

DON BURDICK

TAPE 4, Side 1

November 7, 1996

M.O'R.: This is a continuation of the interview with Don Burdick on November 7th, 1996.

Now, you knew Jack Smith as well?

D.B.: I didn't know him as well; Jack Smith I knew really through Churchill.

M.O'R.: I didn't mean as well as Churchill, but you knew him?

D.B.: Oh, yeah.

M.O'R.: And how would you describe Smith's approach, say comparing it to Churchill's? What were the relative roles that the two of them played in bringing this lawsuit?

D.B.: I don't know as I can speculate on that. I think Churchill was able to run his ideas through Smith, and Smith had the ability to evaluate the ideas in terms of, you know, whether they were going to work or not. I think he had the same passion as Jack did for the environment, but I think Jack was - if I were having the two of them argue my case, I would have Smith go first, and then Jack is the sprinter at the end that closes the deal. He used to really get under people's skin on some of these issues. If you were opposed to his viewpoint, it was hard to be comfortable in his presence.

M.O'R.: I've talked to a few people upriver that remember Churchill in that way, actually.

D.B.: Feel the same way?

M.O'R.: Yeah, that's right.

D.B.: But I think a lot of them also feel that he was not wrong, he was not incorrect in his viewpoint. It's just that it was a very uncomfortable environment in which he forced issues. But I understand why it was necessary to have someone like that because of our own frustration in trying to be diplomatic and

getting things done, and they just paid lip service to it, they never did anything. He was able to change all of that, and they did something about it, and I think most of the people who did something about it say, "Oh, that Churchill guy, I don't know if I could handle him again, but we did the right thing." Without him, I'm not sure they would have. There would have been another Jack Churchill; someone else would have stepped into the breach, I suppose. It may have been done differently. In the world we live in - in the world we want to live in, you just can't go on polluting your downstream neighbors.

M.O'R.: You mentioned that Lake Corporation decided not to join the lawsuit, and I'm wondering what was Jack Churchill or Jack Smith's ideas about that decision on the part of the Lake Corporation specifically, and maybe more generally did they come to you and ask you to help them in other ways, as well as joining the lawsuit?

D.B.: Well, they did, and I think it was a persuasive case. We had many hesitations here. For one thing, we were a nonprofit corporation, and we have never been a plaintiff in a lawsuit. We have tried to avoid getting involved in lawsuits. As much as we wanted to preserve the quality or increase the quality of the lake water, we want to stay out of litigation.

We were advocates for clean water. They made a good case for us joining them, or even becoming a friend of the court, or even filing a brief in support of their position. They also were very persuasive that our trying to work from within the system by being partners with USA, by trying to stay friends, if you will, with the Washington County Commissioners, was doing us no good; you know, that these parties were laughing at us. But my board always felt that maybe the only way to solve this was through a lawsuit, but that we didn't want - we never wanted to jeopardize our ability to

operate as a nonprofit organization, and we wanted to stay out of politics as much as we could, so even though we wanted the water, we were caught in a bind. And the board itself was divided. The board was not unanimous to stay out of this lawsuit. There were board members who came and went during that time who were furious with Washington County for their intransigence.

As it became increasingly clear that Jack was going to win this lawsuit, then it's interesting; then the board began to shift. Some of those people who had felt that we should stay out were now saying, "Well, let's join in and get on the winning side of this thing, and there will be a recovery of our legal fees," because the legal fees were running up pretty high for Jack and his group.

M.O'R.: You mean legal fees of the Lake Corporation?

D.B.: Of Lake Corporation's legal fees by being involved in the suit.

M.O'R.: And what sorts of legal fees had you ...

D.B.: Well, we were considering, actually, one thing is we could join the suit, another was we could file a suit of our own, independent of the suit that was already there; it may get married into that one, but it would be on essentially the same issues.

M.O'R.: I see. So when you say you could recover the legal fees, what you mean is that if you decided to get involved, because it looked like you'd win, you would recover your fees?

D.B.: Exactly. We're a small organization, and we don't have a lot of money. And you go up against Washington County, I mean, these public agencies have unlimited - they don't think it's unlimited, but for those outside of government ...

M.O'R.: They have deep pockets.

D.B.: Yeah. You understand that a county like Washington County has deep pockets. And we couldn't match them tooth and tongue if we got into a real duel.

