

**TRANSCRIPT**

**INTERVIEWEE:** Dianne Wassenich

**INTERVIEWER:** David Todd

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**WhoopingCrane\_Wassenich\_Dianne\_SanMarcos\_28May2020\_15127876392\_NoiseReduced&SignalAmplified.mp3**

**Google Voice** [00:00:00] This call is now being recorded.

**David Todd** [00:00:03] This is David.

**Dianne Wassenich** [00:00:03] Hi David.

**David Todd** [00:00:08] So good to hear your voice. Thank you so much for doing this.

**Dianne Wassenich** [00:00:11] Oh, I'm glad to do it. I'm sitting near a window in my living room that usually has good cell reception. But if anything happens, interrupt me, and I can move to another spot that might be closer to the window.

**David Todd** [00:00:27] OK. That's nice kind of you to mention. I know that these, these cell phones are fickle sometimes.

**Dianne Wassenich** [00:00:34] Yes.

**David Todd** [00:00:37] Well, let's hope that the cell phone gods smile on us today, and we can hear one another. You know, I though tthat, as a start, I should just lay out what we're trying to do and and make sure that this is all agreeable with you. So if if you could bear with me, I'd like to.

**Dianne Wassenich** [00:01:00] Sure.

**David Todd** [00:01:01] Explain that and see what you think. So with your approval, what we're planning to do is to record this interview, and it would be for research and educational work on behalf of the Conservation History Association of Texas, and for a book and a Web site for Texas A&M University Press, and finally, for an archive at the Briscoe Center for American History at the University of Texas at Austin. And that recording is, is certainly equally available to you. You'd have all rights to use that. And I just want to make sure that that sounds okay with you.

**Dianne Wassenich** [00:01:47] That sounds wonderful. I'm thrilled that the San Marcos River Foundation's work is being considered as important enough to archive. You know, I keep intending to write a book. But I've been a little busy since I retired, so it may be another year or so before I attack something like the history of SMRF.

**David Todd** [00:02:10] Well, it's too long and involved and rich history. So it deserves a book. I hope that that our little interview may just give one small glimpse of what you've been doing. So well with your OK then, let's let's get started. Let's dive into it.

**Dianne Wassenich** [00:02:32] Sure.

**David Todd** [00:02:32] It is May 28, 2020. I'm David Todd and we are conducting an interview with Dianne Wassenich, who is a long-time advocate for the San Marcos River. And in that capacity, she served on the board and as executive director of the San Marcos River Foundation, known fondly as Smurf. She's based in San Marcos. Also, this interview is being done by telephone.

**David Todd** [00:03:02] Today, I think we will focus on just one part of SMRF's work, and that's Dianne's work in the permit application that the San Marcos River Foundation filed with the Texas Natural Resources Conservation Commission to try to set aside unclaimed water in the San Marcos River for environmental purposes, in part to benefit the whooping crane. And I thought maybe to give us a little bit of a context, you might tell us about your background and your interest in the San Marcos River, and in conservation more generally.

**Dianne Wassenich** [00:03:44] I'd be glad to. I want to make clear from the very beginning that this was a group effort. The San Marcos River Foundation is run by a volunteer board. There were a lot of people who talked for years about the problem of not having any flows left in the river during droughts because so many water rights had been granted and we cast around for ideas. My husband and I travel a lot in the West and we even visited Nono Lake and talked about the way California had, you know, reserved some water in spots. It, it was a long time developing the idea of trying to preserve some flow in the San Marcos and Guadalupe system.

**Dianne Wassenich** [00:04:37] But let me start back with my background. I grew up on the coast, and that's important to the story. So I'm very interested in the coast, the wildlife at the coast, the fish, the beaches and the bays and the productivity of the bays in terms of shellfish and fish and so on.

**Dianne Wassenich** [00:05:04] And so, you know, from a child, my parents had me down there all the time. I will admit that I'm not much of a flounderer. And I remember spending many nights curled up on an ice chest trying to sleep while my family floundered out there in the bays with stingrays, you know, which I was not going to have any part of. So stomping around in the water in the dark and so sand crabs crawling over me and not always happy about spending all our free time at the coast.

**Dianne Wassenich** [00:05:43] But I definitely had a real upbringing at the coast, even though I lived inland in Wharton County until I was a senior in high school and then in Matagorda County my senior year, and then went to Rice University, which was a beautiful place to be in 19, late 60s. And I did not graduate from Rice. I discovered the art school at the University of Houston and threw away my scholarship and so on and so forth, at Rice, and went to U of H and got a BFA. And so I was completely enamored of that line of work.

**Dianne Wassenich** [00:06:35] And then upon graduating, I moved away first to often lived a few years when Austin was very, very rural areas out around Mount Bonnell and I lived there. And then I was married right out of college and got a divorce and decided to move to Idaho to kind of let the dust settle in Texas and ended up having a fabulous job in the wilderness there, which all my life I've now recommended to young people that they get out right after college and travel and get a job, even if it's the most menial job you can imagine in the national park

or somewhere in the West or overseas so that they get a taste of the rest of the world before they settle down and get married because then it'll be a lot harder and, if they get married.

