

ORAL HISTORY INTERVIEWS

Edward Weinberg



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Interviews Conducted and Edited by:  
Brit Allan Storey  
Senior Historian  
Bureau of Reclamation



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## Table of Contents

Table of Contents .....	i
Statement of Donation .....	xv
Introduction .....	xvii
Oral History Interviews .....	1
Born in 1918 in Whitewater, Wisconsin .....	1
Completed High School in Three Years and Graduated Third in His Class .....	1
Attended the Whitewater State Teacher’s College for Two Years .....	2
Had a National Youth Administration Job at the Teachers College .....	2
Transferred to the University of Wisconsin in Madison for His Bachelors and Law Degrees .....	2
“I had <i>always</i> intended to become a lawyer . . .” .....	2
“I graduated from law school in 1941. I was fifth in the class of 150-some students. I would have been higher but I flunked a course because the professor couldn’t read my handwriting. . . .” .....	4
“I was a member of the Board of Editors of the <i>Wisconsin Law Review</i> and I was elected to membership in the Order of the Coif . . .” .....	4
Worked in His Brother’s Law Firm in Milwaukee for Almost Two Years .....	5
In December of 1942 Joined the Office of Price Administration in Washington, D.C. ....	5
“The job paid \$2,600 a year, which was quite a step up from \$75 a month, which I was	

making. . . .” . . . . . 5

Worked on Writing Regulations for Rationing Fuel  
Oil and Firewood . . . . . 6

Found the OPA Job Boring and Trying . . . . . 6

John Frank Helped Him Transfer to a Job in the  
Department of the Interior . . . . . 7

“I’ll take the Bureau of Reclamation, sight  
unseen. By the way, *what do they do?*”  
. . . . . 9

Went to Work for Reclamation in January of 1944  
. . . . . 10

In 1942 Took a Nationwide Civil Service Exam in  
Milwaukee . . . . . 10

“This office was *stacked* with files, must have been  
six feet, six feet of files, *all involving*  
Marshall Ford Dam. I set out to read *all* of  
those files, and that was the best education  
I could have had in how the government  
works . . .” . . . . . 11

“It took me six weeks to go through that file, and I  
was inquisitive, I asked a lot of questions of  
other lawyers, the older lawyers in the  
Bureau, and when I got through, I knew the  
Bureau of Reclamation backward and  
forward. I knew the congressional process  
. . .” . . . . . 13

Worked on the Flood Control Act of 1944 Which  
Authorized the Pick-Sloan Missouri Basin  
Program . . . . . 14

Worked on the Mexican Water Treaty . . . . . 14

Senator Hiram Johnson . . . . . 15

“. . . the Pick-Sloan Plan came along at a time and  
under circumstances that couldn’t *possibly*  
be duplicated today. . . .” . . . . . 17

Lower Missouri Floods in 1942 and 1943 . . . . . 18

Navigation Legislation on the Lower Missouri

---

.....	18
Reclamation Had Been Working on Projects on the Upper Missouri and the Corps of Engineers Was Working on Lower Missouri Studies .....	18
Concerns about Navigation Establishing a Priority Higher than Irrigation on the Missouri River .....	19
Developed a Legal Opinion on Priority of Navigation in Relation to Irrigation .....	19
Dynamics in the Political Scene at the Time Regarding the Corps of Engineers and Reclamation .....	20
Reconciling Reclamation and Corps Plans for the Missouri River Basin .....	21
“... ‘Mr. President, you’ve got to do something. You’ve got to knock some heads together and get these two agencies to agree.’...” .....	24
Chicago Meeting Where the “Shotgun Wedding” Resulting in the Pick-Sloan Missouri Basin Program Occurred .....	25
John Page and Harry Bashore .....	27
Creation of Reclamation’s Regions .....	28
“... the commissioner concerns himself with high policy and relations on the Hill, and the real decisions, the real implementation is done in Denver and <i>not</i> in the regions, as I see it. ...” .....	29
“... the district counsels’ offices <i>became</i> the <i>site</i> of the Bureau’s regional offices. ...” ...	29
“The regions were being created because ... they could foresee ... after the war. There was going to be big development, and it couldn’t all be run out of the chief engineer’s office. The job was just too big.	

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---

. . .” . . . . .	30
Leslie N. McClellan . . . . .	34
“The Bureau of Reclamation had a worldwide reputation and deservedly so. The Bureau designed the high dam on the Panama Canal . . .” . . . . .	34
Attended the Hearings for the Mexican Water Treaty and Protocol . . . . .	36
“The big issue in the Mexican Treaty hearings on the Colorado was . . . <i>all</i> of the other Basin states were <i>very, very</i> concerned about how in the hell the Mexican <i>Treaty demand</i> was going to be <i>met</i> , and they could see that it was going to be met <i>from them</i> and not from California. . . .” . . . . .	36
Arizona’s Differences with California over the Colorado River Compact . . . . .	37
“. . . I somehow or other found favor with my superiors and I was promoted. I kept getting promotions. I think I was the only floater in the Bureau. . . .” . . . . .	41
Reclamation Marketed Pick-Sloan Power in the Early Days of the Program . . . . .	41
“Well, if you know anything about reclamation projects, you know that the water users don’t begin to pay for the cost of the projects; power picks up most of the tab. . . .” . . . . .	41
“In terms of Pick-Sloan, most of the power was developed at the Corps projects . . . Well, the question arose, could the revenues from the Corps projects be figured in . . . picking up the irrigation subsidy, the cost that was beyond the ability of the water users to repay. . . .” . . . . .	42
“. . . Bill Burke . . . took the view that it [Pick-	

---

Sloan] was all one project and had to be treated as one project for payout purposes. . . . submitted to the solicitor of the department . . . held that Pick-Sloan was, in effect, two projects and you couldn't include the power revenues from the Corps projects in the payout study. . . . Mike Straus . . . and Bill Warne . . . went to Oscar Chapman . . . They had sense enough to see that the Sloan part of Pick-Sloan, the whole Bureau of Reclamation was dead if the solicitor prevailed, so that they ignored him. They went ahead on the theory that it was all one project. . . ."	43
Oscar Chapman . . . . .	44
"In 1956, there was an extensive hearing before the Senate Public Works Committee and the Senate Interior Committee on the problems of the Missouri River Basin. There was a concern then that the Army was favoring navigation contrary to the O'Mahoney-Milliken Amendment. . . ."	45
"They were getting concerned about the <i>cost</i> of these [Pick-Sloan] projects and that the Bureau was, in effect, writing its own ticket. . . ."	46
"I testified for a whole day, and I had exactly one day's <i>notice</i> of this, too. And I testified . . . on the legal basis . . . including the Army power and the payout . . ."	47
Concern in Congress about Why Reclamation Did Not Submit its Power Rates on Pick-Sloan to the Federal Power Commission For Approval . . . . .	48
"They were <i>astounded</i> . . . to learn that Congress, in these few lines in Section 9 of the Flood	

---

---

Control Act of 1944, had authorized the Secretary of the Interior to spend \$6 billion building this project without any congressional oversight. . . . .	49
“That testimony of mine became the basis later on for what’s known as the Holum Report of 1963, which was accepted by Congress in reauthorizing the Garrison Project in 1965, as the basis for Pick-Sloan power rates. . . . .”	50
Left the Solicitor’s Office in February of 1969 and Became Counsel to Midwest Electric Consumers Association . . . . .	50
“I have continued my professional interest in Pick-Sloan through representation of Midwest. . . . .”	50
“The . . . philosophy [of various administrations] . . . was to regard the sale of power as a cash cow to raise money for general governmental purposes, in other words, to apply against the deficit . . . . .”	51
Protecting the Repayment of Pick-Sloan Projects with Corps of Engineers Power Revenues . . . . .	51
McGovern-Meeds Amendment “. . . says, in substance, that there can be no change in the cost allocations of any project then under way or completed without further authorization of Congress. . . . .”	52
“. . . power rights . . . have gone up 300 percent since 1950, but they are still based on cost. Costs have gone up. . . . .”	53
Legal Issues Related to Hoover Dam and the All-American Canal . . . . .	53
Allocating Power from Hoover among California, Arizona, and Nevada . . . . .	54



---

During World War II the Federal Government Commandeered Power from Hoover and the Issue Later Became Where the Responsibility Lay for Payment of Extra Costs Caused by That Action . . . . .	55
Worked on Acreage Limitation Issues on the Central Valley Project . . . . .	56
“The acreage limitation was, however, a central feature of the reclamation law, and the reclamation law <i>would not have been passed</i> without it. . . .” . . . . .	56
Acreage Limitation on the Imperial Irrigation District . . . . .	57
Development of the Southwest Water Plan and Authorization of the Central Arizona Project . . . . .	58
“. . . the question arose, why wasn’t the excess land laws applicable to the Imperial Irrigation District, which was the biggest single user of irrigation water in the whole Colorado River Basin . . .” . . . . .	60
“We concluded that the excess land laws <i>indeed</i> applied to the Imperial Irrigation District. We had this opinion ready in December of the year in which John Tunney . . . was elected to Congress from the Imperial Valley, and John was a Democrat. So the question was, my God, if we release this opinion out of the blue, why, John Tunney’s career in the House of Representatives is going to be over before it starts. . . .” . . . . .	61
“The government lost before . . . the federal judge in the Imperial Valley. . . .” . . . . .	63
Ben Yellen and Acreage Limitation on the Imperial Irrigation District . . . . .	64

---

---

“ . . . the United States Supreme Court reversed basically on the ground that too many years had intervened . . . ” . . . . .	64
Why He Wanted to Be an Attorney . . . . .	66
Education . . . . .	66
Creation of Regions in Reclamation . . . . .	68
The Work of Reclamation’s Legal Offices . . . . .	70
The Legal Offices Handled Claims Against Reclamation . . . . .	70
District Counsels . . . . .	70
“Under the original Reclamation law, the contracts were entered into with the individual farmers. . . .” . . . . .	73
“ . . . the repayment period, fixed by law, was ten years. . . . It turned out that ten years was much too short. . . .” . . . . .	73
Reclamation Extension Act of 1914 . . . . .	76
Reclamation Project Act of 1939 . . . . .	77
The Issue of Ownership of Water Rights on Reclamation Projects . . . . .	78
Work on the Flood Control Act of 1944 . . . . .	83
Mexican Water Treaty and Protocol of 1944 . . . . .	83
Negotiating the Repayment Contract for Marshall Ford Dam on the Colorado River in Texas . . . . .	84
“When I came along, they had gotten to the point where it was time to begin negotiations on the repayment. Into my office were trundled about eight or nine feet of files, <i>all</i> the files on the Marshall Ford Dam, and the first two months I spent on this project was reading those files. . . .” . . . . .	86
“That . . . was the best education in reclamation law and practice and . . . how Congress appropriates money, that anyone could have had, and by the time I got through	

---

reading those files, I knew how Congress appropriated money for public works projects . . .” . . . . .	86
“These negotiations dragged on for several years. Naturally the local people wanted to pay as little as possible, and we wanted to get out as much as possible. . . .” . . . . .	87
“Unbeknownst to me at that time when I first started working with this, the Marshall Ford people were pretty hefty in Democratic politics. . . .” . . . . .	88
“By 1948, . . . I had become an assistant chief counsel in the Bureau. I had a rather meteoric rise in the legal staff of the Bureau of Reclamation. . . .” . . . . .	88
“. . . I’m not given to false modesty. It was ability. . . . I’m a faster learner. . . . I was very young and I became the superior of lawyers who had been there much longer than I had and had much more to do. . . .” . . . . .	89
Assistant Chief Counsel for Power and Procurement . . . . .	89
“Each bureau in those days had its own legal staff, and the solicitor of the department had a small staff handling mainly appeals and policy and legal advice to the secretary, and <i>professionally</i> supervising the chief counsel of each bureau. The bureaus couldn’t hire a lawyer without the approval of the solicitor. . . .” . . . . .	90
Implementation of the Mexican Water Treaty and Protocol . . . . .	91
“At that time . . . they thought that there were 18 to 20 million acre-feet of water, virgin flow, of the Colorado, and that was the basis in which the [Colorado River] compact was	

---

negotiated. . . .” . . . . . 92

“California fought the Mexican Treaty tooth and nail, because they figured the day would come when that surplus wouldn’t be there, and the million [and one-half] acre-feet for Mexico was going to come out of their hide. . . .” . . . . . 94

“The *Texas* delegation . . . were hot *for* the treaty. The Upper Basin supported the treaty, too. . . .” . . . . . 95

“The United States negotiators assured the Senate Foreign Relations Committee that there was no guarantee of quality . . . The Mexican negotiators were assuring the Mexicans of exactly the opposite. . . that they would get the same quality of water as the Imperial Irrigation District, which was the last [U.S. irrigation water] diverted from the Colorado. . . .” . . . . . 96

Reclamation’s Gila Project Caused the Quality of the Water Delivered to Mexico in the Colorado River to Become an International Issue . . . . . 96

“. . . we would periodically release water from Parker Dam and from *Hoover* Dam to flush out the river. This caused the senators from the Colorado River Basin states to raise hell that we were giving this water to *Mexico*. Well, the excuse we used was that we had to flush the channel in the United States . . . .” . . . . . 97

“. . . the United States undertook to build what was the world’s largest desalting plant in Yuma to desalt the Wellton-Mohawk water, a boondoggle if there ever was one. The Wellton-Mohawk project should *never*

---

have been built . . .” . . . . .	98
The Mexicali Valley . . . . .	98
“ . . . rather than building this desalting plant, it would have been cheaper to buy up the farms in Wellton-Mohawk project, but . . . the Arizona congressional delegation, wouldn’t hear of that, and the chairman of the Senate Appropriations Committee was Senator Hayden of Arizona . . .” . . . . .	99
Became More Involved in the Mexican Water Treaty and Protocol When Mexico Raised the Issue of Water Quality on the Colorado River . . . . .	100
Construction of Hoover Dam . . . . .	101
Purposes of Hoover Dam . . . . .	101
Disputes Between Arizona and California over Dividing the Waters of the Lower Colorado River Basin . . . . .	102
“The governor of Arizona called out the National Guard and threatened to arrest the Bureau of Reclamation engineers and the contractor who started to work on Parker Dam. Well, to everybody’s surprise, the government sued to enjoin Arizona’s [unclear]. To <i>everybody’s</i> astonishment, including, I suspect, Arizona, the Supreme Court held that Parker Dam had not been authorized properly under the reclamation law, and therefore it was being constructed in violation of several federal laws . . .” . . . . .	103
Issues Regarding the Hoover Dam Power Contracts . . . . .	104
“I was a quick study, and I didn’t undertake anything without knowing what the hell I was doing and what the project consisted of	

---

and why, so on and so forth. So I became  
an expert. . . .” . . . . . 105

Boulder Canyon Project Adjustment Act of 1940  
. . . . . 107

1940 Power Contracts for Hoover Dam  
Powerplants . . . . . 107

The Original Power Contracts for Hoover Expired  
May 31, 1987, and He Worked for Nevada  
in Negotiating the New Power Contracts  
. . . . . 107

“When the contract expired . . . It took about six  
years. We began that effort in 1981 or ‘82.  
. . .” . . . . . 109

Work on the Pick-Sloan Missouri Basin Program  
. . . . . 109

“. . . the legal staffs were consolidated in the  
Office of the Solicitor, when the  
Eisenhower Administration came in. I  
think it was 1953 or ‘54, when we were all  
moved to the solicitor’s office. . . .” . . . 110

Served as an Attorney Advisor and Then as the  
Assistant Solicitor for Power in the  
Solicitor’s Office . . . . . 110

“. . . I became, in effect, the deputy associate  
solicitor. . . . although others had the same  
title, and I always had a higher grade than  
any other assistant solicitor. . . .” . . . . . 111

Became the Associate Solicitor and Then the  
Deputy Solicitor in 1963 or 1964 . . . . . 111

Became Solicitor in 1968 . . . . . 111

“After . . . maybe a year, the Eisenhower  
Administration got over their antipathy to  
government development, and some of the  
biggest projects in the Bureau were  
authorized during the Eisenhower  
Administration . . .” . . . . . 113

- 
- Eisenhower, “. . . tried to, in effect, sell TVA . . .  
That was a bad move. Because politically  
the country wouldn’t stand for it . . .” . . . 113
- Foundation of the Midwest Electric Consumers  
Association and the Basin Electric Power  
Cooperative . . . . . 114
- Ken Holum Founded the Midwest Electric  
Consumers Association . . . . . 115
- Goodrich W. Lineweaver, Oscar Chapman, and  
Mike Straus . . . . . 116
- William E. Warne . . . . . 117
- “Goodrich . . . was canned, actually, when the  
Eisenhower Administration came in. He  
was *persona non grata* to the Republicans.  
He went to work for Senator [James E.]  
Murray [D] on the Senate Interior  
Committee. . . .” . . . . . 118
- “. . . the California regional director of the Bureau  
of Reclamation at the time, Richard Boke,  
not an engineer, believed very deeply in the  
concept of the excess land laws . . .” . . . 119
- “it got to the point where Senator [Sheridan]  
Downey, otherwise a far-out left-winger  
from California, took up the cudgels for the  
big landowners in Central Valley, and he  
actually got the appropriation to pay the  
salary of Boke and Straus *cut off*. He got a  
rider on the appropriation act that said that  
none of the funds appropriated herein can  
be used to pay the salary of a commissioner  
of Reclamation and a regional director of  
Reclamation who are not engineers. . . .”  
. . . . . 119
- “Straus, with legal advice, by the way, came up  
with the policy that if you paid up your  
construction charges, your water charges in
-

advance, paid them all, the excess land laws would not apply, a legal proposition which I later, in the sixties, found to be not supportable. . . .” . . . . . 120



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**STATEMENT OF DONATION  
OF ORAL HISTORY INTERVIEW OF  
Edward Weinberg**

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, Edward Weinberg, (hereinafter referred to as "the Donor"), of Sacramento, California, do hereby give, donate, and convey to the National Archives and Records Administration (hereinafter referred to as "the National Archives"), acting for and on behalf of the United States of America, all of my rights and title to, and interest in the information and responses (hereinafter referred to as "the Donated Materials") provided during the interviews conducted on November 23, 1994, and on January 27, 1995, at his offices at Suite 800, 1615 M Street, NW, Washington, D.C. and prepared for deposit with the National Archives and Records Administration in the following format: cassette tape recording(s) and transcript(s). This donation includes, but is not limited to, all copyright interests I now possess in the Donated Materials.
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5. The Archivist may dispose of Donated Materials at any time after title passes to the National Archives.

