

TRANSCRIPT

INTERVIEWEE: Stuart Henry (SH)

INTERVIEWER: David Todd (DT)

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DT: My name is David Todd. It's June 18, 1999. We're in Austin Texas interviewing Stuart Henry, one of the leading environmentalist lawyers in the state and wanted to take this chance to thank you for participating in the interview.

DT: Could you talk a little bit about your family or early teachers or friends who were maybe encouraging about going into conservation work?

03:10 – 2007

SH: Well, the only thing of my family that gave me any appreciation for conservation was I guess, my mother who was an artist and bas—main—mainly painted scenery or animals and mostly either birds or the big animals, leopards, lions, giraffes, that sort of stuff. And I—I suspect I gained a little bit of sensitivity to their beauty, not so much based on their ecology. But that's pretty well it, other than my dad was a mechanic and liked to tinker a lot, liked engineering stuff, liked to—and so the—the two poles apart, my mother being an artist, my dad being a mechanic, I suspect has got something to do with my creativity as well as my stupidity or little bit of both. But when I was in law school, I got the notion, which is one of the few notions I've had that have paid off is

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SH: that—and this was about in '68—'58—'68, that environmental movement, this was prior to the Earth Day and all that, but the environmental—environment was a big issue. It was emerging. Probably one of the most interesting books I ever read was John Kenneth Gilbreath's, *Affluent—The Affluent Society or The Effluent Society*. And that got me interested in environmental stuff and it was basically a business decision, if you will, as well as a political decision. I knew I didn't—when I was going to law school—I—I majored in undergraduate in economics and political science as a Plan III student at UT. And I knew that I—whatever I did I would want to be politically involved. And the economics aspect was just interesting because of its—it was a little bit more—what I consider to be economics—some portion of economics is basically political science put to graphs and figures and statistics. So I knew that what—whatever I did in practicing law, I would want to do it for—for what I consider to be worth working for, not money but—and, in particular, either for, you know, civil rights or what, at that time, we would call populist or

liberal—liberal causes. And the environment—it was clear that the environment was not going to, you know, there's not a whole lot of advocates and a whole lot of money for preserving the environment, contrary to what people may think. And so I always knew that I would probably do something with my law degree that was representing basically what I call the typically unrepresented. And Stokely Carmichael talked me out of being a civil rights lawyer and Stokely and Rap Brown. So I decided to get into the environment.

DT: How did they persuade you...

(misc.)

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SH: No Stokely told us, at one point we—when I was at UT Law School we were—I was thinking about going to civil rights and basically Stokely came to—this was during the civil rights movement, and Stokely came to UT campus and basically told the whites to go do their own thing and leave the—leave the—the black and browns to their own folks. So I took him at his word. I was very much offended since I was a good white liberal but I wanted to help the blacks and he said, get your ass out of here and go do something else. And so I did. But I went to law school to primarily represent folks that needed representation and not to make money, contrary to about 95—in that period of time, that's not true. There was maybe only about 60% of the student body that was interested in making money. The 40—40% were interested in practicing law. Nowadays I think that's probably about 95% interested in making money and 5% practicing law, unfortunately.

DT: After you got out of law school, did you go directly into practicing law?

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SH: No, really my—after my first year at UT Law School, I got offered a job to head up the Air Pollution Program with a bunch of other guys in Houston, for the City of Houston. And so, after the first year at UT, I transferred to South Texas which was, at

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SH: that time, a totally night law school and we started the Air Pollution Control Program for the City of Houston back in '68, September of '68. And immediately after going there, we started it up. We had about \$300,000 a year budget. Health Education and Welfare, at that time, that was a precursor to EPA [Environmental Protection Agency] offered me a fellowship to go to USC [University of Southern California] and study in a Master's program at what was called Air Pollution Control Administration at USC for six months. And so I went, in fact, January of '69, I went out there and recall we were out there, in fact, we just graduated when Bobby Kennedy got shot, in California. And went—from there went back to work for the City of Houston after I got—I think twelve hours of a graduate program. And that was very interesting because we got to work with what I consider to be real—real good public administrators in California. California's got some great public administrators

and they're what I consider to be real professionals which balance bureaucracy with public interest a lot better than any bureaucracy you will see in Texas. And so we studied and—and we got to actually go out, do stack sampling, we got to go to the—the emphysema wards where people on an action alert day, what it would do to people in terms of their respiratory distress. We got to go to like University of California at Berk—not at Berkeley but at Riverside where they were doing fruits and vegetables research, ozone impacts on fruits and vegetables. It was really a good program and went back to City of Houston, worked there for a couple of years while I finished getting my law degree and then we started up a group called well, I went to work for the San Jacinto TB and Respiratory Disease Association which is now called the Lung Association. And along with that, we created a group called the Citizens Environmental Coalition. That was headed up by a fellow named Art Atkinson who was at the UT Public

