

JACK CHURCHILL

TAPE 5, Side 1

March 27, 1996

M.O'R.: This is a continuation of the interview with Jack Churchill on March 27th.

J.C.: Out of that we - I formed Tualatin River Keepers, with the idea that we've got to get, you know, some organized public involvement here, some identity to the Tualatin, and took the idea from the Hudson River Keepers. Remember there was a big story in *The New Yorker* about the Hudson River Keepers, and they'd sued Standard Oil, who had come into the Hudson and kept discharging the ballast in their tankers. They'd bring oil back from one of the islands down there, you know, it transported oil in St. Johns or - not St. Johns, but you know, whatever, some of the Virgins, you know, and they'd bring it up into New York, and then they'd wash the ballast, whatever they do. And they'd dump all of this oily water out.

And so the River Keepers - they were mostly fishermen that formed the River Keepers, the Hudson Valley River Keepers, and it's very, very effective today, you know, and they really - they've got phones - you know, kind of like our Tualatin River Keepers are now. And so I said, "Okay, well, you know, it's a good name. We'll just borrow that." And so I formed - it was pretty much me and a few other people, and we - I - and we had a, you know, kind of a letterhead and, you know, did all the right things.

But my view is that, you know, organizations sometimes are good to have a good name and not many people because you don't have to involve a lot of people in the decision making.

M.O'R.: Who were the other people?

J.C.: Well, I don't remember. There was a person or two, and we did kind of organize it once or twice but - and I got - actually the Lake Corporation gave me \$500, but I finally gave it back to them. I decided I didn't even want to open a bank account. I'd rather spend the proceeds myself, and you know, not having to be accountable. I thought the worst thing that could happen is, well, somebody will ask what happened to all the money, and god, you know, and I - you know, you get a treasurer, then you've got - you know, they think they're in the act. And all I really wanted was - so we just went out and bought some tee shirts, about ten tee shirts and did everything in the name of the Tualatin - you know, Jack Churchill as president of the Tualatin River Keepers. You need a title.

So - and that's how, you know - TV gets to know you; "Well, you're the Tualatin River Keepers," you know. And there's one thing you've got to learn in politics is organizations always have more strength than an individual, no matter how big or small you are. [laughs] I learned that from some County people.

So one of our great events was when - after the USA had hired this public relations firm, they decided they would - needed to get some TV. And the way to do this they thought was, well, the County Commission will make a voyage down the Tualatin in canoes. And this was all announced with a great deal of fanfare.

And I forget where they put in. And John Meek was on the County Commission at that time, and then you know, he had his trapper's uniform on and his gun he was discharging off and ...

M.O'R.: Yeah, I've heard a little bit about this.

J.C.: Have you?

M.O'R.: Yeah, well, I heard that he had shot the gun.

J.C.: Yeah. And the TV didn't know what the hell to do with all this.

And so I had gone over, and I guess, you know, it's - where the sewage treatment plant is there, I guess. Tualatin?

M.O'R.: Durham.

J.C.: Durham. Yeah, I think it was right down - wasn't there a park right there?

M.O'R.: Cook Park.

J.C.: Cook Park, right. Well, I put in at Cook Park and waited for them. I had my dog and my Tualatin River Keepers shirt, and a beautiful retriever, you know, sitting in the front. And here came - you know with two TV cameras coming down. And they take a lot of me and my dogs, the Tualatin River Keepers. And you know, I'm kind of off to the side just paddling along, not talking to anybody, and all these really bad stares and so on.

M.O'R.: From the other boat?

J.C.: Yeah. Yeah. And just - you know - and yeah, very polite. Talked to them. "How's it going," you know, and all this stuff, you know. "Hey, do you want a beer," you know. I don't drink, but you know, I had some beer for them. [laughing]

But then what really startled them was up comes - madly up the river comes Carl Cook, whose with FEMA, and you ought to talk to

him when you come up here. Call him. He took over the River Keepers from me, and he and another buddy - a lawyer, I've forgotten the name - but they were - I guess they were part of the River Keepers. And they go up and they inspected what was going on. They canoed the river. Every day. They were, you know, racing canoeists. And they came charging up the river with their River Keepers tee shirts on. And of course all the keepers went on the new event.

And so then we got down below, and we got into a pissing match over - you know, and TV took all this in. And I think I was the first face on the TV that night.

M.O'R.: So you shanghaied the media?

J.C.: Yeah. After all the public relations firms and so on. You know, and they got so damn mad. You know, first it was politicians. First they'd paid to get it set up by an agency, and you know, and it backfired, and we got the publicity. Well, they got some, but anyhow, we thought we did a great job.