Date: 1/27/95

Signed: Edward Weinberg  
Edward Weinberg

INTERVIEWER: Brit Allan Storey  
Brit Allan Storey

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

Date: \_\_\_\_\_

Signed: \_\_\_\_\_  
Archivist of the United States

## Introduction

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

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

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

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

For additional information about Reclamation's history program see:  
[www.usbr.gov/history](http://www.usbr.gov/history)

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**Oral History Interviews  
Edward Weinberg**

Storey: This is Brit Allan Storey, Senior Historian at the Bureau of Reclamation, interviewing Edward Weinberg on November the 23<sup>rd</sup>, 1994, in his offices at 1615 "M" Street, Northwest, in Washington, D.C., at about ten o'clock in the morning. This is tape one.

Mr. Weinberg, I'd like to ask, first of all, where you were born and raised and educated, and how you ended up involved with the Bureau of Reclamation.

**Born in 1918 in Whitewater, Wisconsin**

Weinberg: I was born on September 5, 1918, a World War I baby, in Whitewater, Wisconsin, a town of 3,000 or so people in southeastern Wisconsin, fifty miles from Milwaukee and forty-five miles from Madison, and twenty miles from Janesville. That orients the location.

**Completed High School in Three Years and Graduated  
Third in His Class**

My father was the town junk dealer. I was educated through grade school and high school in Whitewater. I did high school in three years, principally because one of my *brothers* had done high school in three years, so that I regarded as a challenge, and I did it. I was third in my high school graduating class. He beat me; he was second.

Whitewater had a teachers college,  
one of ten teachers colleges in the state.  
[Tape recorder turned off.]

Storey: You were talking, I believe, about the  
teachers college.

**Attended the Whitewater State Teacher's College for  
Two Years**

Weinberg: Yeah. Whitewater had a teachers college.  
Originally it had been a normal school, but in  
the twenties, the normal schools were  
converted to teachers colleges. Their names  
were converted to such and such "state  
teacher college" instead of such and such  
"*normal* school."

**Had a National Youth Administration Job at the  
Teachers College**

This being in the Depression, I  
graduated from high school in 1935, I  
enrolled at the teachers college because it  
was located in my home town, there would  
be no board and room to pay, and this was an  
important consideration. I also managed to  
get a National Youth Administration job as a  
part-time janitor at the teachers college and  
earned a few dollars a month also—that  
helped.

**Transferred to the University of Wisconsin in Madison  
for His Bachelors and Law Degrees**

**"I had *always* intended to become a lawyer . . ."**

I had *always* intended to become a lawyer, and the teachers college was a convenient way-stop to get in most of my pre-law. After two years I transferred to the University of Wisconsin in Madison. Incidentally, *all* the teachers colleges are now branches of the university. What was Whitewater Normal School, and then Whitewater State Teachers College is now the University of Wisconsin dash Whitewater. When I was enrolled in Whitewater, it had about 600 students. Today it has 10,000 students.

The town, aside from the student population, really hasn't grown much. Students aside, there were about 3,000 people then, and maybe there are 3,500 or 4,000 people in the town now.

After two years at Whitewater, I transferred to the University of Wisconsin at Madison, as I say, and enrolled as a junior. I majored in economics. I had only had one course, the basic course in economics, at Whitewater, so I had to get in my whole major in one year, because the fourth year I entered the law school, and the first year in the law school counted toward my bachelor's degree as the fourth year for the bachelor's degree, bachelor of arts degree.

I had a pretty fair record in my third year at Madison—my first year at Madison. I compiled a 2.8 grade point average on a scale

of 3.00. The fourth year, I entered law school, which was then, and now, a three-year course. At the end of the first year in law school, I received my bachelor's degree from the University of Wisconsin, *with* honors.

**“I graduated from law school in 1941. I was fifth in the class of 150-some students. I would have been higher but I flunked a course because the professor couldn't read my handwriting. . . .”**

I graduated from law school in 1941. I was fifth in the class of 150-some students. I would have been higher but I flunked a course because the professor couldn't read my handwriting. I have notoriously bad handwriting, and he admitted to me that he had misread my paper, my exam, in law school. *Then*, the whole grade was what you did on the exam; nothing else counted. So flunking an exam was a very, very serious problem. Anyway, he refused to change the grade, so instead of finishing third, I finished fifth, which wasn't bad.

**“I was a member of the Board of Editors of the *Wisconsin Law Review* and I was elected to membership in the Order of the Coif . . .”**

I was a member of the Board of Editors of the *Wisconsin Law Review* and I was elected to membership in the Order of the Coif, the certificate of which you can see on the wall there. The Order of the Coif is a national honorary legal fraternity and



membership is limited to the upper 10 percent of the class, with a minimum grade. In other words, if some of the 10 percent were below the minimum grade, then the minimum grade set the standard. Anyway, I was elected to the Order of the Coif.

**Worked in His Brother's Law Firm in Milwaukee for Almost Two Years**

Upon graduation, I went to work for my brother's law firm in Milwaukee, and I stayed there for two years, until December, not quite two years, 'til December of '42.

**In December of 1942 Joined the Office of Price Administration in Washington, D.C.**

I left my brother's law firm to take a position with the government in Washington, D.C., with the O-P-A. It happens that a professor of mine in law school was with the O-P-A, and he came through Wisconsin on a recruiting trip, and he offered me a job.

**"The job paid \$2,600 a year, which was quite a step up from \$75 a month, which I was making. . . ."**

The job paid \$2,600 a year, which was quite a step up from \$75 a month, which I was making.

Storey: O-P-A is?

Weinberg: The Office of Price Administration, the agency that administered prices and rationing

during World War II. I was not taken in the draft because I had a physical condition that put me in 4F, and they wouldn't even take me for a clerical job, because the Army figured that if you weren't capable of fighting trench warfare, why, you weren't suited to Army life.

### **Worked on Writing Regulations for Rationing Fuel Oil and Firewood**

Anyway, I came to Washington in January of 1943 to take this job in the *fuel* rationing division of the O-P-A. Turned out we rationed fuel oil and, believe it or not, *firewood* in Oregon, Washington, and the Panhandle of Idaho.

Storey: What was the logic behind rationing fuel wood?

Weinberg: Firewood? There was a *shortage*. There wasn't enough to go around, because the lumber men apparently were off fighting the war and you couldn't get supplies. So that it was a principal fuel in that part of the country, and it was in short supply, so it was rationed.

Storey: Okay. Interesting.

### **Found the OPA Job Boring and Trying**

Weinberg: I found it so. My principal job was writing regulations under the fuel oil rationing program, and auditing reports from the field

offices, and handling appeals, which I found not only *boring*, but very *trying*, because you were dealing with some really heart-wrenching horror stories of people running out of oil and they, for some reason or other, fell afoul of the regulations. You know how the bureaucracy functions. So I was not happy there.

One day my wife and I—incidentally, I got married, after I came to Washington, to my fiancée, to whom I became engaged in Wisconsin, making \$2,600 a year, plus 600 because we worked on Saturday, so that the pay was \$3,200 a year. I was able to get married. My wife was a homemaker, she was not employed, and we put money in the bank. Shows you the difference in prices then and now.

#### **John Frank Helped Him Transfer to a Job in the Department of the Interior**

Anyway, my wife and I were over at the Jefferson Memorial, which was *nearly* completed, and I ran into John Frank. John Frank had graduated from the University of Wisconsin Law School two years ahead of me, and I knew him. He had been a Sterling Fellow at Yale after he left the law school for a year, and then he went to work at the Interior Department. He was, at the time, the confidential assistant to Abe Fortas, who, at twenty-nine, was the Under-Secretary of the Interior.

And John asked me what I was doing, and I told him, and he asked me if I would like to come to the Interior Department. I said I indeed *would like* to come to the Interior Department, because I found this O-P-A stuff *not* satisfying. So he said, “Well, you will get a phone call from the solicitor of the Interior Department.”

I forgot about it, but about a month later, I *did get* a phone call from the solicitor of the Interior Department, a man by the name of Fowler Harper. Fowler Harper was a name well-known to law students all over the country, because he had been a professor at Yale and he wrote the leading treatise that students read on tort law. *Harper on Torts* was a very famous work to any law student.

So I came over and he interviewed me. And he then sent me to Felix Cohen, the deputy solicitor, C-O-H-E-N. Felix Cohen was the son of a very famous professor of philosophy at City College in New York; his name was Morris Raphael Cohen. Felix himself was probably the leading authority on Indian law in the United States, I was to find out later. Anyway, *he* interviewed me and he sent me back to Fowler Harper, and Harper said, “Okay, we’ll give you a job here. You can have your choice. One, you can stay in the immediate office of the solicitor and write regulations under the National Explosives Act, and the other is you can go to work for the Bureau of Reclamation in the chief counsel’s office.”

**“I’ll take the Bureau of Reclamation, sight unseen. By the way, *what do they do?*”**

Well, I said, “I’ve been writing regulations since I’ve been here, and that is not my cup of tea. I’ll take the Bureau of Reclamation, sight unseen. By the way, *what do they do?*” I had never heard of the Bureau of Reclamation.

Well, he said, “Have you ever heard of Grand Coulee Dam?”

I said, “Well, everybody’s heard of Grand Coulee Dam.”

“Have you heard of,” what he called, “Boulder Dam?” which is now Hoover Dam.

I said, “Everybody’s heard of Boulder Dam.”

Well, he says, “Who do you think built them and runs them?”

I said, “Well, I assume that’s the Bureau of Reclamation, but *why* are they building dams?”

So he proceeded to tell me that the basic work they did was to build the irrigation projects in the western part of the United States, which was really a desert or semi-desert. I’m from Wisconsin, as I say, and I grew up from Wisconsin, which is not too far from the 100th Meridian, or the 98th

Meridian, where the arid country begins. I had never realized that there was an organization out there that was irrigating the desert and, in fact, I had not realized that there was a desert, although I knew about the mountains and the cattle ranges from the Tom Mix movies, but I'd never thought that much about it.

### **Went to Work for Reclamation in January of 1944**

Well, I joined the Bureau of Reclamation in January of '44, one year after I came to Washington, and I stayed there for twenty-five years in the department. I went through all of the chairs and the legal staff. In those days, as I suggested, *each bureau* of the department had its *own* legal staff, headed by a chief counsel. The solicitor's office was a rather small office that handled appeals, supervised professionally in terms of professional standards and approving hiring, but had no *line* authority over the bureaus, the various bureaus' legal counsel. So I found myself in the Bureau of Reclamation.

### **In 1942 Took a Nationwide Civil Service Exam in Milwaukee**

Incidentally, one other thing. In 1942, there was a nationwide Civil Service examination for lawyers, which I took in Milwaukee. In 1943, Congress put a rider on the Civil Service Appropriation Bill which prohibited the Civil Service Commission from spending any money to certify lawyers

under the Civil Service Standards, so I was not appointed off the Civil Service roster. The Interior Department, when they were considering whether to hire me, inquired of the Civil Service Commission where I stood, and it turned out I was number one in the state of Wisconsin on that exam, but I was not hired off it.

For a lawyer, it was, to my mind, a silly exam, because it was all multiple choice, true or false. There was no essay questions. I guess today a lot of law school exams are that way, but not in my day. I thought the whole thing was kind of a *joke*.

Anyhoo, I was put to work in the Bureau of Reclamation, taking the place of a man who retired and who, incidentally, stayed in Washington and never came back to the Bureau, and never came back to the department, even to visit. I knew him only from a picture.

**“This office was *stacked* with files, must have been six feet, six feet of files, *all involving* Marshall Ford Dam. I set out to read *all* of those files, and that was the best education I could have had in how the government works . . .”**

The first job that I had—well, I had a number of assignments. One of them turned out to be an education in how the government operates and how the Bureau operates. The Bureau had gotten involved in building a dam in Texas, not through a conventional

authorization, but because the congressman from that district was the chairman of the House Appropriations Committee. The company that had been building the dam was an Insull company. I don't know whether you have ever run across the name Samuel Insull, but Samuel Insull was one of the utility tycoons in the country whose downfall led to the passage of the Public Utility Holding Company Act.<sup>1</sup>

Anyway, they had gone bust while they were building this project called Marshall Ford Dam on the Lower Colorado River in Texas, near Austin. The terms of the appropriation act authorized the secretary to enter into a contract to build this dam with the Lower Colorado River Authority of Texas, and to do it essentially on such terms as he might agree upon, including repayment.

The problem was what should they be required to repay and when should the repayment start. I was shown into an office. You know the offices over in the Interior Department. This office was *stacked* with files, must have been six feet, six feet of files,

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1. "The Public Utility Holding Company Act of 1935 (PUHCA), also known as the Wheeler-Rayburn Act, was a law that was passed by the United States Congress to facilitate regulation of electric utilities, by either limiting their operations to a single state, and thus subjecting them to effective state regulation, or forcing divestitures so that each became a single integrated system serving a limited geographic area. . . ." Source:  
[http://en.wikipedia.org/wiki/Public\\_Utility\\_Holding\\_Company\\_Act\\_of\\_1935](http://en.wikipedia.org/wiki/Public_Utility_Holding_Company_Act_of_1935)

The act is (P.L. 74-333).



*all involving* Marshall Ford Dam. I set out to read *all* of those files, and that was the best education I could have had in how the government works, how Congress works, because I learned what the appropriation process was, I learned how the House and Senate operate, I learned for the first time that there was something called the House Rules Committee, because later on they needed a little bit of corrective legislation, and in the legislative file was the *Congressional Record* excerpt that said that Mr. [Martin] Dies [Jr.], of the Rules Committee, moved that bill number so and so be brought up, and so I looked into that and found out what the Rules Committee was.

The Dies, incidentally, Congressman Dies, later became famous as the chairman of the “Dies Committee,” the predecessor of the McCarthy Committee.<sup>2</sup> He was the first one to start chasing Communists or people he *thought* were Communists, or people he didn’t like that he *called* Communists, *probably* more the *latter* than the former.

**“It took me six weeks to go through that file, and I was inquisitive, I asked a lot of questions of other lawyers, the older lawyers in the Bureau, and when I got through, I knew the Bureau of Reclamation backward and forward. I knew the congressional process . . .”**

I also learned how the Bureau of

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2. The House Committee Investigating Un-American Activities (HUAC).

Reclamation designs a project. I read all the engineering reports. It took me six weeks to go through that file, and I was inquisitive, I asked a lot of questions of other lawyers, the older lawyers in the Bureau, and when I got through, I knew the Bureau of Reclamation backward and forward. I knew the congressional process of getting bills introduced and passed. I knew how the appropriation committees worked. It was, as I say, the *best* education that I could have had.

#### **Worked on the Flood Control Act of 1944 Which Authorized the Pick-Sloan Missouri Basin Program**

Also pending at that time was the Flood Control Act of 1944, of which you may have heard, the Pick-Sloan Plan, in which the Bureau was vying with the [U.S. Army] Corps [of Engineers] to get authorization to undertake the Missouri Basin Project. I was put to work on some facets of that. The Bureau and the Interior Department were in a hell of a fight with the Corps to make sure that the irrigation power matters would be handled by Interior and not by the Corps. I did some work on that and wrote some memoranda, carried the chief counsel's briefcase back and forth to the hearing, and I audited the hearing.

#### **Worked on the Mexican Water Treaty**

At the same time I was also put to work on matters involving the then pending

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Mexican Water Treaty, what became the Mexican Water Treaty, which was then pending before the Senate.<sup>3</sup> It divided the waters of the Colorado River between—it provided, I think, a million acre-feet, or it might have been more,<sup>4</sup> of Colorado River water to Mexico. It also dealt with the Rio Grande and with the Tijuana, which is a small stream in the San Diego area which crosses and recrosses the border between the United States and Mexico.

### Senator Hiram Johnson

That was another education, because I learned what the treaty process was. This was a case in which all the Colorado River states, except California, were in one camp, they wanted the treaty. California opposed the treaty. Senator Hiram Johnson of California was *still* in the Senate, he was *on* the Foreign Relations Committee. By that time he was in his eighties, which I then

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3. “The Mexican Water Treaty and Protocol is 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.) Source: United States Department of the Interior, Bureau of Reclamation.” *Federal Reclamation and Related laws Annotated, Volume II of IV, 1943-1958.* ed. Richard K. Pelz. Washington, D.C.: U.S. Government Printing Office, 1972, p. 750 *et. seq.*

4. It is 1.5 million acre feet of water.

looked upon as approaching the age of Methuselah, a view I no longer have since I am seventy-six years old *myself*. (laughter)

Storey: You're my mother's age almost exactly.

Weinberg: And I have a brother who is a retired lawyer. As I said, I worked for him. He now lives in California in Leisure World near Los Angeles. He is going on eighty-seven. So I don't look upon the eighties as *old* anymore, but at that time I was twenty-six years old and Hiram Johnson was *way* past his prime. Everybody treated him with the *utmost* respect and, of course, he had been a *great political* power in his day. He is reputed to have cost Hughes the 1916 election in which Wilson was re-elected, because he was the Republican candidate and later the chief justice of the United States Supreme Court, went to California and did not pay a courtesy call on Hiram Johnson, who ran the state of California. (laughter) Perhaps that story is apocryphal. Anyway, Wilson carried California by an eyelash and the snub of Hiram Johnson is credited with Johnson not taking an active part in the presidential campaign. Johnson was also the father, when he was governor, of this wacky initiative system they have in California, under which you can get almost anything on the ballot. And Proposition 187, or whatever, is an example of that.

Storey: Those kinds of things were very popular in the West in those days.

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Weinberg: Yeah, and Johnson was a leader of the progressive movement, as was La Follette of Wisconsin, Borah of Idaho, Wheeler of Montana. They called them the Sons of the Wild Jackass because they voted more often with the Democrats than with the Republicans, although they were ostensibly Republicans.

Anyhoo, I am probably the last survivor of people who actually worked on the Pick-Sloan authorization. I knew Glenn Sloan. I got to know him later on.

Storey: What did you see of the compromises that were made? You know Marc Reisner wrote a story about how all this happened.

Weinberg: Yes. Well, they called it the Shotgun Wedding. I know Marc. Marc writes from a perspective of an extreme environmentalist. While I consider myself an environmentalist, I don't consider myself as far out as Marc. He interviewed me for his *Cadillac Desert* book.

