

WATER FOR LOS ANGELES

Alfred H. Driscoll

Interviewed by Andrew D. Basiago

Completed under the auspices
of the
Oral History Program
University of California
Los Angeles

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BIOGRAPHICAL SUMMARY

PERSONAL HISTORY:

Born: May 18, 1905.

Education: received B.A. from Southern Branch, University of California (UCLA) in 1927; received L.L.B. degree from Stanford University School of Law in 1929.

United States military service (1942-45): United States Navy air combat intelligence, Quonset Point, Rhode Island; USS *Ranger-Atlantic*, China coastal area; retired as Lieutenant Commander.

CAREER HISTORY:

Employed by Stephen B. Robinson's private law firm, Los Angeles, 1929-31.

Employed in the trust department of an American bank in Shanghai, China, 1931-36.

Employed by the Office of the City Attorney for Water and Power, 1937-70.

PROFESSIONAL AFFILIATIONS:

California State Bar.

Delta Epsilon, legal profession fraternity.

Los Angeles Area Chamber of Commerce, water and power committee, state and local government committee.

Los Angeles Bar Association.

Los Angeles Town Hall.

OTHER AFFILIATIONS:

Los Angeles Breakfast Club.

Los Angeles Optimists Club.

Stanford University Alumni Association.

UCLA Alumni Association.

INTERVIEW HISTORY

INTERVIEWER:

Andrew D. Basiago, Interviewer, UCLA Oral History Program. B.A., History, UCLA.

TIME AND SETTING OF INTERVIEW:

Place: Alfred H. Driscoll's home in Laguna Hills, California.

Dates: July 24, August 29, 1986.

Time of day, length of sessions, and total number of hours recorded: There were two interview sessions. Both began at ten in the morning and lasted three hours. A total of six hours of conversation was recorded.

Persons present during interview: Driscoll and Basiago.

CONDUCT OF INTERVIEW:

This oral history is one in a series with retired long-time employees of the Department of Water and Power, City of Los Angeles, and individuals in the Office of the City Attorney for Water and Power. Duane L. Georgeson, Assistant General Manager-Water, Department of Water and Power, selected individuals to be interviewed after consulting with key members of his staff.

In preparing for the interview, Basiago consulted sources in the DWP's municipal reference department and in the Water Resources Center Archives at UCLA. He looked at inhouse material, including DWP memoranda and the employee magazine Intake. In addition, he also read several academic histories and reviewed the Los Angeles Times dating from 1913 to the present.

The interview covers Driscoll's law education and employment. The bulk of the interview focuses on the thirty-three years he was employed by the Office of the City Attorney for Water and Power. Topics covered with respect to his work with the DWP include civil service, legislation, contracts, and revenue-bond financing for the department.

EDITING:

George A. Hodak, editorial assistant, edited the interview. He checked the verbatim transcript of the interview against the original tape recordings, edited for punctuation, paragraphing, and spelling, and verified proper names. Words and phrases inserted by the editor have been bracketed.

In the spring of 1987 the edited transcript was sent to Driscoll, who reviewed and approved it. He returned the manuscript in the summer of 1987. Robert V. Phillips assisted in the verification of unanswered queries.

Richard Cándida Smith, principal editor, prepared the table of contents and index. Bryce Little, editor, prepared the biographical summary.

SUPPORTING DOCUMENTS:

The original tape recordings of the interview are in the university archives and are available under the regulations governing the use of permanent noncurrent records of the university. Records relating to the interview are located in the office of the UCLA Oral History Program.

TAPE NUMBER: I, SIDE ONE

JULY 24, 1986

BASIAGO: We'll begin with some recollections of your family history. Are you a native Californian?

DRISCOLL: No. I was born in El Paso, Texas, and my family moved to Los Angeles when I was five years old, which would be 1910.

BASIAGO: What are some of your early recollections of coming into Los Angeles?

DRISCOLL: We stayed with some friends up on Crown Hill, which is near Beverly Boulevard and Belmont Avenue. I think I have a recollection of the bombing of the Los Angeles Times [Building]. Certainly I was awakened. Everybody in the house was up, and of course, there was no communication other than that there had been a big explosion. So the house was quite in an uproar.

BASIAGO: Do you remember what the word was as to why it had been blown up?

DRISCOLL: Well, of course, it came out in the papers in a few days that it was blamed on labor people, or terrorists, whatever they called them in those days. I have read much about the suit and the resulting criminal trial, which was tried in Los Angeles by a very famous Los Angeles trial attorney. [Earl] Rogers was his name as I remember it.

BASIAGO: So you remember very early about the legal

ramifications?

DRISCOLL: No, I don't.

BASIAGO: I thought that might have had some influence on you later seeking a career in the law.

DRISCOLL: No. That derived from other sources, somewhat from my father's side. He was educated to be a lawyer. He was born and raised in his early years in Canada. He finished his law work when he was nineteen, but he had pneumonia and his mother brought him down to New Mexico, and he never went back. His father was a court clerk, or a prothonotary. It is a much better job than an ordinary court clerk. His brother, my grandfather's brother, was a very prominent attorney in Montreal and Quebec in the early days. And my mother's father was a judge in New Mexico. So I think, probably, that there is a little bit of that. I debated between going for engineering or law, and I was very uncertain about it; even into undergraduate school. But then I finally settled down and decided to go into law.

BASIAGO: Why did you choose law do you think?

DRISCOLL: One reason was that along the years 1923 to 1927 engineers were a dime a dozen, so it didn't look very profitable to me. I had an idea of going to Caltech [California Institute of Technology], but I gave it up. I think I would have enjoyed it, but I think I probably liked the law better.

BASIAGO: What law school did you enter?

DRISCOLL: Stanford [University]. I went to UCLA undergraduate and then went to Stanford Law School.

BASIAGO: Was that UCLA when it was still over at Vermont Avenue?

DRISCOLL: Yes. SBUC [Southern Branch, University of California]. It was a new school, and we had a lot of very good teachers. I thoroughly enjoyed it there. I picked Stanford because it was a small school, and as compared to USC [University of Southern California] and [University of California] Berkeley, the professors didn't seem to be inclined to spend too much time writing books, whereas they did in the other. It was really a very close relationship, and it is also the smallest of the schools. I think it was a very profitable selection on my part because I got to know the professors quite well, and I think we learned more that way than you would in a big class.

BASIAGO: Who are some of the students that you shared those years with? I recall that Bob [Robert] Lee had gone to school there.

DRISCOLL: He was at UCLA--SBUC--and other than the department [Los Angeles City Department of Water and Power] people-- There were a number, but I can't think offhand of any names other than Bob.

BASIAGO: Did you go to school with any future luminaries from Southern California? I know that the journalist Carey McWilliams checked in there around the same years.

DRISCOLL: No, I didn't know him. One of the football players there was Ernie Nevers; he was about the only one I can pick up offhand. I don't think the law school class that I was in distinguished itself. Some of them did very well--got into large firms I never got into. Besides, my going to China really ruined the whole thing. I cut my throat by doing that.

BASIAGO: China came somewhat later, after law school?

DRISCOLL: Just a couple of years though.

BASIAGO: What did you do right after law school? I understand that you were hired by S. [Stephen] B. Robinson, so you had some department experience before leaving for China?

DRISCOLL: Yes.

BASIAGO: How did you meet Robinson?

DRISCOLL: He and my father were friends through an Episcopal men's organization called the Saint Andrew's Club. This was soon after he came to Los Angeles. They attended the same church, Saint Athanasius, somewhere near Echo Park, and Robinson had a son within three or four days of my age, so the family was pretty well related. When I got out of law school I went down to the Southwest. I had

an uncle down there that practiced law in Roswell, New Mexico, and I rather liked the sound of that. But he discouraged me. He said there was no sense to that. Well, I thought there was.

BASIAGO: Why did he discourage you? Because it was too small?

DRISCOLL: Yes. That's right. He said I'd do better in Los Angeles. I didn't think so, but I had to accept his advice on it, because I had gone into some offices in Tucson and also in Phoenix and they didn't seem to like foreigners in Arizona or New Mexico either. So I thought there must be some merit to what he said, but not for the reasons that he stated.

BASIAGO: When you say foreigners, it is hard to imagine--

DRISCOLL: People from out of state. Through this connection with Mr. Robinson, I went to work for him as soon as I got out of law school, and passed the bar while I was working for him. I passed the bar in 1930 during the spring. Then I left for China in December, 1931.

BASIAGO: Let's dwell on Mr. Robinson for a minute.

DRISCOLL: Yes. There was one thing I was involved with him on before I went to Los Angeles Gas and Electric Company [L.A. G&E].

BASIAGO: Yes. Let's focus on him and the Los Angeles Gas and Electric case. Going through the department material

downtown, I found that he had pretty major involvement in going back to New York City to acquire backing in the bond market.

DRISCOLL: He really started revenue bonds. If I may go back a little further with him: In 1905 W. B. [William Burgess] Mathews was city attorney of the city of Los Angeles, and Robinson was an assistant of his. Mathews spearheaded the first purchases in the [San Fernando] Valley. So, Robinson had been connected with that ever since that time. He was out of the city attorney's office when I saw him right after law school, but he was still special counsel for the Los Angeles Gas and Electric case.

When the aqueduct was built up to the Owens Valley [first Los Angeles Aqueduct], there was obviously provision for falling water and power plants up in the San Francisquito Canyon. The department had already built some small hydroelectric generating plants in the valley to use for energy in connection with the construction of the aqueduct. So these plants were built in San Francisquito Canyon, and that brought power down to Los Angeles then. Then the department's problem was to see where they could sell it.

The city moved into street lighting right away and took that away from Los Angeles Gas and Electric. The first streetlight was supposed to be in Highland Park in

1917. Then they took the position that the Los Angeles Gas and Electric company did not have a proper franchise, and that was what was litigated while I was with Mr. Robinson. I came into it at the time it was to go to trial. While it was in trial, I used to go with him every day and carry the books and keep track of the exhibits. There was nothing particularly legal about it, but it was a good place to start.

BASIAGO: Let me just discuss some of the earlier history of Los Angeles Gas and Electric. This goes back perhaps ten or fifteen years earlier. This company was a subsidiary of Pacific Lighting Corporation, which you are saying the department was taking business away from by going into street lighting.

DRISCOLL: Yes. That's right.

BASIAGO: Before the aqueduct was built, Pacific Lighting had pretty much a monopoly on the power for the city's business--

DRISCOLL: That's correct.

BASIAGO: --circa, let's say, the turn of the century. They had endorsed the Owens Valley Aqueduct, but later earned the enmity of William Mulholland. How did that happen? Do you have any idea? Were they just not aware that this water delivery would produce power and take away some of their business?

DRISCOLL: Generally, people in Los Angeles were in favor of it, and there were a lot of charges made at that time. For example, one statement was that General [Harrison Gray] Otis of the [Los Angeles] Times was aware of what was being done and he had bought big chunks of the San Fernando Valley. I don't know whether that was true or not, but that was a story I've heard. A number of other prominent Los Angeles people did the same thing. As soon as they got the water down here, then they took in the San Fernando Valley to make it part of the city. I don't think it was part of the city before that, but I'm guessing at that.

BASIAGO: Do you think that some of the Pacific Lighting principal people might have been profiting as well?

DRISCOLL: Yes. Might well have.

BASIAGO: It was four years later, in 1906, when they gave their endorsement of the aqueduct. However, four years later, in 1910, with two-thirds of the aqueduct completed, Mr. Mulholland found himself without backing in the bond market and was forced to lay off 80 percent of his work force. He suspected that Los Angeles Gas and Electric might have had some role in his troubles. Did you hear anything about that? That Pacific Lighting might have actually been attempting to halt the construction of the aqueduct?

DRISCOLL: No. I don't know what the timing was, but the

first head of the electric system was [Ezra F.]

Scattergood, whose name you probably know. I would guess that Mulholland and some of the others may have realized that there was a possibility of generating power there with the falling water. Scattergood was brought out for that purpose, so they must have come to a decision on that fairly early and then provided for running the aqueduct water through the power plants. That would be the point at which L.A. G&E would get mad at Mulholland, because at that time he was really the head man and probably encouraged this. I mean, I'm just surmising--

BASIAGO: So you think because the power was part of the water project from the beginning, L.A. G&E probably caught on pretty quickly.

DRISCOLL: That's right. As I said, they had already built small plants up in the valley to generate power for construction, so they could see it coming I'm sure.

BASIAGO: This is reaching, or conjectural, but do you think they might have had any role in fomenting resistance to the aqueduct in the Owens Valley?

DRISCOLL: No. I have never heard of any connection between those two.

BASIAGO: That's an angle that has never been raised--that they also had an interest in halting the construction of the aqueduct.

DRISCOLL: I've never heard of anything of that kind.

Nothing from which I would have even surmised that.

BASIAGO: It turns out that they had an 87 percent monopoly on power, at least for the city's business district and the San Fernando Valley. What particularly was the issue when you became involved in the early thirties? Let's telescope to that point. I'm a little unclear.

DRISCOLL: The department wanted to find a market for their power, so they were trying to find out how to break into the Los Angeles market within the city limits where the interest was. They were trying to figure out how to take the power away from the city. They also did another thing: The L.A. G&E lines paralleled the city. Not just for street lights, but to parallel them, and then tried to get people to switch over. You can see what happened when that occurred. After they started that--somewhere along the line Robinson probably had a lot to do with it--they decided that L.A. G&E didn't have a legitimate franchise. So they tried to throw them out on the street. I can't remember how that trial ended. I think it was favorable to the city. Of course, by then I was away, but I think they finally reached a financial agreement and the city bought the L.A. G&E system within the city. It was some years later before [Southern California] Edison [Company] had some lines in the city, and I think the city finally bought

Edison out without any litigation.

BASIAGO: What was the telling point, since they were such a powerful consortium? They were related to Pacific Gas and Electric [Company PG&E]: they were underneath Pacific G and E. That was a pretty powerful utility at the time. You said it was the illegitimacy of their franchise?

DRISCOLL: Yes. That's right. In this L.A. G&E case, their lead lawyers were all from San Francisco. No, it was an individual. His name was Garrett MacInerny. He was a real character from the country above San Francisco. A great big fellow, very confident and very dangerous. The L.A. G&E lawyer down here was a man named [Samuel] Poorman, who did most of the work on the case except when MacInerny would interfere. With the takeover he came over to work for the department. He was there when I came in 1938. So I had known him before. They had taken him over along with equipment and so on, and he became part of the city attorney's office and Water and Power.

BASIAGO: Let's talk a little more about Robinson. How did this work, where he'd have to go back to New York City? Who was he dealing with? What firms? What financial institutions? It fascinates me that the city of Los Angeles and these very powerful individuals who built the aqueduct and founded the department had to deal to such a large extent with New York City and its financial market.

DRISCOLL: Robinson pretty much developed, as I understood it, the use of revenue bonds. He went back to New York and got together with the controller for the department, Clyde Errett. I think Errett was in on it that early. It had a lot to do with getting the New York market to accept these revenue bonds. I don't think there was any opposition from Pacific Lighting, or anything like that. I think it was the hesitancy on the part of the New York bond market to accept anything new. He was the one who really got them to accept revenue bonds, and their rating went up pretty fast after they got them going. When I was with the department they used to bring out groups of bankers from New York and show them over the system, fly them over to Boulder Dam [Hoover Dam]. I used to accompany them. This was in the later years. This had been done before; quite a lot by the time I came along.

BASIAGO: So what was their trip like? They'd fly over Boulder Dam?

DRISCOLL: They would fly over Boulder Dam and they'd go on up the river and get a scenic shot of Bryce [Canyon] and Zion [National Park] and so on, and then take them into Las Vegas for a night on the town. Then they'd take them up the Owens Valley and fly them clear up over Mono Lake and so on, so they'd get a good idea of the size of the place. They were very receptive. Physically, it had

looked like a good operation, and financially. By that time they had pretty well accepted the revenue bonds and they had a high rating by the time I came along. First there was just water, and then there was Boulder Dam. Well, maybe San Francisquito [or Saint Francis] Dam was built by revenue bonds, but I'm not sure. I shouldn't comment on that because I don't know. I think they were clearly involved in connection with building the Boulder transmission line, which is a rather expensive project from the Boulder Dam over here. That was completed about 1938 [actually 1940]. That was just about the time I came back.

BASIAGO: Did you mention that Robinson's revenue bonds were an innovation throughout the country?

DRISCOLL: That was my understanding.

BASIAGO: How were they an innovation?

DRISCOLL: They weren't used to revenue bonds. In other words, the only security for the bonds was the revenue of the agency that was issuing them. There was no tax liability for the bonds. They were completely separate. If the project failed, the bonds would fail very likely, just like they have up there in Washington where they've had a lot of trouble. I don't know whether you are aware of that or not.

BASIAGO: The WPPS [Washington Public Power Supply System] Project?

DRISCOLL: Yes, that's right. And those bonds are the same kinds of bonds, but that is what could happen. Of course, New York was very dubious about it, but as a result of the success of our bonds and the acceptance of them, why, they branched out around the country. But I'm quite sure we were the ones who started it.

BASIAGO: So these were amortized to the success of the project and the revenue to be produced by the users of the power.

DRISCOLL: Yes, that's right. We would put them out for bid--they would be thirty-year bonds--and the bidders could bid the interest rate. They matured each year--they were maturing through the thirty-year period--and the bidders could bid an interest rate for each issue. There were really thirty issues, and they could bid the interest rates. There would always be at least three bidders, and sometimes five or more would bid.

An interesting sidelight to that was that our people had to calculate who was the best bidder, and as you can see, that could be a little bit of a problem. When I came in, why, Price, Waterhouse [and Company] was taking two or three days to determine who the successful bidder was. Just about the time I came in, the commercial division was using IBM equipment for the commercial work. The people there had worked with IBM on commercial equipment, and they

had developed a scheme for rewiring their computer to do this work. That rewiring took place before the actual bidding, so by then we'd open the bids in New York and they'd phone them to Los Angeles. By the time they were through phoning the five bids, why, then we could tell them who the low bidder was. So I got a very early introduction to the speed at which-- I took the machines--I don't know whether you want to hear this or not--but it took the operators-- We had to have some successful men that would have to rewire the whole machine for this kind of an operation. Of course, they were ordinarily set up for commercial work and they didn't have to make these changes; but when they were doing a different kind of thing, they had to open up the back and completely rewire the inside of it. It took them a couple of days. That's how far we've come since then.

BASIAGO: It must have been a fairly large machine.

DRISCOLL: It was quite large. I've seen them from about here to the wall and like this. We'd open up the back of it.

BASIAGO: About ten feet wide and four feet high?

DRISCOLL: Something like that. Well, we got off the subject.

BASIAGO: It's very interesting that IBM's computer industry was given a shot in the arm.

DRISCOLL: As a result, our people, the Water and Power accounting people, have been pretty close to IBM. I think it was largely in their place that they developed a system for computers for commercial accounts. I have seen that equipment and seen it work. It came in about-- It was pretty late. I can't remember the time.

BASIAGO: So you think the department was pretty central then in IBM's experimentation.

DRISCOLL: That's right. Our people worked with them, and they worked with us. It developed good for both of us.

BASIAGO: You worked briefly on that L.A. G&E case and then you left for China. Your resume lists that that China experience lasted between 1931 and 1936. You were working in the trust department of a local American bank in Shanghai. Not to do "This Is Your Life," but Gilmore Tillman kidded at your retirement dinner that you were working as a "China hand" for Standard Oil [Company of California].

DRISCOLL: That wasn't quite accurate.

BASIAGO: It sounds pretty adventurous.

DRISCOLL: Where did you get that from? Ralph Wesson? It sounds like him. I had forgotten it.

BASIAGO: I don't know my source on that one, but what were you up to in Shanghai?

DRISCOLL: I was taken out there under a little false

impression. I tried to find out all I could about this bank. It was a small bank, really a one-man ownership. He also owned a real estate company and a brokerage firm, and something else I have forgotten. They had decided they wanted to start a trust department out there. A classmate of mine at Stanford was related to the wife of the owner of the bank, and he went out-- In fact, I ran into him one day on the street in Los Angeles. He was from the East. I said, "What are you doing out here?" He said, "I'm going to China." I said, "You must be out of your mind." We chatted a minute and then he left. In the fall of 1931, he wrote and asked me if I wanted to come out on a four-year contract. Well, things were getting a little slow in the United States so I finally decided that I'd go, after a lot of soul-searching. So I went out there and I soon learned that this man wasn't the kind of person you would put a trust account with.

BASIAGO: What was he up to?

