water management agency, but retaining the expertise and resources to be available to develop projects, appropriate projects, as deemed by the Congress and existing and future administrations. That's sort of a summary of what the strategic plan is and generally where the Bureau of Reclamation is now and will be in the near future.

Storey: Has GPRA evolved as it's been implemented?

Martinez: Yes. It's an evolving document. First of all, the act, the Government Performance Review Act, requires that a five-year plan be updated on a timely basis. It requires

an annual plan, that will implement the five-year plan, to be prepared each year by the agency, on which to tier off its budget request.

With respect to the Bureau of Reclamation five-year Strategic Plan, as we began to put together our annual plan, it became apparent that perhaps we had identified too many goals in our five-year plan, too ambitious in terms of the numbers of goals, and it was difficult to tie the budget process to the five-year plan. So we have done a revision, and principally our revision is under review by the department and by OMB. They'll streamline our five-year plan, without losing the intent of the plan so submitted to Congress.

But I'm advised that within the next couple of years we will have to submit another five-year plan, and we'll continue to do so on a timely basis. So I think Congress visualized the act as a tool to place themselves in a position of having the agencies come before them, having the agencies lay out what their mission was going to be, how they were going to implement that mission, and what they needed to appropriate in terms of budget in order to support that mission. Since it requires congressional input and congressional authorization, it provides the opportunity for Congress to either accept or not accept the direction that the agency's going.

Storey: I gather there's a little bit of difference between the Senate and the House about how interested they are in GPRA. Have you sensed that?

Martinez: I think that there is . . . What I've been able to gather is that there are certain members of Congress that are more interested in this issue than others. I don't know to what extent—the 1999 budget that's being considered by Congress right now is, if I recall correctly, the first year in which an annual plan, for budgetary purposes, has to have been prepared by the agencies, at least in the Bureau of Reclamation. I'm not aware that Congress bought off and took our annual plan and said, "That's going to be the basis for your budget." They probably were aware of the annual plan, but to what extent they used it, I guess only history will tell. I hope that this is not an exercise in futility, but I think it's going to take a few years for Congress to really feel its way through the process and see whether, in fact, they're going to feel comfortable funding the agencies pursuant to a five-year plan that they've adopted or that they feel comfortable with an annual plan to implement that. But in the final analysis, that being said, even if you have a Congress that's willing to accept an annual plan on its face value, you'll always have write-ins by different congressmen or senators that have particular interests that come up in any given year.

What I find useful for the Bureau of Reclamation, in terms of the GPRA plan, is that it does lay out the direction that the Bureau of Reclamation is going, and there *are* members in Congress that support the direction we're taking, some that do not. But notwithstanding that, we have running now three years' appropriations to continue the Bureau of Reclamation's activity, notwithstanding the fact that I get questioned as to whether we should continue to exist or not, because we have changed our mission and, "Why have you changed your mission when Congress did not authorize it?"

So I think by the fact that our budgets are being appropriated and that we're getting the money for the work that we've identified, I think it's, in my mind, settled the issue that Congress is comfortable with the direction we're taking. They might be uncomfortable with certain parts of that, but I think generally they're comfortable.

Storey: One of the things I see, as a staffer out in the field, is program areas which are concerned because they haven't been mentioned in the GPRA strategic plan, and they're afraid they aren't going to be funded down the line because of that.

Martinez: No. The problem with a strategic plan is that if you try to mention every activity of the agency, you'll wind up with a document that is unmanageable. On the other hand, even though we mentioned part of the organization, but not all of it, we got feedback from OMB and from the department that we've done too much mentioning. So I think what's more important is to identify general areas of work effort and not get into the specifics of units of that work effort.

In other words, when we say we're in the business of operating and maintaining our facilities, delivering water under our contracts, addressing environmental issues, doing our business in a sound manner, meeting our Indian trust responsibilities, general categories that encompasses just about everything that's being done, without having to go specifically in and say part of our five-year plan, for instance, will be to prepare a 100-anniversary report of the Bureau of the Reclamation.

You don't have to do that, for several reasons. Like I say, for one is, you just can't do that to that level of detail; and then, of course, I don't want to micromanage everything. You have to make some conscious cuts as to what's in there and what's not. And then even when you make the general categories, you still identify the goals, and within those goals, there's still some question as to whether parts of the organization were identified or not.

For instance, in the work that we're doing to try to streamline the number of goals, we'll be streamlining the goals from somewhere around seventy to maybe somewhere around forty. We're dropping around thirty goals. Some of those goals are specific references to certain components of our organization, not in names of the component, but in activities. So you take, for instance, recreation. For discussion purposes, say you would have five goals. You now reduce that to one goal, which is more general. Recreation folks might come back and say, "Well, you're really not paying much attention to us, because we had five goals, now we have one."

It's an interesting debate, that I'm aware of, but it's just some decisions have to be made.

Storey: I understand there's something about quantification so that you can demonstrate that you've met goals.

GPRA Requires Both Goals and Ways to Measure Those Goals

Martinez: The issue, as I understand is that, for instance, let's assume that we're going, as a goal, to say that we're going to—each goal has to have a way of measuring that goal under the GPRA plan. In other words, you just can't have a goal, and the goal says, "We're going to operate our business part of our operation to save the taxpayers money." This is a general goal. They're more concerned with, you've got a goal, how can you measure it?

That's one of the reasons why we're reworking our five-year plan now, based on having to implement the annual plan, because we found that that linkage was not as clear as we thought. For instance, if you look at a plan and our plan says our goal is to produce electricity without having more than 5 percent mechanical breakdown, or operate and maintain our systems without having more than 5 percent mechanical breakdown in any given year, for discussion purposes, if you've got more than 5, then you know you exceeded the goal; if you got less than 5, you're within the goal.

I recall one of the goals we had in the power component was that we will produce electricity within 90 percent of the cost factors for production of hydroelectric power produced in the United States, which goes to how efficient you are in producing the power. Or that we will deliver X quantity acre feet to our contractors, that we will engage Indian tribes in doing these assessments of water supplies on reservations and we will do five of them a year. So when Congress says, "Okay, we gave you money for this purpose. Now tell us what you got

accomplished.” You have to have a goal and a measure to it. So that’s what that’s about. You can’t just have a goal. You have to be able to measure it, so you’ve got to be able to quantify it.

The question when you do that is then, you’ve got to have a mechanism in the organization of a way of capturing the data. So part of the problem has been in trying to put the annual plan together and the five-year plan together is to have the mechanisms in place to be able to gather the information and have it reliable information. So some of the goals that we initially identified in our five-year plan, it’s come to be that we cannot capture the data that we thought we were going to be able to capture, so therefore some of those goals have been eliminated, and will be eliminated as we go along. Or you change the intent of the goal. It remains the same, but you change it a little bit different. So that’s what that goes to.

For instance, I don’t know, in your business, you say my goal is going to be to provide a historical narrative by interviewing folks on the history of Reclamation. That’s going to be my goal, and my measure of my goal is going to be three of them a month. So you do that sort of measurement. You can measure that.

Some other things you can’t measure. Some of the goals that we have are more nebulous, in other words, in terms of how do you get your hands around something. Like you say, we’re going to operate our projects to improve the environment. It’s a little difficult to get your hands around that. But let’s assume we say we’re going to operate a project to affect an increase in the number of endangered species or a reservoir. So you go out and you do a count, and if the count goes up, then maybe you’re being successful. If the count goes down, maybe you’re not. So that’s been part of the problem, trying to figure out how you measure these things.

Storey: And who gets involved in the discussions about that?

Martinez: Well, the way we worked it is, once we had—the Mission Statement had been pretty well laid out for me by the time I came here. In other words, when the Bureau of Reclamation undertook its “reinvention,” its mission change, a couple of years before I came as Commissioner of Reclamation, in the "Blueprint for Reform." It says what our mission is, to manage water in an environmentally sensitive manner and so forth. So the Mission Statement was there. My task was, and the task of the Bureau of Reclamation was, to say, “Okay, we’ve got a statement. What does that really mean and how are we going to implement it?”

Taking What Existed and Determining How It Fit into GPRA

So we had a process in place that involved the policy team of the Bureau of Reclamation, that involved a team that was put together to deal with GPRA issues, or try to put CPORT¹⁶ together, which involved representation from all the regions and Denver, and in those areas that you were talking, say, about power, it involved people that were involved in power. So the way we approached it, we approached it from sort of a ground-roots effort, involving staff and others throughout the organization to try to put the plan together, not to see what the mission was, because this Mission Statement was already there.

Then I consciously had to make a decision as to which goals would be in there in terms of, like I said, you could really have put down, going back to that first question you asked, why is it certain parts of the organization are not mentioned specifically. I had to make a cut as to what I thought was important enough to be included in terms of the limited resources or space that we would have for the narrative and what I wanted to get across, because I didn't want to come out with a document that was a thousand pages in depth. So you had to make some decisions.

The other thing that decisions had to be made [about] is the wording that went into the document, because there were individuals in the organization that thought that we should place more emphasis on our environmental initiatives, other folks that thought that we should place more emphasis on our power component or more emphasis on recreation, and I'm not talking about mentioning it, but how you express the priority. Are we an environmental organization or are we a water development organization or are we a water management organization?

What I strived to do was get language that didn't cause controversy—in other words, didn't appear to be an advocate for any particular part of our constituency group or stakeholders, but represented a document that, in my opinion, was even-handed, laid out what we were all about and how we were going to do our job.

I got comments like, "Hey, this document is not green enough," and my response to that was, "Well, if you want it greener, I'll put a green cover on it," being facetious. Or folks that would say, "No, this part, I don't like the word here." So it took a lot of reiterations from a lot of different people that had input as to what they thought how it should read and the words, like you have a debate

16. The Commissioner's Program and Organization Review Team (CPORT), 1993.

in an organization as to what testimony in any given bill before Congress should be. That input comes in from different places in the organization, as well as other executive agencies at OMB. You had the same kind of input in your GPRA plan, and different people look at it differently. So the exercise of putting that plan together, I think has been good for the organization. It has given us an opportunity to focus on our mission and our goals and our objectives, and I think that we're now, as far as I'm concerned, about moving ahead and implementing that mission and refining the plan as we move forward.

". . . even the chairman of our Appropriations Subcommittee in the House, just this last session, when I went up to provide testimony on our '99 budget, questioned me as to whether the Bureau of Reclamation should continue to be an agency or not . . ."

But that being said, there's still some concern by certain members of Congress, and even the chairman of our Appropriations Subcommittee in the House, just this last session, when I went up to provide testimony on our '99 budget, questioned me as to whether the Bureau of Reclamation should continue to be an agency or not and whether I'd given any thought to merging it with the Corps of Engineers. Tongue in cheek, my response to him was, "Well, if the Corps of Engineers would like to be merged into the Bureau of Reclamation, I think I could support that." That drew a round of laughs, and that was about it.

Proper Role of States Versus Federal Government in Water Management

But like I say, there still is some thought about if your mission is complete, and one of the concerns there, I think, basically is that as we say we move into a water management agency, what that proper role is. The states have some concern as to, when you're talking about management of water, that that's a prerogative of the states, and what's the proper Federal role, and we've been trying to work through that. I think the success of the Bureau of Reclamation in the future in the arena of water management will depend on exactly where we find our niche and how people accept that.

"I think that the Bureau of Reclamation has always been in the business of managing the water . . ."

I think I mentioned this to you before, in terms of water management, probably in the time we've had in the past discussing this issue is, I sort of carry the message to the constituents, or our constituents out West and to the staff, that I think that the Bureau of Reclamation has always been in the business of managing

the water, because whenever you develop a project, you harness that water resource, you distribute that water resource, you develop projects for the use of that water, you're in the management of water, much like a farmer manages water. He diverts it, puts it on the tract of land. He actually physically manages that water.

Reclamation Has Done Water Conservation Initiatives in the Past

And I'm sure that we've been engaged in water conservation initiatives. This is not anything new for the Bureau of Reclamation. So we have been managing water, and continue to be managers and will continue to be that, because as you have a limited water resource out West with competing demands, it's important that we make sure that that water under Reclamation projects is used as efficiently and as wisely as possible. So from that standpoint, whatever support we can provide farmers, irrigators, water users out West, cities, to be wise managers of that water, efficient use of the water, is good. That's one arena of water management.

The other arena of water management that the Federal Government gets into, to a certain extent, and which the Bureau of Reclamation also gets into, is that issue dealing with water management from the use of the water resource, the appropriate use of that water resource, and the role the Federal Government should have in how that water is used. Especially as the Bureau of Reclamation is being asked by members of the environmental community to "reoperate"¹⁷ our projects or take the environmental consequences of our projects into consideration, the Bureau of Reclamation can either, as a result of legislation and law, provide water for those needs, or through administrative policies provide water for those type of needs. Certain members in Congress and certain water users out West, including some states, feel that that is a state prerogative of how water should be used and not a Federal prerogative.

Klamath Project Issues

For instance, to give you a typical example, in the state of Oregon on the Klamath Project, where you have a Bureau of Reclamation project developed principally historically for the benefit of irrigators. You have some wildlife refuges, but anyway, principally for the benefit of irrigators. You have downstream tribes that, if my information is correct, their water rights have been

17. "Reoperate" is a term of art in Reclamation meaning that a project will be operated differently than it has been in the past in order to achieve new objectives.

adjudicated that they have the right to water in the stream for fish purposes, but has not been quantified. In other words, the right was adjudicated, but not quantified.

The tribes have asked the Secretary of the Department of Interior to exercise his trust responsibilities to make sure that tribal rights are protected. The Solicitor's Office has issued an opinion, which is not supported by the state of Oregon, that basically says that the Bureau of Reclamation has, within its authorities, the ability to reoperate that project, notwithstanding the contractor's rights of water, for the benefit of downstream tribal use. The courts have also said that. But at any rate—

END TAPE 1, SIDE 1. SEPTEMBER 18, 1998.

BEGIN TAPE 1 SIDE 2. SEPTEMBER 18, 1998.

Storey: That does set-up conflict, all right.

Issues of Growth and Water Transfer in the West

Martinez: The other issue is an issue that raises its head every now and then, is that the question of growth in a given area, especially in the West, where growth is driven by water supply. There are certain groups, certain folks, that would wish that the Federal Government limit growth by adopting policies, through the Bureau of Reclamation, that basically say, "We're going to look at how the end use of that water is made in determining whether we're going to allow the use of the water or not, whether it's in the public interest or not," to the extent that the Federal Government goes into a role of saying, "Yeah, we're going to make conscious decisions on how growth is going to occur by putting policies in place as to how the water should be used or not in terms of whether we're going to allow the transfer of the water use or not."

I think this is one that would be resisted by the states and by the local entities, how we're going to engage in water transfers, what we're going to consider, those kind of things. That's the management portion that I think is causing some concern on the part of some states out West and water users out West, traditional water users, as to how the Federal Government is really going to engage in that and what our policies will be. That's the area of water management I think that the Bureau of Reclamation is getting into now, or has gotten into lately, that is a completely different, [for] lack of [a better] word, animal than what it did in the past. In the past, you went out and developed a project. You developed the water supplies. You moved on, you built another one. You said we

going to defer to state law in developing our projects. We're going to get the permits from the states and so forth.

Now we're coming back and saying we're now going to be managers of water and not clearly define what management means, and that's what we've been trying to do in the last couple of years. And hopefully, in the next couple of years, assuming I'm here to the end of this Administration, we'll hopefully have put in place some policies as to where we will be heading. From my perspective, those are very emotional issues and are issues that I think are best addressed by the local communities.

". . . a lot of those decisions are land-use decisions. . . ."

For instance, I think that—and I took this position when I was state engineer—a lot of those decisions are land-use decisions. I'll set up a scenario that can occur. A state, through actions of its legislature, can say, "We believe that we want to attract industry to our state by providing cost benefits," or some kind of facilitating the movement of industries. They make available, through state legislation, to local cities or counties, municipalities, authority to reduce taxes or waive taxes or something like that in order to attract business. So the local authorities, elected by the constituents, put in place zoning ordinances or policies that say, "We want to attract business," and so forth.

". . . they want to use the decisionmaking authority of the water official to block or reverse the decisions that have been made by local officials and by states and so forth as to whether it's good for growth or not. . . ."

If a business comes in and says, "We're interested in setting up our operation here," they just can't come in and set it up. They have to go through land zoning. They have to go through all kinds of approvals that require public input and public participation. Then I think it's an interesting situation then. When you have all those kinds of approvals, but you need water, that the state engineer or the Commissioner of the Bureau of Reclamation or the Secretary of the Interior is then called upon by anti-growth advocates to say, "You don't give them the water, because if you give them the water, it'll foster growth." And they want to use the decisionmaking authority of the water official to block or reverse the decisions that have been made by local officials and by states and so forth as to whether it's good for growth or not.

Those are the issues that the Bureau of Reclamation's beginning to be exposed to, and will continue to get exposed to. As state engineer, that was an

issue I had to deal with, and my response was, “Those are local issues. Handle it at the local level, and I’m not going to get involved in that,” because once you open that door, where do you stop? Ultimately, for discussion purposes, our projects divert water from the Colorado River, and the end use of that water could be a tap in the city of Los Angeles or out in the middle of the desert someplace. That’s the end use of that water.

“ . . . more and more pressure will come to bear on the Bureau of Reclamation in the future as you start moving towards the use of a limited water resource. . .

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Personally, I don’t think the Commissioner of Reclamation should be dictating to the local people whether they can have a K-Mart or a Walmart or a golf course or a subdivision, as long as they do it within their entitlement of water and for the purposes it was developed. But more and more pressure will come to bear on the Bureau of Reclamation in the future as you start moving towards the use of a limited water resource.

Storey: But you’re saying really the local, like the county, the city, not the state?

Martinez: The state has an action in it, because the permits for the use of water come under the state and see what their proper role is. And it depends on the river and the system you’re in.

Secretary of the Interior Has a Greater Role on the Lower Colorado River than Elsewhere

In the Colorado River, the Lower Colorado River, the Secretary serves as a sort of a watermaster, sort of water engineer. He issues the contracts. He’s the one who conditioned the contracts and so forth. As far as Colorado River water is being concerned, he has a greater role and more authority there than he would someplace else.

But say, for instance, in the state of Wyoming or New Mexico, where a change of type of use of water from ag to M&I purposes, requires approval of the state engineer. And if, in fact, it does require, and if you’ve got a Reclamation project that’s subject to state law and the state law says you have to come to the state engineer, you go through the state engineer. The state engineer then has to worry about *those* questions. In other words, what happens is, if you have the potential to set up a dual process—I’ll try to simplify this.

In a state where you have a water official that requires his action in order to move the location of a water right or change the type of use of a water right or change the use and the location, requires an action by the water official, which means an application to the water official, and a process in place where the water official makes an educated decision based on the law, the state law, of whether that change can occur and in what quantities. That water official considers several things, including whether it's in the best interest of the public or the public welfare to make that change in water use.

So Farmer Smith decides that he wants to drop his acreage, sell it, and he's found a buyer. The buyer's willing to go through an application proceeding to move the water from the farm, dry it up, use it for M&I purposes or for industrial purposes someplace else. He goes to the state water official and says, "I want to transfer this water right."

The state water official says, "Okay, you've got to file an application, and I've got to make certain findings. Before I make those findings, you've got to advertise back that you want to transfer the water right. If anybody out there thinks they're going to be impacted by this change of water right, they have the opportunity to protest your application."

So he makes a conscious decision, either through a hearing process, he or she makes a conscious decision, either through a hearing process if it's protested, or through a process that doesn't require a hearing if it's not protested. He makes findings. He says, "I find that this is a water right. I find that you can transfer X number of acre feet, and I find that you can transfer it under these conditions, and that you can move that water right."

Now, let's assume that Farmer Smith is also on a Reclamation project. My previous example was Farmer Smith outside of a Reclamation project. Inside a Reclamation project, Farmer Smith says, "I want to transfer my water right." Now, is he going to be put in a situation where he has to go to the Federal Government and say, "I want to transfer my water right."

The Federal Government says, "Okay, I want to make a determination of how much you can transfer and under what conditions you can transfer," which might be completely different conditions [from those] imposed by the state, or completely different findings, because the state water official might say, "I don't think the use of this water for that purpose is in the public interest," and the [Federal] ~~state~~ official might say yes. So you could create a hell of a situation, where you could get nothing accomplished. So what is the proper Federal role?

Storey: I can also see a situation where maybe they wanted to transfer the water *off* the project, for instance, would have a different effect, perhaps.

Martinez: Well, if you want to transfer it off the project, then I think the interest of the Federal Government would be to protect the remaining part of the project, and that can be done. But let's assume that the farmer wants to transfer it for the purposes of providing water to a new subdivision, and they come to the Federal water official and say, "Don't do that, because that's fostering growth and you should not be fostering growth," those kind of decisions.

My advice would be, unless you have Federal legislation, adopted by Congress and approved by the Administration, that specifically says what your role is, not to venture into that, let the *states* deal with that issue, as long as they have a process. If the state does not have a process, then you engage in it. But if the state has a process, you let *them* handle it. You can engage in the state process, but not set up a parallel process, because that's where I think the problems would exist. And that's the issue, if the Bureau of Reclamation and Administration, in my opinion, wants to try to set up a parallel process to what you have in the states, that will cause chaos, in my opinion. It's best to work within the existing process, and it's not quite clear yet where the Bureau's heading. I know where the Bureau's heading, as far as I'm concerned. It's not to set up a parallel process, but to work with the states and protect the interest of the Federal Government.

"But . . . some folks . . . in the West . . . are a little leery as to where that process is heading, especially when they perceive that the new mission of the Bureau of Reclamation is not any more than a guise to acquire water for the purposes of fish and the environment, which is not the case. . . ."

But there's some folks out there in the West that are a little leery as to where that process is heading, especially when they perceive that the new mission of the Bureau of Reclamation is not any more than a guise to acquire water for the purposes of fish and the environment, which is not the case. We have to uprate our projects to address environmental concerns, as well as endangered species concerns, but doing that, we also have to provide our contractees with water as best we can. Sometimes you can't please everybody 100 percent of the time, but you try to do the best job you can.

One of the concerns that I've had is that, as we made this transition from a water development agency to a water management agency, there are folks in the Bureau of Reclamation I think, even today, are out in the field walking around

today with this notion that their mission in life is to make sure that Farmer X's water rights gets reduced sufficiently in order to provide benefits to the environment that they perceive have been degraded over the last hundred years. What I try to tell them is, no. We've got to be concerned about that and we've got to address that issue, but our mission in life is not to take water away from farmers. Our mission in life is to try to uphold our contracts and deliver water to those farmers, consistent with the laws, and try to operate our projects and work through issues, such that we can try to accommodate them as best we can and comply with the law.

". . . when I came in . . . the traditional water users really felt that the Bureau of Reclamation was not looking after their interests. . . ."

I think that's the issue that the traditional water users, when I came in as Commissioner of Reclamation, the relationship between the Bureau of Reclamation and traditional water users had just gotten to the point where they weren't talking to each other, because I think that the traditional water users really felt that the Bureau of Reclamation was not looking after their interests.

I have tried to bring them back into the fold, and I think I've been successful, if that's a proper word, is to say, "Look, we have a responsibility to our project beneficiaries, but there's also laws we've got to comply with. Let's work together to try to do the job. There's not enough water to go around. Somebody's going to have to give up some water, there's no question about that. But let's try to minimize the impact, and if there is an impact and we do have to acquire water rights, let's do it under state law and let's do it under appropriate mechanisms.

Acquiring Water from Willing Sellers to Transfer to Other Purposes

Some of those mechanisms might be, and continue to be, that the Federal Treasury, through the Congress, provides the resources, financial resources, to acquire water from willing sellers for water to be ~~used~~ [transferred] from agricultural to other purposes, which is like what we're doing in the Columbia River and what's being done on the Rio Grande and the Pecos River.

Issues Regarding Reimbursement for Water Taken for Public Welfare Benefits

Now, there are some that would say, "No, take it from the farmer, without any compensation." My view on this situation is that we developed these projects. The farmer didn't develop the project. The Federal Government developed the project. The state authorized the permit. The farmer, in my opinion, did what he

had to do to make a living, like anybody else. Of course, his water right is subject to priority, but some of these benefits that we're trying to address are public welfare benefits, and since they're public welfare benefits—in other words, they're riparian habitat, trying to recover some of the fishes and so forth. Some of those are *public* benefits, for the good of the public, our future generations. Some of those costs should be borne by the public in general, just like the public was willing to bear the cost of building water projects out of the Treasury, because these water projects were not built entirely by funding of the irrigators. They were subsidized, if that's the word, funded primarily by the Federal Treasury, because it was in the national interest to develop these water projects to enable people to move out West and develop the West. If we find that it's in the public interest to mitigate the damage, environmental damage, that's been done by our projects, it's in the interest of the public to share in part of that expense. So the word is sharing and working together, not coming and saying, "We're going to take it away from you." Those are the issues that I find interesting.

Storey: Where is your sense that the public stands on all this? Are they willing to pay those expenses?

The Public Appears Willing to Pay for Public Benefits

Martinez: Well, I think they are. The public, I think, to the extent that they're public benefits, I think the public would be receptive. To the extent that Congress speaks for the public, Congress has, *to date*, appropriated money for non-reimbursable expenses associated with some of these projects to deal with environmental issues, and that's an issue that is set for hearing the early part of next Congress, what is reimbursable and what is not reimbursable in terms of costs.

Bonneville Power Authority Passes its Expenses on to Rate-Payers

You've got the issue on the Columbia River. Of course, there Bonneville Power Authority—a lot of the cost incurred, they put on the rate-payers. It's not coming out of the Federal Treasury; it's coming out of the rate-payers, in general, a much wider base. But from my perspective, I believe that there is a public component in these expenditures that should be borne by the public. However, there are some components that I think that are site-specific, that could be borne site-specific, and the question is, what's the appropriate ratio?

Storey: A tough one to work out with the Congress and everything involved.

Finding Water on the Klamath project

Martinez: But it's going to have to be done. As these issues begin to come more in the forefront, they're being debated and discussed. For instance, just the last couple of weeks, we put in a request, a reprogramming request for a little over \$6 million to buy some land on the Klamath Project, believed to have some water rights associated with it, in order to try to increase the amount of water available for fishery purposes downstream.

So what we're trying to do on the Klamath Basin is to work through water conservation and the water acquisition in order to stretch that water supply to meet, as best we can, the needs of the *fish* in the river, which are trust issues, endangered species issues, refuge issues, and the needs of the farmer. One of the things we did is pick up this piece of property that can be used, as I understand, to impound water, sort of like a shallow lake bed, and if it had water rights associated with it, perhaps maybe the water rights can be used and not irrigated.

But at any rate, the reprogramming request went before Congress. The question the Congress and the House asked me was, "Is this reimbursable or not? Are the farmers going to have to pay for this?"

The position I took was, "At least on the Columbia River and on the Rio Grande, at this point in time, and on the Lower Colorado River, these are non-reimbursable costs. We're going to have to engage in a discussion as to what the overall policy is going to be, because we're getting more and more of these. But at least in this point in time, I would deal with the \$6.2 million dollars that we reprogrammed I believe that's non-reimbursable."

Congress went ahead, and the House, Congress approved the reprogramming. I wonder whether if I would have gone in there and said, "I need a reprogramming of \$400 million," if I had the money in the budget, whether they would have looked at it the same way or not. But these are issues that have to be addressed, because it's expensive. Just like building water projects is expensive, mitigating for some of the effects of our water projects can also be expensive. You can put a small irrigation district or a small water user out of business, make it almost impossible for that entity to exist by saying, "If you've got an endangered species downstream of your reservoir, you've got to pay for all the mitigation." The mitigation costs might be more than the economic benefits that the farmers can get out of the project.

Those are difficult issues that we'll have to face and work with, some future commissioner. All I hope to do is sort of lay the groundwork to try to get

this thing going. These issues won't be resolved during my tenure as Commissioner of Reclamation.

Storey: Speaking of GPRA, you mentioned the Indian issues, and I know that we have had memoranda of understanding with other groups, Hispanic colleges and so on. Could you talk about those kinds of activities that we're engaged in?

Working with Indian Tribes to Study Water Needs and Construct Projects

Martinez: Yeah. With respect to the Indian tribes, before I go to your specific question about working with tribes and Hispanic universities and so forth in order to provide educational opportunities, in order to be able to create a labor force, for the purposes of whoever reads this document in the future, we engage with Indian tribes in the Reclamation states from two perspectives, *generally* two perspectives. One is to work with tribes to assist them in assessing their needs for water, a needs assessment, in other words. What are your needs and your supplies, both present and future? And then, in some instances, actually engaging, constructing projects to provide the water supply.

For instance, the water supply projects for rural water distribution systems that we're helping build in the Dakotas, fund and build through our appropriations. There a needs assessment was done for getting money to work with the tribes.

Rural Water Supply Projects

Martinez: Mni Wiconi and Mid-Dakota. So that's assessing your needs, helping you, within our authorities, to develop the water supplies.

Situations Where Reclamation Projects Might Be Affected by Indian Water Rights Settlements

The other area in which the Bureau of Reclamation gets involved, *in*, and which it can get controversial, is providing technical assistance to the tribes or to the Department of Justice or to the Department of Interior in preparing the cases by the tribes for Indian water rights adjudications, in which case we find ourselves in an awkward situation, because the very water that the Bureau of Reclamation has *developed* for the supply of an irrigation project or M&I purposes is the water that is subject to potential curtailment because of the adjudication of those water rights, prior rights of the Indians. So on the one hand, we're providing assistance to the tribes. On the other hand, we're responsible for maintaining our projects and the viability of our projects.

Reclamation's Technical Support in Indian Water Rights Settlements

We continue, and we will continue, to provide technical support to the Department of Justice and to the Department of Interior and work on these teams to try to work through these Indian water right settlements. And the reason for that is that I believe that now, and in the future, these Indian water right issues are going to be hopefully resolved through settlements rather than litigation, and the settlement process is a process that will get the different parties to the table and hopefully will get the parties in a position where everybody doesn't get what they want, but at least everybody continues to exist. It's not a win-lose situation that sometimes you might get to in a court proceeding. So to the extent that we can provide the technical support and expertise to be able to allow the issues to be discussed intelligently by the negotiators in any water right settlement, I think we're serving a good purpose. So we engage with tribes in those two arenas.

Reclamation Support to Minority Colleges and Universities

Going back to your original question, it's been an initiative of this Administration and prior administrations to try to diversify our work force. Besides that, in some areas and some expertises, the Federal Government is not competitive in attracting—especially in some of the technical areas—employees. So what we had attempted to do, and what we continue to do, is to provide financial resources and human resources under executive orders or statutory authorities to set up programs with existing institutions, whether they be a predominately black institution or an all-Indian institution or predominately Hispanic institution, to try to develop programs, educational programs, that will do two things. One, attract students to the institution; and two, as a feeder for potential employees to the Bureau of Reclamation.

For instance, we have a program, that I understand is the only kind in the nation, that had been funded by the Bureau of Reclamation at, I can't recall the name of the black college in Louisiana, that set up a program in dam safety. So they have an engineering program. We provide instructors and provide support in dam safety issues.

We set up a program with SIPI, Southwest Indian Polytechnic Institute, which is an Indian community college or college in Albuquerque which draws Indian students from all over the country. We set up a program, through our Indian affairs part of our organization, to fund and provide instructors in water management issues.

We have a program, a new program that we've entered into with Langston University—which is a black college. It's the furthest west. It's a land-grant college in Oklahoma—for the purposes of training and creating an employee pool of water managers, water management. They're going to set up a program of water resources management.

We have begun the discussions and are beginning to work with setting up a similar program with Highlands University in northern New Mexico, which is a predominately Hispanic school. We are working in New Mexico and Arizona with a Mensa program, which is that program that gets in kids from high school in the summer months and you work with them on mathematics and engineering, predominately minority kids, to try to get them interested in engineering. So we're working on those programs, and ultimately hopefully to build a source of labor base for the Bureau of Reclamation.

Storey: And we provide money, in addition to staffing. How does this work?

Martinez: Well, the way it works, basically, is, we provide money, we provide opportunities for IPAs,¹⁸ where employees of the university can come to work for the Bureau of Reclamation, gain some expertise, learn some more about their trade or get the different kind of experience to be able to go back to the classroom and teach. We'll provide somebody from our institution, from the Bureau of Reclamation, with certain expertise to go either teach or to—

END TAPE 1, SIDE 2. SEPTEMBER 18, 1998.

BEGIN TAPE 2, SIDE 1. SEPTEMBER 18, 1998.

Storey: This is tape 2 of an interview by Brit Storey, with Eluid L. Martinez, on September 18, 1998.

Martinez: Like I said, we provide funding which supports some of their staff or their expenses in running the programs, and also we provide employment opportunities for the students during the summer months, summer interns and so forth. So not only do we provide some financial and human resources to set their programs up, but also a place of employment for the students, and then hopefully pick up the graduates. That's basically the way that some of those programs are working.

18. The Intergovernmental Personnel Act is a program which easily permits Federal bureaus and agencies to have college faculty on-staff and to have Federal personnel work in teaching and research positions at colleges and universities.

Storey: And they're recent enough that we don't yet know how well they're going to work or do we have any past experience?

Martinez: I would expect that on the university in Louisiana, we should have some experience. These other ones I think are not far enough along to where we'll know whether they really work or not. But I think to a certain extent, though, our end objective should not be to employ every graduate that comes out of the program, but to expose them—hopefully that we can attract them, but to expose them to this area of water resources and water resources management.

For instance, with respect to the Indian community, to the extent that they build the labor force for expertise within the native community on dealing with water and water issues, it makes it easier for us to interact with them and to turn over some of the responsibility of managing some of these projects that we might be involved in. So we shouldn't be looking at only as what the ultimate benefit is in terms of number of employees or whether we can get them as employees to the Bureau, but what's the good of this program.

I think that when you look at it from that perspective, water and water resources a lot of times is a very specialized field as far as the minorities are concerned having been able to work in that arena, and it's good to just get, in my opinion, and be good for the organization, be good for the country, to have more minorities involved in the area of water and water resource management.

Storey: You may remember back in January you came and talked to the employees at a couple of meetings in Denver. One of the guys got up and said, "Well, I'm in the electrical branch. We used to have fifty people, or whatever it was. Now we have twenty-nine, and twenty of those are over fifty, and I'm worried about whether the branch is going to be able to maintain its technical expertise." And after that, you mentioned to me that you had a story about age and expertise and employment. I was wondering if you still happen to remember what that story was that had popped into your mind.

Concerns about Expertise at Reclamation

Martinez: I can't recall what that was, but getting to the point of expertise, I've been concerned about, as we downsize the organization and as the age of the labor force, especially the technical and the skilled labor force is getting to the point where we're going to be having a lot of retirements, I was concerned about the loss of our expertise.

As you know, I had a team of folks look at the three principal areas—in the construction area –construction monitoring, in our engineering design and review, and in the power component portion of our organization.¹⁹ It's my understanding the reinvention lab, having to do with our power part of the organization, looked at this question of what we're going to do to maintain our labor force, and I made some recommendations. So I am concerned. Upper management continues to be concerned that we are going to be losing a lot of our experienced folks, and we need to get people in, get them trained, so they can be in a position of replacement. And I'm not only talking here about engineers. I'm talking about operators and maintenance people and so forth.

I was in Las Vegas just, I think, a little over a week ago, meeting with a council—the name escapes me now. It's not the Human Resources Council, but it's a council that represents—they have six Bureau of Reclamation management people on it and then the six heads of the six labor unions—the Labor Management Council for the Bureau of Reclamation. They have six labor unions that represent some of our employees. We met, and their concern was the fact that they perceive, and appropriately perceive, that a lot of our operators, dam operators and maintenance operators and so forth that usually fall under operators of our facilities under these labor union contracts. A lot of them are getting ready to retire, and we don't have what they consider to be a very effective intern program or a program to get replacements. So we're working on that, and I told them that they had complete flexibility to see how we can do that. So you raise an issue that is of concern.

Storey: Do we have any other obvious problem areas?