Storey: That's one of the places, of course, where I found out about you.

**“... the Pick-Sloan Plan came along at a time and under circumstances that couldn't *possibly* be duplicated today...”**

Weinberg: Yeah. (laughter) Well, I tell you, the Pick-Sloan Plan came along at a time and under circumstances that couldn't *possibly* be

duplicated today. There had been two record floods in the Lower Missouri. . . .

END SIDE 1, TAPE 1. NOVEMBER 23, 1994.

BEGIN SIDE 2, TAPE 1. NOVEMBER 23, 1994.

Storey: You were saying that there had been two major floods.

### **Lower Missouri Floods in 1942 and 1943**

Weinberg: Two major floods in the Lower Missouri in 1942 and 1943. The House Committee either on Flood Control or on Rivers and Harbors, there were two different committees, directed the Corps to review its previous reports with a view to determining what could be done to improve the flood control on the Lower Missouri.

### **Navigation Legislation on the Lower Missouri**

At the same time, there was pending before the—that was the House Flood Control Committee. There was pending before the House Rivers and Harbors Committee for channeled navigation a proposal to increase the then-authorized navigation channel on the Lower Missouri from Sioux City, Iowa, down to St. Louis, from six feet to nine feet, or maybe it was nine feet to eleven feet. I'd have to go back and refresh my recollection.

### **Reclamation Had Been Working on Projects on the Upper Missouri and the Corps of Engineers Was Working on Lower Missouri Studies**

Anyway, the division engineer of the Corps at Omaha was in charge of these investigations, and that was Lewis Pick. At the same time, the Bureau had been working for several years on a Missouri Basin Plan focused really on irrigation, on upstream development. Pick was focusing on the flood control in the Lower Missouri, and Pick's proposal was that there be a series of large storage dams built in South Dakota and North Dakota which would add to the protection that was already provided by Fort Peck Dam in Montana.

#### **Concerns about Navigation Establishing a Priority Higher than Irrigation on the Missouri River**

The Bureau saw the Pick Plan as, one, having no room for irrigation development, and yet it would store all this water. And, two, because of the constitutional preeminence of the commerce clause, the Bureau was concerned that once a navigation channel was authorized, that the water requirements [for navigation] would take preeminence, would take priority over beneficial consumptive uses in the Upper basin states, and that was not an idle concern of the Bureau.

#### **Developed a Legal Opinion on Priority of Navigation in Relation to Irrigation**

One of the things that I had written in 1944 was a legal opinion reviewing the

authorities under the commerce clause as they might impact beneficial consumptive uses that were developed under state law, and constitutionally it's not even a doubtful issue, it's not a close call. An authorized navigation project has first call on the water, and because of the preemption clause and the federal Constitution that this Constitution and law is made in pursuance thereof shall be the law of the land, the Constitution and laws of any state to the contrary notwithstanding, that was a real threat, and it wasn't only the Bureau that was concerned, it was the Bureau's constituencies, the water users that were concerned.

### **Dynamics in the Political Scene at the Time Regarding the Corps of Engineers and Reclamation**

And it wasn't only in the Missouri Basin because the same problem was arising in Idaho where the Corps had designs, or had plans to build a Lower Snake River navigation channel project which would have used running water rather than storage, and *it* would create the same *problem*.

At the same time, in the New England states, in *Vermont*, of all places, the Corps had managed to get on the wrong side of Senator Austin of Vermont, later the United States representative at the United Nations, and other Vermont politicians, because the Corps had plans to build a flood control project which would have benefitted, other New England states, principally, I think,



Massachusetts. And, they weren't paying much attention to the outraged cries of alarm coming from *Vermont*, where the projects would actually be located.

### **Reconciling Reclamation and Corps Plans for the Missouri River Basin**

So you had these three forces—the Bureau, the water users, water users in not only the Missouri Basin but in Idaho, people in New England, were very concerned about what the Corps was doing. At the same time, so, the Bureau had allies in its proposal. The Corps came out with its Pick Report first, ahead of the Bureau, so that the Corps got the *jump* on the Bureau, and the hearings were before the Senate Committee on Flood Control or Navigation, I've forgotten which, and before the House committees that oversaw the Corps. The Bureau didn't have its plan out yet.

The Budget Bureau sent the Corps plan to the Bureau for review, and the Bureau jumped all over it in its comments with respect to the need to protect beneficial consumptive use, the need to make it a truly multiple purpose plan. And the Bureau [plan] was finally completed in about early 1944, finally completed and released, Senate Document 191, the Sloan Plan.

To give you some idea, to compare the comprehensive nature of these plans, the Pick Plan is about twenty pages long. Senate

Document 191 covers hundreds of pages. The Pick Plan focused on, as I say, building some storage up in North and South Dakota to protect flood control in the Lower Missouri, Kansas City, from Sioux City down. At the same time, *independently* of the Pick Plan, there was this navigation proposal which was coming along before the Rivers and Harbors Committee in the House.

Well, the Bureau jumped all over them, and the western congressional delegations became *very much* alarmed about the threat that the Army development posed to upstream consumptive use. Senators [Joseph C.] O'Mahoney [pronounced Omahnē] of Wyoming and [Eugene] Milliken of [Colorado] ~~Montana~~ introduced an amendment, which was actually written in the Bureau with input from western water interests principally Judge Clifford Stone of Colorado. This was the O'Mahoney-Milliken Amendment. This is a long way around about what I think of the compromise, but—

Storey: It's exactly what I want.

Weinberg: I'll give you a paper I wrote on the birth pangs of Pick-Sloan, which goes into this in some detail and has all the dates right and the right committees and so on.

The O'Mahoney-Milliken Amendment provided, first of all, that whenever the Corps was developing a plan

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and whenever the Bureau was developing a plan under reclamation law, it had to give the affected states an opportunity to comment. That reflects the concern of Senator Austin.<sup>5</sup> That was one point.

The other point in the O'Mahoney-Milliken Amendment was that whenever the Corps constructed a project, proposed a project, on a stream that either arose west of the 97th Meridian, or 98th Meridian, or was *entirely* west of the 98th Meridian, two situations. One, the stream might *cross* the 98th Meridian, but insofar as those affected waters that arose west of the 98th Meridian, or the 97th Meridian, the use for navigation was *subordinate* to the beneficial consumptive use of those waters for irrigation, domestic use, industrial use, so on.

When that amendment was floated in the Senate committee, General Reybold,<sup>6</sup>

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5. The only U.S. Senator in the *Biographical Dictionary of the United States Congress, 1774-1989, Bicentennial Edition; The Continental Congress September 5, 1774, to October 21, 1788; The Congress of the United States, March 4, 1789 to January 3, 1989, Inclusive*, One Hundredth Congress, Second Session, Senate Document No. 100-34, Washington, D.C.: U.S. Government Printing Office, 1989, with the surname Austin is Warren R. Austin of Vermont (1877-1962). He served in the U.S. Senate from April 1, 1931, until August 2, 1946. He then became United States representative on the Security Council of the United Nations.

6. "Lieutenant General Eugene Reybold  
"Chief of Engineers (October 1, 1941-September 30, 1945)  
"Born February 13, 1884, in Delaware City, Delaware, Eugene Reybold was distinguished as the World War II Chief of Engineers who directed the largest Corps of Engineers in the nation's history. He  
(continued...)

who was the chief or the deputy chief of engineers, was testifying, and he referred to that amendment as “that crazy amendment.” O’Mahoney was on the committee, and O’Mahoney said, in effect, “It may be crazy to you, but I am not going to put *my* trust in the good faith of the Corps of Engineers. We need this for protection.” Poor Reybold. (laughter) He needed a good P.R. advisor, because I don’t know whether it was arrogance or lack of sensitivity, but can you imagine referring to an amendment offered by one of the prime members of a congressional committee, before whom you are testifying, referring to that as “that crazy amendment?” (laughter)

**“... ‘Mr. President, you’ve got to do something. You’ve got to knock some heads together and get these two agencies to agree.’...”**

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6. (...continued)  
graduated from Delaware College in 1903. Commissioned in the Coast Artillery Corps in 1908, Reybold was assigned to military housing and coast defense construction work. Stationed at Fort Monroe throughout World War I, he became commandant of the Coast Artillery School. He transferred to the Corps of Engineers in 1926 and served as District Engineer in Buffalo, New York; Wilmington, North Carolina; and Memphis, Tennessee. In the last assignment he successfully battled record Mississippi River flood crests. He was Southwestern Division Engineer (1937-40) and War Department Assistant Chief of Staff, G-4 (1940-41). Appointed Chief of Engineers shortly before Pearl Harbor, General Reybold directed the Corps’ tremendous range of activities throughout the war and was the first officer ever to rank as lieutenant general while Chief of Engineers. He was awarded a Distinguished Service Medal with Oak Leaf Cluster. Reybold retired January 31, 1946, and died November 21, 1961, in Washington, D.C.” Source: <http://www.usace.army.mil/History/Pages/Commanders.aspx>

Anyhoo, it was getting late in 1944 by this time, and the parties were at loggerheads. So O'Mahoney went to the president, who, while he was *for* a Missouri Valley Authority and kept calling for a Missouri Valley Authority, he was also very supportive of the Bureau and recognized the need for something to curb the constitutional right to water that would arise from a huge navigation project. O'Mahoney later recounted that he went to the president and said, "Mr. President, you've got to do something. You've got to knock some heads together and get these two agencies to agree."

**Chicago Meeting Where the "Shotgun Wedding"  
Resulting in the Pick-Sloan Missouri Basin Program  
Occurred**

Well, there was a meeting convened in Chicago, and I think it was November or October of 1944. That is what is referred to as the "Shotgun Wedding." The agreement is very simple. It can be reproduced on a couple of pages. It dealt mainly with the physical things. The Bureau accepted a Corps dam rather than a dam that it was proposing, and so on and so forth, and recognized the priority of beneficial consumptive use over navigation, and that in matters of irrigation, the Bureau would take the lead and in matters of flood control [and] navigation, the Corps would take the lead. That, in essence, *is* the plan.

In December of '44, the Flood

Control Act was passed, and Section 9 authorizes the Pick-Sloan Plan—authorized the initial stages, and it does so in a very short paragraph. The plans that were included in those reports, as I say, the *Army* report was very sketchy and they had concepts for these dams, that waters from one of the dams would be useful for irrigation in the Dakotas, but it didn't really say how.

The Sloan Plan, on the other hand, was a very elaborate document. It *spelled out what* was to be done. Unfortunately, the spelling-out was better than the engineering, because due to a lack of manpower and the haste in meeting the deadlines, they hadn't really had a chance to do the extensive field work that should have been done, but at least *it focused* on what ought to be done in the Upper Basin states. And in December of '44, the Shotgun Wedding was consummated.

As I say, you couldn't *possibly* have an authorization like that today. I mean, here we're talking about one-sixth of the area of the United States, and in a paragraph, Congress authorized--they probably didn't realize it--five to six billion dollars worth of projects, and this was at 1940 prices. You couldn't possibly get something like that through Congress today. The environmental impact statements *alone* would take years to complete. So with that authorization, they got started, and, really, flying by the seat of their pants, they had to reengineer, scope out, really, what they were going to do, *and* they

made a lot of changes.

Storey: Was there any discussion at the time about the fact that the war was coming to an end?

Weinberg: Oh, yes, and this was looked upon as an opportunity both for developing homes for the returning veterans, projects, and also as a great employment stimulus, building these projects. Oh, yes, yes, that was very much in the minds of everybody.

Storey: What kinds of personalities were involved? Mr. Sloan, Mr. Pick, and so on.

Weinberg: Well, I got to know Sloan later on. I didn't know Sloan while this was going on, but Sloan remained with the Bureau for many years. He was rather an austere guy. He wasn't a mixer. He didn't say much, but when he said something, by God, it better be *done*. I never knew Pick. I didn't know Pick.

Storey: What about the commissioner and the head solicitor in Reclamation?

### **John Page and Harry Bashore**

Weinberg: Okay. The commissioner of Reclamation during this time was John C. Page, and he was commissioner when I came to the Bureau in 1944. He retired in '44 or '45 and was succeeded by Harry [W.] Bashore. John Page and Harry Bashore were old-line Bureau of Reclamation engineers. They

were career people. They had worked their way through the ranks, and became, as I say, head of the Bureau.

I also knew the chief engineer at the time from the Denver office and the chief hydrological engineer, E. B. Debler~~E.C. Debler, E.B. Debler~~—and his assistant, J. R. Riter, R-I-T-E-R. These were *all* career people. The chief designer of the Bureau, head of the dam design, was a man by the name of John R. Savage. He was known as the “Billion Dollar Engineer” because he had designed a billion dollars worth of dams. Today he’d be the Twenty Billion Dollar Engineer. He was in charge of the design of Grand Coulee, Hoover, Shasta, *all* the big dams. And incidentally, I’m happy to say he was a native of, and a graduate of the University of Wisconsin. (laughter)

Storey: Tell me about Page. What was he like? Did you meet him?

### **Creation of Reclamation’s Regions**

Weinberg: Oh, yes. Oh, yes, I knew Page. Page was a *tall*, thin man. I was a junior attorney and John Page was the commissioner, but I would find my way in the commissioner’s office from time to time. As I say, he was in the process of retiring, and the Bureau was in the process of regionalization. They were in the process, and this was implemented under Harry Bashore, who I got to know real well. He presided over the reorganization of the



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Bureau, which set up the regional offices of the Bureau.

**“ . . . the commissioner concerns himself with high policy and relations on the Hill, and the real decisions, the real implementation is done in Denver and *not* in the regions, as I see it. . . .”**

Before that, the only field offices the Bureau had, of course there was the chief engineer’s office in Denver, and before the reorganization, and as is true today, the Bureau was run from Denver. Commissioner—hell, I think the commissioner’s staff is *smaller* than it was when I joined the Bureau, and the commissioner concerns himself with high policy and relations on the Hill, and the real decisions, the real implementation is done in Denver and *not* in the regions, as I see it.

The regional offices were implemented. As I say, before that, the only offices that the Bureau had in the field were the Denver office, *project* offices, *and* the Bureau had six or seven or maybe eight district *lawyers*—district counsel, they were called—scattered around. There was one in Billings.

**“ . . . the district counsels’ offices *became* the *site* of the Bureau’s regional offices. . . .”**

In fact, the district counsels’ offices *became* the *site* of the Bureau’s regional offices. There was a district counsel in Boise, there

was a district counsel in Billings, there was a district counsel in Denver, there was a district counsel in Amarillo, Texas. I've forgotten where else. Sacramento. No, Los Angeles. The Boulder City stuff was run out of Dick Coffee's office in Los Angeles. He was the district counsel in Los Angeles. They became the nucleus of the regional offices, except that Coffee stayed in Los Angeles, but they set the regional office up in Boulder City, at the Bureau.

Storey: What were you hearing around the office about why the regions were being created?

**“The regions were being created because . . . they could foresee . . . after the war. There was going to be big development, and it couldn't all be run out of the chief engineer's office. The job was just too big. . . .”**

Weinberg: The regions were being created because the Bureau, they could foresee what was going to happen after the war. There was going to be big development, and it couldn't all be run out of the chief engineer's office. The job was just too big. If the Bureau ever gets around to returning to its mission, the same thing is going to happen. Don Glaser is a very fine fellow, and I know him, I've known him for years, but it's going to be impossible, if the Bureau *ever finds a mission again*, to run it out of Denver. The Bureau is spread too far afield.

Storey: So how were they going about creating regional offices? Were you involved in that

at all?

Weinberg: No, I wasn't involved. What they did was they took engineers in the Bureau, and they became the regional directors. They were all career people. I don't know of anybody among the original regional offices who was not a career man, nor did I know of anybody who became the division heads in Washington. In Washington they created divisions. There's the operation and maintenance division, the project planning division, the power utilization people.

They stayed out in Denver, by the way, the power people, originally, but they came into Washington finally because the director of the branch of power utilization in Denver, he would send his stuff in to the commissioner for approval and it would be reviewed by a fellow by the name of Ted, T. W. Mermel, who, by the way, is still alive. He's close to ninety. He works at the World Bank now. He was the engineering assistant to the commissioner for many years—Thaddeus W. Mermel. I'll give you his telephone number. He had worked on Hoover Dam as a young engineer.

Anyway, I was the *lawyer* that had responsibility for power matters, so Harvey McPhail, who was the head of the branch of power utilization, decided he'd better locate in Washington; otherwise, he was being supervised not by the commissioner, but by a young lawyer and a young engineer.

(laughter)

Storey: What was Page like in meetings?

Weinberg: I don't recall. My vision of John Page is a tall, rather austere man, and I didn't get into many meetings with him.

Bashore, on the other hand, was a very jovial guy. He was very nice to deal with. He was a brilliant mind, but he was also very friendly and he was cooperative, he believed in fellowship, and he had quite a sense of humor.

Storey: Did you look forward to meetings in the commissioner's office?

Weinberg: Oh, yes, yes, yes.

Storey: Under Page, too?

Weinberg: Oh, yes, yes. That was where the *action* was, you know. That's where the *decisions* were made.

Storey: That's interesting, because in the Denver office, if you ask people if they looked forward to meetings with the chief engineer, their reaction is very negative, generally. The only reason you were taken up there was to be chewed out.

Weinberg: Well, that is *now*. I'm talking about then. The Bureau is a different organization today. It's in the throes of a complete change of

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mission. In fact, I don't think it's found its mission. It has abandoned the concepts that it started with, and, I think, I personally am of the opinion that there remains a need for small, relatively small—40,000-, 50,000-acre—projects *in* the Great Plains area, which is an area that is losing population. There's nothing to hold the people there. They cannot depend on the weather cycle, and they therefore *need* irrigation as a stabilizing element to complement the lifestyles. The Bureau doesn't believe in building irrigation projects anymore, under any circumstances. The Bureau has lost much of its . . .

END SIDE 2, TAPE 1. NOVEMBER 23, 1994.

BEGIN SIDE 1, TAPE 2. NOVEMBER 23, 1994.

Storey: This is tape two of an interview by Brit Storey with Edward Weinberg on November the 23rd, 1994.

You were saying Reclamation's lost a lot of its engineering expertise.

Weinberg: It's lost a lot of its top people, its *talented* people, and it's not developing, so far as I can see, the *young* talent coming up through the ranks. As I say, they don't know *what* their mission *is*. The Bureau is going through a terrible turmoil.

