

DON BURDICK

TAPE 3, Side 1

November 7, 1996

M.O'R.: This is Michael O'Rourke for the Washington County Historical Society continuing the oral history with Don Burdick on November 7th, 1996, and today's interview is taking place at the offices of the Lake Corporation.

I thought we would really get into the issue of water quality on the lake today and talk a little bit about the events of the mid-80's, the lawsuits, et cetera, that helped to get things cleaned up, too.

But before we get into that, can you give me a little background on the Lake Corporation itself? What's the budget and the number of employees of the Lake Corporation today?

D.B.: Well, I think we may want to spend just a moment talking about the history of the corporation so you'll know why we do what we do.

M.O'R.: Sure. I wanted to ask you that, anyway.

D.B.: Currently we have three full-time employees, and then in addition to that we have maintenance crews, and we typically would employ a dozen people during the summer months, maybe a half a dozen at any one time, on our crews. But the purpose is to keep the lake clear and clean and do maintenance around our water body and so forth. And then in addition to that, we employ some Clackamas County deputies on a part-time basis, hourly basis, and they patrol the lake. We have law enforcement authority on the water itself. So Chuck Schaeffer is our warden, and Stuart Dunis is the assistant warden, and they are full-time employees of the corporation, but in addition to that we have another five deputies, and so in the summer months we patrol quite heavily; in the winter months it's not quite so much.

So in terms of how many people in the course of a year work for us, it's probably 25, but with just three full-time people.

M.O'R.: And the full-time people today are Chuck ...

D.B.: Charles Schaeffer is our lake warden, and I think he's been with us 22 or 23 years, so he really knows this lake, and in fact a lot of the lake's history is in his head, and we've got to figure out ways to extract it before he decides to retire. Terry Eiffert is our bookkeeper and does all of our accounting work, and is really getting us into the computer age. This may sound funny 100 years from now, because people will never know there was another kind of age, but up until this point we really had manual ledgers, and so we've made the conversion now. Then Stuart Dunis is our operations and maintenance supervisor, and he really is the guy that is responsible for the care of the lake, and the maintenance crews all report through him.

To do those services, we have some sources of revenue. Our primary source of revenue is shareholder assessments. We have about 750 shareholders who live on the lake, and then we have 21 different easements, and there's probably another 3,000 families that have access to the lake through those easements. So in the aggregate, it's pushing 4,000 families that can access the lake for swimming and boating and so forth, and they are assessed.

Now, in addition to that we also have two swim parks on the lake, one for the children of Lake Oswego that's operated by the City of Lake Oswego, and we have another school park at the western end of the lake that's dedicated to the children of the old Lake Grove school district because before there was a Lake Oswego there was an Oswego at the east end of the lake and a Lake Grove at the west end. So the Oregon Iron and Steel Company, in their wisdom of establishing this lake, arranged that the children within the city of Lake Oswego would have their area, and the children - since it

was an unincorporated area to the west, it was the children of the school district. Those decisions, of course, were probably made with wisdom of the time, but since that time it's all become Lake Oswego school district and one town, although the clauses in those conveyances are such that we cannot expand the use of those swim parks, and as a result the Lake Grove swim park still remains the properties that were in the original Lake Grove school district and do not include the rest of Lake Oswego.

M.O'R.: So Lake Oswego kids can swim at this one, but not the one at the other end?

D.B.: No, anybody who lives inside the city limits of Lake Oswego and its expanded boundaries can swim at the east end, but at the west end only those people who are within the old Lake Grove school district can swim. And incidentally, a portion of that district is actually outside the city of Lake Oswego, and they have set up their own - the school district has its own taxing district for that purpose.

It's a little confusing, and I think as we're moving through difficult times now in terms of how education is funded, and there are concerns about whether it is a proper purpose for a school district to be operating a swim park, but at the present time that's how it is in our community, and it seems to work just fine.

We have a couple other sources of revenues. We do manufacture power, which we sell into the PGE grid. Originally we sold power independently. We sold it to the community of Oak Grove across the river and the city of Dunthorpe, but now we sell into the grid. So that we have power sales as a source of revenue, and it's pretty nominal. It's less than \$100,000.

We have some marina income on gasoline sales for fuel for the boats. We have licenses and permits, which - you know, I'm going through decreasing sources now - and then of course we have a

couple of dollars in interest income. We were building our reserves into more substantial levels until this flood hit us this year, and we'll talk a little bit more about that.