Martinez: From what has been brought to my attention, the areas are the folks involved in construction, construction supervision of projects, the operators of our electrical facilities, and some of our engineering units, where we had experience in the design of structures and stuff like this. We haven't been doing much of that in the last decade or so, and people are retiring.

"The biggest cut . . . across the Federal Government, and . . . in the Bureau of Reclamation, in reduction of staff over the last few years, has come from the human resources area. . . ."

But I imagine another area, I think, that would be, might be of surprise, but is in the area of human resources. The biggest cut that occurred across the Federal

19. See footnote 12 on page 161.

Government, and I would say probably in the Bureau of Reclamation, in reduction of staff over the last few years, has come from the human resources area. In our personnel department, for instance, we have lost a man that was there for almost forty years, however long it was, and I'm beginning to see that we need to bolster that unit.

As Staff Retire or Turnover Certain Areas of Expertise Are Lost or Not Replaced

In other words, I guess what I'm saying is that you have an organization such as the Bureau of Reclamation, where you have had people there their entire careers, and we're getting to the point where we're having a lot of those older people leave, and certain expertise is not being replaced. But that's not common only to the Bureau of Reclamation. I saw that from the department in the agency I came from. What I saw happened at the State Engineers office, and probably what's occurring here also is, I personally think that the days are gone where you saw people come in and work right out of school and retire from an organization. They just turnover so quickly. And in some areas, experience is your best teacher, and a lot of these things you learn, through being there for years and years and years, you become a master of it. If you have turnover every so often, it just makes it more and more difficult. You have to have processes in place to make sure that something doesn't fall through the cracks. That's where I think that process becomes very important, because sometimes what will happen is, if you've got an individual, or individuals, that are very knowledgeable and have been there for a long time, you depend on them and not depend on the process. What do I mean? Well, for instance, the organization I came from, we had an individual that walked around with everything in his head in terms of water rights. If you asked him, "Where's this information?" on a given application or a water right, he'd say, "Well, that's over here," or "I know where it's at," and go look for the information. When he was gone, there was no central filing system, no way of accessing the information. So if you wanted to find information, you probably had to go through the system. So the process becomes important. Your way of retrieving information, instead of a person walking around with all the information in his head, you've got that in a data base someplace else so you can at least access the information. Those are the kind of things that I see as occurring.

Flaming Gorge Outlet Tube Failure

I'll give you a typical example. It's a completely different issue, but again as to why sometimes the process is important. Maybe there isn't a point, but I think it's an issue that I think is interesting. We had an outlet tube fail on us on

Flaming Gorge Reservoir, just about a year or so ago. It flooded part of our operations center. It didn't get into the powerplant. By the powerplant, I mean where the generators were. Part of this tube gave way. Water started coming in to the inside of the dam in our area there where we have our maintenance facilities and everything else, and luckily—this is a facility that is operated remotely, it's a remotely operated facility. What I'm talking about is, operated by an operator at Page, Arizona, at Glen Canyon Dam. They've got everything monitored, so if anything goes wrong, electronically you can shut gates and everything else.

Well, this pipe ruptured. Water started getting into the insides of our facilities there. Luckily, this gentleman was on site, and luckily he knew which valve to go and shut off, because what happened is, as the water started getting into the facility, it short-circuited the electrical mechanisms, so there's no way that you could have closed the valves that needed to be closed to re-route the water electrically. By him being present there at that point in time and knowing how to close the valve manually and which valve to do it, we prevented what would have been a major disaster there. We would have gotten water into all our electrical generators and shut down that facility.

What do you do to try to avoid that in the future? Well, you, at the very minimum, want to make sure that your operators know how to manually operate the system. They had other operators there, but he was the only one that knew how to manually operate the system, because there had been no need to operate the system manually. So that's an issue where it's a separate issue from what we were discussing a while ago, but shows you that you've got to give these things some serious thought. So hopefully we're going to put some processes in place that will not get us into a situation like we had before. At least our operators know how to turn off a valve or what valve to go turn off. That was an interesting situation, I found.

Flatiron Powerplant Explosion

What we have done as a result of that and a result of our failure at the one at—it escapes me right now, where we had the transformer blow out [Flatiron] in Colorado. It'll come to [me] in a minute. As a result of those two accidents, we've put processes in place to make sure that we do a better job and are more prepared to what it's like. I can't recall what the name of that place is in Colorado, where you had the top of that roof of one of our storage units blow off, a concrete roof, move off its walls because of the explosion that took place there. That went to a question of whether or not adequate maintenance was being done or not done on these transformers. As a result of our analysis, it indicated that there was some

deficiency that we needed to correct. We went in and looked at all similar facilities and now have something else in place.

Most people, I think, a lot of people think of the Bureau of Reclamation as delivering water, but there's a lot of things that go on behind the obvious that basically has to do with the operation and maintenance of our facilities, making sure they're safe and properly capable of being operated. That takes resources, and that takes, in my opinion, a commitment on the part of management, upper-level management, to say, "This is important."

What had happened here in the Bureau of Reclamation in 1994, 1995, that time period, is that the mentality was environmental restoration, water conservation initiatives, and staff was being cut. Our resources were being curtailed in terms of our budget, and everybody was marching along to the fact that we were going to become a water manager/environmental organization, and all this infrastructure and all this operation and maintenance that we have to take care of and all this was not getting us our level of expertise, how we're going to replace our employees that we need, and so forth.

That was not being given any attention, and what I tried to do was to reverse that, and I think I have reversed it, to the point where I don't think we'll ever get into the situation we were a couple of years ago. I continue to say—and it's now part of our plan—that that is important, and one of the most important functions of the organization. And it'll become more and more important as we move down the road, because we have a lot of aging infrastructure, a lot of aging infrastructure. Most of our dams, I understand, are over fifty years old. A lot of aging infrastructure that'll have to be maintained.

Storey: You mentioned the short circuits and so on at Flaming Gorge. One of the things that's consuming some attention right now is the computer issue for the year 2000. Could you briefly talk about how that's affecting Reclamation?

Computer Issues Related to the Year 2000

Martinez: Like any organization that's automated by virtue of computers or machinery that depends on chips and computers. If you read the literature—and there's no reason for me to believe that's not the case—a lot of this software or the programs that are driving some of these programs, it's not the machines that will shut down, it's the software that will shut the machines down. It's not like pulling the plug out of a ball in the machine. The computer goes out, it's the software, the brains of the machine, unless it's a chip that's hardwired into the machine you're talking about.

So there's two things. One is to rewrite the program, the software, and the other one is to seek out that equipment that you have that has microchips in it that's embedded as part of a piece that is the brains of the piece. But my understanding is that, to save space, because everything is represented either on or off one or zero in a computer system, and if you put four digits versus two digits, you require twice the space. If every time you had to put down the year 2000—well, a given year you have to use two more digits use a lot of space. So subconsciously programmers and people trying to conserve space put the last two digits. By putting the last two digits, once it hits 00, the software doesn't know whether it's 1900 or 2000. So what it does is, if the software program is a mathematical program that subtracts or does addition or does something to the date, it doesn't know whether it's 1800, 1900, or year 2000, and gives you wrong information. Or if it's an embedded chip that flips over and somehow shuts the machine down, then you've got some problems.

So what's happened to the Federal Government and what's happening to the private sector is that you've got to go in and correct all that software to make sure that your new software is now going to be able to move on to the year 2000 without causing a blackout or a meltdown, what they say, without going crazy. The programmables start spitting out information that doesn't make sense. It wipes out your bank account or whatever it is. Or that those embedded chips, they'll shut the machine down.

What the Federal Government has undertaken, like any other agency, is to go in there, make sure that all these systems are corrected, so when the year 2000 hits at midnight 1999 and flips over, the world doesn't come to an end. So what's happened is, we have, like every other agency, put together a task force, identified resources, identified our critical computer systems, and made sure, and are making sure, that when the year 2000 comes around, we're not going to have a shutdown or information being spilled out that doesn't make sense.

What the department has done and what the Federal Government has done is required each department or each bureau to identify the most critical systems first, get those ones first. If you have systems that go down that are not critical—in other words, if you've got a personal computer and it doesn't work in the year 2000, fine, you can fix it. But if you've got a system that's driving a powerplant goes down in the year 2000, that's going to have drastic effects, so you fix that one first. Or your paychecks and stuff like that, the Social Security system. So we've identified the critical systems.

We've identified, in the Bureau of Reclamation, our critical systems, which we plan to have fixed, if that's a proper word, with sufficient time to not run into—we need to have them fixed by a given date that's before the year 2000, because if we say we're going to have them fixed by year 2000 and it's not fixed by year 2000, you've got some problems. So we're backing off. Some of them are March '99, some of them are July '99, some of them are already compliant. The ones that are causing us more of a little headache, and that we're working with them now, is the embedded microchips in our powerplants and so forth, and we're looking at our hydronets and so forth. We're looking at those, and we believe we'll have those all completed.

The other thing we have to do is, we have to work with our partners, irrigation districts or power market authorities, to make sure that their systems and they're on top of it, because it doesn't make much sense if we have a common system that we depend on data generated by somebody else, and their system goes down and our system is working, if it's not getting the information or if it needs electrical supply, then you've got a problem. The emphasis, as far as the Bureau of Reclamation is concerned right now, has, and continues to be, our power generation part of the system.

The other thing, also, is to make sure at our dams that the systems that operate our gates are functional and have no problem. The worst case situation you will find is, heaven bid, that you have an electronic gate that opens automatically on the year 2000 and lets out water out of a reservoir. You make sure it doesn't occur.

But not only do we have to identify all the systems that we have to make sure are functioning, but we also have to have in place a backup plan just in case something occurs. So our people at each of our facilities are having to know how to operate by hand and do by hand certain things that needs to be done. It's expensive, but it's going to be done. That's what we call the Y-2-K problem.

Storey: And it's going well?

Martinez: Well, I feel comfortable, as far as the Bureau of Reclamation [is concerned]. We put together a team of folks that take this seriously. I get a report every week, and we have to meet certain time schedules set by OMB and certain time schedules set by Congress, certain time schedules set either by Congress, OMB, or by the department, specifically the department being driven by the concerns of Congress and OMB, and we're meeting those schedules.

Storey: One of the things I see out in the field is all this stuff—for instance, there’s an investigation of Secretary [of the Interior] [Bruce] Babbitt about the Indian gaming issue and so on. I’m wondering if here in Reclamation we’re seeing that it’s more difficult to get the Secretary office’s attention or any issues like that resulting from these kinds of things?

Working with the Secretary of the Interior

Martinez: No. I haven’t seen any of that, for the sole reason that—I can’t speak about previous secretaries or previous commissioners, but the relationship I have with the Secretary is a relationship that, he lets me do my job. As a matter of fact, if I sometimes see him once every four months or once every six months, so be it. My only engagement with him is on issues that sometimes draw his attention or that I need to sit and talk to him about; for instance, Animas-La Plata Project or something that might be before the Congress or when my budget’s being prepared. But in the day-to-day operations, I work with the Assistant Secretary. They give me great flexibility. If his time is being preoccupied, I have not noticed that. And from his own mannerism, I haven’t seen him change at all.

Storey: One of the issues I wanted to talk about came from one of your speeches, I think to ICOLD²⁰ in Florence, in May of ‘97, talking about, how do you balance economic issues against environmental issues? How do you keep all of that in balance so that we don’t go too far one way or another? What part does Reclamation have in those kinds of issues?

ICOLD Speech in Florence, Italy, on Balancing Economic and Environmental Issues in Water Projects

Martinez: That goes back to the point that I raised earlier in our discussion today about what the proper role of Reclamation is with respect to dealing with growth issues and economic issues.

The point I was trying to get across to that group, if I recall, was that we’re in a different ball game, at least in the United States, which is not the case in some of the developing countries. We have moved from the development of the resource to the management of the resource, and in the management of the resource, there are issues that come up that sometimes get very complicated,

20. International Commission on Large Dams.

because of what we've been discussing—environmental concerns, growth concerns, and so forth.

I think the message I left with them was that those countries that are like the United States in terms of their development posture, because there are some European countries where they'll be developing a lot of new facilities. They're turning their attention to the same issues that we're turning our attention to—environmental and so forth. To the extent that they can learn from our past experiences, either good or bad, they should try to gain something out of that.

". . . the countries that are *developing* their water projects, to learn from . . . our past experiences. . . ."

"I take the view that you've got to look at the era and . . . the state of the art, both as to the public perception as to what was or was not in the public interest . . ."

And to the countries that are *developing* their water projects, to learn from our past, not mistakes, but our past experiences. I won't say past mistakes because I take the view that you've got to look at the era and the time of which these water projects were built, both as to the state of the art, both as to the public perception as to what was or was not in the public interest, and there's no question, I think, that when some of these projects were developed, there were people that said, "Well, it's going to cause some environmental consequences." But the mentality of the country, I think, the mentality of our leaders at that point in time, which reflect the mentality of the country or the thoughts of the country, was, we need to provide economic opportunity—homesteads, everything else. That's changed. So I guess the message I left with them was that, learn from our experience and take from it what you think you need to use, not from our mistakes.

". . . the previous Commissioner. I differed in that his message was . . . 'We've made mistakes, and we're going to correct those mistakes.'"

". . . my approach is, 'We had some experiences, and we're going to learn from those experiences.'"

That's, in all due respect, were the difference between the previous Commissioner. I differed in that his message was, not only to the Bureau of Reclamation, but to the international community, "We've made mistakes, and we're going to correct those mistakes." And my approach is, "We had some experiences, and we're going to learn from those experiences."

"Ultimately, it's the same message. It's just how you deliver it. . . ."

Ultimately, it's the same message. It's just how you deliver it. And I respect the previous Commissioner a lot. In a lot of ways, we agree on some issues; some that we do not. But my understanding is, the first time he had the opportunity to give an international talk to the dam safety officials, he went and gave an international talk and caused quite an international commotion, to the extent that some folks wrote articles in international magazines that were not very favorable.

When I went down to my first presentation in Chile to the same group of folks, to say the least it was not a very warm welcome that I got. But the message I carried to them was that we're in a different era, and the international community, I think, has accepted that.

My way of operating is not to try to force my personal beliefs on somebody else, but to give them the best advice you can.

END TAPE 2, SIDE 1. SEPTEMBER 18, 1998.

BEGIN TAPE 2 SIDE 2. SEPTEMBER 18, 1998.

Martinez: For me, I think it would be very inappropriate for me to go and lecture, in my capacity as the Commissioner of the Bureau of Reclamation, lecture a water official from a developing country not to develop any water projects because they have impacts on the environment, when that developing country doesn't even have electricity for its residents or food for the table for the people that live in the country. I think that my appropriate role would be better suited by going and saying, "If you're going to do it, learn from the experiences of somebody who's been there before you—rather than to play the other hand."

Well, at this rate, we might get into my first year by the time I leave.
[Laughter]

Storey: The Western Water Commission report has come out and now been on the internet for several months, I believe. How is that affecting Reclamation, or does it?

Western Water Commission

Martinez: Well, since this interview will come out after I'm gone as Commissioner of Reclamation, quite frankly I have not read the report, because after being in this business for thirty years as a water manager, I know what's in it and what the different constituency groups, what their positions are. So I view this report as

being nothing more than a rehash of what the contemporary problems are and a recommendation by the majority view of the Commission; and the majority view of the Commission, as I understand it, was to look more towards the environmental aspects further than the development aspects, which is the same conflict that exists in all the issues with water.

The main issue, as I understand it, that has come up is some concern on the part of states and water officials out West about what's the possibility of creating a water commission by watershed systems. In other words, a governance of water by systems, which is a replay of the same concept, I think, that was thought up twenty-, thirty years ago. States generally have a resistance to that. In the area of water, whether it be a state, whether it be parts of a state, or a county, and so forth, has a tendency to be very parochial, and any attempts on the part of the Federal Government to create commissions to allocate and manage water I think, at least this point in time, is doomed to failure, because you've got those competing interests.

There are commissions that are successful—well, I could say partially successful—compact commissions that are set up for apportionment of water and so forth. But one could argue that in most instances they have not been very successful because states wind up suing each other anyway. So that was not met with open arms by the states and by representatives of states' water interests.

Generally, like I say, I've gone about my business, not worrying about the Water Commission. I think it'll evolve by itself. My staff has had major input into it. They've sounded some things off of me, and we have provided some comments. But the Assistant Secretary for Water and Science has been more engaged in that Western Policy Review Commission.

My approach to it and my thought was that I've got to turn my attention to the workings of the Bureau, to issues that are immediately facing me and facing water users out West, and I did not want to spend too much of my own personal resources engaged in following the workings of a commission where it was questionable what the utility of the report was going to be or not going to be. Only time will tell whether that exercise was an exercise in futility or not. It's just a conscious decision. It's not to say I didn't stay on top of the debate that was going back and forth. I was very aware of that. I even, I think, made a presentation before the commission. But I've been down that road before.

Secretary Babbitt's Notification to California of the Need to Limit its Use of Colorado River Water

- Storey: Back in December, after the policy team meeting in Las Vegas, Secretary Babbitt addressed the Colorado River Water Users Association, and as I understand it, in effect put them on notice that California was going to have to live within its 4.4 million acre foot allocation. Subsequently, in March or April, I think, I was at the American Bar Association Water Conference in San Diego for a little presentation, and I think, in effect, the state engineer—I don't remember his title in California—said, well, they thought could get down to that in fifteen years or so. I'm wondering how Reclamation has been involved in all of this, from your perspective.
- Martinez: Well, that debate over that issue, or the discussion over that issue, is still ongoing. Just last week, I saw an article where the Secretary has again commented that, if California doesn't get their house in order, he's going to exercise his administrative prerogatives. The issue now resolves over Coachella and the Imperial Irrigation District—who gets what water?

My involvement in working with issues dealing with Westwide water issues and the Bureau of Reclamation in its involvement on these issues, I have to make a conscious decision, given the time constraints I have and my tenure as Commissioner of Reclamation, what issues to get involved in and what issues not to get involved in. If I try to keep my hand deeply involved in every issue, I'd get nothing done. So there's some issues that I have not personally taken the lead on, that the leads have been take by either the Secretary or his counsel or by the Assistant Secretary, and certain issues that I've taken the lead on. You know, the Secretary says, "Mr. Martinez, you take the lead here." It has to be done, because there's not enough time in everybody's day.

On California issues, dealing with the California Bay-Delta, I have not gotten too involved in that, nor the Republican River issues. On the Lower Colorado River, my involvement has been, as it relates to these issues, is to provide, at the appropriate time, my advice and input to the Secretary and the people that are working on a day-to-day basis on this issue. My experience is based on thirty years of this experience and being a member of a commission that oversaw the activities, on the part of New Mexico, for the Lower Colorado River.

So the issue about the more aggressive role by the Secretary, while I cannot claim credit for the fact that I was the person that convinced him on that, I expressed to him that I viewed his role on the Colorado River somewhat similar to my role as a former New Mexico state engineer, and that ultimately he had the authority to make a decision, possibly appealable to the courts, and that sometimes

you can't wait for a competing interests for a limited resource to come to the table, because in some cases it never will come to the table. So you either want to do one of two things. Either you take an aggressive role and do something or you just sit back and say, "I'll wait till they do something," and hell freezes over.

It'll be interesting what will have occurred in this issue by the time my tenure is over and this material is made available, but I think that, in my particular situation, if I'd have been involved and the Secretary would have given me the authority, I probably would have been a lot more aggressive, aggressive from the standpoint that I think you can bring the parties together or else make the decision. The issue is to get the parties in a position where they believe that you're fair and you'll make the best decision you can, given the facts before you. But I draw just on my experience as a former state water official. When issues came before me, I did not have the luxury of waiting a year or two. You had to act, and sometimes you'd make a very conscious decision on what you had to do, but you had to act and move forward with it. But that's just the way I would operate.

Central Arizona Water Conservation District Suit Against Reclamation Regarding Central Arizona Project Repayment

Storey: What about the lawsuit that the Central Arizona Water Conservation District has brought against Reclamation? Have you had any involvement in that, regarding the repayment?

Martinez: I get briefed on the issues, but, again, that's not another issue where I've taken the lead. But I get briefed on it. But I am aware that one of the main areas of contention is the question of how much money the District really owes the Federal Government, and I think they're somewhere around \$200 million that they're apart. The issue is being litigated now. We'll see what a judge comes up with. I do know that I guess they were pretty close to having a settlement a few years ago, the year before I came in as Commissioner of Reclamation, but for whatever reason, the Secretary deemed fit not to sign it, and now we have litigation ongoing.

Water District at Central Arizona Project Had Reclamation's Budget Scrutinized by the Congressional Delegation

Where it has impacted me as Commissioner of Reclamation was in the fact that the District—and which I think is their right to do what they deem fit. The District was quite concerned and not too happy about the Bureau of Reclamation and the Department of Interior and sought to express its frustration through its delegation in getting the Bureau of Reclamation budget for activities in that

project down there cut. So for two years—not this year. I think we’ve gotten past that. The Bureau of Reclamation’s budget was scrutinized extensively with relation to its activities in the Central Arizona Project.

But I didn’t take it personally, because the way I viewed it, the District had its options to exercise what it thought it needed to do. And if the thought that being aggressive and trying to scrutinize our budget and make us accountable is the way they ought to do it, then fine. It got my attention. You don’t have to hit me with a 2 by 4 over the head to catch my attention. But we’re just going to have to see how this works itself out.

Reclamation *Had* to Incur Costs Related to Endangered Species

The issue there that concerned me was that there were certain costs that the Bureau of Reclamation *had* to incur, and continues to incur, to try to comply with the biological opinion for fish in the system. Now, I’m not an expert at that, but I do know this much, that for *us* in the Bureau of Reclamation *not* to move forward to comply with the Endangered Species Act or *try* to address the concerns of the Fish and Wildlife Service, for *us not*, in the Bureau of Reclamation, to try to address those issues would potentially get us into a situation where either we get sued by an outside group or we get some kind of action by the Fish and Wildlife Service which restricts the ability of the Bureau of Reclamation to provide water or to operate that project.

I engaged, and continue to be engaged, to make sure that expenditures are made for the purposes of endangered species associated with that project, not withstanding the desires of the irrigation district not to have those funded, because I come from the type of experience that says you’re better off having some handle on the outcome of a proceeding rather than deferring to a judge.

". . . 'If you can handle it out of the court, handle it, because *ultimately* a lot of these issues . . . get to the U.S. Supreme Court.' He was referring to a case in New Mexico that lost to Texas on the Pecos River, and his favorite saying was, 'The Supreme Court is not necessarily right, but they are supreme.'"

I think I’ve told you this before. I worked for a gentleman that went to his grave thinking this way, and he basically gave me this advice. He said, “If you can handle it out of the court, handle it, because *ultimately* a lot of these issues, interstate issues particularly, get to the U.S. Supreme Court.” He was referring to a case in New Mexico that lost to Texas on the Pecos River, and his favorite saying was, “The Supreme Court is not necessarily right, but they are supreme.”

And the issue is, sometimes you have a judge that might not necessarily be right, but he has the authority. So what I try to do, in the way I handle things, and try to express to folks that I deal with, is just try to settle them and address these issues, because if we don't do it, somebody else will.

I've been in the position, as a former state engineer, where I had to be in that position of making those decisions, and I much would have preferred that they worked the process through.

Storey: And that was Mr. Reynolds, right?

Martinez: That was Mr. Reynolds, yes.

Storey: Well, we've used up two hours again. I appreciate your taking the time with me, and I'd like to ask you again whether, after you leave office as Commissioner, the information on these tapes and the resulting transcripts can be used by researchers.

Martinez: That's fine.

Storey: Good. Thank you very much.

Martinez: Thank you.

END TAPE 2, SIDE 2. SEPTEMBER 18, 1998. END OF INTERVIEW.
BEGIN TAPE 1, SIDE 1. FEBRUARY 10, 1999.

Storey: This is Brit Allan Storey, Senior Historian of the Bureau of Reclamation, interviewing Commissioner Eluid L. Martinez, of the Bureau of Reclamation, in his offices in the Main Interior Building, at about two o'clock in the afternoon on February the 10th, 1999. This is tape one.

Today I'd like to talk about international affairs and any initiatives that Reclamation or you have in that area.

Martinez: You want me to just take off?

Storey: Yes, if you would. You particularly, I understand, were active with Spain and Mexico right now.

International Affairs

Martinez: Well, when I came on as Commissioner of Reclamation, it appeared to me that the activities of the international affairs portion of the organization have been sort of relegated to sort of a non-functioning part of the organization, under criticism not only by—probably as to its proper role by some members of Congress, but also perhaps by members within the Department of Interior or within the Bureau of Reclamation.

My reading of the literature indicates that I guess at one time the international affairs portion of this organization was actively involved in providing assistance and technical support in the construction of water projects, and my understanding is that we were engaged in working with China on its Three Gorges Dam.

Whatever the reasons for the decision, the decision was made by the Administration, Commissioner of Reclamation [Daniel] Beard, that perhaps it was not appropriate for the Bureau of Reclamation to be engaged in that particular project. I won't go into the merits or the reasons why or why we should or we should not have been engaged.

But at any rate, apparently Commissioner Beard sent a message to the international community that the Bureau of Reclamation was no longer going to be engaged in promoting or assisting construction of large water projects, principally, i.e., dams. I think the literature around that time, which probably would have been the international literature around that time, which would have probably been '93, '94, indicated some concern on the part of the international community with the statements that the Commissioner Beard had made, I believe, to a meeting of the International Organization of Large Dams.²¹

At any rate, when I came on as Commissioner of Reclamation, I realized that we needed to continue to have active dialogue with the international community as it related to water resources management, and that if these other countries were going to undertake water development projects, maybe they could learn from the experience that the Bureau of Reclamation had had, and the experience the United States has had in developing its projects in the past.

So I set about and giving some speeches in international forums that indicate that the Bureau of Reclamation was still a viable organization, in my opinion, was still going to be involved in dealing with water resource management issues, which might involve appropriate development of water, water development

21. ICOLD—International Commission on Large Dams.

projects, but that if they were going to be developed in the future in the United States, they were going to be as a result of sort of a consensus-driven approach, rather than a unilateral approach to developing water projects.

That being said, I sort of, I guess, sent the message to the international folks to begin to make their contacts with international community, to again engage the international community and see what services the Bureau of Reclamation could provide. As a result of my speeches in Santiago, Chili, in 1996, I believe my speech in Florence, Italy, in '97, we began to generate some interest on the part of international folks of engaging again with the Bureau of Reclamation on issues principally having to do with water conservation, water use efficiency issues, and some desalinization projects, and, generally, just to begin a dialogue again of working with the Bureau of Reclamation on their individual issues that they had with water resources development initiatives in their country.

Activities with Spain

I believe it was in April of 1997 that I traveled with a delegation to Spain, to again sign a memorandum of agreement that we have with the country of Spain. There had been a previous memorandum of agreement with the Bureau of Reclamation working with their water agency in Spain, called CEDEX,²² we had a memorandum of understanding where we would share information generated by our respective organizations and assist each other in water management, water development issues.

I signed the memorandum with my counterpart in Spain. Basically what we're providing assistance at this point in time is more along the environmental area in terms of how to deal with the environmental complexities of operating projects and specifically some of the core work with them is monitoring water quality in reservoirs.

The international community is also beginning to deal with the same environmental issues that the United States has dealt with in the last couple of decades, and that's how do you operate your projects with competing demands for limited water resources and the demands being placed by concerns for environmental restoration.

22. Centro de Estudios y Experimentacion de Obras Públicas (CEDEX) was created within the government of Spain in 1957 to provide multidisciplinary support in civil engineering technologies, construction, and the environment to public and private entities.

So that's our program, how we engage with Spain and continue to engage with Spain. I returned with another delegation in October of 1998, and again we continued to have dialogue with the water officials of Spain, to see where we might be able to mutually work with each other on water issues.

One of the issues that we have identified as a potential for the Bureau of Reclamation to provide some assistance to the country of Spain in preparation of emergency evacuation plans for the reservoirs. They are beginning to deal with that issue about how to deal with potential catastrophes that they might be faced with. What might appear to be something that one would say is a given is that each reservoir, large reservoir, that if something happens to create a release of water or failure of a part of the structure, what kind of plans are in place to evacuate people downstream and to deal with the emergency? One might assume that these things are commonplace, but they're not. Some countries are not that far along. In particular, Spain, they're beginning to explore that area of engagement, and we're working with them.

Storey: I believe we also have some initiatives with Mexico?

Initiatives with Mexico

Martinez: Well, Mexico primarily—we continue to have initiatives with them. I've been down to Mexico twice, met with my counterpart, the Chief or the Director of their national water agency in Mexico City. They are concerned primarily with several issues. One is continuing concerns that they have with water delivery in terms of water quality at the border between the United States and Mexico on the Colorado River.

But the particular issue from an international affairs standpoint has to do with our continuing memorandum of understanding with them or agreement for what we will provide on a cost-reimbursable basis, technical assistance in areas that they seek our assistance. For instance, my understanding is we're doing work with them on dam safety issues, and we would hope to engage more with Mexico on issues dealing with underground implementation of water conservation and water efficiency uses on some of their agricultural areas.

There's been some interest on the part of irrigation systems or users of irrigation water in Mexico to avail themselves of Bureau of Reclamation expertise, practical expertise, and how to implement water conservation measures, and they're working through their national water agency in Mexico to see if we can engage and help them, on the ground, provide some assistance.

Technical Service Center and International Visitors

My understanding is that we continue to have delegations from different countries coming through our Denver Technical Center for training in specific areas having to do with water management, modeling, infrastructure, and so forth. I understand that unless I'm misquoting the information I got yesterday, that last year we had—I can't recall whether it was 70 or 170 different groups that have come through the Technical Service Center in the last couple of years, availing themselves of the information.

I know that the Bureau of Reclamation is involved, to a certain extent, in a workshop that will take place in Tucson, Arizona, I believe, in the next several months, where a Chinese delegation is coming in, including, I think, a very high-ranking Chinese official, to deal with issues of water conservation and water use efficiency. I understand it's going to be attended by some very high-level individuals from the United States and representatives of the United States, including, I believe, the Vice President. So we continue to be engaged in these issues.

Desalinization and Reclamation in the Middle East

The other area where the Bureau of Reclamation continues to assist in the area of helping other countries in their water resource management issues, development issues, is desalinization. My understanding is that we continue to provide technical support and support in general in desalinization issues in the Middle East.

Storey: So we're round and about, but not a lot of people, I gather. Maybe a total of forty-five, thirty-five, fifty people, something like that?

Martinez: Well, in terms of the international affairs unit, or that portion of the organization, that's here in Washington [D.C.]. I view that as an organization that facilitates the other parts of the organization I'm talking about, the organization of the Bureau of Reclamation, of providing services. In other words, a lot of the technical support and training that's done for the international affairs programs is not done by the international affairs unit in Washington; it's done by the Technical Services Center in Denver. And a lot of the support that we send out in terms of manpower or technical support to other countries, some of it is drawn from our regional offices and so forth.

What the unit basically here in Washington does is sort of acts as a liaison and official paper-shufflers, for lack of a better word, of putting together the proposals, the projects, and making sure that services are delivered that are necessary by the parts of the organization in actually implementing whatever agreements we reach with other countries.

Storey: I wanted to talk more also about management practices for irrigated agriculture. You talked about that in Fargo, North Dakota, in '97, I think. And some of the kinds of issues that come up are more efficient water use, cost-effective irrigation, restoring aquatic environments. But there don't seem to be a lot of incentives for the farmers to move in those directions, and I wondered how you looked at these issues.

Water Conservation

Martinez: Well, there are certain parts of the United States where it's in the farmers' interest, because of limited water resources, availability, in other words, where there's insufficient water in the streams to meet their demands for irrigation, that those farmers implement water conservation or irrigation methods that stretch that limited water supply.

That being said, in those parts of the United States, farmers, in my opinion, are doing everything they possibly can to make sure that their limited resources that gets to their headgates is used to the best of their ability in terms of growing their crops. So that kind of water conservation initiative on the part of the farmers is incentive-based, because nobody has to come and tell them, "You need to conserve more water." Okay.

When we get into a situation where the farmer has available to him the amount of water necessary for him to grow his crop, in other words, where water is not a limiting factor, the physical availability of water is not a limiting factor, then in some cases farmers *can* implement irrigation measures to reduce the amount of water necessary to be diverted to grow their crops. In other words, instead of taking more acre feet per irrigated acre out of the river, maybe if they have improved efficiencies and ways of irrigating on their farms, they would only need to take three and a half acre feet, which would mean that a half acre foot per irrigated acre flowing down the river that wouldn't have otherwise been taken.

In that case, you need to have a different kind of incentive, I think, to get the farmer, the irrigator, to reduce his amount of water that was taken from the headgate on the river. There's a couple of ways to do that. One, it can be done

through a regulatory approach, and when I say regulatory approach, I'm talking about basically a state perspective. If an area is adjudicated, the water rights are adjudicated or permitted, so the state water official, as a condition of the permit, or the court, as a condition of the adjudication, will quantify the amount of water that can or should not be taken from the river—a duty of water diversion requirement, and require metering. Therefore, the amount of water to be taken from the river will be less. That leads to water conservation, not necessarily as a great initiative on the part of the farmer, but as an initiative on the part of the state regulatory official or a court in an adjudication procedure.

Where water conservation, I think, in a system that has water available to it, where the farmer can cut down on the amount of water available or necessary for him to grow a crop, where you have competing demands for that water, such as endangered species or environmental concerns downstream, the incentive to the farmer to conserve water, I think, rests on the fact that if the farmers or the farming community doesn't step up to the plate to try to reduce the amount of water necessary to be diverted from the river, then they find themselves in litigation or some other forum where they could lose control over how much water they can or cannot take. In other words, some Federal judge or some judge saying, "By decree, this is how much you can take or not."

So you'll see some districts across the West beginning to realize that it's in their interest, in systems that have competing demands, to do what they can to position themselves as wise stewards of the use of water, such that if they find themselves in court or in adversarial proceedings, they can represent their position as being wise users of water or good stewards of the water resource, and that they're doing everything possible to make sure that they're not taking any more water than they should be. So there's that incentive.

Another incentive that exists in water conservation is to the extent that a state water law allows for conserved water to be sold, and moved from one location to another. To the extent that an irrigator can reduce the amount of water required to grow his crop or to sustain his economic livelihood in terms of irrigating the farm, to the extent that he can reduce the amount of water necessary and still have a certain entitlement of water that he can divert either from the groundwater or from a service supply, that can make that incremental amount of water available on the marketplace, which is water conservation.

The problem with that is that it's easier said than done, because you have to actually quantify the amount of water that's actually saved. Sometimes that becomes more difficult than it first appears, for the reason being that you need to

look at the system. If you are a farmer in a system that imports water, going back to sort of a concept of water that's imported to a stream system and water that is native to a system and heading toward its return flows, if an irrigation district takes water and has historically taken water from a watershed, from a stream, and the place of use of that water is not constituted as a source of return flow for somebody else in the same system, then one could consider the amount, the total amount of water diverted from the river as being subject to 100 percent consumptive use. So that amount of water is not necessary to grow the crop that is released by water conservation [and it] could be sold or transferred for some other use that would find its way to the marketplace.

In a system where return flows are available from downstream from the use upstream, it makes it difficult for an upstream user to say that—and especially if the upstream user is a junior water right and your downstream user is a senior water right, to be able to find himself in a situation where he could market a water right, even if he reduced the amount of water he needed, because the incremental amount of water would be, really, somebody else's water right that it had depended upon or which they would depend on, because they were in the line of priority or return flow scenario downstream.

". . . there is an incentive out West to conserve water on the part of the farmer . . . to firm up his water supply; . . . to make water available for competing demands, . . . water . . . marketing. . . ."

So it depends—I guess what I'm trying to say is that you cannot apply one approach to water conservation incentives that might result from water conservation Westwide. You need to look at the system. You need to look at the individuals. But that being said, there is an incentive out West to conserve water on the part of the farmer; one, to firm up his water supply; two, to make water available for competing demands, such that his water right would not be in peril, or at least that he retain as much of the water right as possible; and, three, to the extent that the water conserved is available for marketing. It could be marketed if there's the incentive there.