Plus the fact we had representatives, including myself, who served on some committees up there, and in every meeting where we - if we had been plaintiffs and they defendants, we would not have been a part of that, but in the meetings where we were part of it, to the degree we could influence them to do the right thing, or what we thought was the right thing, that is, clean up the river, we would do so. In those meetings that we had we were constantly saying, "You guys have got to do something. You can't go on like this. These folks are going to win this lawsuit. They can shut down the - they can stop the building permits in Washington County. We've got problems with water quality. You're contributing to water quality. This is against the law."

I mean, those kinds of comments were comments that were made by members of this board at every occasion when they had an opportunity to visit with the powers that be in Washington County, and they were made usually in the private meetings, because I think that's more our style, to not try our case in the public entities, but try and get with people who are rational thinkers and convince them of the merits of our argument.

But on occasion also there were people from the Lake that went up to these public hearings and told them like it was. Washington County did not like that, but it brought a certain level of publicity to the litigation. Some of it was not controlled by us. Some of it was just people were so frustrated with the pollution going into the rivers they were doing it on their own, and so I guess you could say they were friends of the Lake Corporation, at least they were thinking in common with us.

M.O'R.: And you yourself, were you one of the people that attended the meetings with the Washington County folks?

D.B.: Well, I would go to - I don't think I ever spoke in a public meeting, but in the private meetings with Unified Sewerage

Agency and in meetings with several members of Washington County, that's true. There was one guy who got involved in politics up there who - very interesting guy, smart guy, he's a CPA, a guy named Roy Rogers, and became a County Commissioner, and he and I used to talk about the merits of environmental controls, and if it meant spending a dollar, he didn't care what went in those rivers. He and I never did agree. Nice guy, but if it cost money to protect the environment, he was not in favor of it. If you could do it for free or make a buck at it, that was okay. And he was very protective of anybody in Washington County that was damaging the environment if it would cost money to clean it up. But with that one exception, most of the people up there had a wisdom where they were trying to balance their concern for the environment with their political ability to get reelected with their constituency. But most of them came around.

Then after the decision was made, it was easy. Then they were all in favor of it. I mean, it was the thing to do. It was a settlement. It was not a win and a loss, which was nice. It was actually really nice because then - I mean, what good would it have done if Northwest Environmental Defense Council had said, "We won"? I mean, that's a hollow victory. The real victory was in the settlement there was a commitment to move forward with cleaning up the river, and once that decision was made, it was easy for everybody.

M.O'R.: Now, when you were talking about the division within the Lake Corporation board with regard to the issue of joining the lawsuit and some of the other involvements of the board members relative to this, who were the board members besides yourself that were the most actively engaged in this issue?

D.B.: Well, we have 12 board members, and they turn over every three years, and so there were probably 25 board members, off

and on, during that period of time, and some felt stronger on the issues than others. It would be nice in history if we knew everything that was said in the President's Cabinet, you know, in the process of making of a decision, and I suppose there are those who will report those kinds of things, but our board decisions are oftentimes very candid exchanges of viewpoints, but once a decision is made, this board has always stood behind the decision, and it would appear as if we were unanimous, and in fact at that point in time we are unanimous. So I really don't want to get into individuals and why they felt one way; I'd rather express it in terms of what some of the opinions were than tie them to specific individuals.

I will also say on our board, like many other bodies that control events, including the Washington County Commissioners, when you're new to the environment, you don't always have all the background to make the same decision that you might make at a later date. So sometimes as a new person, when I came aboard in 1979, I had some opinions as to what ought to be done on some issues, and I will be forever grateful for my board at that time to have forgiven me for some of my decisions, because they were not wise as I began to learn all of the facts. In the Masons there's a precept which says sometimes you have to forgive people because if they knew all the facts - if I knew all the facts, I might have acted as they have acted.

So I think as board members matured, they became increasingly convinced that the problems of the Tualatin would best be solved by negotiation and us staying out of litigation, as long as there was someone else to litigate. Had there not been someone like a Jack Churchill, we may well have been the plaintiff, if we could have figured out that strategy. But I doubt that we could have had a spokesman that was as strong as Jack.

M.O'R.: Was Jack Churchill frustrated by the board not being willing to sign on?

D.B.: Oh, yes. Oh, yeah. I think he was, and he was very candid about it.