So our budgets at the present time are probably in medium six-figure proportions; say, five or six hundred thousand dollars, and that was until this year. This year it will probably be over a million dollars in terms of the flood recovery requirements, and we've doubled the assessments for our shareholders.

It's interesting in history on the lake, when it was first started the properties on the lake were sold for \$50 for each lot, and they were so hard to sell that if you bought two, they would give you the third one for free. Today those properties, lots range in price today from, say, \$200,000 on the low side, and some have actually sold over a million dollars on the high side. That's just for lots with - when I say the million dollar figure, that was a property that sold and the buyers tore the house down and built another house on the same lot.

I'm sure that if inflation continues, people will look back at today's values, which we think are very high, and say, "Oh, my gosh, if I had only bought a million dollar property on Lake Oswego." Well, it's going to be a long ways out, but I think inflation will just continue for a long time.

M.O'R.: That seems to something you can almost bank on.

D.B.: I don't know if it's helpful to talk about the history of Lake Oswego in terms of how we actually tied into the Tualatin originally?

M.O'R.: Sure.

D.B.: I think it's an interesting story. There are several books - *Oregon's Iron Dream* is one; another one is called *Charcoal Wagon Boy* - and they were written by authors 20, 30 years ago about the history of our community, and they reflect on some of the

aspects. There's of course information in the *Oregonian* newspapers of the day and other sources that the Historical Society has. But really, our history is traced to a fellow named John Trillinger, and Trillinger bought the town site, what is now Oswego, in 1865, and he created the People's Transportation Company, which was to have been a company that - recognizing that you couldn't get over the Oregon City falls and you couldn't get into the Tualatin Valley because it was all flood plain and it was hard to get up through there, he thought what he would do is to dam up the lake, which he did, and have a steamer on the lake which would haul goods across the lake, and then you'd off-load and you'd haul them over the flat area to the Tualatin to the south, put them on another steamer, and they can go up the Tualatin River.

M.O'R.: So there was just a stream through here originally, or was it a smaller lake or ...

D.B.: Well, originally it was called Sucker Lake, and Sucker Lake was someone threw these carp in the lake and, they were called suckers at that time, and so I think originally the Indians called the area Walluga, and I think - I could be wrong on this, but I think the terms refers to a white swan, and originally there were Walluga in the lake, the white swans, but it was really a very low-lying lake, 26 feet lower than the lake is currently.

This fellow Trillinger had a steamer on the Tualatin River, which he called the *Yamhill*, and then he would portage the goods across the area to this lake, put them on a steamer which he called the *Minehaha*, and then he would come across this Sucker Lake area, and then he would take the goods down from Sucker Lake to the Willamette, put them on another steamer and off they'd go to Portland.

He didn't survive for very long, and there was a new company that was started up which was called the Tualatin River Navigation

and Manufacturing Company, and they were the ones that really planned to industrialize this area, and they were going to build a sawmill and a storage warehouse, and then they were also going to build a canal between the lake and the Tualatin River. They actually dug the canal, and they provided this water-borne transportation into the Tualatin. The plan then of course was more ambitious, but it was actually not carried out.

I think there's a record that a Captain Kellogg brought 2,000 pounds of grain down from the Tualatin, and I think the newspaper photographers of the day were there to record it, and I think that he made quite a speech about how this was going to change the face of western America, but it didn't survive either.

But at that time a diversion dam was built on the Tualatin by this corporation, and the diversion dam raises - and it exists to this day - it's a series of flaps across the Tualatin about three miles down from our headgate, and as those flaps are raised, they can increase the elevation of the Tualatin River by three feet. They're used in the summertime. The Tualatin River is so flat that it actually increases the level of the river for 30 miles upstream. We use it to increase the elevation enough so the water can get to the headgates that come down into the lake and gravity flow.

M.O'R.: Now, the present-day diversion canal, was that also the site of this navigation canal that the steamship company built?

D.B.: Yes, it was. It was.

M.O'R.: But it must have been a bigger canal then?

D.B.: No. I guess it was quite a struggle. The horses or the mules would go up, I was told, on the east side of the canal, and they would pull these steamers up, and then they would - I say steamers, I'm talking about barges, really, with very shallow drafts, and maybe 30 feet long and six or eight feet wide, and they would use poles to keep them off the shore and to push them up. It

was a real struggle to get them up there, even the one or two that may have actually gone up there. To my knowledge, there was never paying cargoes that went back and forth. It was always the idea.