What Should the Federal Government's Share Be When Water is Sold

Now, the issue goes a little bit further than that. In Bureau of Reclamation projects, when an irrigator proposes to move to conserve water or to sell water, the issue that rises its head is, should the Federal Government receive a proportionate part of the revenues generated by the sale of the conserved water or the transfer of water from one user to another, given the fact that Federal taxpayer dollars in

some cases, most cases, built a greater—financed a greater portion of the building of these water projects.

That's an issue that comes up not only with the conserved water, but just the transfer of water rights in general, and the policy that we have developed and we continue to refine is that in order to have an incentive for the farmer to either move his water to a new use or to conserve water to release water for a new use, there has to be an incentive, a monetary incentive, an incentive on the farmer's part.

Therefore, we have taken a position which is set forth in our contracts with the city of El Paso and the irrigation districts in the El Paso area out of the Lower Rio Grande Project, that basically sets up a scenario where the marketplace will dictate the value of water moving from ag to M&I purposes.

Once that value is paid by the marketplace, most of the revenues generated from the sale or the movement of that water right goes to the farmer, with a certain percentage of it going to the irrigation district to support its activities, to continue to support its activities, because what happens is, as you take irrigated land out of an irrigation district, the maintenance of that district and fixed costs fall back on a less number of irrigators, less land, in order to make sure that whoever's left in the system doesn't pay disproportionately. Then you have to have a revenue stream coming into the district, from the sale of water rights that are moved off the district, to compensate for that.

Then there's a percentage that goes to the Federal Government, that goes back to the Federal Treasury, and I can say this agreement that the Bureau of Reclamation with the El Paso Irrigation District entered into on the Lower Rio Grande Project, I think, is going to set sort of the tone for where I think Reclamation should be in the future.

A long answer to a short question, but there are incentives.

Storey: It's a complex topic. Another topic that's of interest is drought and how we get involved in planning for drought.

Drought Planning

Martinez: Well, it appears to me that Reclamation has a vested interest in making sure that specifically with our contractors of water, that our contractors of water have plans in place to respond to periods of drought—the reason being that the Bureau of

Reclamation has a financial—the Federal Government has a financial *interest* in these projects in terms of a lot of these projects still have repayment obligations to the Federal Government for that portion of the cost incurred for building the irrigation component of these projects.

Therefore, it's in our interest to make sure that these districts don't find themselves in a situation where they go belly-up and are not able to repay those costs. It's certainly not in our interest to have projects out West that go belly-up. Okay. So, that being said, it's in our interest to work with irrigation districts, to prepare them so they can make use of all available resources to address their needs in terms of drought. That's one area that I think is a given.

Some districts go to groundwater. Other districts cut back on irrigated acreages and so forth. Our activities at water conservation is one activity that one could say that working with irrigation districts to improve water conservation, which means being able to grow a crop with less water, because you would lose less of it in the transmittal process to the plan, to the extent that all these activities take place and are effective in times of drought when you have less water supplies, you make that water supply go a little bit further. So that's how the Bureau of Reclamation gets engaged in making sure that we protect the interest of our contractors and the interest of the Federal Government in times of drought.

But, however, the Bureau of Reclamation is also engaged in, as a result of a congressional law passed by Congress, which invests in the Bureau of Reclamation authority to assist states, Indian tribes, local governmental entities, in times of drought, in terms of providing resources and expertise in helping these entities prepare—

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Martinez: – prepare what we'd call drought contingency plans. In other words, what will the entity, whether the state or local governmental entity or the tribes, put together plans for how to deal with future droughts.

We also have authority to assist these governmental entities in physical works to try to alleviate present drought conditions; i.e., given financial resources, we might be able to fund drilling of an emergency well or laying of emergency pipelines to get water from Point A to Point B during the drought. Congress not only has authorized us to do this, but on occasion appropriates money for the Bureau of Reclamation so that we can use it to help these entities.

My understanding is that we actively engaged in California with the droughts they had in the eighties. In the last three years that I've been Commissioner of Reclamation, we've helped, I think it was in '96—I believe it was, the droughts in Arizona, New Mexico, and Texas. This last summer I had a request from Oklahoma, from Texas. If things keep going the way they are in terms of snow in the watersheds this spring, we might have drought conditions in some parts of the American Southwest again.

So, that is an issue on the part of the Bureau of Reclamation that is authorized by Congress, that allows us to engage with these governmental entities, to assist them in planning for future droughts, how they're going to respond to them, and immediate assistance, given drought situations. The way that is triggered is that either a governor of the state or the governing body of a tribe writes a letter to the Commissioner of the Bureau of Reclamation, seeking assistance under this drought legislation. If the Commissioner finds that a drought, in fact, is taking place, then he moves forward to provide assistance, provided that the funding is there and that it's the appropriate type of assistance.

Storey: What about our flood control functions? Sort of the opposite end of the spectrum.

Reclamation and Flood Control

Martinez: Well, I guess our flood control functions specifically are built in, generally built into our projects as ~~a purpose or the reason—the purpose as to why~~—one of the purposes as to why the project was built in the past, would have been built. In other words, my understanding—and you're probably more versed than I am on this issue, but the original Bureau of Reclamation projects built under the 1902 Act were originally constructed as single-purpose projects which basically were ~~irrigated~~, to impound water for purposes of irrigation.

Then, over time, Bureau of Reclamation projects were evolved with different objectives in mind, and one of those purposes was for flood control, typical Hoover Dam on the Colorado River. My understanding is that [the] primary reason for that dam is for flood control purposes. And other purposes are hydropower generation, storage of water for irrigation purposes, for recreation and so forth.

So, the Bureau of Reclamation projects that are constructed for flood control purposes are part of the enabling legislation that says the project is authorized for these given purposes—one would be flood control. So *that* being said, those projects or those reservoirs or those dams have incremental capacities

behind them that are reserved for flood control purposes, and we operate those projects to deliver water for irrigation purposes, municipal purposes, but also reserve capacities behind the dams and operate those projects in order to make sure that there's a flood control pool in case you get flood waters in there that you don't necessarily hold back all the water, but at least you hold back a great slug of the water so that the damages downstream are minimized.

But that being said, it would appear to me that some of these other projects that sit upstream of developed areas, the purpose might not have been flood control. To the extent that you have a dam that impounds water for a single purpose, which might be irrigation, but the reservoir is not full behind that dam, and you have a sudden downpour, the dam will hold water back so it provides a flood control benefit that is inherent in the structure being there, not necessarily inherent upon the fact it was authorized for the purpose of flood control.

So it would appear to me that we have projects out West that were designed to provide flood control benefits as part of their authorization and functioning, and other dams that are single purpose but still serve the purpose of, depending on how much water is behind the dam at any given point in time, of holding some water back that will assist in flood control issues.

Storey: Good.

Folsom Dam, Sacramento, and Flood Control

Martinez: For instance, in California, in the last three-, four years, Folsom Dam, which is immediately upstream of Sacramento, has been instrumental, as well as Shasta Reservoir, in regulating flood flows of the Sacramento River and its tributaries to prevent major flooding in the Sacramento area.

The function of the Bureau of Reclamation dams are multiple purpose in nature. When I say that, their primary purpose, most of these dams, primary purpose is not flood control, which is a little bit different than the [U.S. Army] Corps of Engineers, where the Corps of Engineers' primary—a lot of those are primarily flood control, with some recreation and some permanent pools. In other words, what I'm saying is that, a flood control structure, a dam, a flood control structure, its purpose is to sit on a watershed, hold back large flows, and release the water behind, that is impounded behind the reservoir, through the outlet works at a reduced capacity, and evacuate the water behind the reservoir.

The Soil Conservation Service, the old Soil Conservation Service, built a lot of flood control structures out West, earthen dams on arroyos and tributaries

and so forth. Those flood control [structures] whose purpose is to hold back high flows and evacuate that flow within ninety hours back into the watershed. So, therefore, you'll drive by these structures, and probably most of the time there's no water behind them unless you have a sudden storm and all of a sudden the structure fills up with water behind it, prevents flooding downstream, and then the water is evacuated.

Corps of Engineers' facilities, for the most part, serve that function, but they also have permanent pools authorized in their authorizations for projects that usually allow recreation, mainly recreation, to take place. So I guess where I'm heading is that there are several agencies, Federal agencies, that deal with flood control issues.

Storey: One of the things that seems to be coming up with some regularity is concerning Congress, that Reclamation has what they're terming, I guess, "mission creep."

Concerns in the Congress about Mission Creep at Reclamation

Martinez: Well, I think that there are certain members of Congress, like certain members of our constituencies out West, that are concerned about where the Bureau of Reclamation is heading in terms of its mission. And I think that was in part, I think, brought upon [Reclamation] by comments that the organization made, which I think, in retrospect, probably should have been addressed a different way.

I think that the genesis for that comes from, I believe, our *Blueprint for Reform* that was prepared in 1993-, '94, that basically sent the message that the era—that the mission of the Bureau of Reclamation of constructing water projects had come to an end, and that we had changed our mission from builders of water projects or developers of water resources, to the management of water resources. That appeared, to me, to send a message that we're making an abrupt change. There were folks that were supportive of that. When I say "folks," I mean some of our constituency groups. Some of them were not. And there were some congressmen up on the Hill that were supportive of that, some that were not. It's fueled the debate as to what the future is, what the future holds for the Bureau of Reclamation.

From *my* perspective, I think we have always been—the Bureau of Reclamation has always been managers of water. There's nothing new or nothing alarming when the statement is made that we were becoming more and more involved in water management, because we always have been managers of water. I think where the concern was raised on the parts of certain of our stakeholders

was the inference was made that the Bureau of Reclamation would become more of a manager of water from an administration of water—in order words, from the regulatory perspective on how water will be used.

As I think I've explained to you before, we probably discussed this, is one can deal with water management from two perspectives. The farmer manages water. In managing that water, he makes conscious decisions of when he's going to irrigate, how he's going to irrigate, how he's going to apply that water, what crops he's going to grow, how he's going to lay out his fields, and so on. It's water management. What types of canals. That's water management. And I think that the Bureau of Reclamation has been doing that, and farmers have been doing that for years. I mean, when the Bureau of Reclamation builds a project or designs a project, they designed it to optimally use the water supplies that they thought were going to be there. Water management.

The other side of the coin of water management is water administration: the concept of who uses the water, when it's used, who has the water rights, and for what purpose. That traditionally has been viewed as within the realms of the states. As a matter of fact, the Bureau of Reclamation's water rights out West, under the 1902 Reclamation Act, basically says that Reclamation shall acquire water rights under state water right proceedings, and will abide by the state water law.

So when you send a message that a Federal agency is now going to turn itself to being the best water manager in the world, it sends a message that could be read as, "We're now going to start infringing upon those areas that we have not in the past." I think that's where the concern was.

What I have tried to do in the last three years is allay those concerns. We will continue to abide by state water law, at least, and deal with states like we have in the past. We are not out here to create a new bureaucracy on how water should be used. But there are still some parts of our constituency groups out there that still, in the back of their mind, are concerned where the Bureau of Reclamation is going to go on this issue of water and water management, the question of whether we're going to want to redirect water through the operation of our projects in order to meet competing water needs at the expense of rights that they have exercised in the past. So there are those folks that would say, "Where is the Bureau of Reclamation heading?" And, "They should not head there." They might say that's the mission creep that they should not be engaged in.

The other area has to do with the fact that we're engaged in wastewater Reclamation projects out West, principally with the municipalities. We're engaged in building rural water distribution systems, principally in the Dakotas for Indian and non-Indian use of rural water. There are some folks that basically say we shouldn't be doing that.

We also, in our strategic plan, basically say we will become more and more involved in trying to deliver our services, our trust responsibility to the tribes. Some folks say, "No, you need to look after your contractors before you start looking at other things."

So, my answer to the question, to those that say that the Bureau of Reclamation is undergoing mission creep is twofold. One is, we're not doing anything that Congress has not authorized us to do or funded us to do. So if we engage in drought assistance, if we engage in wastewater reviews, if we engage in rural water distribution systems, it's because those projects have been authorized and funded by Congress. Not everybody in Congress might agree that that's what we should be doing, but at any rate, it's been funded.

"We need to operate those projects to protect the interests of the [water] contractors, and meet Federal law. . . ."

As long as we operate and maintain our facilities out West, we have to be engaged in making sure that we operate and maintain those facilities consistent with state and Federal laws. Some of those Federal laws have to do with the Clean Water Act, endangered species concerns, and so forth. We need to operate those projects to protect the interests of the [water] contractors, and meet Federal law.

And maybe we haven't done as good a job as we should have, and I hope to turn my attention to over the next two years, to try to impress upon the water user community out West that as the Bureau of Reclamation engages more and more in environmental issues, it's not because all of a sudden the Bureau of Reclamation finds itself, for the lack of a better word, "turning green," but that there are Federal laws that require our projects to be operated in compliance with, and those Federal laws basically set some standards and some criteria that we've got to be responsive to.

If we undertake environmental studies and environmental initiatives, it's in order to comply with those laws, in order to enable us to deliver the services ~~and~~ to our contractors of our water out West. And if we're constrained in the ability to deliver those services, it's not on something—it's not a decision I can make

unilaterally, it's a decision that I have to make in the context of the Federal laws and the constraints placed upon the Commissioner of Reclamation to operate these projects by those laws, not only Federal, but state laws.

So, that, I think, is, in my opinion, sort of the controversy that sort of has permeated itself in the last few years about "mission creep" and where we're heading. Ultimately, hopefully, we'll come to some kind of focus at least in the next few months, because there's some discussion that a couple of members of Congress would like to see some oversight hearings this spring on the Bureau of Reclamation activities, to see whether, in fact, they should be doing what they're doing, and under what funding arrangements.

Though Our Appropriations Are Stagnant, Demands on the Program Are Increasing

My concern is, as Commissioner of Reclamation, my concern is not what we're doing, it's how we're going to fund it, because we have increasing competing demands for a limited Federal piece of the pie. In other words, our budgets are not going up, our project appropriations are not going up, our requirements in terms of programs that are being placed upon the Bureau of Reclamation are increasing.

Wastewater Reuse Program

For instance, under the wastewater reuse program, what was started out in 1992 for wastewater reuse projects in California is now, I believe, somewhere around twenty-three authorized projects. The four projects in California require a Federal expenditure, I want to recall, a little over 300 million dollars. We still have most of that to fund, much less beginning to fund some of the other projects or construct some of these other projects that have been authorized. And in our budget we have carved out about 40 million dollars a year to apply towards wastewater reuse projects.

Well, you can see that if you've got four projects that are going to take most of that 40 million dollars over the next five or six years even to finish those projects, and you've got eighteen or twenty more waiting on board to get constructed, and you've got another ten or fifteen cities out West wanting to get new projects authorized, in the absence of new resources being brought to the table to the Bureau of Reclamation, it's going to be a very challenging, if not impossible, program to administer. That's the wastewater reuse. We've got the

same problems with our projects having to do with rural water distribution systems.

Storey: Mni Wiconi.

Rural Water Distribution Systems and Reclamation's Budget

Martinez: Mni Wiconi being one. Mid-Dakota being another. Fort Peck Indian Reservation issues. Lewis & Clark is another one that's being proposed. Five or six that are floating around.

So I would view the—there's two ways to look at it, of the issue about this concern about mission creep or what the Bureau of Reclamation should be doing it or not. One could view it as—that hearings or drawing the attention of Congress and the Administration on this issue cannot be in the best interest of Reclamation because it's going to draw attention to the fact that maybe they shouldn't be doing this kind of work and somebody else should be doing it. Even if your mission has ended, maybe you ought to just cease as an agency.

I don't view it that way. I think that the services that the Bureau of Reclamation provides to its constituencies is a service that I believe the Bureau is uniquely positioned to provide. I don't think any other Federal agency can provide that service, and I think our stakeholders probably support me on that. I view these hearings as hopefully an intelligent discussion about *if* the Bureau is going to continue to be engaged in providing these services, we need to identify how we're going to bring the necessary funding to the Bureau of Reclamation to be able to accomplish the objectives that we're placing on it, the mandates we're placing on the Bureau of Reclamation.

And if the Bureau's not to be the one that's going to be working in the wastewater reuse projects, then we ought to know about that and concentrate our efforts on other activities that Congress feels we should be concentrating on. None of the constituency groups that I've run into across the West have said, "We don't believe the Bureau of Reclamation should cease to exist, because we believe it has a vital role, but we believe that role perhaps should be supporting us a little bit better than it has, instead of providing other constituency bases." So that's sort of where we're at.

Storey: You've mentioned one of the other topics that I'm interested in: Native American issues that we're dealing with right now. What's going on and how is it evolving?

Native American Issues

Martinez: Well, the Bureau's involvement in Native American issues, I guess we consider principally one of two ways. One is, our support and involvement on behalf of the Federal Government in those instances out West where water rights are being adjudicated or settlements are taking place, trying to quantify Indian water right issues, Indian water rights, so the Bureau of Reclamation is represented, in most of the Federal negotiation teams, they're negotiating water right settlements involved in litigations out West, a certain expertise we bring to the table. And I think that will continue.

The other activity where the Bureau of Reclamation is involved in, and we become more and more involved in that, is in trying to assist the tribes [to] develop their water resources that have been quantified or their water resources on their pueblos or reservations. I'll get back to that.

Then there is a third instance, where Congress has legislated certain Indian water projects be constructed and the Bureau of Reclamation has been charged with it, like in Arizona, the Central Arizona Project, the Gila component. We're working with the Gila Indians, making sure that their portion of the project is implemented and funded and constructed. So there will be specific legislation that will say, for a given project, what the role of the Bureau of Reclamation will be on an Indian water right project.

But let me go back to what I mentioned a while ago, that the Bureau has a Native American Affairs portion of its operation, which is a regular, ongoing operation in the Bureau of Reclamation, that's targeted, of course, providing support to the tribes in their water resource management and development issues. And it's headed by Chris Kenney. The office is headquartered out of Washington, and each of the regional offices has a liaison that works with the tribes, trying to deliver whatever services we can to the tribal entities and water resources management development.

For instance, things we work with: the plans for drought contingency planning; studies for a needs assessment of what their future water supply needs might be, based on projected growth patterns or future conditions; assessment of existing resources, what resources exist on Indian lands in terms of water and water needs. One of the things that we're beginning to get more and more involved in is the tribes asking us to see if we can provide not only technical assistance but financial assistance to help them build projects.

I've resisted that to a certain extent because, again, it's another situation where you have competing demands for limited resources, but hopefully over the next two years, the dialogue will have taken place as to whether the Bureau of Reclamation is an appropriate agency to help tribes build-out some of their infrastructure, rather than the BIA [Bureau of Indian Affairs] or some other Federal agency, and, if so, whether additional money should be brought to the Bureau of Reclamation, because our resources are somewhat limited in that area.

In other words, for instance, in the Hopi village they had a water quality problem with real bad-quality water, water in their elementary schools. We put in, I believe, a small desalting plant. We worked with the Department of Defense, I believe, if I'm not mistaken, acquired one of their small desalting plants that was used in the Gulf War, I believe, retrofitted it, set it up at that school, and we got water for the kids.

On the Navaho reservation, we put facilities out there where water is pumped with batteries that run off the sun. In parts of the reservation they had no electricity. In the Dakotas, we also have worked with small desalinization plants. In New Mexico we work with a pueblo to help them replace one of their wells that wasn't functioning correctly.

So, those kind of small projects we bring our resources and help the pueblos or the tribes. But when we get into large projects which involve rural water systems and so forth, like in the Dakotas, Mni Wiconi, those basically are congressionally authorized projects that are well over 100 million dollar Federal commitment, and large projects that bring water from one part of the state to another, and we engage in those projects *principally* as, to date, not as building the projects, but in providing *mainly* the revenue source for construction of that project. Because as you're aware, when we engage with Indian tribes, under the laws passed by Congress, tribes can assume certain roles of the Federal Government in conducting businesses affecting Indian tribes.

For instance, this is what they call a 638 contract. If money is appropriated to Federal agency for the purposes of constructing a facility on Indian land, the Indian community can come and say, "Well, we will construct it. We'll enter into an agreement and we will do the construction. We will do the construction supervising, monitoring, the construction work necessary," if they have construction facilities, if they have equipment and so forth, and the Federal agency then, for all practical purposes, becomes sort of a money conduit. We're finding ourselves in some situations that would fit that definition.

The intent of that, as I understand, was to make these tribes self-sufficient, which is probably appropriate. What we have found is that especially in the Dakota projects, is that I think it's unrealistic to think that that can occur overnight. In other words, as you take a tribe, it's got to have sort of a learning curve when it takes a project on, especially a large project, from beginning to end, that there will be a sufficient or contain costs as effectively as if they'd been in the business for years. So one of the things we began to see is—

END TAPE 1, SIDE 2. FEBRUARY 10, 1999.

BEGIN TAPE 2, SIDE 1. FEBRUARY 10, 1999.

Storey: This is tape two of an interview with Commissioner Eluid L. Martinez on February 10, 1999.

So the total costs would—

Martinez: Might be greater than if a Federal agency built it, based on their complete involvement in the process.

Storey: Then I suppose that causes problems with Congress.

Martinez: Well, it causes problems from the standpoint that if you're about to exceed the authorized ceiling for the project in terms of money that it was thought that the project would be built under, and you have to go back to Congress and get an increase in the ceiling, the construction ceiling, difficult questions arise. I think the issue is, at this point, we've sort of convinced ourselves that there are certain inherent costs in trying to help the tribes become self-sufficient, especially as they begin to work in these areas, and I'm sure that one can argue that even with the Bureau of Reclamation, there have been projects where we have overrun our estimates, and we have learned from our past experiences. So I think overrunning cost estimates is something that is not unknown to Federal agencies or even state agencies.

Storey: Of course, one of these Indian projects that's been legislated by Congress is Animas-La Plata. Is that going anywhere?

Animas-La Plata Project

Martinez: I would hope that before I step down as Commissioner of Reclamation, the end of this next couple of years, that we will have brought that issue to resolution. The issue basically has, I think, drag on so long because of concerns on the part of the

environmental community, certain members of the environmental community, not all, that we should not—the United States Government should not be building any more dams.

I think, in a nutshell, if I was to explain why it has taken this long to build this project, I think there's a lot of people telling you there's a lot of reasons that it impacts, negatively impacts the environment; that there's not enough water to fill the reservoir; that it sits on a faulted geologic site; that there's better ways of delivering water to the Indians; that it's going to cause water quality problems.

I think when it's all said and done, in my opinion, the reason this project has not moved forward is because there are certain folks that honestly believe—and I respect them for their beliefs, but they honestly believe that we should not build another dam on any creek or any tributary again, and they will do everything within their power to prevent it from occurring. I think that's the reason why reasonable minds have not been able to come to closure on this issue.

But from the Administration's perspective, we have put on the table a proposal which, if the project proponents find acceptable—they have not found it acceptable to date—subject to compliance with all environmental law, would result in the construction of a dam with a reservoir in the location where the Animas-La Plata original project was being contemplated. It's a scaled-down project in terms of the fact that the Administration proposal, the project would no longer include agricultural water supplies, primarily deal with Indian municipal and industrial water, non-Indian local municipal and industrial water in the Farmington area of New Mexico and the Durango area of Colorado. Like I say, no irrigation component.

As I understand it, the main issue right now in contention is the size of the pool that would be behind the reservoir. The proposal by the Administration is about 90,000 acre feet. The State of Colorado and the project proponents would like to have a larger pool for recreation purposes, somewhere around 125,000 acre feet. And the irrigators in Colorado would like to have some water for small quantities of ag water. If you can come to closure on those two issues, subject to going through all the compliance with environmental laws and so forth, I think you can probably get a project that would have support by the majority of stakeholders and by Congress. I don't think it will ever have the support of that part of the community that is concerned about building dams. I don't think it will ever have that support.

Storey: What is the current status of title transfers now?

Title Transfer Initiative

Martinez: Title transfer was an initiative, as I understand it, that was back in 1993 or 1992, under Vice President [Albert] Gore's [Jr.] initiative to try to reinvent government and reduce the requirement for Federal outlays. Different Federal agencies began to look at parts of their program that could probably be done for less Federal expenditure or be transferred to the private sector or done by the private sector reducing the amount for Federal outlays. Okay?

The Bureau of Reclamation identified a potential savings to the Federal Government by transferring certain of its facilities, certain of its projects, to non-Federal hands, and launched what was called this Title Transfer Initiative. The *intent* was to identify non-complicated projects to be transferred to somebody that's willing to assume the project and remunerate the government for its expenses or its outstanding liabilities. That still existed on these projects.

My understanding is that initially when this proposal went out in 1993 to '94, it might have been '95, anyway, right before I came as Commissioner of Reclamation, over sixty-five irrigation districts across the West showed an interest. Out of those sixty-five, a lot of them lost interest. Now, I've been told—and there's a lot of reasons why irrigation districts sought and were interested in title transfers. Some districts were looking at title transfer because I think they honestly believe—and I think it's appropriate—that some of those projects had better be in private hands and could probably do the job at less cost in terms of operating and maintaining those projects than the Federal Government because of the bureaucracy involved and the costs associated with just getting things done, and that it was in the Federal Government's interest to have these projects taken over by these individual districts, for two reasons, from my perspective.

One is [there would then be] no need for future appropriations to operate and maintain facilities, and the other thing is that the districts would assume future liability for any improvements for work that had been done on structures or the systems that were being conveyed. So where I think that there is some benefit to the Federal Government in transferring certain systems into private hands, irrigation systems it that a lot of our infrastructure is aging, and just like the highway system is aging and requires a massive infusion of dollars at some point in time to renovate it and so forth, the large systems that we built out West at some point are going to need, in my opinion, large amounts of money to bring them up to snuff, just the wear and tear and aging of these facilities, given the fact that a lot of them, I guess, are now reaching somewhere around fifty years of age.

So it would appear to me that it would be, in certain instances, in the Federal Government's best interest to divest itself of these facilities, let those become the responsibility of individual districts or whoever acquires these facilities, provided that most of the entities wouldn't come back to the Federal Government in the future seeking additional money to help them fix the facilities.

So, that was sort of the interest in the Federal Government in transferring facilities, but it sort of identified the fact that the Federal Government would be supportive of transferring the facilities for only those simple projects that did not involve complicated issues. Some of those issues might be projects where operation of the project might be needed for compliance with endangered species issues, or environmental restoration, or trust responsibilities, or interstate compact requirements, or large hydroelectric projects, and so forth.

So, basically, the Federal Government, the Bureau of Reclamation put out a *Blueprint for Reform*—excuse me. I'm confusing myself. this initiative for title transfer, a little Blue Book, in 1995, that set out the criteria that the Bureau of Reclamation would use and the process it would use for title transfer.

The districts, from their perspective, viewed the opportunity to acquire the projects, I think, from two perspectives. One is, they thought that they could—and some of them still think they could take the projects over, operate them at less cost to their individual farmer for maintaining these projects, but there were some districts out there, I think, that felt that—well, they were a little bit concerned and apprehensive as to where the Federal Government was heading in terms of the use of water on these projects, especially because of the fact that they were concerned about the Bureau of Reclamation's perceived mission change and redirecting of water from contractors to environmental purposes. I think they viewed the opportunity to acquire the projects and have control of the projects and the water rights as removing themselves from the oversight of the Federal Government—and the Federal Government coming in and impinging upon their rights. I think those two things were driving the irrigation districts.

But a lot of them hadn't given much thought to it—when they started looking at the issues involved, some districts believed that maybe it was perhaps in their best interest to have the Federal Government operating these projects and responsible for these projects, and it was not in their best interest to take over these projects, especially in some instances where you had dam safety issues.

But that being said, out of over sixty-five entities that first came in in 1995, expressing an interest, we're down to about eighteen that were serious enough

about moving forward with title transfer. Some of those districts chose to work with the Bureau of Reclamation through our framework, to try to come to closure as to supporting legislation that would be sent up to the Hill, that would have the support of the project sponsors, stakeholders, and the Federal Government. When I'm talking about the Federal Government, I'm talking about the Administration, to try to move the project forward.

Other districts were not—and to date are not entirely convinced that some of the conditions that the Federal Government would like to impose on the title transfer, like necessary NEPA²³ studies and what the cost to the farm, to the district would be for conveyance of the project, and other issues. They feel uncomfortable with the government, with the Administration's position, so they went directly to Congress and had legislation introduced, so we have legislation that is working itself through Congress, that goes through the administration process. We have legislation working itself through Congress that is directly introduced legislation. So, that being said, in the last three years I've appeared *several* times, testifying on *individual* bills, and I just appeared last week, I think it was last week, on an oversight hearing in the House on the Title Transfer Initiative.

The last Congress, we were successful in getting *two* projects transferred, one in Idaho and one in Texas. We came close to getting *four* projects through the Senate, that the Administration felt comfortable with, that hopefully would have passed the House, but Congress adjourned and didn't act on these initiatives. I feel optimistic that if Congress can come to an understanding—when I say “Congress,” the House and the Senate come to understanding as to what should be in a bill and the general parameters of these bills—that we'll have three or four, maybe as many as seven projects move to Congress, that the Administration can support, this congressional session, that will sort of set the tone and the tenor for future title transfers.

Storey: Do you remember the names of the Idaho—was that the Tonasket?

Martinez: That's Burley Irrigation District.

Storey: And Texas?

23. National Environmental Policy Act of 1969.

Martinez: I want to recall Palmetto Bend, but it may not be that one. I want to recall it might have been the Palmetto Bend. No, no, no, no. It was the Canadian River—I want to recall it was the Canadian River Water Authority.

Storey: That's the pipeline.

Martinez: Yes. Now, the Burley Irrigation District one, I think, was kind of interesting, because it also involves transfer of water rights, not only facilities but also the water rights. So some districts, like I say, not only—it depends. Some districts are looking at conveyance of their distribution works. Other districts are looking at conveyance of distribution works *plus* the dams and the reservoirs. Other ones are looking at conveyance of distribution systems plus a dam and reservoir *and* the water rights. So, you know, it's not uniform across the West. Each district, each board of directors, has special interests that they're trying to address.

The other thing we found, also, is that there's no cookie-cutter approach to how you approach these issues. In other words, each particular project has its nuances and its issues associated with it. In one particular project you might have Forest Service right-of-ways. Another one, you might have lands that have been taken out of the public domain and you have revenues coming from those lands. Other ones, like on Carlsbad, you have oil and gas revenues coming from withdrawn lands. Other ones, you've got trust issues. Other ones, you've got some minor power issues. I mean, there's no such thing as a simple project, and they all are different.

The original thought was that you could come up with a model for a title transfer bill that would fit all title transfer bills coming to the Congress, and I don't think that has worked and I don't think it will work. I think the model approach, if it works, one, is that the districts engage, or those entities wishing to acquire those facilities engage *early* enough in a public involvement process and sign on to a NEPA analysis requirement, and have adequate opportunity for all the players to be heard on the Title Transfer Initiative. And then move the initiative forward. If you don't have consensus, well, at least you've laid out the issues.

Some of the projects that we've worked through Congress, trying to work through Congress, some of the districts have not been too receptive to having open processes for whatever reason, have not been too receptive to going through the whole NEPA analysis or process because of the costs and time involved, and a concern that the Bureau of Reclamation's not really serious about this initiative, to a certain extent.

Storey: Do you think we're ever going to get all sixteen or eighteen of them done?

Martinez: My take is that if we're successful in getting four to six this congressional session, I think that ultimately you might get not only the eighteen, but maybe thirty-six or sixty-four through the system. We've learned a lot in the last three years how to address the issues involved with title transfer. I think some of the districts will begin to see that whether it is or is not in their interest to move forward, based on the ones that are passing through Congress and getting authorized and so forth, and I think some of the districts are probably just sitting back and waiting to see what's going to happen.

For instance, on some projects where some districts are just interested in acquiring the conveyance systems, rights-of-way, and so forth, their ultimate belief, I guess, is that they can do the work a lot cheaper, a lot less expense, and they're willing to assume that risk of the distribution systems within—not the dams and so forth. They go out and they acquire them, and other districts sit back there after two or three years and see that these bills are passed and that, in fact, there's a benefit that these districts are realizing, and maybe they'll come on board and say, "We want to do that."

Some of the other issues have to do with—one of the big issues has to do with dam safety issues. Some of these districts, their dams may not represent a high risk to life, but some of these districts, they're upstream of heavily populated areas, some of them are leery of taking on that responsibility. The question also is, in some states there's no regulation on dam safety issues. In some states there is. So as long as they're a Federal property, the Bureau of Reclamation keeps up with the dam safety issues, inspection and so forth.

I would be a little remiss if we had a structure that posed a significant threat to life and property if there was no mechanism in place to make sure that adequate inspections or the safety of that structure would be maintained. I might resist a title transfer of a dam unless I wasn't sure that there would be adequate safety issues addressed, especially if it was in a state that didn't have a dam inspection program. So you just need to look at the facts.

Storey: What about environmental reviews?

Martinez: That's basically evolved into NEPA analysis, under the National Environmental Policy Act. We take the position and the Administration takes the position that's not shared by some of the stakeholders and by some members of Congress, that the transfer of a facility is a major Federal action and triggers the NEPA review.

Some members of Congress, some sponsors of title transfer legislation argue that it's just a change of title, and therefore does not require NEPA review. But I think we're past that. I think the Administration has sent a strong enough message that we'll not sign onto any legislation that comes out that doesn't require the NEPA review.

The NEPA review does not necessarily imply a full-blown environmental impact statement, and I think some of the misunderstanding of some of the project sponsors for title transfer was that they felt that the environmental review really was going to trigger a Bureau of Reclamation environmental impact statement, at tremendous amount of cost to the district in time just to get the project transferred, and they weren't very supportive of that.

But as we move through some of the title transfer projects, we believe that some of them will just require an environmental assessment and can be done without much cost. When the districts begin to see what's involved in that, I think it will make things a little easier.

Storey: What are the mechanics when the district is working through Reclamation? First we get an agreement on—

Martinez: There's different ways of approaching it, but the preferable thing is that they not necessarily agree, but that the approach taken is an approach that meets certain criteria. One is that there will be public involvement. The taxpayers' interests will be protected. If there's trust issues, they have to be addressed. If there's interstate, international issues they have to be addressed, it more or less is a process.

So what has occurred in, say, the Wellton-Mohawk²⁴ title transfer proposal for title transfer legislation and the Clear Creek in California, the districts and the Bureau of Reclamation and the Administration, working through the Bureau of Reclamation project process, have come to an understanding and entered into an agreement, the fact that if Congress enacts legislation conveying the project, it will be subject to the conditions that pertain to the agreement. The agreement says the NEPA review, that, that, that. So, in other words, what the process entails is an understanding of the process and buy-in by the district and the Federal Government that that process will be followed. Legislation then gets enacted by Congress, incorporating that agreement. Okay?

24. The Wellton-Mohawk Division of the Gila Project is in Arizona near the border with Mexico on the Gila River, tributary to the Colorado River.

Storey: Yes. But then it's after the fact Federally. What control do we have over them? That's the agreement?

Martinez: Well, you go through the process. The legislation does not say "will convey." "May convey." So you go through the process.

Storey: And then you convey.

Martinez: Or condition the conveyance. Part of the difference of opinion on some of these bills that have gone through Congress, between the Administration and the project sponsors, is that some of the bills contain the language that say "shall convey," that the Secretary "shall convey," which prejudices the analysis and potential conditioning of a transfer. Or it will say "shall convey," and if the studies aren't done within 180 days, it becomes a matter of law that the conveyance takes place. [An approach] that the administration has resisted. Those issues have taken time to work out.

But like I say, I think we've gained three years of experience, not only Reclamation, but project sponsors *and* the congressional committees, and I'm hopeful that this session of Congress will push through four to seven bills that will set the general tone of where we're heading with this Title Transfer Initiative.

Storey: What kind of staffing are we using for this? Do we have somebody in Denver, somebody in the regions?

Martinez: A coordinator in Washington and then each region—well, depends. Some activities—Great Plains—I guess most of the regions have a project sponsor's interest. Some regions have coordinators at the region. Other ones, the area managers are doing the work.