Storey: You mentioned that you knew the chief engineer. Who was that at that time? Was it still Ray Walter?

Weinberg: No, no, no. Walter had retired. Incidentally, Walter's son became a regional director. R. F. Walter's son became a regional director. No, R. F. Walter was in the original cadre of people that were there—

Storey: Had you ever met him?

**Leslie N. McClellan**

Weinberg: No, I never met Walter, but I met [L. N.] McClellan, was the chief engineer.

Storey: What was he like?

Weinberg: Well, he was another one that was very reserved, very formal, and I would imagine that not many people were close to McClellan. I can imagine that there was fear and trepidation in being called before McClellan, because the chief engineer, he occupied the highest professional rank *in* the Bureau *and* was an *acknowledged world leader* in engineering.

**“The Bureau of Reclamation had a worldwide reputation and deservedly so. The Bureau designed the high dam on the Panama Canal . . .”**

The Bureau of Reclamation had a worldwide reputation and deservedly so. The Bureau designed the high dam on the Panama Canal, the one that forms the big lake.<sup>7</sup> The Bureau

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7. Referring to Madden Dam which was completed in 1935 on the Chagres River.

(continued...)

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designed that for the Corps of Engineers. The Corps had never built a high dam, never designed a high dam at that time.

The know-how was in the Bureau of Reclamation, and to be the chief engineer, you were at the top of the profession, and unless you were a very gregarious person, people would be very deferential to the chief. As I say, at that time, the chief engineer's office had been running the Bureau. Later on, the chief became—the position was *focused on engineering* and not on project maintenance, not on project development, and so it became a different place.

Storey: Do you remember any meetings with him?

Weinberg: Yeah, I remember a couple of meetings during the Mexican Treaty things.<sup>8</sup> He would come into Washington. But I have no real recollection of those times.

Storey: What about John Savage?

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7. (...continued)

“The Madden Dam created the Alahuela Lake . . . It can store one third of the canal's annual need. Since it is not part of the navigational route, there are less restrictions on the water level.

“The dam prevents the possible torrential flow of the Chagres river into the navigational route of Lake Gatun. The water is also used to generate hydroelectric power, and to supply Panama City's freshwater. The dam is named after US congressman Martin B. Madden.” Source: [http://en.wikipedia.org/wiki/Chagres\\_River](http://en.wikipedia.org/wiki/Chagres_River)

Sources variously give credit for the design of Madden Dam to John (Jack) L. Savage or jointly to Savage and Raymond F. Walter.

8. See footnote on page 15.

Weinberg: I never met Savage.

Storey: Oh, you didn't?

Weinberg: No. I knew who he was, but I never met Savage. So far as I can recall, Savage didn't spend much time in Washington. He was out there designing dams.

Storey: Another person with a worldwide reputation.

Weinberg: Yeah.

**Attended the Hearings for the Mexican Water Treaty  
and Protocol**

Storey: How were you involved in the Mexican Treaty negotiations?

Weinberg: Well, I wasn't involved in the negotiations. The treaty had been negotiated and went to Congress in early 1944. I was involved in the *hearings*. As a junior lawyer, I prepared some memoranda, and I sat in on the hearings before the Senate Foreign Relations Committee.

Storey: Did the issue of where the water was going to come from ever come up?

**“The big issue in the Mexican Treaty hearings on the Colorado was . . . *all* of the other Basin states were *very, very* concerned about how in the hell the Mexican *Treaty demand* was going to be *met*, and they could see that it was going to be met *from them* and not from California. . . .”**



Weinberg: Yes. The big issue in the Mexican Treaty hearings on the Colorado was the guarantee to Mexico which every state except California, which, by the way, *contributes* no water of the Colorado River. (laughter)

Storey: It takes.

Weinberg: Yeah. It takes. But *all* of the other Basin states were *very, very* concerned about how in the hell the Mexican *Treaty demand* was going to be *met*, and they could see that it was going to be met *from them* and not from California. California had Hoover Dam. This was a continuation of the Upper versus Lower Basin fight on the Colorado that had been going on for seventy-five years. Southern California was a *rapidly* developing area. The Upper Basin states were very slow in developing. They wanted that water there when they reached the time when they would need it. They were afraid that California would establish rights to that water so that they would be left out in the cold.

### **Arizona's Differences with California over the Colorado River Compact**

The Colorado River Compact, which was negotiated in [1922,] ~~1923~~, presided over by Herbert Hoover as Secretary of Commerce, was chairman of the negotiations, didn't really resolve the matter. It apportioned the water between the Upper and Lower Basins, but not among the states,

and the Upper Basin continued to live in fear that by the very fact that California was building up its *demand*, it was going to get the water, regardless of what was said in the compact. Thus, the Upper Basin states *and Arizona*, which had its *own fight* with California over a provision of the Colorado River Compact, known as 3(b) water, 3(b) of the compact says that the Lower Basin can increase its use by a million acre-feet. Arizona took the position that that was written in there because of the Gila River, which is entirely, or almost entirely, I think some of its tributaries are in New Mexico, but the Gila River is basically an Arizona stream, it enters the river *below* Hoover Dam, near something like nine miles above the Mexican border or something like that, below the intake for the Imperial Irrigation District, which is the largest irrigation district in the United States, and it's in the Imperial Valley in California, half a million acres. Arizona contended that that million acre-feet was intended for Arizona, and California said, "Oh, no, that's got to be divided." So it was *everybody against* California, and that was the situation in the hearings on the treaty.

Storey: Who were the major figures then, the major political figures?

Weinberg: Well, Franklin Roosevelt and Tom Connolly of Texas, Senator Connolly of Texas, because the treaty also covered the Rio Grande. He very much wanted that treaty. California, Hiram Johnson was past his

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prime, he was, I think, out-general. I've forgotten who the hell the other California senator *was* at the time in 1944.<sup>9</sup> California, nevertheless, prevailed on getting the treaty ratified, California and Texas.

Storey: Why did *Texas* want the treaty?

Weinberg: Because of the projects it authorized on the Rio Grande. There were two dams, two Mexican Treaty dams, on the Rio Grande, Falcon [Dam] and Amistad Dam. They contribute important benefits to Texas by way of irrigation, as well as to Mexico. They also provide a sense of flood control, so they *wanted* the treaty. California contended that the whole thing was a Texas ploy.

Storey: To steal California water. (laughter)

Weinberg: Yeah, that's right. That's right. That's right. The other basin states supported the treaty, mainly, I think, because California was agin' it.

Storey: So it was Texas and the other basin states that got the treaty ratified?

Weinberg: Right. Yeah.

Storey: But why weren't the other basin states worried about their water going to Mexico on the Colorado River?

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9. Senator Sheridan Downey.

Weinberg: That's a good question and I can't answer it now without going back and looking at the hearings.

Storey: What were you doing after you were involved in the Mexican Water Treaty hearings and the Pick-Sloan?

Weinberg: You know, I was a lawyer in the chief counsel's office, and I focused—my boss was the assistant chief counsel for planning, and his boss was the chief counsel of the Bureau. Small world department. The chief counsel was a man by the name of Clifford Fix. One of his aunts, Aileen Mer., M-E-R-Z, had been the secretary to the dean of the University of Wisconsin Law School since time immemorial. So that didn't do me any harm. (laughter)

And before Cliff Fix, the chief counsel when I *joined* the Bureau was a man by the name of J. Kennard Cheadle from Seattle, Washington—not Seattle, from Spokane, Washington. He was a little guy. He was shorter than I was, than I am, but he had a *deep basso profundo* voice and was a very good lawyer. I had some *good* teachers. Jeff Well was the assistant chief counsel for planning. A man by the name of Howard R. Stinson, who came from Boise and was later the regional counsel in Boise, was an assistant chief counsel. He was working on the Columbia Basin Project.

**“ . . . I somehow or other found favor with my superiors**

**and I was promoted. I kept getting promotions. I think I was the only floater in the Bureau. . . .”**

I don't know, I hit it off with all these people. We developed very close friendships and a *very good* professional relationship. So I rose through the ranks in the Bureau. By 1948 or '49, I was an assistant chief counsel myself. I worked on a variety of matters that would arise—repayment problems, power development, power contracts, and that sort of thing. I somehow or other found favor with my superiors and I was promoted. I kept getting promotions. I think I was the only floater in the Bureau.

**Reclamation Marketed Pick-Sloan Power in the Early Days of the Program**

Pick-Sloan—and this is an interesting story—Pick-Sloan really got under way in 1950. Well, they had been building the projects, and the Bureau was in charge of marketing the power, *including* the power developed at the Corps of Engineers' dams. In 1950, the Bureau was getting ready to announce the rates, the power rates, and enter into the first power sales contracts.

**“Well, if you know anything about reclamation projects, you know that the water users don't begin to pay for the cost of the projects; power picks up most of the tab. . . .”**

Well, if you know anything about reclamation projects, you know that the water

users don't begin to pay for the cost of the projects; power picks up most of the tab.

**“In terms of Pick-Sloan, most of the power was developed at the Corps projects . . . Well, the question arose, could the revenues from the Corps projects be figured in . . . picking up the irrigation subsidy, the cost that was beyond the ability of the water users to repay. . . .”**

In terms of Pick-Sloan, most of the power was developed at the Corps projects and not at the—the Bureau had some power developments, but they didn't begin to compare with the Corps in Pick-Sloan. Well, the question arose, could the revenues from the Corps projects be figured in the payout of the irrigation, picking up the irrigation subsidy, the cost that was beyond the ability of the water users to repay. If it couldn't, if the Corps' revenues couldn't be used and the rates set accordingly, the irrigation was all infeasible because it couldn't pay out. You couldn't pay out the irrigation costs of those Bureau projects just by applying revenue from the Bureau power development. To attempt to do so, use only the power revenues from the Bureau, would have resulted in a power rate that was so high that you couldn't sell the power from the Bureau projects.

**“ . . . Bill Burke . . . took the view that it [Pick-Sloan] was all one project and had to be treated as one project for payout purposes. . . . submitted to the solicitor of the department . . . held that Pick-Sloan was, in effect, two projects and you couldn't include the power revenues**

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**from the Corps projects in the payout study. . . . Mike Straus . . . and Bill Warne . . . went to Oscar Chapman . . . They had sense enough to see that the Sloan part of Pick-Sloan, the whole Bureau of Reclamation was dead if the solicitor prevailed, so that they ignored him. They went ahead on the theory that it was all one project. . . .”**

Well, the question went to the solicitor. I was only involved tangentially in that my bosses were handling this. The regional counsel in Billings, a man by the name of W. J. Burke, Bill Burke, he was an institution in the Bureau. He took the view that it was all one project and had to be treated as one project for payout purposes. My bosses took the view that while that was all well and good, but Congress hadn't really said that in authorizing the project in 1944. Bill Burke wrote a very learned opinion. The thing was submitted to the solicitor of the department, Maston [phonetic] White, and Maston held against Burke. He held that Pick-Sloan was, in effect, two projects and you couldn't include the power revenues ~~from the Bureau~~ from the Corps projects in the payout study.

Well, fortunately Mike Straus, who by that time was the commissioner of Reclamation, and Bill Warne, the assistant commissioner of Reclamation—Bill, by the way, is still alive out in California, and you should *certainly* go see him, he's in his nineties. These people had a lot to do with the formulation and driving force of the

Bureau in the post-war epoch.

### **Oscar Chapman**

They went to Oscar Chapman, who was by that time the secretary of the interior. Oscar, by the way, still holds the title of the longest tenure of any assistant secretary in the history of the United States, because when Franklin D. Roosevelt came in as president, Oscar Chapman was given the position of an assistant secretary of the Interior. There were two assistant secretaries. Oscar stayed in the Interior Department as an assistant secretary, and then secretary, until the [Harry S.] Truman Administration went out in [1953.] ~~1952.~~

Storey: What was Chapman like?

Weinberg: Chapman was a very nice fellow. He was a *brilliant* lawyer, by the way, but he was a very disarming guy. He had come from Denver and he had been an assistant, or he had some relationship with a famous juvenile judge in Denver by the name of [Judge Ben] Lindsey, who revolutionized the handling of youngsters who were in trouble with the law, and Chapman worked with him. I think that's what brought him to the attention of Roosevelt.

Anyway, Chapman was a very nice guy, and he was given to malapropisms in his speech. For example, there was an assistant commissioner of Reclamation by the name of



Goodrich W. Lineweaver, who, to Oscar Chapman, was always Linewich W. Goodweaver. (laughter) He never could get Goodrich's name straight.

Anyway, Mike Straus was the commissioner and he was very close to Oscar. In fact, Mike Straus—there were two assistant secretaries and they were ranked. There was the first assistant secretary and then the assistant secretary. Then there was an undersecretary, who was over the two assistants. Mike Straus had been the first assistant secretary and he gave that up to become commissioner of Reclamation in 1945. Bashore stayed only a year or two, also. They had sense enough to see that the Sloan part of Pick-Sloan, the whole Bureau of Reclamation was dead if the solicitor prevailed, so that they ignored him. They went ahead on the theory that it was all one project.

**“In 1956, there was an extensive hearing before the Senate Public Works Committee and the Senate Interior Committee on the problems of the Missouri River Basin. There was a concern then that the Army was favoring navigation contrary to the O’Mahoney-Milliken Amendment. . . .”**

In 1956, there was an extensive hearing before the Senate Public Works Committee and the Senate Interior Committee on the problems of the Missouri River Basin. There was a concern then that the Army was favoring navigation contrary to

the O'Mahoney-Milliken Amendment. Also there was an alarm in the Senate committee. Senator Murray of Montana was the chairman, but the real power in the Senate committee, insofar as water and power was concerned, was Senator Clinton Anderson [of New Mexico]. There were other members of the committee.

**“They were getting concerned about the *cost* of these [Pick-Sloan] projects and that the Bureau was, in effect, writing its own ticket. . . .”**

They were getting concerned about the *cost* of these projects and that the Bureau was, in effect, writing its own ticket. So all these things came to a head and there were these hearings.

I was sent up to testify on the law by the department. By that time the lawyers had all been consolidated in the offices of the solicitor, and I was an assistant solicitor handling Reclamation work. My title was assistant solicitor for power and procurement. In other words, I supervised the lawyers that handled procurement problems, and the Bureau was one of the biggest construction agencies in the government. There were a lot of procurement problems, contractors' claims and that sort of thing. *I* was in charge of that, but I had people who knew what they were doing working on that. My real love was *power and development* planning and so on.

**“I testified for a whole day, and I had exactly one day's**

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*notice of this, too. And I testified . . . on the legal basis . . . including the Army power and the payout . . .”*

Well, the word came down that they wanted somebody to come up there and testify on the law. What was the basis for the Bureau’s authority? What was the legal basis for the power rates? And so on and so forth. Well, the then associate solicitor for water and power and the then solicitor didn’t want to touch it with a ten-foot pole, so they sent me. The associate solicitor, Ed Fisher, who was a very dear friend of mine and who I succeeded in every job that he had, when he went up, *I went up*, and I became deputy solicitor when he died of a stroke in 1963.

But anyway, Ed went up with me, but I was the guy in the hot seat. I testified for a whole day, and I had exactly one day’s *notice* of this, too. And I testified that on the legal basis for the ultimate development concept, that is, including the Army power and the payout and establishing the payout in such a way that the *total project* would be paid out regardless of when the units came in, in other words, you established a rate at a level which anticipated the development of the irrigation and paid them all out in fifty years from the time each one came up. You did this by a single rate so you didn’t have to yo-yo the rate all the time, as would be the case if you only looked four or five years ahead.

Well, I testified on the legal basis of that, and the question I was asked, “Wasn’t

there a solicitor's opinion to the contrary?"

And I said, "Yes," and I produced it for the record.

"Why was the solicitor's opinion not followed?"

I said, "The law commits the administration of these projects to the Secretary of the Interior, *not* to the solicitor. The solicitor is an advisor like everybody else, but it is the secretary that makes the ultimate decision," and then I proceeded to give the legal justification for it.

#### **Concern in Congress about Why Reclamation Did Not Submit its Power Rates on Pick-Sloan to the Federal Power Commission For Approval**

A subsidiary question which was involved was, "Why didn't the Bureau submit its rate schedules to the Federal Power Commission for confirmation and approval?" *Section 5* of the Flood Control Act, which deals with power generated at Corps dams, says that it is to be turned over to the Interior Department, to be marketed by the Interior Department, and the rates shall be the lowest possible rates to consumers, consistent with sound business principles, and shall be subject to confirmation and approval by the Federal Power Commission.

Well, we never submitted the rates, and the reason we didn't submit the rates was

that we read Section 9 as covering power, as well as power developed at the Corps dams. That was the *heart* of the concept of a single rate, and that if they had to be submitted for confirmation and approval to the Federal Power Commission, the Federal Power Commission would look only to the individual projects and not to the whole.

The General Accounting Office sided with the Federal Power Commission, and we wrote some memoranda telling them politely that we disagreed, and they finally gave up on that.

**“They were *astounded* . . . to learn that Congress, in these few lines in Section 9 of the Flood Control Act of 1944, had authorized the Secretary of the Interior to spend \$6 billion building this project without any congressional oversight. . . ”**

But it was those hearings that nailed this thing right into the—removed any question of the law. They were *astounded*, Senator Anderson, Senator [Francis H.] Case, were *astounded* to learn that Congress, in these few lines in Section 9 of the Flood Control Act of 1944, had authorized the Secretary of the Interior to spend \$6 billion building this project without any congressional oversight. I said, “Well, that’s the *law*. That’s what it says, and Congress has appropriated the money on that basis regularly and raised the appropriation ceiling periodically to permit continuation of the development of the *comprehensive plan*,” and the comprehensive

plan was everything. Well, they didn't like this. They swallowed hard, but after those hearings, they did **not**—there was *no legislation* resulted from those hearings.

**“That testimony of mine became the basis later on for what’s known as the Holum Report of 1963, which was accepted by Congress in reauthorizing the Garrison Project in 1965, as the basis for Pick-Sloan power rates. . . .”**

That testimony of mine became the basis later on for what’s known as the Holum Report of 1963, which was accepted by Congress in reauthorizing the Garrison Project in 1965, as the basis for Pick-Sloan power rates.

**Left the Solicitor’s Office in February of 1969 and Became Counsel to Midwest Electric Consumers Association**

Just to make sure that that—well, I left the Bureau in February of 1969, and I became counsel to Midwest Electric Consumers Association in 1977. Midwest is the trade association that represents the Pick-Sloan customers.