Then what really happened is about the time this thing came to fruition the railroads came in, and the railroads could beat this system hands down. Once they put the tracks in up into the area of Hillsboro and Forest Grove, I mean, there was no chance for this commercial endeavor to work, and so it floundered. Ultimately - I'm not sure if it went bankrupt or whether it just went out of business, but Oregon Iron and Steel, which at this time - now we're in the 1870's - was manufacturing iron from this area, purchased the interest of this navigation company and expanded their holdings. So Oregon Iron and Steel became the successor to all of these other activities, but it was these other activities that were the source of the canal, which now brings water from the Tualatin into the lake.

M.O'R.: And then the Lake Corporation, when did it come into being?

D.B.: Well, the Oregon Iron and Steel Company manufactured iron ore, burned coke, which they got from the Douglas firs, and the Douglas firs in this area were thick, although I've seen some photos around the turn of the century, and it was just barren of trees, and it's hard to believe that the trees around us now have been growing for only a hundred years. There is no old growth in this immediate area because they cut it all down to make coke to burn these furnaces. They were cutting five acres of old growth Douglas fir every day, and they owned, I've been told, 45,000 acres, owned or controlled 45,000 acres in this area, which was a huge holding.

But it became uneconomic to manufacture iron, and they began to become developers. So after the turn of the century the head-

gate as we know it up until this flood went in about - between 1905 and 1910. The diversion dam I think is 1909. The main dam that we have now on the lake is 1921.

So about that time they began to convert it into an area where you could have your recreation, and then ultimately an area where you could also live. They had a trolley system called the Red Electric which went from here into downtown Portland. Macadam, which was the first - well, Macadam, the pavement, it was the first paved road of its type, came into being, and they began to try and sell property out here. Their theme was "live where you play," and so people could go boating and canoeing on this lake and live here at the same time, but there were a lot of summer homes in this area. But in the 20's more and more people begin to actually live here. There were a couple of very famous architects who designed homes around the lake up through into the 30's and during the Depression. Some of the finest homes in the Portland area were built on this lake. And people would commute into the downtown Portland area. So it increasingly became a community for support of the Portland area and a residential area.

I was born here in 1938, and I think I had heard there was 1400 people living here at the time, and today we're a community of about 32,000, I believe. So there's been a lot of growth in my lifetime.

Interesting also that the Oregon Iron and Steel Company employed a lot of Chinese coolies to work these mines and to work the smelters and so forth. I've been told that the number was upwards of a thousand. I don't know the real number. But when they began to shut down the operations, about half of them went to the San Francisco area, and about half of them went to the Vancouver, British Columbia area. Before they were shipped out of



here, someone said that they were making a dollar a day and paying most of it back in food and housing.

But the crews actually, when they completed that task but before they left the area, they built a rock wall which surrounds this lake. All the way around our shores for about seven miles there is a rock wall which was built by Chinese coolies. So the depths here are probably at least three feet all the way around the lake, and they filled into that so you have a nice waterfront instead of mud.

But the area finally grew, and then the Oregon Iron and Steel Company became less the Oregon Iron and Steel Company and more of a development company, and Paul Murphy, who was its president - a man whom I have met, actually. He died probably about 20 years ago. He was quite a grand fellow. His father had been involved in this company, and then he was instrumental in the development of the community.

[interruption]

M.O'R.: You were just about to tell me about Paul Murphy.

D.B.: Oh, Paul Murphy, yeah. Paul Murphy was a developer, not really an iron and steel man, and he developed neighborhoods in Seattle, and also I think it was the Laurelhurst neighborhood here in Portland. Then as a matter of fact in the middle of the Depression, I think it was 1932, he deeded the land over which is now Oswego Lake Country Club to form the Oswego Lake Country Club.

The Lake Oswego Corporation and its predecessors had been evolving, and he was increasingly deeding properties from Oregon Iron and Steel to the Lake Oswego Corporation. The final - well, near final conveyance and the largest one, what we refer to as the "master conveyance," was in 1941 or '42, where he deeded the remaining bed of Oswego Lake over to the Lake Oswego Corporation. He established by-laws for the corporation. He deeded it with some

restrictions in terms of how the corporation should be custodian of the property, and that was really the birth of this corporation was at that time.