M.O'R.: Did he talk to you about it?

D.B.: Yeah, he talked to me about it frequently. I think one of the nicest things about the friends that I have is that we don't always agree with each other, and Jack and I did a lot of things together; we've been fishing together, and we've hiked together, we've been snow skiing together, and we've gone boating together, just a lot of things that friends do. And we've had some very candid exchanges of viewpoints on what the Lake Corporation should or should not do regarding those issues.

Jack always felt that we should jump in and protect our interest, and in some ways he felt that our interest should be greater than his, and I think he's right. I mean, we've got 750 people who live on the water and another 3,000 that use the water. I mean, we represent 4,000 people that suffered as a result of that quality of water coming down here, and Jack's one individual. But his world view was that he knew how to make the change that was necessary, and he was going to do it, and he did. So yeah, we had - Jack would like to have had the Lake Corporation be involved.

M.O'R.: You said that you didn't want to get into the stance that individual board members took, but I'm just wondering were you yourself one of those that thought you should stay out?

D.B.: Yes. Although sometimes it was very difficult to defend my opinion when I was with Jack. He's a forceful guy, and he cuts right to the heart of the topic sometimes.

M.O'R.: Also an effective guy, I think, in using the media to move things along.

D.B.: Oh, yeah. Yeah, he's great. I like a lot of things about him, and I think he's been a friend for a long time and continues to be a friend, and I always enjoy almost any discussion with him. He has an opinion on almost everything. Much more fun than having a friend who has no opinion on anything and doesn't much care. I think that people who have a real concern and a real caring and a real love for things are much more exciting to be around, and Churchill is one of those guys.

But then he made his mark, and, you know, he's not one to milk it. He went off and did other things. He lives down on the Rogue River now and is involved with the environment down there, and this kind of piece of history is behind him.

M.O'R.: He was a member of the Lake Oswego City Council for a while, too?

D.B.: Yes, he was.

M.O'R.: What do you know about his work there?

D.B.: Well, small town. You know a lot about a lot of people. Jack had some concerns on some issues where he felt that he could do a better job than the council that was in there, and he had the time to do it and filed for the position and won it. Very much an environmentally-oriented person. I mean, all you have to do is wander around inside this community and look at the advantages of the preservation of the environment here versus any town around us. It is significant, and Jack wasn't the only one that felt that way; I mean, he got elected very easily. There's a lot of people that felt that way, that we had departed from our roots of trying to protect this environment. So he was very concerned about preservation of trees and preservation of riparian areas and the stream corridors and the development of surface water management plans.

It was at the time of the development of the Comprehensive Plan in our community, and even there, Jack and I didn't agree on some issues, and we had a wonderful exchange of viewpoints. I still remember one day we were skiing at Mt. Bachelor, we had gone over there, over by Bend. We spent the whole day arguing about some issues here in the community, and our families abandoned us. By the end of the day we had exhausted ourselves on those topics, and it was a much more enjoyable evening. But yeah, Jack was always a challenging guy.

M.O'R.: Was there any talk of the city government getting involved in the lawsuit?

D.B.: Yes. But that was a little far removed. When I say "far removed," I mean, we are a private lake, and oftentimes the Council here in Lake Oswego, while they're thankful for the property values that we provide to houses around our shores and for our attitude on the environment and trees and stream corridors and protections of the lake, it's difficult for them to have the same fervor for water quality issues. They look at the lake, and the lake is the lake, but they're not involved in the day-to-day operations of keeping the water clean. Plus it's a different drainage basin. I mean, we're the users of Tualatin water. The City of Lake Oswego may get caught up in the same lawsuit. I mean, what goes around comes around. If they had gotten involved in this thing, they may have - and when it went to lose, I mean, the DEQ would have the same enforcement authority here as they might have out in Washington County, and while in my opinion that's true, anyway, I think the City was hesitant to get involved because whatever happened to Washington County then would surely happen here in the same measure. Plus it's expensive to get involved in lawsuits, and I don't think the City wanted to do that.

Jack would have liked to have the City be involved, at least as a friend of the court, and I know we had discussions with the City Manager at that time, but no, the City was not going to get involved in that lawsuit.

M.O'R.: Who was the City Manager then?

D.B.: Pete Harvey.

