

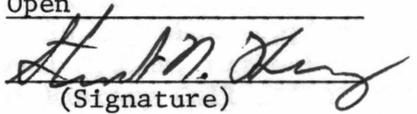
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Stuart Henry
January 11, 1979

Place of Interview: Austin, Texas

Interviewer: J. B. Smallwood

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Oral History Collection

Stuart Henry

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Dr. Smallwood: What Dr. Marcello likes to have on each of these interviews is a little bit of biographical data at the beginning. If you could tell us where you were born, your education, it will be there for the researcher.

Mr. Henry: Okay. I was born on May 1, 1941, in Dallas, Texas. At about four or five years of age, I moved to Irving, Texas, and was reared there until I was seventeen, at which time the judge in the Juvenile Court told me that I had a choice of either joining the service or going "down the river," so to speak.

At this time, I joined the Navy and spent four years and two months in the Navy, most of which was in Beeville, Texas. In spite of the promises to "Join the Navy and See the World," I saw Texas.

After the Navy, I went to Austin and married my current wife in 1962 and proceeded to go to night school while she finished college. In 1964, in September, I started going to school full-time in the liberal arts-

pre-law program.

In September, 1967, I was offered a job to start the air pollution control program for the City of Houston. I was, by no means, the head of it, but they had a federal grant, and they offered me a job there. So I quit the University of Texas Law School after my first year. I was under what they called the three-year program; the three-year program is where you go three years of pre-law school and one year of law school, and you get your bachelor's degree. So in 1967, I got my bachelor's degree from the University of Texas and then moved to Houston, working in the air pollution control program.

The Department of Health, Education, and Welfare gave me a scholarship in January, 1968, to go to the University of Southern California to study air pollution control management at U.S.C., and I studied there for six months under a master's program and came back to the air pollution control program for the City of Houston Health Department. I worked there for about an additional two years.

At about 1970, I was offered a job in Houston heading up the air conservation program for the San Jacinto Tuberculosis and Respiratory Disease Association. At that time, they were getting very active in air pollution

control. As you're aware, Houston has a considerable amount of air pollution, so there's a lot to work out; there's no lack of work. I headed up the air pollution control program, and that was my first involvement . . . I'd been a bureaucrat, so to speak, before that, and that was my first involvement with citizens groups. I became involved with a lot of citizens, including the Sierra Club, the Audubon Society--just many, many different groups with a broad political spectrum. At that period in time, the environmental movement was popular, and, boy, we got the range of people.

The peculiar thing about Houston, which I also noticed about your paper, was also that it was not limited to liberals. It was a very broad spectrum. Many of our key supporters came from the River Oaks area and were dyed-in-the-wool Republican conservatives, which was very interesting. In fact, one of our big supporters lived on Buffalo Bayou and was fighting the Corps of Engineers on not rectifying Buffalo Bayou.

Smallwood: Would you be willing to name that person?

Henry: Yes. It was Terry Hershey, whose husband is the biggest barge owner in the United States, and he is opposed to the Trinity River Barge Canal, by the way. He's a very peculiar kind who thinks it's a big boondoggle, and I quite agree

with him (chuckle).

So in the latter part of 1971 is when I got involved in the Wallisville lawsuit. Also, in the summer of 1971, we initiated what was called the Citizen's Environmental Coalition in Houston, which was a coalition of various environmental groups from architects, professional engineers, even a couple of oil companies--allegedly oil companies--the Oil, Chemical, and Atomic Worker's Union. A bunch of different groups joined the coalition.

Smallwood: Why were the oil companies interested in this?

Henry: Because the O.C.A.W. had a lot of people who were working in the Pasadena area, and their thinking was that if the populace as a whole was subjected to air pollution--very bad levels of pollution--then surely their workers were subjected to many times more that concentration. They were, in that period of time, very outspoken and a great help to us politically in terms of organizing.

Smallwood: Now, is this the company or the union that we're talking about?

Henry: No, that's the union--Oil, Chemical, and Atomic Workers. They were a great help to us, and they taught us a lot about organizing. If we were willing to listen, which I think most of us were, they taught us a lot about organizing. I was very impressed with the way they organized certain

things.

The good thing about another organization, which I think helped a lot in the country during that period of time, coincidentally, was the San Jacinto Tuberculosis Association. They got involved in air pollution, and one of the things you find about the Tuberculosis Association is that their support is widely distributed. It does not come from the oil companies. In Houston, 80 per cent of all of our financial support came from people who gave two, three, or four dollars and who remembered the fight of the TB Association in eradicating tuberculosis. We'd get letters in the mail saying, "I'd give you more, but I'm on welfare." So our power base, politically speaking, in the community was unassailable.

I mean, they could not touch us, and so we . . . the TB Association also had what I call "old pros." They knew how to organize a community; they knew how to get free publicity, because usually on their staff they had a public relations person who was paid to do nothing but do press releases. On the San Jacinto Tuberculosis and Respiratory Diseases Association's staff was about six or eight professionals. Two of them were public relations people; one was an expert in respiratory diseases; one was a community activist. You know, they'd go out in the community and stir people up and try to find out

what the health problems were.

So, like me, I went in there, and I said, "Hey, this is a gold mine of what you can learn!" You look at their computer read-outs on mailing lists . . . and you don't have to adopt their philosophy to learn a whole bunch. I learned a lot, and several of the people we worked with learned a lot.

When we formed the Citizen's Environmental Coalition, we had to start our fund-raising power base all over. At that time, we were the only group that had professionals--full-time, paid professionals. Well, I was offered a job in Austin heading up the environmental office of the City of Austin, the only one in Texas at that time.

Smallwood: Let's go back to the Citizen's Environmental Coalition. This was a local group organized in Houston for what specific purpose?

Henry: The coalition was mainly because of the size of Houston and because of the many groups' interest in the environment of Houston. It was hard to communicate. The primary purpose of the coalition was to allow those groups to coalesce on various individual environmental issues in that area that they could. It was not a forcing function. I mean, they did not take concensus like the League of Women Voters took. If the Sierra Club and Audubon Society disagreed over an

issue, it didn't break up the coalition because that was not the purpose of the coalition--to force coalescence on every issue of the coalition. The coalition basically didn't take a stand. What they did was they had offices, they had research facilities . . . they were sort of like a facilitating function to help the groups work together where they could but not to force them where they could not.

Smallwood: In other words, they coordinated them in areas where they had common interests?

Henry: That's right.

Smallwood: Who more or less spearheaded the organization? Do you recall?

Henry: Yes. Terry Hershey and a fellow named Art Atkisson. He, at the time, was a professor at the University of Texas School of Public Health, a brand new school in Houston, at the time. He was the president, a very charismatic individual, very knowledgeable--extremely knowledgeable--a Ph.D. The funny thing about Art was that he was more a bureaucrat than a professor. He had real life experiences. He was a deputy director for air pollution control for the City of Los Angeles for some fifteen years.

Smallwood: Where is he now? Do you know?

Henry: I think he is at the University of Chicago School of Public Health. I'm not sure. He did get in trouble with the regents because of his activities.

Smallwood: Can you be a little more specific about that?