DRISCOLL: They accused him of sharp dealing. He was on the outs with a lot of people. I don't think he was. His wife was from a missionary's family, so I don't think he was. He was sharp, but I don't think crooked at all. The people didn't have trust in him. There was just no way of developing this trust. Soon after I came back he decided he wanted to get a little more active in New York, so he

sent this friend of mine to New York to develop a brokerage business there. So I succeeded to, more or less, the administrative responsibility for the trust company, as they called it, which held the other company as a bank. Then I did some trust business, but not very much. That's what I did while I was there. Then when I left, the town had really gone to hell because of the decline in the rate of Chinese dollars against American dollars. The town was really in a state of collapse, so it was really a good time to leave, which I did.

BASIAGO: What was it like when you got there? What was it like for a young American to be living in the Orient?

DRISCOLL: Wonderful. I say I rode the Depression out in style. I was making \$600 in Chinese a month, which was \$150 American. Three or four of us got together and we rented a house and got three or four servants. Two of the boys were young lawyers there with law firms there in Shanghai, and one was a Dutch boy with a cotton firm. We had four or five servants in the house. Lived it up with no problem at all at \$150 a month. I think that is about what the other boys had too.

BASIAGO: Did you save a lot of it?

DRISCOLL: No. I had enough so that I was married over there, and came home through Europe because we figured that times were different and we wouldn't get out of the country

again, so we better make the most of it. So we took a Russian ship to Vladivostok and caught the Trans-Siberian [Railway] train, and were thirteen days on the train, and then went down and through Europe. We could travel and pay our room rent (our pensione rent) and our food for five dollars a day for the two of us. We figured how long it would last, and the first thing we did was get transportation home by ship and then saw how far we could make our money go. It lasted six months, and then we came home broke.

BASIAGO: You were this young attorney with an interest in engineering and had worked for the Department of Water and Power. Did you have any interest in some of the Roman aqueducts that you saw there in Europe?

DRISCOLL: Yes. I saw them. I didn't spend any time on them. We saw them in Spain. We saw them in Italy, but I wasn't that interested in them. My then wife was interested in art so she had no problem. But I had decided that I would work at architecture, so I got a little book on architecture and read it while I crossed Russia. I had a little more of an understanding of architecture. That was really the thing that I paid the most attention to there.

BASIAGO: When you returned to the U.S. in 1937, you resumed your employment with the department's legal

staff. My research shows that the first important case to come along, which was in 1938, happened to be the Natural Soda Products Company's suit [Natural Soda Products Company v. City of Los Angeles] against the city and the department. Were you directly involved in that case?

DRISCOLL: No.

BASIAGO: Who was?

DRISCOLL: This Sam Poorman that I have mentioned, who had formerly been with L.A. G&E, had been the principal one, and he was assisted by another man. I can't remember his name. My memory has really gone bad, and it really makes me nervous. It seems it quickly started to go. If you want to catch me this will probably be your last chance.

BASIAGO: Why don't I help you out a little bit then? I did some research on the case. Perhaps this will jog your memory.

DRISCOLL: He was a very smart man.

BASIAGO: Here's a brief summary of the case and its resolution. It came about as a result of an unusually wet winter in 1937. This had caused more water than normal to be poured into the Owens River, and thus more than the aqueduct was capable of carrying south to Los Angeles. At that time, the Long Valley Reservoir hadn't been constructed, and San Fernando Valley fruit growers had been complaining that borax-charged water from Long Valley was

harming their crops.

DRISCOLL: I remember that.

BASIAGO: So the city couldn't store the excess water from the very wet winter there, but instead decided to waste the floodwaters into Owens Lake. The lake had been dry since 1924 as a result of the city's diversion of its natural inflows to the aqueduct. In the intervening years, a firm owned by Mr. Stanley Pedder, the Natural Soda Products Company, had placed a plant in the lakebed. Is that starting to--

DRISCOLL: Sounds familiar.

BASIAGO: The city dumped apparently 50,000 acre-feet of water into the lake in 1937, and about four times that the next year. By December of 1937, Pedder filed suit to recover his damages and enjoin the city from continuing its depredations against his commercial operations. The trial court in Inyo [County] awarded his company \$154,000, upon which Los Angeles appealed to the state supreme court. But by that time the supreme court had rendered its judgment. That is, by 1943 Pedder had persuaded the [California] State Lands Commission to join the suit for the recovery of royalties the state had lost from the destruction of his works. How did he get the state to endorse his case? Do you remember that angle?

DRISCOLL: It was a separate case. First of all, the

attorney that was assistant to Poorman was Bob [Robert] Moore, but the attorney that ran the state case for us-- He's the name I can't remember. I think the state just filed a separate case for their losses.

BASIAGO: They were doing some politicking there, though, to--

DRISCOLL: Yeah, I think they just probably thought it would reinforce their case if the state also filed. And certainly, if it damaged the lessee it would be damaging to the lessor, if the rent was based on production. You can see that tie very quickly, if that's what it was.

BASIAGO: Was that an innovation in legal strategy--this combination of a private businessman and a state agency suing a municipal utility?

DRISCOLL: I have never heard of one before or since. The facts were just like you have stated them, and I don't recall a similar case.

BASIAGO: This was an interesting case from that angle.

DRISCOLL: That's right.

BASIAGO: The city's first strategy for addressing Pedder's original suit was to claim that he hadn't acted promptly in filing his claim against the city.

DRISCOLL: That's standard practice. [laughter] If there is any basis for it at all. There was a time limit, so then it was a question of when the six months started to

run. I think you have to file within six months, and he probably hadn't.

BASIAGO: Do you recall what his next step was?

DRISCOLL: No.

BASIAGO: The state supreme court rejected this argument out of hand, pointing out that Pedder had been unable to even secure access to his facilities to begin calculating his losses until the waters had subsided in October. But it wasn't reasonable that he had filed so late. Let me summarize Los Angeles's defense. The city's defense came to rest upon an interpretation of its duties under the constitutional amendment of 1928, which in part had been adopted to protect other communities from the economic plight that Owens Valley had encountered following the construction of the aqueduct. The Los Angeles attorneys compelled the city to act under the 1928 provision, even though this meant the destruction of one of the valley's last surviving industries. Would you agree with that interpretation?

DRISCOLL: I don't know that I agree with it. I'll put it that way. [laughter] I don't know that much about it to agree with it.

BASIAGO: It was arguing that it was required under the constitutional amendment to put water to a maximum beneficial use, and if it couldn't, to conserve it in a

most beneficial manner. So it said we're sorry that we have to ruin this man's business in the dry lake bed, but we're doing what we're honor bound to do under the constitution to conserve water.

DRISCOLL: Yes, that sounds familiar. That's right.

BASIAGO: Who developed that legal strategy? Was that Mr. Poorman? Or did that come from the executives?

DRISCOLL: No. Robinson was still head of the system, and I would credit the two of them for figuring that out if it hadn't been done before. The concept sounds familiar, but I don't remember it being discussed otherwise in this case.

BASIAGO: I was wondering if this case had been generally discussed in the water executive's office or the general manager's office because it had such an impact on what the department does with its water.

DRISCOLL: It may well have because management of the water would have been the management's responsibility, so I imagine that was gone into pretty thoroughly to see if there was a basis for that defense.

BASIAGO: Even though the department made that spirited defense--placing its need to conserve water over an individual operator's business in the dry lake bed--the argument was struck down by the state supreme court, which held that someone who has made substantial expenditures

relying on a long-standing diversion of water by another has a right to see that diversion continue, if his business would otherwise be destroyed.

DRISCOLL: Yeah, I remember that principle coming up. That was what decided the case.

BASIAGO: The idea that diversion is something that has to be honored just as conservation is.

DRISCOLL: Once you have done it, you can't just switch it on and off.

BASIAGO: Did that restrict the department's ability to honor its past patterns of water diversions? It seems like once it set a precedent of letting an area go dry, it had to leave it that way, if businesses or homes had been established there.

DRISCOLL: I assume that subsequent to that case they attempted to conform to the requirement in that case. It was a sound position I think. Once they had taken away the water from the valley, so to speak, they weren't required to return it, and they had the right to only take what they needed because that's what the use determined.

BASIAGO: You are saying that the department thereafter sought to leave dry areas that had been made dry by--

DRISCOLL: No. I was just talking generally. Once you have established a right, by passage of time it becomes a permanent right. That is what the department was arguing,

but that didn't apply in this case. They still had the right to treat it as though it was permanent and not just at the whim of the department to divert the water. This was a new principle, I think, as far as I can remember.

BASIAGO: So, in other words, once they left the lake bed dry, they couldn't decide to revert and put water back.

DRISCOLL: That's right. Even though they probably argued that it was an act of god that they had to do it.

Otherwise they would have had no place to put it. They had to put it some place.

BASIAGO: Did you hear any talk in the department at that time? Did the other side claim that there were other places to put the water?

DRISCOLL: No. I don't remember that much detail about it.

BASIAGO: I read in the case the court concluded that the city did have other options for wasting the water, in ways that would be less destructive to other natural resources. Can you think of any?

DRISCOLL: Well, they probably could have dumped it in the Los Angeles River.

BASIAGO: What would have been the impact there?

DRISCOLL: There was no direct channel from the aqueduct to the Los Angeles River. There was a reservoir at San Fernando which was really the end of the aqueduct, and I don't know how close that was to the channel in the Los

Angeles River. It is up there in the northern end of the Valley. I don't remember that there is any channel out of it. The city probably didn't see any reason for adding one.

BASIAGO: The outcome of the case was that Pedder was awarded his damages, and the department was compelled to administer flood control in Owens Valley from thereafter. In a way, was this a victory for the department, in the sense that it legally legitimized their taking of water from the valley?

DRISCOLL: It probably was to the extent that if there was any question about it, that would settle it. There was never any legal objection from the people in the valley. They were just mad at the department for buying up the pieces of the water rights, and then the remaining people were unable to farm and so on. As a matter of fact, they never farmed very much. I know that because I got into the assessment cases later.

BASIAGO: Which we'll talk about. Mona Osborne, whom you worked with at that time, mentioned the fact that the valley was never a Garden of Eden or a land of milk and honey in terms of agriculture, but was rather an area of patchy agriculture.

DRISCOLL: One thing I remember that they told me--a fellow engineer that was quite familiar with the valley. They

only get about two crops of alfalfa a year, whereas down here in the Imperial Valley they get four or five. That is what he told me. Then they have hot, dry winds in the spring which pretty well take care of any potential plants that are going to require more water and less heat. They just dry up everything. So the ability to have fruit orchards or other things that they claimed they had, they just didn't have. That's what I mentioned to you the other day about the fellow named Shuey who had been up there in those early days. We got him to come up to Independence-- he lived in Nevada--and make a map of what he remembered that was growing in the valley at the time of the buying up there. Mona worked with him a little bit on that. We never used it, because they settled the matter and got the constitutional amendment through before we could use it. So we never had a chance to use it. But that was going to be our attempt to prove that their ideas of value up there in the valley were greatly exaggerated. That case is a little bit hazy to me.

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BASIAGO: You say that Natural Soda Products Company case will--

DRISCOLL: The specifics. I know the general theory of it and the way it was handled, generally, but it is the specifics that are hard to handle.

BASIAGO: It turns out that Pedder won a new state statute in 1945 which prohibited L.A. from wasting excess Owen Valley and Mono Basin water, and forcing it to apply the water to the restoration of L.A. agriculture. Do you think that the department had an interest in wasting it rather than letting the remaining farmers use it to irrigate?

DRISCOLL: No. I don't think so. Of course, what the department wanted was to bring down what water they needed, when they wanted it, and the rest of the time not to bring it down. I think their position was that simple. To the extent that other requirements were trying to be put on them, they would resist them. Of course, in recent years they've had this argument about the department pumping water out of the valley in dry years. I don't know if they finally settled that or not. I don't know how that finally ended. That was after I left.

BASIAGO: It seems that to protect his Natural Soda Products operation there in the dry lake bed, Pedder was

trying to force the department to give the water away to farmers rather than waste it. Could it be that the department feared that if it had let some farmers use the water it would never get it back?

DRISCOLL: Yeah, I would say they would.

BASIAGO: Just because of the doctrine-- What doctrine would that be, appropriative rights?

DRISCOLL: Yeah, well, it would work backwards to what Pedder based his case on. The fact that they hadn't done it for a long time gave him the right to insist that it not be done. If the department turned around and started allowing the valley people water part of the time, they could maybe reach the place where they were going to argue that they were entitled to it permanently.

BASIAGO: So the department would have been caught between a rock and a hard place.

DRISCOLL: That's right.

BASIAGO: Having to keep dry those areas people wanted dry, and keep wet those areas that people wanted wet.

DRISCOLL: That's right. And still bring all the water down here that they could get.

BASIAGO: You are saying you don't know of any other options it had for wasting the water, at least geographically?

DRISCOLL: No.

BASIAGO: Might we say that the decision and the department's actions were an example of "use it or lose it"? That in a sense they were using the water by wasting it?

DRISCOLL: Yes. That's right.

BASIAGO: They just wanted to maintain property of it, so to speak.

DRISCOLL: Yeah, so they could fluctuate their consumption for delivery down here.

BASIAGO: Do you think that in any way this case and its outcome marked a departure in the department's treatment of the valley?

DRISCOLL: I don't know that it has. I thought when I was going up there that, as I mentioned the other day, if you talk to the old-timers they will say that it was a good thing that the department bought up the land up there. But I don't think you'll ever see that in print any place. It kept out the tract development and trailer parks and all that kind of thing. And they are very happy with the valley not having grown in population. They like it the way it is.

BASIAGO: You talked to individuals up there back in the thirties and early forties and they had that opinion?

DRISCOLL: Yeah, once in a while over a drink you could get them to loosen up. They are really fine people. They

didn't have anything against the DWP people personally. They were very pleasant to our own people. We had a good man up there for years. His name was Sid [Sidney L.] Parratt. He just died here at Leisure World a short time ago. He got along with them very well. He used to get mad at them once in a while, but, generally, they got along all right, and he understood them. His wife was a longtime resident up there, and I guess they were married after Sid went to work for the department. She lived here until about two or three months ago, and she's moved up to Claremont.

BASIAGO: You mentioned that if you lubricated the valley residents a little bit with some alcohol they would take a slightly different position, in terms of the department and the state--

DRISCOLL: No. I don't think that is true. I think that they were friendly people. In a social way that would destroy their cross purposes.

BASIAGO: That's what I wanted to investigate. This has come out in several of the other interviews. The idea that, on the surface, some of the valley residents continue to express umbrage about what had happened, but that many department people contend that, in fact, in their heart of hearts they were kind of glad the way things had happened. Why do you think that they continued acting

slightly angry about what had happened? Was it a matter of pride?

DRISCOLL: No. I think that was a public feeling-- newspapers and the [Inyo County] Board of Supervisors and so on. Mona could have given you the best idea on that of anybody I know. Did she comment on that at all?

BASIAGO: Yeah. I don't know if this was in an interview, but other people whom I've talked to in the department have mentioned that, in terms of the feelings of valley residents, those nearest the river (who were paid handsomely for their land by the department) were only alienated if, and when, they lost their money in the failure of the Watterson bank [Inyo County Bank]. But up until then they were happy and they made a good profit on their land, and were leasing it back at reduced prices, in terms of the prevailing rates for rental property. Let me ask you about that. Was it true that those who had sold their family homesteads--in many cases, ranches--were allowed to lease it back at a lower rate than was prevalent?

DRISCOLL: I don't know. I can't say for sure. But I do know that--I think I mentioned it the other day--a lot of them lost a lot of money in the bank failure, which had nothing to do with us, but nevertheless, they blamed us for leaving them stranded. I think that those who lost their

money certainly felt that way, but those that didn't-- The cattle people have always been friendly when I've been up there. I've talked to some of them. And it is cattle country; that is what it ought to be. They'd haul their stock up to Bridgeport in the summer, and the grass is knee-deep up there. Then they'd haul them down to Owens Valley in the winter. They used to do that regularly and make lots of money--as long as the price of beef was high.

BASIAGO: Do you think the fact that the aqueduct had prevented the area from becoming a big metropolis probably helped their rangeland interests?

DRISCOLL: Yeah, they probably haven't been encroached on as much. They would be inclined to take that position, I think.

BASIAGO: Another group that Mona and others have talked about are business owners whose businesses in the cities were harmed by loss of population. That would be another group that was angry.

DRISCOLL: They would be unhappy if there weren't more tourists. They want more tourists, more people, more customers. They want more permanent customers, so they are the ones, probably, who wouldn't say that they're happy with the way the department has owned the land and kept control. They'd like more people coming up and moving up there.

BASIAGO: Did you personally know any business person there who made a transition from some business focusing on valley insiders to the tourist industry?

DRISCOLL: No. I don't remember any.

BASIAGO: I've been unable to locate a history of anyone who was running something to do with valley industry that later got involved in the tourist traffic.

DRISCOLL: No. I can't remember anyone. The only one I know of is [David] McCoy. He started Mammoth. I think I mentioned before, he just had a rope-pull up the side of the mountain up above Bishop someplace, and he gradually developed more and more from there.

BASIAGO: In terms of the development of the tourist industry in the valley, do you believe it was conducted primarily by valley insiders, or did outside entrepreneurs capitalize on the situation?

DRISCOLL: I don't know. Of course, the building of Long Valley Dam certainly increased the tourist industry. I think that's probably the one thing that has done the most for the valley without them having a lot of people scattered all over. They come up the first of May and practically take over the whole area for a few weeks.

BASIAGO: When was the first time you went to the Owens Valley?

DRISCOLL: Well, I came through there on my way back from

Stanford [University], when I was finished. I wanted to see some of that country which I hadn't been able to have time to see when I was at Stanford. So I left Stanford about four in the morning and drove up to [Lake] Tahoe, and then came down the other side and went through the Mono Basin. By the time I got down to Mono Basin it was dark. I had dinner in Bishop and then drove on through home. That was the first time. I saw very little of it, but I just wanted to get "a squint at it," because I wouldn't be going back and forth to Stanford many times soon. I had a friend come with me who wanted to come down to Los Angeles, so I had company. But then after that, I wasn't up there again until-- Let's see, when did I start going up there? I don't think until I got involved in these assessment cases.

BASIAGO: Well, why don't we talk about that. Just to jog your memory a bit, I've done some more research. I hope I don't take up too much of the interview. Ever since they began to sell town lots in the Owens Valley in 1939, the department had given preference to the original leaseholders. In many cases, these were families who had sold their property to the department around the time of the construction of the aqueduct. In 1944, however, the department reversed its policy and announced that henceforth all lands offered for sale would go to the

highest bidder in a sealed bid competition. Is that an accurate characterization of what happened?

DRISCOLL: I can't say for sure.

BASIAGO: When the valley residents protested, the city responded by increasing the rents on all its properties in the Owens Valley, effective January 1, 1945. This sparked the ire of an Inyo County State Senator, Charles Brown, who rushed through the legislature a bill requiring that the city give its leaseholders first option on the valley properties it offered for sale. In other words, revert to the former policy.

DRISCOLL: Yes.

BASIAGO: Mona Osborne mentioned that you had worked some in the lease program, or in the subsequent case against the department. What was your involvement?

DRISCOLL: I don't remember that. I thought the only time I was up there was in connection with the county tax assessments, where they'd put a value on the property for tax purposes.

BASIAGO: Oh, I see. I thought she had said that you had.

DRISCOLL: Well, I may have. I don't remember being up there before that. On the leases? No, I don't think so. I think that must have been somebody else.

BASIAGO: I guess in these years you were involved in the war.

DRISCOLL: Yeah, I was gone from December, 1942, to the end of 1945.

BASIAGO: So your involvement with the whole assessment situation up there was much later.

DRISCOLL: That's right.

BASIAGO: When did that begin? That was already in the sixties then, right? Early sixties?

DRISCOLL: It might have been. I thought it was in the fifties, but it might have been the sixties.

BASIAGO: Okay, you're speaking then of the years between 1946 and 1953, where the assessment issue became a state issue. Let's just go back a little bit to this question of the department selling valley property at auction. Do you recall hearing about that when you came back from the war?

DRISCOLL: Yes.

BASIAGO: That furor. What was the talk in the department about that?

DRISCOLL: I wasn't involved in it. I just know there was talk about it. I can't remember anything specific about it at all.

BASIAGO: Because, apparently, three hundred homes were sold away from the original owners in a closed auction.

DRISCOLL: I wasn't involved in that at all.

BASIAGO: Then the department was actually forced to revert to the original policy. I realize you were overseas, but

do you think that during that time, getting into the war and postwar boom, that the department's policy changed in relationship to the valley? That they were now trying to draw more revenue out of the land itself there?