The way it's been basically working is, the project sponsors engage the area managers. Because as an organization we've gained experience over the last three years, what I have told my staff here in Washington is, if this is a first case, a first impression for an area manager dealing with an issue on title transfer, bring the resources from the rest of the organization, folks that have gone through the process already or are working through the process, so they can assist this area manager or these folks working on this title transfer. Give them the benefit of the experience they've had in dealing with similar issues, rather than just leaving that individual out there trying to figure things out by themselves. Same thing with irrigation districts.

So, we're bringing whatever resources are necessary to get the job accomplished. But you've got to realize that some of the districts choose not to work with the Bureau of Reclamation—to date. They go directly to Congress, have legislation introduced, which then I find myself in a situation, a somewhat awkward situation, because the Bureau of Reclamation has gone on record saying, "We want these title transfers to occur," but me testifying that there are so many conditions that we require on the transfer that we can't support it unless those conditions are met.

Hopefully we'll work with the districts to eliminate the controversy or the differences. I would get up there and say, "I support--" like Clear Creek, when I got out to testify on Wellton-Mohawk, I said we worked on a memorandum—

END TAPE 2, SIDE 1. FEBRUARY 10, 1999.

BEGIN TAPE 2, SIDE 2. February 10, 1999.

Martinez: That's easier testimony than to go up there and present a list of thirty, or ten, different things that I'm opposed to.

Storey: Issues that need to be dealt with before you can support the legislation.

Martinez: Yes.

Storey: Do we have any international treaty issues going on right now?

Martinez: Not from the standpoint that we have treaties involvement in renegotiation or we're working on specific issues dealing with treaties other than we've got two projects where there's interest on the part of abutting countries in our projects in water delivery issues.

Mexico's Concerns about Water Quality on the Lower Colorado River

As I mentioned earlier, on the lower Colorado River, Mexico is concerned about the quality of water reaching its [our] southern boundary. The official position of the United States is, and continues to be, that the water quality standards of the treaty are being met. However, the Bureau of Reclamation continues to work with the United States Boundary and Water Commissioner to see how we can maybe reoperate or do some improvements to our facilities for delivery of water at the southern boundary to address Mexico's concerns. Okay?

And we've engaged the seven basin states on the Colorado River in the process. And it's possible we might be able to do something on the American side to improve the quality of water without acknowledging or taking a position that we're in violation of the treaty or Mexico, saying that we're doing it because we're in violation. That's trying to accommodate their concerns.

Canadian Concerns about the Red River of the North

On the Red River—I guess it's the Red River of the North, in North Dakota, we've got the Garrison Project, which the Garrison Project up there contemplates bringing water from the Missouri River, I believe into the drainage of the Red River of the north, which flows into Canada. Canada continues to have concerns about potential bio-degradation; in other words, transmittal of biomass [biota] or what one might consider—I don't know what they're looking at, an organism or a fish species or vegetation species or something. Anyway, the potential transmittal from Missouri River water to the Red River, which flows into Canada, and contamination of that water by biological contaminants.

They're concerned about it. They continue to raise a concern about it. Even though the Garrison Project, as it was formulated, called for a water treatment plant that would take water from the Missouri River, treat it before it enters the Red River of the North, but Canada still has some concerns, and that's an issue that continues to be in debate and will have to be resolved before and if the project is funded by the Federal Government to bring water in from the Missouri River into the watershed that feeds into Canada.

Storey: That's the introduction of species, new species?

Martinez: Well, they're concerned about not necessarily new species, but just biomatter. I don't know. Whenever you take water from one watershed into another watershed, especially a prized watershed, I understand that Canada feels concerned about it, is what are you going to introduce into that watershed?

It's a very interesting question, because you bring in new critters or chemicals or whatever that is. Each system is different. So their concern is, you know, "We don't want to impact our waters by whatever might come across," because you're bringing water from one watershed into another.

Invasive Species

I don't know enough about the systems to be specific on it, but you know that I've been reading the papers the last few days where there's a big concern about species that are *finding* [moving] themselves from one area of the world to another, you know. You've got the mitten crabs out there now in California.

Storey: Yes. That's amazing, isn't it.

Martinez: And the zebra mussel here in some of the streams on the East Coast. And those kind of things that are occurring, see. So I guess the concern is with that potential of contaminating the water resource in one watershed and then transferring it to another, there is some concern. But I think that personally that those are issues that can probably be addressed from a technical perspective, because it would appear to me that speaking as a water administrator, you've got to have enough flexibility to utilize existing water resources that are within your purview of jurisdiction to be able to address your needs in your own locality, provided that you have a mechanism in place to guarantee that if that water gets someplace else, it's treated, because to agree that you cannot import water from one system to another, because there is a *potential*, would severely limit your ability to use your existing water resources in a given country.

When one translates that into, for instance, the State of New Mexico, where I came from, we've got transmountain diversions. In other words, you take water from one system to another, from the Colorado River to the Rio Grande and to have taken a position that you can't take water from the Colorado River to the Rio Grande because you might contaminate the Rio Grande water, would have been a very difficult position for New Mexico to have lived with, because it can't exercise its water resources that has rights under state law and under international law, as long as the technical ability remains to purify that water or make sure that you meet the treaty obligations. It's an interesting issue. Interesting issue.

Storey: Yes. I'm aware of at least two situations that we have, where we have interstate compact issues. One is trying to get California to live within its 4.4 million acre feet on the Colorado River Compact, and the other is the lawsuit that Kansas, I believe, has brought against Nebraska on the Smokey—is it the [Republican] *Smokey Hill* River? But anyway, what's going on with those, and are there any others going on?

Martinez: We'll discuss those [unclear], but I don't have time today because I've got some other stuff. There's three issues: the Nebraska-Kansas issue, lower Rio Grande, New Mexico, and the issue in California. Now, the issue in California, I'm not an expert on California water law, but basically the California water issue is, the

Colorado River, the apportionments of water to the state of California, Arizona, Nevada, seven and a half million acre feet were apportioned by the Colorado River Compact, seven and a half million acre feet. The actual amounts of water that California is entitled to, California, Arizona, and so forth, I want to recall comes from a Supreme Court decree. Because the Upper Basin states, when they got their seven and a half, created an Upper Colorado River Compact Commission. They apportioned their waters. California, Arizona, Nevada, never really got apportioned. They had an apportionment.

Storey: Yes. That was done in the Boulder Canyon Act, actually, in '28.

Martinez: So they never really signed onto it.

Storey: Right.

Martinez: So the Supreme Court basically said, "This is what you're entitled to." But because the upper states cannot hold back any water, in other words, if water flows downstream, a downstream state can pick it up and utilize it without having to pay for it. Because the Upper Basin states have not developed their apportionment of water and because California had not developed its apportionment of water, especially in the Lower Basin states of Arizona, California was able to pick up water and use more than 4.4 million acre feet, and has done so.

The issue that as Arizona now comes on board to fully utilize its 3.8 million acre feet and Nevada fully utilizes its apportionment, that means that California has to come down to that 4.4. Okay. So the issue there is, I think, California has come to the realization that it's going to have to do the best it can to live within its means. *That* does not mean that there's a shortage of water in Southern California. What it means is that there's a shortage of water to continue *all* existing needs and *all* future needs, see, because sometimes you'll hear about these predictions that an area is going to run out of water in thirty years. Well, the area is not going to run out of water in thirty years. In some areas they might because they don't have an ability to do either wastewater reuse or to bring any conversions from ag to M&I uses.

Water Use Evolving in the Future

But in most areas where you have 85 percent of your water being used for agricultural purposes, there exists the potential to retire agriculture uses and provide additional uses of water for other purposes. Okay? So this rhetoric about "We're going to run out of water in thirty years," as some folks might say, is, yes,

if you want to stretch the limited resource to meet not only what you're using today, but what's going to grow. But if you're going to want to convert existing uses to other uses, you might have enough water to meet your demands for quite a long time in the future, but you're going to have to make some hard decisions as to the priority of using that water. Okay?

Changing Water Use

So the issue in California, as I view it, is basically they've been using five million acre feet to meet current uses and increasing demands. Okay. Out of a right to use only 4.4. So in the absence of California finding new water supplies, it's going to seriously have to either do several things: conserve water and change water from one use to another, and come to an understanding of how that occurs.

The issue in California is much, much more complicated, because even within the 4.4 million acre feet, there's relative priorities of who can take water and who can't, and that's the issue between Coachella and Imperial Irrigation District, where Imperial Irrigation District wants to sell water to San Diego, conserve water. They don't want to dry up any acreage; they want to conserve water. And Coachella basically says, "Well, that conserved water should be ours because we're down the line in priority. Before you sell it out, discuss it."

So in order to avoid a legal challenge they've been trying to come together, IID,²⁵ Coachella and state and the Federal Government, to try to work out some kind of agreement on that water transfer, which involves also how that 4.4 million acre feet will be divided up amongst the California water users.

California Has Relied on Surpluses in the Colorado River

But going back to your original question, the reason that California hasn't had an immediate crisis is because there's been surpluses in the river. Two things. One is that Arizona wasn't taking its full entitlement, so there's water available. Now, even if Arizona was taking its full entitlement, because of water being banked in the aquifers, there is still a shortage condition. And if you have a shortage condition, basically you can make that water available.

But for discussion purposes, let's assume that in the next several years we find ourselves in a situation where Arizona takes its full entitlement and there are no shortage conditions. There's not going to be 5 million acre feet of water for

25. Imperial Irrigation District.

California unless they've engaged in some kind of a water leasing arrangement with Arizona out of its water bank, or they have converted or prepared to convert some of their existing uses [unclear]. So that is really not a compact issue; that's more of an issue dealing—they know what their entitlement is. Okay.

Republican River Dispute Between Nebraska and Kansas

The issue on the Republican River, I mean on the Kansas-Nebraska issue, is a little bit different issue there. The issue there is an issue that has occurred in other places.

Storey: It's the Republican.

Martinez: Where groundwater pumpage has affected surface flows in the river, reduced flows in the river, and to the detriment of downstream water users, downstream states. So the issue there, in a nutshell, is the downstream state basically is asking the Supreme Court to require the upstream groundwater pumpage to be regulated in such a way as to protect the interests of the senior surface-water user downstream to include Bureau of Reclamation projects. So it is really a compact issue, litigation between two states before the Supreme Court.

On those issues, as I understand them—I'm not an attorney—but the way those things were set up is, as my old boss used to say, is that states cannot go to war against each other, but they can take each other before the Supreme Court or through actions of Congress to apportion water. And as I understand a suit between a state and a state, goes directly to the Supreme Court. But this issue, I think, has been going on for quite a while up in Kansas and Nebraska.

It's kind of interesting because to the extent that it involves Nebraska, we now have a former regional director in Sacramento now being the water resources chief in Nebraska. I wish him well.

Maybe we can follow up on this next time.

Storey: Okay. You don't have any more time today?

Martinez: No, I've got to run.

Storey: Okay. Let me ask you, then, if you're willing for the information in these tapes and resulting transcripts to be used by researchers, but, of course, one year after you leave Reclamation.

Martinez: That's right. Okay. I've been reading through the other document you've got, and made some minor edits on it, in terms of things, and I'll get it back to you one of these days.

END TAPE 2, SIDE 2. FEBRUARY 10, 1999. END OF INTERVIEW.
BEGIN TAPE 1, SIDE 1. MAY 4, 2000.

Storey: This is Brit Allan Storey, Senior Historian of the Bureau of Reclamation, interviewing Commissioner Eluid L. Martinez at about 1:30 in the afternoon on May 4, 2000, in his office in the Main Interior Building in Washington, D.C. This is tape one.

GPRA's been going now, I think, about three years and started while you were Commissioner.

Government Performance and Results Act (GPRA)

Martinez: Actually, the Bureau of Reclamation put out its first five-year GPRA plan about three years ago, I believe, which was the first plan under the Government Performance and ~~Review~~ [Results] Act. Since then we've updated that five-year plan and have submitted an updated version, I believe, already to Congress. At least last time I was aware, we had submitted it for review by our stakeholders, and I believe it's already been transmitted to Congress.

So we're now into our second five-year plan, which is a refinement of the first five-year plan. What we have focused more on in the last few years is the one-year plan that flows from the five-year plan. In other words, you have a five-year plan that's put in place, but then you also are required under the act, as part of the budget process, to submit an annual GPRA plan which ties with your budget request before Congress and is used as a basis for Congress to determine, or for the Administration to determine, whether you are or are not meeting the goals that you set up, not only on the five-year plan, but specifically on your one-year plan. The one-year plan goes into more detail in terms of measurable outcomes and how you're measuring your progress.

I think the record will reflect, I think our past discussions, that our first five-year plan was, since we had undergone this transition of mission and since there were some stakeholders, some of our customers and also some of the Congress members [who] were concerned about our unilateral decision on the part of the Bureau of Reclamation to reinvent itself. That five-year plan, the first five-year plan, was the first document that drew the stakeholders in and the Congress

in, in terms of their comments as to what should or should not be the mission of the Bureau of Reclamation. That first five-year plan went through extensive deliberations and reiterations of input by the different stakeholders. When we went to the second five-year plan, we did some refinements, but it didn't draw the kind of scrutiny nor concern from the stakeholder groups that the first five-year plan drew.

Storey: Do you think GPRA's functioning as a planning process?

Martinez: For us, I think for the Bureau of Reclamation, I think the five-year plan helped us to focus where we were heading in terms of a mission as we were transitioning our mission, because as I've stated before, the *Blueprint for Reform* under Commissioner Beard sort of set out a general tone for reinvention. But as I recall, what he told me was, "The devil's in the details. Now you implement."

So I think the five-year GPRA plan allowed the organization to sort of focus itself as to how we were going to accomplish or move forward in this new mission we have staked out [for] ourselves. It helped the organization. From that standpoint, I think it was a useful document. The broader question about how good or what's the merit of five-year planning cycles under the GPRA plan for government in general, I think that decision is still out for debate. But at least for the Bureau of Reclamation I think it has helped us to focus our activities.

Storey: Could we review quickly the mission changes, and are they really mission changes? Are they reemphases?

Not Aggressively Seeking to Build Water Storage Facilities

Martinez: I think that the one element that has been, if you want to consider it a mission change, if that's a proper term for it, is that we're no longer in the business of aggressively seeking to build water storage facilities. And when I'm talking about that, I'm talking about impoundment structures and dams and so forth, new dam structures. But I think that is driven not necessarily because we said we're going to change our mission; I think that was set in progress even before the Bureau started to reinvent itself in the late 1980s. I think it was just an issue that we had to face eventually.

So aside from going out and doing feasibility studies and surveys and seeking appropriations and constructing new dams, in essence, we're doing basically the same work, just in different priorities in terms of placement of priorities that we were doing in the past.

Water Efficiency on Reclamation Projects

For instance, in the area of water conservation, the Bureau of Reclamation, I think, has historically been making sure, at least trying to make sure, that the users of water from our projects were using it as efficiently as possible. It was required by the RRA [Reclamation Reform Act] Act, and I'm assuming that the designs that were put into place were put in place in such a way to use water as efficiently as possible.

So we've always been in sort of the water conservation area, except that most recently we've begun to place more attention on that, for two reasons. One is that as you're building less and less projects in terms of development of a water supply, you need to extend the available supply you have. So we're beginning to place more emphasis, both from a field standpoint and from a research standpoint, on water conservation and water use efficiency initiatives.

Our new water conservation field program, which is a new program, was put in place in the last three years, was put in place to assist water users under our projects to make better use of water. That program resulted basically from two pushes, if that's the appropriate terminology. One was our need to work with the water users to make sure that the water is being efficiently used, and the other one was, under the RRA Act, our water users have to have water conservation plans in place.

Based on our regulations that we enacted after I became Commissioner of Reclamation, we chose not to do the regulatory approach on water conservation planning, but to work with districts to make sure that they saw that it was in their interest not only to comply with the law, but to make better use of water resources available to them. So our field services program is designed to work with water users to help them meet the intent of the RRA Act, as well as make better, efficient use of water in the projects.

We're also working on wastewater reuse, reclamation of water, the reuse of sewage return flows, which is a new area Reclamation has been involved in, as I understand it, since 1992. We're placing more emphasis on that, and I think we've discussed that before. So in that area we're doing water conservation a little bit differently.

Animas-La Plata Project

In terms of water supply projects, in terms of tapping into available water supplies that are not now being used, we're still looking at one "major" project that might be built, and that's the Animas-La Plata Project. This Administration is supportive of building an off-channel storage facility in order to meet the treaty responsibilities or the trust responsibilities with respect to the Ute Indians in southern Colorado. That project has a rich history, as you know, and hopefully this year, in the next two or three months, we might be in a position where a record of decision will be entered by the Secretary or the Deputy Secretary endorsing a downsized Animas-La Plata Project, which is stripped of its irrigation component in order to meet the needs of the Indian tribes.

Klamath Project

We are looking in different parts of the West at a potential enlargement of some of our facilities. On the Klamath River, the Klamath Basin, we're looking at the possibility of enlarging our storage, one of our dams out there in order to increase storage behind Klamath Lake. We're looking at potential increased storage at Shasta and maybe some potential increased storage, I believe, at Folsom. So we have not completely gotten out of the business of seeking for ways of getting additional storage out in the Reclamation states, but it's not through new facilities, but through appropriate enlargement of existing facilities. So in the area of operating and maintaining our facilities, we're still in the same business of trying to make sure that our facilities are as efficiently run and operated as possibly can [be], given the resources we have, that our facilities are safe under our Dam Safety Program.

Security Issues Resulting from the Bombing of the Murrah Federal Building in Oklahoma City

One area that we are placing a little bit more emphasis today than we were and have in the past, but that's, I think, just human nature as it occurs today, is in our security area. We have put in place a security officer and a security program to look at the security issues associated with our facilities, flowing from the problem that occurred, the tragedy that occurred in Oklahoma City.²⁶ And we are also, given the fact that as a whole we're moving towards more and more of an electronic medium in terms of doing our work, computers and word processors and so forth, we're doing a lot more work and paying a lot more attention now on the security of our electronic infrastructure. But I think that is just an extension of security programs that were in place before, but with a completely different

26. Referring to the bombing of the Alfred P. Murrah Federal Building, April 19, 1995, in Oklahoma City.

approach to them, because I think the security issues that were in existence before Oklahoma City changed drastically when that occurred in terms of the concerns of the Bureau of Reclamation with respect to its facilities.

Another thing we're paying a little bit—I guess one would argue a lot more—emphasis on, but I still think that we're emphasizing some of these issues in the past, are the effect of operating our facilities on natural environments, fish, riparian habitats, and so forth. A lot more emphasis being driven as a result of the Endangered Species Act, Clean Water Act, and other acts having to do with the natural resources and natural environment issues that we're required as operators of Federal projects to address.

So from that standpoint, that's where our mission is. If you look at our five-year plan, basically it says we're in the business of maintaining and operating our structures to deliver the benefits that flow from those facilities, consistent with meeting the obligations imposed upon us or required of us by the Endangered Species Act, Clean Water Act, and other natural environmental-type legislation.

The other area that we're paying a little bit more emphasis on now than we had in the past, and will continue to place more emphasis on, is helping Indian tribes develop their water resources, both from providing technical expertise and providing financial resources subject to appropriations by Congress to help develop their water projects, placing more attention on that.

Drought Contingency Plans

One other area where the Bureau of Reclamation has been involved in the past, but continues to be involved in a little different manner than it has in the past, is the area of providing assistance in times of drought. Bureau of Reclamation is the *only* Federal agency that has specific authority by Congress at this point in time to engage in helping states, Indian tribes, and local entities, governmental entities, in preparing drought contingency plans and providing financial assistance or technical assistance during times of drought.

So generally that sort of summarizes what we're about and what we're doing.

Storey: Well, you've hit a bunch of the topics I want to talk about. As a matter of fact, security is one of them. After the Oklahoma City bombing, you ordered a survey of our security. What did they find and how did you react to that?

Reclamation Security Survey

Martinez: The findings, I guess, one might say that those findings are not subject to discussion to the general public who will read this transcript. But what we found in general was that, especially in some of our larger facilities, where by virtue of the facility being there, it was a natural magnet for tourism or for visitors such as Shasta, Grand Coulee, and Hoover Dam, where visitors visit our dams and [are] given tours to the facilities, these initial findings indicated that we needed to do a better job of making sure that our critical infrastructure in those facilities was not as readily accessible to the general public that was touring these facilities as what [it] had been in the past. In other words, there were some deficiencies occurring.

As a result of that, we put in place some improvements that make the likelihood of somebody entering in a work area or a transmission area or a control area less likely to occur today than it would have been three or four years ago.

The other major thing that the assessment revealed was that there were some localities where accessibility was not being restricted to the general public in some areas—where they could have access, somebody with intent to cause some damage could have had some access to critical infrastructure. We placed appropriate either fencing or cameras or surveillance or patrols in order to prevent that from occurring in the future.

Implementing Security Changes

So it gave us an opportunity to look at ourselves and see whether, in fact, we were taking the security issues seriously or not. And to be quite frank with you, I think generally across the Federal Government, not only Bureau of Reclamation, there was, and we have improved significantly over the last three years. I want to recall that we had asked for five million dollars one year for security implementation measures, and followed it up, I believe, with either two or three million dollars the following year.

Now we have it built in as a regular budget and process in the Bureau of Reclamation. In other words, we have a security officer. Each of the regional offices has a security person. When our facilities are visited to look at safety issues or operation and maintenance issues, they are also continued to be looked at for security issues. Each area office and regional office builds into their budget process necessary funding to carry out security issues. That goes with respect to the infrastructure, the concrete, the iron, the physical infrastructure.

The other area that concerned me quite a bit and that we are now working on, also as well as other Federal agencies, is the security associated with our electronic media, computer systems, because what concerned me was that we might be spending too much, placing too much emphasis on making sure that somebody didn't get access to a gate on one of our facilities, one of our dams, by putting up physical barriers, when if our gates are remotely operated through computer systems, somebody could hack into our computer system and lower a gate.

Sandia Labs Assessment of Security Needs for Computer Systems

So we began to pay special emphasis on that and have engaged through a contract with Sandia National Laboratories, where they are in the process now of conducting a security assessment with respect to our systems, computer systems, and which I would expect by this July, July of the year 2000, to have a report from these consultants and begin to implement recommendations that flow from that report.

Storey: Were you involved at all in how we selected Sandia, or is that done somewhere else in the organization?

Martinez: What happened was, it was kind of interesting the way things happened, is that what got me personally interested in this issue was sometime a year or so ago I was sitting at home one evening watching a PBS documentary on the history of war. I had seen two or three of the episodes, and the last episode dealt on wars of the future to be fought through computer systems, and it dealt with basically how a city could be brought to its knees by getting into its computer systems and shutting the streetlights down, the lights down, the computer systems down, and so forth. And it had a section in there about Sandia National Laboratories doing some of this work.

I came back the following day, came into the office and picked up the phone and asked, called Kathy Gordon in Denver, what we were doing in this area. She said we're beginning to look at it. I said, "Well, get a hold of Sandia Labs and see what they can do for us." As a result of that conversation, we hired them. I feel comfortable that the report they will give us will be useful.

Storey: Have there been interim meetings with Sandia, or do you know how it works? I don't know whether you're handling that or somebody else is.

Martinez: No. That's being handled by Kathy Gordon out of our management—what is it? Management Services Area out there in Denver.

Storey: MSO,²⁷ yes.

Martinez: The contract is very specific. It sets out what the report will entail, what they're looking at, what kind of recommendations they'll make. They have visited our facilities. They have come to Washington. They've talked to people in the regional offices. They've gone out and looked at our systems. Their recommendations are going to be recommendations that deal not only with what needs to be done at a particular major system in terms of making it safe or not, but also some of the policies that we have in place, how we procure things, how we manage things, not only a computer-associated issue of hardware, not only hardware, but software, but management issues.

Decentralization of Decisionmaking Processes in 1993-1994

One of the concerns that I have had, and continue to have, is when we—when I say “we,” the Bureau of Reclamation—reinvented itself in 1993-1994 and decentralized its decisionmaking processes by giving authority to the area managers to make a lot of the decisions at the area office, I was concerned that there might be a likelihood of inconsistencies on how we were approaching things, and it turns out that my observations were correct, not only in the area of operation and maintenance, security, computer systems, and so forth.

In Some Areas Central Oversight May Need to Be Reestablished

So what we've been trying to do over the last four years is to look at these issues and, where it's appropriate to have some central oversight. In the area of computer security, for instance, we'd have to have a policy in place for the Bureau of Reclamation, not twenty-four policies in place for twenty-four area offices or five regions. Same thing with operation and maintenance or how we bill our customers sort of things. So that's one of the things we've been looking at.

Letter Claiming Responsibility for Failure of Teton Dam

So I feel comfortable. I feel more comfortable today than I did three years ago in terms of security issues. And these issues come up all the time. By the time these people—whoever reads this transcript will find it interesting, just today I

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received a copy of a letter that was mailed in Idaho to me last week from a gentleman who claims he was part of a terrorist group that blew up Grand Teton Dam twenty years ago. If you're interested in looking at it, I'll show it to you. It's a very interesting letter. I mean, it's a very interesting letter, and it looks to me like the gentleman knows what he's talking about in terms of the technical aspects associated with it. We've turned that letter over today to our security people, and we now have a process in place where I would image that this letter will finally, ultimately wind up in the hands of the FBI for some kind of a review process.

There Have Been Threats Against Reclamation Facilities

It's not uncommon for us in Reclamation to receive indications of threats. We've been lucky that we have had no actual occurrence of attempted destruction of our facilities, but we have received threats, and they occur on an ongoing basis. It's just the world we live in today.

Storey: For instance, this Idaho letter, did that come to you through the region, or it came directly to you?

Martinez: It came addressed to the Commissioner of Reclamation, Department of Interior.

Storey: Directly to you. So they hadn't begun to look to see what they think about it yet?

Martinez: No.

Storey: I know, when was it, a few months ago, we had this story that came out about the Soviets burying explosives and things near some of our major dams.

Storey: Yes, I read that in the newspaper. It's kind of interesting. This particular letter is kind of interesting, because the gentleman that wrote it, the premise of the letter is that he was hired along with some other individuals by a prominent environmental group who wanted to raise concern about dams and dam safety. Now, it's either a good letter of propaganda or it's a letter written by—I hate to believe that whoever wrote it is telling the truth, because if that's the case, then heaven forbid that. But at any rate, if it's not, what bothers me, though, is that whoever wrote that letter seems to know enough about dams and geology issues to concern me, and then it comes out of the part of the country that we've had some other emphasis of activity up in those areas, Montana and Idaho and so forth. That's nothing to say about the people that live there, but it's just some of those areas are the ones that we have had some activity in the security issues over the last two or three years.

Storey: Yes. Certainly the kind of thing you can't ignore. At the same time, the descriptions of what we know about Teton, where seep holes appeared, nobody's ever mentioned explosions that I'm aware of.

Martinez: Well, I'll let you read the letter. I think you'll find that interesting. But enough said on that.

Storey: I have down to ask you about the Folsom Dam failure. That was before you came, right?

Folsom Dam Failure

Martinez: Yes. It occurred just before I came, and the work to repair occurred, if I recall, when I was first Commissioner of Reclamation. The issue there, if I recall correctly, the analysis that was done indicated that it was a design deficiency. They were drum gates and they have supports that support the gate. The failure occurred, if I recall correctly, right where the support structure sort of hinged on or pivot[ed] on the gate-opening mechanism. As I recall, if I'm correct, there were design deficiencies on the strength of the supporting members to the drum gate. So as a result of what happened is we went back in, looked at similar gates across our Reclamation projects, and the Corps of Engineers also looked at similar gates, and reinforced these members that had failed. If I recall correctly, that dam was actually constructed by the Corps of Engineers and is operated—

Storey: Turned over to us, yes.

Martinez: Turned it over to us. But that was a design deficiency on that.

Storey: I don't recall the exact figure, but there was a lot of money involved in the repairs.

Martinez: Yes. I can't recall exactly what that was, but these kind of repairs get expensive.

Storey: And gathering that kind of money to make an emergency repair like that isn't really covered in our budget process, I wouldn't think. So were you involved in figuring out how the money was going to be allocated for that?

Martinez: No, because, if I recall, I think the allocation of that money and the appropriation of that money was already in place, at least if it was not already appropriated, the request to Congress had already been submitted.

Storey: By the time you got here?

Martinez: Yes. And by the time I got here, maybe some of that money might have flowed in.

END SIDE 1, TAPE 1. MAY 4, 2000.

BEGIN TAPE 1, SIDE 2. MAY 4, 2000.

Storey: ...issue for you.

Martinez: It wasn't an issue for me to have to support the appropriation. It was an issue for me in terms of being responsive to the congressional committees as to what caused the problem. Since it turned out that the reports indicated a structural deficiency, then it got away from failure on our part for operation and maintenance. If I recall, if I draw my memory that far back, there was some concern about whether the failure was caused by inadequate maintenance of the facility. But as it turned out, that was not an issue.

Storey: I thought we might have had to reallocate money somehow, and sometimes that can be an interesting process to follow.

Martinez: I wouldn't doubt that there was probably some moving of some money around in the Mid-Pacific Region initially, because you have to be able to respond. But if I recall correctly, not only was the issue of the gate failure, but as a result of water going over the gate it caused cavitation of the apron and downstream of the dam that also needed to be fixed. The immediate concern, I guess, at that particular point in time was that the amount of water that potentially could have flowed out of the reservoir if the gate would have failed completely. It didn't fail completely, held back some of that water.

The other thing it pointed out to us also at that time, particularly at Folsom, is that the top of the dam is a primary roadway that connects the community from across the river there and continues to be one of the primary routes across the top of our dams, which raises another issue that we, in Reclamation, are beginning to look at and have concern with is the accessibility of some of our structures by virtue of the fact that you've got major highways or roadways right over the top of these dams.

That was an issue that was looked at at Hoover Dam after the Oklahoma incident, but it was determined that the structure was so massive that an explosion of that kind of magnitude probably would not—the structure would not fail, in other words. You'd almost have to almost drop a load of bombs out of a huge airship or something like that to hit it. But just one truck with whatever they could carry on it probably would be insignificant at Hoover. Now, at some other facilities it's a

different story. So this goes back to the security issue that we look at, at these structures.

My concern was, and continues to be, is that if somebody really wants to go out and cause a big problem, you pick yourself some retention structure, some dam upstream of some community, and you can cause more chaos by doing damage to a facility like that that releases water than you could in a subway system or something like that someplace else. That's why we need to take this very, very seriously.

Storey: One of the other things that happened, I think, before you came was the Flatirons explosion.

Martinez: That occurred when I was here.

Storey: Oh, did it?

Martinez: Yes.

Storey: How did you get involved in that, if at all?

Flatirons Powerplant

Martinez: Well, what raised it to my attention is that, if I recall—it's been now four years—is we almost lost a life there. In other words, when the report came to me that they'd had a problem out there, I was advised that people just were fortunate they had gotten out of the building, and if they had not gotten out of the building, we would have lost some lives out there. That caught my attention.

That was an issue, if I recall correctly, of a failure of a switch, and there was some indications in the report that part of it, not all of it, but part of the problem could have been attributed to our maintenance program, so as a result of a deficiency in our maintenance program for those particular type of switches and so forth.

So as a result of that failure, I had a group of folks put a panel together to look at that issue. Out of that failure came recommendations how to service and how to deal with these kind of switching devices across Reclamation to make sure we don't have another problem.

Flaming Gorge Powerplant

The other problem that arose was, I think, if I've got the right dam, is the ruptured pipe at Flaming Gorge Reservoir, I believe. I think that's the one. You recall we had cavitation in a major pipe out there. I can't recall what the term is right now. But it flooded part of the generation structure—the facility where the generators are. We're just lucky enough that there was an operator at the site that knew how to close the valves or else we would probably have flooded out the generators, and it would have been a *major* undertaking to fix them.

So that sort of tells me that with this large infrastructure, in terms when I say large, the complexity and the magnitude of this infrastructure that we have out West, that we have to be diligent at Reclamation to make sure that we adequately inspect it, maintain it, operate it, and not only that we have the ability to do that from the appropriate resources, but also appropriate staffing.

Which then takes us to the next question about when you're looking at these kinds of issues, you need to look at your staffing needs, both at present and into the future, because what we had found was that in our rush to reinvent ourselves from an engineering-type organization to more of an environmentally friendly organization, emphasis was being placed on environmental restoration activities and less emphasis being placed on the practical portion of the organization, which was engineering, engineering review, maintenance, upkeep, and these kind of things.

Making Sure We Are Adequately Staffed After the Recent Reorganization

So what I have tried to do as Commissioner of Reclamation is relook at how the reorganization affected those parts of the organization and try to make sure that they're adequately staffed and are capable of supporting the mission of this agency.

- Storey: Horsetooth is right there at Flatirons, and they're having issues with the dikes there, I gather. Have you been involved in that at all?
- Martinez: No. I'm aware that it's one of the facilities that's being looked at from a dam safety perspective. And as I understand, we have now five or six facilities, dams across the West, that we're looking at having to do some major modification or improvements from a dam safety perspective in the next three or four years. It's an ongoing process.

Storey: Have you been involved with the desalting plant at Yuma and the issues surrounding it?

Yuma Desalting Plant

Martinez: My involvement with the desalting plant has been on the periphery. In other words, what I'm saying is that as I understand it, the plant was built, it functioned for a short period of time in the early 1990s, I guess. Then they had a flood on the Salt River, and it wiped out the diversion, the intake works, and then we've had high flows on the Colorado system ever since then and there's been no need to put that plant in place. So the plant is on a standby status.

In other words, as I understand it, the need for the plant will occur in the future if and when the difference in salinity level between the water being diverted upstream of the plant and water being delivered to Mexico exceed certain standards, in which case, the plant will be used to clean water, to take salt out of the water in order to blend that desalted water with the water in the river to try to meet salinity standards to Mexico. It has not had to be used for that purpose as of this date, and the projections are that it will not have to be met for that purpose into the short-term future, for the next ten, fifteen years, based on projections of flows in the Colorado River system. But if you ever got into a critical period of low flows, that plant would be necessary.

Okay. So the issue now is that you've got a plant that's sitting out there that's not being used for the purposes for which it was constructed. It was constructed also, as I understand it, to meet treaty obligations, United States to Mexico, in terms of water quality at the international boundary.

So we built the facility. The question, when I became Commissioner, is it was on standby status, and the projections were that the membranes that are used in the plant to take the salt out of the water have a shelf life of X number of years and they have to be replaced. I was advised that the shelf life is not in perpetuity, because they sort of dry out if they're not being used and so forth.

So three or four years ago, the issue was, we have to get money appropriated to us to maintain the facility in a standby mode, and we also need to get appropriations to start replacing the membranes, because the membranes were expected to be deteriorating. So you have to replace the membranes to use them, if you ever needed to use them. It's on a standby, one-year operational mode. In other words, where they're at right now is, if for some reason we project a need

one year in the future, it will take us a year to get it up and running in full production.

So the issue was, two years ago, whether we should aggressively seek appropriations for replacement of the membranes or whether we should look at other alternatives available to us, to the Bureau, to try to meet water quality/salinity standards at the international border.

Arizona State Water Banking Program

One of the things that the Regional Director in Boulder City suggested to me was that we might want to look at, under the Arizona State Water Banking Program, acquiring water and putting it into the ground in Arizona, banking water such that we then could avail ourselves of the water banking program, and in the future make that groundwater available for use in Arizona in order to allow us to move more water out of the reservoirs, replacement water in the river.

Storey: To the lower Colorado.

Martinez: For dilution purposes. So we have approached the basin states to discuss this issue, and the issue is not, from my perspective, at least from the Bureau Commissioner's perspective, of replacing or mothballing the facility; it's a question of trying to come to some kind of understanding of the readiness of that facility. In other words, I honestly believe at some point in time the facility will be necessary, but should you have it on a one-year standby mode, two years or five years, or should it be a ten-year, because there's associated cost involved with that?

So the approach we've taken to date with the basin states is not to take the position, "We believe the plant is not needed. Let's look for alternatives," but, "Let's look for alternatives to be used in conjunction with the plant to keep the cost down if we're operating and maintaining the plant and making the most efficient use of financial resources that we have available to meet these needs."