M.O'R.: And you said "we," meaning you, Churchill and Harvey, or you and Harvey? You said you had discussions about the possibility of the City entering the lawsuit.

D.B.: Well, we talked about the merits or the demerits of an involvement, but I never thought that the City would get involved. I wasn't opposed to it, but they just didn't have any motivation.

M.O'R.: Right. Less motivation than the Lake Corporation.

D.B.: Less motivation than the Lake Corporation, yeah. Far less. Jack did it right because Northwest Environmental Defense Council, that was the entity that belonged there, and they tried to represent everybody from the public, not just a community. I mean, I think other communities that would have had more reason to get involved would be River Grove and the City of Tualatin, but in a way those public entities were not respectful of the environmental concerns. Now, today I think we live in a different world. I think that that is - people like Jack Churchill and Jack Smith, not just in this area, but nationwide, I think the environmental movement has had a lot of momentum, and people are concerned at levels today that they weren't concerned with 20, 30 years ago.

I very much hope as we go through the next hundred years, the year 2000 and beyond, that people will keep up these environmental concerns because even with them in place, we still degrading the environment that we knew. I mean, there's a lot of things that people used to do in the state of Oregon that they just can't do anymore. You used to be able to catch as many fish as you wanted,

and you used to be able to catch as many clams and mussels and oysters as you wanted. You could go hunting, you could fire a gun almost anyplace in the state. You could burn the trash in your back yard. None of those things are available to you today.

M.O'R.: That's right. I had it on my list to talk to you about the urban growth boundary, since that's also related to these issues of water quality.

D.B.: Yes, it is.

M.O'R.: But let's save that for just a few minutes, because you were talking about USA's central role in cleaning up the Tualatin, and about how they during the course of the lawsuit perceived the choice they had, which was either to take that responsibility or to ...

D.B.: ... or to abdicate it to someone else.

M.O'R.: Exactly. And you talked a little bit about Gary Krahmer, who I assume you probably knew before the lawsuit started?

D.B.: Yes.

M.O'R.: Can you tell me a little bit about your interaction with him and how he reacted to these events?

D.B.: Well, the Unified Sewerage Agency was born out of the rapid growth in Washington County, and there had been several agencies before it, and ultimately it prevailed. They had a couple of plants, which we call point sources of pollution: one at Durham and one up at Rock Creek. They may have other facilities as well.

M.O'R.: Interestingly, both of those plants were constructed with federal money that was provided by the Clean Water Act in the 70's.

D.B.: That's right, they were.

M.O'R.: And Gary Krahmer presided over that.

D.B.: Yeah. And to his credit, he had a pretty strong agency. The Washington County Commissioners, at that level it's

very political, they're very concerned about votes and so forth. Krahmer had this quiet little agency that not many people knew about it. It had the word "sewerage" in it, and nobody gets very excited about it, but they were one of the biggest operating entities in the County. He had a staff, a pretty qualified staff. They were using methods which did not really fit their terrain, but pretty qualified staff, some of whom knew the right answer and how to proceed, but there was no impetus to get it done.

I think that if he had tried to force this on his own, if there was no lawsuit and Krahmer believed that these are the things we should do, he could not have survived. He would have been thrown out. He would be considered a rebel. And in a way - you'll have to talk to Gary Krahmer about this - in a way I think that the presence of this lawsuit elevated the importance of his position, and when the time came that he had to do these things and he did them well, he was a hero. It was the impetus that he needed to do the right thing, that the County needed to do the right thing.

I always liked Krahmer. I liked Stan well, also, and they have some fellows over there now - I don't know the new manager too well, but I know John Jackson, and they've got some quality people, and they can afford to have quality people inside the Unified Sewerage Agency. Krahmer always had the ear of the Commissioners, particularly Bonnie Hayes, who was head of the Commissioners.

M.O'R.: Well, I told you I was going to ask you about the urban growth boundary, and that's an issue that speaks to a lot of these other issues, including environmental degradation, et cetera - at least proponents of the urban growth boundary would say, you know, it's the only way to preserve the environment and to curb development or ensure that development takes place in a responsible way. What's your take on that?

D.B.: Well, I'm a strong proponent of urban growth boundaries. I believe that if you allow unfettered growth you inherit - what appears good for the individual in the short run turns out to be bad for society in the long run. I agree with the concept that comprehensive plans prevail over zoning.