END SIDE 1, TAPE 2. NOVEMBER 23, 1994.  
BEGIN SIDE 2, TAPE 2. NOVEMBER 23, 1994.

Storey: So you’ve been [unclear].

**“I have continued my professional interest in Pick-Sloan through representation of Midwest. . . .”**

Weinberg: Yeah, I have continued my professional interest in Pick-Sloan through representation of Midwest. I might say that the concept of this *huge project* with the secretary relatively free to choose the means by which it would be carried out, devised the means by which it would be carried out, is not popular with other agencies of the government—for example, the Office of Management and Budget.

**“The . . . philosophy [of various administrations] . . . was to regard the sale of power as a cash cow to raise money for general governmental purposes, in other words, to apply against the deficit . . .”**

The administration’s philosophy in the [Ronald] Reagan Administration, and continued in the [Jimmy] Carter Administration, to my astonishment as a Democrat, and, of course, continued in the Reagan-[George] Bush Administration, the [Dwight D.] Eisenhower Administration was the first, was to regard the sale of power as a cash cow to raise money for general governmental purposes, in other words, to apply against the deficit, and not sell it at cost, which is the principle of Pick-Sloan, including the cost that the irrigators can’t pay.

### **Protecting the Repayment of Pick-Sloan Projects with Corps of Engineers Power Revenues**

Well, to make sure, as I say, the 1965

Garrison Reauthorization Act wrote these principles, or approved these principles, again, but they continue under attack and from time to time there are efforts made administratively to raise the rates under the euphemism of “repayment reform.” Repayment reform means that you’d have straight-line amortization instead of payout by the end of the period. You’d have to pay, like a mortgage, so much each year, regardless of water conditions and so on. And, these are all devices to force separate rates.

So in 1986, we succeeded in putting into the Water Resources Development Act of 1986, which is the old flood control and navigation legislation, we put a provision in there that reaffirmed the principles of Pick-Sloan, so that those principles can be changed now *only* by an act of Congress.

**McGovern-Meeds Amendment “. . .says, in substance, that there can be no change in the cost allocations of any project then under way or completed without further authorization of Congress. . . .”**

Also, when the Department of Energy was established in 1977, there was a real concern among power users that the change in jurisdiction over power marketing would encourage tinkering with the allocation of cost, so on behalf of Midwest, I wrote something that got into the 1977 Authorization Act. It’s called the McGovern-Meeds Amendment, sponsored in



the Senate by Senator [George] McGovern and in the House by Congressman [Lloyd] Meeds. And it says, in substance, that there can be no change in the cost allocations of any project then under way or completed without further authorization of Congress.

**“... power rights ... have gone up 300 percent since 1950, but they are still based on cost. Costs have gone up. . . .”**

We've been fighting rear guard actions for many years to protect the Pick-Sloan power rights, not that they haven't gone up. They have gone up 300 percent since 1950, but they are still based on cost. Costs have gone up. The water supply has not been what people thought it would be. We've had a tremendous drought of four or five years' duration in the Missouri Basin that just ended a year or so ago, but the reservoirs were *way*, way down, so that all these things have forced the power rates up, but they are still based on the principles that we established in Pick-Sloan.

Now, what else did I do?

Storey: Yes, what else did you do?

#### **Legal Issues Related to Hoover Dam and the All-American Canal**

Weinberg: One of my responsibilities was overseeing the legal ramifications of the Boulder Canyon Project, of Hoover Dam, and the All-

American Canal, which is the canal that takes the irrigation water into the Imperial and Coachella valleys.

Storey: What were the legal ramifications?

Weinberg: Well, the legal ramifications of that were the Boulder Canyon Project Act of 1928 and the Boulder Canyon Project *Adjustment* Act of 1940, the second act was passed a few years after power really became available from the Boulder Canyon Project, and that laid down some fairly stringent requirements on the power rates, *and* the regulations.

#### **Allocating Power from Hoover among California, Arizona, and Nevada**

Hoover is a peculiar project because there are power allocations to the states of Nevada and Arizona, and they have set up power authorities to administer those, but since Nevada and Arizona did not grow as fast as California, Nevada and Arizona could not use all of their power allocations originally. So the regulations provided that anything that they could not use would be sold to the Metropolitan Water District of Southern California for pumping water, Colorado River water, in the metropolitan aqueduct<sup>10</sup> into Southern California, Los Angeles and the metropolitan area.

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10. The Colorado River Aqueduct of the Metropolitan Water District of Southern California—known variously as Met, Metropolitan, MWD, MWDC.

Well, the regulations set forth some rather complex and strict *notice* periods. In other words, if Nevada wanted power on such and such a date, it had to give a certain notice, and they could relinquish power on the same basis. They'd have to give a certain notice.

**During World War II the Federal Government  
Commandeered Power from Hoover and the Issue  
Later Became Where the Responsibility Lay for  
Payment of Extra Costs Caused by That Action**

Also there was another complicating factor, and that is that during the war, the government *commandeered* a big chunk of Hoover power supply to provide power for the big magnesium plant that was built in Henderson. It was a subsidiary of the Reconstruction Finance Corporation (RFC) and the Defense Plants Corporation called the Basic Magnesium, Inc. That was superimposed upon these other Hoover requirements, so that you get into quite a complicated situation.

Then when the government began to shut down its operation at Basic Magnesium, that power had to be refitted into the legal mold, and there was a big fight between the power allottees and the Reconstruction Finance Corporation, because the demand for power was such that the installation of generators at Hoover, the *war* demand was such that the installation of generators at Hoover was speeded up, so that some of the

generators were put in years before they would otherwise have been put in, and there was a big flap over who paid those extra charges. When the RFC gave up the operation, or curtailed it, and the demand was not there in California, who was going to pay the unamortized charges on those generators? So it was quite a complex matter, and I was involved in those matters.

### **Worked on Acreage Limitation Issues on the Central Valley Project**

I was also involved in the 160-acre limitation both in the Central Valley *and* in Imperial. It happens that—well, that’s another story, another couple of stories. The acreage limitation is *not* the most popular feature of the reclamation law among the water users in California, in the Central Valley *or* in the Imperial Valley.

**“The acreage limitation was, however, a central feature of the reclamation law, and the reclamation law *would not have been passed* without it. . . .”**

The acreage limitation was, however, a central feature of the reclamation law, and the reclamation law *would not have been passed* without it. But if you can only get water for 160 acres, or 320 acres if you’re married, and you want to operate on a big scale, you have problems.

In the Central Valley, there were all kinds of devices used. They would establish

trusts and esoteric contractual devices to increase the water supply, and this was happening in the sixties as the Central Valley Project was going into big-scale operation. So it fell my lot to review these things. The regional counsel would send them in to Washington, and so that kept me busy for quite a while, took up a great share of my time. Some devices got through, some didn't, but that was a hell of a fight.

#### **Acreage Limitation on the Imperial Irrigation District**

At the same time, the Imperial Irrigation District, it had a contract in which there were no excess land provisions, and that's another *tale* which has a history. The Boulder Canyon Project Act was authorized in 1928, and a part of the Boulder Canyon Project is the construction of the All-American Canal to the Imperial and Coachella valleys. The question arose whether the excess land laws should apply to the Imperial contract.

On March 1, 1933, Roosevelt was inaugurated March 4, 1933, the secretary, Ray Lyman Wilbur, who was a physician from California and had been Hoover's Secretary of the Interior, was going out of office on March 4. On March 1, a one-page letter was signed by the secretary that said the excess land laws don't apply. So that there were no excess land provisions in the Imperial contract.

After the war, the Veterans of Foreign Wars became interested in this and they complained to the Interior Department. Why aren't there farms being made available in the Imperial Valley to veterans? Why aren't the excess land laws enforced? So the Interior Department wrote a response which said, "Well, it's too late for us to go into that now. We're just not going to. What has happened has happened, and we're not examining the question."

#### **Development of the Southwest Water Plan and Authorization of the Central Arizona Project**

Well, in the early 1960s, the Supreme Court decided the water suit between the government and Arizona and California over the Lower Colorado River. The government and Arizona won that lawsuit. I won't go into the legal details, because it would put you to sleep. But the government won. Therefore, at that point the Central Arizona Project, which would take water into the Phoenix and Tucson areas, came to life. Stewart Udall and Floyd Dominy—Dominy by that time was the commissioner—decided, and *I decided*, too, that it was out of the question—Stewart was from Arizona—*we* decided that it was out of the question that Congress, with California having over forty members of the House of Representatives, that Congress would authorize a project *just* for Arizona. California had too much political muscle.

So we set about to develop a regionwide plan to provide water not only for Arizona, but to meet the shortages which would inevitably develop under the arrangements that governed the division of water between Arizona and California. That was called the Southwest Water Plan, and it evolved into extensive provisions that are included in the act of—well, I've got it right here. That's my wife shaking hands with Lyndon [Johnson] and that's me. But it evolved into extensive provisions that dealt with importing water, studying projects to import water into the Lower Colorado River Basin. It also included a provision that made the Mexican Treaty burden a national burden, which meant that there were authorized projects to augment the Colorado River flows, and the first 2 million acre-feet, I think that's the Mexican Treaty requirement, the first 2 million or a million and a half acre feet that was brought in would go to meet the Mexican Treaty deficiency. In other words, you would augment that water supply by the amount of the Mexican usage.

Well, California, of course, fought the Central Arizona Project tooth and toenail, and the hearings went on—oh, hell, bills were introduced for four or five years and we had *extensive* hearings, which one of the pictures on there is Udall and me and Dominy testifying at one of the hearings. It was formally called the Lower Colorado River

Valley Project<sup>11</sup> or something like that, of which the Central Arizona Project was just one unit.

Well, as I say, California fought the damn thing tooth and nail. California's champion in the Senate was Tom Kuchel, who was the ranking Republican on the Senate Interior Committee. Carl Hayden, then close to ninety, was chairman of the Appropriations Committee of the Senate, and, of course, was Arizona's champion. We sold Carl on the idea that you had to have this overall project, otherwise we would not get the Central Arizona Project authorized, a decision which was not popular in Arizona. My God, Udall was accused of selling out the state because he was encumbering the Central Arizona Project with all this excess baggage.

**“ . . . the question arose, why wasn't the excess land laws applicable to the Imperial Irrigation District, which was the biggest single user of irrigation water in the whole Colorado River Basin . . . ”**

Anyhoo, in the course of those hearings, the question arose, why wasn't the excess land laws applicable to the Imperial Irrigation District, which was the biggest single user of irrigation water in the whole Colorado River Basin, in fact, in the United States. So again it fell my lot to testify, and I

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11. Colorado River Basin Project Act of September 30, 1968; P.L. 90-537; 82 Stat. 885; 43 U.S.C. §1501.



repeated this business. Well, this was done in 1933 and I told them about the inquiry from the Veterans of Foreign Wars and the department had decided that it was too late in the day to reopen that. I was asked if *I* had looked into it, and I said, *no, I had not*. Well, the next question was—and Kuchel kept insisting, for reasons which I don't understand yet, *he wanted an answer*. (laughter) Clint Anderson took up the cudgels; *he* wanted an answer. Anderson was chairman of the committee, was chairman of the subcommittee.

So I reported this back to Stewart. Dominy and I and Stewart had a council of war, what the hell to do, and we decided that Anderson, who had written the letter asking about this, we would just let that letter lie in the “in” basket and perhaps until and unless Clint repeated his request. So sure enough, about three or four months later, in comes another letter from Anderson. “I want a reply.”

**“We concluded that the excess land laws *indeed* applied to the Imperial Irrigation District. We had this opinion ready in December of the year in which John Tunney . . . was elected to Congress from the Imperial Valley, and John was a Democrat. So the question was, my God, if we release this opinion out of the blue, why, John Tunney’s career in the House of Representatives is going to be over before it starts. . . .”**

So we decided, Dominy and I and the solicitor, Frank Berry, who had been Stewart

Udall's law partner in Arizona, we decided that we couldn't duck this thing anymore and we've have to go into it, and we did go into it. We concluded that the excess land laws *indeed* applied to the Imperial Irrigation District. We had this opinion ready in December of the year in which John Tunney, the son of Gene Tunney, the old heavyweight boxing champion, was elected to Congress from the Imperial Valley, and John was a Democrat. So the question was, my God, if we release this opinion out of the blue, why, John Tunney's career in the House of Representatives is going to be over before it starts.

So we decided we would invite John in for a meeting with the secretary and Dominy and myself and Frank Barry, the solicitor, on a *Saturday*. John comes in and we break the news. My God, the guy turned white. Stewart said, "Well, we'll make it as easy on you as we can. We will not shut off the water. We'll bring a declaratory judgment action, and meantime the water will continue to be delivered."

Well, we all walked out of Stewart's office and John said to me, "My God, how could you do this to me? What can I do?"

I said, "Well, I'll tell you what I would do if I were you. I would walk out of here, and I would call a press conference, and I would denounce Stewart Udall, Frank Berry, Floyd Dominy, and Ed Weinberg for

selling out the *premier* irrigation district in the United States, the one on which the nation depends for winter vegetables and so on and so forth and after all these years.” He did just that. (laughter)

Incidentally, the case came out. Imperial Irrigation District’s lawyer was Warren Christopher, now the Secretary of State. So I met with Warren. Frank Berry and I met with Warren a few times, and we told him, “We’ll bring a declaratory judgment action. We’re not going to cut off the water.” Christopher is a very nice man.

The case came on for trial *after* the Reagan Administration went into office, and I was out of the Interior Department. The case came on for trial in March of 1969, March or April.

Storey: Reagan was the governor, you mean?

Weinberg: No, Reagan became president. Oh, no, [Richard M.] Nixon. It’s Nixon, the Nixon Administration.

Storey: I was losing a period of years there.

**“The government lost before . . . the federal judge in the Imperial Valley. . . .”**

Weinberg: Yeah. It was just after the Nixon Administration came in. I was the government’s principal witness. We lost. The government lost before the judge, the

federal judge in the Imperial Valley.

So then the question was, was the government going to appeal. The solicitor general of the Nixon Administration, [Erwin N.]Griswold, who had been solicitor general before—he just died the other day, by the way, at the age of ninety-two—he had been dean of the Harvard Law School and solicitor general for many years, both under Nixon and under Johnson, too. Anyway, he decided that there would be no appeal.

#### **Ben Yellen and Acreage Limitation on the Imperial Irrigation District**

There was a doctor living in the Imperial Valley, who was Ben Yellen, his name was. He was from Brooklyn. He was a Jew from New York City, settled down there, and was a doctor to the poor people, the wetbacks and the poor people, and he took up the cudgels. He personally intervened. The government had filed a notice of appeal in the court of appeals and then withdrew it. He personally intervened in the Ninth Circuit, and the Ninth Circuit allowed him to prosecute the appeal. By God, he won.

**“... the United States Supreme Court reversed basically on the ground that too many years had intervened ...”**

Then the case went to the United States Supreme Court, and the United States Supreme Court reversed basically on the

ground that too many years had intervened, it wasn't fair for the government to, after all those years, to change its position and impose the excess land laws.

Storey: So in the land, the excess—

Weinberg: The land laws *do not* apply to Imperial.

Storey: I'd like to keep going, but we've spent over two hours now. I appreciate it. I'd like to ask you whether or not you're willing for the tapes and resulting transcripts from this interview to be used by researchers from inside Reclamation or outside Reclamation.

Weinberg: Absolutely. It will not make me popular with the current commissioner of Reclamation, but I've always called them as I saw them, and I have no regrets and no reservations about anything that I've said. And I think history is very important.

Storey: Good. Thank you very much.

END SIDE 2, TAPE 2. NOVEMBER 23, 1994.  
BEGIN SIDE 1, TAPE 1. JANUARY 27, 1995.

Storey: This is tape one of an interview by Brit Allan Storey, senior historian of the Bureau of Reclamation, with Edward Weinberg, in his offices in Washington, D.C., on January the 27th, 1995, at about ten o'clock in the morning.

Last time, as I recall, when we were

talking, you said you had always known you were going to be an attorney.

### **Why He Wanted to Be an Attorney**

Weinberg: Yes.

Storey: Could you tell me more about that, what had made you make up your mind?

Weinberg: Well, I have an older brother. He is the younger of my two older brothers. The other brother is now deceased. But, my brother Phil, who was eleven years older than I am, went to law school, and he was kind of my role model. He was intellectually inclined and so was I.

### **Education**

He went through high school in three years and so did I. We had many of the same teachers in grade school, because I grew up in a small town in southern Wisconsin, Whitewater, Wisconsin, and there was only one grade school that served the part of town where we lived. The teachers didn't change much in those days, particularly in grade school, so I was constantly being reminded of my brother's prowess as I was going through grade school and high school, although I must confess that he was the salutatorian of his high school class—that means he finished second—and I only came in third. (laughter)

Then I went on to college. I had

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already decided by the time I was in high school that I was going to be a lawyer. We had in Whitewater a State Teachers College.

Storey: I'm sorry, I've been very dumb. I didn't set up the microphone for you. [Tape recorder turned off.]

We were talking about—

Weinberg: I was saying, before you plugged in the mic, that in my home town there was a State Teachers College, and this was in the Depression years. I graduated from high school in 1935. So the natural thing to do and the economical thing to do, because my family didn't have money to send someone away to college until it became necessary, although we were not poor, anyway, I went to Whitewater State Teachers College the first two years. One of my professors there, an economics professor, had had *my brother* when *he* went to the Teachers College.

Storey: Eleven years previously.

Weinberg: Yeah. And so again I was reminded. I transferred to the University of Wisconsin after my second year, and in those days one was required to get a bachelor's degree to be eligible to receive a law degree. Well, this was a change from when my brother had gone there. After two years of college, he could go right into the law school and make it in three years. So my first year in Madison, I was enrolled in what was called

“the hill,” the College of Letters and Sciences, and then after the three years I enrolled in the law school, which also counted as my senior year toward my B.A. Anyway, the reason I became a lawyer was really following my brother.

Storey: Then in ‘44, after you had worked for your brother’s law firm and after you had worked for the Fuel Rationing Division–

Weinberg: Of the OPA, yeah.

Storey: –you went to Reclamation.

Weinberg: Yes.

Storey: That would have been right as–I think it was Abe Fortas actually signed on behalf of Secretary [Harold L.] Ickes, the reorganization of Reclamation and created the regions.