DRISCOLL: They used to lease a lot of the land to the cattle people. That's why they are on such good terms with the cattle people. They worked very closely with the cattle people up there. I wasn't involved in it, but I just understood that. I think I met some of the cattle people up there with Sid Parratt, and I concluded that they were getting along pretty well together.

BASIAGO: Is it possible that when they were selling these properties, this would be just from more rangeland? Were the cattle people, financially, in a position to dominate the situation? Buy up those--

DRISCOLL: No. I don't see why they should want them. If they wanted rangeland, they just rented it from the department. And they were very happy with whatever they were required to pay. Of course, to the department it was just gravy. I thought that that was pretty much the arrangement that they had. The cattle people didn't care whether they owned it or not, just that they could use it part of the year. That was my impression.

BASIAGO: It would be interesting to research to see who actually bought up those three hundred homes, for instance,

before the department was forced to revert to the old policy. Now, you mentioned that some of the old-timers that you met up there were happy, in terms of the department's involvement in the valley. Is it possible that this incident sparked some latter-day enmity between valley residents and the department? In other words, that some of the bad feelings that had been created by the Watterson bank failure had probably settled down pretty much, and that this kind of resurrected the bad feelings.

DRISCOLL: Well, the editor of that paper up there--I've forgotten his name--he kept things stirred up all the time. I mean he was just trying to keep them stirred up, and he was successful to a great extent. So I would say that it was largely the [Inyo County] Board of Supervisors and the newspaper owner that were keeping this thing boiling. And only to the extent that the supervisors were interested in staying in office did they feel that it was worthwhile to take this position antagonistic to the department. When it came up, they figured one way to do it was to increase the assessments and taxes on the land. I don't think that was a public surge. I think it was the management of the county that was doing it. Of course, I've never seen a board of supervisors yet that didn't want to get more money if they could.

BASIAGO: Was that Willie [William] Chalfant, the editor--

DRISCOLL: That sounds familiar. Probably.

BASIAGO: --of the Inyo Register. I was just wondering if you felt that there had been cycles of hatred and then good feelings.

DRISCOLL: That's my feeling about it.

BASIAGO: And you think it was primarily a political football that was being kicked around?

DRISCOLL: Yes. That's right.

BASIAGO: Let's talk then about the case between 1946 and 1953. You spent six summers appearing before the [California] State Board of Equalization arguing for-- What was it?

DRISCOLL: Reduced assessments. They were assessing at too high a value. I think we were right on that. The county had apparently started jacking up the assessments about that time, to the point the department wanted to dispute them, so we took it to the state board of equalization in Sacramento. They were our only place of appeal. That was under the statute which permitted the department to-- Where would that be? Well, there was a provision that I told you about before, in the constitution, where they said that property which had been taxable when acquired by a public agency, why, the public agency had to continue paying the taxes on it while the property was outside the boundaries of the public agency. They were taking advantage of

that. Their attorney, Morris Doyle--his father was a doctor in Bishop for many years, so there was a tie-in. I mean, if they went to somebody. He was practicing in San Francisco and a very competent and well-known lawyer. He was the one who may have thought this up. I don't know. He was very successful, I'm sorry to say.

BASIAGO: I want to clarify the issues. What was the state saying, and what, essentially, was Los Angeles saying?

DRISCOLL: Well, the county was raising the assessment value on all of the land that Los Angeles owned up there; raising the assessed value. The statute which said that property was taxable if it was taxable when it was acquired, provided that there was an appeal to the state board of equalization-- Ordinarily, if your property is overassessed you appeal to the board of supervisors. I think that is the way it goes.

BASIAGO: Oh, I see. So it was a county-city fight.

DRISCOLL: That's right. We tried to get the assessments-- the increases really--taken away. And tried to get the state board to take that position. They rarely did it. Once in a while they would be impartial, but they would generally blanket the whole thing. They wouldn't pay any attention to any of our testimony or any of our witnesses.

BASIAGO: So in your appearances you were trying to validate and document some rationales for freezing it at

its original rate.

DRISCOLL: That's right. That value had not risen.

BASIAGO: The value, if it was sold.

DRISCOLL: Yeah, that's right.

BASIAGO: What kind of evidence did you muster? Were you creating any maps or doing any research?

DRISCOLL: Well, we had an appraiser who would appraise the properties. Normally, when you have a valuation question you get an appraiser. That was the main testimony we had. We were using our own appraisers, which wasn't a very good idea. I kept grumbling about it and finally East Bay Municipal Water District had a very competent appraiser from Milwaukee who had been successful for them. We hired him, and then we began to have a little success. Toward the end we were having quite a lot of success, and he was largely responsible for that. I can't remember his name.

BASIAGO: I want to mention that you only had six weeks to prepare for your appearances before the state board. Why six weeks?

DRISCOLL: The assessor had to file his roll on a fixed date, which we'll say is the first of July, and then that's when they would first find out what the assessments were going to be. Then the hearing was some time in August. That was the time we had to muster our forces.

BASIAGO: Were these all-day sessions a very grueling

experience?

DRISCOLL: In Sacramento?

BASIAGO: Yeah.

DRISCOLL: Yeah. They'd usually last about three days, or something like that. Sometimes it would run pretty late because none of us wanted to stay there.

BASIAGO: How can you describe the compromise that was reached? The department didn't really get everything that it wanted, but it did get a reduced rate. How was that compromise worked out between the state board of equalization and your team?

DRISCOLL: I don't know. It's just like you have a jury trial, and you get a verdict.

BASIAGO: The verdict was from them. There wasn't much bartering then?

DRISCOLL: No, no. Not with the board. It was handled just like a trial. The whole board. Five members listened to the evidence and made a decision. [Alan] Cranston was on the board all the time.

BASIAGO: Let's talk about him a little bit later. How did the resolution occur? Because the state board didn't fully reinforce the county's position.

DRISCOLL: A little bit, but not very much. They might have knocked a little off, but it was not enough to make us happy.

BASIAGO: Was that where the Phillips formula was developed? Bob [Robert V.] Phillips was later included in the state constitution?

DRISCOLL: We finally agreed to get together to see if we could agree on a formula. I went up there with Bob, and-- Anyhow, he was talking to some of the supervisors. I have forgotten how it originated. Then developed the formula, and they thought it was a good idea. So then we drew up the language, and their attorneys were in on it. They were always wanting something added. We'd think we had the thing all set, and then they'd want some more restrictions of some kind. That was true even while the bill was in session up there at Sacramento. They nearly drove us crazy with minor changes at the last minute. But it was finally agreed to.

BASIAGO: So you were negotiating and toughing it out with the county's staff.

DRISCOLL: That's right.

BASIAGO: Across what table? In the presence of the state board of equalization?

DRISCOLL: No, no. This was in connection with another act. This was solely in connection with getting a constitutional amendment before the legislature that they would agree to and we would agree to. So the main contestants wouldn't be fighting. We thought every time we

had a meeting with them that we had it all settled, and then they came up with something else. We were giving in even while the thing was in the state legislature and getting modified. We were up there two or three weeks, I think, making these changes. We thought we were all set, and then they would come in with some other changes they wanted.

BASIAGO: That was what? Were you working for the compromise into the early fifties?

DRISCOLL: I think so. No, it must have been later than that. I can't be sure.

BASIAGO: Mona Osborne mentions that she, or you, or someone, was constructing a map showing where the original alfalfa fields were.

DRISCOLL: That was what Shuey was doing.

BASIAGO: And orchards in the Owens Valley?

DRISCOLL: Yeah, yeah.

BASIAGO: He was your man from East Bay Municipal Water District?

DRISCOLL: Yes. He had formerly been with the city way back in the beginning. He filed a lot of the early filings on the water rights up there. It was that far back. He must have been eighty when we got him over from Fallon, Nevada, where he lived. He worked up this map. We had it all set to use. Another man in our office was working on

legalizing this map. I don't know how to put it. "Red" [Omar] Lloyd. He was working with me on that so it could be put in as evidence. We wanted it in affidavit form because we didn't know how long Shuey would live. That was another thing we were concerned with. He was healthy, but I think he was at least eighty-five. We were trying to get this matter of evidence so it could be used. That's what we were doing. Looking to the future.

BASIAGO: Oh, I see. You were documenting back to what, 1905, and prior to the aqueduct, say, 1913?

DRISCOLL: That's right. That's the time we bought it. What was there when we bought it. That's what it was. He was a land man from the department. I don't know what capacity you would call it, but he was up there on the department payroll looking after department dealings with the people in the county and so on. He was very familiar with where everything was planted and how much it was. We were trying to get that on record so we could have it if we needed it.

BASIAGO: So your assessment case would have been helped, would it not, by some documentation that agriculture had been harmed in the valley? For instance, if there were larger stands of alfalfa and fruit orchards before the aqueduct was built, the value of the land would have decreased. Was that part of the strategy?

DRISCOLL: That's right. No, no. You've got it backwards, haven't you? If they said the land was good alfalfa land when they sold it to the city--well, they couldn't grow alfalfa. They couldn't grow four or five crops a year. They could only grow two. So it wasn't comparable to any other alfalfa land that you could look at. We were wanting to establish that you could only get two cuttings of alfalfa. That was the general theory of it. And also in connection with fruit trees and garden crops--that these winds which would come through there in the spring make it impossible to get decent crops from it.

BASIAGO: Your map was documenting what was really there and what wasn't there, and what they were claiming--the bountiful agricultural region that it was or wasn't. You mentioned the winds as one environmental factor that restricted agriculture in the valley. Were there any others that you relied on?

DRISCOLL: That's the only one I remember. They might well have had early frosts which would interfere.

BASIAGO: Let's talk about revenue-bond financing. When you first worked at the department, we've discussed that you worked for S. B. Robinson, who had been tutored by W. B. [William Burgess] Mathews, the original attorney and financial organizer for the department. So, you were really third in a line there then. From Matthews to

Robinson to you?

DRISCOLL: No, no. I was never in charge of the department. [Gilmore] Tillman was in charge of the department. I mean in charge of the legal division. All of the-- What do they call it, senior assistant? Chief assistant. Chief assistant city attorney for water and power. When I retired, I was right next to him.

BASIAGO: One of the things which I've discovered in my research about revenue-bond financing of the department's projects is that it never lost a revenue-bond campaign. Is that true?

DRISCOLL: Yeah. That's true. At first the people had to vote on these bond issues when they started. It required a popular vote for the bond issue. Even though it was a revenue-bond issue, the people had to vote. Then finally, I can't remember when it was, they put a provision in the charter that the bonds could be issued with the approval of the [Los Angeles City] Board of Water and Power Commissioners in the city council. They dropped out the popular vote.

BASIAGO: Why was it originally required?

DRISCOLL: Well, probably just-- Well, I don't know. I remember those early bond issues even before I was in the department. It may have been that the city didn't want to permit the bonds to be issued without popular approval.

Normally, a local bond issue like that was subject to a bond election. This would have been an innovation, and they apparently at first wouldn't buy it and then they finally did. Actually, in some ways they didn't want to bother with it because there was so much activity in the department. I don't know. It was interfering with the city. Anyhow, they gave the department a lot more independence than it had originally.

BASIAGO: When did that change come?

DRISCOLL: That was probably pretty early. I can't say. I don't know when it was. The new charter was adopted in 1925, and I don't know whether it was in there or not, or whether it came later. I know we had amendments from time to time while I was there, charter amendments for one purpose or another, but I don't know when it was. Sorry.

BASIAGO: Would city taxpayers assume the debt for a project that failed?

DRISCOLL: No.

BASIAGO: Who would have paid? Independent lenders?

DRISCOLL: No, there wouldn't have been any relief. The bonds were payable by the department, as a legal obligation to the department. And only to the extent that the department had funds would they be paid.

BASIAGO: So Robinson's work was very fortunate for the department?

DRISCOLL: Oh, yes. He did a very good job. He got something that New York would accept and sold it.

BASIAGO: Essentially, would you characterize it like this: He got them to say if you have faith in our team, we're going to build successful projects, and more and more of them, so you have nothing to worry about. Is that the kind of approach you took?

DRISCOLL: That's right.

BASIAGO: Would you say that one of the reasons the department has always had such success in its water-delivery products was this kind of support it had?

DRISCOLL: Yeah. It is suprising, but people never fought it. They just felt it was a good proposition, and whatever they did was all right.

BASIAGO: One thing I find interesting is that if we compare water delivery to sewage treatment, in terms of the issue of revenue-bond financing, we find that the Hyperion Treatment Plant has many times not gotten funding, or not had a successful outcome on its initiations of revenue-bond campaigns or actual bond elections. Why do you think that is? That the city voters have always--or the commissioners, or the city council--have always funded the department and achieved expanding amounts of water delivery, but the sewage treatment part of the city's operations has had more of a rocky history.

DRISCOLL: Well, I think it is because the department is selling a marketable product and has demonstrated from the start that it was capable of raising enough money by its rates to take care of the bonds, and the council didn't have to worry about any expense or taxes, or anything else. Whereas the Hyperion plant, for instance, provides no revenue at all that I know of, and its support has to come out of tax money. I think that would be the difference.

BASIAGO: So, one is the fact that water is a commodity and a profit can be made from it. Sewage is a burden.

DRISCOLL: There was quite a bit of complaint about the Water and Power Department not paying any taxes. There was no way of taxing that one department. About the time I came in, in 1938, the mayor and the council and the department agreed that the department would pay to the city the equivalent of what the city would have gotten if we were privately taxed. As I remember, it was 5 percent of gross revenues, or something like that. That money has gone over to city hall ever since, and it is getting to be tremendous, as you can imagine. I've never heard any discussion of this subject since it first went in, because the people in the city hall are satisfied that they are getting all they can get out of us. Because if we were a private utility, this is what they would get. I think it

was 5 percent, and I don't know if it is the gross or the net, but I think it is 5 percent.

BASIAGO: Five percent of \$24 billion a year is still a lot of money.

DRISCOLL: I don't know how much it is. I get the reports. I've got one if you want me to check it for you.

BASIAGO: Would you ascribe the department's history of successful bond campaigns merely to the faith of voters, or were there other reasons? Did it just have a very successful campaign apparatus?

DRISCOLL: Well, first of all, in the beginning they had a very dedicated bunch of employees. They had a [Water and Power] Speakers Club, and whenever there was a bond issue, they would be out beating the drums all over town. I used to do it. An interesting thing happened on that. I had been there just a very short time when that proposal came up of "\$30 every Thursday." I don't know if you would remember that anyhow. I've forgotten when it was. I'd heard about it a little bit from my parents, but not very much. The old people were all very hot about it. One day Mr. Robinson called me in and he said we have a speakers group here, a group of employees that goes out on bond issues, and we want them to go out and propose this proposition. They wanted somebody from the legal division to explain this proposition. It was nearly five thousand

words. I nearly fell over dead. He said, "Do you know anything about it?" I said, "Yeah. My parents have been talking about it." He said okay. I was amazed at this.

They had the meeting. There must have been 125 to 150 employees there. They called the roll to be sure they were all there, and then I started explaining this proposition. They asked some very tough questions. This went on for about six weeks; once a week for about six weeks. I remember, particularly because I was having a little trouble with carbuncles at the time, and they are very painful, and it was during the summertime. When we got all through and started out beating the bushes, why, the man in charge of assigning people to make speeches called me in, and I said I had done my work and I wasn't going to do any more. In about ten minutes Mr. Robinson called me in. It was from Ted Wheeler, who later became a good friend of mine from this club, to [Ezra F.] Scattergood, to Robinson, and to me. So I was out speaking on it. We always received a very good reception, except from some of the older people. After this happened they asked us all to join, so I did.

BASIAGO: What was it called?

DRISCOLL: The Water and Power Speakers Club. They had a fiftieth anniversary last year, so a bunch of us went. There were a lot of old-timers there. They don't do much

anymore. If somebody wants to talk about water, or something like that, they are qualified to do it, but we haven't had any campaigns for years.

BASIAGO: Describe, just for the historical record, what the "\$30 every Thursday" was.

DRISCOLL: They figured out that they would hand out scrip to, I guess, just elderly people. Nine to thirty dollars. They could buy groceries with it, for example. Then the grocery store would have to put some stamps on it, and they could pass it on to somebody else. If it went through enough hands, then by the end of the week there should have been enough money to break even on it. I'm not explaining it very well, but that is the rough idea. This scrip was to be valid for paying public debts, like taxes and so on. It looked like a financial disaster. So we were out there beating the bushes, and they killed it. It was killed, I should say. We must have had something to do with it, because we sure were making a lot of speeches against it. My mother's friends were mad as hell at me for doing it. They were their age, and they thought that it was going to give them a lot of help.

BASIAGO: Where were some of the places that you would speak?

DRISCOLL: Service clubs, principally. Kiwanis, and Lion's, all those civic clubs. To some extent, we would

get into groups and institutions. I don't know about the \$30 every Thursday, but good supporters of the city and the department would tell us to come in and talk to their employees and so on. We had very good entrance to any place like that that was reasonable and practical. We had a good reputation.

BASIAGO: Was the campaign money for bond elections donated many times by employees? Were there internal drives where they would take a dollar or five dollars from your paycheck? How much money would be donated usually by the average department employee during those bond-election campaigns?

DRISCOLL: I don't know about bond-election campaigns because we haven't had any that I can remember.

BASIAGO: I was thinking back to the forties and fifties.

DRISCOLL: No.

BASIAGO: I thought I found some articles in the department library where young employees were asked to speak to college students, and also employees were knocking a few cents or dollars off their paychecks. Did that ever go on to finance the campaign?

DRISCOLL: Yeah. They did that right up to the time while I was there. They used to work it through the employees association, and for anybody who wanted to donate they could arrange for them to take it off their check or else

pay cash; whichever it was. The last one we had that I was there on-- Now this was after I had just retired. City hall had dreamed up a new charter. There was a dispute between [Samuel W.] Yorty and the council about the division of power between the mayor and the council.

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DRISCOLL: A new charter had been drawn up by the city council people. It reduced the powers of the mayor, Mayor [Samuel W.] Yorty. There was quite a feud between them about this. But it also reduced some of the civil-service rights of the employees, and there was something else in there objectionable from that ground. I retired on May 1 [1970], I guess, and I had read about this charter so I called up one of the boys in the office and asked them if I could get a copy of the charter. I was kind of bored. I went clear through it and prepared an elaborate summary of the parts that would relate to the department [Los Angeles City Department of Water and Power] or to its employees. And there were a couple of very unfortunate things for the employees. So I sent it in. Normally the general manager of the department would start the ball rolling for employee deductions, and try to give a blessing to the whole thing. We had a very nice guy who was general manager, but he was gutless, and he'd have nothing to do with it. So we got a group together, about half a dozen or a dozen former general managers, and Bob [Robert] Lee, and some others, and we decided that we'd go ahead with it anyway. We got permission from the board, I guess, for deductions for employees to pay up-- Oh, that was run by the employees

association. They took care of getting that money. Then we did something that we had never done before, because we didn't have a large internal organization to campaign, because there wasn't the board right back of it, or the general manager, either one. But they permitted. So we got enough money together to hire an outside man to run the campaign. Then we got a former commissioner--he just died the other day, Duncan Shaw, former president of the board--to be our citizen representative, and the committee was formed under him. We went out and beat the bushes, and then we had enough money for a radio and TV campaign. Because I had started all this, I got stuck with most of the work. They wanted Duncan Shaw to sign something or do something, and he would say, "What would Driscoll say about it?" So I was busier than a cat on a tin roof there for about six weeks, but we beat the charter, much to a lot of people's satisfaction. But this group of retirees were really the ones responsible with working with the employees association; and because it involved personnel matters, that, in fact, was why there was no problem in getting that to work. But it was really funny. After I had done that--I was just busier than hell--I could retire a lot more comfortably.

BASIAGO: It seems that this story is another one that brings out the fact that the department has an unusual

degree of esprit de corps. What do you think contributes to that? Here we have them contributing a small portion of their salary to bond elections, volunteering their time after they retire to help the department's interests. Why is that?

DRISCOLL: Of course, originally, back when they were fighting for their lives on these bond issues, they were first going to go to the people. It was established then, and they never lost it. I guess that's the best way I can say it. Any time any problem came up, why, with this "\$30 every Thursday," they were out there protecting their salaries because their salaries were going to be paid [with scrip]. There was always enough interest in whatever was asked for, even if it just was a revenue-bond election. That meant more work, more bonds, and bigger business, and so on. They just never lost that. Gerry [Gerald W.] Jones and I, and some of the rest of us, went to the fiftieth reunion of the [Water and Power] Speakers Club last summer, and hell, they are just the same now as they were then. This just keeps on going. It's a remarkable public institution in that way. It has such loyalty. Usually there isn't that much. And I think they work harder, generally, than people in city hall or the county board of administration.