[End of Tape 4, Side 1]

DON BURDICK

TAPE 4, Side 2

November 7, 1996

D.B.: I was saying that I agree with the concept that comprehensive plans prevail over zoning because a comprehensive plan addresses these overall uses in an area and what we want to accomplish and so forth, and it's more of a strategic plan, whereas zoning is more of a tactical plan.

If we didn't have urban growth boundaries, we'd have this unchecked development, and one guy wants to put in a big house, and another guy wants to put a mobile home up, and another guy wants a service station, and someone else wants a mobile home park, and pretty soon you get this junky arrangement away from where you can provide services, and the cost of bringing in the utilities to these far-off locations is extremely high, so society pays. It's the reason you have developer fees, so that they try and compensate the public in some degree for the cost of bringing these services to outlying areas.

But I would hate to have to draw the line on an urban growth boundary, to have to be the one that looks at a map and says, "On this side you can have concentration of development, and on that side it's going to be R-40 farmland, and that's it, Buddy." But I think it has to be done. They're in place now. I object to expansion of urban growth boundaries myself until, but - well, let's see; how do I want to say this? I think that our communities have to understand that in order to have an effective urban growth boundary, you must accept high-rise within those urban growth boundaries, and it's one of the concerns I have here in Lake Oswego. Most of our voting public, and the politicians as a result, want to leave the urban growth boundaries in place where

they are and not expand them, but at the same time they're reluctant to have the higher densities inside their own territories.

M.O'R.: And it could be especially an issue here, I would think?

D.B.: It is an issue in this community. They have height caps on buildings, and I don't understand how you can on the one hand tell the guy on the other side of the border, "No, you can't build housing out here," and then in your own area inside the border say, "We don't want to have any more density." I think you have to accept higher density; it's the trade-off to urban growth boundary.

The other aspect, I think you have good times and bad times in the economy. Right now, 1996, this is a heck of an economy. We've had 68 months of growth in our nation. We have an unemployment rate which is the lowest in history. We have a vacancy rate which is the lowest in probably 20 years. We have an interest rate which is very low, considering all these other events. And yet there are politicians out there that want to go outside of the urban growth boundary and they want to build factories in the name of jobs. My viewpoint, which is a contrarian viewpoint, is we don't need any more jobs. We don't need more people in here right now. That's a goal that you might want to have if you have high unemployment or if you have problems that people have in terms of earning the revenue to pay their way in life. But that's not true in this world that we have today. Right now, if a person wants to work, work is available. It is not difficult to get a job in today's world. And the idea of expanding the urban growth boundaries to increase the availability of jobs is an idea that doesn't work in this kind of economic environment.

M.O'R.: I wanted to bring the conversation back now to the water quality on the lake and the Lake Corporation's involvement with that. I'd asked you about establishing the water quality committee, and I guess we never did really tie that down in time. If you have a date on that, that would be interesting.

D.B.: I don't have a date. It just kind of evolved.

M.O'R.: Since the establishment of the committee, I guess that you've taken a few more steps in terms of the lab downstairs and other things, and I'm wondering how the Lake Corporation itself has advanced in the recent past with respect to water quality?

D.B.: When the settlement came about, because we were close to the players on both sides, we were asked and we elected to opt in to the settlement, in that we would file a water management plan, or a lake management plan each year, and we would file that with Unified Sewerage Agency. It was a plan of how we were going to manage the lake for the following year, and our plan would be a part of the document plan that they would in turn file with DEQ, who would then pass that to EPA. So each year Unified Sewerage Agency has to file a plan with DEQ, and there's a piece of it that includes our plan, so that we're not doing something which is diametrically opposed to what they're doing.

Having become involved in that, we then moved from a kind of an informal approach to how we managed the lake to something that has become more formalized. And so each year we prepare in the fall of the year - as a matter of fact, as we are speaking - we prepare a water management plan for the lake for the following year. We then give that to USA, they put it in theirs, and it moves on up the chairs.

In the last five years, since about 1991-92, that document has evolved also, because we see constantly better ways of doing things. The water quality committee has formalized and is the

author, if you will, and the editor of that plan. So yeah, we're pretty formal now.