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SH: Health School in Houston, who came from California, in fact, was Deputy Director of the Air Pollution Control District for the City of Los Angeles. And I guess if there was any mentor in my life, it was Art. And then...

DT: What was he like?

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SH: Egotistical but extremely, extremely brilliant in terms of—of being a pragmatist and how—how to balance politics, public participation and PR. One of the things that he had a talent for was the ability to communicate bureaucratic necessities with public objectives. Probably—he's probably the most articulate public policy person I've ever seen. And he came down to the University of Houston and was the Vice Dean at the University of Houston Public Health School. And then later on went to Michigan and—but he headed up the Citizens Environmental Coalition which was a group—we started out of the San Jacinto TB and RD [Tuberculosis and Respiratory Disease] Association [later, the San Jacinto chapter of the American Lung Association].

DT: Could you talk a little about what the air pollution issues were in Houston when you were at ALA and the...

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SH: Most of the, well, at the City, we were—this was the first air pollution control program in the State of Texas, outside of the Texas Air Control Board. In fact, there

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SH: were only 5 people working at the Texas Air Control Board and when we first started the Air Pollution Control program in Houston, there was more people there than there was at the Texas Air Control Board. And the—some of the biggest problems in Houston, at that

point, were the Houston ship channel industries basically had no pollution control. For example, at 10, 11:00 in the morning, almost every morning when the wind was out of the east, you get red dust and it was coming from Armco Steel on the Houston Ship Channel. Without fail, when they'd lance and they'd almost regularly lance all of their open furnaces at about 9 or 10:00 in the morning and every three or four hours they do that, you get that red dust. In addition, along Pasadena Highway, I think 225 if I'm not mistaken, there was a lot of chemical companies. So there—there was just the first realization in Houston, quite frankly, that industrial pollution was pretty significant. And the, you know, at that point in time, out in the northwest, the landfills when they got their capacity, the capacity all of a sudden they'd catch fire. And so, you know, the way you got—you recycle at landfills was you started a fire and then me no see no evil, you know, and they still have landfills in the northwest that catch fire from time to time, northwest Houston. But at—basically the problem is the starting up an air pollution control program. At that same time though, Dr. Quebedeaux who was an engineer and a lawyer...

DT: Ricky?

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SH: No, not Ricky Quevedo. Ricky was one of the first ones that we started up with. Ricky—crazy Cuban from—Ricky Quevedo—never could speak a lick of English, hardly. Still can't probably knowing Ricky. But it was Dr. Quebedeaux who was the Trav—not Travis County—the Harris County Pollution Control. A Ph.D. in chemical engineering plus a law degree. And people were scared to death that Quebedeaux cause he'd—he'd file suit. And what's interesting is that Harris County has been one of the few counties in Texas that's had a pollution control program and they've had it for a long time, and still do. And I don't know of any other county, including Travis County, that has a good pollution control program like Harris County does. Quebedeaux would go in and take the newspaper, I mean, he was a real publicity hound but it had its impact. People were scared of him because they didn't know what he was going to do. He was unpredictable. And he was unpredictable. But he helped get a lot of control but, at that point, we were just starting up a program, trying to get some support, political support and trying to figure out what was a major cause of some of the pollution. At that point in time, in the early '60's, the industries were probably clearly as much of a contributor as anybody, if not more so. Although the cars were still a problem then. And I worked for the City of Houston for about a couple of years in the Air Pollution Control Program and then went to work for the San Jacinto TB and Respiratory Disease Association. And one of the things that really had a big impact on me was, when I was with the City of Houston, I worked in—there's an old saying in public administration called "leave it to the expert syndrome". And it's a typical bureaucratic response, I think, to people who work in a field, day in, day out, and they don't like citizens telling them how to do their job or they