So you know, and then what we did was - and I take them on, directly. I'd pick up a piece of the USA literature, for instance, that had a blue heron on it, you know. And you know, it's kind of like the oil companies used to say that what every state park needed was two oil wells. You know, and this piece was so blatant about how the nutrients were good for the birds or some goddamn thing. You know, just a really - and I'd read it. I'd read their literature, and I'd say, "And Bonnie Hays and" - what's his name? You know, the head of the USA.

M.O'R.: Gary.



J.C.: Yeah. "And they're going to testify later, and I want you to ask them" - and of course nobody was asking questions, but you know, I'd get it into the record and on the TV, you know, that these people were putting out this type of horrible nonsense, you know. And I'd beat them up, and they'd get red-faced and upset. [laughs] And I kind of learned, I think, this attack strategy from Wayne Morse.

M.O'R.: So it hails way back to those days?

J.C.: Yeah. You know, and so all this is coming into place, and it really was really rather a good campaign.

So we really had an excellent campaign. And then they hired some better attorneys and got down to serious, you know, negotiations. We went to settlement, which Smith has gone over with you, so I won't. Smith has gone over the settlement hearing.

M.O'R.: Yeah. That was the settlement conference in Eugene?

J.C.: Yeah.

M.O'R.: In front of Hogan?

J.C.: Yeah.

M.O'R.: Yeah. Why don't you tell me a little bit about your impression of that, or were you there?

J.C.: Well, I was pissed off that we had settle for a million dollars. You know, and Hogan said that's all the County would pay, and I - you know, we'd sued, after all, for \$160 million, and so I - you know.

But I was very impressed with Hogan. I mean, he had three settlements going and all that. I haven't been impressed with some of his decisions since he's become a judge, but I'll tell you, he was a settling judge. And he had - you know, and he'd tell the

lawyers, he'd call the - I mean, he just played everybody. He had the orchestras going. He was firm and soft, and he told everybody, "Just go make your reservations. You're not going home, and you're staying overnight, and we'll be going late tonight and early tomorrow morning." And you know, he -.

And the thing that I had contributed to that, and that's where you got your money, was to - how are we going to spend this money? And this was really a big argument that I carried out. I didn't want the technicians and the - oh, all the post-doctorates to get their hands on it and go out and study all this crap. I knew we were going to have all the money; well, what do you do with it? Whether there's a million dollars or five million dollars, it's a lot of money, in this sector, you know, in the public sector.

So you know, the idea was to get it for schools and little projects, a whole bunch of little environmental projects. Because one of the things they did in EPA, not too much, but it was part of it, I gave away a lot of money, and part of it was for educational programs, for getting into the schools for laboratory equipment or so that they could go out and do their own environmental study. A lot of students did it at that age, you know, and they'd find out what was wrong with the wetland, they'd take it down for political action to City Hall and so on. So that was kind of my model, and so I set this thing up - stupidly - that we would have a separate board to administer this, and we set up as president - I talked to my dean, and I said, "What do you think?"

He said, "The President of Portland State University." And USA wouldn't buy that, so we said, well, it would be a co-decision

by the president of the Oregon Technological Institute, or whatever - Oregon Technology Institute, the one out in Washington County.

M.O'R.: Oh, Oregon Graduate Institute?

J.C.: Oregon Graduate Institute, yeah. And they had a new director that came in, a big shot from New York, and I talked to him. Well, both of the people thought there was going to be money for them.

But anyhow, that's how we put it in there, and we got agreement that that would get balanced: I could have Portland State, and they could have the Oregon Graduate Institute and so on. And so then I wrote the provisions for how the grant - you know, the board would be appointed and all this stuff by those two people and a technical committee composed of all the parties and whatever.

And that was all pretty well settled, I think, before the conference. I think we'd agreed on that. And their attorney, Pat somebody, was very, very good at some of this. But it was a terrible decision that I made, and so we later had to go get the Oregon Community Foundation to take it over, because there wasn't any money in it for these institutions, and they weren't used to doing grant money. I mean, it was a stupid idea in the first place because it wasn't in their ball park; I mean, it wasn't in their way of doing business. And they thought there was money in it, and then when they finally figured out that they couldn't milk it, they didn't - why should they bother with it?

There was good will, but nobody - you know, everybody shook their heads, the president - you know, it was a young nice lady president at Portland State that said, "Oh, Jack, great," you know, but nobody did anything.

M.O'R.: So now how did it wind up in the ...

J.C.: Well, I guess I started it, and I said, "Why don't we go to the Oregon Community Foundation?"

"Oh," they said, "Oh, yeah, we could do that, I guess."

And then I think Karl did it, Karl Anuta, got it over there some way.

M.O'R.: Now, he was one of the attorneys, right?

J.C.: Yeah. He was - well, he was president of NADC by that time.

M.O'R.: Oh, yeah. Okay.