**Dianne Wassenich** [00:07:34] And so I enjoyed living in the Frank Church Wilderness of No Return for four and a half years. I was a cook. It's a long story how I ended up there, but it was by chance. I mean, I tried very hard to get a job and lost three or four before I even got to report for work for circumstances that were beyond my control. But I finally got this one, and it was a place owned by Bill Harrah, of Harrah Casinos and Lodges, so entertainers and executives and high rollers from the casinos would come out to this remote lodge and fish and hunt and relax. And the last year, I was a hunting camp cook, so we packed mule trains up to hunting camp in the mountains. And so I lived in the wilderness for four and a half years and got to travel constantly hiking and being in the wilderness and appreciating public lands. And when I wasn't at work, I had to take time off accumulated. And so I traveled in California and the West Coast a lot by train or my own car or whatever on my days off, for weeks off. They would let you accumulate them for a week.

**Dianne Wassenich** [00:08:59] So when I moved back to Texas, purposely, because I realized I was getting very far away from family and home and getting kind of used to being gone after four and a half years, and I didn't want to spend the rest of my life away from Texas because it was home. And I have a long, a big family. And so, I also started to think about dating again after four and a half years of remote living. And I didn't want to date somebody up there and end up staying. And so I moved back to Texas, moved directly to Austin, got a job at Green Pastures. And I cooked and baked for a year or so.

**Dianne Wassenich** [00:09:46] And then I had an opportunity to start a bakery in San Marcos. So that's what brought me to San Marcos. And at San Marcos, I met my husband who had a restaurant. And I baked pie for his restaurant. And so the rest is history. I've been here since 1980, in San Marcos. In '85, some leaders in the community started the San Marcos River Foundation, but they didn't have a staff or really a concept of what it was going to be. Everybody had different ideas of what you should do to protect the river. And mostly they didn't have any clerical staff or feet on the ground doing things. And so once it was established and people put in some money to reach almost 100,000 dollars in an endowment fund, that would thus generate interest. Then I moved in as a clerical volunteer who helped the River Foundation get a mailing list together, start sending out notices, mailings to people so they would have meetings once a year to elect their board members, because the board themselves forgot they were supposed to do that in their bylaws and they needed a jog of their memories on that.

**Dianne Wassenich** [00:11:09] And so gradually we, my husband and I, (he was very interested in the river as well) we had a little place on the river that we eventually moved to. We had it rented out at first. But later we lived in it ourselves and built a house out there too. And because of that connection with the river and going out there and then, of course, living in San Marcos, the river is the centerpiece of the community flowing right out of the ground in the middle of town from giant springs. And so, the River Foundation kind of became the focus of all my volunteer time in between doing other things for a living. I was a newspaper manager. I was, gosh, I can't even remember. I lost my bakery in a disagreement with the land owner and I had to file suit. And it took two years to come to court. He delayed it a lot. And finally, we settled out of court and I won my original investment back. But I lost my wonderful bakery. And so I did various other jobs.

**Dianne Wassenich** [00:12:25] But all of them just kind of helped connect me with San Marcos further and gave me skills that were helpful to the River Foundation. And over the years, my husband was on the board for a while. Later I was on the board there, elected position. And then once we got going on major projects like this water right application for the instream flow of the river, we heard from groups like Houston Endowment that you, we'd like to give you a large multi-year grant to accomplish this, but we don't give grants to groups that are just volunteers. You have to have staff. So the board talked this over and they thought we really should have a staff person, it would help a lot. And so, in talking about all this, they encouraged me to leave my post. At that time, I was the president of the board, and then let the board decide who they were going to hire and apply for that job myself, which I did. And I became the executive director about 20 years ago, I think.

**Dianne Wassenich** [00:13:47] And that was when that application was going on. And somewhere I have an old photo of Tom and I taking the application to TNRCC, which was called something else back then, and leaving it on their desk, this giant pile of paperwork, and shocking all the staff out of their minds. I think they were speechless when they figured out what it was we were bringing them. We did bring them a big check with the application and a big volume that was a copy of the state's own study of how much water is needed in the Guadalupe basin. And laid that all on the counter with the check, because you have to prove that you're not going to waste the water when you apply.

**Dianne Wassenich** [00:14:41] So the River Foundation since '85 grew gradually and worked through wastewater plant issues. We had three bad discharges in the upper river. And we cleaned those up over ten years. But again, I have to emphasize, every project we did was a group effort. It was not me alone. I was the unpaid clerical help and then the executive director. But we had some brilliant people involved. My husband is a great manager of projects because he's had a restaurant for 35 years, or had one back then, and knows how to accomplish things step by step. Jack Fairchild, who you've interviewed extensively, is a retired aeronautical engineer and he was amazing with all the wastewater assimilation models in the river, with the flow and the various nutrients. And he knew how to run models. So he was just a whiz at it. There were so many people. There was a retired or semi-retired, lawyer who had had some experience in the Northwest with salmon environmental regulations. And he also, John H-O-H-N, and was integral. But every board member on the River Foundation has always been an integral part of whatever we do because each person takes their own skills and finds a niche that they concentrate on.