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SH: don't like citizens even tell them what citizens have a rightful thing to tell. Let me give you an example, I mean, if you're sitting there and you're working day in day out on a

particular air pollution problem and Joe Blow walks in the door and says well, look, I don't want that or I don't care about that. You tend to—you tend to think that that citizen doesn't know what they're talking about. It's not that the citizen doesn't care, you just tend to think that the citizen is stupid, quite frankly. That is a philosophy and an attitude that permeates a lot of bureaucracy. I got that attitude working for the city and I didn't fully appreciate that attitude that I had until I went to work for citizens and saw that attitude manifested on the other side of the docket, so to speak. It's not that the bureaucrats were against the citizens. The bureaucrats basically assumed they knew what was good for you because they had worked in it day in and day out. It is a—it is a philosophy that none of the public administration facilities, including the LBJ School of Public Affairs address. And Max Sherman and I, Joe Moore and I and several of the LBJ professors have had long arguments over beers about they are not doing the proper job if they don't teach the bureaucrats that they are training to know how to use citizens to accomplish what needs to be accomplished. They simply do not—they don't treat the public administrator—they don't teach public administration anymore about how you use citizens. It's almost an attitude of co-optation as opposed to an attitude of help and the Texas bureaucracy is probably worse than most. Went to work for the Citizens Environmental Coalition and San Jacinto TB and RD Association. We cranked up the CEC which was basically a group of River Oaks, rich River Oaks ladies, couple of public administrators from LB—I mean, from the School of Public Health in Houston, the

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SH: AFLCI—no, the OCAW [Oil Chemical and Atomic Workers Union] out of Pasadena, Rex Braun and a couple of other legislators, one of which was John Whitmire who is now a senator from Houston. It was interesting in the sense—and—and the staff people were the San Jacinto TB and RD people, myself, like was the air conservation consultant, what I learned at the TB Association was citizens organization. You learn where—how the money comes in. I mean, you learn it firsthand. You know, that's a machine. Lung Association is a machine. I mean they put out—the old Easter Seals and that sort of stuff, they put out more documents, they have huge mailing lists, huge mailing capabilities. That brings in 75 to 80% of the Lung Association's money. You can't get to them politically cause, you know, I opened plenty of envelopes where somebody sent them \$10 and said that—apologized for not sending them more but they were on welfare or something. Politically that's a base you can't get to. You cannot mess with them and that's one of the problems that conservation organizations have not learned—that's one of the vulnerabilities that conservation organizations have not learned or they have compromised. One good example is the Environmental Defense Fund. You got to be careful about your donors and you got to be careful about your—your financial base. Nobody could get to the Lung Association, absolute nobody. And the Lung Association in the United States during that period of time or what they call the Respiratory Disease Associations, they were making the biggest impact on everybody on air pollution back in that period of time. They had major impacts setting the air pollution—the primary air pollution control criteria for the major pollutants in the United States. They also knew how to programs. I mean, these TB and RD people set out on a year-to-year planning out programs that they would do during—

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SH: throughout the year. That was a good experience for me. I didn't know how to do any of that stuff. Then the CEC separated out. We got a big grant from the Moody Foundation thanks to Ms. Davis and your mother and a couple of other River Oaks ladies and we got a \$50,000 grant for two or three years I think which really got us over the hump. Tom Martin Davis, yeah that's right, Tom Martin Davis, Gerald Hine's wife, Terry Hershey, I mean, all the old Bayou Preservation Association folks. What was interesting, one of our—one of our big supporters was George Bush, the president who, at that time, was not a bad conservationist. And, at that time, by the way, the environmental movement, if you will, was extremely bipartisan. In fact, it was more republican than it was democrat. In fact, all of my experience in Houston—most of—what was interesting about the environmental movement during that period, it was almost elitist. Now a lot of it is what I consider today to be urban elitist but it was almost elitist at that point, in the sense—and it reflects, to some extent, there—the environmental movement in Mexico. Rick tells me that most of the environmentalists in Mexico are the—the upper class that have time to concern themselves with environment. Sounds harsh but there's probably some—there's probably some truth in it. By and large, most of it was republican. The democrats were still concerned, at that point, about urban problems and minority problems. Up until Reagan gave the environmental movement to the democrats, it had been a good bit bipartisan. For example, Chase Untermeyer who was the president—Bush's—I don't know what he is—he was—but he was up in White House. Chase comes out of Houston. He was one—the State Representative that supported the bottle bill and pushed the bottle bill. Ray Hutchison who is our senator's husband and Linda Nolson(?),