J.C.: Yeah. And Karl's a very able guy, and you might want to talk to him and so forth. But I think that's what happened. And then it got started, you know.

M.O'R.: And I don't think too much money - I have to look at what grants, but I don't think too much money has gone down to those stupid post-doctorate useless research projects. You know, I hope a lot has gone to the schools and - you know.

M.O'R.: Yeah, well, some has gone to ...

J.C.: Some of the citizens' groups.

M.O'R.: Yeah, River Keepers have gotten some of that.

J.C.: Yeah. Oh, yeah. And citizens' groups, yeah. Even the Christians and the new Christian environmentalists, I think, got some money.

Well, didn't you see that in the paper the other day about - what's the creek out there, you know, that Mike Houck was working on for so long?

M.O'R.: Oh, Fanno?

J.C.: Yeah.

M.O'R.: Friends of Fanno?

J.C.: Yeah. Well, there's Friends of Fanno, but now there's a whole ...

M.O'R.: Oh, Oregon Episcopal School ...

J.C.: Well, it was the Oregon Episcopal School, yeah, they were very active. But the one that Babbitt talked with were a bunch of Christian environmentalists, and I mean Christian Right. This was - didn't you read that?

J.C.: No, I didn't read that article, at least not one that directly involved the Tualatin. I read a more general article about that movement.

J.C.: One of the guys you might want to call and at least talk to is Carl Cook, who's with FEMA. He had some insights into that - you know, that episode. But he also lived on the Tualatin.

M.O'R.: I'll consider talking to him.

J.C.: So this was a real learning experience for EPA. You got talking to guys in EPA they still - oh, by the way, they pulled Bob Burd off the suit for EPA because he was a friend of mine, you know, and was very interested. They thought he might have a conflict of interest.

M.O'R.: There was something that Jack had mentioned, which I didn't completely understand, and that was that Ed Meese in the Justice Department got involved in the settlement of the lawsuit and wanted at one point to walk away with some of the money?

J.C.: Oh, yeah. Yeah, yeah.

M.O'R.: Maybe Ed Meese wasn't specifically part of that ...

J.C.: Well, yeah, the U.S. Attorney's Office - and I think it just wasn't our suit, but all these citizen suits were going on,

and see, you had to give your money away. You couldn't get it yourself. The only thing you could get out of citizens was legal fees and fees for technical witnesses and consultants and things like that. But you couldn't keep it as the suing organization.

So what you did was you - and by the way, this tradition came out of the old Rivers and Harbors Act of 1899, this idea of the citizens' suit and the citizens capturing money, you know, fines and so on. It came out of that Rivers and Harbors Act of 1899; it was written into that. An old sleeper that nobody used very much.

And so when the government - I don't know. I think Meese tried to say, "Look, these are - these fines - these are in lieu of fines, and therefore they should go to the federal treasury." And instead, you see, what really happened was, "Well, I'll cover your nest on this suit, and you cover our nest on your suit." And so what one organization would do was say - the NADC says, "We think this ought to go to the Sierra Club Educational Fund, or something like that, Community Education Fund, something like that. Legal defense counsel with the Sierra Club would say, "Well, we can't take that money; why don't we give it to NADC?" You know, and so that's how they -.

And the Justice Department got around it, and it was probably a good question. And since they wanted to stop that type of suit if they thought the money wasn't in it, you know. Anyhow, I think we got caught up in that. And I don't know whether it was directed directly at us or whether it was kind of there was a lot of stuff going on in other areas, not on TMDL's, but other citizen suits dealing with the Water Act and the Air Act.

Does that answer your question?

M.O'R.: I think so, yeah. I just was wondering if you had, you know, a little more detail.

J.C.: I don't remember the negotiations. Now, Karl Anuta would.

M.O'R.: You said you weren't too satisfied with the one million dollar settlement compared to the 150 million that you went in asking for. So what were the pressures there that you wound up having to settle for that amount? Was that just a part of the negotiating process that came up?

J.C.: Well, no, I really didn't raise the issue very much at the time. But I really kind of - it didn't feel good in my gut, and I felt that they just had to hurt more. We had to hurt them more to make them respond better. And I really kind of felt that if we made them pay enough they'd get rid of Krahmer and really crank up that agency and do something. You know, if we really socked them hard financially they'd really look at what they were doing.

But you see, as long as Gary provided the hookup for the developers, that's all that mattered for his payroll. If he hooked up the developers and the developers got their way, Washington County Commission was satisfied. That's the measure of sewage treatment.

Now, what you're allowed to do, what he never told you was that they allowed in a large part of Washington County, or in many areas of Washington County, storm water to be directly into the sewer, which is a violation of federal law, with their federal grant. So the developers - instead of sending storm water - so then they called it infiltration. So that - and this of course

should cause the plant not to operate when you get too much, you know, load going in, and particularly during storms, they can't handle it, so they bypass it. So another thing he did was not do a very good inspection of a lot of developers to avoid storm water drains that ran directly into the sewer, off the roof into the sewer. Not unusual in developments in the United States, in spite of the federal law.