Henry: During the 63rd Session of the Legislature, Art was requested on several occasions to come down and testify. In the University of Texas politics, you'd better clear your coming down to the Legislature to testify, He did not do that . . . and these are only secondhand, but I gather that there was a considerable amount of pressure on him to sort of tone down. Further, I think it was inherent in Art's make-up. He had not been a professor that much. He was a professor at the University of Southern California and taught public . . . U.S.C. has a very good School of Public Administration, and Art was the head of the institute there. But he was fundamentally a power broker--what I call a power broker--and you run into them. It's like, I think, Joe Moore at the University of Texas at Dallas. He has been around government for so long, and he's been the head of this and that. He's head of the program at the School of Environmental Sciences. Of the people I know who are real high in government and made a lot of important decisions, it is very hard for them to make the shift to the teaching profession. I could be wrong there, but Art was that way. He had a propensity to get in trouble, anyway (laughter).

Smallwood: He's one of those people that's always looking for a cause?

Henry: That's right! He's used to making decisions and used to having

a lot of people working for him, and he's used to having things happen. He is an excellent public administrator, and I think we could all learn a lot from him. Our public administrators in Texas could learn a lot from him. But he was very charismatic with people, so he and Terry both had a lot to do.

Terry had the money and Terry had the contacts in Houston, in Harris County, with the important money. Terry told us how to raise funds and showed us how to raise funds in Harris County to get the C.E.C. going. The C.E.C. has continued to exist, although it doesn't have much money now.

In any kind of community organization, what I found is that there is an economy of scale which you must reach, or there is a minimal amount of funding over a certain period of time that you must accomplish initially, or you spend all your time trying to raise funds and none of your time on programs. I think it has been borne out by the environmental groups which have survived the rough period. If you've still got an environmental group that still has adequate funding and good programs, more often than not you can trace it not to do with learning the program but how much money they had and what the commitment was at first. That was part of the C.E.C.'s problem, was that they had about \$50,000 or \$60,000. During the first six months, all I did was raise funds. A

lot of people would say, "Well, where is the program side?" I'd say, "Well, I've got to raise funds first." So Terry was the entree into the monied interests in Houston, although she was considered . . . she wasn't exactly old Houston, but her husband was. She is a cousin to Sissy Farenthold, which tells you a little bit, and comes out of the Fort Worth family of the Tarlètons, and she is a "pistol." She has a secretary full-time that does nothing but keep up with what is going on. Terry, on occasion, flies in and out. When she wants to--when she gets on your back--she can be hell-to-pay.

Smallwood: I've met women like that. They're good to have on your side.

Henry: They're terrible . . . you'd might as well concede if they're against you, because they're going to hound you to death (laughter). I was coming back from a deposition yesterday, and a guy says, "Boy, do you know this lady?" I says, "Yes." He sort of mentioned her in a derogative sense, and I said, "Let me tell you this. If you've ever got her on your side, you're going to win; if you've got her against you, you're going to lose and you might as well just . . . it might take her five or ten years, but time is not of the essence with that kind of person. They're just tenacious as hell." That's pretty well the background.

I came here to Austin in 1972 to help the environmental

office of the City of Austin. It was a brand new office, and I started it and stayed at it for about two-and-a-half years. What I found is that--and it is a comment of my own personal development and outlook about democracy in a sense--when I was with the City of Houston Health Department, I felt like I knew what the people of Houston should have, because I studied the problem in detail. When a citizen would tell me, "I think the air ought to be clean to a certain amount," I can remember thinking, "Well, they don't know what they're talking about. They don't really know all the details." When I went to work for the citizens with C.E.C. and the San Jacinto TB and Respiratory Diseases Association, then I saw very clearly the other side and had to deal with bureaucrats. Then working with the C.E.C. and environmental groups had really cast my mind in an approach as to how democracy ought to work. When I came to the City of Austin, I was more closely allied with the citizens who were concerned about Austin and its development than I really was with the bureaucracy.

That kind of cast of mind is not very harmonious in the city government, and I found that I was extremely, extremely displeased with the being of a bureaucrat again. Being a bureaucrat before . . . and I wasn't a very high-up bureaucrat, but nevertheless, being a bureaucrat with the City of Houston and then working for C.E.C. gave me a very good experience

in terms of the development of my outlook about how things should be. But it also warped me. Working for citizens, I could never go back to work for the government again. I was offered a job in May with Senator Bentson's staff heading up a very important subcommittee within the Public Works Committee. I couldn't do it. I just couldn't do it because . . . I had never regretted the day I left the City of Austin. I left the city in September or October of 1974, and I just could not . . . during all of that time when I saw things that I did not agree with--and I saw things in the bureaucracy where they would hide information from both the council and from the public--it just grated on me; I was extremely upset. I came to believe . . . I got what I considered to be a healthy distrust of the bureaucracy. I am fearful I would not have done that had I not, at one point in time, worked for a bureaucracy in which I thought I knew all the answers (chuckle).

I told the people at the LBJ School that what they really ought to do . . . I worked with the LBJ School very closely on some things, and I talked to the dean on several occasions, and I said, "The problem you've got over there is public relations. Your students getting out of your school think they know everything. They don't know a damn thing, and you need to correct that." I have seen some of the students, and some of them are brilliant, but what they don't understand is that

what should be is not always the case of what is. They get themselves in trouble, and they hurt the reputation of the school. That was the pitch I tried to make to the dean. I said, "The hell with it if the students don't make it, but they hurt the reputation of the school. What you ought to do as a required course . . . to get out of that school you ought to require some of those people to work with citizens awhile and let them see the frustrations that citizens have about dealing with bureaucrats that very well may be very well-intentioned and may be very educated but don't understand the limits of what government should be to that side." More often than not, I concluded that what we have is a bunch of bureaucrats that know the details. They infer the policy, which really in a sense the politicians . . . and it's a lot the politicians' fault--policy decisions--and we as citizens don't know where to go. And as a consequence, we have got technical people making our decisions for us.

Smallwood: We have some of the technocracy.

Henry: Very much so, very much so. And it is extremely frustrating in that category when you're working with citizens. I'm worried to some extent about the so-called "special interest democracy" that we're getting into, but quite frankly I'm really more worried about the "bureaucratic democracy" we're getting into, and I don't know how to get a handle on it.

Smallwood: They seem to sort of reinforce each other.

Henry: They do. In a way, I liked the experience I had, but it was also casting me in a situation where I could never be a bureaucrat again.

Smallwood: Let me ask you how you got specifically interested in this water resource controversy here?

Henry: When I was with the San Jacinto TB and Respiratory Diseases Association, Congressman Eckhardt had an aide named Keith Ozmore. Keith, I think, is still on his staff. At that time, the chairman of the . . . and this was when we had the Citizen's Environmental Coalition, and I was still working for the San Jacinto TB and Respiratory Diseases Association.

Smallwood: Now, did you ever work for Eckhardt?

Henry: No, I didn't.

Smallwood: But you did bring the suit on Wallisville.

Henry: Yes.

Smallwood: Did he give support, or was he part of the suit?

Henry: Yes, he did. What happened is, Keith Ozmore kept telling me, "Stuart, the Wallisville Dam is going to ruin the estuary." Keith told me that for six months. Keith is very tenacious, too. Keith is Congressman Eckhardt's administrative assistant or legislative aide out of Houston. He is a journalist, and he is a very fine guy. Keith kept talking to George Hagle. George Hagle was chairman of the Citizen's Environmental

Coalition at that time and also chairman of the Houston group of the Sierra Club. George Haglé is a lawyer who worked for Andrews, Kurth--a big conservative law firm in Houston. Keith kept talking to us about Wallisville, Wallisville.