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SH: Max Sherman, although Max is still a democrat, a good bit of the environmental legislation that passed during the '70's was as much supported by the Republicans as it was by the Democrats. I mean, it was—the environmental movement basically was a, in my view, the exception being it was—it was caught on in '72 with the Earth Day—first Earth Day and a lot of the hippie movement. It was real interesting to see the politics of the silk stocking republicans and the hippies getting together. And you knew damn good and well that if the hippies and the republicans got together, something was going to happen. And it did. I mean, there was a lot of environmental legislation that got passed and was really bipartisan until Reagan started claiming the trees were causing all the pollution. In addition, I think what also occurred was that environmental movement had matured enough to where it became real clear that it wasn't merely a recreational interest but you were talking about industries that make money. I think one of things that shifted in environmental movement probably in the late '70's or the early '80's was that a lot of the republicans who had supported the environmental movement began to understand that it was going to start costing stockholders' money with continued control. That is particularly the case with air. Air is a much more of a difficult medium to get a handle on than water. It doesn't respect boundaries. And so it's more difficult and it's not in somebody's back yard. It's in everybody's back yard. Air too ubiquitous to really have boundaries quite frankly. But anyway, so in—we started CEC. What was interesting to see here with the San Jacinto

TB and Respiratory Disease folks, most of them were women, most of them damn good organizers and the—and the—the—not the AFL—of course we did—AFL-CIO was also members but mainly it was oil, chemical and atomic

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SH: workers. And those women, now they knew how to organize a labor movement. And then the—the—the ladies from River Oaks, they knew how to organize the money. And—and they knew how to—and it was just extremely, extremely interesting as well as educational. And one of the things I learned then that is probably both an asset as well as a liability is true coalitions don't last very long. Coalitions by and large only work around issues. They do not work around personalities. And what we tried with the CEC was to create coalition that lasted over a long period of time. It's very, very difficult to do not because the differences in personalities but simply coalitions get created by interest when interests merge among diverse groups. And it only stays that way when there is something to fight. Once you've won that one, interest may change. It's a good concept, a good idea but it's hard to carry out for a very long period of time. Makes sense. Just common, you know, just common sense. So the CEC went along for a while. One of the things I learned that you asked a question about in terms of groups, it is impossible, in my view, for somebody that's—that has substantive requirements, in other words, has program responsibilities to also fund raise. It is a deadly combination to have to do both. And that's been one of the problems with new groups getting started is if you're going to do program you want to do program. You want to fund raise, you have to do fundraising. And pro—you find very, very few people that are good at doing program and fundraising. Because fundraising is a matter of attitude. It is not a matter of program. I mean, I—one of the things that—and I finally convinced myself was is that going out and fundraising wasn't asking money for myself. It was asking money for a cause and very few peop—one of the things I found throughout the years, working with groups, because primarily

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SH: we worked for groups, citizens groups, environmental groups but a lot of them are ranchers and farmers and ad hoc groups. One of the most difficult things they have is going and asking people for money. And the reason why is, they think they're asking for money for themselves and that's the way they think about it. It's wrong. They have to think about selling a product or selling a cause for the cause. And that is very difficult for normal folks that are just organizing, it's hard to make that shift and it is a very important shift you must make. That's the reason why it's very hard for program people to do fundraising. And fundraising is very, very critical for these groups but they've got—you've got to fundraise in a way that you can't get messed with politically and that can be done. That's the advantage of using these old groups like Lung Association or some of these. Nobody can get to them. You flat can't mess with their money and you can't mess with their constituency. After we left the CEC, after I—well what was interesting is I got a call from a recruiting firm, I don't know where they were, maybe out of Houston, of giving them some names of people that would be interested in heading up the Air Pollution—heading up the Environmental Program for the City of Austin. I gave them a couple of names and on a lark, submitted my

resume because I didn't think the City of Austin had enough guts to even touch me with a ten foot pole. Funny thing is they did want to interview me and got the job. Primarily on—for the reason that I'd already worked with David Bergman, David Berman, Sierra Club member here. I'd already worked with Bobby Crenshaw. I had already worked with environmental groups here in Austin when we worked on environmental legislation statewide. Cause with the CEC and with TB and RD Association, we had already done some lobbying in the

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SH: legislature. In fact, the first session we lobbied was when Gus Mutscher was kicked out. And we—a lot of our legislation was sponsored by the—what was called the Dirty 30 which was the ones that voted against Mutscher and one of my friends, Tom Leonard, who now lives here, called us and said, your legislation is dead. You just—so...