M.O'R.: Well, that's interesting because I thought that their system out there in Washington County provided for two separate systems, one for storm water and one for sewage?

J.C.: Oh, it does. It does.

M.O'R.: But it's more expensive to implement?

J.C.: Oh, yeah. And there was a lot of storm water planning and so on, you know. Of course the storm water planning was nowhere near sufficient, and you know, and all the areas that were - and all the wetlands that were taken up, and all the areas that normally flooded.

But I'm talking about just normal storm water runoff in housing developments. Not for - industries never did this, that I know of. They had drainage areas, and you know - it does not pay an industry to - but a developer, if he can get by with it and he walks, you know, he has no more responsibility for the hookups after they've sold the property.

And so the storm water system was not publicly owned. It was a private system. Only the sanitary sewers, as far as I know - I mean, the storm water system was always overland. Am I wrong about this?



M.O'R.: Well, I don't know. I thought USA operated the storm water system as well.

J.C.: Well, I think they've developed something since then, but I don't know. But I mean, I'm reflecting on my view of how Krahmer operated that department, and I would say the criteria that the County made him meet was keep - no more moratoriums.

M.O'R.: Keep the developers happy?

J.C.: Yeah. And that was the County Commission at that time. That's not true now; there are some other people on that Commission now, and they have an entirely different value system than the Commission that we were dealing with at that time.

M.O'R.: Now, there was a dramatic improvement in the phosphates being emitted by the USA plants, although I attended a conference just a couple of months ago, a Tualatin conference that I think again was supported by some of the money that you got in the settlement. Oregon Community Foundation ...

J.C.: Oh, god, yeah.

M.O'R.: ... calling these, you know, once a year. They've called three or four of these annual conferences on the Tualatin River now, and ...

J.C.: Oh, really?

M.O'R.: Yeah. Maybe this year was the third one. I'm not sure. This year was the first one that I attended, but there were people - there was one person there from DEQ, I've forgotten his name, but he - let's see, the standard that USA - or the standard for the river that was adopted was, what, seven parts per million of phosphate or something?

J.C.: I've got it right here. DO is six milligrams per liter. Is that what you're thinking about?

M.O'R.: Yeah, maybe that's it. And ...

J.C.: Standard not attained due to nitrification of ammonia.

M.O'R.: And it used to be 38 - I mean, USA effluent, I think, before this was up around 38 milligrams per, you know, liter. So I mean, obviously there's been a dramatic reduction made there, but a couple of points on that. One is I heard this guy from DEQ - first of all, Jack Smith told me that the level that was agreed upon as the target was still a little too high, because it was just about the point at which phosphate reduction would actually start inhibiting algae growth because until you got to that level it was mostly limited by amount of sunshine on the river or something.

And so then I heard a fellow from DEQ at the most recent river conference saying that - well, first of all USA effluents, as I understand it, are way below that level, but the Tualatin level, because you know, you have to meet the level in the river, not the level of the effluent, and ...

J.C.: You're talking about phosphate now?

M.O'R.: Yeah, phosphates. And the fellow from DEQ said that some research had been done that indicated that the level that we're currently at in the Tualatin can't be further improved upon because there's natural sources of phosphate that keep the level at that point and that in fact they're thinking of perhaps even relaxing somewhat the standard on the river to account for this. I'm just wondering if you had encountered that argument at all or heard about this?

J.C.: Almost all my life. And that's exactly what DEQ did on the temperature standards in the revision was that, well, backgrounds are above this, so we're going to raise the standard. See, the standards go to the uses. They don't go to the background. Standards go to the uses, and they're usually determined on some type of scientific credibility, some type of scientific evidence, and that's what they're supposed to be. Like, you know, what is the breeding temperature for trout? You know, and that's how you establish temperature. You know, laboratory results.

So when they say, well, the natural - how do they know the natural background? They don't do enough sampling. For instance, okay, so they sample above the plants. Well, I maintain that those nurseries out there are terribly unregulated still, and they are almost constant flows of nutrients going from those hundreds of acres of nurseries. And the forestry people tried to say, well, there was a natural level of phosphates. I was sort of on a statewide committee that was looking at the phosphate thing. Well, I understood what it was all about.

These guys kept saying, "Well, you know, there's natural levels here and so on." Well, there could be from a clear-cut forest a pretty heavy runoff of natural levels of phosphate, and if they'd logged that way over time and there was a lot of sawdust exposed, you might have a lot of nutrients. It's a tough argument to make. The guys that don't want to enforce will say, "Well, if it's natural background ..."