### **Creation of Regions in Reclamation**

Weinberg: It created the regions, and I came there just about that time.

Storey: What were you hearing in the office about why that was going on?

Weinberg: Well, I didn’t hear much about why that had been done. All I heard was that it enabled the commissioner of Reclamation to get a better handle on running the Bureau instead of serving as the Washington liaison between



the chief engineer and Congress and the department. Prior to that time, the commissioner—of course, the office of Commissioner existed, but the Bureau's operations were, in effect, supervised by the chief engineer.

The only field offices that the Bureau had had prior to the reorganization were the project offices, where a project was actually being built or being operated still by the Bureau, *and* the *legal* offices. There were six or seven legal offices of the Bureau scattered throughout the West—Amarillo; Billings; Denver; Boise, Idaho; Sacramento; and Boulder City, Nevada. Those offices became the headquarters of the regional directors when the regions were established.

Storey: Uh-huh. So the commissioner would have been John Page, I believe.

Weinberg: Yes, John Page was the commissioner when I came to the Bureau.

Storey: And so he felt that he needed more control over Reclamation?

Weinberg: I don't know what John Page thought. My position in the Bureau was several rungs lower on the ladder than John Page, and I never really talked to him about his philosophy or anything like that, but I would imagine that something had convinced Abe Fortas and the secretary that the Bureau would function much more effectively and

efficiently if it were regionalized.

Storey: Do you have any idea what those legal offices did before the reorganization?

### **The Work of Reclamation's Legal Offices**

Weinberg: Oh, yes. Oh, yes. Yes, indeed. The legal offices then, and after the Bureau was regionalized, were responsible for the repayment contracts and all of the facets of the relationship between the water users, the projects, and the Bureau.

### **The Legal Offices Handled Claims Against Reclamation**

#### **District Counsels**

They also handled claims against the Bureau for one reason or another, for whatever reason. Say a canal broke and damaged a farmer's land, and so on. Those claims were handled by the district counsel, later who, when the Bureau was reorganized, became the regional counsel.

The legal offices of the Bureau always were very important in the scheme of things, in the way the Bureau operated, because of the complexity of the Reclamation law and the fact that the water users' relationship with the Bureau was through contracts.

Storey: If I'm understanding what happened then, they had seven legal offices out there, around

which the regional offices built up.

- Weinberg: The regional offices were located in those cities, *because* the Bureau already had a presence there through the district counsel. They were located roughly in drainage lines.
- Storey: To whom did those offices report before the regions were created?
- Weinberg: They reported to the chief counsel of the Bureau of Reclamation.
- Storey: In Washington.
- Weinberg: In Washington, yes.
- Storey: About how large were those offices? Do you have any sense of that?
- Weinberg: Yes. They were as large as they were in the first decade or so after the Bureau was regionalized, because there was quite a bit of work going on of a legal nature. That was the era when the big contracts, big projects were getting under way, and thus there was a lot of negotiation going on.
- There was also, in Denver, the chief engineer's office was letting many construction contracts, and they had lawyers located in Denver who handled the chief's legal business.
- Storey: So they reported to the chief?

Weinberg: No, they reported professionally to the chief counsel of the Bureau.

Storey: How did, or did, the person they reported to change when the regions were created?

Weinberg: No.

Storey: They were still responsible to the chief counsel?

Weinberg: The regional counsel functioned as the attorney for the regional directors and the other Bureau offices in the region, but professionally they were overseen by the chief counsel's office in Washington.

Storey: So, for instance, if they said, "We want to enter into a repayment contract within 'X' District," who reviewed that contract?

Weinberg: The contracts were negotiated by a representative of *formerly* the chief engineer and, later, of the branch of operation and maintenance in Washington, *and* together with the lawyer.

Storey: But then did the general counsel have to review them?

Weinberg: They would come in to Washington, yes, and they were reviewed by the Division of Operation and Maintenance in Washington also. The contracts were *signed* by the commissioner.

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Storey: Of course, nowadays there's a lot of controversy about the length of Reclamation contracts. You know, some of them were for fifty years, some of them even had a longer term.

Weinberg: You mean the duration.

Storey: Yes.

Weinberg: I thought you were referring to the number of pages.

Storey: Well, that's another problem. (laughter)

Weinberg: Actually, a Reclamation contract, a repayment contract, has no expiration. The *repayment* period expires, *but* the contractual relationship continues.

Storey: I was wondering if you could put yourself back then and give me your perspectives on the length of the repayment periods and that sort of thing, and the length of the *contracts* that were set up to cover the repayment.

**“Under the original Reclamation law, the contracts were entered into with the individual farmers. . . .”**

Weinberg: Well, I have to start with a little bit of history. Under the original Reclamation law, the contracts were entered into with the individual farmers.

**“. . . the repayment period, fixed by law, was ten years. . . It turned out that ten years was much too short. . . .”**

The relationship was between the individual farmer and the Bureau, and the repayment period, fixed by law, was ten years. That became unworkable for two reasons. It turned out that ten years was much too short. The projects proved to be more complex and posed more physical and engineering problems than had been imagined. There was a lot of re-engineering work on the ground after a project got started, because of the inadequacy of the regional investigations, and I'm not saying that critically.

There was a great demand for federal reclamation projects throughout the West, and there had been agitation to get a reclamation law passed for some three decades before it finally got through, so because the non-federal projects, by and large, unless they were very, very simple, were not making it. Congress had tried various means to foster non-federal projects, something like the current Republican Congress is trying to do. They want to do away with many of the functions of the federal government. So today the Republicans talk about block grants.

In the early day, in the era of which I am speaking, the eighties and nineties of the last century, the way Congress first tried to foster reclamation development was by land grants to the states under something called the Carey Act, in which states were given blocks of land and they, in turn, would give

them on to the settlers if they developed I've forgotten how many acres. If there was a settler who would bring the land under cultivation within a certain period of years, he would get the land. That didn't work, because it turned out that just the land wasn't enough. These projects cost money. Private companies were organized under the Carey Act to borrow money and finance the projects, but many of them went belly up, and there was increasing pressure for the federal government to step in and undertake to finance the program. Finally the 1902 Act was passed in response to that. President Theodore Roosevelt became very much interested in calling for the passage of the reclamation law.

Anyway, the way the reclamation law was originally set up was that *all revenues* from the sale of public lands and the disposition of minerals. Well, in 1902, there were no mineral revenues, but other miscellaneous revenues had derived from the land, from federal land, went into the reclamation fund, and the Secretary of the Interior was *authorized* to himself undertake projects that he found to be feasible without going back to Congress. Congress did *not* have a voice in what projects were to be built, so long as it could be financed from the reclamation [fund].

Well, the projects turned out to be more costly than originally thought, and the reclamation fund soon was inadequate, and

the water users, the farmers, were unable to pay in ten years. Because the dealings between the Bureau and each individual settler on a project made for an unwieldy arrangement, because the Bureau had to deal individually with each farmer, the Bureau encouraged the western states to adopt laws allowing the formation of water user associations, and the water user association did not assume the debt of the individual farmers, but it acted as the collection agency on behalf of the government.

Well, by 1914, it became apparent that something had to be done. I think there were also some loans to the reclamation fund from the treasury in that period, although I'm not certain of that without going back and reviewing the law. Anyway, by 1914, it became apparent that ten years was not enough, and there had also been some *scandals* that had arisen in connection with the 160-acre limitation, which was being widely ignored and *flouted* by one scheme or another, usually somebody paying off the farmer, paying off somebody, individuals, who would go in and make entries and they would wind up in the hands of the speculators who had paid the individual settlers for the use of their name.

### **Reclamation Extension Act of 1914**

Anyway, the combination led to what's called the Reclamation Extension Act of 1914, which prohibited the undertaking of



a project until the water users signed contracts agreeing to sell their excess lands. It also lengthened the time for the repayment, and I've forgotten what time [period]—pardon me while I refresh my recollection here.

Storey: That's something somebody can look up if they're interested.

Weinberg: 1914. They lengthened the time to fifteen annual installments, and that didn't work either, in the long run, and it turned out that many of the projects got into difficulties because of defaults by the water users. By that time, the reclamation law had been changed to allow the formation of irrigation *districts*, which became the contracting entities for the United States. That law was originally passed in 1922.

By 1922 or '23, also there was the post World War I Depression, so that things were coming to a standstill again, and a commission was appointed called the Fact Finders Commission, to investigate what was wrong and make recommendations. It was headed by a man by the name of Garfield, who was the son of President Garfield. How he got appointed, I don't know. Anyway, the Fact Finders made a number of recommendations and Congress, in 1926, passed what's called the Omnibus Adjustment Act, based on the report of the Fact Finders, and Section, I think, 46 of that act provided for a forty-year repayment period. It also strengthened the excess land

clause.

### **Reclamation Project Act of 1939**

The forty-year period is essentially the period that existed for repayment. In 1939 there was added the feature of the development period. After a project was completed, up to ten years could be allowed before the repayment started of the construction costs, in order to get the farmers going and accustom them to irrigated agriculture and so on. And that is essentially what you have today.

Storey: Then I believe in addition to that, there are water contracts that are sometimes entered into.

Weinberg: Well, yes. On some of the big projects like Central Valley Project, the '39 act provided for, instead of repayment contracts for the delivery of water for periods of forty years, theoretically when those contracts expired, the water users had no *legal* right to any renewal. In practice—well, nobody expected that the contracts would not be renewed, of course, and those contracts, called 9(e) contracts, for Section 9(e) of the Reclamation Project Act of 1939, were used on the Central Valley Project and under Pick-Sloan and some of the other larger contracts.

### **The Issue of Ownership of Water Rights on Reclamation Projects**

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An interesting phenomenon occurred. The parties to those contracts and their representatives in Congress and water lawyers who advised them throughout the West became concerned that they did not have a water right. All they had was a contract right to water for forty years. So in 1954, somewhere around there—this was in the Eisenhower Administration—there was a demand that something be done about that, because to a westerner, you can steal his horse and you can steal his wife, but you'd better let his water rights alone. The basic premise of Western water law . . .

END SIDE 1, TAPE 1. JANUARY 27, 1995.  
BEGIN SIDE 2, TAPE 1. JANUARY 27, 1995.

Storey: You need to go back a few seconds, right about now.

Weinberg: All right. As I was saying, the basic premise of western water law is the law of appropriations, in which a person intending to use water appropriates the then unappropriated waters in a stream, and the appropriator must develop the water supply, or must put it to use, or the right would lapse. When it was put to use, the right related back to the time of the original appropriation and not to the time when the actual water use began.

Section 8 of the act of 1902 required the Secretary of the Interior to obtain water rights under state law and the law provides

that beneficial use shall be the basis, the measure, and the limit of the right, and that the rights shall be appurtenant to the land irrigated. That appurtenancy provision was found in some state laws, but not in others, and an appropriator could sell his water rights without selling his land, so that a speculation in water rights arose. One of the key requirements of the 1902 act was that the water right be appurtenant to the land and that was put in there because of the opposition on the part of Congress and the framers of the reclamation law, Newlands, Senator [Francis E.] Newlands, Congressman [Franklin W.] Mondell, to speculation. As a matter of fact, Mondell stated on the floor of the House during the debate that this provision was intentional and he knew it was contrary to the law that prevailed in some of the Western states and territories, but, by God, they were not going to allow the reclamation law and federal projects to become a vehicle for speculation in water rights, the purpose of the law was home-building.

In any event, the secretary of the interior had to obtain water rights under a state law. The Supreme Court later held that when the secretary did that, he did that for the benefit of the water users, and when the project went into operation, the right belonged to the water users and *not* to the United States, a proposition that was hard to swallow by the Justice Department, and it litigated that in a number of cases. Finally

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the Supreme Court, in *Nebraska v. Wyoming 1*, in 1945.

Storey: Let me just relocate this.

Weinberg: The law made that point clear. The government had contended that the United States was the owner of the water, of *all* unappropriated water, because the United States had originally owned the land *and* the water of the Western states, and that the United States still had an independent right to water. The Supreme Court, in 1945, in *Nebraska versus Wyoming 1*, said that whatever might be the merits of that proposition, theoretically the reclamation law was very plain, Section 8 says that the secretary had to acquire water rights under state law. So these claims of ownership of the water going back to the ownership of the land wouldn't, to use a phrase, hold water. (Storey: Uh-huh.)

I refer to that case as *Nebraska versus Wyoming 1* because *Nebraska versus Wyoming 2* began in 1986. I am counsel for the Basin Electric Power Cooperative, which has a substantial interest in that litigation, and I won't bore you with why that is so, but it is so, and we have been litigating in the Supreme Court, before a special master of the Supreme Court, since 1986. *Wyoming versus Nebraska 2* was decided in 1993. The master had filed a report [in] which he made certain recommendations to the Court, exceptions were heard by the Court, and the Court

decided that case in 1993, and *Nebraska versus Wyoming 3* will be heard by the Supreme Court in March of this year. These big water cases never end.

Storey: They just get new wrinkles, huh? (laughter)

Weinberg: Yeah, that's right.

Storey: Now, for instance, these water contracts that were entered into, I believe in the Central Valley some of them were maybe forty years in length.

Weinberg: Yeah, and the forty years began to expire a few years ago, the term for which they were guaranteed water, but in 1953 or '54, under the law that was passed at that time, the water users, under a 9(e) contract were guaranteed a continuation of their right to water once they had paid out.

Storey: But one of the criticisms that I understand has been leveled at Reclamation is that we gave them far too liberal terms and far too long a time span for that.

Weinberg: As far as far too long a time frame is concerned, the history of reclamation is that the shorter periods just didn't work. As to the liberality of the terms, that is true and that was, in part, in large part, a matter of national policy as enacted by the Congress. The water users don't pay interest on their portion of the project cost. That has been so since the first reclamation law. Anytime Congress

wants to change that, it can do so, except in a couple of instances, except involving excess lands under what I call the Miller Act, which was enacted six or seven years ago. An excess land holder *does* pay interest. If you're not an excess land holder, you don't pay interest.

Those who claim that the terms are too liberal are welcome to try to get the law changed. I think that the terms in many cases *are* too liberal in this day and age of large-scale agriculture, but Congress has been unwilling to do anything about that, as yet.

Storey: When you first came to Reclamation in '44, what did you start out doing?

#### **Work on the Flood Control Act of 1944**

Weinberg: That bottom plaque will tell you what I started out doing. The first thing I did, was put to work on, was what became the Flood Control Act of 1944, which authorized Pick-Sloan. I won't say that I was a big performer, but I was given certain assignments of legal research, which I did.

#### **Mexican Water Treaty and Protocol of 1944**

Also the Mexican Water Treaty was being considered by the Senate at that time, in 1944, and I was given some research assignments on that.

Storey: When you say research assignments—

Weinberg: On various legal issues.

Storey: Did you do any writing? Did you do any negotiating?

**Negotiating the Repayment Contract for Marshall Ford Dam on the Colorado River in Texas**

Weinberg: Yes, I'd write memoranda to my superiors in those instances. The other project, the other big project that I was put to work on in 1944 involved a project in Texas, known in the Bureau as the Marshall Ford Dam Project, and that has a very unusual history and it involved, among others, Lyndon Johnson. The project was in the district that he later came to represent.

There had been a dam started on the Colorado River in Texas. There is a Colorado River in Texas. It runs through Austin, which is the state capital. Samuel Insull, the utility tycoon who later went to jail on securities fraud, had started a hydroelectric project, and he went busted. The project went busted. It was the Lowell Dam Hydroelectric Project.

That was in the period of time by the time that the Insull had to abandon the project, the Roosevelt Administration was in office, and the PWA Act had been passed, under which loans and grants were made for public works. The Texas legislature enacted a law setting up a Lower Colorado River Authority of Texas. The law was actually



modeled on the TVA Act. They came to the administrator of the Public Works Administration, who happened to be Secretary Ickes, and the Texas politicians were all involved in this. The chairman of the House Appropriations Committee, a gentleman by the name of [James P.] Buchanan, represented the district in which this project was located. Lyndon Johnson was his successor once removed. Anyway, Buchanan got a line in the appropriations authorizing the secretary of the interior to enter into whatever arrangements he thought necessary to further the project. This was not under the reclamation law, but under the public works law.

The secretary called on the Bureau of Reclamation to look into the thing and straighten the project out, basically with PWA funds. Well, they entered into an arrangement, and the Bureau decided that the project wasn't what it should be, a multi-purpose project, not only power but irrigation and flood control. There's a lot of rice grown down there in the Colorado River Valley.

So they entered into an agreement under which the Bureau completed the Marshall Ford Dam as a high dam, and it said that the secretary would allocate the costs of the project among the various purposes and then would enter into arrangements with the Lower Colorado River Authority of Texas to repay the cost allocated to irrigation.

**“When I came along, they had gotten to the point where it was time to begin negotiations on the repayment. Into my office were trundled about eight or nine feet of files, *all* the files on the Marshall Ford Dam, and the first two months I spent on this project was reading those files. . . .”**

When I came along, they had gotten to the point where it was time to begin negotiations on the repayment. Into my office were trundled about eight or nine feet of files, *all* the files on the Marshall Ford Dam, and the first two months I spent on this project was reading those files.

**“*That . . . was the best education in reclamation law and practice and . . . how Congress appropriates money, that anyone could have had, and by the time I got through reading those files, I knew how Congress appropriated money for public works projects . . .*”**

*That*, I must say, was the best education in reclamation law and practice and *congressional*, how Congress appropriates money, that anyone could have had, and by the time I got through reading those files, I knew how Congress appropriated money for public works projects, how the Reclamation Bureau went about—[Telephone interruption. Tape recorder turned off.]

Where was I?

Storey: You were talking about the education you got from Marshall Ford Dam.

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Weinberg: Yeah. I learned, for example, what the Rules Committee was, because I read the *Congressional Record* excerpts of the appropriations for Marshall Ford Dam, and this thing has always stuck in my memory. There was an entry in the *Congressional Record* that said Mr. [Martin] Dies [Jr.] of the Appropriation Committee presented the following resolution. This was the resolution of the Rules Committee that Congress had to approve in order to begin debate on the Appropriation Act. That's how Congress works. The Rules Committee is sort of the police force, the policing mechanism of the House of Representatives. Otherwise, with 435 members, the thing would be so unwieldy. They set the terms which have to be approved by the House, under which every bill is debated, whether amendments are allowed, so on and so forth. Anyway, you'll notice I referred to Mr. Dies. That was Martin Dies, who became notorious for the Un-American Activities Committee, and I guess that's why it stuck in my mind.