Finally, we sat down and started thinking about it. At that time, I had a law student from the University of Houston that was helping us, so we started researching it a little bit. About that time, Dr. Baldauf from Texas A & M had issued a report on the impact on the bays and estuaries-- which was the demise of Baldauf, by the way. It was also the demise of a senior partnership for George Hagle with Andrews, Kurth. George wouldn't admit it. His wife admitted it over the phone to me. Some law firms are not very tolerable about this.

Smallwood: Do you think that's because there was pressure from what you might call the "establishment groups" in Houston?

Henry: I really don't know. I would say that probably, knowing Andrews, Kurth, they could just react that way anyway, because they are an extremely conservative firm. To some extent, when you get involved in one of these causes, you do crimp your style with your law firm. We've got a very excellent Harvard Law School graduate out of San Antonio that does excellent underground water research for us. He was instrumentally responsible

for getting the Rio Grande designated as a wild and scenic river. He is an excellent lawyer, and I know his law firm. His law firm simply told him, "Kirk, slow down. You've got to get back to practicing law now. We've let you off for about six months, and now you've got to go back to practice law." (laughter).

Smallwood: So they're not opposed to it philosophically, but they want more of his time?

Henry: That's right. The San Antonio group is very good. Of course, he is a very good lawyer, and they can't afford not to have him--Kirk Patterson. He's the kind of guy that when I say, "Kirk, can you help me on this?" and he will tell me straight up "yes" or "no."

Smallwood: And is he from San Antonio?

Henry: Yes. If he makes a commitment, he will do it; you don't have to remind him again. Those kind of people are few. In a volunteer movement, those are jewels. You hunt those people out, and you keep them. You pat their backs, and you really hold onto them (chuckle). I have a great deal of respect for him.

His law firm . . . I'm sure they were getting some pressure. They represent a lot of people out of Uvalde County, but by the same token, Kirk is an excellent lawyer, and they just gave him a lot of rope. They said, "Now, pull

it back and come on and work for the firm for a while now."

(laughter)

With Andrews, Kurth it is an extremely conservative law firm. The head of it is the one that started the John Burch Society in Harris County. I guess that there could have been some pressure, but I don't know.

Anyway, what we did in the Wallisville lawsuit, we looked at it--we looked at Wallisville--and we said, "Oh, my Lord!" Where I got involved with water was in that area. Terry Hershey had been involved with the Corps of Engineers projects on flood control because, as you know, a lot of Harris County is under the hundred year flood plain, Terry was always a big advocate of non-structural flood control programs. Where the Corps of Engineers messed up was on Buffalo Bayou, because 75 per cent of the people who live on Buffalo Bayou are rich enough to withstand the risk. When you start talking about cutting their trees on their bayou, you've got problems--particularly if you've got an Oveta Culp Hobby that backs up to it. You've got some of the old grand people of Texas and Harris County living immediately adjacent to the bayou.

Smallwood: I noticed that Mrs. Hobby apparently gave you considerable support. I would like to get back to that later on.

Henry: We decided that we would go ahead. Another fellow by the

name of Larry Thompson, a Houston lawyer who was mostly a personal injury lawyer, George Hagle, myself, and a fellow named Steve Matlock, who is an attorney in Dallas now, got together and prepared basically the fundamental lawsuit. In other words, we realized that we had a pretty good case. Larry and I went out to the Wallisville area and talked to a lot of the residents out there. In essence, we stirred up some plaintiffs, because we wanted to make sure we had a couple of individuals. What we ended up with was a couple of trappers who trapped nutria, and they were the plaintiffs--the individual plaintiffs--in the lawsuit, plus the Sierra Club, the Houston Audubon Society, the Houston Sportsman's Club, the Texas Shrimp Association.

Congressman Eckhardt helped us with the Texas Shrimp Association, because John Mehos and a bunch of other people out of Galveston are real good friends of Congressman Eckhardt. What we did to get the shrimpers is that Congressman Eckhardt, Keith Ozmore, and I went on the shrimp docks and talked to the shrimpers as they were coming in. We were just basically telling them, "Folks, if they build that dam over there, you're not going to have any shrimp." They were extremely difficult, and in fact they did not give us any money on that lawsuit until just recently.

The Houston Sportsman's Club was a big supporter. Keith

Ozmore is a big member of Houston Sportsman's Club, and so is Congressman Eckhardt. They were always very good supporters. They had a 5,000 membership and a real good paper, a monthly paper, which helped us.

We also had the Sierra Club and another group, the Environmental Protection Fund, which is a non-profit group that I set up legally so that we could funnel money in case we had problems.

Smallwood: Now, this was in Houston, right?

Henry: Yes.

Smallwood: And it was specifically for the Wallisville project?

Henry: That's correct. So what we did in that instance, too, is that we talked to a fellow by the name of Singleton, who was noted as an excellent federal court lawyer and who had left one of the big firms. I can't remember which firm it was. As he told us, "I got tired of being involved in investments and quit practicing law. I'm a lawyer because I like to practice law, not because I like to sit around with senior partners figuring out how to invest the money." We snookered him in that . . . when you get involved in these suits . . . it was just like I got snookered. Keith Ozmore snookered me. He says, "We need Baldauf's support." So I read Baldauf's report. "Now, read the Corps of Engineers report." You know, you feed it to them a little bit at a

time, and the madder they get. That's what we did with Singleton. We told him, we said, "We just don't have a lot of money. We might be able to raise \$2,000 or \$3,000 on this lawsuit, but that's all. We don't have but \$500 in the bank." He says, "Well, I'll read this." So we fed him a little bit at a time. The more we fed him, the madder he got. I mean, he just got mad as hell. So he was the lead attorney, and myself and Steve Matlock did a lot of the research--the pre-trial preparation--and we spent a couple of days in the Corps of Engineers office in Galveston and a couple of days in the Corps of Engineers office in Fort Worth going through all the records. I mean, we just spent twelve hours a day going through records.

Smallwood: You did some very fundamental research?

Henry: Oh, yes. We submitted 155 pages of interrogatories asking them for records, "oodles" of records. They just capitulated and said, "We'll throw all the stuff in a room, and you come and look at it." We said, "Fine! We've got all the time we need to look at those records." We found documents that they just didn't know existed. They were as incriminating as hell. What the clerk of Judge Bue's court told us is that we made one fundamental mistake in the lawsuit--we did not allege conspiracy, fraudulent conspiracy. If we had, we would have introduced a lot of incriminating evidence

that we could not do otherwise.

Smallwood: Let me ask you. You say 155 interrogatories?

Henry: Yes, 155 pages of interrogatories.

Smallwood: And is that on public record?

Henry: Yes, it would be. It would be on public record in the Wallisville lawsuit case.

Smallwood: That would be in the case itself?

Henry: Yes, it sure will. They admitted in some of the records that when they knew a lawsuit was going to be filed, they went ahead and tried to go faster. Judge Bue told them it was exactly the wrong response. They used to--and I assume they still do--transcribe their telephone conversations. Well, one telephone conversation we got hold of was one where the "head-knocker" in Fort Worth talked to the "head-knocker" in Galveston.