The question to me is you had these uses historically. The access, fish and swimmable. Well, then you're going to define ...  
[end of side one]

JACK CHURCHILL

TAPE 5, Side 2

March 27, 1996

J.S.: ... the technician that likes to do studies and just goes out and takes a few samples and says, "Well, we don't want it. Forest will just raise the numbers to accommodate what we believe is background, so that causes fewer problems in the future."

My own sense is that it's a hard issue to deal with because as you get development here naturally kind of increasing the level of pollutants, you know, that you're not - in a non-point source area that you're not going to be able to control. I mean, in - so your backgrounds are going to degenerate or in terms of - have higher levels of pollutants. Now, do you move your standard up or do you keep your target as it is?

And if you say, "Oh, well, let's just keep moving the target up," well, where do you ever relate it to the use? If you don't go to the use, and you say that it needs this type of a requirement, or you make the political decision, "We will abolish the use, and this will now be a sewer." That's the use. But if it's fishable and swimmable and it requires these types of parameters to obtain those uses, the - you know, the access is fish- and swimmable.

Now, is it practical? Is it economically feasible? Is it administratively viewed to be the right thing to do at this time in the evolution of the Water Quality Administration with a Republican legislature? I don't know.

But once you start moving those numbers because there's a background, with no scientific evidence of any sort whatsoever

except a few water quality samples - and from my standpoint I have never had much faith in water quality sampling. Why? Because it has no statistical reliability whatsoever. There is nothing based upon probability. They go out and throw their net out, or whatever they throw out, and they pull in some water whenever they want to, and they look at it, and they make - you know, they note it as a sample. It may be once a month, it may be once a week, it may be every 15 minutes. It may be simultaneously monitoring, and they have all this data. Los Angeles did this for years. San Francisco did it for years.

When I went to the Water Quality Administration in Washington we had computers in the lobby, "Every 15 minutes a report will come in from ..." and everything about all the parameters in the river. But it didn't tell you a damn bit of what destruction was going on in the biology. And it took the - and I remember doing this very well; I went down and talked to the Scripps people at La Jolla - went down there to play tennis, but talked to the Scripps people.

And you know, they invited me down to talk to a meeting. And the regional administrator didn't want me to go out there, and he tried to keep me from going. And I went out there and I listened - Joe Moore wanted me to go at the time - and what they found out there was a total desert from the Los Angeles plant, and they had all of these reports, simultaneous monitoring - you know, 15 minute data coming in, and it didn't tell what was going on to the ecological environment.

Well, see, that's the sanitary engineering approach. You know, let's take my own river, the Illinois. The only place they have sampled for years is way upstream at the bridge where they go

down - it's usually at a bridge that's convenient. It has nothing to do with whether - you know, the confluence of the stream or a critical point in a stream and so on.

So most water quality people with sanitary engineering backgrounds only perceive that a stream starts with the first pipe, and that's what people with non-point source strategies say: No, it begins with the ephemeral stream, and then it certainly is important the intermittent stream, and then the first order stream and the second order stream. But usually the sanitary engineer is only worried about water quality in a third order stream. But we do know that if it up here at watershed isn't healthy you're not going to have any life in the lower part regardless of how much or little pollution you put in through your pipes when you get to the pipe. And that's why, you know - that's why most state water quality administrations don't want to deal with non-point sources. They don't understand them; it's not within their scientific - or their professional capabilities.

M.O'R.: It's not something they can control because it's not coming out of a pipe, essentially?

J.C.: No. It's not something that deals with bacteria, with secondary treatment, with sewers - you know, engineering things. You know, it deals with ecology and biology, and most people don't have any understanding of that.

The limits - horizon of the limits of the sanitary engineer came to my mind - I went out with Joe Moore to the Cincinnati Laboratory, which is the first laboratory that the water quality people started. And here, you know, it's mostly all these end-of-the-line engineering stuff going on, and we walked up and down it

and everything was about, you know, looking at chlorination and how to control - what does chlorine control, the count of ...

M.O'R.: Bacteria.

J.C.: Bacteria, right. I mean, it's all bacteria-oriented, okay? And you know of the hundreds of people in this laboratory I found two people that were working on virus. Chlorine doesn't have anything to do with virus. Doesn't affect virus. Virus is the real problem, but we've never really focused on virus.

And the other thing sanitary engineering is - you know, really bad at is they use chlorine, which is a toxin, and that's why all the people in New Orleans get cancer is that they've added so much chlorine up and down the Ohio and Mississippi Valleys, going through the water treatment and then the sewage treatment, and they have very high levels of chlorine.