DT: Can you talk a little about the Dirty 30?

(misc.)

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SH: There was a censure motion done by Price Daniel, Jr., as I recall, to censure Gus Mutscher who was speaker at that time—no that's not right. It was the vote on the speakership is what it was. And there were 30 that voted against him. And quite frankly, back in that time, your name—you know, you did that, you didn't get anything passed. The legislature, under Pete Laney, despite the fact of being extremely conservative and very backward in a lot of ways, is a lot more tolerant of divergent views than they were back then. And so the word was out that the Dirty 30 would not pass any piece of legislation regardless of what they did. And, but it did give them a rallying cry. It also turned out that they were right and Mutscher got himself in a lot of trouble. But as an aside, Tom Leonard who, at that time, was working for Fulbright and Jaworski who was a member of the Citizen's Environmental Coalition in Houston was a lobbyist for Fulbright and Jaworski and Tom was trying to help us as much as he could. What was

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SH: interesting in Houston during that period of time, some of our friends, environmental friends, were working with some of the big establishment law firms like one of our—the chairman of the Sierra Club, the Houston Sierra Club was a fellow named George Hagle. He worked for Andrews Kurth which was, as you probably know, was the founders of the John Birch Society. A lot of those lawyers with Andrews Kurth were the ones that started the John Birch Society. George Hagle was, in fact, the one that pushed the initial Wallisville Reservoir lawsuit. Keith Osmore who was congressman Eckhardt's aide is the one that talked us into it, that rascal. In fact, that's the first lawsuit I ever filed was the Wallisville, as a lawyer. But we had quite a few sort of us Houston establishment lawyers and people in the Environmental Coalition. It gave us some built in legitimacy and it was always in

wonderment and amazement by people outside the organization as to how you get the OCAW and the Fulbright and Jaworsky and the rest of them working together. It was—it was a lot more image than reality. As you learn later on in life, perception is 95% of the—of the fight. Came to Austin, a fellow out here from Austin took over the CEC, I can't think of the guy's name now...

(misc.)

37:11 – 7

SH: He was a neat guy and I can't remember his name to save my soul. Worked there for a couple of years. But anyway, I came to Austin primarily on the strength of Lowell Lieberman who, at that time, was Mr. Environment, Russell Fish, Don Berman who

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SH: was Sierra Club Chairman at that time here, for here in Austin. Bobby Crenshaw. That's it. Yeah, Bobby Crenshaw. At that time was Roberta—what was the lawyer she was married to. Wasn't Crenshaw then. In fact, the first introduction I had was at Bobby's house over here in West Austin at the big 10—10 acre, 15 acre estate I think she's given to the—to the city. Russ Fish, Russ now lives—used to head the Texas Legislative Service. Now lives in Louisiana. He was married to Decker—he was Decker's—she was Decker's daughter. Decker Lake—yeah, Decker, that's it. Berman went on and moved but Lowell was the—sort of the leader of the council. What was interesting was is that at the time, the City Manager was from Lynn—Lynn Andrews from Florida, from Dade County. He and Da—and Davidson came from Dade County, Florida. I think it was Dade County. They came from Florida. Lynn Andrews left before I came which really made me mad because they hired me and then he was leaving. And he talked me into—he said, don't worry about it. Nobody's gon' fire you with—with Roberta Crenshaw, Don Berman, Russ Fish and, I mean, Russell Fish and there was a couple of others supporting you, nobody's gon' dare fire you. So basically what you—I learned there and it was a concept I hadn't known about was I had a built in constit—constituency when I got here and there wasn't going to be anybody fire me. Now, quite frankly, nobody was going to do anything but they weren't going to fire me. And...

(misc.)

DT: What did you focus on as...