**Dianne Wassenich** [00:16:30] You know, one of them might know a lot about investments and they might invest our, our small endowment fund, which, by the way, in the 70s, the tech stock boom, we didn't know better, and we put it in that and we were making forty-five percent a year on our 100,000 dollar endowment fund. And that is what enabled us to put down the twenty five thousand dollars and pay for all the lawyers to do all the work on the water right application. And then, I think, just before 9/11 happened, in fact, the Friday before 9/11 happened, my husband, who was managing the investment account at that time for the board, because he was on the board at one time, and then later the board wanted him to continue doing it, he pulled everything, all the investments out of the market. And then 9/11 happened and there was this huge crash. He didn't do it to our own personal investments. He didn't get around to it. He did the River Foundation first. And so we lost a lot of money personally. But the River Foundation did really well. And after that, we got into more careful investment policies. You know, where we have a Edward Jones investment firm doing it in a prudent manner.

**Dianne Wassenich** [00:17:58] But anyway, let's see, where was I? We were talking about the actual application, how that came about, the other projects we did. There are so many, I'm not going to concentrate on all of them today. We can talk about them some other time.

**David Todd** [00:18:15] Yes, maybe we can sort of focus on the the flow questions. I know that the waste water and water quality are terribly important. But as far as the crane is concerned, my understanding is that the key thing is just maintaining these freshwater inflows.

**Dianne Wassenich** [00:18:33] Yes. What led us, what led us to that conclusion that we needed to apply, that there was a real problem with flow, quantity of flow, was doing a model for the wastewater hearings we were involved in where you have to prove, you know, that you're needing more dilution and you're not going to have enough oxygen if you put in enough nutrients. That's why it's easier to get a permit for the San Marcos River, because it's so clean and clear. You can put a lot of bad stuff in it before it gets down to the average level of a dirty river in Texas a very muddy river. That is how the wastewater system works here, the state regulating system. And so we started realizing that it made a whole lot of difference in the variation of the flow, depending on whether we were in a drought or not. And so we really started looking at all those graphs of flows at different times of the year and different years. And that's what led us to realize that we had to assure flow, good flow quantities.

**Dianne Wassenich** [00:19:50] And first, we started with the Edwards Aquifer Authority and looked at and advocated for them to have enough restrictions during drought that there'd be adequate flow. But we realized we couldn't control a lot of that. And what we were seeing was more and more water right applications being sent in. And we would get notice of them because we were an interested party in any permit in the San Marcos River. And we realized that we couldn't really fight those because they were just granting them willy-nilly. And so then we started looking at this big study that had been done about how much flow is actually needed down at the bays and estuaries of freshwater to dilute the salt water, to make a nursery where everything that lives in the Gulf of Mexico can, you know, live as larva or whatever the term is. There's different terms for crabs. But the small stage, they shelter in the bays because the big predators that live in the saltwater, big fish or whatever, don't come into the bays very much because they're too fresh. And so that's what the function of bays are. And it's the nursery for the Gulf.

**Dianne Wassenich** [00:21:22] And because it's a nursery and it has all this life in it, it provides food also for many bird species, the whooping crane being a big one. So that, it was kind of a progression of the River Foundation's work to come to this dawning realization that Texas was fouling its own nest, taking away its own freshwater flows that kept the bays healthy, that supported not only the whole fishing industry, recreational and commercial, not only the crabs and the birdlife, like ducks and for hunters and fish for everybody, but also endangered species like whooping cranes. They cannot adapt that easily to that food and that fresh water that they drink being gone. They've adapted over the years. They have, you know, backup foods like wolfberries during the time when they first get to the Texas coast after their long migration. And, you know, they're adapted in that over the millennia. They've learned how to eat just about anything.

**Dianne Wassenich** [00:22:51] But there is a point at which I think you could really damage them by changing that whole ecosystem down there, by not having enough freshwater spring flow. And during the Edwards Aquifer Habitat Conservation Plan and various studies that Edwards Aquifer Authority has done, we've started to understand how important, I'd say over the last fifty years or forty years, we have really in Texas started to understand how important

the Comal and the San Marcos Springs are, being the two largest springs in North America. I think, don't quote me on that, but I'd have to double check my whether there's a third spring and what order the three springs are in. But these springs are so critical to the fresh water that reaches the Gulf Coast. They're not the only water. You know, it's a long way down there. You've got rainwater. You've got springs coming from various aquifers like the Carrizo that those rivers cross as they head to the coast. But during drought, the Edwards is often one of those incredible aquifers that keep springs flowing when others dry up. Or at least it has in the past.

**David Todd** [00:24:25] And especially during droughts.

**Dianne Wassenich** [00:24:28] Yes. It's the drought period that is the most critically endangered time for our spring. Because, you know, we've, since the 1950s, which is the drought of record for much of our area, not all of it, we have really put a lot of straws into the milk shake up here in the central Texas area because so many wells have been drilled and so many big wells supply bigger towns and cities. And without the Edward Aquifer Authority work and the Edward Aquifer Habitat Conservation Plan, the HCP, there would not be such an emphasis on finding other water sources and really San Marcos and New Braunfels and especially San Antonio have done a great job of reaching out to other water sources. You know, they're using aquifer storage and recovery, where they pump water during wet times down into the Carrizo sand and then draw it out during the dry times, use it and thus don't have to pump as much from the Edwards. They also have a saline plant, I believe, you know, where they used saline aquifer water that is easily available around Bexar County and pull it out and clean the salt out of it.