As a result of that, there are things that we want to know how to do better. So one of the things we did was to say let's bring in an intern each year from a qualified school, a person who's a limnologist. Limnology means the study of freshwater lakes. At first we were taking college graduates; now we're taking people at the graduate level, and they come in, they spend a summer with us, and they have a project. The project may be a study of the algae in the lake. It may be the study of water quality coming down the main canal. Some aspect. But each year we develop - and then they write a report of their experience here. So we have a series of a half a dozen reports now which are increasing in excellence because this program has some national recognition among schools of limnology; I mean, it's a kind of a plum for their graduates to be able to take this experience and then go on to whatever they're going to do in life.

M.O'R.: A good laboratory opportunity.

D.B.: Good laboratory opportunity. We also in 1987 did a study of our lake, very extensive. Cost us \$70,000. A very extensive study of the lake. Since that time on an annual basis we have had other studies done as well.

M.O'R.: Was the 1987 study, then, sort of a baseline for this water quality plan?

D.B.: Yes. Yes, it was, although we had a water quality plan at the time, it became that. The reports that we had done, the conclusions keep coming back to many of the same conclusions. One of the most important is we should take less water from the Tualatin as long as the Tualatin is polluted. We'd have a better lake if we didn't have to take as much water from the Tualatin.

Now, there are some problems associated with that. For one thing, if we don't bring any water in, we can't make any power, so it reduces our revenues. But maybe the revenues that we generate from power sales are less than the cost of trying to keep the lake clean as a result of bringing the water in. I mean, the cost of manufacturing this stuff is actually higher than the revenues we get from it. I think that is becoming a pretty well documented empirical position. So we are studying ways that we can continue our functions to manufacture power and bring in less water from the Tualatin.

M.O'R.: And possibly give up the hydroelectric generation, then?

D.B.: No. We have some priorities, one of which is we must always preserve our water right, and if we could only achieve water quality at the expense of giving up the water right, we would probably suffer water quality. We would just have to because the water right is essential to maintaining the level of our reservoir.

M.O'R.: So you're going to need some Tualatin River water?

D.B.: We're going to need some Tualatin River water.

M.O'R.: No matter what.

D.B.: No matter what. Or an alternative source.

M.O'R.: Now, does the water right require that you profitably generate electricity?

D.B.: No. No. The use of water in the state of Oregon - water is a pretty precious resource, and it's becoming more so. What is required is we can't take water in and then just spill it over our dam. We have to use it for the manufacture of power, so we can't bring water in for its own sake and not make power.

M.O'R.: One of the reasons I asked that is that I was talking to a farmer way up the valley, up in the Cornelius area, who has engaged himself a little bit with these issues as well, and it's

his - you know, not scientifically-informed opinion, but it sounds like somewhat informed opinion that one of the problems with water quality in the Tualatin is the Lake Oswego diversion dam, and that if that dam weren't there, there wouldn't be this 40-mile lake behind the dam and that the water would flow more quickly through the Tualatin and water quality would improve. He backs up his case by stating that every place that he's looked at, not just the Tualatin but other rivers as well, where there are diversion dams they have the kind of problems that they have in the Tualatin with slow-moving water and algae buildup and all these kinds of problems. And the suggestion he made was that Lake Oswego pump the water rather than divert it from the Tualatin.

D.B.: Whoever this person is, I think that they have developed an opinion which I think merits, you know, a lot of - I think there's some merit to the opinion.

One of the things that the people on the Tualatin have grown to expect is the current level of the Tualatin. If we dropped the flaps, it would go down by three feet. It is true that the water will flow faster through the Tualatin than if we hold the level up three feet. I mean, it's probably more like a 30-mile lake than it is a 30-mile river, with the slow-moving Tualatin in the summer months.

Of course, it used to move much faster before the farmers pumped it out for irrigation. So is it a chicken or egg? Well, actually, we were here first. We have the oldest and largest water right on the Tualatin River, and we could improve the water quality on the Tualatin River if - and the contra-argument is - the farmers who take the water out wouldn't take it out, there would be more water there. Or maybe if we don't take it out there would be more water there. And in fact in the summer months we refrain from taking water out for two reasons. There's a certain deference to

agriculture, but there's also the problems that we have with the degradation of the water quality in the summer months.

The diversion dam has been there since 1909, I think.