M.O'R.: Now, were these mostly properties directly connected with the lake itself?

D.B.: They were all connected with the lake itself. The total conveyance was in the area of probably 450 acres, and I would say since that time there were some additional small transfers, and we've acquired some properties related to the lake so that our total holdings might be in the 500-acre range right now. They're all underwater properties, in the main. When the lake is up, everything under water is what he deeded.

He also was wise enough to deed what we call uplands properties all around the lake, so that the Lake Oswego Corporation actually controls the shorelines over virtually 99 percent of our shore. So that as you approach the water, you begin stepping on our property, and by so doing we have control over it, and that's one of the reasons that there's a consistency to what you see on the lake, and there's not the overbuilding and crowding that you see in some other areas. And while individuals resent it on occasion, it is for the common good, and usually the people who object to it are the people who are about to move onto the lake, and the people who appreciate it the most are people who've been here for a year, and they begin to understand that although they can't build as high or as wide or as far out into the lake as they might have originally preferred, that if everybody did that we'd have a mess out here. So we control it, and we have - we view ourselves more as custodians of the lake.

M.O'R.: And you control it through your ownership of these properties?

D.B.: Control it through ownership and through the board, which is a volunteer board made up of homeowners who live around the water.

M.O'R.: What sort of relationship has there been the Lake Corporation and the City of Lake Oswego, the city government?

D.B.: It's a relationship which is on the one hand very integral to the success of both the city and the lake, but it is also a relationship which has some strains because the interests limited to the Lake Corporation do not always coincide with the interests of the City, and vice versa; the City in its effort to believe it's serving everybody sometimes we think that it's infringing on our rights.

There are always money issues where the City needs to do something, or we need to do something, and we wish the other party would pay more because we do serve some public purposes. We provide flood control for the City of Lake Oswego. There are 75 different surface water drainage channels coming into the lake at this time. We also provide irrigation, interestingly enough, for not only the people around the lake, but also for the Oswego Lake Country Club, and we area a hydroelectric producing facility, operating as a nonprofit utility.

But there are many issues. The City, for example, has 27 miles of sewer lines underneath the lake, and the City just thinks that's great because it was cheap to put them in, and all they have to do to maintain them is have us drop the lake. Well, it creates some real problems for us. For one thing, dropping the lake is a very difficult task for us. The City at this point in time has not rewarded us for that.

The other problems we have are up these canals. The City just laid its sewer lines on the bottom of the canal, and they're not bedded in very well. Well, when the silts come in and surround the

sewer pipes and cover the sewer pipes in some ways, we can't just go in with heavy equipment and dig them out again because we have to be so careful of these sewer lines and the laterals coming into the sewer lines. The City has not been at all of any assistance to us. They just shrug their shoulders when we have to dredge, and they ignore the fact that it costs us five times as much to dredge around the sewer lines as if they weren't there. If we had to do it over again, we would have put different kinds of constraints for all of these public uses of our private property.

But we have a pretty close relationship, especially our maintenance people. Stu Dunis and his crews and the city maintenance crews operate very closely on a lot of issues. Even on very small things, too numerous to mention, just the way road repairs get done near bridges - there's a genuine spirit of cooperation, at least between the maintenance crews of the City and the maintenance crews of the Lake Corporation.

M.O'R.: Now, bringing it back here to the early history of the corporation, was Mr. Murphy instrumental in forming the Lake Corporation as well?

D.B.: Oh, yes. He was, and he named it the Lake Oswego Corporation, and he donated the properties to it. He established the corporation, probably hand-picked the board members. I mean, I don't know that to be true, but probably did. We had many dealings with him over the years, and when I first became associated with the Lake Corporation, we were still having transactions where we needed his signature on this and signature on that.

M.O'R.: This is in the late 70's?

D.B.: This is in the late 70's; that's right. I think he died in the early 80's.

M.O'R.: Well, what can you tell me about Paul Murphy himself? What sort of person was he, based on your own interaction with him?

D.B.: Oh, he was a great guy. Very generous. He lived in the community. He had a beautiful home overlooking the lake. I still remember some stories about him.

There was a tailor in our town whose name was Lavicek, and Lavicek made suits for my grandfather, the banker here in this town. Anyway, Mr. Lavicek's son, Lou Lavicek, went to work for Paul Murphy, and Lou Lavicek was like his number two man for 50 years, I believe. Murphy was always paternalistic; you worked for him, it was like a family. I still remember Lou Lavicek, and Murphy gave him a house to live in, and he provided for everybody around him.