It will be interesting where that debate takes us. Congress has asked us, and I don't know if it was either the House or the Senate, in last year's appropriation bill to prepare a report on the status and what we think of the future of the plant. The last time I was briefed on this issue, that report is going to be transmitted to me and to Congress sometime this summer. The report, if I understand correctly, will be looking at that issue. It's not mothballing the facility,

but how you can make best use of that facility and other water banking or other approaches to get water in the river, if it's necessary, for dilution purposes.

What has happened, though, what's complicated the issue a little bit more is that, as I understand it, the plant was built to treat and desalt water that is coming out of return flows from irrigation in the Yuma area, so there's a stream of return flows that was going to be intercepted by this desalting plant, desalt it, and then that water used for blending purposes. Because the plant has not been in operation, that return flow stream has been diverted down into Mexico.

Cienega de Santa Clara

That is now the basis of a wetlands area down there. The name escapes me now.²⁸ But there's a wetlands that has now established itself in Mexico from this water source that would someday be used to be desalted to be put on the river, which complicates the issue, because now we need to look at if in the future you bring this plant on board, what the impact will be to the wetlands downstream and so forth.

So it's an issue that has yet to be played out, and I would expect that you have, I guess, people on several sides, several positions on this. One is to the extent that the desalting plant can be used and used as a flow of water that now has come in from return flows, it reduces the need for use of other waters to blend to deliver water quality standards at the Mexican line. So from a water user's perspective, from a municipal water user or an irrigator water user's and so forth in the system as a whole, the plant, the function of the plant, the use of the plant, is another advantage because it does not require water from other sources.

From an environmental standpoint, from an environmentalist standpoint and so forth, if the plant is not operated and you still have to meet water quality standards, then you have to meet them from another source. So you've got to get water, move it down the river, and from an environmental standpoint that would be a preferred alternative. So that's where the debate comes in, whether you should be using water from the system or not using water from the system.

The last few years, like I say, we've been able to meet the water quality standards because there's been high flows on the Colorado River. And if you were to continue to have high flows on the Colorado River, so be it. Then there's

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another part of that that has to do with the lining of the All-American Canal, and so it becomes kind of complicated.

But going back to your original question is, the future of the desalting plant, as I view it, will begin to be deliberated, I would say in the next couple of years as a result of this report, and the pressures are coming to bear on the Lower Colorado River with respect to water for the delta and water for California and so forth. But personally, I think it would be probably not realistically, at least in the short term, politically to mothball the plant. And I don't think it would be wise to do that either. I think the best approach would be to try to figure out a way to maintain the plant at minimal cost for future use, if necessary.

The problem with that is that at some point in time into the future, the technology of that plant will become obsolete, because that plant, as I understand it—I'm no expert on the issues—is based on 1970 and 1980 technology, and the technology nowadays in terms of how you clean water and so forth, I understand, has improved in terms of cost, bringing the cost down. That's one of the problem with that plant is if you use the old technology, it's very expensive. They tell me that it depends on whether you have high-pressure membranes or low-pressure membranes in terms of how much energy you need to drive water through and clean it and so forth.

However, the plant itself and the technology and the work that went into it has not gone to waste because what we have done in Reclamation is we have developed and have constructed next to the plant a desalting, for the lack of a better word, institute, in other words, a training center, and we have seminars and train people on technology. We work with Department of Defense. People come in from different countries across the world, and we have like a little research center on desalting technology and so forth at that facility.

Storey: Since we're talking about the Colorado River, any developments in the 4.4 Plan in California and all that?

Martinez: My understanding—I haven't been too involved in that, but if you read the newspaper, my understanding is that it appears that you've got at least a consensus, if not a reluctant consensus, on the part of the different water users in California that draw water from the Colorado River to try to work towards a reduction of diversions from the Colorado River so that they come within the allocations from the river as set forth by the allocation of water by the Supreme Court, which means that California would have to reduce its diversions half a million acre feet or 600,000 or whatever that is.

The question that now, as a result of the parties in California coming to closure on this issue, as I understand, they've put together a proposal on the table, that the parties have signed onto that calls for certain water conservation initiatives for certain things to be done in California, water transfers, IID [Imperial Irrigation District] to San Diego being one of them.

So it appears to me that where you're at now is you've got an agreement within the water users in California that divert water from the Colorado River of how *they* plan to, hopefully, meet this reduction of water that they need to reduce and still meet the needs of water within California.

Development of Surplus Criteria for the Colorado River

The other piece of the puzzle that's taking place right now is the Bureau of Reclamation, principally being driven through the Boulder City office, is we're looking at surplus criteria, development of surplus criteria for the Colorado River—shortage criteria. My understanding is that in developing this shortage criteria or how you distribute water in times of shortage on the Colorado River, the Bureau's in the process of putting that together and will implement policy and regulations on it.

The last briefing I had on this issue indicated that California would be desirous of the fact that whatever criteria is put in place would acknowledge the fact that they're serious about cutting back the use of water from the Colorado River and that they be given a window of opportunity, say the next fifteen years, to effect their water conservation initiatives in California, but [ASC?—unclear] developed this criteria how you're going to divert water off the Colorado River in times of shortage and so forth, that you provide sort of a hold-harmless period for California to be getting a certain quantity of water.

It's now completely full for X number of years such that they have opportunity to put in their conservation programs, such that at the end of that period of time they would pick up the difference from water conservation versus from the river. So that's part of the debate that's taking place.

I guess in layman's terms they're saying, "We realize we've got to come down to 3.8 (or whatever it is), but for the next fifteen years, come on, guys, the rest of the states and the Feds, let us take a little bit more while we do everything we can to make up the difference, and at some point in time we'll cut ourselves back, and we'll have put our water conservation and other processes in place in

California. Because if we're to do it right now, we don't have the leeway in order to meet our needs if we were to cut back tomorrow."

Storey: What are the other states saying? Are you hearing?

Martinez: I think the other states are basically saying, "Fine. But show us that you're going to meet that time schedule and that you're serious about it." Now, as long as you've got water in the system, fine. And it appears to me, the last I heard is our reservoirs and our systems have got enough water in storage to enable you to carry you out that far, in terms of being able to—

Storey: Even if we have some minimum years in there?

Martinez: Yes. Well, based on the projections that the region has made, including some low-flow years. But if it gets worse than their worst-case scenario, then you've got some problems. But it looks to me like that whole system will have problems.

It's kind of interesting, this is the first year—I was just looking at some material that came across my desk today. I think this year the snow pack on the Colorado River is about 65 percent of average. If I recall correctly, that's about the lowest it's been in quite a while. Maybe it's just one year, but if it continues like that, it will be interesting. See, because what has happened in the last several years is that you've had excess flows on the Colorado River. In other words, California has been able to take all its water entitlement, because Arizona wasn't diverting theirs. Then Arizona came in and started diverting theirs a few years ago. But we've had declarations of surplus flows, so you've been able to meet all the needs of all the states. You've been able to meet the needs, the excess needs of California, and they've been able to put water down the river, excess water for Mexico.

But the first year that you get into a situation where you don't have surplus flows, then you've got to have some mechanism in place to provide some kind of relief to California during that time that they're trying to meet their needs. So there are processes that they're going to put into place to try to meet their internal needs by *reducing* their dependence on the Colorado River.

Wastewater Reuse in California

Part of that approach that they're looking at, and part of where we're at goes back to our mission, is increased efficiencies of water use. We'll continue to work with water users in not only California, but other parts of the West to make

better use of the water. Wastewater reuse. We're working with quite a few municipalities and government entities in Southern California on wastewater reuse projects now.

Storey: Interior is the watermaster for the Colorado, for the lower Colorado. That means us by default. Now, if we're not involved in all of this, who *is* doing it? Somebody in Interior, I would gather, is pushing on it, after the Secretary made his announcement a couple of years ago.

Martinez: The lead is the Regional Director in Boulder City, and then the lead *in* the Department has been David Hayes, the Deputy Secretary. My involvement has been, as Commissioner, to stay on top of what's going on, but I'm not involved in the negotiations or the day-to-day activities. There's just so many things to do. As we talk about these issues and you start talking about Republican River, one person takes the lead there. Colorado River, another person. Rio Grande. Klamath. Columbia and so forth. You've sort of got to stake out your territory.

END TAPE 1, SIDE 2. MAY 4, 2000.

BEGIN TAPE 2, SIDE 1. MAY 4, 2000.

Storey: This is [tape 2 of] an interview by Brit Storey with Eluid L. Martinez on May the 4th, 2000.

You mentioned the Republican River. Let's talk about what's going on there.

Martinez: That's one where I can say, like on the Colorado River, my involvement has been sort of on the periphery. But there you've got another situation. What particular issue are you interested in?

Storey: There's a lawsuit, I believe, between Nebraska and Kansas going on now. There's a whole complex of issues.

Platte and Republican River Issues

Martinez: The general issue, as a way I've learned to express this, is what they call the Platte River issues and Republican River issues, where you've got four states involved. Basically what you've got, again, is you've got some endangered species, some water quality concerns in the downstream reach of the river, and a need for water from the upstream reaches of the river. So what was done in this area is the four states, representatives of four states and Federal Government have gotten together.

They worked out a memorandum of understanding how to try to approach to come up with a solution that would be acceptable to all of the states and the Federal Government, how to try to meet the endangered species needs of flows in the river, water quality needs, through a collaboration process rather than litigation. That continues to be ongoing. I get information across my desk. Every so often they meet.

"The reason that some of these initiatives are handled at a level higher than the Commissioner of Reclamation is because a lot of these initiatives involve Department of Interior bureaus other than the Bureau of Reclamation . . .

That's an issue that the Assistant Secretary for Water and Science has taken sort of an initiative on it and has worked on it. The reason that some of these initiatives are handled at a level higher than the Commissioner of Reclamation is because a lot of these initiatives involve Department of Interior bureaus other than the Bureau of Reclamation, and when you've got Bureau of Reclamation, Fish and Wildlife Service, Bureau of Indian Affairs type of involvement, BLM [Bureau of Land Management] involvement, at least this Administration, at least the Secretary, what he has chosen to do is put a person at the Assistant Secretary or Deputy Secretary level that is sort of, for lack of a better word, coordinating and moving the initiative forward and has authority over the bureaus, in other words, to coordinate the bureaus, because the interest of the Bureau of Reclamation might not necessarily be the same interest of the Fish and Wildlife Service on a given issue. So, therefore, for the Commissioner of Reclamation to be driving the Habitat Conservation Initiative on the lower Colorado River or the Platte River Initiative might bring us into conflict, and there have been occasions where we don't see eye to eye with some of the other bureaus. So you *need* a higher level, see?

CALFED

That's one of the reasons why some of these initiatives, CALFED Initiative, Platte River Initiative, Lower Colorado River, are being driven by a higher level than the Commissioner of Bureau of Reclamation. And it makes sense, because you've got to bring these different bureaus into line every now and then.

Storey: So the same kind of thing is going on, I believe it's Wyoming and Colorado. No, it's Nebraska and Wyoming that are involved on the Platte.

Martinez: Yes. There it's more, as I understand it, it's more involved in a lawsuit with respect to the downstream state and the upstream state in terms of flows to the downstream state. And, of course, we're involved as the Bureau of Reclamation because our facilities on the upstream state impound water and release water. But that's not, at least if I'm thinking straight here, that was not being driven necessarily by endangered species Section 7 consultation and stuff like that. It's a difference of opinion between states, and then *we* are involved because our facilities empower water in one state, deliver water in the upstream state, and deliver water in the downstream state.

Storey: I think that's the same on the Republican for Kansas and Nebraska, also.

Martinez: Yes.

Storey: Kansas is saying, "You guys are sucking too much water out using your wells," or some such thing.

Texas Sued New Mexico over Pecos River Water During Term as State Engineer

Martinez: And that issue is an issue that has been litigated across the West. It's the same issue that I had to deal with as State Engineer in New Mexico. The State of Texas sued the State of New Mexico on its failure to meet downstate state line deliveries based on a 1932 or '33 compact between the states. You had a lot of groundwater development which affected the river.

We went to the U.S. Supreme Court, and the Supreme Court basically ruled that the groundwater depletions had affected the river and we needed to cut them back or we had to deliver water to Texas. So what we did there, basically New Mexico was, instead of cutting back junior priorities—I'm saying the State Engineer and the legislature and the Governor at that time put in a water acquisition program to go and acquire water rights on the open market in order to dry up enough lands to increase the flows in the river at the state line. We undertook that approach back in 1990-91.

Reclamation's Approach to Funding Endangered Species Work

It's interesting that that approach is now being used by Bureau of Reclamation and the Federal Government in trying to address endangered species issues. The Bureau of Reclamation, through the appropriations given to us by Congress, is acquiring water on the Rio Grande and on the Pecos River, on the

Klamath River [in] Oregon and California, on the Snake River in the State of Washington, in order to maintain certain levels of flow on the river to help endangered species, without having to go directly to the water users and put the bill on their back.

Storey: Now, are we talking about the Pecos when you were talking about this disagreement between New Mexico and Texas?

Martinez: Yes. Pecos River.

Storey: I wanted to talk about the Carlsbad Project, anyway, carrying through your experience from being State Engineer and to into experience as Commissioner and what's going on down there.

Carlsbad Project

Martinez: Well, our involvement to date has been basically in two arenas in the Pecos River. One is the adjudication proceeding, and adjudication proceedings sometime takes so long that they have a life of their own. But the issue there basically is there was a water right offer made by the State of New Mexico to the Bureau of Reclamation and the Carlsbad Irrigation District Board of Directors specifying a quantity of water that the State of New Mexico would recognize in the name of the Bureau of Reclamation and the district, a certain quantity of water.

That water right offer was accepted by the district and by the Bureau of Reclamation, but that offer was protested or challenged by upstream groundwater district, the Roswell Artesian Conservancy District,²⁹ on the basis that it was too much water, that the state had recognized in the name of the district, and the reason for that is because the concern there is the district has senior prior water rights, and in times of shortage would have called on junior groundwater users. So it's in the interest of the groundwater users to try to diminish or reduce the quantity of water that the district would get.

Pecos River Adjudication

The other issue was, the State of New Mexico made the offer to the district and the Bureau, individual farmers within the district were concerned that the water rights should be in their name, and, after I left, had entered into a lawsuit indicating, an adjudication lawsuit, that the water rights should be made in their

29. This organization now uses the name Pecos Valley Artesian Conservancy District.

name. So there has been litigation going on in the Pecos River adjudication where the judge in the adjudication basically has come down with a decision that says that the water rights are owned by the farmers, by the water users, and has said there is some kind of right the Federal Government has and maybe some kind of interest that the district has, board of directors, and that's continued to be litigated. And that *continues* to be litigated.

But that issue is not an issue of first impression. I've become aware of what's happening around the country, across the West, some of the same issues appear in different locations. That issue was an issue that's being addressed or has been addressed on the Klamath system. As a matter of fact, there was a Supreme Court decision sometime back that basically said the beneficial user of water, the farmer, ~~the user of water~~, is the owner of the water right, but there are some interests that the Federal Government has.

So basically the position that the Bureau of Reclamation has taken in this litigation is that we, as the Bureau of Reclamation, by virtue of the fact that we appropriate the water, have an ownership interest in the water. The farmer, by virtue of the fact that he makes use of the water, has a beneficial-use interest, and that the district has some kind of interest in the contracts that it has, and that no party can go on its own and do whatever it wants with this water right. That's an issue that's being litigated in the Pecos.

It's ultimately the same issue that we're facing on the Lower Rio Grande. And there are districts across the country, I mean, across the Reclamation states, that take either the Federal Government's position on that or they take the position that other districts take, that says the Federal Government has no interest and you should get out of the way, "Once we pay our bill off you don't have no interest in the water rights or anything like that."

Water Users are Asserting More Control over Ownership of Water, Especially When a Project Is Paid out

That's being driven, I think, by virtue of the fact that as water becomes more and more valuable, it is necessary through changes of use from one use to another, that the less restriction, the less oversight by any government entity, the easier it is for irrigation districts or water users to move water around and so forth, because the issue that is yet to play itself out and will play itself out in the next decade or so, is exactly what the interest of the Federal Government is in Reclamation projects in terms of transfer of water from one location to another or from one use to another.

The states take a very strong position that that's a state prerogative and issue about administering water rights. The farmers either say the Federal Government has an interest, because they're interested in the Federal Government helping their districts like they have in the past, in terms of—we can get to that point. Some districts view the B-O-R as a friend. Other ones view them as in their hair and we don't wish them to be there, see. But at any rate, how that role works itself out in the future, it will be interesting.

Reclamation's Role in Project Water Transfers

Which gets us to the question of water transfers. Given the fact that the Bureau of Reclamation, depending on what literature you read, but at any rate, if we deliver water, for discussion purposes, to [unclear] farms across the West or to ten million acres of land out there that are irrigated in the West, that's a lot of water. Most of that is associated, if not all of it, most of it, with irrigation. In a lot of areas that's the primary source for future development, future growth. What the role of Federal Government, i.e., the Bureau of Reclamation is in that transfer process will be interesting—from a lot of perspectives.

There's an appropriate role for the Federal Government. I think the role of the Federal Government is as long as you have an irrigation project, a project that was financed and built for benefits of building that project, you've got to be able to maintain the viability of that project. As the Bureau of Reclamation, you've got to make sure that if these rights are moved and so forth, they've been done in a way that doesn't adversely impact the rest of the project. You've got to operate it, you've got to maintain it, and so forth. So you've got those interests.

"I think that the Bureau's role should be very limited, that the states are the ones that should administer water . . ."

There are those that would argue that the Federal Government also has a responsibility in how that water is used, whether it's for growth or for inducing growth or not. I don't subscribe to that. I think that the Bureau's role should be very limited, that the states are the ones that should administer water, determine whether it's appropriate to move [it] or not, for one purpose or another, whether it's in the interest of the public welfare or not. The role of the Bureau should be very limited, to protect the interests of the project and the purposes for the project, and in doing so, voice our position anytime water is trying to be moved or not moved from one location to another.

"The official policy . . . is that the Bureau of Reclamation will *facilitate* the transfers of water from ag to other purposes . . . in an open-market kind of approach . . ."

The official policy of the Bureau of Reclamation at this point in time, and the official policy of the Department of Interior, is that the Bureau of Reclamation will *facilitate* the transfers of water from ag to other purposes and will do it in an open-market kind of approach, in other words, between willing buyers and willing sellers. But that policy is one page.

So what I have put in place is a team of Reclamation folks and solicitor folks and folks from different parts of the Department of Interior that have put together a position paper for me on a new policy, which we have made available to irrigators and people in the environmental community for their input, which I will look sometime this summer at what that input says and then recommend or put a policy in place that will guide the Bureau and its involvement in water transfers in the future.

But what is happening here is that, on the one hand, in a lot of these areas Bureau projects constitute the primary source of available water. On the other hand, water drives growth. So it appears to me that you've got conflicting philosophies. One is, if you move the water, you're going to create growth, and, therefore, you should not have a policy that facilitates the movement of water. Then you have a policy that says we facilitate the movement of water, because we realize that's the source of supply.

So what happens? Does then the Bureau of Reclamation become the planning/zoning board for the area or the policy board. I don't believe that's the case. Those decisions should be made by somebody else. In other words, growth advocates.

How Zoning and Water Regulation Ought to Interact

It goes back to, I think, a discussion we had probably three or four years ago on the issue of Intel Corporation, when I was asked as State Engineer not to allow the use of water for industrial purposes in the Albuquerque area, and the position I basically took is you go to the zoning bodies, the appropriate city councils, and the county commissions will have to rezone the property and have to consider all these issues. If they've done all that, then don't come to me as State Engineer and ask me to overturn those policy decisions. I need to look at what I consider to be a more narrow approach. But as policymakers, you could make a

cut. You could say, “Well, no, I think I’m going to make that decision,” and let somebody challenge you.

That’s the issue that I was trying to raise a while ago is, what is the appropriate role of the Federal Government? Is it going to be a policy that says we’re going to step in the middle of trying to determine or make policy on land use, growth rates, and of these kinds of associated issues, either through our water transfer policies, through our water quality issues? EPA [Environmental Protection Agency] is now beginning to make noises in this area. *Or* are we going to refer that to the local state parties as long as they comply with the laws that we put in place? I think that’s what’s driving a lot of this resentment or debate about the West feeling that the Washington folks have a war on the West. They say you have people in Washington making policy decisions that impact their livelihoods. And sometimes you get into some interesting situations, real interesting, on policy generation. I hate to waste your time in here, but–

Storey: No. I was going to ask you for examples.

How Policy Has Been Created at Reclamation

Martinez: Well, this is on policy, okay? When I became Commissioner of Reclamation, not knowing how the system worked, I began to ask questions. To generate policy, somebody has to make a conscious decision that policy is needed, and starts the ball rolling in terms of formulating policy. What I found out here in the Bureau of Reclamation—and if it existed here, it probably exists someplace else—was that sometimes policy was being generated by somebody at the very lowest level of the organization saying, “I think there should be a policy and it should be a good policy,” and undertake it upon themselves to begin putting paperwork together and raising issues on policy up to the point where people are surnaming off documents without asking the question, “Why did this come about?”

Because what usually happens a lot of times, in an organization the size of Bureau of Reclamation and other organizations, is you’ll get a document and you’ll have seven or eight surnames on it. In other words, it goes through seven or eight individuals, and once you get that first surname, unless somebody sits back and says, “Where is this coming from and the reason for it?” people have a tendency to say, “Well, somebody must have asked for this.” The first guy generated it, and when it gets up to the Commissioner, it’s got eight or nine surnames on it and you assume, unless you’re going to pay attention to it and read everything, which you can’t, that it’s something that the organization needs and wants. I found out that I was getting documents up here that people were

generating at the field that didn't make sense, but yet the policy is put into place that causes you problems.

Policy Review Committee Role in Creation of Policy

So we have put in place, hopefully, a process where this doesn't occur in the future. Now if there's going to be a policy generated in the organization, the need for that policy has to be brought before a Policy Review Committee. They make a cut as to whether it should move forward or not and then it goes through certain steps. We put that in place. That's been in place about a year. I thought it was working. Last week I get a letter from a Congressman concerned about constituents that had written to him and told him that he had heard that the Bureau of Reclamation was putting out a policy to prohibit hunting, the carrying of firearms on Bureau of Reclamation withdrawn lands across the west. Caught me by surprise.

We looked into it. Somebody out in the field in Denver started a document, without going through the procedures, and it became public. And here I've got Congressmen writing me letters saying, "We understand you're putting policies in place to prohibit hunting and carrying of firearms," and I find out that somebody generated a document that should not have been generated in the first place.

So now I'm writing a letter back and saying, "Nope, there is no policy. What you saw was an initiative by an individual." But those things happen. It's kind of interesting.

"I think that when you sit back and look at my tenure as Commissioner, maybe I haven't done things that made a lot of news in the newspaper, but when we look at what we have done *internally* as the Bureau of Reclamation to try to position ourselves for the future, . . ."

So that's sort of an indication of the housekeeping that has to be done within an organization. I think that when you sit back and look at my tenure as Commissioner, maybe I haven't done things that made a lot of news in the newspaper, but when we look at what we have done *internally* as the Bureau of Reclamation to try to position ourselves for the future, I think it will reflect that we've done a half decent job. In other words, we're *past* this debate about our mission change. We're *past* this controversy about whether we should be in this business or not. Our GPRA plans are in place. I mean, we're looking at our staffing needs, our dam safety needs, our security needs, all these other issues that

are involved with internal operations to position the Bureau, I think, into when the new Commissioner comes in, hopefully it will be a functioning organization that's a little bit better than what it was when I found it.

Issues Arising from Sunsetting of Directives and Standards

When I came in, you know, they said, "Well, we've done a great job. We've thrown out 4,000 pages of directives and standards and everything else." Well, we threw the baby out with the bath water in some of those instances, and we have sort of regrouped.

Storey: Since you're talking about positioning us for the future, let's talk about the staffing changes that have been going on in the last few months, the creation of new SES [Senior Executive Service] positions, or what look like to the field people, at least, new SES positions and so on and what we're doing there.

Recent Changes to Senior Executive Positions at Reclamation

Martinez: My understanding is that before I came as Commissioner of Reclamation we had either twenty-two or twenty-three SES positions. We now have nineteen, and we continue to have nineteen. It's a question of not new SES positions, but reconfiguration, the appropriate use of those positions.

Director of the Denver Center Recommended His Position Not Be Filled

Let's take a look at Denver Center. You have a Director of the Denver Center, Director of Management, Director of Technical Services, and Director of Human Resources. I don't know the logic or the reason that went into creating that structure out in Denver in 1993, but when the previous Director of the Denver Center retired, he came up to me and he said, "My word of advice, don't fill my position." He says, "It's not needed."

Administrative Service Center (ASC) Transferred to Department of the Interior

Especially now," he says, "since half of our organization which was the Administrative Services Computer Group³⁰ that used to make the payrolls and everything else was Transferred to the department." He said, "It's no longer needed."

30. See interview of William C. Klostermeyer for information on the founding of the Administrative Service Center (ASC).

So I filled the position again with a gentleman. He was in the position for six months, and he said, "You know, I haven't got much to do." He says, "Can I start looking around, helping the organization out?"

I said, "Fine." So when he left, I said, "You give me your advice. Should I fill the position?"

He said, "No."

So I said, "Okay. Well, then let's find out whether the organization really needs this position or not."

So I asked somebody to take a lead in talking to all the SES'ers in the organization. Unanimous: it's not needed. So now that position is going to be used someplace else. But *that* means there's going to be a redirection in terms of reporting. So what's going to happen?

Reorganized to Have the Director, Human Resources and EEO Report Directly to the Commissioner

If my plan is carried out and accepted, Director of Human Resources and EEO will answer directly to the Commissioner, which I think is appropriate, because as I deal with human resources and diversity issues and employment opportunity issues, to have that director reporting two levels below me I don't think was appropriate. If I'm going to be held accountable, I'm going to hold the organization accountable. So that director will now report to me.

The other two sections will then go to the Director of Operations. The feeling in the Technical Services area that they were orphans, that they were thrown out there to make their own living and that nobody cared about them, hopefully will now be resolved. The Director of Operations will not only have the regions under them, but also have the Technical Services Center and [it] will no longer be a stepchild out there, but will now be part of the organization. They'll have to look after *their* interest as well as the interest of the rest of the organization.

Reorganization in 1993-1994 Tried to Do Away with Technical Capability and Change Policies Regarding Water Contracts

I don't know how true it is or not, but from what I understood, and I may be mistaken, that in the intent to reorganize the Bureau of Reclamation in 1993-

1994 and drastically change what the Bureau was, two areas were looked at as principal areas that could affect that change: do away with its technical capability. If you do away with its technical capability, they will no longer be in a position of being water developers. I'm being frank about this. And the other one, effective contracting policies, how they contract water. So one was a TSC formulation that was set up, I think, to fail, but it didn't, and the other process was recontracting policies that came out of this office that said, "Let's reallocate water, use every means within the contracting capability to reallocate water from its existing uses to new uses," which caused controversy and continues to cause controversy across the West. Two areas.

Now, with respect to your question about the organization, by bringing the Technical Service Center back into the organization, I think it will be more healthy. The contracting issue is something else we're going to have to deal with. So from that perspective, I think from my perspective, it will probably be better for the organization, but it means they're not going to have somebody in Denver that's going to be the head of the pyramid. But, so be it.

With respect to the positions here in Washington—

END TAPE 2, SIDE 1. MAY 4, 2000.

BEGIN TAPE 2, SIDE 2. MAY 4, 2000.

Issues with the Director of Operations

Martinez: You have a Director of Operations that was overseeing budget, dam safety, operation and maintenance, serving as Chief Financial Officer, trying to run his organization out of Washington. Concerns I had was, I was spending more time in the field visiting more area offices as a Commissioner than your Director of Operations. So I said, "Let's see what we can do to improve this situation." Well, I tell my Director of Operations, "Go out and do that. There's a hole here."

So he goes out in the field. People are complaining, "Well, he's not here, and you're out in the field, too."

So I said, "Well, okay, let's create a deputy here in Washington that will be here in Washington and will be the surrogate Director of Operations on some of these activities and take some of the load off him." Because one of the things that I was fortunate about, and I've been continuing to be fortunate, is that I was able to inherit some SES'ers with longevity and experience that knew, and one person

did a lot of work. It's not fair, I think, to say that that's going to continue, because I saw that when I was State Engineer.

The other thing we got is, I decided to create a Deputy of Operations-West, which is one of the things that the Bureau of Reclamation has been criticized for, is our inability to operate and maintain our facilities adequately, the fact that operation of our facilities are too costly, that we're passing on too much cost to our water users, that our dam safety program is running amuck in the fact that we're making estimates and then it's costing us twice as much to fix the structures, those kinds of things.

I said, "Okay. We're going to put somebody in charge whose responsibility is going to be looking at that." So I created a position out West that is going to be in charge of operation and maintenance, dam safety, security, and then special projects that the Commissioner might need. So instead of having the position here, it's out there.

Director for Policy Issues

So, then the Deputy Director for Policy. Well, if you've got a policy chief in Washington with a staff of ten or fifteen people and fifty people sitting out there in Denver that are doing policy, you've got to have somebody out there that's high enough in the organization that runs that on a day-to-day basis. So from that standpoint, people might say, "Well, this guy's creating more positions," but when you look at the total number, total number of positions is still the same. It hasn't grown; it's just a reconfiguration of how the uses are.

Because what was happening is when I came in as Commissioner, we had a Special Assistant sitting out there in Boulder City that had been farmed out there because the new administration, the new Commissioner didn't see eye to eye [with him]. So he put a Special Assistant out there in Boulder City and a Special Assistant out in Mid-Pacific, and you had two positions that were doing work, but were not doing—and I had another one out there in Yuma. Yes, I think it was in Yuma.

So in terms of total positions, you know, because I was concerned about that and I looked at it myself and I said, "No, there's not any more." If somebody wants to criticize me for, I think, the good of the organization, we'll see how that works out.

The issue, though, is that you've got to make sure that you pick the right people for those positions and that they don't start to build empires. But it will be something that I have to deal with over the next nine months.

Storey: Interesting. Has there been anything new on drought?

Martinez: Yes.

Storey: Hasn't there been some stuff down on the Mexican border, for instance?

Drought Assistance in Reclamation States

Martinez: Again, I've got to sort of think back and regroup, depend on my memory, and if I'm wrong on some of these issues, the record will correct me someday. The Bureau's involvement in drought, as I understand it, basically occurred, at least that I'm aware of, more involvement, was when California had their droughts in the eighties or whenever it was. As a result of that period of drought in California, the congressional folks from California were able to get legislation approved in Congress to provide financial assistance to California and some of the other states for drought relief.

At some point in between the initiation of that drought to the time I became Commissioner, at some point in time Congress enacted a public law that authorized the Bureau of Reclamation to provide assistance for drought in the Reclamation states. It's Title XVI of--no, it's not Title XVI. I can't recall right now. But, anyway, the legislation that authorized the Bureau of Reclamation to provide technical and financial assistance is in two parts. There's one part that authorizes the Bureau of Reclamation to *assist* states, tribes, and local government entities in doing drought contingency plans. In other words, doing plans and assessments so these entities can be in a position to respond to future droughts.

The authority the Bureau has is nationwide, nationwide authority. What we have done with that authority is we have, in the Reclamation states, worked with states, New Mexico, Texas, Arizona, and worked with tribes, and have worked with some local governmental entities to help them and provide assistance and financial resources where they can prepare drought contingency plans. That authority is ongoing. In other words, it doesn't have a sunset provision, and we request money in our budget for these activities.

The other portion of that law authorizes us to provide emergency relief in times of drought. And what does that do? If I recall correctly, the type of

infrastructure we can provide has to be temporary in nature. Pipelines. It's been determined that a well, if we can help them drill a well, it's temporary in nature, but we can't build permanent facilities. The legislation was specific. But what it does is it allows the Commissioner of Reclamation greater flexibility to move water through its facilities during drought than you would have during non-drought periods. In other words, the constraints that I would have under certain laws or certain regulations, I would have greater flexibility in moving water and acquiring water during drought.

But that provision has a sunset, and since I've been Commissioner in '96, we got authorization and money to provide assistance of the type I've just described as a result of the droughts in Arizona, New Mexico, and Texas, Oklahoma. Last year we got appropriations, the language in the appropriations restricted us to use most of the money for acquisition of water in New Mexico and in the West for water for endangered species issues. And this year we got a request for half a million dollars. It's going to be a write-in, probably, like it was the last couple of years, for some additional money. So we continue to provide that assistance.

The way we've approached it from Reclamation is we won't ask for a significant amount of money. What we have done is we have, in the last couple of years, put in a half a million dollars, and then during the debate, during the discussion of the budget cycle and so forth, as we begin to see whether there's going to be a need for it or not, either I talk to the Appropriation Subcommittee members or the Chairman or the states to try to get that increased, because it comes out of our base budget. It's not a supplemental appropriation.

So that's what the Bureau of Reclamation is doing. Because of the concern on the parts of the states and the cities and the tribes and the water users out West, and not only out West but nationwide, that whenever there's a drought emergency and they go to the Federal Government for assistance, there're so many programs and so many agencies involved that they have a difficult time tracking down what assistance is available and moving through the bureaucracy.

National Drought Policy Commission

A couple of years ago, Congress enacted and the President signed legislation which created a National Drought Policy Commission, which was chaired by the Secretary of Ag[riculture]; Secretary of the Interior is a member or his designee, and he designated me, so I'm the member of the commission; EPA; FEMA [Federal Emergency Management Agency] is on there; NOAA [National

Oceanic and Atmospheric Administration]; they have some state representatives, tribal representatives and so forth.

What we've been doing as a body for about the last year is putting together a report which is now complete and will be transmitted to Congress the sixteenth of May. The law, as I recall correctly, says look at what exists in terms of the Federal assistance, what is needed, how it can be better coordinated, should there be one leading Federal agency doing all this work.

What we found out was what we already knew: there's a lot of programs, programs are effective, but they're all scattered all over the place. And, by the way, in terms of planning, the Bureau of Reclamation is the only agency that has authority to do that.

So this National Drought Policy Commission report, the approach it's taking is an approach that says the policy of the Federal Government should shift from assistance to planning, to mitigate future damages. But during the transition you should always have programs to help people that need help. So what the report is recommending is a shift toward planning and contingency planning and having plans in place, more or less like flood plain management, that approach. It has not recommended an agency to take the lead, ironically because you couldn't get the agencies to agree to which agency should take the lead.

So it's recommending a commission, that a commission be formed, by Congress or the President, that will have representatives, and the commission will be charged with implementing the recommendations that flow out of the report. We'll see what comes out of it.

As far as Reclamation is concerned, the good thing that's going to come out of it is an acknowledgment of the fact that the program we have in place has been functional, has been working, an acknowledgment that Congress should continue to adequately fund us, and then a recommendation that we ought to work with the [U.S. Army] Corps of Engineers to come up with an approach where these services can be provided to the eastern United States. Because, remember, we have authority to do it nationwide, but have been basically dealing with the Reclamation states.

So the commission chose not to say, "Redo the law." So probably what I'll be looking at is a possibility, if it's appropriate, is maybe entering into a memorandum of understanding or agreement with the Corps. Or we would continue, what I would envision, if it works out, is the Bureau would still have the

authority. We would get the appropriations to do nationwide, but in the non-Reclamation states we could just enter into an agreement with the Corps, that the Corps would do the work for us.

Storey: Well, we've burned up another two hours.

Martinez: And what else have you got left? The other issue is—

Storey: I've got a whole bunch of other topics.

Native American Activities of Reclamation

Martinez: What we've done in the tribal arena, I think, on the Native American arena might be of some interest to whoever wants to read this down the road.

Well, we can go about another ten minutes if you want. Have you got a short question?

Storey: Well, we've got two hours tomorrow. I think there is a short one that I can ask you, that I can then cross off. That is, did you plan your career?

Did You Plan Your Career?

Martinez: No.

Storey: What kind of career planing did you do?