M.O'R.: Well, maybe I'd better put the introductory remark on it, too, which is that the farmer I was talking about just a minute ago is Cal Krahmer, who runs a big farming operation up on the river at Cornelius.

D.B.: Well, I don't want to argue on an oral history with a guy. We're both going to be dead someday. Yeah, he and I have - some of the public hearings that we've had, we've appeared, and he's very protective of the interests of agriculture, and I presume he's a good farmer. But he really doesn't care what happens to the water after it leaves his property, and I do. And that is a major difference between us. If he must use the water and it leaves his property polluted, it's kind of not his problem, but it becomes my problem, and I think the general public's, and there's just no sense to not put in protective measures. I mean, he objects to the use of these holding ponds to try and protect the water before it goes back into the river again because it's going to cost him money. He objects to fencing his cows off from the river. I guess a lot of people in Oregon do, there was just an initiative on that subject.

But it seems to me that if we all have to live together on this planet, that the rights to clean water should not belong exclusively to the person who lives the most upstream. I think that we all should have that right. I really do believe that water is a wonderful resource for people, to be used in many, many ways, and it's got to be protected. And the public bodies, law or no law, the Clean Water Act, the public bodies, the people who are sitting on these public bodies have to protect their constituency against the person who would carelessly defeat all the purposes of

water quality. And this particular gentleman I think is one of those. He doesn't do it intentionally. He doesn't foul the water on purpose. It's just he does it because that's how he uses it, but he's got to develop a caring for the downstream user, or he's going to be out of business. I mean, I think it's as simple as that, that the time is coming when people just are not going to stand for agricultural interests destroying water quality. The alternative if they continue to do it is they're not going to be in the agricultural business anymore.

M.O'R.: Well, what about this idea of pumping, though, which started this conversation, the idea of pumping rather than using the diversion dam?

D.B.: Might be a great idea. We're looking at all kinds of alternatives. We've looked at bio-engineering alternatives. We've looked at - one of the bio-engineering ideas is to allow the water to cross over a broad plain, if you will, with plants in it, where as it crosses very slowly it filters, a bio-filtration system. It filters, and then we take less water, but it's all bio-filtered. Then once a year we'd go in and we'd harvest off all of the water plants that have grown up to get the nutrients out of the area, and let them grow the next year and repeat the process.

We've looked at the idea of putting gabion dams in our main channel down to the lake so we'd have these holding ponds to hold the silt, and then we can dig the silt out of the holding ponds. Also, then, as the water tumbles into the lake it aerates itself, goes over a little waterfall, if you will.

We've looked at things as strange as ozone treating of the water, to have pipes underneath the canal that would release ozone into the water that would bubble up through it but combine and oxygenate the water. We've looked at using aluminum flocks, the same as actually Unified Sewerage Agency does.

We actually did an experiment, USA and ourselves did an experiment in one of our bays, and we dumped alum into the bay, and the idea was the alum would combine with the phosphorus and would sink to the bottom of the lake, and then it would reside there. But there's trade-off's to many of these. The alum, for example, it's a flock that when a boat goes through it, it stirs it up and it gets into a suspended solution in the lake and takes a long time to filter back out again. And so that's not good, actually.

We've looked at using copper sulfate, but copper is toxic, and you know, we don't want to use too much of that. We've used citric acid in certain applications. We've looked at aerators in the lake that would blow the water into the air and aerate it and add oxygen to it.

But one of the ideas that we talked about earlier is this idea of putting sumps near the - or drilling wells, if you will, near the Tualatin, and even though it's hydrologically separated from the Tualatin, it's the Tualatin River water. What would happen then is this series of wells, the water would seep into the well, and then you'd pump the water up out of the well and down into the canal. We'd shut off from the formal river our headgate, where we could still take water if we wanted to, but the majority of time we'd just take it from these sumps that were near the Tualatin. There would be a certain cost to drilling them, but the bigger costs would be in pumping. We probably couldn't pump the volumes that we need to make power. But there's some real merit in that.

I was up on the construction project where we're building a new headgate. Because of this flood we had, our old headgate was not going to survive any longer, so we're building a new headgate. And in order to get it down to the elevations we need, we need to get the water out of there, so we're de-watering the area with these wells. And I wrote a memorandum; I went up there and I

looked, and that water is gin clear coming out of those wells. Matter of fact, we're going to go up tomorrow and we're going to test it. We're going to get a couple of water jars of that water that's coming out and we're going to test it for purity. I'll bet you could drink it.