Right in the Nehalem River, where they - I noticed first when they built a little treatment plant there all the fish just moved over to the far bank away from the chlorine. It really affects the fish. There's a great deal of toxicity, and now we're finding - you know. And this is never looked at. I mean, you know, some people raise questions, but not the sanitary engineering profession.

So they have, you know, very strong limits - I mean, very narrow limits of their capabilities. So this guy, I would suspect, that said this, "You know, we can't treat it with what we've got, so we'll just raise the background." And I don't even understand the basis of the standards, which go to the use.

Now, if you decide from a political standpoint that the water will not carry the use, then take the use out of the standard and

change then the numerical criteria. Go through the hearing process and let the public decide they don't want to use that - have at least on paper that use. I'd rather keep the false number than the false use.

M.O'R.: As a much more general kind of question along the same lines, you had some objectives going into these lawsuits, including trying to set a national standard and certainly including trying to clean up Oregon streams and get the DEQ to go ahead and establish TMDL's on the streams.

J.C.: Mm-hmm.

M.O'R.: So a set of objectives, anyway, that you had hoped would come out of these lawsuits. I'm just wondering now in retrospect how satisfied you are with the progress since that time? I mean, maybe you aren't totally apprised as to what's going on.

J.C.: Well, I'm not really - no. And I've really kind of dropped out completely in the last five years, even really kind of before that to a large extent in terms of being very active or very knowledgeable.

But let's go to the TMDL suit first. Yesterday I did go down to DEQ and review all of - I mean, to EPA and reviewed all the DEQ submissions, and there is a pitiful compliance thing. I have the Tualatin thing here, and here it is ...

M.O'R.: You went down yesterday?

J.C.: Yeah. Here it is - what's the date today?

M.O'R.: Today's the 27th.

J.C.: Okay. 1-21-94. Now, this is - when did they start doing this TMDL, just five or six years ago? They just got the TMDL approved in '94. You know, now this is ...



M.O'R.: For the Tualatin?

J.C.: Yeah. Now, you know, so I would say that the - and that's why we're going after a contempt - we're going to reopen the TMDL suit in a contempt action, and that's what we're working on, Smith and I and Karl and Thane Timson.

M.O'R.: Really?

J.C.: Yeah. And that's what I was up here looking at. How do we go about doing it and so on and so on and so on. I would say that we stimulated more suits in other areas and it became, you know, a national milestone. But it was too bad that it went to settlement and it didn't go to a legal decision, you know, from the standpoint of precedent. And in thinking back, we would have been better off not getting any money but getting the precedent, we'll put it that way, of a decision.

But our lawyers were too scared of the judges up here in Portland, so they thought we'd be better off settling with Hogan, and you know, when it comes to those type of decisions, you can't really argue with your lawyers, you know, unfortunately. But as I look at it, we would have been better off ...

But we did - it did spawn a lot of other suits: the Washington suit and others. But as far as the performance in Oregon in Bear Creek - I've got a list of them here, and there are six or eight - maybe eight water bodies of varying lengths. You know, maybe 30, 40 miles.

[interruption]

M.O'R.: You were just telling me about the contempt proceeding.

J.C.: Oh, yeah. Well, we're going to file a contempt action. That we're just kind of putting together how we're going to go about doing it.

See, what's happened was that Karl and - what's her name? The gal that's doing a lot of the water quality activity. Do you know her name in - Bell, Nina Bell - no. They filed a suit against EPA and I guess DEQ because they hadn't been listing the water quality limit of streams under the 305(b) report, of which you've first got to get the streams - somebody to say that those streams aren't meeting our over-capacity, which is water quality limit, the jargon is water quality limit. And they haven't been doing that, so they filed suit to get them to do that.

So now they've listed a whole bunch of water bodies, 800 water bodies, that are not meeting standards and are water quality limited, and they're not subject to TMDL's. Well, okay, so if they're supposed to do 20 percent, which we say that was under our act, they haven't done that. They're in contempt under what the old order was, and - but maybe - they might have gotten some provisions. We're not exactly sure whether we have a good contempt case or not. There may be some way EPA and DEQ have written some letters that have gotten compliance.

But this new listing of water quality limited streams is under attack by all the development interests, and again, who is representing them is the same lady that advised Lake Oswego.

M.O'R.: Oh, yeah. From Stoel Rives?

J.C.: From Stoel Rives. So again, you know, this is quite interesting how the world goes around and keeps coming around.

On the USA - on the Tualatin suit, I think there's no question that a lot of people learned lessons there both - first of all, I think EPA did, and it affected EPA a lot. I mean, you certainly got national attention. The TAO report, you know, the whole thing became a national case study, and it still is looked at, you know. And you know, Oregon for a long time said - and EPA said, "Oh, this great success story on the Willamette." Well, then you come in, you know, and you shoot a rifle and say, "What a disaster the Tualatin is," which is - you know, just makes everybody crumble, you know. I mean, for years EPA had said, "Oregon's Willamette Basin has been a tremendous clean-up success," which it was. You know, what happens is in the environment you clean it up for a while and then somebody else comes in and it gets dirty again. California, for instance, has gone through three or four different cycles.