Martinez: If I recall correctly, the first interview I had with you is the way I got into engineering was because my drafting instructor in college [high school] prompted me to go and apply for the co-op program at the Highway Department, and I applied, thinking I was not going to get selected. I got selected. I wound up in engineering. I graduated, went to work for the department that I worked for, and wound up in the water business, retired, and then got a call from Washington. I think I've told you before that if I would have consciously sought this position, I probably would never have gotten it. It just happened. And, therefore, when I got it, I didn't have any agenda. In other words, to me, the Bureau of Reclamation, I knew it existed and I knew it was a world-class engineering organization, because I'd been an engineer. I had studied about it. But having worked in the area of water right administration at the state level, interaction with the Bureau was very limited. My staff interacted, but I didn't.

"So I come here and I find out that it's . . . positioned itself into wanting to become the premier water managers of the world. . . . I just stepped out of a position which most people would call . . . one of the last water buffalos of the West, and I said, 'These guys got a lot to learn.'"

So I come here and I find out that it's been going through a major upheaval and had positioned itself into wanting to become the premier water managers of the world. That's what the mission statement basically said. I just stepped out of a position which most people would call a water buffalo, one of the last water buffalos of the West, and I said, "These guys got a lot to learn." But I've learned over the last five years that we've got a *talented* pool of individuals in the Bureau of Reclamation, and they're doing a tremendous job and will continue to do a tremendous job.

Storey: Well, let me do another question that I think will be short. The Corps is undergoing some changes and pressures right now. Is that resulting in any repercussions for Reclamation?

Future of Reclamation and the Corps of Engineers

Martinez: No. I met with the civilian head of the Corps just a couple of weeks ago, and I thanked him for making sure he gets all the press and all the heat. It keeps it away from me. But the issue basically is that I think the Corps is going through a similar kind of transition that the Bureau did back in '93, '94, in trying to turn towards what its proper role should be in the environmental restoration area.

". . . at this point in time the feeling of the country, most people consider environmental issues to be very important, just like the development of water projects might have been in the twenties and thirties . . ."

I think the Corps—and this is an answer maybe you want to pursue tomorrow—has realized that, like the Bureau has, and like I've realized is that, at this point in time the feeling of the country, most people consider environmental issues to be very important, just like the development of water projects might have been in the twenties and thirties and so forth, you know. It goes through cycles. So right now, environmental restoration, environmental initiatives are the initiatives that are drawing attention at the national level and then congressional level and are being funded in significant amounts of money.

Environmental Initiatives Are Big-Dollar Items

When you're talking about the CALFED Initiative, you're talking about lower Colorado River, you're talking about the Platte Initiatives, the Florida Initiatives, these are big-dollar tickets. The Bureau of Reclamation and the Corps, I think, are positioning themselves to be leaders in those areas, like they were leaders in building projects. But what has happened with the Bureau, I think it has moved up a little bit further ahead than the Corps. In other words, there's still some resistance on the part of the Corps in some of those areas. So I think that what's happening to the Corps is they're having some internal strife with where they're at and where they're going to be. And what I see is that the civilian part of the Corps wants to move the Corps more towards environmental approaches, and maybe some of the traditional folks don't want to get there quite yet. But that kind of conflict exists not only in the Corps, it exists in the Bureau, it exists in Congress, it exists in water users.

So what's happened, I think, is that, one, the Corps is trying to figure out where it's at. On the other hand, there's some people in the Corps that come to realize that the big projects in the short-term future are environmental restoration projects, and that you can aim to realize and stake out a position for future growth in those arenas. So two things have happened. One is that, if you recall, the Corps came out with a growth plan of increasing its budget by five billion dollars over the next X numbers of years by new initiatives in growth and so forth. I didn't really look at that, exactly what that meant, but they want to grow.

Depending on who you believe, apparently that was done without the input of the political part of the organization, but the professional part of the organization trying to stake out what they were/weren't going to be and so forth, which has drawn some criticism.

I personally feel that a lot of this is being driven by the fact that the Corps is probably about five years behind the Bureau in terms of trying to deal with the issues presented by the concerns of the environmental community and the concerns of traditional water users. What happened is when Commissioner Beard came in and did the reorganization he did, he moved to try to bring the Bureau more into what was called an environmental agenda—that's the proper word—which was not accepted and resisted by the traditional water users. But we have, as best as we have been able to do over the last five years, is position ourselves now where the traditional water users feel more comfortable with the Bureau, and the environmental community feels comfortable with us. They'd like to feel more comfortable, but they feel comfortable with us. So we're not getting the pot shots from either part of the community like we might have been five or six years ago.

What's happening to the Corps is that I think a lot of the publicity that the Corps has been drawing in the last six months has been generated by the environmental community, that is, certain parts of the environmental community are trying to highlight the Corps' failure in certain areas. Because if you look at those articles, and the articles are quite clear on it, that their sources of information have been some of the environmental groups. So I think what has happened is some of the environmental groups are now targeting the Corps and saying, "We need to impress upon you our concerns." How that plays out, it'll be interesting.

Storey: Well, I think we've used an additional ten minutes. Let me ask you whether you're willing for information on these tapes and resulting transcripts to be used about a year after you leave Reclamation.

Martinez: Yes. I have no problem. A year, of course.

Storey: Thank you.

END TAPE 2, SIDE 2. MAY 4, 2000.
BEGIN TAPE 1, SIDE 1. MAY 5, 2000.

Storey: This is Brit Allan Storey, Senior Historian at the Bureau of Reclamation, interviewing Commissioner Eluid L. Martinez on May the 5th, 2000, in his offices in the Main Interior Building in Washington, D.C., at about one o'clock in the afternoon. This is tape one.

Before we get going, I'd like to talk about your art and how it's going while you're Commissioner, or not going.

Hadn't Done Much Woodcarving While Commissioner

Martinez: It's not. I haven't done much art in the last five years other than a couple of pieces for my walls in the apartment. I just haven't had the time or the inclination for producing new art work.

Woodcarving on Display at the Museum of American Art

In terms of how my art in general is going, it's been getting fairly decent exposure. One of my woodcarvings was on permanent display of the Museum of American Art here at the Smithsonian [Institution] for about a year and a half. The museum is undergoing some major renovation, and it's going to be closed for three years, and the museum has put shows at different museums across the country with

some of their collection, some of the pieces in their collection, and that particular carving has been selected to tour eight museums across the country in the next three years as part of the treasures of the collections of the Museum of American Art of the Smithsonian Museum. So from that standpoint, I'm continuing to get exposure.

I've had a person that has made an inquiry to see if I'd be interested in having her represent me as an artist's representative, and I've told her basically I can't do that while I'm Commissioner, but there seems to be an interest, including my art sort of on the national scene in terms of exposure to collectors and so forth. So I look forward to going back to Santa Fe and starting to produce some pieces.

Storey: Getting back into it.

Martinez: Yes.

Storey: Let's talk about Glen Canyon and this group that thinks we ought to tear Glen Canyon down. What involvement, if any, have you had, and what do you think the prospects are for all of this?

Movement to Tear Down Glen Canyon Dam

Martinez: As I understand this issue, Glen Canyon Dam has a long and interesting history. Given the fact that there was opposition to the construction, and given the fact that it was constructed, I believe there are some individuals in the environmental community that have never been quite happy with that decision and are continuing to express some frustration, some concern with Glen Canyon and dams in general. There seems to be a feeling, at least prevalent at this point in time, about dam-removal issues. In other words, in the last three years the question of dam removals has come up and is making it more and more in the newspaper. Secretary Babbitt has been giving several speeches, stump speeches across the country, promoting the removal of appropriate dams.

The issue in the Pacific Northwest on the potential removal of four Corps of Engineers dams on the Snake River has been making the newspaper. So given the fact that dam removal has sort of caught the attention of the media and certain sections of the American community, I think this group has used this as an opportunity to again raise the issue of removal of dams, and generally they've zeroed in on Glen Canyon Dam.

If I recall correctly, their main point of contention is they've raised issue about the safety of the structure. They are concerned about whether the structure is safe or not. Some of that goes back to, my understanding is, at some point in the 1980s when there was high runoff of a tributary upstream of the dam, and they had to put water through the spillway, I guess. So they had cavitation in one of the spillway tunnels that had to be fixed. At any rate, I think this debate about removal of Glen Canyon Dam is part of the larger debate about removing dams.

My involvement personally has been, I was the expert, I was the Administration's witness in a hearing before Congress on the issue, an oversight hearing. I believe it was in the Senate, if I'm not mistaken, an oversight hearing on that issue, and I presented the testimony of the Administration that I believe basically said was it's probably not a practical idea, and I think that the Secretary has gone on record saying it's probably not a practical idea to look at the removal of that particular structure.

Removal of Smaller Structures That Have Outlived Their Usefulness May Be Possible

That being said, there are some other structures that we're looking at, not only the Bureau, but are being looked at by state agencies, other Federal agencies for appropriate removal, but usually those are smaller structures that have outlived their usefulness, and it makes sense to remove them. And I think that you will *continue* to have the debate in the future about the removal of appropriate structures, and I think it's probably a debate that has considerable merit.

Dams that Provide Substantial Benefits are Unlikely to Come Down

But some of these dams, like Hoover Dam, Glen Canyon Dam, perhaps even some of the dams on the Snake River that are being discussed now for removal, will probably never come down, given the fact that they provide substantial benefits, at the same time having negative effects to the environment. The benefits have been established, and it would be difficult to remove those dams because of the politics involved.

Storey: I have had on my question sheets in several places, and for some reason we've never gotten to it, to talk about the lower Rio Grande and what's going on down there on urbanization of El Paso and Elephant Butte and the irrigators and that whole activity down there.

El Paso and the Lower Rio Grande

Martinez: Well, I'm precluded from even discussing some of the issues just because they're under litigation, but the issue basically has its roots in, again, the competition and the demand for a limited water resource, which is being expressed in terms of urban growth and needs for environmental restoration.

In the lower Rio Grande in New Mexico and the area around the city of El Paso, first of all, in the early 1980s and up through fairly recently and historically most, if not all, of the municipal industrial water supply of municipalities in the area had come from groundwater. That's the case for the city of Las Cruces and was the case for the city of El Paso.

El Paso in the Late 1970s Tried to Acquire New Mexico Groundwater

The city of El Paso, in the late 1970s, began to realize that its principal aquifer, from which they drew their groundwater, was being rapidly depleted. They moved then at that point in time to attempt to acquire groundwater that existed within New Mexico, and which New Mexico and the State Engineer's office resisted. At that time, in the early 1980s, it was an interesting hot issue in that part of the country as well as being followed by water administrators across the West. The issue was can a state, i.e., New Mexico, embargo its water when another state or an out-of-state applicant or another state entity wishes to use that water. Of course, New Mexico took the position early on that the water belongs to the people in the State of New Mexico, and, therefore, they could embargo that water and keep it for the benefit of the New Mexico public.

In a somewhat similar situation that occurred, I believe, between Colorado and I don't know if it was Nebraska, there was a Supreme Court decision that basically said that ~~article~~ [water] was an article of commerce, and a state could not be successful in taking the position that it could embargo its water, that it was an article of commerce and it could flow across state lines, but that a state *could* enact legislation as to how to regulate that transfer of water from out-of-state boundaries into another state and could also, if it was successful in proving a need for a certain amount of that water for use inside the appropriate state, that it could reserve some of that water.

So that basically led to New Mexico and ultimately some other states adopting legislation which allows out-of-state applicants to apply for water in another state and under the permitting processes of the state of origin. To date I'm not aware that any out-of-state applications have been made to take water from

one state or another under this scenario, but it exists, especially under New Mexico law.

State Engineer Denied Application of El Paso for New Mexico Water

So what was happening, Texas was looking for water. El Paso was looking for water in New Mexico. To make a long story short, the litigation, the attempt by El Paso to acquire water, failed. The State Engineer, Steve Reynolds at the time, after lengthy hearings, determined that under New Mexico law El Paso had sufficient water supply to last it for forty years, and therefore he denied the application. There is a provision of New Mexico law that says that if you're moving water from ag to M&I purposes or you're transferring water from one use to another for municipal purposes, you have to show a *need* within forty years of the proposed transfer of water. The State Engineer ruled that El Paso had not met the burden of proof. El Paso appealed the decision to the district court under New Mexico water administration law, but did not properly effect the appeal. The judge dismissed it saying, "Your appeal was deficient, and I don't have jurisdiction on the appeal."

That forced El Paso into a situation of—well, maybe "forced" is too strong a language. It got El Paso into a situation of approaching New Mexico water entities in southern New Mexico and saying, "Let's try to work together, as neighbors, to try to study the water resources and the needs of southern New Mexico and the El Paso area so we can have orderly growth and use of water in this general region."

El Paso Has Been Using Surface Water

So they put together a committee, a group of individuals, that still today continues to look at this issue, which is looking at taking of water from Elephant Butte reservoir and moving it down river and through pipelines down to El Paso. What El Paso has done since the 1980s is accelerated its program to take surface water, treat it, and provide it for municipal use, and that water is coming from the retirement or the lease of water rights from irrigated lands in Texas.

With that background, what is occurring in southern New Mexico, like what is occurring in other areas of the West that are undergoing major organization, where the water is having to go from irrigation to non-irrigation uses, irrigation districts, states, and the Federal Government are beginning to examine their proper roles in the water transfer process. It's like I had explained to you yesterday.

In New Mexico there is an adjudication proceeding taking place in state court at this point in time, where the court is attempting to adjudicate the water rights of the Lower Rio Grande Project. The history of that adjudication is long and contentious, but let me try to summarize it.

The judge with jurisdiction for the adjudication, which is a New Mexico judge that sits in the courthouse in Las Cruces, as I understand, basically ruled very early on that in his adjudication of the water rights or the determination of who has rights, he didn't have any authority to adjudicate the rights in Texas, nor was he going to make a finding as to who owned or what rights existed in storage in Elephant Butte Reservoir.

At the same time, there was a proceeding, potential proceeding in Texas by the water agencies in Texas to quantify or permit or adjudicate, whatever the proper word is, the water rights from the Lower Rio Grande Project that flowed into Texas. So what we had here is a potential of two different proceedings potentially making divergent findings as to what the water rights were and the extent of those water rights, and neither court having jurisdiction, at least as I understood it, in one state versus another.

So we moved. Personally, my position was that, as Commissioner of Reclamation, we had a Reclamation project that stored water to deliver in New Mexico and Texas and also had a component of delivering water to Mexico under the treaty, Mexican treaty,³¹ that it didn't make any sense to try to get bifurcated decisions when you had to operate a project that delivered water in both states plus to Mexico.

So the Department of Justice, on behalf of the Bureau of Reclamation, sought a legal definition–determination by the Federal court–as to its ownership interest in waters relating to the Rio Grande Project. In other words, we basically took the position that we have an ownership interest in those water rights by virtue of the fact that we took out a permit under New Mexico, territorial New Mexico water law, and we have projects that have been authorized by Congress to deliver water in both states plus.

31. The Mexican Water Treaty and Protocol was a treaty relating to the utilization of the waters of the Colorado and Tijuana Rivers and of the Rio Grande. (Signed at Washington, February 3, 1944; Protocol signed at Washington, November 14, 1944; ratification advised by the Senate April 18, 1945, subject to certain understandings; ratification by the President November 1, 1945, subject to said understandings; ratified by Mexico October 16, 1945; ratifications exchanged at Washington, November 8, 1945; proclaimed by the President November 27, 1945, subject to said understandings; 59 Stat. 1219.)

The reaction by the irrigation district in New Mexico was basically the Federal Government has no interest in the water right. Period. Same issue being litigated in the Pecos River river stream system. The Texas irrigators took a little bit different position, not as strong that we didn't have an interest. I think they basically said, "We've got an interest, but it's limited."

So the newspapers carried articles in New Mexico that the Bureau of Reclamation and the Commissioner of Reclamation were trying to Federalize water rights on the lower Rio Grande, and I appeared before New Mexico legislative committees and before congressional committees and issued press releases that it was not the case, that what Bureau of Reclamation was attempting to do was to quantify its ownership interest in order to make sure that we could administer that project.

The litigation was stayed by the court to allow a dispute resolution process to move forward. That process, if I recall now, was in place for a year and a half or two, didn't yield very meaningful results. So the court stepped back in, and, the last I heard, were moving towards litigation in that process.

Long answer to short question, but the issues there are basically very simple. What is the ownership interest of the Federal Government in these Bureau of Reclamation projects? It goes back to the issue I raised about the beneficial use of water being made by the farmer and, therefore, Supreme Court determining that they own the beneficial use of water. But some judges across the West are saying, "Notwithstanding that, there is a Federal interest in storage and water delivery, and there is some interest on the part of the irrigation districts."

So what is being played out here in southern New Mexico is this question about what constraints, if any, will be placed on the movement of water from ag to other uses under Bureau of Reclamation projects, what interest and what responsibility, or, I guess, what interest does the Federal Government have, what interest does the state government have, and surely what the interest of the ownership interest in the use of that water for the irrigator. So that's basically the issue down in southern New Mexico, and a lengthy response. How that plays out will be interesting.

Storey: What kinds of implications does it have for Reclamation across the West?

Martinez: If the ultimate decision is that we have—if the Federal courts were to determine that we have no ownership interest, at all, and have no input into the process of how water is moved or not, then as water is moved out of these projects, our projects

become less feasible in terms of operation and maintenance and exactly what are we doing then in terms of trying to operate these projects? Should we just be turning them over to the local water users?

Reclamation's Responsibility Is to Project Our Project and Their Benefits

The positions that we have taken basically says that we understand that the water belongs to the states, the public of the states, that we have acquired those rights under state permitting process as Reclamation law requires it, and under congressional authorization or legislation, and we have a *duty* to protect these projects and the benefits that flow from these projects. So ultimately, I guess, I would hope that the courts would come down like they tend to be heading, that we do have an ownership interest.

Going back to what we had discussed yesterday, there also is an interest on the part of the Bureau of Reclamation and Department of the Interior and the Administration and the realization that in the West, in a lot of areas, future growth or use of water for environmental purposes or for municipal purposes is going to come at the expense of the retirement of irrigated agriculture. So we have this policy in place that says we shall facilitate the transfer of these waters, which is an issue we discussed yesterday.

Storey: But did we talk about issues like—what are the complications of transferring water from, say, a project that's authorized for irrigation to M&I and those sorts of issues? I'm not remembering that we talked about the details of that kind of thing.

Issues Related to Water Transfers

Martinez: Well, first of all, you've got to remember that not all states, prior appropriation states or Reclamation states, have a history of laws that allow transfer of water or movement of water from one use to another. There's always been the ability to move water from irrigation to irrigation, but not all the states in their laws had processes in place to allow the use of irrigation water to be transferred and used someplace else for other purposes. New Mexico's *one* of the states that has had that capability for the service supply since 1907. California is just beginning in the last ten-, fifteen years to look at this issue and transfer of water. So there are state proceedings in place that address this issue—Wyoming, Utah, New Mexico, Nevada—where an applicant can come in, a water user can come in and apply under the state process to move water and to transfer water from one location to another.

I think we have discussed this in our earlier discussions is that those processes that were put into place by the states originally had to do with movement of water from ag to ag purposes. Then there was some movement of water from ag to other uses, mining uses and so forth. But the processes that were put into place required the State Administrator or the State Engineer, in approving the application or denying the application, to consider the impact on existing water users. So the Engineer would make a determination as to whether the transfer is being requested, what impacted existing water users, and if they found that it would, then he has the authority either to deny the application or condition the application to minimize or not to effect that detrimental effect.

For the most history in Western water administration, those were technical issues; in other words, what would be the effects to somebody's water use as a result of an application to move water. There was always under Western water law this issue of public interest and whether it was in the public interest to allow change in the type of use of water. From my experience, there was not much activity on that front up until fairly recently.

New Mexico, as a result of the application by the city of El Paso, which we discussed a while ago, not only changed its laws to deal with out-of-state potential transfers of water, but also included in its laws the concept of public welfare, that the Engineer had to make determinations of public welfare in making findings of water transfers or new water uses. Under that public welfare criteria, which is now existing in other states and continues to be dealt with in other states, the Engineer then is confronted with issues that are not technical in nature, issues such as whether you should grant the application, because if you grant it you will foster growth or you'll impact the environment and so forth. So Engineers and water users are now having to make those kind of decisions—which they really didn't address in the past.

State Processes in Place Should Be Deferred to in Water Transfers

Okay. Now, going back to the question of the Federal role in the transfer of water from ag to M&I purposes, it's my personal belief that in those instances of transfers of water from ag to M&I purposes or from ag to other uses, the state processes in place should be deferred to, and that if the Federal Government has a reservation for not endorsing the transfer of the water, that it use the state process in which to voice its objection, in other words, the permitting process.

And what could be some of those objections? One is that if the water is moved and the viability of the project as a whole is impacted, that needs to be

considered by the water official making the request. Or if the water is moved and it's going to adversely impact the environment, then the Federal Government can make that position. But I do not believe that the Federal Government should be putting itself in a position of being a parallel permitting or administering agency that says, "Not only do you have to go to the state, but first of all you have to come to us and we've got to determine whether it's in the public interest or not and whether somebody else is going to be impacted."

That, I think, is what caused the concern, and continues to cause the concern, by Western water administrators as to what the proper role of the Federal Government is in the administration of water rights, and that's what caused the concern by Western water users and Western water administrators when the Bureau of Reclamation decided that its new mission in life in 1993 and '94 was to become the premier water manager in the world. The concern was, what are you talking about? Are you talking about management of water in terms of efficient use and water conservation and these kind of things? Or are you talking about the permitting process of water, which is a state prerogative? And that is yet to be played out completely in the West and is part of the question you raise about—tell me about the lower Rio Grande.

In sort of a summary, this is what this is all about. It's a difference of opinion as to what the Federal role is or should be in this management of water across the West. Now, did I answer your question?

Storey: Well, I think so, yes. Let's talk about tribal issues and how Reclamation is involved in all of that nowadays. I know we've done this. We do all of these questions in the past in some direction, but what's happened recently?

Native American Water Rights

Martinez: What's happened recently, basically, the Bureau of Reclamation has been involved in the past in projects that involve Indian components or in projects that involve Indian water rights or water uses as directed by Congress. However, in its history, the Bureau of Reclamation has been criticized by the Native American community for not taking a more aggressive role to try to meet the needs, the trust responsibility of the Federal Government of Indian tribes.

A typical example that is raised—well, several typical examples that are raised is in Bureau of Reclamation projects that have involved Native American water rights and—

END TAPE 1, SIDE 1. MAY 5, 2000.

BEGIN TAPE 1, SIDE 2. MAY 5, 2000.

Martinez: ...portions of the projects that are non-Indian in nature have a way of getting built, and the Indian components lag far behind. The Indian component of the Arizona–

Storey: CAP [Central Arizona Project].

Navajo Indian Irrigation Project (NIIP)

Martinez: CAP. The Navaho project are examples that are raised. Okay. The past is the past. Basically where we're at is that this Secretary, Secretary Babbitt, at a meeting, a consultation with the Indian tribes, meetings here in Washington at the Department of Interior, about three years ago made a statement to the Native American community or leaders present at that meeting is that they ought to maybe start looking at, because of concerns raised about the inability of the Bureau of Indian Affairs to continue to provide effective assistance in meeting the water development needs, the Secretary raised the point that maybe they ought to start talking to the Commissioner of Reclamation and see if the Commissioner of Reclamation would provide some assistance to them.

Well, certain members of the Indian community took that to heart and began to pay more and more attention to the Bureau of Reclamation and what services we can deliver. When I became Commissioner, one of the first things I did was I directed the Native American Affairs people of the Bureau of Reclamation to revisit delivery of our program to Native Americans and to make recommendations and structural recommendations of how we deliver that program. There was a report prepared, and we implemented some of those recommendations. So we began a more aggressive program of reaching out to tribes and the pueblos in New Mexico to try to provide assistance to them in studying their needs and implementing some projects.

So examples of things that we've done with Native American communities that continue to be of interest is needs assessments of water supply, what their water resources are. This is in a context outside of the adjudication context, because the Bureau of Reclamation has participated as a member of Federal water rights settlement teams. We do studies and help provide studies that are used in the adjudication of water rights of Native Americans. These are initiatives outside of that activity. In other words, a pueblo or tribe comes and says, "We would like for you to provide some technical assistance and some money to us so we can begin to study our needs and see how we can deliver water to address our needs."

So we're putting more emphasis on that. Within our given budget allocations we are trying to put, and have put, more money each year into these line items. So we are reaching out more to the Native American community.

The other thing that we have done is, and it's most recent now, is under Reclamation law, as I understand it, is that before we can do a feasibility study which *could* lead to the construction of a project, Congress requires the Bureau of Reclamation to have authority given to it by Congress to do the feasibility study. So our budget recommendations going up to Congress will have requests for feasibility studies. If the Congress authorizes it and we get appropriations, we do a feasibility study.

For a lot of projects, small projects, the cost of doing a feasibility study probably costs more than the cost of doing the project, or at least a disproportionate cost. So what we have done in the Bureau of Reclamation is I charged my Native American Affairs folks to look at the issue of how we could deliver services to the Native American community in a cost-effective way. What has resulted in that is a proposal that has been embraced by the department, and let's see if it gets introduced as legislation this year, where we will be asking the Administration to support and for Congress to authorize the Bureau of Reclamation to do small-scale water development projects for Native Americans under a blanket feasibility authority, and if the projects are deemed to be feasible by the Secretary, subject to appropriation, we will go ahead and construct for projects that are estimated to not exceed a cost of twenty-five million dollars.

It will be interesting whether our authorization committees and appropriation committees support that concept or not. So instead of going in with a proposal to do a feasibility study for a water distribution system for X tribe, and Y tribe, and Z tribe, and so forth in the future, we'd have blanket authority, if this legislation is approved, to go in and say, "In our budget document we propose to do X number of studies next year and we need so much money." If they give us the money, then we go ahead and do the study. So we're trying to take a more aggressive stance of trying to provide assistance to Native Americans from the Reclamation program.

There are tribes that see this as an opportunity. There are tribes that don't embrace the idea. I received a letter from one of the tribes—I think it was in North Dakota—that says that our history of helping Native American tribes has not been that great and that they don't support this legislation because they don't think that we're serious about it.

But at any rate, in New Mexico in particular, we are in the process of entering into a memorandum of understanding with the Navaho Nation, where the Navaho Nation has come to the Bureau of Reclamation and said, “We want to join the Bureau of Reclamation, make ourselves available to their expertise and support, to effect our water development plan that we, the Navahoes, have put together as to how to develop our water resources.” So we are entering into a memorandum of understanding where the Bureau will bring whatever support we can to try to meet their needs, which have been identified by them as potentially two billion dollars worth of investment from the combination of sources of money. They view that two million is coming from their own funds, Indian water right settlement funds or appropriations from Congress, to meet their needs. So this is the kind of activities that we’re getting involved in.

I personally believe that there is a great need for the Native American community to develop their resources to become self-sustainable. Water is crucial to that, and the Bureau of Reclamation has the expertise to provide assistance to them, and we should be aggressive about that.

Storey: There are a couple or three projects we might talk about. I understand, is it the Western Colorado Area Office, has just had hearings on the Navaho reservation about providing culinary water supply?

Martinez: I’m not aware of that.

Storey: What about Mni Wiconi I don’t know what BIA did, but they said they [the tribe] can’t subcontract anymore.

Mni Wiconi Project and Section 638

Martinez: Well, the Mni Wiconi Project basically is a project that was authorized by Congress, South Dakota, which involves Indian and non-Indian water development needs. Under 638,³² as I understand it, one of the tribes under 638 has the authority and has entered into an agreement with the Bureau of Reclamation to sort of be the contract manager for building of the pipeline and moving it forward. I can’t recall what the total expenditures is going to be from the Federal Government, but it’s upwards of, if I recall, 100-plus million dollars. We include in our budget somewhere around 20, 20-some million dollars on a yearly basis on a build-out for that project.

32. Section 638 of the Indian Self Determination and Education Assistance Act (P.L. 93-638, 25 USC 450, et. seq.).

I am aware that there have been concerns raised by non-Indian beneficiaries of that project about the contract management and expenditures of money and whether the money has been effectively used or not. We have done some studies, and we believe that, to date, those arguments don't have much merit. But at any rate, aside from that, as I understand, getting to your question, is that, as I understand, there is some conflict within one of the tribes up there, that's a conflict that goes beyond the Mni Wiconi Project. And if the BIA has stepped in on the management of the tribe, then it probably will affect their ability on 638. But if it has, and the regional office has yet to brief me or raise the concern of the potential negative impact to the Mni Wiconi Project, but the issue is a much larger issue, I think, and is the issue about Congress, in its wisdom, decided that in certain instances tribes under 638 can acquire the management responsibilities that Federal agencies would have otherwise for money that goes and flows to Indian projects.

Tribes across the West, appropriately, have moved forward to provide the contract supervision or assume the duties, the work, not necessarily the responsibility. We still have responsibility. But the work, in other words, that Federal agencies would be doing otherwise. And in some tribes it's been a learning experience.

Storey: Anything new on Animas-La Plata?

Animas-La Plata Project

Martinez: The last thing I saw came across my desk today that I think we discussed yesterday, that there is a hearing scheduled on May the eleventh in the House, on a bill that's been introduced by a Congressman from Colorado on legislation that is not the same as the preferred alternative that's being proposed under the draft documents that are being considered right now, but fairly close.

Today across my desk came a copy of a newspaper article that came out in the Colorado paper in the last couple of days where Senator [Ben Nighthorse] Campbell has expressed that he's going to introduce in the Senate a bill that is not the same as the House bill, but which tries to address some concerns that have been raised.

The concern still is the deauthorization of the original project, when it should take place and should it take place, the amount of money paid by the non-Indians for the project, for their part of the project, whether that should be capped or not. And then the third issue that's discussed in that newspaper article is

whether it's appropriate or not to include sufficiency language or language in the legislation that Congress would find that *all* these environmental studies that have been taking place for the last twenty-, twenty-five years are sufficient.

Personally, I think that there's a place when one needs to say enough is enough, and I believe that in this particular case there's been enough studies done. It will be interesting how that plays out.

The issue basically is an issue as to whether this Administration has sent a message, continues to send a message, that it cannot support any sufficiency language in any legislation that precludes an effective and meaningful analysis of the environmental and public impacts of Federal expenditures. I think that is an appropriate stance. But when you've already studied something for twenty years and you've spent tens of millions of dollars, at some point you need to say enough is enough. If *I* was in the position of making that decision, that would be my recommendation. But I'm not in that position.

So it will be interesting to see whether the legislation or by the time our conversation becomes public record, whether Animas-La Plata is still mired in controversy or whether you have broken ground. But in my analysis of the Animas-La Plata issue over the last several years, I think the project makes sense as it's been reformulated. But there are those people, there are some people whose position is that there shall not be another dam built in the United States, and will not support this structure, even if it makes all the sense in the world, and they will continue to resist it and will use every means to resist it, not only this structure, this dam, but *any* dam that's being proposed across the United States.

The issue of sufficiency language, I think is an issue about if you believe ultimately that enough studies have been made through a finding of sufficiency by the Congress, it's my understanding—I stand to be corrected—that once Congress makes that finding, then the courts will defer to that. If there's a lawsuit filed, hopefully it won't continue, because the issue, as I see it, as I view it right now, as I understand it, is that notwithstanding the fact that Congress and the Administration have passed legislation and the President signed it, it can always be challenged once you start to try to do something on the basis that you didn't comply with NEPA or environmental laws and so forth. That's what this sufficiency language is supposed to do. It will be interesting to see how that turns out.

Storey: What about Navaho Indian Irrigation Project? Anything new going on there?

Funding NIIP

Martinez: The last I was briefed on this issue, and I've been involved somewhat in it, is that the funding for the Navaho Indian Irrigation Project comes from the Bureau of Indian Affairs. The Bureau of Reclamation works, I would assume, under a MOU, or memorandum of agreement, with the BIA. We have construction supervision and construction management.

The concern that's been raised by the Navahoes, continues to be raised, is that the Bureau of Indian Affairs has not funded or requested the funding or funded a timely completion of that project. Today, out of the appropriations that are flowing from the Bureau of Indian Affairs, not more than half the money that gets yearly appropriated is now being used to operate and maintain the system, and in some cases, I understand, a lot of that money is going to be used to *repair* the system that has already been built.

So what I've been told is that in the absence of substantial increase in the early appropriations, there won't probably be much construction of what remains to be built, because most of the money, if not all, will be used to fix what's been built before and to operate and maintain it.

So what has happened in the last six months is that the Navaho nation has turned its attention to the project. I understand they have restructured the board that oversees the project, are, as a nation, paying more attention to the project, and the Bureau of Indian Affairs and the Bureau of Reclamation staff at the local level have put together a proposal how to try to sort of infuse interest in the administration of the Bureau of Indian Affairs to provide more funding for the project. So that's the latest as I understand that issue.

Storey: Let's talk about title transfers and what's going on. Back at the beginning of last year it looked like we were going to do Vallecito [Dam and Reservoir, Pine River Project, Colorado], Wellton-Mohawk, maybe, something on Carlsbad Project, Canadian River Authority.

Title Transfers

Martinez: The issue, and we'll go back to our discussion we had previously last year on this, the issue of title transfer, if you recall, came about, as I understand it, early in the Clinton-Gore Administration, under the auspices of the Vice President. The Federal Government started looking at efficiencies in operation of government and how we could reduce Federal expenditures to reduce the Federal debt and also, in

essence, do a better job. Agencies were charged with looking at their programs to see which would make better sense to divest themselves of those programs.

Small Reclamation Projects Loan Act

The Bureau of Reclamation identified doing away with its Small Reclamation Projects Loan Act, some financial assistance for rehab of facilities, and it also looked at divesting itself of appropriate projects that didn't make sense, that the Bureau of Reclamation, the Federal Government, continue to operate and have financial commitments for.

So the Bureau of Reclamation announced, as part of the reinvention in government, a divestiture of Reclamation projects, appropriate projects. It always took the position that not every project should be a project [that] should be considered for transfer, but there are some appropriate projects, single-purpose projects, that might make all the sense in the world.

At the same time, in the interest of the Federal Government there, as I viewed it and continue to view it, was that if things can be done cheaper by the private sector and it makes sense do that, for the private sector to take it on, so be it, and then that's the way we should do it, because as long as the Federal Government has a nexus to the project, some of these projects are getting old, will require more maintenance or replacement in the future. And if the private sector takes those over and is responsible for those costs, then in the future that's less cost to the Federal Government. So it makes sense from that perspective.

But what was happening at the same time that the Bureau was looking at title transfer was that in the Bureau of Reclamation's reinvention in 1993-94, documents began to flow from the Bureau of Reclamation that were interpreted by water users out West that the Bureau of Reclamation was on the verge or was going to redirect water from projects for environmental purposes. As a matter of fact, the Commissioner sent out a memorandum that the Bureau should look at all contracting issues in the future as possible reallocation.

So the water user community out West was quite concerned, and they viewed an initiative to acquire title to the projects and to water associated with those projects to get the Federal Government out of their hair and to avoid the Federal Government coming in and using this approach of reallocation of water and Endangered Species Acts and everything else to try to move water from one purpose to another. So you had an initiative on the part of the government, the Bureau of Reclamation, to try to divest itself of these projects, that made sense,

and the water users coming and saying, “We’ll take that for what it’s worth, because we want you out of our hair.”

In reality, what happened was when you started to implement the program it was not as easy as it appeared. First of all, there was a lot of irrigation districts that looked at it and said, “Wait a minute. We don’t want the Federal Government out of the process. They’re our friends. There’s occasions where we need their support in terms of monetary support and other areas. And besides that, we don’t want to assume the liability of some of these structures.” There are other ones that said, “No, we want them out of our hair.”

Anyway, to make a long story short, there was legislation introduced early on when I was Commissioner, on title transfer, and every piece of legislation that was introduced, I appeared on behalf of the Administration and did not support the title transfer, for one reason or another. In the title transfer proceeding, the assumption was originally, I guess, that the only entity that was really interested in title transfer was the Bureau of Reclamation. But once you started to put a project for transfer, the environmental community became concerned, the taxpayer community became concerned, the recreation community became concerned, everybody becomes concerned. So it was more complicated than it appeared. So while the Bureau of Reclamation might be supportive of a project being transferred, OMB [Office of Management and Budget] might not because of the financial aspects of it, or Fish and Wildlife Service might not be because of the endangered species concerns and so forth. So I spent a considerable amount of time in Congress testifying against projects that were being proposed for transfer, because we couldn’t come to closure with transfer proponents on the issue.