Smallwood: Are you talking about the Corps of Engineers?

Henry: That's right. It was telling them to juggle their cost-benefit figures. But because we did not allege fraudulent conspiracy, we could not get that in. In court rules, if you allege conspiracy, you can get into hearsay evidence. The favorite tactic of the Justice Department is to allege conspiracy--like in the Chicago Seven case--because in that way they can bring in any evidence they want.

Smallwood: Let me ask you about Judge Bue. Would you say he was generally

sympathetic with environmental issues?

Henry: No. I don't think he was predisposed that way. We really did not know how he was going to go. We think that what happened with Judge Bue was the same thing happened to his clerk, and it happened to Bob Singleton, and it happened to me--the more they read, the madder they got about how this thing had been handled. I think that concern is as fundamental to the coalitions you get on the water plan as you've got on the Trinity River. You're not just talking about environment; you're just talking a great, great deal of incompetency, of waste, of pork barreling, you know, whose ox is getting gored. When you look at one of these projects, there is so much of it. You sort of in a way can't help but get mad. So long as you're getting the money, that's okay. But damn near everybody else is not getting it.

Smallwood: I get the impression from what you're saying here is the fundamental success of these environmental organizations and these groups that are opposed to plans such as the Trinity and so forth . . . that their success relies largely upon their ability to simply do the background research and present the evidence and in a sense advertise to the public what is going on.

Henry: I'm not sure that's true. For instance, I noticed in your paper on the Trinity River that one of the things that COST

did is spend a lot of time in research. On the CAWT campaign, Citizens Against Water Taxes campaign, my initial thinking was that that was how we would win. I came to believe that that didn't make a hill of beans.

Smallwood: Yet you implied here that by doing all this research this caused . . .

Henry: Of course, you must understand there is a difference between a referendum and a lawsuit. In a lawsuit, yes. What saved us in the lawsuit was the research and the sloppy way that the Justice Department handled our interrogatories. For instance, in the stuff that they had submitted, including that stuff in the big room for us to look through, was the legal advice of the Justice Department to the Corps of Engineers. That is clearly protected information. We clearly could not have gotten it, but here Steve Matlock and I were in here reading what the Justice Department had told them on how they should do it. We could not introduce it; no one could have introduced it.

That information should have never been in all that other information. That is privileged information. What they did is, they said, "I'll just throw a bunch of information together and give it to them." The transcriptions of the telephone calls' conversations should have not been in there, but that is where we hooked them. They had correspondence from their

consultants to tell them

We had a letter that told the Corps of Engineers . . . see, this is like what happened on the environment impact statement the Corps of Engineers did on the Trinity. Dr. Gunther, a marine biologist out of Tennessee, if I'm not mistaken, supposedly did a research project--two weeks is all it was--saying, "It's not going to hurt the estuaries." The cover letter from him said, "Don't rely on this." In the environmental impact statement, which we circulated, the Corps of Engineers left off the cover letter. Their justification for no impact on the estuaries was the two pages. Bue hit the ceiling when he saw that. He said, "That's absolutely just fraudulent! You were told back in 1968 not to make any decisions by your consultant on what had been done, because he had been interrupted in his study and could not make anything but tentative conclusions. That's what he told you in a cover letter."

Those were the kind of things--where the Corps of Engineers would jockey information around. In the research, we had shown that through the years they had jockeyed the cost-benefit analysis around. We spent a great deal of time, but that's what we were looking for, is this kind of data.

Smallwood: You would say that that information didn't transfer to the public campaign on the referendum?

Henry: No. By and large, I think most people agree that large water resource projects are boondoggles.

Smallwood: Do you think that's the key right there--if you just pound at that idea?

Henry: Well, what we did in the CAWT campaign, we initially thought . . . and I had a problem with the environmentalists on this because they like to do research. Most environmental groups, you will find, are what I consider to be white-collar, highly educated. I'm not saying that we don't have . . . and I'm not saying that in the political spectrum it's a matter of liberal or conservative. I'm saying a lot of them had the kind of economic standing and time to go out into the parks and into the wilderness areas. They have a sense of wanting to know the facts. I'm sort of the other way, in the sense that I think that is extremely important before you make up your mind; but that's not what you can use in a public referendum to sell the public.

I'm the demagogue of the first order when it comes to trying to sell stuff, and in the CAWT campaign what helped is a guy . . . I ran for city council about four years ago on a totally environmental platform, and I got 43 per cent of the votes. We got beat by a lady that spent \$60,000 while we spent \$15,000 on our campaign. We should have won; it was all our own damn mistakes. That was good experience for me in terms

of learning campaigns and getting involved. The point is that in that campaign I had a fellow that helped me--Wes Masters--who had spent a lot of time in Austin in university politics and city-wide politics. He is a jack-of-all-trades. He dropped out of the University of Texas, and right now I think he is running a nightclub. He is just as crazy as they come. He is a fly-by-night weirdo (chuckle). He helped us in the CAWT campaign; I hired him in the CAWT campaign.

Smallwood: He was the secretary-treasurer? I recall he signed the checks, and he also signed the petition, if I recall--the injunction that you attempted to get.

Henry: Yes. I hired Wes. Most of our initial money came from the Sierra Club, and it was put into a bank account to get us going. Basically, we ran the CAWT campaign out of that office next door. Wes was a very practical kind of a guy, and he wasn't interested in research. He was anti-environmentalist. He didn't give a damn about the environment, and we had bitter battles during the CAWT campaign about strategy.

Smallwood: What were his interests then?

Henry: Only in being paid. We paid him, I think, \$600 or \$700 a month. I can't remember what. I think it was a good decision. When you win, you think those are good decisions; if you lost, I might think it was a bad decision (laughter). Who knows? Winning makes everything right, and losing makes everything

wrong--and I've been on both sides, I thought he was a good balance for me, because when I first started the campaign and thought about what our campaign would be, I thought . . . we spent a lot of time and a lot of effort on research. I concluded . . . and Wes says, "Stuart, you're only going to be able to sell the people of Texas on the very few things. You'd better get those and get those right and get them right first. There are certain kinds of things in which you're going to have to do research."

So we went up to Fort Worth, and I made a speech. I'd been studying this stuff . . . I've always been interested in water resources, because to my way of thinking . . . and I'm an environmentalist, but I'm more of a fiscal conservative, I suspect, because I thought--and I still think--that water projects are the biggest damn boondoggle that ever hit.

Smallwood: You think, then, that your fiscal conservatism would be the most important motivation here?

Henry: Well, it is a combination in a sense. Yes, I think that I just don't like to see spending that kind of money in projects which are marginal to start off with. For instance, I can see--and I think a lot of Sierra Club members can now see--that if you've got a project where water is really needed and it may do some environmental damage, you'd better go ahead and let that project go. Politically, as well in the overall

scheme of things, perhaps that is the best for everybody. We're getting the Sierra Club people to come around to that. The good thing about that approach is . . . and there are not too many of those. But there are some, but there are a hell of a lot of those others. In the first place, there is no need for the water. In the second place, the environmental damage is exorbitant. Thirdly, it's a bunch of people that put it together that don't know what's going on.