**Dianne Wassenich** [00:26:16] And they use all kinds of very and all of those cities use very good water conservation offices to help people, and rules, to help people use less water than they used to. So all of this helps the aquifer and helps those two springs.

**David Todd** [00:26:45] So I guess trying to find diverse sources of water and maybe conserve what water is used to take less pressure, to take the pressure off of the San Marcos and Comal springs? I see.

**Dianne Wassenich** [00:27:01] Yes.

**Dianne Wassenich** [00:27:05] San Marcos is using surface water, too, and so it, I'm sorry, groundwater from other aquifers and surface water, and so is San Antonio. So the, and this is the problem. Those are not regulated as tightly. Those other sources like surface water from rivers and groundwater from other aquifers. They are not regulated as tightly as the Edwards aquifer is. So that's another thing. I mean, it's a good thing they're reducing their pressure on the Edwards. But at the same time, they're using other sources of water that might have had springs that then fed the Guadalupe River. And even worse, if you draw down groundwater near rivers, sometimes the flow from rivers can be drawn down into those aquifers from the bottom of the river. So that means that if we have spring water coming from the Comal in the San Marcos flowing down the Guadalupe, and we pump the Carrizo aquifer right next to the Guadalupe River, down too much, during a drought, then water from the Guadalupe that originated at Comal and San Marcos Springs can actually be drawn down into that aquifer. So there's a lot of complicating factors. And our state is not really, really focused on knowing all of the numbers on all of that, because it takes a lot of work to figure all that out. And so they haven't yet regulated with that in mind.

**David Todd** [00:29:06] Well, maybe we can return to some of the early days when I guess even less was known about the interactions between surface water and groundwater. And if I read this right, back in 1995, gosh, twenty five years ago now, SMRF protested a plan to pull water out of the upper San Marcos River without adequate environmental protections and appealed it to the Texas Supreme Court, and finally settled, I think, 10 years after that. Can you please put that in perspective?

**Dianne Wassenich** [00:29:47] That was the progression that started with looking at those wastewater models I told you about and realizing that flow has a lot to do, quantity of flow has a lot to do with diluting wastewater properly, without dropping oxygen levels and so on. And we realized that the city of San Marcos had a plan to draw water out of the river in town immediately, let's see, immediately after the wastewater discharge point on the edge of town downstream. And just a few hundred feet downstream, which means that the wastewater would be diluted by the fresh water of the river. And then right downstream, they would draw water out and say, oh, "that's our water. We just put it in, in the form of wastewater and now we're drawing it back out. And we're doing this. Not too dilute it, but really just," they said, "just to transport the water using the bed and banks of the river to transport the water." So they were using the river as a conduit, which is a very old water law thing that is allowed by ranchers.

**Dianne Wassenich** [00:31:12] If they wanted to pump some water from somewhere into a creek and then let it flow downstream and then pull it out to use it to water their cattle. But it wasn't talking about wastewater back then, in the old days with the cattle. It was talking about fresh water. So now the city had this theory, or their lawyers had a theory, that they could do that with this wastewater and pull it out after it was diluted. And that way they would have nice fresh water that people wouldn't mind drinking and they would send it to their drinking water plant. And we recognized it for what it was. And it was like a perpetual water machine. And it was going to deteriorate the quality of the San Marcos River and do a precedent that would cause rivers everywhere to be deteriorated. And so we objected to that and we won at the district court level, and the third court level when the city sued us or sued TCEQ, I can't remember which, about us winning. We won the hearing. It went to district court. We won. I think we won at the appeals court level. And then finally, the Texas Supreme Court declined to hear it. And so the city dropped it at that point, and I don't think I would call it settling. It just kind of was left standing that they wouldn't try to do that. Now, since then, I think there may have been some cities in Texas that did this successfully. I'm not positive. And I'd have to ask, you know, some lawyers like Myron Hess or something.

**David Todd** [00:33:07] Well, that was one of the early efforts by SMRF to try to keep water in the river.

**Dianne Wassenich** [00:33:14] Clean.

**David Todd** [00:33:17] Clean water/ Yeah. OK. Maybe we should go for a little bit. You mentioned just a little bit earlier as we were visiting that in 1998, Texas Parks and Wildlife came up with this estimate that the estuaries needed over a million acre feet of water. And I guess

**Dianne Wassenich** [00:33:39] One point one four, I remember that number.

**David Todd** [00:33:43] All right. And so this was, I guess, part of what you included in your request to TNRCC as the permit for estuarine flows that you wanted to acquire and put in the Texas Water Trust? Is that right?

**Dianne Wassenich** [00:34:05] Yeah, we we applied we applied for the exact same amount of water that their own study said was needed. And we asked that it be left in the river and categorized as instream flow, which was allowed in permits. And when we took them that application, they realized that it was allowed and they gave us a seniority date in the application as they processed it because they realized it was perfectly legal. We had, you know, looked at the water rights application data and regulations and we realized it was legal. So we just applied for the same amount that they said the rivers needed.