BASIAGO: Correct me if I'm wrong. Many of the department

employees, or all of them, are civil service.

DRISCOLL: Most of them. Except a few top ones.

BASIAGO: Top engineers and attorneys?

DRISCOLL: The attorneys are all exempt from civil service. The city attorney's office is exempt. It is strictly appointed by the city attorney.

BASIAGO: Now what is the division between the nonattorney sectors? Between civil service and non-civil service?

DRISCOLL: Oh, I would guess there might be twenty--this is just off the top of my head--there are probably twenty positions that are tax-exempt: the general manager, the assistant general managers of Water and Power, the controller, and the doctors in the medical division. I think it goes a little further down than that, but not very far.

BASIAGO: Clarify for me how you mean tax-exempt. Their positions or their salaries?

DRISCOLL: I should have said exempt from civil service. Did I say tax-exempt? I meant exempt from civil service, excuse me. Glad you mentioned that.

BASIAGO: Was that to attract top talent? Rather than having people come up through the ranks?

DRISCOLL: Well, they all came up through the ranks. There have been a couple of times where they have hired a general manager from outside and it was a failure. The last one

was not too long ago. I don't know too much about him, but he was just impossible.

BASIAGO: Do you think that was just a clause that was instituted so that they could bring in outside talent if that was needed in the upper echelons?

DRISCOLL: No. I think it was more that out of--I'm just surmising--out of the people up to this point, they could choose whomever they wanted without examination. The top policymaking officer--I think this is right--ought not to have to take an examination.

BASIAGO: So it's a point so there can be more of a general consideration of the person, rather than one bound to a civil service ladder. What have been some of the benefits of that through the years that you can think of?

DRISCOLL: Well, for instance, they've chosen the general manager from either the head of the water system or the head of the power system. It gives them that much flexibility. Then just below that, they can bring up the civil service engineers and so on that have promise, and bring them into the next level of exempt positions. So it creates a group of good prospects for top management, and it seems to have worked very well.

BASIAGO: Let's go back to the issue of revenue financing. I mentioned this dichotomy between the Hyperion [Treatment] Plant and the department's water projects. Do

you think if some attempt was made to profit from sewage disposal, in either reverting to creating fertilizer there at Hyperion, or producing methane from the sewage, or actually utilizing the sewage rather than flushing it down the ocean-- Do you think that might enable the Hyperion facility to modernize and follow the same course that the department has followed, in terms of support from the metropolis and in terms of solving its problems?

DRISCOLL: Theoretically I would agree with you, but as a practical matter, the bond people would want to see a growing concern of the source of the income compared to the outgo, and you would almost have to have a sewage charge against each household. You'd have to have some kind of a case, other than just sale of the product. Unless the sale of the product could be demonstrated to be adequate over time. Now, of course, that might fluctuate too; whereas if you can get a right to put a charge on each household for operating the sewage system, then I think you are right in the same place you are with the water and power. It ought to be acceptable.

BASIAGO: So a big part of the bankability of the water was the fact that you had these individual ratepayers to back up the cash flow.

DRISCOLL: Sure, sure. And they demonstrated that their place was operating, so there was plenty of protection for

the bond buyer.

BASIAGO: Let's talk again about the employees in relationship to bond campaigns. You mentioned that their jobs might have been at stake if the department didn't get the financing to expand. When a bond campaign was successful, would their wages go up?

DRISCOLL: No, not necessarily.

BASIAGO: So they were more or less fighting for their life, but not for their share--

DRISCOLL: Well, that was in the early days, when they were fighting L.A. G&E [Los Angeles Gas and Electric Company], and when they were fighting outside interests. Then there was a real incentive for everybody to get in and pitch. Now it isn't like that. They've got a union--there are a number of unions--but they've got one fairly large one, and it is pretty well unionized. They don't have too much worry about that. They don't have the worries that they might have had in the old days. As I say, we had that loyalty, and to a great extent it has grown up, even though we get in fights with the union and we've had a few strikes, but it is still all one organization. The union is very supportive of anything that the board or the management wants to do in the way of issuing revenue bonds. I'm sure that the union would be strong enough to come out in full force for it.

BASIAGO: You mentioned the L.A. G&E battle. What were some other opponents that the department took on where employee participation was vital in addressing?

DRISCOLL: The only one I can think of is that "\$30 every Thursday," and this new charter that came in, which if it hadn't had civil service provisions they might not have been so enthusiastic about it, about opposing it. They didn't like the civil service rules. Those are the only two I can think of offhand.

DRISCOLL: Let's talk about your office that you were working in between 1937 and 1970. This was originally a branch of the city attorney's office attached to the Department of Water and Power, and paid on the L.A. DWP payroll. Is that correct?

DRISCOLL: That's right.

BASIAGO: So your bosses were in city hall, but your pay was from your client. What were some of the conflicts that arose from that dichotomy? Who were you really working for when you went to work in the morning?

DRISCOLL: Well, unless we had a problem that we felt that the city attorney should be involved in, he was never consulted. I'll put it that way. I mean, if it involved some other city department, we'd get ahold of whoever was in the city attorney's office who dealt with that and we'd talk about it. Those were the only cases where we--

Otherwise, the chief assistant ran our office, and if he had any questions, he would call up the city attorney and they would talk about it.

BASIAGO: So you were staff attorneys for the department rather than watchdogs for the city attorney's office.

DRISCOLL: That's right.

BASIAGO: Were there any times when you came into direct conflict with political or legal interests in the city attorney's office?

DRISCOLL: Well, I did.

BASIAGO: You did?

DRISCOLL: Yes.

BASIAGO: When was that?

DRISCOLL: Some years ago the department got involved in proposals by Tennessee Gas Transmission [Tenneco Corporation] to buy gas in Texas, and build a line to bring it to us and [Southern California] Edison [Company] here in Southern California. The whole project was set up and the department participated. There were hearings in Washington before a referee from the Federal [Energy Regulatory] Commission. I went back and attended those hearings. I didn't take much part because Edison kind of did all the work, but Edison wanted us there and so did Tennessee Gas Transmission. [Gilmore] Tillman wasn't very enthusiastic about it. I guess because Roger Arnebergh was opposed to

it. In fact, I gathered that he thought I was spending too much time back there because he said Edison-- He was opposed to Edison, really, and in favor of the gas companies who were opposing this. Now, why, I don't know, but that was always his attitude. I thought he got so mad about this thing that he was going to do something about me for staying there so much. So Tillman said I better stay home, and I said, "All right, I will." But we lost it. El Paso Natural Gas-- I don't know if this is worth hearing or not.

BASIAGO: It sounds very interesting.

DRISCOLL: El Paso Natural Gas Company was furnishing the local gas company most of its gas, and then there was a new line that brought gas out here called the Trans-Western pipeline, I think. They were selling gas to the local gas companies. And the department and Edison were taking a lot of gas whenever it was available, because of the pollution. Before that, it was just when the price was right, but later on it got to be whenever there was pollution. Well, Edison and our people thought we were getting hurt. So this proposal came out to us that we buy the gas from Jersey Standard, which became Exxon [Corporation], and then this Tennessee Gas Transmission would build the pipeline out here and operate it. The project went that way to the federal power commission

[Federal Energy Regulatory Commission], and the referee held in our favor. Then it went to the federal power commission, and we went back there and argued it. The Tennessee Gas Transmission people, who were pretty close to it and who were operating politically, as well as otherwise, knew pretty well what the federal power commission was thinking about this. If I put it precisely-- They came in one day, and their faces were clear down to their stomachs, and I said, "What's the matter?" (This was during the [Lyndon B.] Johnson administration.) Our opponents had hired Clark Clifford, who was very close to Johnson, and they lost the case. The implication is obvious. It was too bad, because it would have meant an awful saving in fuel power. That gas price would have been good for five years, and during that five years, I think, the cost of gas doubled or tripled. That was my introduction to federal politics.

BASIAGO: Were there any other federally-oriented cases that were that interesting?

DRISCOLL: No. I don't think so. That was the only one I was involved in. I used to go up before the California [Public Utilities] Commission. What was that for? It would usually be opposing the gas companies, but offhand I can't think of what-- It might have been the rates they were charging. Yeah, the California commission would fix

the rates that the gas company could charge us for gas, and I think we contested those, but only mildly so. I have forgotten the result actually.

BASIAGO: Let's go back to our discussion on the city attorney's office. I've gone through all the city attorney's opinions issued during the years you were working as an assistant city attorney in the Department of Water and Power. I've drawn out a couple that I think raise interesting historical issues. So let's go back to 1938. On March 15 of that year, the city attorney issued his eighth opinion which posed the question of whether the Board of Civil Service Commissioners could legally provide authority for the department to "hire persons for the interim period between requisition for and the securing of civil service eligibles, in such cases where it is necessary in order to efficiently operate in the department to put persons to work immediately." Now, the phrase that I draw out of there that I think is interesting is the department's interest in putting persons to work immediately. Was that just an organizational problem, or was that related to the department's providing the general society some help in getting out of the Depression? Was that a make-work provision?

DRISCOLL: It might have been, although it may have been that the civil service department was not very efficient in

those days. That's more what I think it would be. It takes so long to get a person to fill the right requisition that it probably just slowed things down in the department. I think that was the reason for that.

BASIAGO: It is still interesting. It raises this issue of the efficiency of the civil service department [Civil Service Commission]. What problems have you had with them historically?

DRISCOLL: Well, at that time, the [Fletcher] Bowron administration had just come in. Anyhow, the previous administration, the [Frank] Shaw administration, was crooked as a dog's hind leg. The brother [Joseph E.] of Mayor Shaw was president of the Civil Service Commission; actually, Shaw served as secretary to the mayor, and all kinds of things went on. After the changeover from Shaw to Bowron, it developed that civil service examinations for police were rigged tremendously, and that Joe Shaw, the mayor's brother, was very active in using the civil service department as a political activity, and it really stunk. I've forgotten, maybe it was quite publicly discussed. Well, anyhow, this Joe Shaw was tried for graft bribe, or something that I've forgotten. I don't even know what happened to him. The same thing with the city attorney, Pete [Erwin P.] Werner. He was convicted of a misdemeanor of some kind. There was a very crooked regime that was in

the city hall at that time. So this is right after that. The city hall was in disarray as far as its regular business, and it may have been that all of those requisitions had to go through the commissioners' office. I don't know whether that was involved or not.

BASIAGO: They were being delayed because they were operating under a spoils system--

DRISCOLL: Yeah, that's right.

BASIAGO: Do you think they wanted to wait so they could put in who they wanted to?

DRISCOLL: That could be too.

BASIAGO: Let's talk about the downfall of the Shaw administration due to corruption. Fletcher Bowron comes in pledging clean government and wins. Because the department had such a large roll of employees and was so connected to civil service appointments--which had become patronage jobs under Shaw--did the department actively seek to get Shaw removed as mayor so his brother wouldn't have this influence?

DRISCOLL: Certainly not generally. I don't know what the board and the general managers did, but there was no employee activity that I remember. I don't think so. They did this at that time. Under the charter, day laborers were exempt from civil service, so all the secretaries in the legal division office were day laborers. And I knew a

number of employees around the department who were day laborers. I think [Ezra F.] Scattergood worked to some extent with that regime in order to get what he wanted done. Scattergood had a big reservoir for employees that could be hired outside civil service, but that soon was knocked out with the new requirements. They got an opinion of what a day laborer was, and that eliminated most of the incumbents.

BASIAGO: Another decision, or series of decisions, that I find interesting comes towards the end of the war years and thereafter. There seems to be a spate of cases that involved employees who were suing the department for issues related to their status. Apparently, many former employees had gone off to war and had their interest with the department slightly damaged. Do you recall any of those cases?

DRISCOLL: Yeah. I can't remember-- I remember the cases, but I can't think offhand of what they were about.

BASIAGO: I didn't write them down specifically, but just to summarize: Some of them were over issues of their position, their civil service position, or over their pay. And also, when their actual start date with the department was, whether seniority was to be based on when they started, or how long they were working. Because for many of these people, their employment with the department

had been interrupted for four or even five years while they were overseas fighting the war. I was just wondering if you recalled--

DRISCOLL: I don't remember that all. I remember some cases about status, and we had a few trials. We lost some of them. Did you look at the cases that are in the charter that are annotated? Did you get ahold of one of those charters to look at?

BASIAGO: Well, I got ahold of the city attorney's opinions through a volume of each one that was one of major statutes that became city policy. I did essentially.

DRISCOLL: There is a city charter, about that thick, and it has cases in various sections that relate to those sections. If you looked at the charter in the cases that are annotated under civil service sections, they might be covered if they were significant. They don't have them all in there. And that's just cases, not opinions. These are cases that actually went to court.

BASIAGO: So that would have more, not just opinions.

DRISCOLL: Yeah. I remember there were some cases, but I can't remember what the problems were. They had to do with seniority, layoffs, and that kind of thing.

BASIAGO: The reason I ask is because you mentioned that you were working extensively in personnel.

DRISCOLL: I was. That's right.

BASIAGO: Was there a distinction between war emergency employees and regular employees?

DRISCOLL: I don't remember that. I just remember that all of them were employed as laborers. All our legal secretaries were employed as laborers. We had to get to work and give them an examination. We gave them an oral examination, passed them all. They let us do it, or let the division do it. So, they were all qualified as legal secretaries under civil service. We didn't have any political appointees in there. They were all qualified. Good ones too. We didn't want to lose them.

BASIAGO: After World War II, under-- Here is a city attorney's opinion number 48. Some war veterans were suspended because their positions had been abolished during the war years. So these are guys who came back to find out that they didn't have a job with the department. I'm wondering, just generally, not dealing with this case or this opinion in particular, but was there a general policy to rehire the war veterans out of a spirit of patriotism?

DRISCOLL: Yeah.

BASIAGO: Was it carte blanche?

DRISCOLL: I don't know. I never heard of any problem about it. I didn't have any.

BASIAGO: Did they get their old job classifications, or were there new job classifications or specifications

written up for them saying--?

DRISCOLL: No. You get your old classification back unless-- I think generally you'd get your old classification back, unless there was a promotion. I never heard any reductions as a result of it.

BASIAGO: Are you saying there were actually some promotions to honor the years they spent in the war?

DRISCOLL: No. I was thinking maybe the salary of the job had changed since they left, and that they were entitled to the increase.

BASIAGO: I was wondering if the war years accrued toward seniority.

DRISCOLL: Gee, I don't remember. It might well have.

BASIAGO: How did it generally handle the gender issue that developed there? Apparently, a lot of the jobs were filled during the war by women. Were there any cases that you remember--?

DRISCOLL: No. We never had any problems with that.

BASIAGO: I'm just throwing this out. You might not recall this. It was a small case. In one instance--it was kind of a landmark in terms of feminist legal issues--a woman had sued for maternity leave benefits, and the city attorney's office ruled that pregnancy didn't constitute illness. Do you recall that case?

DRISCOLL: No. I don't remember that. That certainly

wouldn't be applied today, I don't think.

BASIAGO: Is it offered now?

DRISCOLL: I don't know, but I wouldn't think that they would turn down medical leave for that. I don't know. They are so liberal now on that. I don't know. Sounds strange.

BASIAGO: I just drew out the ones that got to the city attorney's desk. Here's an interesting one. This is probably the last one; it didn't strictly involve department personnel. Under city attorney opinion no. 116, the city affirmed the statewide Levering Act, which established a loyalty oath to the state constitution, and was a McCarthy-era act related to pledging noninvolvement in organizations deemed subversive. Did any of the employees refuse the state loyalty act in 1953? Do you remember that arising at all?

DRISCOLL: I remember a lot of discussion about it. I can't remember whether they actually refused. I don't remember any. That doesn't mean that there weren't some. I just don't recall.

BASIAGO: I was just wondering how the McCarthy era affected the department.

DRISCOLL: Not very much.

BASIAGO: Let's go back to Alan Cranston. We kind of skipped him. Did you meet him when he was working for the

California State Board of Equalization back in the late forties and early fifties?

DRISCOLL: Tillman somehow became a good friend of his, and Cranston was down there, and his assistant, a fellow named Nebrun-- They were over at Tillman's house, and Tillman called me up and asked me to come down. It was on a Sunday, and Cranston was there along with Nebrun. I think Cranston had just been appointed, and he was looking for advice from Tillman. I know some cases came up, and they wanted me to go over to the library and pick them up and bring them over. I met him at Tillman's place two or three times, and then I got pretty well acquainted with this fellow Nebrun, who was his assistant. But that's about as close as it was. Tillman was getting feedback from him on our cases, I'm sure. I tried to get Tillman to tell me: "What's he say about the way we are presenting our case?" I couldn't get a word out of him. I had the feeling that Cranston was critical, so I tried my best to get out of it. After a while, I said somebody ought to take this on because there is something wrong with the way I'm doing this. [laughter] "No, no, no. That's all right."

BASIAGO: You're saying you felt kind of on rocky ground on the whole issue up there in Sacramento?

DRISCOLL: Yeah, yeah. I was unhappy with it. But then when I got this fellow from Milwaukee, I at least felt I

had some good testimony. Obviously a long way from home. He wasn't any local hack. I began to get a little more leeway. I mean a little more was granted than had been granted to us before on the assessments. But Cranston certainly wasn't any help. There was another man on the board, this fellow [Richard] Nevins. His home is in Pasadena. It is of course another area. He was always telling me how he was on my side, but I don't think he ever voted for me. [laughter] I was just completely frustrated. Year after year nothing happened.

BASIAGO: Now, Cranston later became state controller and U.S. senator from California. Was he on the California State Board of Equalization or working as a clerk at that time?

DRISCOLL: No, he was appointed. He had been elected controller, and the controller is automatically a member of the state board of equalization.

BASIAGO: So he was on the board there as controller?

DRISCOLL: I guess so. I haven't thought about that for so long that--

BASIAGO: Was Gilmore Tillman pumping him for the inside view of the board there?

DRISCOLL: I don't know whether he did. They were good friends. They seemed to be good friends. Gilmore was very bright, very smart, and I'm sure Cranston appreciated any

thoughts Gilmore would have about anything, practically, because he was sharp. There's no doubt about it. I guess Cranston had just taken over as controller. This was in the summer. That's all I know about it. Certainly he never did our project any good, because we never got any comfort from him.

BASIAGO: What was your personal impression of Cranston during those years?

DRISCOLL: Well, of course, I'm a little bit colored because he was active in that world federalist organization, and he hasn't changed since.

BASIAGO: What was that all about? You are mentioning, what, the United World Federalist Association?

DRISCOLL: Yeah. They believed in a worldwide federalist organization of some kind. I've forgotten, but it was too far-out, I thought. There was something else about it too, that wasn't all-- Is there somebody named Corwin involved? Not in the department.

BASIAGO: Norman Cousins.

DRISCOLL: Norman Cousins, that's who--

BASIAGO: Who became editor of the Saturday Review of Literature, and was principal organizer with Cranston. You mentioned there was another connotation that directly involved Norman Cousins?

DRISCOLL: No. No. I was just trying to think out loud

what my complaint about him was, except that I think Cranston hasn't been much of a comfort to California since he's been senator.

BASIAGO: That's more or less a present characterization. How about back then? What connotations did world federalism have? You mentioned that it was far-out. What other--

DRISCOLL: It was a little left-wing as I remember. That's about all I could say.

BASIAGO: Were there fears that it would be communistic? That it was communist-inspired?

DRISCOLL: Probably.

BASIAGO: Coming out of Moscow?

DRISCOLL: Well, I don't know about coming out of Moscow. There were lots of other places it could come out of.

BASIAGO: Coming out of academia? Was that one of the fears?

DRISCOLL: Could have been that. I can't be specific.

BASIAGO: That it was an eggheaded kind of theory?

DRISCOLL: That could be about it. I've had friends on both sides. I have a very good friend who's a John Bircher. [laughter] I don't discriminate very much on that.

BASIAGO: Now you mentioned that it was kind of far-out. I don't want to lead you too much here, but I'm interested in

this issue of world federalism. And our program will be interviewing Mr. Cousins quite soon.

DRISCOLL: Oh, it will?

BASIAGO: Were there fears that it would be conspiratorial in some nature? That a United Nations with teeth and a firmly established federal bureaucracy would be oppressive or conspiratorial?

DRISCOLL: Well, we'd lose a-- I'm getting over my depth now, because I don't remember much about it, other than the fact that the idea of a world government just didn't seem right to me. It wasn't really communistic; I never felt that way about it. The idea of a world government just didn't appeal to me. I think that's about as far as I went with it.