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SH: Well, the first thing I focused on in the city was the creeks, trying to protect the creeks. We passed the creeks ordinance. We try to pass tree ordinance, was not successful. We tried to pass a—a city NEPA, requiring the city departments to do environmental impact statement. Because, at that time, I was convinced and still am that the city was probably the number one culprit for a lot of tearing up the city. For example, you look a lot of our creeks, that's where our sewer lines are. Despite the absolute stupidity of that. They—they claimed

it was the lowest spot where you could—you know, sewer runs downhill or shit runs downhill and so that's the justification. I was convinced that probably the developers were secondary to the damage that the city was doing. And, in particular, the City of Austin's electric department. When I came aboard, we had a new department. We just cranked it up. We had a citizen's environmental group headed by a guy that was over at the planning UT and Roy Butler. And we had the nuclear power plant coming aboard. And I got my ass chewed out more than twice about not getting Citizen's Environmental Board to endorse the nuclear power plant. And twice I told Roy Butler he could kiss my ass, quite frankly, that I wasn't hired to back the—and Dan Davidson didn't like that at all but I didn't care. Roy Butler was kind of guy, he told you how to cut the cabbage and if you didn't like it and so, they didn't—they didn't even try to fire me because they knew they couldn't fire me but they pretty well tried to tell me what I was going to do. But, contrary to what they wanted both times on the votes, we defeated—Austin defeated the nuclear power plant. Back then we knew it was an economic disaster. Everybody that looked at it, including Roger Duncan, who at that

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SH: time, Roger was from the South Austin Civic Association or whatever it was—he was chairman—how he got involved was he was Chairman of South Austin—Travis Heights Civic Association or something and Roger run the numbers and it was clear that it was a—it was going to be a financial disaster despite Roy Butler and all the various UT. There were a lot of UT guys that were in favor of it including Neils Thompson and all the rest, you know, the so-called legitimate folks over at UT. And that took up a lot of our time plus we were trying to get together creeks program. One of the first purple—persons I hired was Al Kaufman who is the lawyer for the—oh the school litigation in Texas. He—one of the things I did was because we didn't have much money, I hired a lot of UT law students who were sharper than hell and you didn't mess with them. One was Ken Manning(?). For example, Ken was the first job—Ken I think—legitimate job Ken Manning ever had in his life was working for me. He used to make me mad as hell because he'd go out checking the creeks every day. Come back in—he was swimming at Barton Creek is what he was doing. He wasn't working. But we had a bunch of UT law school students working for us. And it may have had a big impact but I could not get any cooperation from the budget department. I could not get any cooperation from Dan Davidson. Basically that was at the point in time where Nash Phillips / Copus ran the city. The developers pretty well ran the city. Any developer that was the least bit innovative was knocked down by the other developers. For example, Sid Jagger(?) was one of the innovative developers. Believe it or not, Gary Bradley was one of the innovative developers at that time and tried to do some innovative stuff. Staff would not let him do it. There were a few innovative developers but City of Austin was still pretty

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SH: closed back then. You're talking about, you know, '73, '74, pretty closed shop. So I just would—the only time that I'd get any audience with the City Manager was when my butt was in the crack for saying something to a news reporter that I shouldn't have said. And...

DT: What were the controversies back then that would get you in trouble?

45:07

SH: City—nuclear power plant was one. I was not going to speak for the nuclear power plant, period and they knew it. And Brenda Bell who worked with Austin American Statesman at that time was terrible about coming in after I had had a frustrating day and catch me on my—on my off, you know, when I started relaxing and then quote me the next day in the paper. I got my ass chewed more than once by saying something to Brenda Bell I shouldn't have said. I just was not a good bureaucrat. I just simply was not a—I—I didn't not enjoy it. I—I was getting nowhere with the city staff. City staff basically, the water and waste water people were running water and sewer lines all over hell and half of Georgia without any regard for the environment. And they didn't like me telling them that they were worse than the developers. And the developers sort of liked that because they didn't dare say that themselves because they were trying to keep, you know, keep the city on their side. So it was a very, very unhappy marriage. And I just—it didn't work well. It didn't work well. I was not successful at—at the city and was just

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SH: too constraining. The only help I generally would get would be from the planning department. And not much help.

DT: Can you tell about when you ran for Council?