[End of Tape 3, Side 1]

DON BURDICK

TAPE 3, Side 2

November 7, 1996

D.B.: Paul Murphy was also a very good Catholic, and he was a member of Knights of Columbus, and then there's another organization that I wish I could remember; it's a worldwide organization where membership is invited by the Pope, and Paul Murphy was a member of that organization of very strong lay Catholic people. He was very highly regarded.

M.O'R.: You must have known him before, then, too, when you were at the bank?

D.B.: I knew him growing up as a kid, met him a couple times, always a famous name in our town. Yes, I knew him at the bank. He did not bank with me, but if you're a banker you kind of know who's who. Then when I first started relating to the Lake Corporation, I actually got to meet him several times and have been in his home on occasion.

He had a wonderful cardroom that he built in his house. His house was a stone - is standing to this day. He had a poker room in the corner of his house, and it was a two-story turret, and you can imagine this stone house and then it has this turret on one corner where three-quarters of the wall surfaces are facing to the exteriors, and then it's two stories high. In the center of this round turret you stepped up four or five steps up to it, and when you stepped in it was the area where you did the serious business of playing poker, and there was a table in there with - I think it was like eight chairs around it, and there was a kind of a back bar on one side, and I can just imagine in the early years the men would sit there with their coats off but maybe with their vests on, and they would smoke cigars and drink whiskey and play poker. I

don't know if that ever took place, but it was the perfect setting for it. But that house - I believe it's on the historic landmarks here in Lake Oswego, the original Paul Murphy house.

M.O'R.: And somebody else owns it now?

D.B.: Yes. Yes. The man named Crookshank, Don Crookshank, bought that house. This has nothing to do with what we're talking about, but it's an interesting aside. Murphy sold to a guy named Jack McKinnon, and McKinnon restored the house. He was a developer, the founder of Shelter Properties here in town, a lumberman. So Jack restored the house. Jack became very ill, and he died and his estate sold the house. And when they sold it, they sold it to some fellow who just appeared out of nowhere. He in turn rented that house out to the Adams family, but he never put a dime into it, and he was a mysterious guy who nobody never knew very much about, and the Adams family lived in the house, but this owner would never do any repairs, and it became very - a home like that needs constant work, and it became very deteriorated, and the Adams family had their own financial difficulties, so the house fell into very difficult times, even though it had good bones, in terms of its location and basic structure.

Well, all of a sudden there's this arrest in California, and it turns out to be the owner of this property, he owns this and a number of others, on a drug charge. He was smuggling drugs in from Mexico, and they arrested him and they confiscated all of his property, including the old Paul Murphy house.

So anyway the federal drug administration put the house on the auction block, and I remember Don Crookshank called me, and I don't think he'd mind me telling this story, and we were laughing because he told me what he was going to bid. The estimated price that this would fetch, I think, was seven or eight hundred thousand dollars at that time, and Don's bid was way back of that figure. So when

they opened the bids, his was the highest bid. All of the publicity had scared off the potentially high bidders, and he turned out to be the high bidder. And he had bid a very low price; he never expected to buy it. But on the other hand, it was a high number for him, for his circumstances. So he called me, and he said, "My god, what am I going to do?" He says, "Now I've got to come up with this money within 30 days." But anyway, he was able to come up with the funds, and he's restored it, and he lives there with his family today.

So that house has, in addition to being an architectural marvel of its day when it was built, and then going through this process of deterioration, and it has this aside of being owned by a drug dealer and confiscated and so forth, but Don has pretty much returned it to its original splendor, to his credit. And he has a nice family living up there now, and I think that house will be around for a long time.

M.O'R.: Has he restored the poker room?

D.B.: I don't know. I haven't been in the house, and he hasn't invited me over to play poker, so I don't know. I would certainly hope so.

M.O'R.: Well, that's a good sketch about the history of the Lake Corporation and Paul Murphy.

In terms of more recent history of the Lake Corporation, you became a board member in '78 or '79, and we talked a little bit about things then, and you told me that at that point in time that the water quality committee, for instance, didn't exist and that it came along sometime after that. So I wonder if you could discuss the more recent history of the Lake Corporation - or for that matter, if there's any significant sort of evolution that occurred between the 1941 founding of it and the time you joined it, you could comment on that, too, but then I would be more interested in



knowing the history of the last 15 years or so of the Lake Corporation and how you really got seriously into the water quality business.