BASIAGO: Here's an anecdotal question about Cranston. He, apparently, was the first individual to publish Hitler's *Mein Kampf* in English, and did so so that the English-speaking nations would be aware of Hitler's ideology. Do you recall him taking credit for that at that time?

DRISCOLL: No. I didn't-- First time I've ever heard that.

BASIAGO: Whenever I bring that up, that's what people tell me. That it's new to them. When I interview people who knew him right after the war, they don't seem to recall it as being part of his portfolio. I'm wondering-- So you don't recall any of that?

DRISCOLL: No. Not a thing.

BASIAGO: Apparently, he worked as a correspondent for United Press International during the war, and as an independent venture of that, got Mein Kampf published. Now about this world federalism issue, do you think there was a question of biblical interpretation, that such a world government would be oppressive, or diabolical?

DRISCOLL: No. No. I've told you about all I think I know about it.

BASIAGO: Let's go on.

TAPE NUMBER: II, SIDE TWO

JULY 24, 1986

BASIAGO: In the early fifties the department confronted another tax case involving power plants in Inyo and Mono counties. This ultimately went to the [United States] Supreme Court. What was your involvement in that case?

DRISCOLL: I handled that.

BASIAGO: Well, why don't you tell me about it. What was that all about?

DRISCOLL: There had been a line of cases started that held that if a public agency acquired a piece of property that was taxable when acquired outside of its boundaries it would continue to be taxable. The question was whether or not a replacement by the public agency of that property would be tax-exempt. There had been a number of cases in California that had held that it was taxable. Different situations-- One of them was in Pasadena. I've forgotten what it was. They said the building had been torn down, and they put another building up, and the new building was taxable like the old one. Mono County said that the gorge plants, because they had been taxable when acquired--we'd acquired them from California Electric Power Corporation--the gorge plants would be taxable. The argument was as to size, comparative size. They held that size didn't make any difference, they were still taxable. That's about what

the case amounted to, and the Supreme Court agreed with them. There were two plants in Mono County and one in Inyo County. They held the two plants in Mono County taxable, and Inyo County never attempted to get the other one taxable.

BASIAGO: Another interesting tax, or political issue, between the department and Inyo and Mono counties came in the early sixties. I've located an article from the Fresno Bee, Wednesday, February 24, 1960. It's entitled "Mountain County Water Charges Worry Agencies." This is from the Associated Press. Forgive me while I read: "Several major water agencies in California are seeking ways to prevent mountain counties from charging for water pumped out of their rivers and lakes. A. H. Driscoll, assistant city attorney with the Los Angeles Department of Water and Power, said the agencies may go to voters directly or to the legislature. He said, 'Battle lines started forming in 1958 when Inyo County billed Los Angeles for \$1.25 million for water rights. This was in addition to \$600,000 in property taxes already paid by Los Angeles to Inyo,' Driscoll said." Do you recall that case at all?

DRISCOLL: No. I don't remember that.

BASIAGO: This is where they were upping the ante for the water that you were getting from them. It went on through the early sixties. In fact, I found an editorial to the

Los Angeles Times from Sam [Samuel B.] Nelson. I believe it was in 1965 where he was still talking about it. He was arguing that Inyo and Mono counties were getting good money already for the water, and that this was exploiting the department.

DRISCOLL: That was the basis for the value of the property--the water rights. I don't remember that at all. [reads from reports] "He added that an appeal to the state last year resulted in a cut from \$1.25 million to \$850,000."

BASIAGO: It sounds as if you won that one, huh?

DRISCOLL: Yeah. [reads from reports] "He also said the old assessment of \$600,000 counted for 40 percent of Inyo County's property tax collection."

BASIAGO: Have Inyo and Mono counties raised the price of the water? How does this work? I thought the department was getting the water for free.

DRISCOLL: I think so. I think they are. I suppose you can assess the water. I don't know. How can you assess the water rights separate from the land? Or assess it separately, if the land and the water are separated?

BASIAGO: I think that was what the issue was over. The fact that they said because it is yielding all this water, the assessed value of the land should go up.

DRISCOLL: That's right. Because if they say they can't

raise their crops, well, that means that of what we're getting, a valuable part of it is the water. But to have a land assessment for the property, and then assess the water rights separately, is double taxation, it seems to me, just offhand. That's probably what I was trying to say there. I don't remember that.

BASIAGO: This case went to the state level where then Attorney General Edmund G. Brown, Sr., who later became governor and was father to another governor, decided that the term "watershed" must be taken as synonymous with the term "area wherein water originates," and thus decided that even though outside areas may have a greater need for water, there must be considerations made for counties of origin where the water comes from. What do you remember about this controversy? Brown, essentially, decided against the interests of large metropolitan areas like Los Angeles, and supported the interests of less populated agricultural regions where in many cases the water originates.

DRISCOLL: I just don't remember that at all. I remember the theory, but I just don't remember how this all came up, or what we did about it.

BASIAGO: It began the whole north-south debate. Many of the less populated counties are in the northern part of the state. They've got two-thirds of the water. We've got

one-third of the water. But we've got two-thirds of the people in Southern California, and they've got one-third of the people. What has been the department's policy toward the north? Does it have an ongoing liaison between leaders in the northern part of the state to ameliorate this discrepancy?

DRISCOLL: Not on that, but we had an organization called the California Municipal Utilities Association which was a lobbying group in Sacramento. That was its main purpose. We had a two-person office. We had a representative (really a lobbyist) for us up there, plus a secretary. The city hall of Los Angeles had a representative who stayed up there most of the time. Bill [William] Neal. He was the lobbyist when I was active. Our man up there from this California Municipal Utilities Association was Norm Woodbury. He's since out of it now. We would undertake to oppose anything up there that was objectionable, or support anything we favored before the legislature. Woodbury would do most of it. But if he wanted somebody from the grass roots to come up and testify before the committee, why, he'd call for one of us to come in. There are some municipal utilities in Northern California, and they were very strong politically. So they were very helpful to us in getting things through, or opposed, in the legislature. Our interests were all the same with those

people. They were municipal electric utilities, so the water problems between the north and the south were never involved.

BASIAGO: One thing I'm curious about is the fact that 85 percent of the water in the state is used for agriculture. Throughout past decades there has been a controversy between the north and the south, that the south is taking too much water, apparently two-thirds of the water generated in the state or that flows off of the High Sierras.

DRISCOLL: The south is getting two-thirds of the water?

BASIAGO: Yeah. The south is consuming two-thirds of the water.

DRISCOLL: Oh, consuming two-thirds of the water. Well, it's consuming two-thirds of the water that is consumed in the state, but that has nothing to do with where it comes from. The argument with the north is over where it comes from. We need more water, and we got that bond issue through to build the [California] Aqueduct, and the statute that approved the bonds also approved additional bonds for work that's never been done. That's what the big beef is against them, and it's all been approved; but of course, no governor has got the guts to-- Maybe he couldn't get the legislature to stop it. The north-- I suppose that's probably true, because most of their water is going out the

San Francisco Bay. That's the whole problem. But generally, agriculture uses most of the water in the state--much more than domestic.

BASIAGO: Does that include agriculture south of the Tehachapi mountains?

DRISCOLL: Yeah. I think it's true. I think it's true down here. That's the argument that I hear, because they say that any conservation by the cities down here is miniscule compared to the demand for the area. The idea that people in the city of Los Angeles should curtail water would have practically no effect on the consumption in Southern California, even with the loss of a lot of our farmland. We haven't lost that much.

BASIAGO: Yeah, it's interesting. I thought that since the Colorado River supply took care of the three agricultural basins down towards San Diego and the southern area, that most of the demand here was industrial and civic, but apparently we have our share of agricultural usage south of the Tehachapis.

DRISCOLL: Yeah.

BASIAGO: Of course, Attorney General Brown's decision related to the right of counties of origin of water to take back water that was being put to maximum beneficial use somewhere else, should they need it for upstream river development. Having watched this during your years with

the department, where do you think this is going to go, in terms of the disposition of waters that are now going out of the San Francisco Bay? Right now it's politically deadlocked. Do you think the south will ultimately prevail, and why? What things did you see during your career that would suggest--?

DRISCOLL: Well, I don't see any solution. It is really a deadlock as far as I'm concerned.

BASIAGO: You don't see the south ultimately getting more?

DRISCOLL: It's too much of a political issue. It used to be very strong. For instance, this whole Westlands Water District was set up by a group that was designed to take full advantage of the [California State] Water Project and that has been their sole source of water. They've been very strong politically. Some of those San Joaquin Valley areas have got very cheap water. Very cheap. It's not even at cost.

BASIAGO: What about the whole issue of instream uses of water from areas of origin? When was the first time that you really sensed that there was any environmental consideration going on in the whole legal debate over water? When was the first time that you ever heard concepts of the environment raised in a water rights case?

DRISCOLL: I was trying to think if it ever came up in Mono Basin. I don't think it ever did. The only complaint we

ever had about the Mono Basin was that we were putting too much water into it.

BASIAGO: Not taking too much out of Mono Lake?

DRISCOLL: Yeah.

BASIAGO: Putting too much--

DRISCOLL: The riparian owners were complaining. That inn up there, whatever the name of it was, and two or three of those people around the lake got a lot of indemnity, I think, from the department for its raising of the water level of the lake. I don't know why we were raising it. We'd gotten the right to the water in Rush Creek, I suppose, and weren't bringing it down. Maybe we were trying to protect our troubles at Owens Lake for all I know.

BASIAGO: I guess in some years of fairly good runoff, Mono Lake becomes an area to waste water.

What was the evolution of doctrines of public use in the Owens Valley? How did that develop to where quite recently--not to talk too much about the present--the department set aside park land in the Owens Valley and has promised to help stock Owens River for sport fishermen and that sort of thing? How far back does that go? A sense that now that the department had fundamentally changed the social and environmental order of the Owens Valley, and had become more or less a caretaker of things like flood

control and that sort of thing, that now it would take on an administrative role, even to the point of supporting recreation.

DRISCOLL: It's news to me.

BASIAGO: It wasn't going on at all during your years?

DRISCOLL: No. I don't think so. There was never any quarrel with anybody with fishing in Owens River below intake--I mean above intake. They could fish-- Pleasant Valley Reservoir at the foot of the gorge became a favorite place to fish that wasn't there before, but they just let them use it.

BASIAGO: Let's talk about the Arizona v. California case that went to the [United States] Supreme Court and had a major impact on the whole Southwestern water picture. I'm just querying you as an attorney in the water field during that time. What happened in 1953 is that the state of Arizona sued the state of California for the third time in the century, claiming that it was taking too much of its share of the Colorado River in amounts that exceeded those agreed upon in the Colorado River Compact back in the early thirties. As a result, the Supreme Court appointed a special master by the name of Simon [H.] Rifkind, who between 1960 and 1963 held hearings to reconsider the actual allotment of Colorado River water among California, Arizona, and Nevada. Based on his recommendations, the

Supreme Court decided, in a split decision, that in times of normal flow California is entitled to only 4.4 million acre-feet of water each year--about a million acre-feet less than it sought. There were great fears that this decision would deprive the Metropolitan Water District [of Southern California] of the water needed to actually fill its [Colorado River] Aqueduct. And, consequently, affect the lives of seven million people depending on that water in ten districts and eighty-nine cities of California with an assessed value of \$13 billion. What were your recollections of the whole development of the Arizona case? How was the Department of Water and Power reacting to this thing which could affect the Metropolitan Water District?

DRISCOLL: The Metropolitan was carrying the mail on the whole matter. As far as the local agencies were concerned, the case was really being tried by the attorney general's office. The big dispute-- I'm just thinking out loud trying to answer your questions. One of the big disputes was that Arizona refused to recognize the output of the Gila River as part of their quota. I remember that there was an argument about that. The Gila River, I don't know how much water it has in it, but apparently Arizona refused to treat it.

BASIAGO: Yeah. It is a principal tributary of the

Colorado [River]. And Arizona was given rights to it in the decision.

DRISCOLL: That's right. But there was quite a dispute about-- I thought Arizona refused to include that in this case.

BASIAGO: It was trying to get it not included.

DRISCOLL: That's right. That's correct.

BASIAGO: So that Colorado River proper would be where the lines would be drawn.

Just to bring the whole issue away from Sacramento and Washington down to the level of city politics and the city water law-- I'm curious if there was any involvement, either legally or at the administrative level, with the department. Aren't there clauses of interdependency and agreements and compacts between the MWD and the DWP? For instance, if the MWD stood to go dry, were they negotiating with the department to back them up at all?

DRISCOLL: Not that I remember. We were due to lose 500 acre-feet, I think, when we lost the case, eventually. And that eventuality is approaching. Now that Arizona has got their canal built they are still suffering. I read the other day that they are taking a lot of farmland out of production because there won't be enough water for them, and the water table is going down and so on. I don't think there's much chance of getting any more water out of the

river than we're entitled to.

BASIAGO: During this time Bob-- Oh, excuse me.

DRISCOLL: That's just an opinion about something I don't know too much about. That's just what I've read in the paper lately. And that Metropolitan was trying to make a deal with the Imperial Irrigation District to try and stop the district from wasting so much water, and the Metropolitan getting the water and paying the cost of improvements of their facilities.

BASIAGO: If the loss of the Metropolitan Water District supply had adversely impacted Southern California, that could hurt the department, right?

DRISCOLL: Sure.

BASIAGO: Because it would stem growth of industry and residential areas, and then the revenue base of the department. Were there any lead people in the department who were following this case?

DRISCOLL: Oh, yeah. Tillman was following it. He was up at most of the hearings with Rifkind in San Francisco. Other than that, I think the attorney general's office was carrying it. None of the people in our office had anything to do with this as I remember it, other than Tillman.

BASIAGO: Here's something I'm curious about. Department figures like J. B. [Joseph Barlow] Lippincott had the knowledge of hydrology, river flow levels, soils, and those

sciences, in the construction of the Colorado River Project. Lippincott had, in fact, gone up there. Gerry Jones talks about that. One of the issues raised in this case was the fact that the Colorado River Compact had been decided upon in 1931 when, in the long view of things, the Colorado was very high. So the water was cut up between California, Arizona, Nevada, and New Mexico, when those states could depend on a lot more water than nature usually provides. Studies of tree rings have shown that the Southwest is probably due for reduced amounts. I was wondering if there was any involvement with the department in mustering some of the old records of the Mulholland era, to try to document that phenomenon. Because Southern California could argue that sure, we're getting the highest percentage from the Colorado River, but it was based upon overestimates.

DRISCOLL: Well, I've understood that the overestimates were substantial. I don't remember collecting any records at all.

BASIAGO: I thought that the department might have been consulting and abetting the case of the MWD, because some of its principal founders knew so much about the history of Southwestern water.

DRISCOLL: I don't know about the evidence. All I know is that Tillman was active in taking a part in it, but whether

anybody else was, I don't know.

BASIAGO: The claims of Southern California have been borne out in the present day by advanced scientific means. That, in fact, their claims back in the fifties and sixties were accurate. That the river was running very high when the compact was drawn up.

DRISCOLL: Yeah. That's right. It has gone down substantially.

BASIAGO: I'm also curious about Indian claims to the Colorado River. The Arizona v. California decision left a multitude of tribes unadjudicated.

DRISCOLL: Those are Arizona tribes.

BASIAGO: Yeah. The Navaho reservation is on a very large area. In fact, the entire northeastern corner of Arizona is dedicated to the Navaho tribe. Under the Winters Doctrine [Winters v. United States], it was established that Indians were entitled to water sufficient to meet the purposes of their reservation. In fact, Herbert Hoover, the chairman of the original Colorado River Compact Commission, had put in a very brief sentence stating that the compact would in no way reverse or hinder claims by Indian tribes to water to meet their reservation needs. It turns out that various Indian tribes made no treaty with the U.S. establishing their pueblo rights to water, and that if they did make a claim they'd have to attribute it

to their ancestors and time immemorial. The potential still exists that a series of Indian tribes could sustain a claim to the Colorado River, and take most of Southern California's Colorado River water. And there is a precedent for similar claims. Has the department ever done any research or legal work to prepare for Indian claims to the Colorado?

DRISCOLL: No. Not to my knowledge, but I wouldn't necessarily know it. I wouldn't take that as an inclination of whether it had or hadn't. I've heard in discussions that there is a lot of Indian land there along the Colorado River that was involved. And it seems to me, I thought there was some decision made on it, but maybe not. None in the Rifkind case, huh?

BASIAGO: It seems that the role of the Department of Water and Power in Los Angeles would change drastically, since it gets water from other areas, should the MWD be run dry by Indian tribes making claims to the water. Another interesting case involving the department occurred in the late sixties, not so much in relationship to other states or Indian tribes, or to other regions of the state, but to other nations. In 1968, Bethlehem Steel [Corporation] sued the department in an attempt to force it to buy only American products, as Japan began to capture a larger share of the steel market. What was your involvement in the Buy

American lawsuit, as it was known?

DRISCOLL: I was going to say I handled the case, but all I can remember-- I guess I did handle the case. Under the California statutes [California Buy American Act] buying American was required.

BASIAGO: You say it was a California requirement?

DRISCOLL: It must be backwards. I guess we were relying on the federal law; that we didn't have to follow the California Buy American statute.

BASIAGO: So the department was seeking to buy steel from Japan?

DRISCOLL: Yeah. And it succeeded.

BASIAGO: Why did it want to do that? Better quality?

DRISCOLL: Lower price. It was strictly price. We made the award to Mitsubishi for the steel (for the towers), and Bethlehem Steel, who was the next lowest bidder, sued on the ground that we had to buy American.

BASIAGO: What were the towers for?

DRISCOLL: The transmission line for the direct current line to Bonneville. It was in California's portion. We were building the line for ourselves and anybody else that was getting direct current from up there. Mitsubishi gave us the cheapest price. When we took the bid, Bethlehem Steel sued us on the grounds that we should have to buy American. We won it in the trial court, and then I think

we won it in the district court. And then Bethlehem quit. [laughter] That's the last thing I did in the department. It was all federal constitutional law, which I hadn't looked at since college, but I thoroughly enjoyed it. That was my parting song to the department--winning that case. And I can't take much credit for it. It was just too simple. That's why they didn't appeal it. They thought it was simple too. After the trial court and the district court got through turning them down they quit, much to my disgust.

BASIAGO: What kind of statute was this buy-American principle based on? Besides just a general social leaning towards national feelings, what kind of a claim were they making? Was there state legislation--?

DRISCOLL: There's a state statute-- Maybe it was in the charter. I can't remember. We didn't have to--

BASIAGO: So it was found that California-- Why didn't the department have to follow the California statutes to buy American?

DRISCOLL: Well, I'm trying to remember. It involved federal law because we spent all our time reading cases on the federal constitution. In other words, the federal constitution overruled the California statute.

BASIAGO: So actually the buy-American principle was unconstitutional.

DRISCOLL: That's right. That's really what it amounted to.

BASIAGO: So it was a matter of free trade and access to--

DRISCOLL: Yeah, the lowest bidder.

BASIAGO: What about Washington's principle of avoiding entangling alliances? [laughter]

DRISCOLL: That was a very interesting case. Doug Gelton reread all the old U.S. Supreme Court cases that I hadn't seen since law school. That's all I can remember about it.

BASIAGO: You mentioned it was enjoyable to end your career with the department with a constitutional case. To leave with quite a bang.

DRISCOLL: No. I only meant it was the last case I had, but it was one of the more interesting. That's all. I didn't think I was remaking the world, or anything like that, but it was just-- An attorney from San Francisco was also involved in it. He represented the Japanese, and we worked together on it. It was different from most other cases in the fact that the federal constitution was involved. I can't remember the law on that one. I should.

BASIAGO: I'm curious about the postwar era. Many of the department employees had seen action in the Pacific. Was there a quick endorsement of actual cooperation with Japanese industry?

DRISCOLL: No.

BASIAGO: Was there some resistance in fact?

DRISCOLL: No. I don't think there was that either. We'd had a pretty good engineering staff in both the water and power systems, and they were looking for the best and the cheapest. So they didn't need much guidance on it. That was the department's attitude.

BASIAGO: Would you say that the department takes a global outlook in terms of technology and trade? That it is not going to consider foreign policy when making a technical decision?

DRISCOLL: Well, I think I say that we're obligated to take the low bidder unless something prohibited. That's what they were faced with.

BASIAGO: Can you recall any instance, probably in the postwar era, as the global economy really started to develop, where the department refused to deal with someone in a business dealing? In other words, has it ever cooperated with a general national desire not to do business with a certain nation for any number of reasons?

DRISCOLL: Well, they certainly didn't in that case. I don't remember where the Japanese were encroaching at that time as much as they had before and since. But I don't think there was any policy on it at all. They bought some British electrical equipment, it seems to me, somewhere along the line, but I can't remember for sure. Those

engineers were supposed to go anywhere and get the cheapest and best. That was the criteria as far as I can remember. [tape recorder off] We fired all of the Japanese that were working with us when the order came down. This was before the war.