My involvement and concern about water is stemmed from Wallisville. I spent so much time researching all this stuff-- researching the Trinity River Barge Canal--and really got "ticked off" about the Corps of Engineers and how they operate and how unresponsive they are. It's just the whole process of how an idea turns into a gold mine for some and taking two or three bucks out of the pockets of everybody else . . . how it ruins a lot of areas. We've got three or four boondoggles in Texas right now where you can't sell the water, and that just sort of "ticked" me off. I said, "Now, how in the hell!" You know, I still am an idealist in the sense that I expect more out of my government. I am a realist in knowing damn good and well what to expect, but I still keep harping back and thinking, we just ought to be able to expect more than what we get, particularly in that kind of area. That's what got me involved in the water stuff on the CAWT campaign.

After I left the City of Austin in 1972, my first job and client was lobbying for the Sierra Club in the Legislature. I hired another law student . . . and the Sierra Club has been the only environmental group in Texas that has really lobbied in the Legislature since that period of time--1972 and 1973. I shouldn't say 1972, because that is incorrect. It was . . . I lobbied in 1975 for the Sierra Club; I lobbied during the last session for the Sierra Club on all their stuff; and in this session I'll probably lobby for the Sierra Club on water stuff only.

In the 64th Session the big issue was water bonds and the strip mining bill. In the last session it was coastal zone management and the combination of the water agency. The club got that public interest advocate office set up in the water agency.

I sort of stayed with water. I got back involved in water during the 64th Session of the Legislature in 1975 when they passed the bond issue, the \$400 million bond issue, and we worked our tails off on that baby. We amended it as much as we could, and we tried to defeat it and could not defeat it. Like I've told several legislators, "If you want to pass another bond issue through the Legislature this session, we may not even fight you. We'll just wait until it goes to the citizens and just conserve all our energy and resources." (laughter)

They don't like that, either.

Smallwood: Let me clarify some things about the historical development of these groups. I noticed that the Texas Environmental Coalition more or less was the first group to become interested in this. Can you tell me a little bit about the background of the Texas Environmental Coalition?

Henry: Yes. In 1971, the environment was a popular issue, so we had a lot of environmental legislation in the Legislature, Art Atkisson and I spent a considerable amount of time coming up every other week to the Legislature, lobbying for legislation. Ned Fritz and Dick Shannon of the Texas Committee on Natural Resources were lobbying.

Smallwood: Is Shannon a member of that?

Henry: Yes. He is, in fact, the chairman right now of the Texas Environmental Coalition or is president of the Texas Environmental Coalition. He is a lawyer here in town. He has been involved in the environmental movement in Texas a long time, way before it was popular. He is sort of what I call close to a preservationist.

Things were not gelling in the sense that we were coming up lobbying for a reasonable bill in Harris County which would have given us the authority to do some things that we couldn't get Hugh Yantis with the Water Quality Board to do, or Charlie Barden with the Air Control Board to do, or

anybody else. Ned was lobbying against us--Ned and Shannon and some others--because they were afraid. They knew damn good and well that if Harris County and the three or four counties around there got their own power, we wouldn't be back up to the Legislature helping them. We had some stroke down there with people. I mean, we had the biggest Sierra Club regional group down there and stuff like that. And Ned was lobbying different than we were.

I love the hell out of Ned Fritz, but he is the most obnoxious individual that you would ever want to meet, and I often think he does it on purpose. He is probably the most educated environmentalist and one of the oldest environmentalists in Texas, but he ain't no lobbyist, and he makes more people mad. You've really got to love Ned to get along with him, and I can't get along with him (laughter).

Smallwood: I've heard many people say almost identically the same thing.

Henry: Ned knows a whole bunch about the Texas environment. I think there probably is not a grain of sand that Ned has not examined at one time or another during his life in Texas. But he is an obnoxious individual, and he generally doesn't get things done in the Legislature. We talked about creating the Texas Environmental Coalition (TEC), and quite frankly the people's intent out of Houston was to co-opt Ned Fritz. Just as simple as that.

Smallwood: What do you mean by co-opt?

Henry: Co-opt in the sense that we could get him in line, that he would not be saying something over here. We were looking at TEC as to having one lobbyist and one representative of the environmental groups.

Smallwood: This would keep him from pulling against you?

Henry: That's right. When the TEC was formed, we were really looking at the next session in the Legislature. We were not looking at that session in 1961; we were looking at the next session. And it did that for the next session. You see, that is a non-profit group, but we also had what was called the Texas Environmental Action. You can set up a non-profit group and a lobbying group, and if you're really careful and keep your records straight, people can donate to the non-profit group and get tax write-offs. But you can slough off a lot of that into the lobbying group.

Smallwood: And TEA was the lobbying group?

Henry: TEA was a lobbying group. We called the Texas Environmental Coalition the 501C3 group; the Environmental Action of Texas (EAT) was the 501C4 group. We did that in Houston when we set up the Citizen's Environmental Coalition. We've done it several times. It is the favorite technique of the environmental groups around the country if you set up those two different groups. Like I got paid by the Citizen's

Environmental Coalition Educational Fund, to give an example--\$15,000 a year--but I was only paid for thirty hours a week. The rest of my time, I spent with the Citizen's Environmental Coalition, which was an unincorporated association of people. We'd do anything we wanted to.

Smallwood: I see. Now, let me get this straight to be sure I am historically accurate. The EAT was sort of a mirror organization of the Texas Environmental Coalition.

Henry: That's correct.

Smallwood: In other words, they were directly . . .

Henry: The same directors. Usually there were different presidents for convenient reasons--just simply that we didn't want to have too much confusion. Environmental action for Texas, I think, is pretty well dormant now. The Texas Environmental Coalition, I think, has gotten into more educational types of activities--grant funds and stuff like that.

During that period, you have to understand a couple of things that were occurring nation-wide, too. The Environmental Protection Agency and the other federal agencies who were trying to keep their constituencies would slough off research funds into the groups under the guise of conferences and stuff like that. It was a very good technique to help fund these groups. Like, we would have somebody from the Environmental Protection Agency come down to the Citizen

Environmental Coalition and offer us \$5,000 to hold a program. I'd look at it, and I'd say, "Well, I don't want to offer a program, but I do need the \$5,000." She said, "Well, charge \$700 or \$800 for the renting of your conference room."

It didn't cost us a thing. The conference room was already there. That was the technique EPA used a lot. That's the technique some federal agencies are still using to get by Congress. For instance, there is a three-lawyer group in Washington right now that received a million-dollar grant to do a paper on how you encourage public participation and decision-making in EPA. It took those three . . . and they were lawyers on the side but they were consultants, and it took them about six or eight months to do it. They got a million-dollar grant. So now they're out practicing public interest law, suing EPA. They're suing EPA because EPA . . . they're doing it in the sense that they're suing EPA because that throws EPA in the posture they want to be in anyway. Oh, yes! Oh, yes!

Smallwood: Okay, what I wanted to find out is the connection between TEC and CAWT. In other words, CAWT was set up by the Sierra Club more or less, but apparently TEC had already begun to direct its attention towards the water bond issue. Did they merge?

Henry: No. It was separate and apart. TEC did some preliminary

work. We had some discussions with TEC and thought it would be nice if they did sort of a position paper on water financing. Cornelius VanBable, from Texas A & M, has done some pretty good research on water resource projects. Cornelius prepared a paper for TEC, and I think during the CAWT campaign they did a press conference or a press release. But they were not directly related to CAWT.