**Dianne Wassenich** [00:34:57] Our point was we didn't think that anybody would give us over a million acre feet of water in a water right application, but they would be required to run the model, their big GAM on groundwater availability, I think that's what they call it, model. And then once they ran the model, they could tell us how often, or what the percentage of time was, that the river would actually have the amount of water flowing in it that the bay needed, because nobody realized that. It was like we were trying to prove the point that they had gone beyond the point of no return with all their water right applications. Because once you give water rights, they're owned like land. And they are not revoked in Texas. They could revoke them, but they never have.

**David Todd** [00:36:12] And, so after you filed, and I guess this is July of 2000, my understanding is that in December of that year TNRCC said that the application was technically complete, gave it this seniority date.

**Dianne Wassenich** [00:36:31] Yes.

**David Todd** [00:36:31] But then it kind of sat, and that in 2003, Lieutenant Governor Dewhurst asked that TNRCC postpone a hearing on the SMRF petition and sort of punted it to the Legislature. Is that correct?

**Dianne Wassenich** [00:36:50] Yes. Somewhere in there, that three-year gap that you referred to, until that happened, there were, there was a TNRCC commissioner meeting where they had to consider our permit. That was fairly soon because Stuart Henry, wonderful guy, was our attorney. And he did everything he could to move this permit forward. He kept complaining that, and we complained, that there was not proper process being done - that applications should not sit for years. They should be dealt with promptly. There's rules about this. And they were not treating ours like all other applications. And so he agitated until the commissioners had a meeting and considered our permit, which had a seniority date and had every iota of data backing it up that you should need for a water right application. And finally, TNRCC commissioners had a meeting. We got people up from the coast, people from all over Texas, to come support us that day. And they denied our application.

**Dianne Wassenich** [00:38:24] And so within days, I think Stuart Henry filed a suit that our application was not being treated properly at district court. And so it was moving its way through, I can't remember the exact dates on all this, I'd have to look it up, but it was moving its way through the court system and I think we made it to the third court of appeals. And I think they were sitting on it and it wasn't moving, as I recall, and around that time is when the legislature did some, a bill, in which they wanted to retroactively change the law, to say that you could not have a new water right application that was for instream flow. It could only be

used to convert, the water rights system, could only be used to convert an old water right to an instream flow application if you wanted to dedicate it to that.

**Dianne Wassenich** [00:39:43] And, you know, essentially there is a law against doing retroactive laws like that. So we thought about filing in federal court about that. But then the National Wildlife Federation, Myron and a lot of the people there, the Sierra Club, Ken Kramer, they were busy at the legislature trying to get a compromise because this had become a huge issue. We were getting press all over the U.S. and other countries and we got the Guadalupe declared one of the top 10 most endangered rivers in the nation. So there was a ton of press about that and the legislators were getting a lot of flak.

**Dianne Wassenich** [00:40:34] And so all of this pressure the NWF and Sierra Club used in lobbying for the bay basin stakeholder groups, which were established by bill and given some funding by the legislature to look at each major river basin and determine how much water was left and how to solve the problems with recommendations to TCEQ. It had no teeth. It was just making recommendations to teeth. Q But that was the compromise that made us think we should not go to federal court. We should let this other system play out, because at this point we had been in court on this one issue for I think three or four years and we'd been in court five or six years on the bed and banks permit before that, and in court five years on the wastewater hearing and we were getting pretty tired of legal proceedings that went nowhere.

**David Todd** [00:41:50] It's a war of attrition, it sounds like.

**Dianne Wassenich** [00:41:53] Well, we decided that we should listen to and NWF and Sierra Club because they're very knowledgeable in the ways of the world. And, you know, we listened to Stuart Henry's advice. I mean, essentially, we had been trying to prove the point that there was a problem with Texas water law and we really didn't expect to get the water set aside. But we thought it might be the beginning of something, because if you don't draw attention to an issue, then, you know, nothing ever happens. And so we kind of felt like our objective had been met. But we had hoped that the bay basin stakeholder process would carry that a little further.

**David Todd** [00:42:44] Well, just to sort of clarify, you were trying to prove that this problem existed. And what I gather the problem was that there were no guarantees for riverine and estuarine inflows in the Texas water code.

**Dianne Wassenich** [00:43:03] During drought. Yes, during drought. See, that's the difference with Edwards Aquifer Authority. They do have restrictions on pumping from that groundwater aquifer for so that the springs do flow. And that was set up by the legislature. And it's the only place in Texas that has that. The rest of the state doesn't have it. And rivers don't have it. And so we were trying to point out that you can't just do that in one spot and ignore the other spots. That there are endangered species there, too, and the whooping cranes are a very important endangered species, a very iconic, you know, one.

**David Todd** [00:43:54] Well bring us to the next step. So 2003, the legislature meets and they, they changed, as I understand it, the definition of beneficial use and they kick out the possibility of using that category for environmental flows. Is that true?

**Dianne Wassenich** [00:44:17] For new permits. Yes, new permits.

**David Todd** [00:44:20] You could convert old permits to that. But not for this new permit, like the 1.14 million acre-foot one you had requested.

**Dianne Wassenich** [00:44:29] They essentially outlawed what we had done, which ours already had a seniority date. You know, it shouldn't have been treated the way it was legally. But the legislature does what it wants in Texas. What can I say?