BASIAGO: That was before the internment?

DRISCOLL: Well, at the time-- Yeah. Before the internment. Sure it was. Our controller had a Japanese secretary, and he was very unhappy about this, and he told her he had to fire her. She said, "Oh, that's all right, Mr. [Frank] Twohy. I'm going to work for the FBI [Federal Bureau of Investigation] in the morning." That quite astounded him. She, apparently, had been an active agent for the FBI for quite a while. I'm not suggesting she was a double agent. I'm just assuming she was doing some work for them and had some connection with the Japanese community here. That's looking at it from the FBI's standpoint.

BASIAGO: She was a plant in her own community, as opposed to in your bureaucracy?

DRISCOLL: Yeah. Well, she was just let go because she was Japanese, period. That's what they told him to do. She'd apparently been doing some underground work for the FBI here all the time, or for some period of time before this occurred.

BASIAGO: That's fascinating.

DRISCOLL: We had a Japanese engineer who went in the service. There was a whole unit of them. They did quite a job in Italy. This fellow came back to the department. He got through all right.

BASIAGO: I believe, in fact, that they were the most highly decorated troop. Now that we're on the topic of foreign relations, something that comes to mind is issues over energy. Does the department, just because of the way it developed, have any primary loyalty to Southwestern oil and gas purveyors, as opposed to Middle-Eastern, or Mexican, or--?

DRISCOLL: No, it's an open market.

BASIAGO: Open market.

DRISCOLL: I remember bids would come in from all over the place. Of course, there's a lot of room for opinion in a lot of things you have to enter into. Particularly with supplying something like the transmission line towers from Mitsubishi, or parts that may be complicated, or technical, or something of this sort. They'll look at the plant's history--I've seen them do that--and determine whether the bidder is able to comply, or if it's too big for him, or something or other like that. But I've never heard of them ever being influenced by anything other than what they think is best for the job.

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AUGUST 29, 1986

BASIAGO: Regarding the whole issue of revenue-bond financing, is it true that the power system has always had to come up with more funding, or be in more of a situation of indebtedness to creditors?

DRISCOLL: As far as bonding is concerned that's correct, because it was in a continuous expansion from the time it started, up to and including today. They are participating in coal-fired power plants up in Utah, and the department [Los Angeles City Department of Water and Power] is the managing agent for the construction up there. So it's a continual problem of expansion, and in order to meet that expansion they were issuing revenue bonds.

BASIAGO: What was the degree of exposure, let's say, compared to water projects, that a typical power project represented?

DRISCOLL: How do you mean "exposure"?

BASIAGO: How much more risky were they to a lending agency than some of the water projects?

DRISCOLL: Well, as between our water and the power department I don't-- This is just a vague guess on my part, but it was well known that the area was growing and that the demand for power would increase substantially. I think the power bonds might have been more attractive, but I am

just guessing.

BASIAGO: I also want to talk about the politics of department management, particularly the general manager. Almost all, I guess with the exception of one general manager, have come up through the ranks. Were there any special circumstances surrounding the one time when the department went outside its ranks to find a leader?

DRISCOLL: That was after I left, and I have no idea what caused that. It was a big mistake, I know. The man was unsatisfactory. They had to get rid of him. Bernard, I think, was his name. I don't even know where he came from. But that was some time after I left, and I had no knowledge about it at all as to how it happened.

BASIAGO: I was wondering if there was any controversy? Some people have mentioned that that general managership reflected a shift in the department towards more influence by city hall.

DRISCOLL: No. I don't think so.

BASIAGO: Do you remember hearing anything about that?

DRISCOLL: I should correct myself on one thing. We had one other outsider, Sam [Samuel B.] Morris, who came to us. He had been a professor at Stanford [University], and had been head of the municipal system, I think, in Pasadena. So there are two that came from outside. Excuse me-- Now where were we? I wanted to correct that before I

forgot it.

BASIAGO: Did you hear any talk after you retired of why this second outsider represented a bad choice?

DRISCOLL: I heard from the department people that they considered him unsatisfactory. These were middle-management people that I knew pretty well, and they said he was a mistake. He got in trouble with one of the women there, too. He had some tendencies in that direction apparently. That was just gossip as far as I know. It may be wrong.

BASIAGO: Has the department tended to be free of political favors, and is there a recent trend toward more political influences?

DRISCOLL: Internally?

BASIAGO: Yeah.

DRISCOLL: There's never been very much. There's always considerable competition for the promotions. That starts pretty early. In order to get to the top, why, the bigger the competition the less the field. It has quite often resulted in substantial disappointments, because some people didn't get appointed to general manager, or head of the power system, or head of the water system.

BASIAGO: How about in terms of outside political influences? Does city hall exert significant influence?

DRISCOLL: No. I don't think so. The department has to go

to the city council for increases in rates, and that's about all as I remember. That was the only time when there's any direct influence. I don't think there has been very much effect on the department. City hall is inclined to leave the department alone. It's well run and there's almost no scandal involved. And it's been a very profitable source of income for the city. So they're pretty much left alone to do as they please.

BASIAGO: I was wondering, we discussed during the other session the fact that the department has always had to make trips to New York City to talk to representatives of the bond market there on Wall Street. Has it ever dealt extensively with any particular financial agency there?

DRISCOLL: There were two or three that usually bid. There were not a lot of bidders. I don't think there were more than five, and I think it was usually three. First [National Bank of] Boston was one I remember that bid regularly. I can't remember the names of the others. The relationship between the department and First Boston, and a couple of others, was pretty close. I say between the controller. And then, as I told you, they flew some of them out from time to time. There was an old trust company in New York that was interested. I can't remember the trust company. I can't remember the name of it.

BASIAGO: Another thing I was wondering about. Would you

agree that the general manager of the department is one of the most powerful people in the city?

DRISCOLL: No. I don't think I could say that.

BASIAGO: Who would you place above the general manager in terms of power?

DRISCOLL: Certainly the mayor and some chiefs of police. [William H.] Parker, who was there when I was there. He was a very good chief, but he was a tough customer. He had a lot of influence. But the department people didn't mix into city politics very much. You see, all of us were appointed by the city attorney and paid by the department. I served under only two city attorneys for the whole time I was there. They didn't interfere much with what we did. Very rarely did the city attorney involve himself in what we were doing.

BASIAGO: I was curious, because Sam [Samuel B.] Nelson demonstrated how the growth of population in this city has been directly related to the growth in water supply. So, you can say Los Angeles was a city that grew up and was made possible by--

DRISCOLL: Well, I think that's a fair statement because as soon as a water supply from the north was coming in, why, then the San Fernando Valley became an agricultural area, and then because of the water, after World War II, it became a big residential, commercial and industrial area.

The department was always ahead of what the city was going to need. I don't know if it was brains, or ambition, or what. [laughter]

Of course, the department set up Metropolitan Water District [of Southern California (MWD)] originally. It was set up by W. B. [William Burgess] Mathews, a former city attorney who had been with the activity since the beginning. He set up the form for the Metropolitan Water District and encouraged the adoption of the act [Metropolitan Water District Act]. So that grew out of the department. That's the large factor in that development.

BASIAGO: Do you think the department's leaders have become less and less involved in city politics and affairs over time? Were they once more central, or more near the mayor's office, the city council, and the press than they are now?

DRISCOLL: Well, in [Ezra F.] Scattergood's time, he was very political. Of course, he was just starting the electric system. He was getting a lot of strong opposition in the city from [Southern California] Edison [Company], and Pacific Lighting [Corporation] and so on, L.A. G&E [Los Angeles Gas and Electric Corporation]. He was quite political, and I think I mentioned that they had an exempt status of an employee who worked as a day laborer, and there was no limit on what you could qualify as day

laborers. Our secretaries there in the department worked as day laborers. One of the places that Scattergood used for taking care of people, if we want to say it, was the land division. They had people out buying, land agents and that kind of thing, and a lot of those were political appointees in that area. But it was limited to that area, as far as I know. There's no other place that it was done, and Scattergood was the one that was doing it. Then during my time, with that idea of day laborer status, there was substantial restructuring of the city service system which had gone to pot under [Frank] Shaw and his brother [Joseph E. Shaw], who was on the [Los Angeles City Board of] Civil Service Commissioners. When they were out, why, then the thing got more normal and proper, but prior to that it had been substantially political to that extent. As soon as he got away from that particular area, the promotions were-- even during that era--the promotions up the ladders for the engineers were fairly based on ability. They had to take examinations and had to be picked from the list.

BASIAGO: Just as a way to gauge the kind of power the general manager has exerted: What happened when the Dodgers came to town? An interesting anecdote that I dug up was that the department kind of stood Walter O'Malley down, in terms of his plans with Chavez Ravine. Sam Nelson

was then the general manager, and the story goes that he had insisted that O'Malley allow the department to move its pipelines before they could build Dodger Stadium. Do you recall that incident at all? It seems an interesting test case of the general manager of the department coming up against a rather powerful businessman.

DRISCOLL: If they had pipelines over there, they would have had to move them, and I know that they tried to get them moved by whoever wanted to use the property. That was the standard practice, and Nelson was a little tough on him probably. I don't remember this incident, but I would certainly agree that it probably happened. If moving some pipelines was involved, the water system certainly wasn't going to pay for moving them.

BASIAGO: Apparently O'Malley was expecting that the department would save him that expense.

DRISCOLL: Well, you see, the city encouraged him-- I've forgotten the mayor, was it Mayor [Norris] Poulson at that time? He'd come to use the [Los Angeles Memorial] Coliseum first, but he was going to get the-- So I'm sure there was every effort to encourage him to come, and this was probably a little different than what O'Malley was used to in dealing with city departments. The department people always took the view that if they had to move anything for somebody else, the other person had to pay for it. It

certainly shouldn't be a water customer expense. We had a big dispute for quite a while with L.A. County Flood Control District when they got a big bond issue. Putting in some of their flood control projects involved moving department facilities. I've forgotten how it turned out, but I think we compromised with them a little bit and made them pay part of it. I can't remember it precisely. I just remember it happening.

BASIAGO: It seems that in the case of the Dodgers, Sam Nelson and Walter O'Malley struck a compromise that the Dodgers would have to pick up a \$250,000 expense for moving pipelines that were there in Chavez Ravine, but that the city allowed O'Malley to use his own contractors to do the job. I was impressed that the department could wield that degree of power, standing up to one of the more powerful economic figures in the city. Would you say that is fairly well true that--?

DRISCOLL: Yeah, I think it was true.

BASIAGO: No businessmen could dictate wishes to the general manager.

DRISCOLL: No, I don't think so.

BASIAGO: Can you remember any time anyone tried, besides the O'Malley incident?

DRISCOLL: No. I was thinking of the members of our board [Los Angeles City Board of Water and Power

Commissioners]. For example, Ben [Benjamin] Griffith was on the board and president of the board. His father was running Griffith Construction Company, and I don't remember any suggestions or favors that were done to him for any purpose. Then the other one that I knew pretty well was Duncan Shaw, and I never remember him-- I guess he was in a financial firm, though they wouldn't have much interest in him. Griffith might have. But I never heard any suggestion that he asked the department to do anything.

BASIAGO: Was Duncan Shaw related to Joe and Frank Shaw?

DRISCOLL: No. No. Decidedly not. [laughter]

BASIAGO: I'm also interested in the department's connection to one of the more powerful, if not the most powerful, law firms in the city: O'Melveny and Myers. What can you tell me about that relationship? It seems to be pretty well established.

DRISCOLL: Yes. We hired them as bond counsel. You have to have bond counsel, an official statement approved by O'Melveny and Myers, or whatever it is. I suspect--this is pure guesswork on my part--that [Stephen B.] Robinson found out in New York that O'Melveny and Myers was acceptable to them. I'm sure they would not have used them if they weren't acceptable, I'd put it that way. I think that was probably worked out with the potential buyers in New York. That's the way I'd guess at it.

BASIAGO: What were the responsibilities of bond counsel? The department had its own legal staff assigned from the assistant city attorney.

DRISCOLL: I used to tell Jim [James] Beebe that I did all the work, and he got all the credit. [laughter]

BASIAGO: Why were they needed?

DRISCOLL: I know it's standard practice. Now, it certainly wasn't required by our charter. It wasn't required by law. It was strictly an acquiescing in a market practice of having bond counsel pass on the validity of the issue.

BASIAGO: Were they more accountants or legal scholars? What were they doing for the department, or what do they still do for the department?

DRISCOLL: They never did anything else, as far as I can remember. We used outside counsel occasionally, but I don't remember O'Melveny and Myers being involved in any of them. They were mostly water cases, and we'd get some water experts from around Southern California to represent us if they wanted outside counseling. We had outside counsel in the Glendale-Burbank cases [City of Los Angeles v. City of Glendale] before I left. An attorney from out toward Riverside or some place who was a water specialist. But unless there was a particular official reason for it, why, we did all our own work.

BASIAGO: So O'Melveny and Myers were just retained as bond counsel, but they did very little you say? What did they do when they did it?

DRISCOLL: We put out an official statement which Robinson had designed as comparable to what the private industry did when they issued bonds. We found out that that was a valuable asset, if not essential. The department would write up the official statement and the controller would write up the financial part. Originally, I guess, our office wrote up the text involving things other than direct financial things. By the time I came along we had a pretty fixed pattern, so it was only a case of making adjustments that time had required. We'd have to examine it and also approve it, and then we'd send it over to O'Melveny's office. Jim Beebe rarely had any comment about it. There were almost no disputes.

BASIAGO: So they were just rubber-stamping most of your proposals?

DRISCOLL: That's what I was kidding Beebe about. That's correct. But their stamp was quite important to the bond people in New York.

BASIAGO: Oh, I see. It was their imprimatur.

DRISCOLL: That's right. That's right. You'll see it if you see an advertisement in the financial sections of a bond issue; you'll always see counsel mentioned in there

someplace, whether it's public bonds or private corporations. I think you'll always see a bond counsel mentioned on there approving the issue.

BASIAGO: Were other brokerage houses and financial institutions also serving as underwriters just for name value?

DRISCOLL: There would usually be a group. If the issue was large, there'd be a group headed up by somebody who was handling the group. There would be a lot of local, smaller firms that would be in there. You'd see the page, and then you'd see the bottom half of the page covered with brokers. On any kind of an issue. And this would be the same way here.

BASIAGO: What does that tell the financial community, or investors? That these agents for these companies are going to be aggressively pursuing buyers of the bonds?

DRISCOLL: Presumably so, because that's their business--to get in an issue and get a piece of it and then sell it to their customers. They have as much interest in making that work as we did. That was the general practice in the industry and so we just fell into it. Robinson followed it, at least.

BASIAGO: Would you say that brokerage support of a certain bond issue was less important because of the department's reliance on water revenue to meet its obligations?

DRISCOLL: No. The revenue would not have-- They needed the water of the electric system. The revenue would never be adequate to pay the construction costs of a project that might have to be done over a period of years, whereas if you could issue the revenue bonds, then you could go right ahead and construct it without any problems. That's what usually happened. When it was decided to build the gorge plants, for example, they put out a bond issue. That was the first thing they did to get the bonds, and then they'd go ahead and let the construction contract. But the first thing was to provide the money.

BASIAGO: I'm interested in the point in your career where you went from an attorney in the city attorney's office in the department to more or less a member of the inner circle. Do you think it's a fair characterization that at some point you became an adviser to the department, rather than just working as an attorney?

DRISCOLL: We all were, but I think that as we worked our way up, we probably, by just knowing the kind of things that we knew-- The management people would go to particular attorneys in the office, and they knew to some extent that we were specialized. Jarvis did all of the condemnation work, and he worked very closely with the land division. If they had any questions about a land matter or condemnation, or buying, they'd go to him directly.

BASIAGO: What was his first name?

DRISCOLL: Russell Jarvis. He's still alive. He's in Pasadena, but I think he's in pretty poor health. He was assistant to [Gilmore] Tillman, and then when he retired I was made next in line to Tillman. Even before that, Tillman was often inclined to send me to the board meeting when he couldn't be there or had to be out of town. So I was pretty close to the board members and the management, just by sheer seniority as much as anything, I guess.

BASIAGO: Would you say that it's a fair characterization that you were wielding a lot of unappointed power?

DRISCOLL: No. No, I don't think so. If there was the slightest question, I'd get a hold of Tillman somewhere. I could always get him by phoning somewhere, New York, or Washington, or wherever he happened to be. And if it was important, I'd just say that I'd have to check that out.

BASIAGO: Another interesting thing I've found is the connection between attorneys, whether they be on the department's staff, or the O'Melveny and Myers attorneys involved with financing. Would you say that for the most part all financial decisions that the department has to make, and has made, have been made by attorneys as opposed to the accountants?

DRISCOLL: No. I don't think so. We'd never go to the O'Melveny office until the department had decided what they

wanted to build and how much it was going to cost. It was just a case of getting the bonds sold, and one of the steps of getting them sold was to get the attorneys to sign on. That's pretty much the way it worked. They weren't involved in any of the early discussions. We might have been, but they wouldn't be involved.

BASIAGO: A person I'm curious about learning more of is Rex Goodcell. His name has come up in, I think, almost every interview. Joseph Bosio, one of your colleagues, tells me that Mr. Goodcell was assigned to, as Mr. Bosio put it, "the Sacramento beat." He was working in Sacramento, quote, "keeping the legislature from interfering with Owens Valley water supply." Do you recall any of his activities on the Sacramento beat?

DRISCOLL: I know he used to go up there a lot. I didn't remember that much. Joe probably knew because he and Rex were very close friends.

BASIAGO: It seems that the department staffed a pretty healthy lobbying wing in Sacramento for that purpose.

DRISCOLL: Well, we kept one man up there all the time. Bill-- What was his name?

BASIAGO: Sachau?

DRISCOLL: No. [William] Sachau was a controller at one time. What the hell was his name? Anyhow, he'd done some work for Scattergood. I think probably some political work

earlier. He pretty well knew what was going on there in Los Angeles and also in Sacramento. He'd be up there most of the time that the legislature was in session. At that time the legislature didn't run all year like it does now. So he'd be up there, and then if he had problems he'd call up, and Rex would go up and work with him on it. Of course, Bill knew his way around Sacramento, so Rex learned that, too.

Later on, the municipal utilities in the state, Riverside, Anaheim, East Bay Municipal Utilities District, San Francisco Water Department, and so on, formed what they called the California Municipal Utilities Association. They all contributed to the operation of it. They had one man there that did what Bill had been doing, but he was there all the time and extended his work outside of just things relating directly to the department. He had his ears to the ground all the time. He made some pretty good connections up there. I was going up there generally, when Norm Woodbury was running that office, and I worked closely with him. But he did the work then up in Sacramento. If we felt we needed some backing in some particular matter before a committee or something, he'd want somebody to come up and testify. If it was worthwhile for me to do it, I'd do it, and if they felt they wanted somebody at the head of the water system to come up, they'd send him up there to do it.

BASIAGO: I was curious what kind of influence the department could wield with some state officials. It couldn't offer any campaign contributions such as a corporation or individual might offer to influence an elected official. It couldn't promise to force someone out of office without getting into a lot of trouble. What could it do?

DRISCOLL: Persuasion.

BASIAGO: Persuasion?

DRISCOLL: Yeah. That's about all. It's tough work too. I used to hate it. You'd just go in to talk to some legislator, and you could just see the wheels going around. There was a nice fellow up there named Bob [Robert C.] Beverly down around Redondo [Beach], that area. Edison had a big plant there, and I knew that when I went in he wanted to know what this had to do in relation to Edison. I could just see the wheels going around. It didn't take very much brains to figure out where the interests lay of these various legislators. You got a very dim opinion of them, actually. I mentioned last time that I'm disgusted with our congressmen for the same reason, but you had to deal with them. Norm Woodbury always knew, when he took us to see a legislator, what that legislator's interest was.

BASIAGO: Did every state senator or assemblyman always

reveal that he was beholden to certain commercial interests?

DRISCOLL: I think Woodbury could probably figure it out without being told. The lobbyists are hanging around there, and they're gossiping all the time. He was quite astute at figuring out where the body lies. He didn't have much money to spend, and what he used to do is that every year he'd have a picnic of some kind for the staff men of each of the legislators. And then he worked very closely with the California cities-- What do they call that? I ought to know it. They were a very smart bunch. League of California Cities. That's it. They had quite a staff up there, and a very competent staff. Norm could always find out from them what the leanings of various members of the legislature were. These fellows were quite in demand. There was quite a turnover, because anybody that worked for the League of California Cities had a very good reputation up there. They were always changing. One of our attorneys left to go up there and work for them. Then they could probably move on to representing some interests, and then become lobbyists. They became lobbyists on city matters, and then they'd probably go out--some company would want to hire them as a representative there in Sacramento. But that was the group that we dealt with, because they were the city people and we were a city. Then, as I say, we set

up this separate organization for cities that had water and power and sewage facilities.