Smallwood: I found a lot of their letterhead in the CAWT files for those early years, and I was wondering if they . . .

Henry: I'm just trying to think. Now, wait a minute. Okay, Howard Saxion . . . we had a little deal going there. It may have been that TEC was working for Ned. Howard was working for someone during the CAWT campaign--Howard Saxion, out of Dallas. Do you know Howard?

Smallwood: No, but he was head of the Sierra Club.

Henry: He was chairman of the Sierra Club. He was also working for Ned, but I thought that was for the Texas Committee for Natural Resources.

Smallwood: What I found in the files on TEC letterheads was that there was a calling of early meetings to discuss the water bond, and then suddenly it is CAWT. I thought maybe one of them became the other, but I guess that's not true.

Henry: No, that's not true. We did get TEC involved because they had tax exempt funds that we could use, and we had talked to them,

and they had to be very careful on how they used them. It is perfectly legitimate. What happened is, we created . . . the Sierra Club . . .let's see . . . the bond issue was in 1976. In January, 1976, the Sierra Club had a meeting, and they gave us about a chunk of \$3,000 or \$4,000. I'd have to look at the files, but what the Sierra Club did was just to create CAWT itself. At that time, I was chairman of the water resources committee for the Sierra Club and we just created it out of this office and filed all the stuff with the Secretary of State. The Sierra Club was the primary motivation, which was the same case when the Sierra Club was the primary motivator in the water plan.

Smallwood: I have a specific question I'd like to ask you for historical information. I ran across a position paper that was designed for the May 29, 1969, meeting of the Sierra Club, and it refers to "'I' recommend this." This was on the water bond thing. Unfortunately, it doesn't have any signature. It obviously was for the May 29th meeting. You see, this was the early water bond . . . the first bond election.

Henry: It has "I" a lot?

Smallwood: Yes.

Henry: I'll tell you who did that--Ned Fritz. Ned Fritz is the only one that . . . one of the things you can tell about Ned Fritz's information, he always uses the figurative "I" a

whole bunch.

Smallwood: It says, "I recommend we do this "

Henry: I'll bet you it was Ned. Now, Ned was very instrumental in the 1969 campaign, and I'll bet it was Ned because Ned has not changed in that sense over the years. He still uses "I." (laughter).

Smallwood: I can easily check that with him. I'll take him a copy of that.

Henry: Yes. I'd check with Ned on that, because he works there with another guy in Houston that was instrumental in the water bond campaign. Hubert Davis had a file of the facts, and you're talking about research! He had a file of the facts of the Texas water plan about two feet long--cards, one card after the other--on the different facts. Another person who was very well-educated and remembers the 1969 meeting was Meg Titus in Plano. Ned would know how to get in touch with her. Meg was very instrumental. I think she was head of the water stuff for the League of Women Voters. The league was very instrumental in 1969.

Smallwood: You've answered this partially, but I'd like to go over it again. That is a sort of general social and economic profile of the CAWT contributors. In other words, would you classify them primarily educated, middle-class whites--that kind of thing? What would be their political leanings? Would you

have any general impressions of that that you think might be valid?

Henry: Yes. I think that basically the contributors were . . . in terms of socio-economic standing, I think probably you are talking about middle to upper income. A great deal of contributions were in the \$20 range. Our average contribution-- I think there's a breakdown of the average contribution that you would find in the files--is about \$12.57 per contribution. On a scale nationally, that is a pretty significant contribution--pretty high. As a socioeconomic group, I think probably you are seeing your typical Sierra Club constituency made up of middle-class, white professionals. We got a lot of support . . . contributions, I couldn't say.

Our main list of requests for contributions was the Sierra Club list, and that was what we worked off of mostly. We did have in certain areas . . . and I think really, quite frankly, our contribution list is more reflective in where we got our labels than it is in where we got the appeal. I don't think one can generalize without the breakdown of our contributions simply because my experience in direct mail fund raising is that you've got a percentage that's going to come in anyway. We got a very much higher percentage from our Sierra Club members than we expected. In Houston, we dealt with some very, very wealthy people, like the Buffalo Bayou

Preservation Association, which is made up of doctors, lawyers, architects, all kinds of people. We got large contributions from \$100 to \$200. J.R. Parten sent us \$500 or \$600.

Smallwood: Is he from Madisonville?

Henry: Yes.

Smallwood: What is his interest in the environmental issues?

Henry: J.R. is a weird guy. He is! Well, he helped bankroll the "liberal rag" here in Austin.

Smallwood: Are you talking about the Texas Observer?

Henry: No, not the Observer, although he bankrolled the Observer.

Smallwood: And it was called the "liberal rag?"

Henry: No, I was just trying to think what it was called. The guy that ran it was a "crazy."

Smallwood: He just sort of had an affinity for liberal causes?

Henry: Yes. J.R. is a real funny sort of guy. He is not an "easy touch" by any stretch of the imagination. I remember we hit up J.R. too late in the campaign, and he said, "Stuart, I'm not going to give you any more money because you've already won. Why throw money down a rat hole?" I says, "You mean to say we just hit you up too late?" He says, "Yes." He's that kind of guy (laughter).

Randy Parten, his son, has always been interested in the Trinity River Barge Canal. My appeal to J.R. and Randy and

John Henry Faulk and Dr. White and the COST people was, "Look, folks, there ain't going to be no federal money coming out on the Trinity River Barge Canal. It's going to come from the state and the state bonds by building reservoirs and then coming back later on and building that barge canal. That's exactly what they're going to do. I mean, they're going to build Tennessee Colony and the rest of them, but they're going to build it with state money. They're not going to build it with federal money--not until that study comes down on navigation--so they're going to do it in increments." It was just like old Charlie Wilson said: "We'll knit-pick you to death." That's how I sold them, so they were interested in the whole water bond campaign, too, based on that. J.R. is a real funny guy.

Smallwood: I've run across him in my research from time to time, although I don't know a whole lot about him.

Henry: I don't know that much about him either. Randy and I have . . . and they were big supporters of Ralph Yarborough, and I met the Partens through a friend of mine who worked for Ralph Yarborough for many years. He said, "I'll bet you'd like to meet old Randy Parten," and, sure enough, Randy was involved in the Trinity River Barge Canal, and Randy helped us on this one. J.R. contributed but I don't know him very well. John Henry Faulk spends a whole lot of time with him, and they

are just "diamonds-in-the-rough," so to speak. We have a copy of those contributors, which you are welcome to see, from the Sierra Club.

Smallwood: I get the impression from what you say, though, that the people who support it financially and sort of spearhead it doesn't necessarily mean that they're the only group that you appeal to when you'd go to the public?

Henry: No, that's right. We clearly separated vote support from financial support.

Smallwood: And what did you see as vote support?

Henry: Vote support was fiscal conservatives, environmentalists, white middle-class neighborhoods in general, which we were hoping would be sort of fiscally conservative.

Smallwood: Did you make any attempt to look into the lower socio-economic groups and the minorities?

Henry: Yes, in certain cities, like, in San Antonio . . . only in San Antonio. We did it in Houston a little bit. We talked with Billie Carr in Houston, and she made some contacts with some blacks and browns in Houston that we dealt with very briefly. The only place where we really dealt with minorities was in San Antonio, with the COPS group. The reason why is because they were already predisposed to be concerned about water issues because they'd been fighting on the aquifer. They circulated 40,000 circulars the Sunday before the election tha

proposed for the deal, We won in San Antonio by about 62 per cent, I think. COPS was instrumental with the Aquifer Protection Association in rolling back that zoning change over the Edwards Aquifer some years ago.