**David Todd** [00:44:51] Can you talk a little bit about some of your allies and opponents in this area? I mean, it was, it clearly got very political.

**Dianne Wassenich** [00:45:02] Yes. GBRA, Bill West, was very opposed to what we were trying to do. He kept trying to tell people, "they're trying to take all the water in the river." And we kept pointing out, "no, we're trying to leave enough water in the river. And we know there's not enough already because of all the water rights that have been granted." You know, if you if you wanted to protect your bays and estuary, you might have to restrict the amount of water that people can pump by a certain percentage in a drought, the way that the Edwards does.

**Dianne Wassenich** [00:45:48] And what that means is that you wouldn't have people that would just waste water any more. It would be treated more as a valuable commodity, that you would be sensible about how you used it. Maybe you wouldn't have giant lakes that you create that are evaporating basins where you lose 12 feet or more a year in evaporation, but instead you might do an underground Edwards aquifer storage, ASR, and recovery. Aquifer Storage and Recovery. That eliminates that evaporating of water, because that's the sad case down there near Corpus. That great big lake on the new Nueces. I can't think of the name of it. It's a dry area of the country. It evaporates even more. I think up to 20 feet in depth a year. So you bring down this precious water, you let it sit there and evaporate in the heat. And during drought, it evaporates even more. And then the bays and estuaries are starved. So the bays and estuaries around Corpus have really suffered. So we have examples in Texas all over the place of how to do it wrong. And we were trying to explain that if you value water, you would do some of the right things and they might cost a little money, but it would be cheaper than decimating the fishing industry, or whatever.

**David Todd** [00:47:44] OK. So you mentioned Bill West as one of the folks who was in opposition to what you were trying to do and earlier you mentioned, Myron Hess and Ken Kramer, with NWF and Sierra, respectively. Are there others that were on your side and what would you do?

**Dianne Wassenich** [00:48:05] Yes. Jennifer Ellis from the NWF, and I. She was very young at the time that all this started. She was very new as an outreach, public outreach, specialist at NWF. She and I, and my husband, traveled a lot to the coast and shared hotel rooms or friends' cabins and went down and spoke a lot at the coast. Tom had a friend that was the lighthouse keeper for the HEB Lighthouse in Port Aransas. We visited friends down there, Tom Stehn. We just called up Tom Stehn because he was the whooping crane coordinator when we decided to apply for this water right. And we sat him down and said, this is what we're doing. What do you think about this? And he was just floored that there was somebody actually thinking about it. It was a complete surprise to him. I mean, he knew it was a problem, but he had not realized that anybody else knew it was a problem.

**David Todd** [00:49:17] How did he explain the problem to you?

**Dianne Wassenich** [00:49:21] He could see that during drought years there were big problems. He didn't know exactly what the problem was. He thought of it more as alteration of the coast in many respects, to build highways and things like that, that meant that the places where water got through to the bays were much restricted. And he just knew it was worse during drought.

**Dianne Wassenich** [00:49:55] So, I mean, there's a, what do you call it, a plethora, of reasons why the coast, coastal bays, are not healthy. And part of that, I must say, I believe that some, around, you know, over the years, this canal that carries water from the Guadalupe River eastward has been built up by GBRA, more little cuts in it have been filled in and dammed with little dams without permits. And there's just not even rainwater, freshets of rainwater, that come, that used to flow through to the bay. Those are cut off now. And all of that goes into the canal, the water supply canal. So the water supply canal has become like a reservoir of sorts, a long, skinny, miles-long reservoir that holds freshwater, But it enables GBRA to supply farmers and industries down there without saltwater getting into it.

**Dianne Wassenich** [00:51:07] But GBRA is not the only person I mean, there were many people who were not believing that our intentions were good. I think the Chamber people in Rockport and Port Aransas were not real trustful of us. But the shrimpers and fishermen, Wesley and Janie Blevins, BLEVINS, were very helpful and came and testified many times and became plaintiffs in various cases with us. And they were fishermen and they have a little seafood shop in Seadrift. So their health is poor these days. It's been a long.

**David Todd** [00:52:07] I may have lost your connection there.

**Dianne Wassenich** [00:52:09] Oh, OK. I'm going to move. How's this?

**David Todd** [00:52:15] That sounds better! Yes.

**Dianne Wassenich** [00:52:16] OK. So many groups that were helpful to us were other river groups who were very interested in what we were doing and wondered if they should do the same. And some of them did apply for water and some of those groups are still around: Steve Box with Environmental Stewardship, who works on Colorado River issues. I think he did one, did an application. And then Ed Lowe and people involved in the Brazos River. I can't remember if they applied, but they were very supportive. Ed has passed away. He fell in an accident in Big Bend while he was canoeing and passed away. Janice Bezanson, who's involved with you know the big land trust in east Texas that has preserved so much land.

**David Todd** [00:53:32] The T.C.A.?

**Dianne Wassenich** [00:53:33] Yes. I couldn't think of it. Texas Conservation Alliance. And Galveston Bay Foundation, I think, may have thought about applying. I can't remember which groups applied. None of them got very far because by then ours was in the courts. And TCEQ wasn't assigning seniority dates like they did on ours because they realized it was a problem for them with their bosses. Mr. Berry, BARRY, was was the chair of the TCEQ. I think it may have been called something else back then. I can't remember. I don't think it was Texas Water Commission.