**“These negotiations dragged on for several years. Naturally the local people wanted to pay as little as possible, and we wanted to get out as much as possible. . .”**

These negotiations dragged on for several years. Naturally the local people wanted to pay as little as possible, and we wanted to get out as much as possible. Finally we entered into an agreement, I think in the early fifties, late forties, which set the

terms.

**“Unbeknownst to me at that time when I first started working with this, the Marshall Ford people were pretty hefty in Democratic politics. . . .”**

Unbeknownst to me at that time when I first started working with this, the Marshall Ford people were pretty hefty in Democratic politics. The construction contractor was Brown & Root. That’s how Brown & Root got their start, was building Marshall Ford Dam, and they were not hesitant in throwing their weight around. The lawyer for the Lower Colorado River Authority was A. J. Wirtz, later to become under secretary of the interior and a power in Texas Democratic politics. The representative from the district was always influential in Democratic politics, and, as I say, Lyndon Johnson was [unclear].

So while I can honestly say that no pressure was ever put on *me* and, so far as I know, the Bureau engineer who was working with me on developing the contract, I have no doubt that the Lower Colorado River Authority people pulled a lot of strings in the department to get this [unclear].

Storey: As the years wore on, did you actually go to meetings and participate in negotiations?

**“By 1948, . . . I had become an assistant chief counsel in the Bureau. I had a rather meteoric rise in the legal staff of the Bureau of Reclamation. . . .”**

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Weinberg: Oh, yes. By 1948, I was an assistant chief counsel. I had become an assistant chief counsel in the Bureau. I had a rather meteoric rise in the legal staff of the Bureau of Reclamation.

Storey: Why was that?

**“... I’m not given to false modesty. It was ability. . . . I’m a faster learner. . . . I was very young and I became the superior of lawyers who had been there much longer than I had and had much more to do. . . .”**

Weinberg: Well, I’m not given to false modesty. It was ability. I had never *heard* of the Bureau of Reclamation until I was offered a job by the solicitor to work in the Bureau of Reclamation. I had to ask him what it was. But I’m a faster learner. I was in those days. I was very young and I became the superior of lawyers who had been there much longer than I had and had much more to do.

Storey: So you had a staff?

Weinberg: Yes. Oh, yes.

Storey: What was the title again?

#### **Assistant Chief Counsel for Power and Procurement**

Weinberg: There were several assistant chief counsel. There was the chief counsel and several assistant chief counsels. There was an assistant chief counsel for planning, an

assistant chief counsel for repayment, an assistant chief counsel for power and procurement. *I* began to work in the power field, and by 1948 I was the assistant.

Storey: For power?

Weinberg: For power and procurement.

Storey: This was actually within the Bureau of Reclamation?

**“Each bureau in those days had its own legal staff, and the solicitor of the department had a small staff handling mainly appeals and policy and legal advice to the secretary, and *professionally* supervising the chief counsel of each bureau. The bureaus couldn’t hire a lawyer without the approval of the solicitor. . . .”**

Weinberg: This was in the Bureau legal staff. Each bureau in those days had its own legal staff, and the solicitor of the department had a small staff handling mainly appeals and policy and legal advice to the secretary, and *professionally* supervising the chief counsel [of each bureau]. The bureaus couldn’t hire a lawyer without the approval of the solicitor.

Storey: So how many people would you have had on your staff maybe?

Weinberg: Well, I usually had three or four. By that time I had three or four people working for me. The whole Bureau legal staff in Washington was maybe fifteen people.

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Storey: Fifteen people. The Mexican Water Treaty, I believe was signed in the early forties, before you actually came to Reclamation.

Weinberg: 1944. I think—I'm getting old. My memory isn't as strong as it used to be.

Storey: I've sure noticed mine going, too. (laughter)

Weinberg: The Pick-Sloan Act, the Flood Control Act of 1944, was signed on December 22, 1944. The Mexican Water Treaty, February 3, 1944.

Storey: So then you weren't involved in negotiating the treaty.

Weinberg: No. Oh no.

Storey: You were involved in implementing.

#### **Implementation of the Mexican Water Treaty and Protocol**

Weinberg: I was involved in implementing the arrangements *after* the treaty was ratified. There was a lot of work to be done with the international boundary, with the U.S. Section of the International Boundary and Water Commission that was set up in the treaty, and they built—there are two dams on the Rio Grande that were built under the treaty, and the Bureau of Reclamation had a big hand in designing those dams and working with the U.S. section.

Weinberg: But they're under the International Boundary Commission, I believe.

Weinberg: Yes. The Bureau did a lot of work on that, and we had agreements with the IBWC.<sup>12</sup>

Storey: This covered both the Rio Grande and the Colorado, I believe.

Weinberg: Yes.

Storey: Now, ~~for instance,~~ on the Colorado, for instance, the Colorado River Compact was in place, and I think by then we were getting a sense that maybe there wasn't as much water as we had thought there was in the Colorado.

Weinberg: Yeah. The compact was negotiated, which was [1922.] ~~1924.~~

Storey: Maybe '22 or '23.

**“At that time . . . they thought that there were 18 to 20 million acre-feet of water, virgin flow, of the Colorado, and that was the basis in which the [Colorado River] compact was negotiated. . . .”**

Weinberg: Yeah. The chairman of the compact commissioners, was, by the way, Herbert Hoover, who was Secretary of Commerce. At that time the period of record which they had showed clearly how it flowed. Hell, they

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12. Harold Arthur worked as liaison between the IBWC and Reclamation for construction of Falcon Dam. History staff interviewed Mr. Arthur for the oral history activity, and he discussed the design and construction of Falcon Dam..



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thought that there were 18 to 20 million acre-feet of water, virgin flow, of the Colorado, and that was the basis on which the compact was negotiated.

Storey: And they split up 15 million acre-feet a year.

Weinberg: Which was ~~4.5 million for the Upper Basin, 4.5 million--no,~~ 7.5 million for the Upper Basin, 7.5 million for the Lower Basin, and they figured that they had 2 or 3 million acre-feet of surplus. Who knows? Over the ages you may get those conditions again, but since the forties, the estimates have gone down.

Storey: How did the government and Reclamation, in particular, if you know, prepare for the Mexican Treaty? If we knew that there was water shortage and the treaty was going on, for instance, was Reclamation consulted about the treaty or was this something State just went off and did? Do you know anything about that?

Storey: The State Department consulted Reclamation and they also had an independent water engineer consultant by the name of Royce Tipton, who was a well-known engineer, highly respected engineer, whose office was in Denver, and he was the principal advisor, but the Bureau of Reclamation had a large hand in this.

Storey: So what was Reclamation saying when it appeared that we didn't have enough water to do the Colorado River Compact, much less—I

believe that was another 1.5 million acre-feet?

Weinberg: That wasn't known when the treaty was signed.

Storey: Ah, okay.

Weinberg: That didn't evolve. The rosiest glow of optimism began to fade in the fifties.

Storey: Oh, okay. So Reclamation thought, "Well, we've got 3 million acre-feet a year of surplus, maybe."

**“California fought the Mexican Treaty tooth and nail, because they figured the day would come when that surplus wouldn't be there, and the million [and one-half] acre-feet for Mexico was going to come out of their hide. . . .”**

Weinberg: California fought the Mexican Treaty tooth and nail, because they figured the day would come when that surplus wouldn't be there, and the million [and one-half] acre-feet for Mexico was going to come out of their hide. Senator Hiram Johnson from California was still in the Senate when the Mexican Treaty was considered by the Senate Foreign Relations Committee and ratified . . .

END SIDE 2, TAPE 1. JANUARY 27, 1995.  
BEGIN SIDE 1, TAPE 2. JANUARY 27, 1995.

Storey: This is tape two of an interview by Brit Storey with Edward Weinberg on January

27<sup>th</sup>, 1995.

You were saying that you had attended some of the committee hearings.

Weinberg: Yes. My bosses were kind enough to let me accompany them to some of the Senate Foreign Relations Committee proceedings, mainly so that I could get a feel of how the government operated . . . involved in the legal aspects.

But California fought the treaty tooth and nail. As I say, Hiram Johnson, by that time in his eighties, was still around. I've forgotten who the other California senator was.

**“The *Texas* delegation . . . were hot *for* the treaty. The Upper Basin supported the treaty, too. . . .”**

The *Texas* delegation, the Texas senators, of course, were hot *for* the treaty. The Upper Basin supported the treaty, too.

Storey: Why were the Texans supporting the treaty?

Weinberg: Because of the Rio *Grande* portion.

Storey: But it would seem like they might fear they would lose water also.

Weinberg: You had a different water situation on the Rio Grande. They wanted *protection* against Mexico by putting limits on what Mexico could get. Also, as I say, I think there were

three treaty dams. It meant economically a heck of a lot for the lower Rio Grande Valley.

Storey: Uh-huh. Okay. What kind of legal issues had to be worked out by Reclamation to implement the treaty then? What were you working on?

Weinberg: The legal issues were, first and foremost, was there a guarantee of water quality on the Colorado. That was never worked out. The question never was resolved until later.

**“The United States negotiators assured the Senate Foreign Relations Committee that there was no guarantee of quality . . . The Mexican negotiators were assuring the Mexicans of exactly the opposite. . . . that they would get the same quality of water as the Imperial Irrigation District, which was the last [U.S. irrigation water] diverted from the Colorado. . . .”**

The United States negotiators assured the Senate Foreign Relations Committee that there was no guarantee of quality, and that meant that as projects were developed in the United States along the Colorado and the water became more saline, Mexico just had to take the water as it came down the *ditch*, regardless of quality.

The Mexican negotiators were assuring the Mexicans of exactly the opposite. They were entitled that the treaty meant that they would get the same quality of water as the Imperial Irrigation District,

which was the last diverted from the Colorado.

**Reclamation's Gila Project Caused the Quality of the Water Delivered to Mexico in the Colorado River to Become an International Issue**

That issue came to a head, by the way, in the late fifties and early sixties, when the Wellton-Mohawk project<sup>13</sup> of the Bureau, which was on the Gila, on the Lower Gila, which is the principal Arizona tributary, and comes into the—the Gila joins the Colorado River just a few miles above the Mexican border, but *below* the diversion works for the Imperial Irrigation District and the Yuma Project, which was a Bureau project on the Arizona side.

The Wellton-Mohawk project was ballyhooed as a great thing to provide farms for returning veterans, so on and so forth. Don't ask me to explain the hydrology of why this is so, but in order to build the Wellton-Mohawk project, they had to do a lot of pumping from the deep underground, and that water was absolutely saline. When they began that pumping, there was a *dramatic* deterioration of water that reached Mexico, and the Mexicans *complained* bitterly.

**“... we would periodically release water from Parker Dam and from Hoover Dam to flush out the river. This**

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13. Wellton-Mohawk is the irrigation district. “Gila Project” is the name of Reclamation's project. Reclamation has now transferred title to the irrigation district.

**caused the senators from the Colorado River Basin states to raise hell that we were giving this water to *Mexico*. Well, the excuse we used was that we had to flush the channel in the United States . . .”**

For several years, the Bureau, under Commissioner Dominy, and I was in the thing up to here, we would periodically release water from Parker Dam and from *Hoover* Dam to flush out the river. This caused the senators from the Colorado River Basin states to raise hell that we were giving this water to *Mexico*. Well, the excuse we used was that we had to flush the channel in the United States, and, incidentally, some water would get to Mexico. Actually, the releases were timed to dilute the water going to Mexico, and everybody knew it. We had to maintain the fiction.

**“ . . . the United States undertook to build what was the world’s largest desalting plant in Yuma to desalt the Wellton-Mohawk water, a boondoggle if there ever was one. The Wellton-Mohawk project should *never* have been built . . .”**

Finally the thing got so *bad* that [John F.] Kennedy, President Kennedy, met with the president of Mexico, and they worked out an agreement whereby the United States undertook to build what was the world’s largest desalting plant in Yuma to desalt the Wellton-Mohawk water, a boondoggle if there ever was one.

### **The Mexicali Valley**

The Wellton-Mohawk project should *never* have been built, and it would *not* have been had the Mexicali Valley been located in the United States.

Storey: What do you mean by that?

Weinberg: What I mean by that was that the Mexicali Valley is a continuation of the Imperial Valley below the Mexican border.

Storey: And that's where the water was going from their treaty?

Weinberg: Yeah. There is an extensive Mexican irrigation development right down here. Here's the Imperial Valley. You notice that the boundary line crosses there. Well, the valley doesn't end just at the international boundary. The Mexicali Valley, which is the southern part of the Imperial Valley, its called Mexicali Valley in Mexico, is a large irrigation development in Mexico just like the Imperial Irrigation District.

Storey: And the Mexicali was getting the water out of the river.

Weinberg: Yeah, and we were getting killed. Had the Mexicali Valley been included in the United States, there *never* would have been a Wellton-Mohawk project.

Storey: Because they would have opposed it?

**“... rather than building this desalting plant, it would have been cheaper to buy up the farms in Wellton-Mohawk project, but ... the Arizona congressional delegation, wouldn't hear of that, and the chairman of the Senate Appropriations Committee was Senator Hayden of Arizona ...”**

Weinberg: Yeah, and rightly so. It would have been cheaper, rather than building this desalting plant, it would have been cheaper to buy up the farms in Wellton-Mohawk project, but the Arizona senators, the Arizona congressional delegation, wouldn't hear of that, and the chairman of the Senate Appropriations Committee was Senator Hayden of Arizona, very influential member of Congress. But international politics are not the same.

Storey: But back in '44 to '48, say, what were the legal issues that you were working on regarding the Mexican Treaty?

Weinberg: Oh, aside from being [unclear] and working on agreements with the International Boundary Water Commission relative to the Rio Grande stuff, I wasn't involved in anything else.

**Became More Involved in the Mexican Water Treaty and Protocol When Mexico Raised the Issue of Water Quality on the Colorado River**

However, I *was* involved on the *Colorado* side, because one of my jobs was to handle the legal problems that arose under



the Boulder Canyon Project Act from Hoover Dam, and later on, as I say, when the Mexicans started complaining to the State Department, the State Department came to us on the water quality of the Lower Colorado, I became very much involved in that. But other than that, my involvement with the Colorado was really through Hoover Dam.

Storey: So tell me about that involvement, then.

### **Construction of Hoover Dam**

Weinberg: Well, Hoover Dam was the first large multi-purpose project built. The estimated cost of Hoover Dam was \$165 million, *peanuts today*, but at that time when the Boulder Canyon Project Act was passed by Congress, \$165 million was *more* than had been spent on the entire Reclamation program from 1902 to that time. Hoover Dam was the outgrowth of the Colorado River Compact, because the Colorado River Compact has provisions which take effect when storage becomes available on the Lower Colorado River [unclear].

### **Purposes of Hoover Dam**

They envisioned there would be a dam, a huge dam, on the Colorado in the United States to do two things—well, three things—make the water supply of the Imperial Valley secure and free it from the devastation of floods and the equal devastation of the drought. You may be aware, or you *may not*

be aware, that in the early 1900s, the Colorado River had a huge flood, burst its banks at the intake of the Imperial Irrigation District, flowed into the Salton Sea for two years. That's why there's a Salton Sea. So from that time on, agitation grew for the construction of a dam that would provide flood control and water for irrigation, *and* also water for both the agricultural and urban needs of the Southern California Coastal Plain, i.e., *Los Angeles*.

The Upper Basin, seeing that California was developing much more rapidly, and having in mind the principle of Western water law that I told you about, first in time is first in right, they were not happy. They did not take to the idea that there should be a huge dam that would hold two years' flow of the Colorado River in the Lower Basin. That was why the Colorado River Compact was negotiated. It supposedly guaranteed 7 and a half million acre-feet of water to the Upper Basin. That permitted the construction of the Hoover Dam.

### **Disputes Between Arizona and California over Dividing the Waters of the Lower Colorado River Basin**

The state of Arizona, which had its own dispute with *California* about how the *Lower Basin* should be divided between California and Arizona, continued to oppose Hoover Dam, and they brought several lawsuits in the Supreme Court, which were

dismissed because the United States, in which was a necessary party and had to be sued, so Arizona gnashed its teeth and the Hoover Dam was built, but when *Parker Dam*, which is below Hoover, was undertaken. A principal function of Parker Dam is to serve as a reregulating reservoir below Hoover and from which the Metropolitan Water District's intake reaches the Colorado River. That's [part of] the water supply for Los Angeles, for the Los Angeles area.

**“The governor of Arizona called out the National Guard and threatened to arrest the Bureau of Reclamation engineers and the contractor who started to work on Parker Dam. Well, to everybody's surprise, the government sued to enjoin Arizona's [unclear]. To *everybody's* astonishment, including, I suspect, Arizona, the Supreme Court held that Parker Dam had not been authorized properly under the reclamation law, and therefore it was being constructed in violation of several federal laws . . .”**

Parker Dam was constructed, was begun under PWA financing and with a pretty substantial contribution also from California. The governor of Arizona called out the National Guard and threatened to arrest the Bureau of Reclamation engineers and the contractor who started to work on Parker Dam. Well, to everybody's surprise, the government sued to enjoin Arizona's [unclear]. To *everybody's* astonishment, including, I suspect, Arizona, the Supreme Court held that Parker Dam had not been

authorized properly under the reclamation law, and therefore it was being constructed in violation of several federal laws, and mainly the Rivers and Harbors Act of 1890, which requires the authorization of Congress and a permit from the Secretary of War in order to build a *dam* on a *navigable* stream. While there had been a finding of feasibility and so on and so forth, the Supreme Court said, “You don’t have a permit from the Secretary of the War. The project is enjoined.”

It didn’t take Congress long to pass a one-paragraph act which ratified and authorized the construction of Parker Dam, Marshall Ford Dam, because this same constitutional issue was raised, and Grand Coulee Dam, they were all—and Headgate Rock Dam, which is an Indian dam project on the Colorado River for supply of water to some Indian reservations, and so it was regularized and they regained Reclamation projects.

Storey: What were the legal issues you were then involved with in the late forties?

#### **Issues Regarding the Hoover Dam Power Contracts**

Weinberg: Well, I was involved in the handling of the Hoover power contracts, which were very complex. To put it simply, power was apportioned to Nevada, Arizona, and California. Nevada was given the privilege of taking power and releasing it, then taking it again. The contractual arrangements were

somewhat complex. They had to give certain notices if they wanted to release power, they had to give certain notices if they wanted to resume taking power, and I had to review those notices. That was my first acquaintance with Hoover.