From that we knew that they were interested in water. We just sat down and talked to them. We just went and talked to them and said, "This is an important issue in San Antonio for the following reasons." What had happened is that General Rose and Hugh Yantis had both made them mad. They were about to beat Hugh Yantis up. So they said, "Well, if General Rose is going to get some of the money . . . if his organization is going to get some of the money, and Hugh Yantis' organization is going to get some of the money "

Smallwood: . . . they turned "thumbs down."

Henry: That's right. COPS is a very politically active organization and is very pervasive. It is pervasive because it is basically run through the parishes--is funded through the parishes--in the Mexican-American communities in San Antonio. If COPS makes a commitment . . . and the head of the water committee is priest.

Smallwood: Do you know what his name is?

Henry: (Whistles) Father Joe is all I know, but we can find out. He knows a hell of a lot about water, and they're a tough bunch. I mean, they want to know what this means to the Mexican-American

community in San Antonio. If you can't tell them, then get out of there and don't bother with their time--which is just perfect because that is what we went down there to talk to them about.

Smallwood: So they are an effective political group?

Henry: Oh, yes, I think so--very much so,

Smallwood: Okay, this is going to demonstrate my ignorance a great deal, but I was looking through the court case that you introduced, and I don't understand some of the things about it, so I would like to ask you to clarify them, if you don't mind. First of all, there was in the CAWT files a paper that was entitled, "Original Petition." Now, would that be identical to the one you filed with the court?

Henry: Yes, that was the original petition.

Smallwood: That original petition--the one that I've been reading--would be historically valid?

Henry: Yes. We amended it but it wouldn't make much difference.

Smallwood: Well, I found the amendment, so that represents what went to the court, right?

Henry: Yes, both the original as well as the amended.

Smallwood: Why did you use Mason Terry? Was there any particular reason for you using him as your lawyer?

Henry: Yes, because we tried to use Dick Shannon, and he did not have the time. We wanted to use a lawyer who does a lot of trial

experience--and not me--simply because I had other things to do. We figured we could get a free lawyer, and we used Mason simply because he and Dick Shannon knew each other.

Smallwood: Is he sympathetic to your cause?

Henry: Yes. He helped us out. You have to understand that the lawsuit was done to accomplish two things: one was free publicity. Free public publicity occurred, as Wes used to always remind me. Secondly was to sort of blow the opposition in sort of a tremor, because they were going around all over the state at that time in those great public forums. We just wanted to give them a hard time, hassle them a little bit.

Smallwood: That was my next question. In fact, did you expect to win the case, or was it mainly to create adverse publicity for the TWDB?

Henry: We did not expect to win it. We felt like we could have won it, had we had the opportunity to get some witnesses. But, boy, when we put the subpoena on some of the witnesses, they clammed up. Like Hugh Yantis, we were going to subpoena Hugh Yantis and had a subpoena out for him and told him ahead of time. That horse's ass went to Houston the next day, because he had made some statements on the record which would have . . . Hugh had . . . see, the Water Quality Board had \$200,000,000 in bond issues at that time, too. His procedure for handling the bond issue was diametrically opposed to General

Rose's. He was very careful politically--how he went about it. Remember, the suit involved an expenditure of about \$44,000, also, to a public relations firm here. We thought, and still do think, that it was illegal. What was happening is that the forums were scheduled, which some of the evidence clearly indicates, in order to do nothing but publicize the bond issue at state expense and thus contrary to state law.

Smallwood: I get the impression, then, that you were trying to make these people sort of pull in their horns a little bit.

Henry: That's right. And it did because one of the guys that was working for General Rose, a fellow by the name of Ben Turner . . . he did not . . . he doesn't know it to this day. He had been going around to some printing places getting costs, getting estimates of costs, for the political group--the political group that was set up to promote the bond issue, which never got off the ground.

Smallwood: Oh, was there a political group?

Henry: Oh, yes.

Smallwood: Did it have a name?

Henry: Yes, and for the life of me I can't think of who it was. Black was the chairman of it, and he was also chairman of the Water Development Board. The court has probably not transcribed that. What happened when we filed suit, also, was that . . . in the CAWT campaign, I don't think we really beat them; I

think they beat themselves, and we just took advantage of it.

Smallwood: Jim White insists that that's what happened with COST.

Henry: That they beat themselves? My impression is this, it is hard to win a state . . . we won by a big margin on the CAWI campaign. You look at the returns, and there are some areas where we should not have won.

What happened is that during that campaign, General Rose also made a lot of people in the water ranks mad. Like White said, "Well, as you go through the campaign, you know that you're in good shape because of things you see." I noticed the same thing. People have called me . . . and I've talked to somebody and they've said, "Oh, heck, I don't care about those water bonds." Here is a water hustler telling me that. The river authorities did not get on the line until very, very late. They were mad at Rose because Rose is the kind of guy that does his homework. He expects everybody else to do their homework; and if you have not, he'll shove it down your throat. You just don't do that with people. The water establishment is a good ol' boy group. It is the typical Texas good ol' boy way of doing things.

Rose just came on the scene as Briscoe's little fair-headed boy. He started telling the water hustlers how to hustle water that they'd been doing for eons of years. They resented

that and, you know, they had a mechanism at their disposal . . . the utilities had a mechanism at their disposal that they never used. A lot of that stuff, they never got going.

One of the things is that they didn't get their political machine going--their legitimate group to support the bond issue--until about two weeks before we filed a lawsuit. Ken Clapp, the governor's assistant, was the one that was doing all that. It's clearly contrary to the law. When you call and say, "Where is the group that promoted the bond issue? I want to get the information," you'd get shuffled back and forth between the Water Development Board and the governor's office, neither one of which is qualified by law to do either one of those. They got to be separate and apart. The appropriations bill says you can't spend any of this money to try to pass legislation or influence the outcome of the election. When we filed a suit, that screwed them all up on that because they started pulling their horns back. They started saying, "Hey, we screwed up the public relations firm here because they were getting ready to do some of the brochures and some of that other stuff and design the brochures."

Smallwood: That was my next question. What was the interests that Neal Spelce Associates had with the Water Development Board? Were they just simply hired, or did they have some close connection with the establishment?

Henry: Well, they have a close connection with the establishment here in Austin. They've done other bond campaigns here in Austin. Beyond that, I don't think so. I think what happened is that Rose went out and talked to some of the public relations firms, and he figured out what they were willing to do and what they weren't willing to do for the kind of money. They got a \$44,000-dollar contract. I don't think that Spelce Associates were any better qualified than any of the rest of them. I think they hedged quite a bit. They knew they were using the state money to do some things that were not probably morally correct, but maybe legally they were real close on the line. When you file one of those lawsuits . . . we did not expect to win. We simply did not have time to make it a winning case.

Smallwood: How was the case disposed?

Henry: We were denied a temporary injunction, which is all you can get in those kind of situations, anyway. We just let the case drop; we dismissed for want of prosecution.

Smallwood: Who was the judge?

Henry: Herman Jones, who is the worst judge you can try to get against a state agency.