**David Todd** [00:54:20] Was it TNRCC?

**Dianne Wassenich** [00:54:21] I think it was TNRCC. I think you're right.

**Dianne Wassenich** [00:54:26] TCEQ is a more recent name. So there were a lot of groups and a lot of foundations. The Whooping Crane Conservation Association was a big supporter of SMRF's application and helped us with some funding for legal fees. And of course, I think your family's foundation. Many, many people. Houston Endowment, as I told you before helped. I think Meadows Foundation helped too.

**David Todd** [00:55:04] So there was recognition that there was a problem here.

**Dianne Wassenich** [00:55:09] Oh, yeah. Well, I must tell you one thing, before we even applied, before we walked down there with that check and the application and the study that we slapped on the counter at TNRCC, we met, we found a lawyer. We found Stuart Henry. We knew and through Bill Bunch. We knew of his work with the Sierra Club for the Edwards. And so we talked with Stuart. We said, what do you think about applying for a water right. And he said, "everything else has been tried. I don't see why we shouldn't try that, too." You know, nothing else has worked. So let's try this. That was his attitude.

**Dianne Wassenich** [00:55:50] And so then we sat down with Myron Hess. And I'm trying to remember, it may have been that Ken Kramer was at that same meeting. We sat down with him in the room and we said, look, this is what we're thinking about doing. But is this going to hurt other rivers if they don't have applications in for instream flow and ours creates a stampede which makes people go apply for water rights so that we make things worse for other rivers. We were worried about all this. And Myron and Ken said, well, I think we ought to give it a try just to see what happens. And then if we need to, we'll slap together some applications for other rivers.

**Dianne Wassenich** [00:56:34] So that I just wanted you to know that we didn't do this wildly, we were considered and careful about it.

**David Todd** [00:56:44] All right. So maybe you can bring us up to date, in, I think it was 2007, the legislature passed SB3 to place limits on new permits and to allocate environmental flows. My understanding is that a lot of Texas rivers are, though, fully allocated and it had kind of limited impact. Is that a fair thing to say or what do you think?

**Dianne Wassenich** [00:57:18] That is a very clear thing to say. And our opinion is that there need to be restrictions placed on all water right, percentage-wise, across the board, so that everybody participates in allowing a small amount of water to remain in rivers. But that's not happened in the legislation, yet.

**David Todd** [00:57:44] Well, and when you look back on this, of these efforts that you've made to keep water in the river, whether it's groundwater, surface water or a combination, what do you think you've learned? What's the sort of take-home message from decades of this effort?

**Dianne Wassenich** [00:58:03] Well, much like the flood amnesia, which is a real thing, let me tell you, where people forget and build again, you know, where they shouldn't. The drought/flood cycle in Texas is so variable and so unpredictable that it is very difficult to get people to pay attention to droughts once they're passed. The memory of a drought and the suffering that a drought creates is gone, as soon as it rains, in the collective memory of Texans. And so this is an issue that is going to be very hard to alter, but I can see it being altered over the past 20 years, inch by inch, as knowledgeable people like Myron and Ken and many others,

are inch-by-inch inserting or convincing people for good, logical reasons that they need to pay attention to what happens with flood flows. Are they being used properly? How often do we need flood flows to reach the bays to make up for the deficits of water that we have during dry times? Little inch-by-inch increments that are progress technologically in studying aquifers and how much is in an aquifer and how, where are wells being drawn down by a big well that might be placed in a certain spot? And what does that mean? How low will those go? And then while that low water is happening, what happens to the springs around there? And they're starting to be able to calculate some of these volumes, or model them, so that they know which stretches of rivers are gaining water from springs and which stretches of river are losing water that is dropping into aquifers, and how they can estimate how much water is actually going to be in a river.

**Dianne Wassenich** [01:00:34] And those technological increases or or progress are helping the water planning process at Texas Water Development Board. It's still crude, but it's improved a lot in 20 years. And, you know, I'll tell you, somebody that's really smart about all that is Robert Mace, who's now, you know, replacing Andy at the Meadows Center. He got that job permanently, if you hadn't heard. And Robert is very, very, he's a hydrologist. Very smart. Always assessing things and, you know, also he's careful, he's been a bureaucrat at the Texas Water Development Board and he's carefully, doesn't make wild claims. So I can always believe that what Robert is telling me is definitely the truth. He's careful, but those are the changes I'm seeing. And it's incremental.

**Dianne Wassenich** [01:01:40] And it's one of the reasons I felt comfortable retiring. You know, I've just like gone at it hammer and tongs for 35 years now on the river. And I realize that, you know, there are younger people coming along with good technical backgrounds that can probably do a better job than I did. And it's time for me to relax and have less stress and all that. So I feel fairly good about progress. I feel like the River Foundation helped make some of this progress. I'm disappointed in other things, but there has been progress made and people appreciate rivers a lot now, in the urban areas, because they are few and far between for the number of people there are that want to get on them. And there's a lot of groups helping clean up litter and do other things at the River Foundation did. So I don't feel like we have to do everything anymore.