BASIAGO: What were some of the more successful lobbyists that you know?

DRISCOLL: Well, I'm thinking of reputation. There was one named Garibaldi up there who represented all the liquor interests. Then there were one or two that Woodbury used to refer to: "They're buying a bill." In other words, it was strictly money on getting a committee approved, or something of that kind. I can't remember their names.

BASIAGO: Out and out cash, bribery?

DRISCOLL: Yeah. It probably worked through contributions of some kind, but it came pretty close to the line. I think it's possible there may not be as much of that now, but I don't know.

BASIAGO: Were there any elected officials with whom you dealt that you felt were above all that and had a lot of integrity?

DRISCOLL: Yes.

BASIAGO: And who were they?

DRISCOLL: There was a man from Fresno, or around there. He also represented the counties over the hill where we were interested. I was really impressed with him. We used to go in and see him. I don't think he stayed very long. I think he probably didn't think too much of it. I can't

remember his name.

BASIAGO: A few of the water attorneys that I spoke with in preparation for this project noted that something that's necessary to learn before understanding the Department of Water and Power, in their opinion, is that because of its early controversial water projects, it has always operated with a siege mentality. Do you think that's a fair observation on their part?

DRISCOLL: Well, the water system may have. It was the beginning, but the power system soon outstripped it in size and revenue and became the biggest part of the department. I think that even the people in the water system felt like stepchildren. They were apt to be concerned about their status.

BASIAGO: So you would attribute it as much to the age of electrical wonders, as opposed to the general political situation of the water projects?

DRISCOLL: Yeah, yeah. I would trace it entirely to that.

BASIAGO: They were afraid that the influence of the department had shifted so significantly to electrical projects that they were less important.

DRISCOLL: There was always the problem when they were promoting up to general manager as to which department, which side, was going to get the job. Most of the time it was the power-- I don't know, I can't say most. Nelson was

from water.

BASIAGO: I think it worked out that they would trade off. They would alternate. One time it would be a water executive and the next a power executive.

DRISCOLL: That was the way it was most of the time, unless there was some tremendous disparity in the abilities of those that were available. The department did try to keep it that way. So did the board.

BASIAGO: Do you remember when that compromise was worked out--to trade off so that the water and power divisions would always be in balance? It seems to go back all the way to [William] Mulholland and Scattergood.

DRISCOLL: Well, that's what I was about to say. Or if not Mulholland, at least Ben Norman, and both of them were very positive and aggressive people. They didn't get along too well. [laughter] So it has gone back. That's right.

BASIAGO: It seems that the department would profit by achieving bigger and bigger revenues as the population of the city grew. Did it ever have any lobbying at the local level, or any direct ties to the real estate community or the advertising community or the tourist industry? To promote those so it would get more?

DRISCOLL: No. They felt it wasn't necessary. There was enough of that in town. No, they didn't get involved in that, as far as I know. I don't remember any.

BASIAGO: The city's population, from the time of the building of the Owens Valley Aqueduct, has proceeded upward and upward as, I imagine, has its electrical load and its water consumption. Do you think the exponential growth of Los Angeles is going to continue, or has it already topped off? Right now the department has bigger revenues than ever and has experienced increased population load, and perhaps increased rates will come.

DRISCOLL: Well, I guess in recent years there have been rate increases. Before that the power system's rates were going down every year as they grew. So it became more economically effective. I guess in recent years the rates have been raised periodically. I know they have. I still get their annual reports. I don't know why.

BASIAGO: Some department people have noted that one of the department's primary objectives, if not the primary objective, is to produce water and power at the cheapest possible rate. Has anything occurred to prevent that goal from being accomplished? For instance, has outside political influence jeopardized the department's potential to accomplish that goal?

DRISCOLL: Not that I know of.

BASIAGO: I remember by going back into some of the old newspapers that the department has repeatedly been granted the double A bond rating, but never a triple A. Why? Is

that because it couldn't rely on taxation to back up--?

DRISCOLL: That probably has something to do with it.

Yeah, revenue bonds are not backed by taxes on real estate, whereas city bonds for other purposes are backed by taxes. I would guess that was the reason.

BASIAGO: Another thing I was curious about. When you were working in revenue-bond financing, how many trips to Wall Street did you make? It seems like it was probably a pretty regular thing.

DRISCOLL: It was nearly a full-time job there sometimes.

BASIAGO: You probably got to know New York City really well.

DRISCOLL: No. I didn't go back very much. The power system, I think, would usually have a five-year construction program, if I remember it correctly. They'd have what they wanted to build scheduled over that five-year period, and then the management and the controller would figure out what bonds they were going to need over that period to finance those projects. Of course, they kept pretty close tabs on the statistics with respect to the city, in addition to this power growth and the other factors you mentioned. There would be anticipation of what was needed and how it was going to be financed up to five years ahead. After World War II, the water system was expanding rapidly as the San Fernando Valley shifted from

agriculture to business. So they were faced with this all the time, and they were planning ahead for it--trying to. I think the bond buyers were aware of that. They'd come out here on their own sometimes and look around. They had all the city statistics. They knew what was going on. They considered the water bonds and power bonds a pretty good risk.

BASIAGO: So how many trips did you ultimately make to Wall Street?

DRISCOLL: Oh, I didn't make more than two or three. I've forgotten why I went actually. I know Robinson took me back with him in 1942, and when I was back there the office called and said that the navy was looking for me. I had already applied. So Robinson said, "You better go on home, you won't be much use now." So I came back and went in the service. But that was in connection with labor. There were some labor problems that we were involved with, and we went back to talk to them about it. I don't think-- Well, the War Labor Board may have been operating. That was in Washington. I don't think I went more than two or three times after the war.

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BASIAGO: Right around the time you retired in--was it 1970 or '71?

DRISCOLL: Nineteen seventy.

BASIAGO: Well, a year later the department finally reached an agreement with the state of Utah to secure about 50 percent of its electricity from coal production. Were you involved in the negotiations of that at all?

DRISCOLL: No, no. That hadn't started when-- I knew nothing about it. If I did, it didn't make much of an impression. They were just starting.

BASIAGO: They hadn't reached an agreement. They began negotiations in '71?

DRISCOLL: Yeah. I think so. I didn't remember it was that soon, because the department was trying very hard to build a nuclear plant and was trying to get authority and acquiescence for a plant up near Bakersfield someplace. It obviously became such a headache that the department gave up on it. Then they started going to these coal-fired plants for additional generation, except they had a joint deal with Arizona Public Service with respect to a nuclear plant that's somewhere around Phoenix. I don't know where it is. They have a piece of that.

BASIAGO: Since you have retired, have you heard any things

from friends who are still working there about the negotiations with the Utah leadership? It seems like it would be pretty hard to convince a fairly well-knit, predominantly Mormon leadership hierarchy to send so much power down to the city that's south.

DRISCOLL: Well, I didn't think there was any trouble on that. We have a little Water and Power Club here which is just retirees, probably sixty or seventy of us here, and we meet once a month and have a bring-your-own-lunch kind of thing. Gerry [Gerald W.] Jones is the perennial president because nobody else wants to do it, among other reasons. He's good at it and he likes to do it. He gets people down here from the department on various phases. We had a power engineer down here right at the beginning of that Utah project. I don't remember any political problems mentioned at the time. Now it may be that a large part of the power is going to Utah, and we aren't getting all of it. But we have been designated--the department has--as the lead agency in constructing the project. The department men, the power men, are up there all the time running this project. Apparently everybody's happy about it, as far as I know.

BASIAGO: The department, as you mentioned, was frustrated in its attempts to build nuclear power plants through the 1960s. Do you think that might have been a blessing in

disguise, now that many knowledgeable observers note that some of the most efficient utilities in the country are essentially non-nuclear?

DRISCOLL: Yeah, I know that, but I don't know which is the hen or the egg. I don't know whether it's because of the frustration with dealing with governmental units to get approval. I think that's the thing that's the worst, because it has run up the expense beyond all reason before you can get any revenue out of it. I'm sure Edison is sick and tired of this San Onofre plant, although it has been operating very well. I think PG&E [Pacific Gas and Electric Company] is probably fed up with their project up there because it has been very expensive and delayed beyond all reason. I don't know why this federal [Nuclear Regulatory] Commission is so tough on them. Maybe they're tougher since the Three Mile Island problems occurred. There are so many problems with it that utilities just don't want to spend that kind of money on it, and not get a return on it for ten years maybe.

BASIAGO: Do you think those utilities that have been saddled by problems with nuclear plants have encountered financial problems because of the political environment and the environmental costs, or because of the inherent costs of nuclear power production?

DRISCOLL: Well, it's the delays. That's what I'm talking

about. I think they did not expect the increased costs by reason of delays. They knew what they were doing; if they could build a plant in five years, why, they probably had it pretty well figured out how they'd handle that. But to have it go ten or fifteen years, why, they didn't calculate on that, and a lot of them have dropped them. I think PG&E is finally getting started on their plant. Texas Utilities down there has been building a plant, and they think they're about to get it on the line. But none of them are building any more plants. I think they are just discouraged by the regulatory attitude.

BASIAGO: Utah Power and Light [Company], for instance, is described by some observers to be a leader in the field, and it has no power production in nuclear plants. I was wondering whether the whole regulatory battle over nuclear power might have, in your view, allowed some smaller or more elite utilities to leap ahead and lead the field technologically.

DRISCOLL: No, I don't get that impression at all.

BASIAGO: Perhaps the larger utilities were saddled with the whole environmental battle over nuclear power, and that those that chose not to pursue that might have just pulled ahead?

DRISCOLL: Could be.

BASIAGO: During the time that the department was trying to

build the Bolsa Island plant, was it united in any kind of common front with San Diego Gas and Electric [Company], let's say, or Southern California Edison? Was there any internal--?

DRISCOLL: No, it was with Metropolitan Water District. They worked around to try to see what they could do with seawater. They were going to build this island down here, and MWD was going to use some of the power for desalting seawater. It was very close to approval--Joe was involved in that--and then all of a sudden it blew up. I can't remember what blew it up. It might have been cost, I don't know. But Joe [Joseph Bosio] was working with that all the time. He could give you an answer to that question if you want to ask him.

BASIAGO: I realize that the MWD was working with you on the Bolsa Island plant. What I was wondering is, as some of Southern California's largest utilities entered such a battle over nuclear power in the sixties and seventies, did any kind of cooperation evolve between their nuclear projects? Did you ever have any discussions, let's say, with people from Edison or San Diego G&E?

DRISCOLL: I haven't any idea.

BASIAGO: I was listening to the tape from the last session and I was very much interested in this whole negotiation that you were involved with El Paso [Natural] Gas [Company]

over the pipeline. Do you think that the fact that the [Lyndon B.] Johnson administration was persuaded to remove its support for that project created the nuclear power controversy out here in California? Do you think that if that gas had been delivered from Texas, the department would never have had to consider nuclear energy?

DRISCOLL: I can't say, really. They were very anxious to get the gas. So was Edison. Because at that time the pollution was serious with them both, and they were having to put in scrubbers and all kinds of things to try to reduce the pollution.

BASIAGO: From oil?

DRISCOLL: Yeah. And gas was comparatively clean. It would have given them a firm supply at a firm price for twenty years, which would have been very profitable as it turned out. I think the local gas companies, Pacific Lighting [Corporation] and El Paso [Natural Gas Company] (which was a supplier for Pacific Lighting), thought that it would probably cut into their being able to unload their surplus gas onto the utilities. But I have no idea whether that had any relationship to the nuclear situation at all.

BASIAGO: Numerous people that I've talked to in the power field have noted that natural gas is much cleaner and much more abundant than are oil reserves, or the burning of oil, for instance, or even coal or nuclear. I was just

wondering whether politics that went all the way back to the president's office might have actually had a very negative effect, not allowing this growing area out here in California to rely on a cleaner, safer source of energy.

DRISCOLL: I don't know if it was anything of that kind or not.

BASIAGO: Are you suggesting that the nuclear plans of the department were going along in tandem with the plans to bring gas out here from Texas?

DRISCOLL: They were just getting started on finding a place up in the [San Joaquin] valley for a nuclear plant. That would have been not too long before I retired, and the gas project from Texas was up at least five years before that. No, I don't think there was any connection between the two.

BASIAGO: Well, that would suggest a possible connection. That if the gas plans had proceeded five years earlier, and they were foiled by El Paso hiring Clark Clifford to put the kibosh on it with LBJ [Lyndon Baines Johnson], that perhaps then the department had to explore nuclear. Is that possible?

DRISCOLL: It might have been, but I wasn't aware of it.

BASIAGO: Was it a situation almost where El Paso just bought a presidential connection there by retaining Clark Clifford?

DRISCOLL: That's my view of it. That was the view of the people from Tennessee Gas Transmission [Tenneco Corporation]. They were my communication with what went on back door.

BASIAGO: So they were just buying someone with a president's ear, apparently.

DRISCOLL: Yeah, that's right.

BASIAGO: Was it tragic that the [Bolsa Island] desalting plant there off of Huntington Beach was defeated, because now it has become much more expensive?

DRISCOLL: No. The federal people were hard to get along with. Joe [Bosio] was involved in that. I think they were the ones that finally caused the plant to be dropped. There were too many problems within. Then, of course, the department would have to look elsewhere. They'd have to continue getting new generation. They'd have to get some source. But it was as much to help MWD out, because our people were well aware of the water problems, as well as the power, even though it was the power system that was involved. Anything that would help MWD get more water we'd be happy to have--the department would.

BASIAGO: Now the Bolsa Island nuclear power/desalting plant project was going to be a joint effort on the part of the department, San Diego Gas, Edison, and MWD. Was there a principal antagonist who discouraged the idea, or fought

it at the state level?

DRISCOLL: No. I'd forgotten that all of those companies were involved with it. I would think it was just the department, but as I say, I wasn't directly connected with the negotiations. What Joe told me is probably about all that I knew about it. I understood that they were somewhat disgusted and discouraged by the federal attitude toward them.

BASIAGO: What was the resistance at the federal level? Environmental strictly, or--

DRISCOLL: No. I can't remember. It might have been environmental or it might have been-- I think it required federal approvals, and they were having a hell of a time getting them. They didn't get them. Up to the time they quit, they hadn't gotten the approvals.

BASIAGO: One of your colleagues mentioned that in reference to nuclear power, American plants are probably better protected than those in other parts of the world from the standpoint of safety, and made the analogy that many of our soldiers were killed after World War I trying to deactivate bombs whose safety mechanisms had not failed. Was part of the cost of nuclear power the fact that the American political system forced the utilities to instill many redundancies in the plants?

DRISCOLL: I think so.

BASIAGO: So it wasn't just in terms of political fight.

It was the technological systems that were mandated by the environmental controversy?

DRISCOLL: I think that they felt that the federal commission that was handling that was just too critical and too demanding. They made it too expensive to consider it.

BASIAGO: I also wanted to go back and discuss the Buy American lawsuit in 1968. That was a situation where Bethlehem Steel [Corporation] had sued the department, because an important steel contract had gone to Mitsubishi because it offered, not so much at that time better quality, but a lower price. Was General Electric [Company] involved in that case at all?

DRISCOLL: No, not that I know of. No, I'm sure it wasn't.

BASIAGO: Do you think the fact that at that time the Japanese were offering lower prices allowed them the capital to expand their economy and now produce better quality?

DRISCOLL: Could well be.

BASIAGO: Would that kind of let the cat in the door?

DRISCOLL: Oh, well, I don't know about quality, because the Japanese had learned their lesson before World War II about quality. This was well known in the Orient.

BASIAGO: How so?

DRISCOLL: Oh, bicycles wouldn't work. Matches wouldn't

light. Sewing machines wouldn't work. They were just a joke before World War II. After World War II the Japanese set up an export quality control to the extent that it got a "Good Housekeeping seal of approval" if it did what this quality control board said. That caused the Japanese to work more directly on quality. They had some Germans out there, and they started making Canon cameras and things like that.

BASIAGO: Were the Germans from Hasselblad?

DRISCOLL: Probably. They immediately, after World War II, undertook to improve their reputation for quality, or get one. They made it quite an important item, with the result that they were very successful. It's that simple.

BASIAGO: When did the city of Los Angeles become responsible for accepting the lowest price from a bidder? How far back did that go? It probably went back before the Japanese commitment to higher quality. It was a pretty old standard that the department was operating.

DRISCOLL: As far as I can remember.

BASIAGO: Did it occur during the Depression where with money so tight they figured we're going to go for the cut rate, we're not going to play any favorites here with so many people out of work?

DRISCOLL: I don't know how long that section is. I've just assumed it has been in there for a long time.

BASIAGO: Is it in the city charter?

DRISCOLL: Yes. It has to take the lowest responsible bid. There may be some other qualifications.

I've learned a lot about the Japanese because I sponsored a young Japanese [Mayumi Otsubo] over here to go to school after the war. I did it through a professor I knew at Pasadena who taught over there with the army of occupation. He was very upset because the Japanese that were coming over were the sons of the high political hot shots, and a lot of people weren't getting to come; so I said I'd take care of one. This boy came of a family of about five children. His mother was a school teacher and his father was a school teacher, and I think his uncle was an Episcopal minister. Anyhow, he came over. He went to city college for a year or two, and then he went out to-- He graduated from the University of Tokyo to begin with, but he went to city college for a year or more, and then he went to UCLA. He was the first Japanese to graduate from the business school. He had a friend going through at the same time who didn't make it. The next thing I heard of him was he called up one night, and he was up in a Beverly Hills hotel. He wanted to know if I'd come over, and I said yes. He was kind of a flunky for the president of the Bridgestone Tire Company, who just about that time had been mentioned in Time magazine as the wealthiest man in the

world. I think it was pretty near that strong. Mayumi was going along to look after the bills and so on. They were headed for Paris because this man had gotten together quite a collection of paintings and was donating it to some museum in Paris. So he jumped from working his way through college to assisting the president of Bridgestone. He told me that this happened after the war--that they really clamped down. They knew what kind of a reputation they had. They set this unit up, and it was almost impossible to ship anything out of the country that didn't meet the standards, and they were very high. He knew all about it from tires as well as other things. He's now very high in the company. I hear from him every once in awhile when he comes through. He's got a family now, two youngsters.

BASIAGO: What was his name?

DRISCOLL: Mayumi Otsubo.

BASIAGO: So he stayed in the American economy. Or is Bridgestone a Japanese company?

DRISCOLL: Bridgestone is a Japanese company. They have him traveling a lot. I think he's in what he calls marketing, so he's in Europe and all over the United States. They have a plant now down in the Southeast someplace.

BASIAGO: I'm very curious about the department's relationship, not to say that in your personal life there

isn't any department connection-- Gerard [A.] Wyss was also another individual who took on Japanese youngsters after the war. With so many department employees veterans of the Pacific theater, was something interesting going on where a lot of guys were trying to put their war experiences behind them and show a global and charitable spirit?

DRISCOLL: Not that I know of. This was pure chance. I knew this professor through some ceramic work I was doing, and I guess I mentioned it to him, or he mentioned it to me, probably. He was trying to find a place for this boy; he was as mad as hell that he was just getting passed up because of the politics of it.

BASIAGO: I just note that it seems pretty remarkable that individuals who twenty years earlier had been so propagandized with what enemies the Japanese were during the war, and perhaps had even fought them, were in many cases supporting the department's position on the Buy American lawsuit. What do you think the split was in the department? Between those who said we should violate the charter and not do any favors for the Japanese and those who said we should always buy highest quality at lowest price?

DRISCOLL: They bought a lot of stuff from the Japanese because of this requirement of quality and price. They were told by our office that they had to follow those

requirements. If they could get the quality they wanted, don't pay any attention to the [California] Buy American act; they weren't subject to it.

BASIAGO: Were there any members of the department who expressed any umbrage to you, who thought the department was being disloyal?

DRISCOLL: No, no. I didn't feel that we were. I didn't feel it, and I didn't remember feeling it in the department. We had one or two Japanese that worked for the department. They were in that all-Japanese unit that did such a good job down in Italy.

BASIAGO: So was there a feeling that buying a product at the lowest bid was actually being quite loyal to the best interests of the city and the country?

DRISCOLL: Yeah, that's right.