Smallwood: You felt that he wasn't disposed toward you?

Henry: No. We would have had to show a great deal of misappropriations, which, by the way, the evidence is there. The Water Development

Board members, after the bond campaign, had to donate money to the state treasury for illegal expenditures. Top staff members who had gone around to those forums had to donate money to the state treasury. George McNiel, the state auditor, would not certify their expenditures. That is one of the things that kept Rose out of the directorship of the Water Resource Department.

Smallwood: I see. I noticed in the John Hill answer that they asked you to pay court costs or asked CAWT to pay court costs. Did you have to?

Henry: No.

Smallwood: I have one other question, and that's about Mrs. Hobby. What was her interest in this? Why did she give you such good editorial support in Houston? Do you have any idea?

Henry: Yes. On the Houston staff is a fellow named Harold Scarlett, whose total responsibility with the Post is as environmental writer. He has been the environmental writer for the Post, I know, since 1970, maybe even 1969. He is very, very objective but he is what I call a closet environmentalist. He is really not much of a closet environmentalist. If he thinks you're wrong, he'll cut you to pieces. I don't know what it is about Harold; I can't describe Harold. They don't pounce on him. He's got full range.

Smallwood: I respect his position.

Henry: He writes a lot of the editorials. Now, they probably get to him on editorials.

Smallwood: In what sense?

Henry: The Hobby family and the other people in the paper probably can . . . if they asked Harold to write an editorial, they could probably squelch that. But my understanding is that they cannot squelch his articles. I mean, there is sort of an unwritten understanding. Harold Scarlett came to the Post as one of the top reporters, and all through the years that I was there, Harold always did what he wanted to. I think the main reason for the support of the paper is due to Harold Scarlett.

Smallwood: But I noticed that they didn't squelch his editorials on this, according to what I've read. So do you see Mrs. Hobby and the Hobby family as supportive in this or just sort of neutral?

Henry: No. Bill Hobby was in favor of the bond issues. The reason why I say that is . . . Jay Tapp, who lives in Houston, and who now lives in Wimberley . . . Jay is a forty-five-year-old millionaire--a young millionaire who made a business of building buildings. He's been fighting Cloptin's Crossing and the Corps of Engineers for ten years. He is sharp financially; I mean, he is a financial wizard. You just don't snow him on that stuff. Hobby and Tapp are very good friends. On

the 9th, the election returns came in. They had a big argument over the bond issue (laughter). Hobby got mad as hell, and everybody was patting Jay on the back and telling old Bill, "Yeah, Bill, you backed a loser!"

Smallwood: Can you tell me how you got this information?

Henry: From Jay Tapp. They are good friends, and you will see it written.

Smallwood: Have remained so even after the bond issue election?

Henry: Yes. My impression of Bill Hobby is that he's a very nice guy. The problem is . . . and this is the problem with a lot of people in the Legislature on this water control stuff . . . and I guess it's the same thing with Congress, too, although in the Texas Legislature the pork barreling is not predominant like it is in Congress. There are too many people in favor of water projects who in good faith think that's the best thing. But to get to where I am in water projects, it takes a hell of a lot of work to find out all the crap that goes on. You have to work on Bill Hobby just like you'd work on anybody else--like you'd work on me or like you'd work on a lawyer that represents you. Until you see it, you can't believe it. Until you read it and wade through it, you assume . . . there is an assumption that everybody always deals in good faith or that people are reasonably competent. When you combine incompetence and a little bad faith and a

whole bunch of boondoggles and a bunch of boosterism, you end up with a water resource project that really should never have been built.

Smallwood: And a lot of self-interest?

Henry: That's right. And what I feel about Bill is . . . and I told Jay, "We've just got to educate him." I think we've got some West Texas legislators who are in the same category. We've just got to educate them.

An issue with the Texas Water Plan is really a complicated issue in the sense that they talk a whole lot about water management in the whole statewide system. But they don't want to talk about really treating it very well. Texans in general, and water hustlers in particular, have always treated it like we've got an abundance of water in certain areas and none in others. That's simply not the case. We've got a hell of a lot of water that is being wasted in Texas right now, and we're not making the best use of our water. We're wasting water worse than we ever wasted natural gas in this state. The West Texas people say, "Well, we need water out there," and I agree with them. What I have told Billy and the rest of them, what they've got to understand . . . Billy Clayton is the number one water hustler in Texas, by the way--by far the number one water hustler in Texas and may continue to be . . . or he may not. Because the

next big water issue in Texas is when Mr. Clayton runs for statewide office. He doesn't know it, but that is going to be a big issue. The environmentalists in the same groups are going to be coming out against Mr. Clayton, and I think that's what is going to kill him for any statewide race because that's a strong group. And I sympathize with him in a sense.

I've talked to them over and over again, and they're not willing to sit down and deal with you, and they're not willing to sit down and compromise. They're going to say, "We need water in West Texas." In Texas it's sort of been the old coalition . . . in Texas, it's been, "Give us water over here. We will give you people in East Texas and South Texas water, but you've got to stick with us. We're going to need a bunch of reservoirs and a bunch of water coming from Mississippi to bring us water. So we'll stick with you now. This is a little seed money down here, so you help us out and we'll help you." That's not hanging on any longer; that's not working any longer. I think Rose hurt that coalition real bad.

People may not like Carter and may think that he is incompetent to some extent, but when he comes out with some of his stands like he's done, I think people, back in their mind, respect him for saying what should have been said. They may not think he can get it done, but when he vetoed those

water projects, I think they said, "That's right. He probably ain't going to make it, but, goddamn, I like to hear him say it." It's the same thing he did before. He has a way of doing it, and I think that it helps; I really think that it helps on the water stuff.

I know what they're planning. Their strategy is--and I've only come to realize that in the last year--that they think the weather in Texas is fickle enough where they'll get into a drought or semi-drought and be able to shove it over.

Smallwood: As they did in 1957?

Henry: That's right. And I think they're expecting it again. If you listen to them very carefully, they are trying to sell you that Armageddon kind of stuff, and that could be correct. I'll never forget a conversation I had with Billy Clayton back in 1971. That's when they upped the interest rate on the bonds from 4 per cent, which was the constitutional limit, to 6 per cent. They also, within that same election and in the same proposition, had \$200,000,000 for water quality. I went to Clayton and I said . . . because we wanted water quality, and he did, too, but he wanted to tack on the 6 per cent on the water development bonds, rather than 4 per cent. I went to Clayton, and I said, "Well, you know, you're going to need the Sierra Club's help to pass that bond issue."

He said, "Stuart, you're wrong." I said, "What do you mean?" He said, "Have you looked at West Texas lately?" I said, "What do you mean?" He says, "There's a drought out there. They're hurting for water." He said, "I don't need your help," and he was right. If you look through the results of that election, West Texas was heavily in favor of it and kicked the rest of the state. They "piggy-backed" on water quality, and publicly that's what I'd tell Clayton--he "piggy-backed" on water quality. But he was right. That's what I think they're really counting on now. I think they're banking on that they're going to have a drought.

Smallwood: A little help from nature.

Henry: That's right. It scares the dickens out of me, too, because they may be right.

Smallwood: You've been very helpful to me, and I have asked you all the questions I have. Is there anything you would like to say?

Henry: No. Just good luck on your research.

Smallwood: Thanks a lot.