And people learned a lot about how to go about things on the TMDL's. So looking at the Tualatin itself, I think it's a tremendous educational thing nationally and within the regional office, at least in Seattle here.

As far as DEQ goes, you know, I don't have a handle on what's going on there and what's - you know, the regional - the state director was always a kind of a Gary Krahmer fraud, but he got promoted to be Deputy Administrator of EPA, Fred Hanson. And so, you know, on the surface he said, "Oh, I believe that -" Karl Anuta says you've got to take the water quality approach, but you don't. I mean, you know, I mean, he never - you know, some people really are survivors but not doers, and he's a great survivor, as

Krahmer was. But they don't - that doesn't mean that their agencies ever do anything.

And the guy that runs the water program now is just the best, calmest, ablest do-nothing guy that's ever come down the pike, and he's been there quite a little while. So I don't know.

M.O'R.: In DEQ, you mean?

J.C.: Yeah. And so my judgment is that nothing's happening and nothing will. And nobody's going to rock the boat, particularly with a Republican legislature and a governor that's focusing on fish and -.

But this will never get published - right now, in the next day or two?

M.O'R.: Oh, it won't get published in the next day or two.

J.C.: It might be sometime. Our strategy right now in talking with the EPA and some of the people at EPA is to tie the standards now directly to the salmonoid problem and also to select the priorities for the closest streams in the Columbia, you know, and the rest of - whatever's - and to go right to the - and the Regional Administrator is going to be talking to the governors, and to try to integrate the water quality and the standards and the priorities with the governors to keep the fish from becoming an endangered species, you know, and solve our own problems.

And so that's kind of the way we're all kind of shifting now politically to bring the fish back in as the canary in a mine, and it's a good strategy - it was originally; it's just kind of reopened, because fish are - you know, we're not really changing anything, I don't think. It's just we're giving it another political boost by really taking it out of bureaucratic words and

putting it into meaningful fish recovery programs. Renaming what we're doing, I guess, what we've been doing.

So that's how, as I see it, it's evolving. So that kind of takes it out of DEQ in a way, and the sense is that they have always said - what was it? They separated the uses from the numbers. They're going to have to start worrying about saving some fish, providing some - you know, because that's the way the governor's going. And so I think this might be kind of helpful.

M.O'R.: Just a couple of other footnotes here. You were on the Lake Oswego City Council. Was that during any of this?

J.C.: No.

M.O'R.: Or it was afterwards?

J.C.: No, after that. I went on the City Council really to do open space stuff, and they passed a bond issue of \$12 million to do open space and parks and pathways. And then I quit.

M.O'R.: And you said that one of the things that you helped accomplish, anyway, was getting rid of the old - was it the City Manager?

J.C.: Well, that was kind of an aside. I mean, I never forgot that, of course. But you know, we had a very difficult mayor, and so - and he had enormous problems with the mayor and so did I. And the mayor was associated with the developers and was working against what I wanted and my agenda was. So in a way we coalesced a lot, but his - I think everybody really voted against him because he'd just been there too long. He was a very effective guy, and you know, it was a hard vote.

No, I really don't think I was acting out of, you know - from his bureaucratic point of view, he probably, you know, felt he was

informing his cohorts in the sewage industry that serves Lake Oswego - you know, that this was a bureaucratic communication, not a personal attack. I mean, that's the way it worked out.

M.O'R.: Well, since you left the Lake Oswego City Council what sort of turns has your life taken?

J.C.: Oh, I've pretty much sold my house on the lake and moved to - oh, I married a fellow City Councilor, the tree lady of Lake Oswego, moved to Agnes, although she spends most of her time in Lake Oswego. But I live in a small cabin up in the mountains, in the Siskiyou Mountains, on the Illinois River.

Now I'm worried a little bit about my little creek. I decided I couldn't clean up the Tualatin and couldn't do anything much at the state level, and pretty useless at the national level, so I ought to just worry about my little creek. So that's what I'm doing. I've taken one or two actions helping the Forest Service to help it, you know, keep the creek clean. And I do a little bit on forestry and worry about the Rogue and the Illinois, and write a lot of poetry.

M.O'R.: And you said you have a poem on the Tualatin?

J.C.: Yeah. I'll have to - I didn't bring that with me.

M.O'R.: Okay. We'll get that later.

J.C.: Is there anything else we ought to cover, do you think?

M.O'R.: Well, there's a couple - maybe just a few other personalities that we haven't touched on that we could talk about briefly.

J.C.: Okay.