I need to take step back. In the title transfer proceedings that the Bureau of Reclamation put in place, we set some guidelines that we would use to be able to bring a bill before Congress, and those sort of steps were: we would work with local water users, do some NEPA work, and get a bill ready for Congress.

Well, the early title transfer bills that were introduced into Congress were not moved through that process. Actually, a project beneficiary, irrigation district, that wanted title transfer would get legislation introduced by their local Congressman or Senator, and in a lot of cases, without much consultation with the Bureau of Reclamation, because they viewed at that point in time Bureau of Reclamation is probably not acting in their best interest.

So we had a conflicting situation. I would go up and testify against the transfer, and certain members of Congress would say, “We don’t understand this.”

This is a proposal that the Administration is supporting. It makes all the sense in the world. And, Mr. Martinez, here you are opposing every bill that comes up.” Well, so be it. I was the messenger.

Title Transfer at Burley Irrigation District

Over the years, we’ve been able to work out some of these issues, and to date we have about seventeen title transfer proposals that are of a serious nature. Ten of them are sitting in Congress right now. Some of them have passed one House or the other. Some of them have passed certain subcommittees. The one that did pass a couple of years ago was a Burley irrigation transfer, which is the first one that conveyed the facility as well as water rights. We signed the conveyance documents, the Bureau of Reclamation, acting on behalf of the Secretary, over six months ago, I believe. The Wellton-Mohawk, Carlsbad Irrigation District, the ones you mentioned, have passed the Senate, have been sitting in the House, subject to passing.

So there are ten bills sitting in Congress, seven districts that are actively engaged with us on discussions of title transfer, and I’m hopeful that at the end of this session we might have anywhere from two to ten bills conveying title to projects. Some of them are just distribution facilities. Some of them involve water rights. Some of them involve complete facilities.

Now, that being said, if Congress moves these ten proposals that are now before Congress and those are enacted into law, that might be the catalyst to have more districts come in and request transfer. That remains to be seen.

Storey: Were any of the title transfers passed after the Administration, in the form of you, recommended against it, testified against it?

Martinez: No. The ones that had been passed, basically—well, there’s only one been passed and that’s the Burley Irrigation District [Idaho] that came out of Congress, and there was an agreement between the Administration and the project sponsors on the language in the final bill. And the bills that have passed the committees, I might be mistaken, but I think for the most part, if not all of them, have incorporated our concerns.

Storey: Are any of the water users still trying the strictly legislative process without consultation, that you’re aware of?

Martinez: Of the ten bills that are sitting up in Congress, a lot of those have been introduced through that route. Some of them have been introduced by working with the Bureau and moving forward. The ones that have been through the Bureau basically are bills that now request Congress to bless agreements that have been reached between the Department of Interior, the Bureau, and the project sponsors, Wellton-Mohawk being one of these. Clear Creek, I believe, is another one. I'm not aware, and I may be mistaken, of any legislation being introduced in the last year or six months having to do with a title transfer, introduced by not working through the Bureau of Reclamation process.

Storey: Is one of them the Canadian River Authority?

Martinez: I think one of them is Palmetto Bend. I think the Canadian River Authority, if I'm not mistaken, is the one that was passed last year and, if I'm not mistaken, might have already been effected. That might have been one the ones that I missed or misspoke on. But that sort of rings a bell, that that one might have already been addressed. But I do know that it was one of the projects that was being—

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BEGIN TAPE 2, SIDE 1. MAY 5, 2000.

Storey: This is tape 2 of an interview by Brit Allan Storey with Eluid L. Martinez on May 5, 2000.

Palmetto Bend is still up there, though?

Martinez: Yes.

Storey: What are the kinds of issues that have to be worked out between Reclamation and the water users in order to effectively implement a title transfer?

Martinez: One of the discussions early on in the title-transfer process was could you come up with a cookie-cutter approach to deal with these title-transfer processes, projects. It turns out that each one of them is unique, and we had to deal with them one by one. But things that are common to all of them is a question of the level of NEPA work or environmental analysis that has to be done. I think we discussed this before.

There were those early on, and some that still would argue, that the change of title from the government to the district is not a major Federal action requiring

NEPA analysis. The Federal Government's position was that it is a Federal major action and, therefore, requires NEPA analysis.

So one of the main contentious issues that arose in the past was whether legislation should require NEPA or not. In other words, should the Secretary be *directed* to transfer or *authorized* to transfer? Because if he's directed, the argument is, continues to be, is that it nullifies the NEPA process because it's predetermined. So that was a big issue, and we went back and forth on that issue, and I think we have come to closure with Congress on the wording that future bills would contain to get us past that point. I think the wording basically says, "The Secretary is authorized to, as soon as practical, transfer," because the concern was that if you didn't give a time limit or direct the Secretary, it might never occur.

Other issues has been the return to the Federal Government for the transfer of the project. In other words, if the Federal Government was receiving or is due revenues because contracts have been paid out or these kind of things, there has to be a value placed that the project sponsors acquiring title then make the government whole for future revenues that would flow. There have been some debate as to how you measure that and how much money and so forth. So that's an issue that's been discussed.

The other general issue is the concern on the part of the environmental community, particularly, about making sure that as you transfer from the Federal Government to private sector, these projects, that the benefits of these projects for environmental purposes, fish purposes and recreation and all these kind of things, continues. Because their perception and, rightly so, I guess, is that as long as the Federal Government has a nexus to the project, the Federal Government probably will be a better steward of the resource than the irrigation district or the private sector taking over the project.

So there's been areas of contention in what's the appropriate language in the conveyance document or the legislation in order to make sure that those interests are protected. That's an issue at the Palmetto Bend Project. So there might be some other issues, but generally those are the three issues.

So the environmental community, in general, is supportive of title transfers under appropriate conditions, as I understand it, and I might be misspeaking. One is appropriate NEPA process, public input, public review, and a method of making sure that the public values, the public benefits flowing from those projects continue to be made available to the public. So we'll see where the rest of these title transfers go.

Storey: One of the things that's of interest, I think, is the way the budgeting process has gone since you came to Reclamation. How well have our needs been met and so on? In particular, let's talk about the P&A cuts and what those meant.

Reclamation's Budget Decreases

Martinez: In all respect, I think that the decisions that impact the Bureau of Reclamation budget were made and set in place before I even became Commissioner. That had to basically do with issues that go beyond the Bureau and beyond higher up in the determination process even than the Department of Interior. You had the issue early on when I became Commissioner about the fact that you're trying to balance the public debt. In other words, trying to balance the budget. Congress had enacted caps. The Administration, I guess, also had to work with the Congress on budgetary caps in order to reduce the Federal deficit.

In the first couple of years that I was Commissioner, the total amount of money made available for Federal agencies in general, discretionary spending, the Bureau of Reclamation is one of the discretionary agencies of the Department of Interior, in order to balance the budget, had to be reduced. Okay.

As a result of the successes, if you want to call it, either by Congress or the economy or the Administration, we're now in a situation where we have—at least if you read the newspapers and you believe them—surpluses. But yet those caps have not been lifted. So given the fact that over the last four or five years the total amount of money made available to discretionary spending and the Department of Interior and the Bureau of Reclamation have gone down, proportionately our budget has gone down, for that reason. The other reason it also has gone down is that we are no longer seeking the large appropriations for construction, because we're no longer in the business of constructing a lot of projects, except for the West water reclamation projects where we had to cap them, some thirty million dollars yearly.

Okay. With respect to P&A, which is your policy and administration, my understanding is that we're—at least I was advised yesterday—that our P&A request is today lower than it was even ten years ago, but it is a category that Congress looks at cutting when subcommittees need to find money for particular projects. Because the reality is that whenever a budget moves forward, whether it's in Congress or whether it's in a school board or whether it's a city council—and I've been in all three levels—is you have budget items that have personal interest of a decision-maker in the process and categories that don't specifically identify an item of particular interest. It's only human nature, and the process of the politics

is that representatives, Congressmen or school board members protect their special-interest items in the budgets, and at the expense of general categories.

So the P&A budget is a general category, and if somebody's looking for some money, it's easier to say, "We're going to take some money out of this item, and you ought to be more efficient in how well you run your business," and go on and take the money from some Congressman or some Senator or some person's particular project in their area of representation. It's common. I mean, that's nothing new.

So what's happened is our P&A budget gets reduced and we have to implement that reduction. The reason *this year* it's become more critical is because the prior budget year we also got cut, but we had carryover from the previous year, which made that carryover available to carry out a program that we had projected and for which we had gotten cut back. But two years of reductions without the second year any carryover put us into a situation where I had to say, "We need to make a two- or three-million-dollar cut in the P&A budget, and it's got to be borne proportionate across the agency." The request before Congress this year seeks back at the higher level that we requested. It'll be interesting whether they cut it or not. But it's an issue whenever you have general categories, sometimes they fall prey to the cuts.

Storey: What about other categories like the K accounts and O&M and so on? Are they doing okay, or did they have similar cuts?

Martinez: A lot of these activities, like O&M operational aspects are project-specific, the Middle Rio Grande Project, a total amount, and within that total amount is so much for certain activities, and the budget documents don't get into that fine, fine detail. So if the committee goes ahead and makes a cut in a given category, the Lower Rio Grande Project, you have some flexibility of where you can make a cut.

Then, of course, with respect to operation, we recover the cost of operating the facilities. With respect to maintenance, you defer some maintenance, if necessary, noncritical maintenance. So in that particular instance, we have not had any major problems, as I see it, as I view. The big concern in maintenance and operation of our facilities are the continuing concerns of the water users saying, "You guys are not being efficient enough." And we're trying to look at that. We've discussed that before.

But other programs like our water conservation program, which is a water conservation program that for the last few years was a new initiative initially, and

then we requested like five million dollars—got three or two. We'd go back with a five-million request, get two or three, you know. Those are programs that could stand more money but get cut back from our request, which are general programs.

Dam safety is another program that is a major category. We request money for dam safety based on our projected needs. Based on the information I had before me a month or so ago, in nine cases out of ten we don't receive our request. So then we just have to tighten up our belt and do what we do.

". . . I took the position, 'We're not going to dismiss anybody or lay anybody off. So you account for paying everybody on the payroll and let me know how much is left and let me know how much demand is for the additional resource.' . . ."

So it's not only common to P&A. The problem with P&A is that the issue that you've got there is that in P&A, a great percentage of that is salaries and benefits, and I took the position, "We're not going to dismiss anybody or lay anybody off. So you account for paying everybody on the payroll and let me know how much is left and let me know how much demand is for the additional resource." Well, we came in. We set aside how much we needed for payment, and then everybody said, "Well, this is what our desires are." I said, "No, there's not enough money. You've got to cut two million dollars off of it." So there wasn't the flexibility to move. I guess I could have made the decision and said the message I'm going to send is if Congress doesn't give them enough money, I'm going to lay some people off or RIF some people, but I chose not to do that.

Storey: Well, Reclamation is changing. For instance, water conservation is one of the new areas, water management as opposed to water development. What kinds of unintended consequences do we get out of this, other than the fact that some of the Congressmen don't like it or think it's going the right direction?

Martinez: You mean water conservation?

Storey: Any of these programs in our "new direction."

Martinez: I continue, I guess, to take the position that we're really not in a new direction, maybe a little emphasis of the direction we're going for, except for wastewater reuse, which is a new area we're involved in by Congress.

In the area of water conservation, the reason we're involved in that, as I view it, maybe view it too simplistic, one is that the law requires our contractors

under RRA to have water conservation plans in place, and they have to have those plans in place, which is appropriate, so they can make the most efficient use of water that is possible.

But going back to the issue of water rights administration, most states across the West, and those who do not have effective water conservation management criteria or statutes in place will put them in place, are now requiring water officials to look seriously at water conservation in the context of their decisionmaking process on permitting of water right issues in their states. I draw upon my New Mexico experience, because that's where I can talk to from actual practical experience, is that New Mexico, prior to the El Paso issue, did not have a statute that said the Engineer shall consider water conservation in its permitting determination process. It enacted legislation that said the Engineer shall consider water conservation.

So what does that mean? It's rather general, but what that means basically is if you are going to want to do anything with your permitted water right that required approval by the water official, you had to comply or meet whatever criteria he placed upon that action having to do with water conservation. Okay.

The message I sent to the irrigation districts and the Bureau of Reclamation is, "We hold permits under state law. To the extent we do and to the extent that we have to go through state processes in order to do something with our water rights that are under state law, then you're going to have to subject yourself to the state officials." One of the things they're going to be looking at is water conservation.

So if *we* don't aggressively—when I say "we," the Bureau of Reclamation—move to work with our contractees on the issue of water conservation, we're failing the country in the fact that we're not making the best efficient use of water that we can, and second of all, we're failing our contractors and not preparing them for the day that they have to respond to state requirements having to do with water conservation.

So my approach to the districts was, "It's in your best interest to undertake water conservation and water conservation initiatives." And that's the direction that we've taken our water conservation program.

Storey: Let's talk about the Warren Act. This was passed pretty early in our history, I think in the twenties, maybe.³³ Maybe even earlier than that. Saying we could sell surplus water from a project to non-project users, is what I understood. Nowadays we have this issue of waterspreading and so on. How does all of this work out and what kinds of issues do we have nowadays?

Warren Act and Reclamation

Martinez: As I understand it, and, of course, being a novice to this, the Warren Act basically dealt with that the Federal Government went out and built facilities, and if these facilities have excess capacity, then you should be able to move water through these facilities or utilize these facilities so that you don't have to build new ones. In other words, here's the situation. You go out and build a project, and in the project you size the canals to carry X amount of water, groundwater. The canal can carry more water, for whatever reason, maybe the development didn't occur the way we thought. So a non-Reclamation water user, non-project water user, has a permit to deliver water or to take water to a certain piece of land which is *not* Bureau of Reclamation property or Bureau of Reclamation project, and he comes and he says, "I'd like to be able to use the government facilities in order to move water, because it doesn't make sense for me to build another canal or another pipeline or go through that expense."

I understand the Warren Act, when it was passed, says you can use these facilities for that purpose, but you can only use them to convey irrigation water for irrigation purposes. It's my understanding. So if somebody wanted to move water through our facilities for non-irrigation purposes, then you have to use some other form of authorization. The Bureau of Reclamation used other authorizations, and right now they escape me.

About four years ago, I guess, three years ago, our Solicitors basically said, "Wait a minute. Those statutes that you've been relying upon or that authority you thought you had, we don't believe you've got, notwithstanding the fact that you've been doing it in the past Bureau. So we suggest that you get the Warren Act amended."

So the need now exists out West for moving water from ag or moving water for municipal uses and moving water for environmental purposes, neither of them is allowed under the provisions of the Warren Act. So I put together a team that has drafted legislation that has been commented [on] by the public sector and

33. Warren Act of February 21, 1911, ch. 141, 36 Stat. 925. It provided that Reclamation could use excess capacity for storage and carriage of water for non-project participants.

the environmental community that will be submitted, hopefully, to Congress, in the short term, to amend the Warren Act to allow facilities, Reclamation facilities, to be used to move non-project water for M&I purposes and for environmental restoration purposes.

We have the support, at least to date, from the environmental community, because it provides the ability to move water for environmental purposes, and from the nonagricultural community that uses water because it allows water to be moved for that purpose. So that's what the Warren Act is. So there's legislation. Every so often you'll see legislation that will seek authorities to use Reclamation projects to move non-Reclamation water that requires specific authority by Congress because we don't have blanket authority under any legislation, that their attorneys have told us, to do that. So we're seeking a Warren Act amendment.

Storey: But it doesn't involve excess water in projects, huh?

Martinez: If it did originally, I don't know. But today it wouldn't, because I have yet to find a system in the four or five years as Commissioner that's got any excess water in Reclamation.

Storey: Let's talk about the joint activities that are going on along the borders in dealing with water issues. I know particularly there are things going along with the International Boundary [and Water] Commission, I believe. I don't know whether there's anything on the Canadian border or not. I know, for instance, that we have treaties for the Milk River Project and the Columbia Basin Project.

International Boundary and Water Commission (IBWC)

Martinez: Well, the extent of my knowledge of Reclamation's involvement, of course we've got the Colorado River and the Rio Grande that both have international treaties on delivery of water from the United States to Mexico, and which have Bureau of Reclamation projects upstream in the United States that impound and deliver water to Mexico. So you've got Hoover and the facilities below Hoover on the Colorado, and I guess one could argue that reservoirs upstream and the Elephant Butte Reservoir on the Lower Rio Grande Project.

On the Colorado River, the main concern continues to be, on the part of Mexico is, salinity, water quality, and the environmental community has begun to raise a concern about the needs for environmental purposes in the delta. So there has been discussions with Mexican officials on Colorado River-related issues:

salinity, shortage criteria, surplus criteria, and the possibility of looking at environmental issues in the Mexican delta on the Colorado River.

On the Rio Grande there has not been much activity to date. There is a workshop that's taking place next month in June, in I think the nineteenth of June, in Juarez, sponsored by the Secretary of Interior and the Mexican Minister of the Interior, environmental. Maybe I misspoke, but the Environmental Minister of Mexico. To try to bring a focus on environmental issues involving water in that reach of the river below the Lower Rio Grande Project down to the Gulf of Mexico.

Groundwater Pumping in El Paso and Ciudad Juárez

Then, of course, you've got the concerns, the groundwater uses that are being made along the border area. And as it turns out, at least on the Mexican side, most of the most rapidly growing urban areas in Mexico are partnered with or parallel to cities in the United States—El Paso, Brownsville, San Diego, there're some other ones—sharing, for all practical purposes, a geographical area of limited water resources. The groundwater pumpage in the El Paso area, it'll be an interesting issue in the future, where you have two international straws, two states, and local entities drawing out of that same aquifer.

Canada Is Concerned about Biomass Transmission into the Red River of the North Which Flows to Hudson's Bay

In the Canadian side, my involvement to date has been in the efforts of the North Dakotans to build their Garrison Project and to move water from the Missouri River system into the Red River of the North, which would be a transfer of water from one basin to another, and the concerns raised by Canada about potential contamination or bio—whatever that proper word is—biomass transmission of contaminants from the Missouri River into the river that flows into Canada and concerns raised by Canada. It continues to be an issue of debate. That basically is pretty well the extent of the Bureau of Reclamation's involvement in the boundary issues.

On the Mexican Border Reclamation Has Stationed an Employee in El Paso to Coordinate All Mexico-Bureau of Reclamation Issues

Now, with respect to the Mexican border, what we have done in Reclamation since I became Commissioner is we have appointed a common point of contact or coordinator for Mexico-Bureau of Reclamation issues. In other

words, we have three regions. We have the Lower Colorado, the Upper Colorado, and the Great Plains Region, three regions, Bureau of Reclamation regions, along the Mexican-United States border, and what we've done is we've taken an individual that is employed by the Upper Colorado Region, stationed him in El Paso, and he serves as the contact person and the coordinator for the activities on the border area for the three regions, general issues. Salinity issues basically are dealt with on the Colorado River out of Yuma, the Yuma Area Office in Boulder City.

Storey: Since we're speaking of Mexico and foreign activities, how is the program with Spain going?

Reclamation Activities with Spain

Martinez: Our program, our foreign affairs program in general, I think, is doing better now than it was four or five years ago. It appeared to me, and I might be misinterpreting this, but it appeared to me that in the transition that was occurring in the change of mission, the signal had been sent out, or at least I was informed by my international component of the Bureau of Reclamation that the message was being sent out that the Bureau of Reclamation would no longer be very interested in working overseas, especially in the water development areas. At the same time, there were certain members of Congress that were raising concern about the Bureau of Reclamation competing with the private sector in providing assistance to foreign countries.

It appears to me that over the last four years—well, let me put it as diplomatically as I can. Over the first two years as Commissioner of Reclamation, I had to mend a lot of fences with the international community with respect to the relations of the Bureau of Reclamation . . .

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Martinez: . . . centered on the concerns of the water development international community, concerns that the Bureau of Reclamation had turned their back against the water development community and the world in general by comments that were coming out of the Bureau of Reclamation. So it took me a couple of years traveling to international conferences to sort of say, "Wait a minute. We're still in this business. We're still viable players. Our mission has changed because of necessity and because that's what the American public wants. But, you know, we still have a source of expertise and we still want to work with you folks."

International Affairs Activities

We've renewed our relationship with Spain. We've got a relationship with China in water conservation issues. We work in Saudi Arabia on desalinization. Work in South Africa, on invasive species and other issues, in Brazil, in different places. So if you ask me how's our international affairs program going, my gauge is the smiling faces on my international affairs people here in Washington, I guess it's going a lot better now than what it did before. But we've sort of refocused.

With respect to our relationship with Spain, we re-signed our agreement that we had with Spain three years ago. I've traveled to Spain three times already, once a year in the last three years, to address conferences in Spain on water and water use. Last year I traveled to their annual water seminar that as a country they host, and talked about contemporary water management issues and what we're doing in the United States, what the Bureau of Reclamation is doing. Very well received. And we've established a fairly decent relationship with them.

Storey: Good. And we're still continuing our cooperative technical programs?

Martinez: Oh, yes. And I think that will continue into the future. I intend to travel one more time this fall to renew the contract and give one last address to the water administrators in Spain on these issues. I personally believe there's a healthy future for our international affairs component.

Storey: Let's talk about a bunch of environmental issues.

Martinez: My favorite subject.

Storey: Things like the Columbia River salmon issue, the Bay-Delta, the Endangered Species Act. How are these affecting Reclamation, and how much of this do you see and that sort of thing?

Endangered Species Act

Martinez: Well, I guess a simplistic answer to a very complicated and difficult question is, Congress has passed an Endangered Species Act, which requires Federal agencies to do everything within their authorities and power to make sure that these species are protected and their habitats are protected, that they're protected from going extinct and their habitats are protected, once they're listed and critical habitats designated. And each Federal agency needs to take that charge seriously. A lot of these projects that were built by the Bureau of Reclamation and a lot of these

projects in general across the United States, major infrastructure projects, were built before the Endangered Species Act. So now you're having to deal with how do you operate these projects in order to comply with the Endangered Species Act.

" . . . we have responsibilities under law to deliver project benefits consistent with other Federal laws . . . that we have to comply with. . . ."

So the direction I've taken in the Bureau of Reclamation is to say that we have responsibilities under law to deliver project benefits consistent with other Federal laws, Clean Water Act, Endangered Species Act, NEPA, that we have to comply with.

"Basically, it means that you're not going to be operating projects in the future like you did in the past if you've got these other [environmental] laws you've got to deal with. . . ."

What does that mean? Basically, it means that you're not going to be operating projects in the future like you did in the past if you've got these other laws you've got to deal with. So what we have been doing in Reclamation, and what Federal agencies in general have been doing, is trying to be innovative and trying to work with the water user community, our contractors, the states, affected parties, to try to come up with ways of operating our projects and delivering our benefits that the benefits will not flow into the future to the maximum extent that they were in the past in terms of things won't be the same. But you have to comply with that.

That being said, one of the criticisms that have been leveled against some Federal agencies and the Bureau of Reclamation is that sometimes Federal agencies take this charge too seriously and will try to protect the species by going overboard, which has caused a lot of controversy. But the approaches I see coming down the pike, and I just testified a little over a week ago, is on the Upper Colorado River and the San Juan River, they have recovery programs where the states have come to the table with the water users and the Federal Government to try to look at comprehensive system improvements or operations of projects in order to allow water use to continue for minimal impact of that existing water use and at the same time protect the species and recover the species.

Environmental Initiatives Will Require Moderation

So I'm optimistic that you're going to see, as we get past this rhetoric about the need for the endangered species and how it's being carried out, more

cooperation down the road between the major parties. But that's going to take and has resulted from all parties realizing that they're not going to get everything they want out of the issue, and it's going to take a moderation of approach, because you have water users that take the extreme position that basically say, or landowners, "These are private rights, my god-given right. I settled this property and I took up this water right, and you're not going to take it away from me." And there's other folks on the other side that say, "Well, wait a minute. You acquired this because, guess what, the Federal Government paid most of it. You've been getting free water all your life or very minimal [costs for that] amount of water, and it's time now to take that water away to redirect the project benefits."

So you've got these two extremes, potential extremes, and as long as you've got these people debating these issues at these two extremes and no moderation, you're not going to have much progress. But I've seen progress come from both the water user community and the environmental community, from those representatives of those communities that are willing to sit down and work through these issues, because we're in a different arena and different time period. So I see some success stories.

Storey: Are you aware of any projects where we're studying conjunctive use, where we're doing conjunctive-use planning?

Conjunctive Use Issues

Martinez: This caught my attention. Now, when you're talking about conjunctive use, "conjunctive use" is a term that has different meanings to different people. I think I told you this before, when I first became State Engineer in New Mexico, I was invited to a Conjunctive Use Water Conference in Colorado, and I felt when I gave my speech that nobody really knew what the hell I was doing there—excuse the language—and that, second of all, it was novel to them. Because all the speakers were talking about the mixing of surface and groundwater and using conjunctive sources of supply to meet demand.

"Conjunctive use,' to me, as an administrator of water was, how do you administer groundwater diversions to protect existing surface water flows. . . ."

"Conjunctive use," to me, as an administrator of water was, how do you administer groundwater diversions to protect existing surface water flows. So if you've got a river that flows hydrologically connected to a groundwater aquifer, you've got to conjunctively manage the surface and groundwater in order to make sure that your effects are not detrimental to the source of the groundwater. Okay.

That is conjunctive management as I understood it. Conjunctive management, as maybe somebody for a water supply system [understands it], would be how they use groundwater and surface water to meet demands.

So, if you're asking me about conjunctive management, groundwater-surface water interface relationship, it's an interesting story, because what happened was, I view it to be very critical, the conjunctive management of surface and groundwater. Some states do not do that. They will allow groundwater pumpage, which affects the river, to continue, and that pumpage over time will dry up your river. So they will regulate a surface supply, but won't regulate the groundwater. But so be it.

". . . New Mexico began to regulate its groundwater back in the 1930s, and by 1950 was beginning to regulate both surface and groundwater on the Rio Grande in order to make sure its down-state delivery obligations were met. . . ."

Reclamation Did Not Have a High Priority for Groundwater

Anyway, New Mexico began to regulate its groundwater back in the 1930s, and by 1950 was beginning to regulate both surface and groundwater on the Rio Grande in order to make sure its down-state delivery obligations were met. When I became Commissioner of Reclamation and I looked at this issue, I found out that the message had come out from the upper leadership of the Bureau of Reclamation that in the reorganization or the new mission of the Bureau of Reclamation, groundwater research and monitoring activities did not have a very high priority. And I ran across a document that flowed out of the Commissioner's office that basically said we should not be providing any impetus for groundwater development; we should make sure that people that are using surface water become as efficient with the surface supply rather than to depend on groundwater as a supplemental source. So in other words, don't do anything that advances the science of groundwater, because it's just another straw that these people can start using. To me, that's not very far-sighted.

Given the fact that if you got a Bureau of Reclamation project that is a surface project, groundwater pumpage can affect that surface water supply. If you've got Bureau of Reclamation projects that have supplemental groundwater sources to make the projects viable, and third of all, you've got potential groundwater contamination that if it's not addressed can affect your water supplies and the quality of water for your projects. So it makes all the sense for the Bureau of Reclamation to be actively engaged in groundwater research and dealing with groundwater.

Directed the Technical Arm to Begin to Again Look at Groundwater Issues

So I sent a message back out to the Bureau of Reclamation. Now that you raise the issue, I haven't revisited it for about two or three years. But I sent a message out to the Bureau of Reclamation, to the technical arm of the Bureau of Reclamation, "Begin to look at these issues again. Reconstitute yourself in Denver and start looking at groundwater and groundwater effects to our projects. It appears to me that it was not very wise to take a position that says we will not look at groundwater or push groundwater technology."

So I'm hopeful that the organization has taken my word, has taken my position, to reflect that I'm interested in it and that we are now engaged more than we were three or four years ago on these issues.

Storey: Let's see. I think I have a last question that we can do, and that is, how are we doing on workforce diversity at Reclamation?

Workforce Diversity at Reclamation

Martinez: Well, that's kind of an interesting story, because I just came back from a meeting this morning that the department had on workforce diversity. I know that that issue can be sensitive. It's a sensitive issue. But the *bottom line*, I guess, is, it's like what I told these people and I tell them everywhere I go, is that I recall that about three years ago I spent a lot of times in airplanes, and I read a lot of magazines as I fly across the country, and I picked up a magazine and there was a very interesting article by a CEO of a top ten corporation in America.

Hopes Reclamation's Work Force Will Mirror the Population in Terms of Diversity Makeup

It was kind of an interesting article because basically what the gist of the article was is that the demographics, the composition, of the population, the ethnic backgrounds and so forth, is changing, and it's radically changing and has changed over time, and that those companies that have been successful, have been successful because their workforces have mirrored, tried to mirror, the population in general to deliver services and so forth.

It was kind of an interesting article because it says that private sector is moving ahead, trying to mirror the population in terms of its workforce. To me, if these people ~~are~~ in the private sector are thinking this way, top companies, it makes all the sense in the world for the Federal Government and the agencies to

also get on the band wagon. So aside from the fact that I think it's proper to provide employment opportunities to as diverse a workforce as we can, it also makes all the business sense in the world for us to try to mirror the population that we're going to be serving in the future.

The other thing that was interesting, that the article also said, was that in the future, because of birth rates and so forth, the *largest* percentages of the workforce available is going to be in the minority area. It says basically if you wanted to employ every white male in the United States, you couldn't find enough of them to fill the jobs that are going to be needed. So as an agency or as a business, you'd better get aggressive in how you're outreaching and start hiring these people. And that's evident right now. There was even discussion in the paper the other day that they're thinking of lifting the quotas on immigrants, especially immigrants that have technology and experience and skills in the electronic mediums and so forth, data processing and so forth. So Congress is now considering to lift those caps, because the Microsofts of the world and so forth can't find enough employees. We're not producing enough.

So I think as a bureau, we need to take our diversification seriously, provide opportunities for employment and be serious about having programs in place to fill the positions that are going to be vacant in the future. I think that's the proper thing to do and the wise thing to do. Now, the issue with that is, the other side of the coin is that in an agency such as the Bureau of Reclamation, where you have downsizing in the number of employees that we've had, and if you try to diversify your workforce and there's less opportunities to hire white males, if that's what you're trying to do, or if you're trying to promote within the system. So you've got to approach it in a way that you don't have quotas. What you try to basically do is what we've tried to do, is just open the process to make sure that you have a good pool of candidates from all diverse backgrounds, and then let the supervisors make the decision as to who they believe is the best qualified.

But I use myself as an interesting example, and I think I've already mentioned this to you, is that when I became Commissioner of Reclamation, I didn't go through the Civil Service process. I was picked by the President of the United States and confirmed by the United States Senate. But when I sat down behind my desk shortly after I became Commissioner, you start getting phone calls from people that know you and they say, "What's the possibility of getting a job?" And my response basically was, "Apply. Put in an application and apply and see how you come up."

Well, I came to find out that people that didn't have government service couldn't apply for jobs in the Bureau of Reclamation, because nine out of ten solicitations for new job openings had the provision that, one, they were either being advertised inside the Bureau, inside the Department of Interior, *or* you had to have prior Federal experience. And I said to myself, I could not apply for a job as an entry-level engineer for the Bureau of Reclamation. Notwithstanding I just stepped down as a State Engineer of a state and was Commissioner of Reclamation. I said, "That's not right. There's something wrong with this system."

So today the Bureau of Reclamation and the Department of Interior, as a result of my recommendation, is opening up these applications, and I hope it's doing it in a way to improve its workforce and provide opportunities. But those are the kind of things that exist and are kind of interesting. I don't know if that answers your question.

Storey: How are we doing?

Martinez: I think we're doing better than what we were. I think if you look at the face of Reclamation—I guess my response to you would be you've been at all the manager meetings for the last three years, have you not?

Storey: No. I've never been at one.

Martinez: But look at the face of management in Reclamation. It is changing. Got more women than probably it had in a long time, some minorities.

Storey: Than they've ever had.

Martinez: Different. And they all bring their talents. And I think it's good, good for the organization. So I think we're making some progress, and I think it's progress that is acceptable.

When we first started our diversity initiative three years ago, I used to get e-mails every now and then from folks in the organization that were not too happy, e-mails that were kind of interesting. But in the last year and a half, e-mails I'm getting now are positive. It's just something that we have to deal with.

Storey: Good. Well, I think our time's up for today.

Martinez: Okay.

Storey: Let me ask if you're willing for the material on these tapes and the resulting transcripts to be used a year after you leave Reclamation.

Martinez: You can use them. And I look forward to maybe one more session before I step off this position.

Storey: Good. Thank you.

END TAPE 2, SIDE 2. MAY 5, 2000.

BEGIN TAPE 1, SIDE 1. MARCH 8, 2001.

Storey: This is Brit Allan Storey, Senior Historian at the Bureau of Reclamation, interviewing Eluid L. Martinez, former Commissioner of the Bureau of Reclamation, on March 8, 2001, at about one o'clock in the afternoon. We are at the National Park Service's offices in the Paisano Building on Rodeo Road in Santa Fe, New Mexico. This is tape one.

Why don't we start out with title transfer. I know in one speech you made, you talked about the complexities of title transfer. How did we do on that while you were Commissioner?

Title Transfer

Martinez: I can't recall the exact number, but I think the last year we got either five—somewhere between five and ten bills through Congress. As we've discussed before, early on the main controversy was whether you would require—whether the Federal Government would require NEPA EIS studies. Folks seeking title transfer were basically taking the position that it wasn't a major Federal action, didn't require the necessary environmental paperwork. The Administration took the position early on that title transfer would require, under NEPA, environmental studies, and ultimately we worked out language with Representative Doolittle, chairman of the subcommittee at that time. That got us through what I consider to be sort of a quagmire of moving those bills forward, accepted some language. We accepted some language that Doolittle had proposed that we had reworked, that basically said that we would move forward as expeditiously as possible to do the environmental studies and transfer the works.

That being said, once that was taken care of, most of the bills moved through the House fairly quickly—that were pending before the House. If I recall,

the Senate had moved a few bills into the House, and the House was hanging them up basically till we could work out this language.

The other issue basically on title transfers was that it took a while for the players to realize what was involved in the title transfer process. By players I mean not only the Bureau, but the water users and the environmental community. So I think we've got, like I said, between five and ten bills passed through both houses, signed by the President. I think that will set the stage for requests by additional water districts across the West and we'll probably be seeing more and more title transfer requests coming in.

The issue that remains now is how quickly we'll be able to bring the title transfer to fruition. There's still concern on the part of the water users that notwithstanding the fact that a bill has passed and the President has signed the bill, that the Bureau will still drag its feet, not moving forward in actually conveying the title. My response to the water users basically is that you need to look at prior experience up there at the Burley Irrigation District, where we not only were successful in title transfer, conveying the facilities, but did it in less time than we initially anticipated it would take, and I believe in less time than was included in the legislation.

Core Technical Expertise

Storey: One of the issues we've talked about before is technical expertise. Where did we end up on preserving Reclamation's technical expertise at the end of your term?

Martinez: Well, I think that remains to be seen. But basically, if I recall, we put together several teams to look at this issue. Those teams identified deficiencies, attempted to correct those deficiencies in terms of consolidation of some of our activities, as well as looking at our employment needs in the future. We've put together, the Bureau of Reclamation put together, a plan for hiring not only technical expertise, but other expertise in the Bureau in the future by identifying those areas where we would need additional services as well as where we would be losing folks because of retirement.

"I put a policy in place that the Technical Services Center would be the organization you would turn to, unless it could be proven that they couldn't deliver the service and deliver it for a cost that was acceptable. . . ."