If we could do something like that, then we could say, "Okay, you guys on the Tualatin, we really care about the Tualatin, we want you to have a good life out here, but we're not going to push as hard as we used to because we've solved our problem, and if you want to pollute your streams and destroy your recreation and not argue with your farmers or not argue with you Unified Sewerage Agency, that's up to you." But I don't believe that - I think all of us should have an attitude that clean water is a good thing.

M.O'R.: If you did do it through wells or straight from the river itself or something, did pump into the lake instead of diverting the water as you do now, that would not - that was the reason for my earlier question about whether you needed to have net economic gain relative to your electric power generation since that's the basis for your water right. Do you think that any of these solutions would jeopardize that water right, I guess is the question.

D.B.: Well, the answer is many of them many of them probably would jeopardize our water right if we did it in a vacuum. But we have had some discussions with the Water Master, with the State Department of Water Quality, with DEQ and with Unified Sewerage Agency, with our attorneys, and we are of the opinion that the concerns in this state about water quality are so great that some of the moves that we could make towards water quality, and maybe departing somewhat from our original reason for the water right, would be supported because there would be a net good.

We live in a world where the reasons that a person might have been given a water right or granted a water right in the 1800's may not be valid reasons today for limiting the use of that water right. In a way, we could rededicate much of that water right back to stream flows in the Tualatin River, and if your friend says we should drop the flaps, and everybody thinks that that's a good idea, and the diversion dam, maybe we can do that. I personally don't think that's a good idea, but there are ways, we have been told by state agencies and by our own counsel, where we could in effect lease back to the State of Oregon stream flows from our water right and preserve our water right any time we wanted to take it back. It's like putting it on loan to the State of Oregon and the people of Oregon if we find an alternative way that we can manage our resource without using that water right. We would never do so if our water right was to be jeopardized. We must protect that at all costs, even if it means importing poor quality water and making hydroelectric power at a loss, we want to protect the water right. But I think any observer to it is going to realize the long-range uneconomic aspect of that.

So the answer to your question is, there's nothing that we are afraid to look at right now because we feel that as custodians of the resource that we have here on Oswego Lake, we want to preserve it. And we're having a tough time in today's environment doing that.

M.O'R.: Although it sounds like things have been getting a little better in the recent past?

D.B.: Things are getting better, yeah. Well, it has its ups and downs.

M.O'R.: Well, just to cap this discussion, I just wanted to make it clear that I think it was Cal Krahmer's suggestion not that you give up the water, but that you pump it instead of diverting it

by the diversion dam, and he thought that that would improve the quality of water in the Tualatin.

D.B.: Well, you know, out of the mouths of babes. Cal Krahmer, in pumping water he may be right, but instead of pumping it from the river, my idea is to drill a well 20 feet from the river, pump it from a well and let the 20 feet filter the water before we get it. It might be a great idea, actually. I mean, if we did it that way we might get very clear water.

M.O'R.: And he had offered the opinion that the reason that that pumping wouldn't work was because you would jeopardize the water right because you wouldn't have the original basis anymore, but it sounds like you've looked into that.

D.B.: Yes, we have looked into it. There are a number of precedents now being set where people are dedicating the water back to instream flows. See, you'd move it from a power generation flow to an instream flow, but it would be a revocable right, and we could pull it back in any time we want. But that's okay. I mean, so they get an instream flow for five years, and then we run our hydro plant for a month. I mean, the net benefit is going to go to the public. I'm not sure there would be that much benefit on the Tualatin River, but there would be some, just by getting more water in there.

Interestingly enough, the salmon runs are even up now in the Tualatin River. I mean, there are a lot of indicators that the quality is better. Maybe we'd improve it more if we pumped more water in it.

M.O'R.: There's one other subject, in fact, that I thought we might talk about briefly, and that is the flood of '96. You've made several references to it, but we haven't really talked about it in detail. If you've got time, we could go ahead and talk about

it today, but if you want to save it for a later time, we could do that as well.

D.B.: We might want to save it for a later time and wrap this up next time around.

M.O'R.: So maybe we can have one more appointment together.

D.B.: Okay. Glad to do that.

[End of Tape 4, Side 2]