M.O'R.: And maybe I should ask you the same question: Is there anything we haven't talked about yet that you think -?

J.C.: I'm kind of dense right now, but why don't you go ahead.

M.O'R.: Okay. Sure. In fact, I need to convey greetings from Mike Houck, who requested that you give him a phone call when you're in Portland.

J.C.: Oh, okay.

M.O'R.: But he's someone who has not been too directly involved in the Tualatin per se but has been concerned with, you know, wildlife habitat and ...

J.C.: Very much so.

M.O'R.: ... and Fanno Creek in particular.

J.C.: And also other areas of the Tualatin. But mostly Fanno Creek.

M.O'R.: So I was just wondering if you could give me your own profile of Mike and how he fits into all of this?

J.C.: Well, of course the wetlands issue is extremely important, and I come out of that tradition because I managed the 404 program, as well, and helped to launch that in the EPA, the wetlands protection part which is the Corps and the EPA share, the dredge and fill permit and so on.

And you know, talking about wetlands generally I think the most exciting thing that has happened in Oregon which I have read about is that after this Willamette flood people have decided to give - both farmers and the public have decided to give back some wetlands to the river in the Willamette Basin. And I think this probably is the most important single thing that could occur is to really realize that we have carrying capacity restrictions on wetlands and river basins.

And also I believe the wetlands have a function for sewage treatment. You know, you go down to Arcadia and so on, and this is what happened a little bit in the Tualatin, they tried to figure out how to use, you know, the wetlands in terms of it.

So Mike came at it from, of course, the wildlife perspective and out of the Audubon and so on, and I think did a wonderful and effective job, you know, with the former mayor and the blue heron, you know, and all of that. And I think as a public educator, you know, and I've worked with him on the bond issue for a while until they decided to cut their own throat, and they did, you know, in the first election. They were so intent on their biological that they didn't care to understand the reality of passing a bond issue. But - and they lost, badly. And I carried mine 67 percent, and I spoke with credibility, and they didn't listen. But anyhow, that's over the dam.

M.O'R.: Which bond issue was this?

J.C.: Well, I carried my bond issue for Lake Oswego for parks and recreation for -.

M.O'R.: Oh, okay.

J.C.: And theirs, which included some wetlands and so on, for Metro, first went down dreadfully, and then they finally passed this one when they started sharing and broadening the base.

And Houck, I really - he helped, actually he was very influential in helping me on the City Council, but we went to California, and he introduced me to this lady of the Bay Area parks, and she came up and she really helped us in our bond issue. And I had money then. I paid her way, and since she helped Mike, too, but you know, and so Mike has been really a kind of a - what do I want



to say? An agent of change, somewhat of a legitimizer. Yeah, he's a legitimizer, and I think he's moved the public a lot.

Now, in the water quality thing he's never really understood the Water Quality Act, and he's kind of interpreted it and worked it, and in many respects I think he's harmed the water quality program, and I think Smith feels this a lot stronger than I do. The problem is that he starts compromising the water quality issues out beyond what the statute allows him in order to get his wetlands objectives. And his objectives are wetlands, not water quality.

So there is this conflict of objectives from where I sit, but you know, for me in the long pull it doesn't make a lot of difference which - you know, these public pressures go on. What Mike has a tendency not to do is to the look to the short-term objective and really to sell out too quick sometimes.

M.O'R.: In the interest of building consensus or whatever?

J.C.: No, in the interest of getting consensus so that he'll get support for his wetlands, not for the -. I don't think he really understands the duality of the water quality engineering thrust and the biology thrust of the Act, the hard and fast reality that strong enforcement, you know, is key to this. You can get consensus and all this, but if it's going to cost the individual money then you're going to have to have an enforcement action, or the threat of an enforcement action.

And that's the way the Act is designed, and the citizen involvement is to get the enforcement, not to compromise out the standards or the objectives of the Act. And that's what Mike does not understand because he thinks you can build community consensus. Well, if you're operating outside the framework of the Water

Quality Act, I would agree with you, but if you're looking at the whole river basin - you know, river basin after river basin, I don't know whether you can get that.

So you know, I come out of the water quality tradition, trying to build the water quality and the water quantity tradition together and the policy - see, there are two different thrusts - actually three different thrusts. Three different basic thrusts. One is the water quality thrust that comes out of the water rights, the other is the water quality thrust that comes out of the [indiscernible] doctrine, essentially, and the other is the wildlife, the fish and wildlife thrust. And Mike really comes out of the fish and wildlife thrust. He does not come out of either of these three other things. So it's very hard for me even to deal with any of the water resource people, and as you know one office in Salem -.

And that's an interesting case. Did you ever look at that - how effluent - which was it? Was it the Hillsboro plant? It was the source of water for the irrigators ...

[end of tape]