**“I was a quick study, and I didn’t undertake anything without knowing what the hell I was doing and what the project consisted of and why, so on and so forth. So I became an expert. . . .”**

Later on, why, my involvement broadened out. I was a quick study, and I didn’t undertake anything without knowing what the hell I was doing and what the project consisted of and why, so on and so forth. So I became an expert.

Storey: I thought that the power contracts for Hoover were actually signed before Hoover was built, in the thirties.

Weinberg: Yes, yes. The Boulder Canyon Project Act—as I say, this was the first great multipurpose project and it was undertaken under a special act which was before Congress from 1922 until it was finally passed in 1928, various versions of that act. I think they were called the Swing-Johnson bills Hoover Dam. Phil Swing was the congressman from the Imperial Valley and Johnson is Hiram Johnson, the senator from California. I think there were five, maybe four, maybe six, different Swing-Johnson bills. Every year they’d introduce one, then they would revise

it the following Congress, and so on and so forth.

Anyway, this act was considered in the twenties. The [Calvin] Coolidge Administration was in office. The Republicans controlled Congress. The Republicans didn't believe in the government *involvement* to that extent, and certainly they did not believe in the government being in the *power* business. The private power companies were very strong at that time and had great influence on public policy, which was demonstrated in congressional hearings in the thirties which led to the passage of the revised Federal Power Act and the Securities Exchange Act.

*Anyway*, one of the provisions of the Boulder Canyon Project Act was that before the secretary could begin construction, he had to have *signed* contracts in hand guaranteeing the repayment of the cost of Hoover Dam. The cost was really largely borne by power, so we had to have these power contracts. These contracts were finally signed in '31 or '32. Anyway, then the Secretary of the Interior authorized the Bureau to go ahead with the project.

Those contracts, when Hoover actually went into operation—well, let me go back. Under those contracts, the Bureau built the powerplant, equipped the powerplant, but *leased* it for operation to the city of Los Angeles in southern California, and they

actually generated the power not only for the California users, but for the Arizona users and the Nevada users. It was called the [unclear].

There were certain rigidities in that contract, in those contracts, which had become apparent by the time generation of power was to begin. This was 1937.

#### **Boulder Canyon Project Adjustment Act of 1940<sup>14</sup>**

So the California contractors secured passage of what's called the Boulder Canyon Project [Adjustment] ~~Divestment~~ Act of 1940. That revised the contracts. That authorized revision of the contracts in several respects, one of which was that the lease was terminated and the secretary was authorized to operate the dam, the powerplant, through *agents* of the United States. Guess who the agents were? Southern California Edison Company and the City of Los Angeles. But the secretary and thereby the Bureau, really, had greater oversight than they had before.

#### **1940 Power Contracts for Hoover Dam Powerplants**

The 1940 contracts, '41 contracts, were retroactive to 1937, and those were the contracts that I was involved with.

#### **The Original Power Contracts for Hoover Expired May**

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14. The Boulder Canyon Project Adjustment Act of July 19, 1940, ch. 643, 54 Stat. 774; 43 U.S.C. §618o; P.L. 76-756.

**31, 1987, and He Worked for Nevada in Negotiating the  
New Power Contracts**

Those contracts expired at midnight on May 31, 1987, by which time I had been in private practice for many years. I was retained by the state of Nevada to work with them in the renegotiation of the Hoover [unclear].

Storey: So were there a lot of meetings with the power companies and things that you participated in?

Weinberg: Mainly on the ground, at Boulder City.

Storey: So you went out to meetings there.

Weinberg: I would go.

Storey: How did you travel when you went out there?

Weinberg: Train. A delightful trip, by the way.

Storey: Do you remember the trains or anything?

Weinberg: Trains didn't move at that fast a pace in those days, and you'd leave Washington at something like 5:30 [in the evening] on the Capital Limited, get into Chicago the next morning, jump on the train.

Storey: Where did the train deliver you to? How close could you get?

Weinberg: Los Angeles.



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- Storey: Then what did you do from Los Angeles?
- Weinberg: That's where the meetings were because the regional counsel's office for that area *never moved* from Los Angeles.
- Storey: To Boulder City.
- Weinberg: Although the regional office was at Boulder City, the regional counsel said, "The hell with it. I'm not moving." (laughter) And he prevailed.
- Storey: How long did it take to renegotiate the contracts?
- "When the contract expired . . . It took about six years. We began that effort in 1981 or '82. . . ."**
- Weinberg: Well, in those days I was not involved in renegotiation, because contracts were in *effect*. When the contract expired, how long did it take? It took about six years. We began that effort in 1981 or '82.
- Storey: Okay. What was the next major project that you remember? Was it after you became the assistant chief counsel or before?

#### **Work on the Pick-Sloan Missouri Basin Program**

- Weinberg: Well, the Missouri Basin, Pick-Sloan Project was getting started and I would handle a variety of things that came in for review—repayment contracts. The lawyer out there would ask for advice. The regional director

would ask for advice on various matters.

Storey: Tell me about the process that led to your promotion to assistant chief counsel. Did somebody come in and say, "You're it"? Did you have to compete? How did this work?

Weinberg: They were promotions from within, and I rose. Merit.

Storey: Like a cork to the surface, huh?

Weinberg: I had no political pull whatsoever.

Storey: How long were you assistant chief counsel?

**“... the legal staffs were consolidated in the Office of the Solicitor, when the Eisenhower Administration came in. I think it was 1953 or '54, when we were all moved to the solicitor's office. . . .”**

Weinberg: Well, until the legal staffs were consolidated in the Office of the Solicitor, when the Eisenhower Administration came in. I think it was 1953 or '54, when we were all moved to the solicitor's office. Physically, the Bureau, on the seventh floor, and the other bureaus were scattered around, *all* the lawyers were moved to the sixth floor, which was then the solicitor's office.

Storey: Then what--

END SIDE 1, TAPE 2. JANUARY 27, 1995.  
BEGIN SIDE 2, TAPE 2. JANUARY 27, 1995.

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Storey: You were getting ready to tell me what you became when you moved down to the sixth floor.

**Served as an Attorney Advisor and Then as the Assistant Solicitor for Power in the Solicitor's Office**

Weinberg: I was an attorney advisor in the solicitor's office, and then I became the assistant solicitor for power and generally handling reclamation matters.

**“... I became, in effect, the deputy associate solicitor... although others had the same title, and I always had a higher grade than any other assistant solicitor...”**

There were other attorneys in the solicitor's office who handled reclamation, handled repayment, and so on, but I became, in effect, the deputy associate solicitor. So the associate solicitor would [unclear], although others had the same title, and I always had a higher grade than any other assistant solicitor.

**Became the Associate Solicitor and Then the Deputy Solicitor in 1963 or 1964**

When the associate solicitor moved up to become the deputy solicitor, I succeeded him as associate solicitor. When he died unexpectedly, had a stroke [unclear], I succeeded him as deputy solicitor.

Storey: When was that?

**Became Solicitor in 1968**

Weinberg: I became deputy solicitor in 1964, either '63 or '64. I was deputy solicitor until I became solicitor in 1968.

Storey: Did you ever become associate solicitor?

Weinberg: Yeah.

Storey: In between there?

Weinberg: Yeah, when the associate solicitor for water and power moved up to become the deputy solicitor, and I succeeded him as associate solicitor for water and power.

Storey: And that would have been?

Weinberg: That was 1960 or '61. It was in the Eisenhower Administration.

Storey: Um-hmm. Eisenhower. Okay. '60, '61, that works okay. Tell me about, by the time you were moved to the solicitor's office from Reclamation, were you at that point becoming aware of the way politics would affect the agency and so on?

Weinberg: I had become aware of that *long* before that.

Storey: Tell me if you saw any changes when President Roosevelt died and Truman came in, and then tell me about what happened when Eisenhower came in.

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Weinberg: There were no great changes in Reclamation when Truman came in. Both [unclear]. When the Eisenhower Administration came in, they were going to clean house and sweep out the place and change all the policies and so forth, and allow some people moved out. I impressed the man who became deputy the man who become the associate solicitor for water and power in the Eisenhower Administration, mainly because I knew what was going on, I knew the law, and I didn't try to softsoap; I told it like it was.

**“After . . . maybe a year, the Eisenhower Administration got over their antipathy to government development, and some of the biggest projects in the Bureau were authorized during the Eisenhower Administration . . .”**

After about six or seven months, or maybe a year, the Eisenhower Administration got over their antipathy to government development, and some of the biggest projects in the Bureau were authorized during the Eisenhower Administration—the Glen Canyon Dam. Pick-Sloan went ahead full speed in the Eisenhower Administration. As I said, they got over their antipathy to some degree toward the government being in the power business. Not wholly, because as a matter of policy, they put some restraints on the extent to which the Bureau could buy power [unclear]. But by and large, as I said, they didn't believe that Reclamation was a dirty word, and there was great bipartisan support.

Storey: Of course, Eisenhower started out very anti-public power, I believe.

**Eisenhower, “. . . tried to, in effect, sell TVA . . . That was a bad move. Because politically the country wouldn’t stand for it . . .”**

Weinberg: Yes, yes, he did, but he tried to, in effect, sell TVA and, as I said, they were going to, in effect, turn the marketing over to the private utilities. That was a bad move.

Storey: Why?

Weinberg: Because politically the country wouldn’t stand for it, it’s as simple as that. Bipartisan, I mean. This was not the Democrats frustrating the Eisenhower [Administration], it was the Democrats and the Republicans frustrated the Eisenhower Administration’s ambitions. As I say, they were not as ready to cooperate with the power companies [unclear], but that had a curious and, I think, so far as the Republicans are concerned, a boomerang effect.

#### **Foundation of the Midwest Electric Consumers Association and the Basin Electric Power Cooperative**

In 1956 or ‘57, it became apparent that the power demand, the load growth of the cooperatives that purchased Pick-Sloan power [unclear]. The Assistant secretary of interior at the time, Fred Aandahl, formerly governor of North Dakota, *no*, South Dakota, he went out and told the power customers

that the Bureau would not be able to supply the load growth and that the customers should look to the private facilities.

Well, that galvanized the customers into action. First of all, it resulted in the foundation of the Midwest Electric Consumers Association, [unclear], whose counsel I have been since 1978. They organized so that they would have a political voice, *and* it led to the establishment by the cooperative of Basin Electric Power Cooperative, headquarters in Bismarck, which undertook to supply to the cooperatives the power to meet their load needs—it was a cooperative. The private utilities didn't [unclear].

#### **Ken Holum Founded the Midwest Electric Consumers Association**

The founder of the Midwest Electric Consumers Association, by the way, was Ken Holum, who at the time was very active in the cooperative movement. He, along with Fred [unclear], organized the Midwest Electric Consumers Association, which led also to the formation of the Basin Electric Power.

Storey: Um-hmm. Now, before you left Reclamation, I believe you worked with Mr. Lineweaver.

Weinberg: Who?

Storey: Lineweaver.

Weinberg: Oh, yeah, Goodrich Lineweaver. Oh, yeah.

Storey: Tell me about him. What was his style as a manager? What was his personality? Those kinds of things.

**Goodrich W. Lineweaver, Oscar Chapman, and Mike Straus**

Weinberg: Goodrich Lineweaver, or as Secretary Oscar Chapman, who was addicted to malapropism, one time called him, introduced him—his name was Goodrich W. Lineweaver, and Oscar Chapman once publicly referred to him as Linerich W. Goodweaver. (laughter)

Goodrich had come to the Bureau from the Federal Power Commission. Goodrich had been Secretary of the Federal Power Commission. He was politically active in the Democratic party, from Virginia, and he had political connections. He came into the Bureau about the time that Mike Straus became commissioner. Mike Straus succeeded Harry Bashore, who had succeeded John Page.

Storey: '45 to '53.

Weinberg: And Mike Straus had been the *first* Assistant secretary of the interior. In those days, the department had an under secretary and two assistant secretaries, one of whom was the *first* assistant secretary, and that was Mike.



Oscar Chapman was the other assistant secretary. Oscar Chapman, by the way, holds the record for longevity as a member of the “little cabinet” in Cabinet. He became Assistant Secretary of the Interior in 1933, when the Roosevelt Administration came in, and he left as Secretary of the Interior when the Eisenhower Administration came in, and that was in ‘61. So Oscar was either an assistant secretary, under secretary, or secretary of the interior from 1933 to 1961, and no other member of the little cabinet and Cabinet has ever—no one has ever equaled that length of time in a secretarial office in the whole history of the United States Government.

Storey: Really?

**William E. Warne**

Weinberg: Yeah. Anyway, Goodrich came in, and Goodrich was at first the head of the Division of Operation and Maintenance, which really was responsible for repayment contracts and overseeing the irrigation operations. Bill Warne was the assistant commissioner at the time, William E. Warne, who, by the way, is still alive out in California. He’s in his eighties. You ought to talk to Bill, by the way, because he went through this.

Storey: Do you know where in California?

Weinberg: No, but I can find out for you. It’s in Southern California.

Storey: California is a little hard to find people in if you don't know where. (laughter)

Weinberg: Well, I'm sure I can get his address. Bill Warne and Mike Straus and Goodrich were very dynamic people. They believed in action, and getting things done, and cutting red tape.

**“Goodrich . . . was canned, actually, when the Eisenhower Administration came in. He was *persona non grata* to the Republicans. He went to work for Senator [James E.] Murray [D] on the Senate Interior Committee. . . .”**

Goodrich later became an assistant commissioner, and he left. He was canned, actually, when the Eisenhower Administration came in. He was *persona non grata* to the Republicans. He went to work for Senator [James E.] Murray [D] on the Senate Interior Committee.

Storey: What was his personality like?

Weinberg: Well, he was much older than I was. I regarded him as kind of a grandfatherly figure, to me. Goodrich was a shrewd operator. He did a lot of the lobbying on the Hill for the Bureau, and he had his agenda, and, by God, he accomplished it.

Storey: Was he an authoritarian manager or how would you characterize him that way?

Weinberg: Well, I wouldn't be in a position to say,

except that where Goodrich sat was at the head of the table. Goodrich believed in advancing the program, and so did *everybody else* in the Bureau. Goodrich had his own ideas on how it was to be done, and that's the way it was.

Storey: Did he implement any new programs or anything like that?

Weinberg: No. Well, the Bureau at that time was undergoing a tremendous expansion in project development and construction, and Goodrich was in the forefront of that. Goodrich did not care much for the things that the water users didn't like, such as the excess land laws, but by the time that fight came along in the Central Valley, Goodrich was long gone—well, *not* so long out of it, because the Central Valley repayment contracts, the water delivery contracts, which is the term for these forty-five-year or forty-year contracts, the water delivery contracts, they were being developed in California.

**“... the California regional director of the Bureau of Reclamation at the time, Richard Boke, not an engineer, believed very deeply in the concept of the excess land laws ...”**

**“it got to the point where Senator [Sheridan] Downey, otherwise a far-out left-winger from California, took up the cudgels for the big landowners in Central Valley, and he actually got the appropriation to pay the salary of Boke and Straus *cut off*. He got a rider on the appropriation act that said that none of the funds**

**appropriated herein can be used to pay the salary of a commissioner of Reclamation and a regional director of Reclamation who are not engineers. . . .”**

Goodrich was head of O&M, later assistant commissioner, and the California regional director of the Bureau of Reclamation at the time, Richard Boke, not an engineer, believed very deeply in the concept of the excess land laws, and it got to the point where Senator [Sheridan] Downey, otherwise a far-out left-winger from California, took up the cudgels for the big landowners in Central Valley, and he actually got the appropriation to pay the salary of Boke and Straus *cut off*. He got a rider on the appropriation act that said that none of the funds appropriated herein can be used to pay the salary of a commissioner of Reclamation and a regional director of Reclamation who are not engineers. It happened that Boke wasn't an engineer and neither was Mike Straus. They sued and, of course, the courts tossed out the rider as a bill of attainder.

Storey: Was Straus also trying to support the 160-acre limitation?

Weinberg: Straus, *yes*, he did, and he also tried to paper over the fact that the reclamation excess land laws had not been enforced for years, and there was a great hue and cry to bring the Bureau *into compliance* with the excess land laws.

**“Straus, with legal advice, by the way, came up with the**

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**policy that if you paid up your construction charges, your water charges in advance, paid them all, the excess land laws would not apply, a legal proposition which I later, in the sixties, found to be not supportable. . . .”**

Straus, with legal advice, by the way, came up with the policy that if you paid up your construction charges, your water charges in advance, paid them all, the excess land laws would not apply, a legal proposition which I later, in the sixties, found to be not supportable. And even the department in the Eisenhower Administration refused to go along with it.

I remember when Fred Seaton became secretary of the interior, he succeeded [James D.] McKay, he was from Hastings, Nebraska, by the way, the home town of Floyd Dominy, Fred Seaton came in, he had been in office one day when he was asked to sign a contract which had been negotiated with the King’s River water users in California on Pine Flat, or Isabella, Dam, which would excuse them from repayment because they would go out and borrow the money to pay off the construction charges all at once. Seaton asked, “How long has this problem been kicking around? How long has this been under negotiation?” He was told, I don’t know the exact number of years they told him, but it was several years. I was not present at that meeting, but I was told this by Ed Fisher, who was the associate solicitor for water and power.

And Seaton says, "And you ask me to come in to sign this contract in one day, without any notice, and you say this problem is controversial? I'm not going to do it." And he turned the problem over to the solicitor, Elmer Bennett, and Elmer Bennett concluded this advanced payment was not in the cards. Elmer came up with the statement, in his opinion, "I will not be a party to whittling away at a principle until it is nothing but a pile of shavings." That was the Republicans. But the idea still persisted, and as deputy solicitor, I developed, with Frank Barry [phonetic], the legal theory that [unclear].

Storey: Well, I'd like to keep going, but once again we've used two hours.

Weinberg: Time goes fast, doesn't it?

Storey: Oh, it does, especially when you're having fun. I'd like to ask again if you're willing for researchers inside and outside Reclamation to use these tapes and the resulting transcripts.

Weinberg: Sure. No problem.

Storey: Good. Thank you.

END SIDE 2, TAPE 2. JANUARY 27, 1995.  
END OF INTERVIEWS.