BASIAGO: I just find it remarkable that to a large extent many of these veterans had let bygones be bygones and worked consulting with the Japanese. Gerard Wyss mentioned that Japanese water and power people would come by and view the Los Angeles water and power projects and learn from the department. We've noted that the Japanese have apparently pulled ahead of us in the production of such things as quality compact cars, stereos, and televisions. Was there a point in the relationship between Japanese utility representatives and the department where they went from

being students to tutors? How does the Japanese utility infrastructure compare to the American? Are they still in a situation where we're the mentor in terms of water and power delivery, or do they have superior systems?

DRISCOLL: Do you mean in Japan?

BASIAGO: Yeah.

DRISCOLL: I haven't any idea. I don't know.

BASIAGO: Gerard Wyss mentioned that for quite a while there, throughout the fifties and the sixties, they were coming by and learning from our projects.

DRISCOLL: Yeah, I remember that. That would be just another facet of realizing that they had made a lot of mistakes before the war, and that they were trying to cure them.

BASIAGO: What other nations have learned from the department and sent representatives here to study its projects? Do you remember any other visitors?

DRISCOLL: No, I don't. I might not know about it. It would just be chance if I did. The managers and the board members would be the ones who would know about it principally. I might not know anything about it.

BASIAGO: Another issue that probably blossomed after you retired, of course, was the Arab oil embargo of 1973. Was the department dependent on Arab oil prior to that, and is it still?

DRISCOLL: I don't know. That's to both questions.

BASIAGO: To change the topic. The Baldwin Hills Dam disaster in 1964 was resolved in closed session very quickly between the department and its insurance carriers. Were you in on those negotiations?

DRISCOLL: No. I was next door to them, but Tillman handled them.

BASIAGO: Gilmore Tillman was involved there?

DRISCOLL: Yeah, yeah. He handled them all.

BASIAGO: Gerard Wyss, who was at the scene when the reservoir began to break there, actually talks about turning the valve down underwater to waste enough of it into a channel so that it wouldn't inundate Baldwin Hills. He mentioned what a wonder that was of avoiding litigation. It was pretty much decided in that one session that there would be an amicable resolution of the settlement. You must have heard something about that as an attorney. What happened in there? It could have dragged on forever between the department and its insurers.

DRISCOLL: Well, they didn't give us any trouble at all, I think. We later sued Standard Oil [Company of California] on the ground that they were repressurizing that field and that that had caused the leakage. That case was finally settled, I think. Well, I don't know what we got out of it. I think we got something out of it. That whole thing

that you mentioned with the insurance companies was settled real quick. We were quite open about accepting claims.

BASIAGO: I find it quite remarkable that it was settled so quickly between the insurance company and the department.

The department's coverage was \$14 million. The Baldwin Hills claims totalled \$13.5 million, and they were operating under a policy with a \$100,000 deductible.

Essentially, the department broke the bank--almost utilized all of its coverage. Another complication arose from the fact that Standard Oil had the same insurer, so that the insurance company had to take money in from Standard Oil and pay it out to the people suing the department. Did you hear anything of how that accord was reached so quickly?

DRISCOLL: I may have, but I've forgotten it.

BASIAGO: It seems like it might be a lesson in an age where litigation creates so many problems rather than solves them.

DRISCOLL: Yeah. We all agreed it is better to do it this way. Thank goodness--we'd have been in court for years.

BASIAGO: Let's go on to some significant water-law cases that involved the department and were also major precedents in the field. I'll go through chronologically. The first one that is very interesting is the *Herminghaus* case, *Herminghaus v. Southern California Edison Company*. So, actually, it didn't directly involve the Department of

Water and Power, but affected it. In this case, the plaintiff was allowed to divert the entire stream flow to flood his riparian pastureland, but upstream development of a power project was precluded. A state constitutional amendment later reversed the decision. The case, nonetheless, brings to mind the competition between agriculture and metropolitan uses over water. Is there anything you can comment on in terms of that? It seems that the Department of Water and Power primarily has a metropolitan stake in water, and limited agricultural interests. Is that true?

DRISCOLL: Limited agricultural interests?

BASIAGO: Yeah. It is predominantly a seller of water to metropolitan users. Is that a fair assumption?

DRISCOLL: Yes, that's right. Particularly as the San Fernando Valley has become residential and commercial.

BASIAGO: So even though agriculture utilizes 85 percent of the state's water, the department, for all intents and purposes, is a metropolitan water purveyor.

DRISCOLL: Yeah, I don't know. I'm always amazed when I hear how high the figures are for agricultural use. I don't know whether they're still very large in the city or not. I don't know. I know that of the things I've seen lately, they are much higher in the whole southern part of the state. In Orange County and Los Angeles and some of

the others, the agricultural use is much larger than I expected it to be at this time.

BASIAGO: Is there any ongoing dialogue between the Department of Water and Power and agribusiness?

DRISCOLL: Not that I know of.

BASIAGO: I was trying to resolve this dichotomy between metropolitan and agricultural uses. Apparently agriculture uses most of our water, but as we see in the case of Herminghaus, the capacity for this individual to flood his riparian pasturelands at the cost of power production was ultimately foiled. Would you say the trend in the water field has been toward fostering the growth of great cities versus maintaining the interests of agribusiness?

DRISCOLL: I think that's been the result. For example, when we got the water in 1913, why, we couldn't use it. So we annexed San Fernando Valley and sold it to the farmers out there. That's been the way it's run. I think that's indicative of the way it's generally been over the state. Of course, there's a provision that domestic uses are paramount, as I remember. I can't remember where that is, maybe in the constitution. But I know that beneficial uses, domestic, stand as highest priority.

BASIAGO: So drinkers of water come before plants.

DRISCOLL: That's right.

BASIAGO: Of course, the idea you mentioned is this concept

of putting water to maximum beneficial use. That was an idea in water law that developed before 1928; however, in 1928, it was included in the California constitution. Were there ever any times during your career when you were involved in cases, or near cases, where the department felt that a certain supply of water wasn't being put to maximum beneficial use?

DRISCOLL: No.

BASIAGO: That someone in the city was wasting water? Injuring the water supply?

DRISCOLL: No. I don't remember anything of that kind.

BASIAGO: It seems in a city as large as Los Angeles that the interests of all those millions of water drinkers would come into conflict with the few individuals who might really seek to exploit large amounts of water for some commercial purpose.

DRISCOLL: They were able to get it without any difficulty. I never remember any restrictions of an organization. Sparklett's Water Company got its start with some wells out in Highland Park, and they still claim it's well water. I don't know where they get enough water to distribute in their bottles. I feel the same way about Arrowhead Drinking Water. The springs were down at the foot of the San Bernardino Mountains. There's an Arrowhead [Springs] Hotel up there where the springs were, and you

can see them with big trucks in the ads, but the trucks must be bringing the water from Big Bear Lake or some place. They aren't bringing it from Arrowhead Springs. There can't be as much water from those sources as the ads indicate. That's beside the point.

BASIAGO: The California Supreme Court has held that pueblo rights don't violate the idea of maximum beneficial use, since surplus water resources can be used by other parties until a city like Los Angeles needs them. The reason I bring up that little aspect of California water law is that I wondered, with very large purveyors like the Department of Water and Power and the Metropolitan Water District essentially controlling the water supply to the city of Los Angeles, has it ever come into legal conflict with people who would like to start up smaller water agencies, or anything like that?

DRISCOLL: In the city?

BASIAGO: Yeah.

DRISCOLL: No. Nobody has ever tried it as far as I can remember.

BASIAGO: Do you think they'd get very far if they did?

DRISCOLL: Well, they wouldn't have any supply, so I don't think they would get very far with it.

BASIAGO: I was wondering, with this rather monopolistic control of the main aqueducts which the department and MWD

built, whether there might be small water industries that would like to tap a certain aquifer and then have a large water district come down on them and insist on even controlling the small sources of artesian wells and that sort of thing.

DRISCOLL: Well, I imagine they would if that occurred. I don't remember anybody ever trying it.

BASIAGO: Another important case, which goes back way before you joined the department, was the City of Los Angeles v. Pomeroy. The resolution of this case established that Los Angeles could rely on its pueblo history to claim exclusive prior right to any additional water needed to meet rising demand as the city grew. It essentially assured Los Angeles's water supply to meet its population needs--because of that clause, that Los Angeles had a water right, not so much going back to time immemorial, but to the original Spanish land grant from the Spanish king. Did you ever perceive any time during your career when the department relied very heavily on that pueblo right to not really be too concerned with water cost, or transport, or waste, or inequitable distribution?

DRISCOLL: No, I don't.

BASIAGO: It doesn't seem like that kind of clause would really instill any discipline in the department, let's just say, in terms of waste or cost.

DRISCOLL: No, I don't think so.

BASIAGO: In 1936 Los Angeles brought suit against Glendale and Burbank to have its water rights in the San Fernando Valley declared prior to those of Glendale and Burbank. In the decision, the City of Los Angeles v. City of Glendale, the court held that Glendale was not invading Los Angeles's water rights, because under the pueblo doctrine Los Angeles was entitled to only those waters presently needed by its inhabitants. Were you directly involved in that case?

DRISCOLL: I knew of it, but I was not directly involved. It was tried by outside counsel, a fellow named Grover, and Bob [Robert] Moore worked with him on it.

BASIAGO: So that decision came down in 1943. Do you think that marked the end of Los Angeles's essentially free water supply, in the sense that it could only take water that it needed for its population rather than claim any prior right, pueblo right, riparian right, appropriative right? Did that decision really restrict the water-taking abilities and rights of the department?

DRISCOLL: No, I don't think so. They had stretched the pueblo rights beyond the boundaries of the original pueblo. You could argue that that's all it applied to, but apparently they didn't try to determine that. That would have made quite a difference. No, I don't have any thoughts on that.

BASIAGO: Do you think, in that case, if you recall, the court decided on behalf of Glendale and Burbank (that Los Angeles couldn't take the water in question) because it didn't need it for population reasons? Do you think Los Angeles was taking water it didn't need just to have it as a commodity--just to protect its supply to it, its access to it?

DRISCOLL: Well, I would imagine so, because if the city was restricted in what water they could pump from the San Fernando Valley by the fact that other people were pumping it out, it could seriously affect their groundwater sources. Of course, the city's rights are in pueblo rights rather than on the fact that the waters of the Los Angeles River belong to the city. I guess this case decided that as long as the city didn't need it, why, then, the other one could take it.

BASIAGO: I think it adjudicated the extent of pueblo rights. The idea of pueblo rights is that it has rights to the water to meet its growing population. So in a case where Los Angeles's couldn't demonstrate human need for the water, it couldn't claim a pueblo right to some other water supply. So in this case the court decided that Glendale wasn't invading Los Angeles's water rights, but could take water up and until the time that Los Angeles could successfully demonstrate that it needed it to serve

humans. I was curious whether it marked a juncture where-
after Los Angeles couldn't really get all the water it
wanted just for its own sake. It has been noted that the
doctrine of first use encourages consumption and penalizes
increased efficiencies through a system in which water
rights are gained by use and lost by failure to continue
that use. That's a dilemma throughout the Western water
picture. Water utilities seek to get water and demonstrate
that they are using it, even if they have to
surreptitiously waste it, just so that in time to come they
can claim that they've been using it when they in fact do
need it. You seem quite interested in this idea.

DRISCOLL: The courts could really take the water away from
you if you didn't use it. The claimant is inclined to use
the water every way he can just to be sure he has hung on
to it.

BASIAGO: Did the Department of Water and Power ever have
to do this?

DRISCOLL: I don't remember that they ever did. I don't
remember it ever coming up.

BASIAGO: Was that because they had actually created the
water delivery system so it was their own system? They
didn't have to prove any first use because they were the
first users and creators of it. Was there any activism in
the department to influence the Western water picture in

general so that the West could continue to develop? Do you think this idea of first use in water law is somewhat outmoded? That, in fact, it is quite wasteful?

DRISCOLL: No, I don't think so. Of course, now it's-- I can't comment about that.

BASIAGO: So there was never any frustration in the department that California's water law had, at least more so in the past, promoted waste and conflict?

DRISCOLL: No. I don't remember any discussion about it. There might have been, but I never heard it.

BASIAGO: California water law establishes statewide administrative control of even very small quantities of surface water. During the summers you spent up in Sacramento between 1947 and '53, appearing before the California State Board of Equalization, was there ever any involvement in the county-of-origin dispute over the disposition of surface waters?

DRISCOLL: No. This was more of an evaluation question. The argument was as to what the [Owens] Valley had used for water before the city bought it over, and what it was worth since. That was the legal area that those things involved, and not the ones of actual rights to water.

BASIAGO: I understood that. I was just wondering whether up in that whole political infrastructure up there, whether those who were looking after even the very smallest

quantities of surface water had some hand in this whole county-of-origin dispute?

DRISCOLL: I don't think so.

BASIAGO: This doesn't really involve water law, but water supply. Within the last thirty years the Central Valley Project and the Feather River Project, constructed by the federal and state governments, have brought much of Northern California's rainfall to the San Joaquin Valley for agriculture, and to the southern metropolitan areas for domestic use. Who in the department were the moving forces behind these projects, just as Mulholland had been the primary individual responsible for the Owens Valley Aqueduct [first Los Angeles Aqueduct]? Could you trace the Central Valley Project or the Feather Valley Project to a certain key mover in the department?

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DRISCOLL: Well, certainly the department was interested in the Feather River Project. [Gilmore] Tillman was active in that. He also worked with the fellow that put together that Westlands [Water] Project up there, which is an abomination, but he had carried a lot of political clout. I guess that was the reason that we used him, because he was in favor of it too. Of course, that Feather River Project was tied right in to the aqueduct down to Los Angeles [first Los Angeles Aqueduct] to get water down here. It was actively supported by the department [Los Angeles City Department of Water and Power] and the people in it. The only one I knew of was Tillman.

BASIAGO: A very important case was decided several years after you retired. In fact, in 1975, in *City of Los Angeles v. City of San Fernando*, which was a very long, drawn out groundwater case-- It has been described as as close to the *Jarndyce v. Jarndyce* of Dickens's *Bleak House* as anything in contemporary water law. It involved years of complex litigation testing Los Angeles's rights going back to the original Spanish land grant over San Fernando Valley land. Were you involved in that case at all?

DRISCOLL: No.

BASIAGO: Who was the lead attorney in that case?

DRISCOLL: I don't know. That may have been handled by an outside counsel.

BASIAGO: In order to fulfill its necessity to demonstrate reasonable beneficial use under this decision, did the department look around for new ways to distribute greater quantities of water, saying sure, we don't need all of this for populational reasons to prove our pueblo right, but we need it for such and such? Do you remember any of that going on?

DRISCOLL: No, I don't.

BASIAGO: I wondered if there was any engineering branch of the department that not only was concerned with water supply and delivery, but also engineering water uses. Has that ever gone on?

DRISCOLL: No, I don't think so.

BASIAGO: The San Fernando case led to the evolution of standards of water use. A groundwater basin is said to be overdrafted when extractions of water exceed the safe yield--the maximum amount of water which can be drawn annually without depleting or degrading the quality of the long-term supply. Essentially, this means that the rate at which groundwater is removed from the aquifer must not exceed the rate at which the water is replenished by natural and artificial means. Has the department ever been in danger of overdrafting water?

DRISCOLL: No. Not that I know of.

BASIAGO: What about during the 1977 drought? Now, I know that was six years after you retired, but weren't the reservoirs getting quite low at that point?

DRISCOLL: It could have been. I don't remember. I have some vague recollection that over the years, that during the--maybe I heard this afterwards--last drought, they made an effort to keep the San Fernando Valley water table high as a source of supply in emergencies. It seems to me [Harvey A.] Van Norman said at one time that the city could live on this underground water supply from the San Fernando Valley for six months. Now that's just a couple of vague ideas that come to mind. Maybe that came up in connection with World War II and the potential loss of the aqueduct through bombing, or something of this sort. I guess that's when Van Norman probably stated that they could take care of the city for six months.

BASIAGO: What was the city's population at that time? Around two million?

DRISCOLL: I haven't any idea.

BASIAGO: Somewhere between two and twelve million?

DRISCOLL: Would it be that high then? I guess so. It would probably be a few months less than six at this point. A lot of water.

BASIAGO: Another important case--this was in 1949--didn't

directly involve the Department of Water and Power, but two neighboring water districts: City of Pasadena v. City of Alhambra. In this case the idea of mutual prescription was developed for disputes arising from water overdraft crises. This set aside the idea of pueblo and appropriative rights as the basis for determining the burden of curtailment responsibilities when water is overdrafted. The court held that an appropriate remedy in water appropriation conflicts is to impose reductions of all uses, so that inefficient uses would not go undisturbed, or, in fact, would be considered, nor efficient uses jeopardized just because they were established later. Essentially, this decision set aside the whole concept of "first in time, first in right" and established mutual prescriptions so that the actual use of the water and its social benefit would come into play in the adjudication of the competition over the water. In this case, the water of the Raymond Basin-- In the Raymond Basin, pumpers responded to the Pasadena, decision by importing more water from the Metropolitan Water District [of Southern California (MWD)]. Now, in the case of the city of Los Angeles, I was wondering whether L.A. DWP and MWD rely on any kind of mutual system of transfers?

DRISCOLL: I haven't any idea.

BASIAGO: I see. So you know of no agreements that have

been worked out in cases of reduced supply?

DRISCOLL: No.

BASIAGO: Such as terrorists bombing one of the aqueducts or an earthquake damaging an aqueduct.

DRISCOLL: They may have, but I'm not aware of it.

BASIAGO: Do you think the Department of Water and Power has nothing to worry about with MWD losing its water from the Colorado River source?

DRISCOLL: I think they should. It's a substantial loss. You can see the trouble MWD is going through to try to replace it by conservation in the Imperial Valley. They can't rely on the total amount they are supposed to get from Northern California.

BASIAGO: The critics have analyzed the Pasadena decision as fostering, as I characterized, a race to the pumphouse so that the water purveyor could prove its appropriative right to the water before it was prescribed for a variety of uses. Has there ever been any movement among water attorneys attached to the department to lobby among other water lawyers in the West to attack this "first in time, first in right"?

DRISCOLL: Not that I know of. I don't remember it being discussed.

BASIAGO: In all of your advising and lawyering for the department, were you ever involved in intercommunity

allocation disputes?

DRISCOLL: No.

BASIAGO: What legal and judicial rules would you like to see applied to promote maximum beneficial use?

DRISCOLL: I wouldn't. I'd have to think about that. I've never thought about that as an abstract proposition.

BASIAGO: I guess I'll end by getting your opinions on the whole field of practicing the law. We live in an age when attorneys are viewed as more creators of problems than solvers, and there seems to be a very heavy antilawyer sentiment in the country. Your colleague, Joseph Bosio, suggested that the biggest problem is that the field of litigational law remains in a horse and buggy state. And that, in fact, he thinks lawyers do share a lot of blame for making problems more complex rather than solving them. He thinks the Japanese have grown and profited economically because they have more or less a consensus system where litigation and conflict between individuals is not socially esteemed. What are your feelings on the whole field of the law? How would you counsel young lawyers or law students about how to practice their professions?

DRISCOLL: I'd say from the beginning I'm glad I don't practice now. I think it has really deteriorated. To practice the law just doesn't appeal to me at all anymore. The old-fashioned adversarial procedure in court

with a reasonable amount of respect and honesty between attorneys seems to have completely disappeared. I think Joe's comments are right. It's a very poor system now, and I think it is demonstrated particularly with this "deep-pockets" doctrine that just has no basis for equity or anything else that I can see. It is just a matter of greed on the part of the Trial Lawyers Association. I'm glad I don't have anything to do with it. I don't know what you can do about reversing it, though. The basic adversarial relationship is sound--I mean the way cases have been handled over the years--but it's the change in the way that system operates now which I think is unfortunate.

BASIAGO: What specific things have allowed this system to deteriorate?

DRISCOLL: Well, one is, I think, the efforts to obstruct a case; I mean the lawyers using obstructive tactics and getting away with it. The British settle the case in a couple of days, and it takes us two years, and they do it very successfully. I think we could learn a lot from them about the way they handle a case. Ours has just gotten too cumbersome. I don't know why you get back to that, but I think it's costing the public too much money. Some lawyers are making too much.

BASIAGO: Do you think there's still a role for lawyers as mediators rather than as antagonists? Part of that

question would involve looking back historically and also during your career. Were lawyers, when there was more civility between them, more mediators than antagonists?

DRISCOLL: I think so. There was more effort to settle a case rather than to try it. It seems every little thing that happens has to go to court now these days, and lawyers I know used to just sit down and settle it and get the clients to agree and everybody was happy more or less. I don't think that happens anymore, and it's unfortunate.

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