D.B.: The quality of the water in the lake was deteriorating as the properties around the lake got developed, and the reason was that all these properties had septic tanks, and septic tanks at some point in their life are going to fail. So as each property ages, you approach 30 and 40 and 50 years, they began to fail.

M.O'R.: So you're talking now about ...

D.B.: I'm talking about in the 50's and 60's. The Tualatin River was also deteriorating; not just septic problems, but other kinds of problems as well, having to do with livestock and ...

M.O'R.: Growth out in the valley?

D.B.: Yeah, urban expansion into the Tualatin Valley. And the use of chemicals in agriculture, that was bad. The cows mucking around inside these streams that feed tributaries to the Tualatin, that's a very difficult problem, and continues to be a difficult problem to this day. Until the farmers start fencing off these streams, they're just degrading these streams something terrible.

The City of Lake Oswego, though, floated several bond issues and began a process of getting all of the community on sewers, and that was largely completed by the mid-70's.

M.O'R.: Which would be the period when the Lake Corporation signed off on easements for the sewer lines?

D.B.: Exactly. It was in our best interest to have sewers because the septic tanks were killing us. So anyway, they converted, but that was a long process; took 20 years, maybe, and I think the last were probably in the mid-70's. Although interestingly enough every once in a while a house is discovered that still isn't on - that has a failing septic tank, and people try and

figure out, well, how can this be, and well, it was never actually - they overlooked it somehow and it didn't get on the sewer. That's happened within the last couple years.

So the Lake Oswego Corporation had kind of lived with these ups and downs on water quality, manufacturing power, people swam in the lake. It wasn't too good, but they swam anyway. The board, though, became increasingly concerned that the Tualatin River water quality was depreciating. We'd done about all we could do here in this basin we thought at the time, but we're trying to do much more now. So we began to try and figure out what do we do about the water coming in from the Tualatin? And various attempts were made to convince people in Washington County that it was in our mutual best interests to have clean water in the Tualatin.

The result of those discussions was very predictable, and that is the people up the Tualatin Valley would say, "We think it's in your best interest," meaning the Lake Corporation, "we think it's in the Lake Corporation's best interest to have clean water, but we're the ones that are going to have pay for it, and why should we?" And we became increasingly frustrated because our message was the upstream polluter is responsible to the downstream user, and we felt we were suffering as downstream users.

M.O'R.: And this was the situation that you were facing when you first came on the board?

D.B.: When I first joined the board; those issues were much talked about inside this board.

M.O'R.: And talked about, you said, with people upstream in Washington County?

D.B.: Yes, with people upstream in Washington County.

M.O'R.: Now, was that USA or the Washington County government or ...

D.B.: Well, it was mostly Washington County government at that time, but they were very unresponsive. We tried to rally support along the Tualatin River with people who lived on the Tualatin, and I wouldn't say they were so unsupportive as they were - it was such an overwhelming problem, nobody knew exactly where to begin or how to tackle it.

M.O'R.: Did you talk to any state agencies about this problem at that time, like the DEQ who later did become involved in this?

D.B.: Yes. We did. We had discussions with a legislator, her name was Joyce Cohen, who seemed supportive of some of our issues. She served constituencies in both counties. We talked to various water resources, and I can't remember the departments; they've changed their names, you know, over the years. But we did talk with the Governor's Office at one time when Governor Straub was governor.

It was an uphill battle. There was no way - we could not figure out a way to force the issue. One of the residents here on the lake who shared our concerns was this fellow Jack Churchill, and Jack Churchill's vision was a little further out than our vision. He was a former EPA administrator, had come out here to Oregon because he wanted to live here with his family and be a professor at Portland State University, and he and a guy named Jack Smith began to take a look at the Clean Water Act and the requirement that the EPA enforce the Clean Water Act, and at the Department of Environmental Quality here in Oregon, which was not doing its job, and they began to develop a theory that the way to tackle the problem of the degradation of water on the Tualatin was not through people like us going in there on bended knee and pleading with them, but to do it through the courts.