**David Todd** [01:02:52] Well, I think you made a good case that there are just lots of values to rivers, you know, whether it's to the fisheries or for recreation or for, you know, just their sheer beauty. I was just wondering if you couldn't as we close out our our visit, focus on what you think the fortunes of of the whooping crane have been from the San Marcus and Guadalupe River systems and you know what do you foresee in the future?

**Dianne Wassenich** [01:03:29] Well, I don't feel good about the eventual drought that's going to come our way. I'm pretty nervous about it, every year that we're headed into a drought, because I don't think they've got a handle on how they're going to protect this particular species. It's such a big bird and requires a lot of water and a lot of food and just the right conditions, and we know that flocks have died out in other parts of the country and it's kind of the last leg. But they've made progress on reintroducing them in some other states. And I follow all that. Ann Hamilton is so good about sharing all that on Facebook. And so I feel good about those other flocks getting started. And, you know, it was a big failure. One of the flocks that they tried to get started, so that was worrisome. I didn't think maybe they were going to be able to pull it off. But now they've got a flock that's doing a lot better in Louisiana, I think, I'm not sure.

**Dianne Wassenich** [01:04:37] And then I was really alarmed about the changes in the way they counted the whooping cranes that happened right after Tom Stehn left. It just seemed like the changes were so massive in how they were doing that estimating rather than counting. But now the whooping cranes, because we've had these wet, wet years like 2015 and other years, and the bays were getting lots of food and lots of water. I think the bay, the whooping cranes have been doing better and have been spreading in Texas to new territories, which is a very good sign. That means their old territory was not, you know, the people, that whooping cranes were not getting wiped out and other whooping cranes would then as they grew up fill in those spots there. They're having to spread because they like to be far apart and not real close together, each couple. And so that's a good sign. And it seems to me that the weather's been good and the flock seems steadily growing. And so I'm hopeful that they'll survive a drought, or one in another area, in Louisiana, will survive another drought.

**Dianne Wassenich** [01:06:01] But I am I am very concerned about what will happen during a drought, not only for whooping cranes, but for everything in the bay and for people up here in central Texas too. You know, things like golf courses that and people who water vast estates and lawns, that is just not something we should be doing.

**Dianne Wassenich** [01:06:25] To that end, I'm running a lot of native gardens in San Marcos. I have three major public gardens that we planted, as with volunteers, the River Foundation did over the decades. And I'm now continuing to take care of those and they're examples for people to see what you can do with native plants. They can be beautiful.

**David Todd** [01:06:51] And so these are drought-tolerant and use less water? And just more sustainable in our climate?

**Dianne Wassenich** [01:06:59] That's right. I'm heavy on the mulch. I do water some of them that are the most downtown, kind of public, ones to get them to bloom. But if we were in a drought, I wouldn't. I would, you know, live by the restrictions. And these plants would survive. They might not bloom as much that year, but the next year, if it rained, they would. So that's the lesson I'm trying to teach people. And also the nectar for, you know, native butterflies, birds, and bees.

**David Todd** [01:07:35] Well, this is a great lesson about how we try to accommodate what we're giving here in Texas. And the water is such a critical lifeline, and so fragile. So thank you for your many years of trying to keep it alive and keep it flowing for us and for wildlife. Is there anything you'd want to add?

**Dianne Wassenich** [01:08:01] It's just so variable, is what I would say. And then I would say the end of my career for the last 10 years at the River Foundation, we just homed in on land conservation, on recharge zone land above the springs, and we have purchased a wonderful belt of lands and gotten the city and grants and other people to help. And we're trying to complete a complete loop trail that, and working with S.O.S and the Great Springs project to help us know how to buy land and how to do it. And we've really made progress.

**Dianne Wassenich** [01:08:41] And oh my gosh, one of the great exciting days of my life was a big rain we had in 2016. And we went over to see one of the properties in the rain and we found a cave with water just rushing down into, like the most beautiful thing you've ever seen. It's on the San Marcos River Foundation Web site. The video is down at the bottom of the page, the home page. But that to me, is what we've got to do. We've got to find those spots that collect water and we've got to save them. They cannot be paved.

**Dianne Wassenich** [01:09:19] And that's been the exciting end of the last ten years. You know, the River Foundation has moved its way over the years from being a litter picker-upper, a newsletter, a flood-warning system, a wastewater fighter, a water rights fighter, and moved eventually over the last 35 years, the last 10 years, into land conservation. Which if you don't have water flowing into your recharge zone, there's not going to be a river to even pick litter up on. So that's been our focus.

**David Todd** [01:09:57] Well, it takes so many different angles and aspects to make this work, and it's neat that you've been so flexible and diverse in your efforts. So thanks for explaining it all. It's been lovely to talk to you.

**Dianne Wassenich** [01:10:12] Lovely for me, too. And it makes me want to sit down and write a book.

**David Todd** [01:10:17] Good. Please do! Lot's to tell.

**Dianne Wassenich** [01:10:21] Yeah. All the stories.

**David Todd** [01:10:24] Well, good. Well, thank you so much, Dianne. It's great to talk to you and I appreciate your time.

**Dianne Wassenich** [01:10:29] All right. Thank you.

**David Todd** [01:10:31] All right. Take care. Bye now.