With respect to the Technical Services Center, I think it came a long way. When I first became Commissioner, it was not an organization within the Bureau that was an organization of service by choice. In other words, what had happened is under the reorganization, the Technical Services Division had to compete with the private sector in delivering services to the regions and the area offices. I put a policy in place that the Technical Services Center would be the organization you would turn to, unless it could be proven that they couldn't deliver the service and deliver it for a cost that was acceptable. I think we made great strides in that area. So it got to the point, I think, where towards the end of my tenure that most of the area managers were looking towards the Technical Service Center as the part of the organization to provide services that they provided in the past and which they had turned to the private sector for some of those services.

The other thing I did was I elevated the Technical Services Director to respond directly to the Commissioner instead of to—if you recall, we did away with the Director of the Denver Center and had the Director of Management Services as Director of Personnel and the Director of Technical Services Center responding directly to the Commissioner. I think this elevates the needs of the Technical Service Center to the Commissioner level, and also the Commissioner is more aware of what's happening. So I think from that perspective, to answer your question, I think we made some strides.

Storey: I don't think we've ever talked a lot about the Rio Grande and the issues that we've had in the last year or so.

Rio Grande and the Silvery Minnow

Martinez: Well, I think in the Rio Grande, basically we could probably spend a whole day talking about it, but the issue basically on the Rio Grande is the issue that's facing a controversy or concern is you've got an endangered species, the silvery minnow, which exists now in a range from downstream of Cochiti [Dam and Reservoir of the Corps of Engineers] to Elephant Butte Reservoir. The last diversion work on the Rio Grande that diverts water into the Middle Rio Grande Conservancy District is a diversion work at San Acacia. So in the years of low flow, most, if not all, the water is diverted out of the river during the summer months.

It turns out that that's where the silvery minnow exists, in part. So the environmental community, certain members of the environmental community, filed a lawsuit against Fish and Wildlife Service first to designate the critical habitat, which the Fish and Wildlife Service designated the critical habitat as from Cochiti to Elephant Butte. The environmental community was not happy about

that designation. They wanted it designated down into Texas and probably as far as the Gulf of Mexico. So they filed a suit against the Fish and Wildlife Service.

On the other hand, the New Mexico Interstate Stream Commission and some of the water users in New Mexico are concerned that Fish and Wildlife Service had not done a detailed enough environmental impact statement to take into consideration the economic effects of their decision. A Federal judge, just before I left office, determined that the EIS or the study that had been done weren't sufficient, that the Fish and Wildlife Service had to go back and do another study to take into consideration the practicality of keeping water in the reach of the river that might be almost impossible to keep wet.

So I think the Fish and Wildlife Service is back doing some additional environmental study. The Bureau of Reclamation is trying to operate its projects in a way to deliver water to the projects and keep some water in the river. But the bottom line is that there's not enough water in the Rio Grande stream system, in my opinion, to keep the river wet year-round below San Acacia. So there are those that argue that maybe the solution and what was my position early on and my advice to the Secretary, which he chose not to take, for whatever reason, was to concentrate maintaining the habitat from San Acacia upstream to Cochiti and move the fish, try to move the fish up into that area, keep them viable, and give up trying to keep the river wet below San Acacia, which might be an impractical situation.

So you'll see and you'll read in the papers where some folks are taking the position that maybe the fish should be moved upstream, efforts should be concentrated to improve and maintain habitat from San Acacia upstream to Cochiti, and it will be interesting to see whether that ultimately is a solution that this new Secretary and [the] Fish and Wildlife Service buy onto.

Last year was a drought year. We managed to keep enough water in the river, but that meant we evacuated quite a bit of water at quite a bit of expense, upwards of three-, four million dollars, if I recall correctly, Federal expenditure to buy water to keep water in that reach of the river. It drew down quite a bit of water out of El Vado Reservoir, to the point that if we'd have had another dry winter it would have been almost impossible to keep any water in the river below San Acacia.

This year we've got what appears to be a good snowpack. It will be interesting to see whether it's enough water to try to keep water in the river without having to buy it. But we'll see what happens. The issue there has yet to

be resolved. It's still under mediation under the Federal court, behind closed doors, trying to determine what should be the best way to try to address this issue.

Storey: I believe it was while you were Commissioner the water transfer regulations or guidance for the Colorado were put into effect?

Martinez: On the lower Colorado?

Storey: Yes.

Water Transfer Regulations on the Lower Colorado River

Martinez: Yes. Well, if I recall correctly, the record of decision on those guidelines was signed probably within three or four days at the end of this Administration, and it will be interesting to see how—again, the devil's in the detail—when the actual application is made to move that water from the IID to San Diego, what will come of it. Because there is some concern on the part of some of the environmental groups that that will diminish the return flows into the Salton Sea and will therefore impact the water quality and the continued viability of that sea. So it has put a mechanism in place that allows this water to move forward.

I wasn't personally involved in the day-to-day activities, but that involved settling amongst the California parties what their respective or relative priorities would be mainly between Metropolitan Water District, Coachella Irrigation District, and Imperial Irrigation District. So that had to be done first.

Storey: One of the topics that keeps coming up, and I'm sure we've discussed it before, is shifting irrigation water to M&I water, a variation of the question I just made you, but a more general question. What kinds of changes have you seen as Commissioner?

Issues in the Transfer of Water from Agriculture to M&I

Martinez: Well, the issue of transfer of water from ag to M&I, or the movement of ag water, period, the Bureau of Reclamation holds permits throughout the West for large amounts of water for its projects. There are in New Mexico as well as other places across the West litigation going on as to what the water right interest of the Federal Government is in that permit, for those permits. And that has yet to be played out. But at any rate, I recall that it was under Assistant Secretary [James W.] Ziglar, which would have been what, under what President?

Storey: [Commissioner C. Dale] Duvall and [Ronald] Reagan, I believe.

Using Reclamation Facilities to Move Non-Project Water

Martinez: Probably. It came out with a policy, a general policy, that the Bureau of Reclamation and the Department of Interior would facilitate transfers of water from ag to other uses, principally M&I, amongst willing sellers and willing buyers. A very general policy. I tried to put some teeth into that policy by defining what that meant, and we put together—I put together a team of Department of Interior folks as well as Bureau of Reclamation folks that made some recommendations to me as to what that policy basically should entail. The policy basically was in two parts. One, movement of non-project water through project facilities, which involved transfer of water. That I signed a policy two days before I left the Office of the Commissioner, which should now be policy in the Bureau of Reclamation of how we or the Bureau would move forward in using its facilities to accommodate transfer of non-project water.

With respect to the transfer of project water, there were some concerns raised by some State Engineers as to the respective role of the Federal Government in the transfer process. The policy basically took the position, if I recall, that because the Federal Government had an interest, they had a say-so as to how that water would be used and under what conditions it would be moved. Some State Engineers raised some concern about that.

I deliberated whether to sign that policy before I left as Commissioner of Reclamation, and ultimately deferred to leave that to a new administration and try to work with these states that were having some problems and some concerns to see if those could be alleviated. I personally didn't see much of a problem. The policy deferred to state administration of water rights to the state permitting process. It just said that the Federal Government having an interest in these projects have a say-so as to how that project water was used. And that policy somewhat followed the contract that was entered between the Bureau of Reclamation, the El Paso irrigation districts down in the El Paso area that allows ag water to be used for M&I purposes in the El Paso area.

Storey: Did you have any involvement in—I think it's the *Bosque Santa Clara*³⁴ issues down at the mouth of the Colorado?

Cienega de Santa Clara

34. *La Cienega de Santa Clara*—Santa Clara Marsh.

Martinez: No. The only involvement I had was a concern, a strong concern I had, that the Bureau of Reclamation did not on its own move to say that we needed to do environmental studies that took into account the impacts in a foreign country of our operations. There were some people in the environmental community, as well as some people in the Department of the Interior, that I think weighed on the side that the Bureau should undertake studies as to what the effect of its project operations would be in Mexico. I resisted that. Basically we said we would work with Mexico to look at the issue, but we wouldn't do it as a condition of our environmental studies.

The Solicitor for the Department of Interior basically skirted the issue head on, but did say that the Bureau could do some studies and maybe it would be probably prudent for us to do some studies in case a court ever came down and said you needed to do them, we would be one leg ahead. So I think where we are right now, at least where I left it, was that the Regional Director would be working with the states, Colorado River Basin states, and the International Boundary and Water Commission, and Mexican officials to see if in some way we could accommodate some studies without the United States taking a position that they had to do them as a matter of treaty or as a matter of the Bureau of Reclamation operating its projects.

Storey: Any other specific issues like that, the Republican or the Platte, that we ought to talk about, do you think?

Martinez: No. I think I will sit back over the next few years and see how these issues work out. I think that with the new administration coming on board, maybe there are some folks that feel that the new administration will probably take a different tack to how it addresses endangered species issues. I guess my thought on the issue is that as long as you have an endangered species act that the courts have to interpret, notwithstanding what the position of any given administration is, as long as you have a court proceeding where you can have somebody challenge the Administration or any administration, you're still going to have litigation, contentious litigation.

So it would appear to me that it would behoove the water users, the Bureau of Reclamation, and the environmental community to try to work through these issues and see if there's some way to come up with accommodations that serves the needs of all the parties in the absence of a court order ordering what needs to be done. Because if you have a Congress that is unable, for whatever reason, to rework the Endangered Species Act, and you have an administration that either continues or does not continue the policy, you'll still be challenged in court.

During the Clinton Administration the Water Users Considered Interior to Be Very Green

". . . the environmental community is still suing us right and left, thinking we weren't doing enough. . . ."

Notwithstanding, let me take that back. When you look at the [Bill] Clinton Administration under Secretary [Bruce] Babbitt, which was perceived by water users to be very environmentally-friendly, in other words a very green Administration, the environmental community is still suing us right and left, thinking we weren't doing enough. So if they were suing what they perceive to be a green Administration, it will be interesting to see what they do with an Administration that doesn't think the same way. You'll still have litigation ongoing. You'll still have Federal judges making decisions and perhaps maybe taking control of rivers.

Storey: Let's move on to the more general kinds of things. What was it you wanted to do during your administration that you weren't able to do during your term in office?

". . . I was somewhat naive when I came in as Commissioner of Reclamation . . . As a State Engineer you have greater latitude. . . ."

Martinez: Well, I think if I look back at it, I was somewhat naive when I came in as Commissioner of Reclamation as to exactly what the authorities of the Commissioner of Reclamation were in the context of water and water management across the West. I think we've discussed this before. As a State Engineer you have greater latitude. As a Commissioner of Reclamation you have to work through the bureaucracy, the Assistant Secretary, and the Secretary.

"If I have any regrets, it's that I was not able to bring to bear . . . the full breadth of experience that I had over thirty years in water management, because I was either not invited to the table or my perceptions of how to address the issues were different . . ."

If I have any regrets, it's that I was not able to bring to bear, to some of the issues across the West, water issues, the full breadth of experience that I had over thirty years in water management, because I was either not invited to the table or my perceptions of how to address the issues were different than other folks who wanted to address them.

". . . some frustration . . . that I was not able to bring that expertise to try to address these issues. I had to sort of do the best at the job I could, given the constraints I had. . . ."

So I guess if I have some frustration, it's that I was not able to bring that expertise to try to address these issues. I had to sort of do the best at the job I could, given the constraints I had.

Storey: Are there any examples you'd care to share?

Martinez: Well, probably I wouldn't want to do that, because I don't want to touch on anybody's toes. But if you look at the areas that I was involved in and the areas that I was not involved in, personally involved in, that gives you some idea of what constraints I had.

Storey: Now, are we talking issues at the departmental level or at the Reclamation level?

Martinez: Well, they're both Reclamation and departmental level, because when you're dealing with issues such as water transfers, the Central Valley Project issues in California, the Republican River, these are issues that involve not only the Department, they involve the Bureau of Reclamation.

Storey: Why do you think this was? Because policy decisions had been made elsewhere?

". . . there were some strong advocates for the environmental initiative which I would approach a little bit differently. . . ."

Martinez: Well, I don't know. I guess, in retrospect, maybe it's because I viewed the approach to solving some of these issues probably a little bit different. In other words, my experience as a State Engineer was an experience that I was not an advocate for any particular position, and I think that under the Administration I served, there were some strong advocates for the environmental initiative which I would approach a little bit differently.

Storey: What was the best thing that you got done, in your opinion?

Best Things He Did as Commissioner

Martinez: I think probably two things stand out. One is the experiences that I had, you know, meeting a great bunch of people, employees for the Bureau of Reclamation and folks that I worked with on a day-to-day basis, getting to visit some places I

never would have seen. I think that was a highlight. The other highlight was I think that I took over the Bureau at a time when it was under frontal attack on the basis that it had reinvented itself without the direction of Congress or the input of Congress. Those early hearings before Congress were not the most pleasant hearings when there was discussion about doing away with the Bureau of Reclamation, and I think there was also probably a feeling within the organization itself as to where its future lay.

Longest Tenured Commissioner Since Floyd Dominy

I think over five and a half years that I was Commissioner of Reclamation—I want to say that it was the longest tenure since Floyd Dominy—I think we settled a lot of those issues that were out there.

Water Users Changed Their Attitude toward Reclamation

The water users were up in arms over the Bureau of Reclamation when I first came in, and its policies as Commissioner of Reclamation.

Received Water Statesman of the Year Award

That same group, a month before I left Commissioner of Reclamation, honored the Bureau of Reclamation when it granted me the Water Statesman of the Year Award. I don't know who the last Commissioner of Reclamation was that received that. I was told that the last person that received that was Senator [Pete V.] Domenici [R-NM] quite a few years ago. So we came a long way.

I think the environmental community felt comfortable with us. At least I didn't see anybody clapping their hands when I left the Commissioner of Reclamation from the environmental community. We did the job. And I think the staff as a whole, I think, probably feels a lot better. So I sort of viewed myself—I made this comment—that I would be sort of a caretaker Commissioner coming in and trying to move Reclamation forward. I think I accomplished the caretaker portion of it, but I also I think, in retrospect, we might look back five, ten years from now, that this was a crucial period for Reclamation as it made its transition.

I would expect, you know, you've got budgetary issues that this Administration's dealing with, but what had happened to the Bureau of Reclamation was that there was some concern on the part of water users and of Congress that the Bureau of Reclamation had abandoned its construction mission. And when I say construction mission, I don't necessarily mean building reservoirs,

but maintaining and being active in constructing facilities that are needed to move water and impound water and to serve the needs of the water user community across the West.

I think that this Administration, this Congress, will be more likely to support the Bureau of Reclamation than the previous administration in its construction mission or whatever that might be. The only thing that's happening now is that you've got a budget situation that might not necessarily allow that. But I think the Bureau of Reclamation will be an active player, I think, in the future in construction of work that's necessary for delivery and movement of water across the West. I would expect that, hopefully, we'll get involved and continue to be involved in the construction of the Animas-La Plata Project, the enlargement of some of our reservoirs and perhaps maybe even a new reservoir in northern California to meet those needs, continued rural water distribution systems, wastewater reuse systems. So I think there's a good future for the Bureau of Reclamation.

Storey: Let's talk a little about rural water projects. I think you came out and visited the Navajo, for instance, on a project of that sort. Where do you see that going?

Rural Water Projects

Martinez: We need to address that from two perspectives. One is the rural water needs around Indian—

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Martinez: The needs of non-Indians and the needs of Indian communities. There's no question that in some parts of the West the rural non-Indian communities need good-quality water, and they will be going to Congress in future administrations to continue to fund existing projects and build new projects. And I think the Bureau of Reclamation will be at the table, unless a decision is made by Congress that it should be EPA or the Corps of Engineers should be building these projects versus the Bureau of Reclamation.

With respect to the Indian communities, there's a large unmet need in the American West, and I think the Bureau is poised and probably is in a good position to work with the Department of Interior and the Bureau of Indian Affairs and Congress and future administrations to provide the infrastructure to allow these communities, these Indian communities, to develop.

Indian Water Rights Settlements

I would expect that what you will begin to see more and more of in the Indian water right settlements that will occur across the West is the Federal Government, and hopefully the Bureau of Reclamation, being the lead agency, building water distribution systems for human and industrial needs to meet the needs of the tribes versus what was done in the past of building irrigation projects, and you begin to see that already even in New Mexico. There's discussion of a central water distribution system in the Santa Fe regional area to meet the needs of the City of Santa Fe, the County of Santa Fe, and the Indian tribes, as part of a water rights settlement scenario. Same cost is being discussed for a settlement in the Taos area, building rural water distribution systems that will deliver M&I water and some irrigation water.

So I think that you'll see more and more of that, except they're expensive systems. Traditionally, like what the Bureau of Reclamation has been doing is building or financing the building of the main trunk systems, the treatment facilities and the main pipelines, and the local entities building the branches that come off the main lines. What you might see in the future is the Bureau involved in actually constructing or funding the distribution systems rather than just the main trunk line.

Storey: Let's talk about this complex of Washington, how politics works there, and how the Commissioner relates to the Assistant Secretary and Secretary, and how you get work done within that context.

Martinez: Well, I think that my response to this question will be different than maybe another Commissioner. I view two different scenarios. One scenario is that you have an administration comes in, a new administration, they come in with a new Secretary, a new Assistant Secretary, and a Commissioner. I'm assuming they're all selected with the same sort of agenda in mind in terms of what that administration wants and what needs [are] to be met. So the Commissioner, the Assistant Secretary, and the Secretary are on board from the beginning, carrying out an agenda.

What I found myself in personally as a Commissioner of Reclamation, and I would hesitate to recommend to anybody that wants to come in as an official during the mid-term of an administration, is I came in as a Commissioner once certain policies had been set in place that were causing the West, the water users, a lot of concern, or were causing the Congress a lot of concern and that I think I was brought in as Commissioner of Reclamation to try to settle some of that down.

But it became very, very difficult for me as Commissioner of Reclamation to try to overturn policies that had been put in by a prior Commissioner and a Secretary and an Assistant Secretary that were still somewhat policies of the Administration. A very frustrating position to find yourself in at times.

So the relationship that I had as Commissioner of Reclamation, for the Administration, is a different relationship than what I would have had if I would have come in initially as a Commissioner setting some policies, because I had to come in and change some of those policies without changing the policy itself, and that's an interesting scenario to find yourself in. So, ideally, you have a situation where the Assistant Secretary, Secretary, and Commissioner, are all of the same mind of how things should be addressed. I was not in that situation, so I had to work through a different scenario. But ultimately I think we worked well. We understood our respective roles. Where the Secretary and Assistant Secretary wanted my input, I was there, available, and provided it. Where they didn't want my input, I didn't force myself. And, besides that, I had plenty of work to do across the West on other issues.

Storey: In doing this, how often would you see, say, the Assistant Secretary or the Secretary?

The Secretary of the Interior

Martinez: The Secretary, we got along fine. As a matter of fact, I would consider him a good friend. But on the issue of sitting down and talking about water policy, we never did it. In other words, I was Commissioner for five and a half years, we never sat down. Part of that, maybe, was because he had confidence in me and I was doing a good job. But we never really sat down and discussed water and water policy issues. I'd see him maybe twice a year. He had his job. I had mine, and I did it. He did his. I think some things we were in tune and other things we probably weren't.

". . . the Assistant Secretary would carve out her area of interest. The rest would be my area of interest. . . ."

With respect to the Assistant Secretary, the Assistant Secretary would carve out her area of interest. The rest would be my area of interest. We'd see each other sometimes on a weekly basis just to sort of update what we were doing. But in terms of really sitting down and talking about how to handle an issue or how not to handle an issue, that occurred very infrequently, if at all.

In other words, the Assistant Secretary was interested in California issues. The deputy Secretary was interested in lower Colorado River issues. The Secretary, of course, was interested in the bigger issues involving generally those same areas. And the Commissioner of Reclamation worked the rest of the West, worked with the water users to try to address their concerns, tried to posture the Bureau of Reclamation in a position where it would be effective in the future, and basically kept the Secretary, Assistant Secretary, and the Administration out of problems with the water users across the West on water issues.

"I was fortunate as Commissioner of Reclamation in five and a half years to have not had major controversy on water or water issues other than these big policy issues . . ."

I was fortunate as Commissioner of Reclamation in five and a half years to have not had major controversy on water or water issues other than these big policy issues that were working themselves across California and lower Colorado and the Rio Grande. But there was no marches on Washington or no marches on Denver by water users or environmental community or anything calling for the head of the Secretary or the Assistant Secretary or the Administration on water issues. And water being a very volatile issue, I thought that that was an accomplishment that I and the leadership of the Bureau of Reclamation handled quite well.

Storey: But, for instance, the Secretary wouldn't hold a meeting of all his bureau heads?

Martinez: Let me answer it this way. There were meetings that were held on a weekly basis—department meetings.

Storey: Yes.

Political Meetings Were Held Weekly on Monday and Wednesday

Martinez: Political meetings. But those are different meetings than sitting down and saying, "We've got a problem on this particular issue, on this water management issue. What do you think about it and what would you do?"

Storey: So then what you're saying to me is you would only see him a couple of times a year on Reclamation business?

Martinez: Correct.

Storey: But you would go to a weekly meeting?

Martinez: Well, they would hold weekly meetings. Now, whether he was there or I was there is a different story. But there would be weekly political meetings where the political appointees would come in. There was a meeting on Monday mornings and a meeting on Wednesday mornings. Monday morning was for all political appointees. The meeting on Wednesdays was for the senior management. But those were more management issues rather than specific Bureau of Reclamation issues and water issues.

Storey: So, for instance, the Monday meeting you would attend if you were in town?

Martinez: I would attend if I thought that it was worth my time and effort to attend.

Storey: What about the Wednesday meeting?

Martinez: The Wednesday meetings I didn't attend very many of them because the agenda really did not center around Bureau of Reclamation activities. A lot of the other activities of the other bureaus, Park Service, BLM, BIA, and so forth, it didn't involve water or water issues. So I determined after a while that I could best utilize my time by being selective, which means I would attend or would not attend.

Storey: Would you have an agenda in advance?

Martinez: Oh yes.

Storey: When you say they were political meetings, I don't quite understand what you'd be talking about in those kinds of meetings.

Martinez: Legislation that was working its way through the Hill. Budget issues, depending on time of year.

Storey: How to deal with OMB and those sorts of issues?

Martinez: Legislation, yes. On some of the meetings we'd have some part of the agency raise an issue that was a hot—say a wild horse problem or the burro problem that the BLM was having, how they were handling that. So those were generally the meetings.

The Monday meetings, like I say, when I say political meetings I mean everybody that attended was a political appointee. If you were a political appointee, Schedule C, or bureau head, you were welcome. And that was sort of the nuts and bolts of running the organization. The Wednesday were higher-level folks. That meeting, the Wednesday meeting, was usually chaired by the Chief of Staff, because the Secretary, based on his travel schedule, did quite a bit of traveling, and when there was an item that needed his attention, he'd be at that meeting. But I would say for the most part it was chaired by the Chief of Staff.

For instance, when you say what would you discuss, well, I would say for like probably the last five or six weeks of our Administration what was discussed was how to prepare information to pass on to the transition team, those sort of things. So, depending on what the hot subjects were.

Storey: Now, the Monday meeting, when you say Schedule C, is that all SES'ers?

Martinez: No. SES'ers are not political appointees. There's some that are. There's some SES'ers that serve at the pleasure of the appointing agent, you know, the Secretary or White House, those. For instance, a typical one was David Cunningham. I don't know if you ever knew David. He was down there at the Assistant Secretary's office.

Storey: In the Assistant Secretary's office, yes.

Martinez: And he was there for a while. It was an SES political appoint position. My understanding is that out of a total number of SES'ers that an agency has, a certain percentage of them can be appointed without going through the career Civil Service rank. So you have those. Then you have what you call the Schedule Cs, which are just basically political appointees. Then you've got your agency heads, deputy secretaries, chief of staff, affirmative-action folks, and so forth. So I would say on average you would have, whenever I attended those Monday morning meetings, maybe twenty-five, thirty people sitting around the table.

Storey: With, maybe, is it nine or eleven bureaus, something like that?

Martinez: Well, actually, what you had the Wednesday meetings, probably between eight and ten folks.

Storey: And that would be the heads of the bureaus and the Assistant Secretary?

Martinez: The head of the bureaus or your Solicitor, you know, Deputy Secretary and so forth, yes.

Storey: Interesting.

Staff Meetings at Reclamation

Martinez: And it sort of functions basically about the same way. You know, I used to have a meeting on Monday mornings at Bureau of Reclamation from 9:30 to 10:00-, 10:30 every, where my senior management staff there in Washington would come in, and we'd go around and I'd say, "What's going on in your respective areas?" And they would bring me up to date and everybody else would get an idea of what's going on. And then on Monday afternoons at 1:30 we'd have a telephone call with the Regional Directors and the policy team, and they'd let me know what's going on. So basically that's the same sort of structure that was being handled at the department level. Except from my perspective, I didn't attend, I guess, as much as I should have. I didn't attend as much of those meetings because the subject matter was just something that I thought I'd be better spending my time doing something else.

Storey: Let's talk about how politics works in all of this. For instance, in my office, Lake Berryessa is one of the topics in *our* staff meetings, and the version that I have gotten is we went through all the procedures, we notified this concessionaire we were going to close them down, and then all of a sudden you came in and said, "No, we're not going to close them down." And everybody saying, "This has got to be political." Could you talk about those kinds of issues?

Martinez: Well, I don't know. Let me give you an example of a situation, and I think this might be Lake Berryessa, and I don't know if it was a concessionaire or not. I think what we're talking about is the one I was involved in was some docks, private. Some folks had some private boat ramps off of their cabins, if that's the one you're talking about.

The Bureau of Reclamation, as I understand it, had allowed, for quite a period of time, these people that had cabins around the lake, if that's what it was, or maybe it was Canyon Ferry, but it's a similar example, to have these private docks. It was determined, after studies, that it would probably be in the best interest of the lake and the water users to do away with all the docks, private docks, and build a common public facility, notwithstanding that you'd had these folks with the docks there for twenty, thirty years. So the staff did a study that came down with the opinion that they should serve notice on all these people that

they should cease and desist using these docks and that they had to pull them out and do away with them in a certain period of time.

Well, it's only human nature that these folks went and talked to their representatives or their congressmen, and it's only human nature they called me up and said, "What's going on?" So I got a call. In that particular area, I got a call from a senator that said, "You know, I'm looking at introducing legislation to make those private docks permanent. There are not that many of them. They're not causing many problems, and the Bureau's allowed them to occur, to happen there, to be used for the last twenty, twenty-five years."

So I had to make a conscious decision as to whether I would tell him, "Go ahead, introduce legislation." I was fairly sure that if he introduced legislation, it would pass and probably be signed by the President and we'd wind up with permanent facilities. Or I struck a deal, if that's a proper word, with the owners out there and the congressional delegation that we would allow those docks to occur and could continue to exist, but if there was ever a change in ownership of the cabin, they'd be gone and they'd be transitioned and be gone over X number of years. I recall that was the arrangement we worked out. Ultimately, I think that's the arrangement that was incorporated into law. But to me it was a solution, I think, that was a better solution than forcing the solution of getting them there in the long term.

So let me go back and say I've been in this business long enough, both at the staff level and at the policy-making level, that staff makes a recommendation, the policymaker takes that recommendation, considers all the variables, and makes a decision. And staff should just say, "We gave it our best shot," rather than sit back and say, "Ah, that guy doesn't know what he's doing," or, "It's just political." In other words, you've got to have the whole picture of what's occurring, and sometimes staff might not necessarily have the whole picture. Now, Berryessa, on the concessionaire, I don't know exactly what that issue is. I thought we had—

Storey: Well, you know, I'm not an expert on this, but it had to do with sewage being dumped out on the ground and the concessionaire had a health problem.

Martinez: Oh, that one particular one. My understanding on that issue was that the state of—that's the one where the state of California also was weighing in because it was a water quality issue.

Storey: Yes.

Martinez: The bottom line, as I understood it, was that that gentleman, or the concessionaire, was given orders to comply with the water quality standards not only that we had in place, but that the state had in place, and that he was going to go ahead and do it. But apparently he didn't do it, and that was still an issue that had yet to be resolved when I left.

Storey: Oh, okay. See, I only get half of these stories. I don't get the whole thing.

Martinez: But the issue there was, if I recall correctly, was that you had a concessionaire that was, for all practical purposes, dumping raw sewage into the lake. But if you shut the concessionaire down, it not only affected his operation, which was a little concession, but I think there was twenty or thirty or I don't know how many trailers out there where people actually lived.

Storey: Yes. House trailers.

Martinez: Yes. That you'd have to shut them down and they'd have to move someplace else. So it was not an issue only of the impact of the concessionaire; it was an issue of what are you going to do with all these folks.

[Telephone rings. Tape recorder turned off.]

Martinez: If I recall correctly, what I had to weigh and what had to be weighed is the impact to all these folks that were, for lack of a better word, I guess, innocent bystanders in the process. Because it would have been easy, I guess, to have said, "Well, concessionaire, we're going to shut you down." But in shutting him down, you had all these people living in these trailers probably didn't have a place to live. So what we tried to do, I guess, was to see how we could accommodate the concerns of cleaning up the place, meeting the state standards, and making sure that these folks continued to have a place to live.

If I recall correctly, the solution that was arrived at was that the concessionaire was given a certain period of time to get his act together. And as I heard as I was walking out the door, shortly before I walked out the door, was that he had not done that, and what the ultimate decision was, I don't know.

But I guess, going back to your original question on this issue, like I said, is on any given issue, issue of controversy, the staff has got to make the best shot they can at giving the policymaker all the information he needs to make a decision. The policymaker then has to weigh that staff input as well as other facts that come to his attention, his or her attention, and make a decision. A lot of times you

support the staff, and a lot of times you have to overturn the staff. But I guess that's part of the beast. That's how things work.

Storey: Let's talk about retirement. How are you enjoying it, or not enjoying it?

Activities in Retirement

Martinez: I'm enjoying it. I've yet to really sit back and contemplate, because I left Washington, D.C., on the twenty-second of January and I was here—twenty-first, I believe. I was here three days later, and then I started working on the house, and I've been remodeling the house and painting the place up and cleaning it up. As a matter of fact, that's what I was doing this morning, painting in the entryway. I remodeled the one bedroom. I remodeled a utility room, and I've still got some additional work to do. So I expect I'll be busy for the next several months.

"I've lived in Santa Fe all my life and I wanted to get back here. Washington's a good place to visit, but not to live, from my perspective. . . ."

I felt good when I left Washington. I've lived in Santa Fe all my life and I wanted to get back here. Washington's a good place to visit, but not to live, from my perspective. It's a different world. I felt very relieved, because a lot of burden, a lot of pressure had come off my shoulders. It's not easy holding one of these political jobs, heading an agency, and dealing with the political reality of the position.

"I think more of the folks than I do of the job. . . ."

So I didn't look back. The only thing I miss is the friends I made back in Washington. I think more of the folks than I do of the job. Of course, this is my second retirement, and I keep abreast, as best I can, by reading the newspaper on issues that are occurring. But I don't lose any sleep over the fact that I left as Commissioner of Reclamation.

"I don't think I'll be retired for a very long period of time in terms of when I say retired I'm not doing anything. I'll either go to work for somebody or open up a consulting company . . ."

I'm really looking forward to enjoying myself. I don't think I'll be retired for a very long period of time in terms of when I say retired I'm not doing anything. I'll either go to work for somebody or open up a consulting company, because I'm not the type of individual that can just sit at home and not do

anything. I'm okay now because I'm working eight hours or twelve hours a day working on the house, but after I finish that, I'm not going to be sitting there just looking out the window and twiddling my thumbs. I'll be doing something.

Storey: What about your art?

Martinez: I haven't had a chance to turn my attention to that at all yet. I probably will do that down the road.

Storey: There's a rumor that you're interested in getting into politics around here.

Some Interest in Politics

Martinez: Oh, I mean, you know how rumors are. The issue, I guess, is where do rumors start. And where it started is, I told folks that I might very well run for Lieutenant Governor of the state of New Mexico in two years. We'll see. You know, things change over time, but I've also got an eye maybe on a congressional seat. But you've got to take things one step at a time, and right now the next election year in New Mexico is still a year and a half away. I'm still about eight months away from having to make that decision as to whether I'll run for office or not.

You know, I've put a lot of time into helping from a public-service perspective, which I consider this job as Commissioner of Reclamation as helping. It's something that, from a personal perspective, you give up a lot serving in these kind of positions, the wear and tear on the family, wear and tear on yourself. You're fortunate if you go through those appointments and come out in better health than when you went in. I mean, you look at that from the President all the way down. I have yet to see a President leave office looking better than when he walked in except maybe for President Reagan. It wears you down.

So I'm looking forward to a career, I guess. If I go into politics, that will not be what I perceive to be running an agency or something like that. A congressman, I saw those guys work out there on the Hill. They've got a job to do, but they've got small staffs. They've got their own individual bills they want to move. You know, they're not really concerned about running an organization, as such, or what's involved like an executive in-

END TAPE 1, SIDE 2. MARCH 8, 2001.

BEGIN TAPE 2, SIDE 1. MARCH 8, 2001.

Storey: This is tape two of an interview by Brit Storey with Eluid Martinez on March 8, 2001. You're looking forward to all that. Let me ask if there's anything you'd like to talk about that I should have asked about, but I didn't.

Martinez: No, I think that we've covered most of the bases. Over the years, I don't know how many hours we've sat down and talked about this. My perspective on the job has changed over time. When I first came in, I guess I came in with certain expectations that weren't there, but I learned to live with them and do the job that I needed to do, and, I think, did a job that probably with time will reflect that it was probably a good service I did for the country and for the Bureau of Reclamation. And it's time for somebody else to take over the helm and do something with the organization.

It's Good for there to Be Turnover in Administrations and Political Appointees

I've come to the conclusion that it's time to move on. In other words, I started to sense towards my last year as Commissioner of Reclamation that I did not have the energy or the drive on issues that I had when I first came in, you know, and that there were other things to do and that perhaps maybe somebody else should come in. And that's why I think it's good, probably, to have some changes in administrations and changes in political-appointed positions. But the timing of these changes is also important, because you don't want to change them every two years or every eighteen months because you don't give a person or an organization enough time to sort of mature. But on the other hand, once it gets to be over four or five years, unless a person's really a workaholic and that's all he does is his work is his life, you begin to lose some steam. That always occurs.

Storey: Do you have any perspectives on why Dan Beard left?

Martinez: No. The only thing I've tried to figure out myself—I was going to sit down and talk to him—but I think two things happened. One, I think there was quite a concern on the part of water users across the West about Dan's philosophy and policies. I don't know if they were Dan's or they were somebody else's and Dan might have taken the fall. I don't know. But at any rate, there was quite a bit of concern across the West that was, I think, being expressed. To the extent that that had anything to do with why he left and why they brought in a State Engineer to try to work these issues remains to be seen. But there was quite a bit of controversy. Some groups were calling for his head.

Change in the Control of Congress May Have Influenced Dan Beard's Decision about Leaving Reclamation

The other thing that occurred, also, was that you had a change in the leadership in the House, and you had a change in the control of Congress. Maybe Dan figured out that he wasn't going to be as effective as he wanted to be or wished to have been with a change in the leadership in the Congress based on what he perceived to be what needed to be done. Those two things might have come into play.

One discussion I did have with Dan, and I'll take him for his word on it, was that he told me, he said, "I think I've accomplished about everything I can with the Bureau of Reclamation." He said, "Because I came in," he said, "to change the organization—to controversy and turmoil." And he said, "And I don't have the skills or not the type of person to settle it out." In other words, to carry it forward, in other words." And he looked at me. He said, "Eluid, I think you might have the temperament and the skills to move the agency forward."

So which of those three? I guess you've got to ask Dan. But he did express to me that he thought it was time for him to move on, and his tenure was, whatever it was, eighteen months or whatever it was.

Storey: Good. Anything else?

Martinez: Nope. I look forward to reading this one of these days.

Storey: Well, I sure appreciate you taking time. And I want to ask you again if it's all right for the material on these tapes and the resulting transcripts to be released a year you left the commissioner's office.

Martinez: That's fine.

Storey: Good. Thank you.

Martinez: Okay.

END TAPE 2, SIDE 1. MARCH 8, 2001.