So they proceeded to develop a theory that said the upstream user is responsible to the downstream user. You cannot pollute a

stream and allow the pollution to come downstream on your downstream neighbors, and that if you do so, then state agencies have not only the authority but also the obligation under the Clean Water Act to stop those people. And if the state agency doesn't or won't or is unwilling to enforce the Clean Water Act, then the federal agency has the responsibility to step in. And they bypassed the whole idea of trying to litigate against people in Washington County or even the Department of Environmental Quality here in Oregon. Their theory was to go straight to the Environmental Protection Agency, the EPA, a federal agency, and sue them on the grounds that they weren't enforcing the Clean Water Act in Oregon, so the feds should move in and do it.

They filed suit actually through their - I don't want to say a straw man, but through a nonprofit group which called itself the Northwest Environmental Defense Council, which was really based out of Lewis & Clark law school, and the strength within that was not only these two fellows, Churchill and Smith, but also some very dedicated young people who were environmentally-oriented. The idea of public protests with the flags and using the media and stuff would not have worked in this case, but the idea of stepping directly into the courts and saying, "Here's what you must do."

At first, when the suit was filed, there was not a lot of notice given about it, it didn't have a lot of notoriety. Even within the halls of the Unified Sewerage Agency, which by this time we were in regular discussions with them, was not particularly fazed by the filing of this litigation. But as the time wore on and they began to develop the cases and as the depositions were taken and as it became very clear that the Unified Sewerage Agency was not observing the requirements of the Clean Water Act, the amounts of the fines and claims and so forth that could have been levied by the EPA would have been enormous.

So the parties in power, which really were the Unified Sewerage Agency, and their board of directors which is the Washington County Commissioners - it's not separate and apart, it's all under the same umbrella - became sufficiently concerned that this is a suit they were probably going to lose, and at that point in time they became much more cooperative.

M.O'R.: And there was actually a second lawsuit, if I'm not mistaken, that was filed directly against USA by the Northwest Environmental Defense Council?

D.B.: Yes, and I don't know the interplay between the two or which was the stronger case.

We were asked to join the suit, and we declined joining the suit. Everybody knew that we were hopeful that the outcome would be one where we had cleaner water coming down the Tualatin, but we also felt that we were going to have to work with the folks at USA, and rather than being their adversary, we felt that we could play a stronger role if we kept close relationships with them and continually reminded them that they were probably going to lose this lawsuit and they ought to get with the program, and they ought to protect the environment as the Congress intended.

There was a momentum that developed, and the momentum that developed, they were certainly afraid of us, they were kind of trapped, I think, because here we were parts of their committees and parts of water quality issues and so forth, so our interest in water quality was very high, and so they were in the middle of a lawsuit. It became apparent, though, that the minds within the Unified Sewerage Agency were being changed, and by that I mean it became very clear that if they didn't take charge of their own agenda, the agenda would be given to somebody else, who might not be - the Unified Sewerage Agency really had to become the dominant player, or it would be absorbed into something else which would be

the dominant player. I think there was a certain self-protection that went on.

They had a guy out there named Krahmer, Gary Krahmer, and sometimes the people at the top are kind of more visionary than the people on the way down, and I think Gary began to come around, and he had a number two guy named Stan Leseur, and Stan Leseur, I think, also began to come around to the thinking that this was going to be very expensive, but they had no choice. The worst penalty, as they saw it, was stopping building permits in Washington County, and I believe that was a very real possibility. I think that had they fought it, that would have been the outcome, that the feds would have come in and said, "Until such time as you clean up this valley, no more building permits." I don't know how - they'll have to speak for themselves as to how they viewed it, but I think they began to come around.

They had a lady out there, to her credit, Bonnie Hayes, who had this large constituency, she was the County Commissioner, or head of the County, and Bonnie was a pretty good politician. She had a large constituency of the folks in Washington County that she had to serve, and as long as we were not threatening, there was no reason that she should - she was very nice to us, she was never impolite, even, but we couldn't convince her of the merits of clean water in the Tualatin River, until it became apparent that they were going to lose this lawsuit, or might lose the lawsuit, and then she had a broader constituency to serve: she had us and the downstream people on the Tualatin River and Jack Churchill and his Northwest Environmental Defense Council.

So I think that some wisdom began to prevail in Washington County, and when the negotiated settlement idea came up it was I think to their liking. They saw it as a chance to actually win, and by win I mean that they would survive, and that - one of the

problems that was recognized early on is that there were too many agencies in the Tualatin River Valley. You couldn't do anything. There was - the DEQ had an influence, the EPA had an influence you had to satisfy. There was Oregon Department of Fish and Wildlife. There was Washington County itself and USA, which, although one was the board of the other, they still had some tugs and pulls between them. Clackamas County has influence on the areas that run through Clackamas County. There's the U.S. Bureau of Reclamation. Tualatin Valley Irrigation District and the farmers area a very strong influence out there. This whole Scoggins Dam environment, the Soil and Water Conservation districts. Oregon State Marine Board had some authority. Division of State Lands had authority.

M.O'R.: Forestry, too, probably?

D.B.: Yeah, forestry on the upstream areas, although they never did anything. The minute someone would threaten their authority they would step in and say they have it, but for anybody that's ever been up in those forested areas, it's a disaster with the clearcutting up there, so I don't view them as friends of the environment, at least in that sector of the country. And you know, USA was just a player, but by doing what they did, accidentally or on purpose, they've ended up as the key to an integrated water resource ability on the river. I think today all these other agencies that I've mentioned look to Unified Sewerage Agency as the entity that is going to control water quality on the Tualatin River.

Then what they did is they pitched in. They made the agreement, they put their money where their mouth is, they formed surface water management districts, they had bond issues, they began to upgrade their plants. I think they spent \$450 million meeting the - trying to meet the requirements of the settlement; I'm not sure they've actually met them yet, but they've given it a

good try. The water quality has improved as a result. I know there's some grouching that some of that money wasn't really for improvements, it was just to expand their plants, and that is true, but the technology that they're using is - they became a state-of-the-art operation. At this moment in time the water coming out of those sewage plants is probably cleaner than the water that's in the Tualatin River.

M.O'R.: Yeah, you mentioned last time that you thought the lake might be better off if you just took the effluent directly from the Durham plant.

D.B.: Exactly. That sounds - it's politically distasteful, but it is scientifically true.

M.O'R.: Now, Churchill, did you know Churchill very well yourself?

D.B.: Yes, I knew Jack very well. I've known him for a lot of years.

M.O'R.: Prior to his involvement in the Tualatin fight?

D.B.: Well, he was a professor of urban affairs out at Portland State, and this is a small town. Jack has a son who's about the age of my son, and I guess the first time I met him was at a soccer game. I mean, I think that's how a lot of small town America meets other people is through their kids at sporting events. And Jack was aware at that time that I had an interest in the lake. I'd moved on the lake. He lived on the lake. He would grouse to me about water quality, and I would listen and learn, and I'd grouse to him about the problems with the politics up in Washington County because I couldn't figure out who was in charge. I don't think so, but I'd like to think that maybe my frustration with trying to get anything done contributed to his decision to pursue the lawsuit.



Jack is a really smart guy, and he was a visionary whose vision was not always popular, but he was absolutely right on the issues regarding the Tualatin, that the only way to do it was to figure out a strategy where you had one player that could come in and force a player on the Tualatin to take responsibility and to bring in all these other agencies, and he did it.

M.O'R.: My impression of him is he's a dynamic personality, too.

D.B.: Oh, yes. He's very persuasive, and he's - you can't be - I don't want to say unmoved near him, but he is an excellent presenter of his viewpoint. He has a tendency to - when he prepares written materials, they're oftentimes extensively documented, as you would expect a professor to do, extensively documented and they make for rather dry reading - and I guess I'd tell my friend Jack that if he were here. But when he stands before a group, he's able to synthesize all of that and bring it right down to the bare essentials, and he hits you right between the eyes with his viewpoint and the support for his viewpoint, and he's very succinct. I have listened to him argue in front of judges, and he is very effective. So his oral presentations are dynamite.

M.O'R.: You said you've listened to him in front of judges, would this be in this lawsuit, then?

D.B.: No, in other matters. No, I heard him make presentations in public forums regarding this issue, but he was the same; he's a very dynamic guy, and of course he's smarter than most of us. Not only that, he's trained in this very field. So you bring the combination of a person who's intellectually capable and a person who specializes in the niche of the field that they're talking about and has studied up on it, and then a person who cares a lot about the - I mean, Jack grew up here; he grew up on the

Coast, and his family knew Tom McCall - probably knew Tom McCall before Tom McCall was an environmentalist. And Jack cares a lot about the environment.

[End of Tape 3, Side 2]