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SH: Yeah, when I left the city—when I left I had decided that, boy which was a real mistake, I had decided that what was happening to Austin was that we were going to lose Austin in the next 8 to 10 years, in terms of protecting the environment. Because what was occurring as best I could tell was that we were having a lot of folks come into Austin and—who didn't care about the environment. By and large, the people who cared about the environment were native Austinites and they were seeing Barton Creek change. They were seeing, you know, creeks change. They were seeing the traffic change. It was—Austin was turning into a university—turning from a university town to basically a, you know, a—a—a—another Houston, if you will. IBM was the first thing that really broke—I mean, IBM came in and we were talking about 3 or 4000 people. That was unheard of in Austin. What I was fearful of was that there wouldn't be enough consideration for future of Austin in terms of the environment. And that the local folks—and what was interesting—this was primarily manifested by Northwest Hills, the big influx of new folks coming in to Austin was in Northwest Hills. And it was re—turning republican and it was turning conservative real fast. What I didn't see was is that the—well I talked about it, I didn't appreciate it was that what was going to bring people to Austin was the

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SH: environment. I thought people would just come to Austin for the money. I don't think people are doing that anymore. I think people are coming to Austin because it's a neat environment. So the—sort of the reverse trend has occurred although I will tell you I think Austin was saved a whole bunch by the bust in the mid '80's. I'm a—a—I'm a little bit of a skeptic, not a little bit, I'm a lot of a skeptic about being able to control growth except in the very short run. And I think Austin is in that category as well. I still think that so long as we have a lot of space, we're not going to do what European countries have done in trying to control our sprawl. There's always going to be—I mean, you have to understand, the legal system we work in in one sense is great but, in another sense, kills us. So long as you got private property, so long as you got somebody willing to make a fast buck by developing it, you're going to always have problems. You're always going to have problems. So I—you know, I—I saw Austin going to hell in a handbasket real fast with all the new input of new—new souls. And so I decided I was going to run for council and do something about that. And it was a good experience. I lost 15 pounds, 15, 20 pounds. I lost \$15,000 of my own money. I saw areas of Austin that nobody sees which was very enlightening. I saw—I saw East Austin like I'd never seen it before. I saw South Austin. I mean, you see areas—when you run for office and you go and you try to get those votes, you are forced to face a lot of things that are real awakening quite frankly. And it was a very educational process for me. I also had to make some political deals or was forced to try to make some political deals I didn't like. Politics is real dirty. And...

DT: Can you give me an example of political deals that made you unhappy...

51:20 - 7

SH: Well, let me give you an—a very good example. Peck Young, Ed Windler, Steve Gutow, there were four or five young democrats on campus and they had a slate. And you had to sign up on the slate or you didn't get their endorsement. And you had to go where they told you to go, in terms of your meetings. Now I like Ed Windler and I like Peck Young but basically this was Jeff Friedman's little deal. This was when the campus was real liberal and you signed up with—I forgot what it was called—it was the democrat—you signed up with them, they told you where to go. If you didn't, you were still on the slate but they didn't help you much. Well the reason why I got beat, I—I didn't go along with that. I went to the places I thought and I didn't buy a lot of the crap. And wouldn't spout it back. And that hurt me and the campus. Where I got beat was in the campus by a woman. At that point in time, the liberal—everybody thought a woman was liberal. And Betty Himmelblau who is a closet Nazi, God bless her soul, except on certain issues was a woman and she whipped my ass in the university—I mean, I won the university precincts but every other liberal, including Margaret Hoffman, who's crazy as a bedbug but I love Margaret. She won those districts over there just 99.99%. At first University of Texas blocks came in and here was Betty Betty Himmelblau with 30% and me with 70. They said Stuart, you're down the tubes because that—the University was what was carrying the election, the politics, Jeff Friedman, that bunch. Oh yeah, and the University tried to manipulate those election dates after that to stop that. That's right. I mean, Margaret Hoffman, Emma Lou Linn, Jeff Friedman, who else? Dad gum.

53:23 – 2007

SH: There may have been one conservative on the council. The rest of them were liberals. Oh, the only conservative was Betty Lou Betty Himmelblau and I—I let the ticket down man. Oh Bet—and Betty Betty Himmelblau just beat the hell out of me. 52, 53%. At that point, if you were a liberal, you couldn't lose.

DT: Was your platform partly environmental?

53:44 – 2007

SH: Oh it was all environmental.

DT: How did people respond to that?

53:52 – 7

SH: I don't know David. I—I—I don't know. I—I don't know. Let me put it this way, if I run now, I'd win easy. I think it was a little ahead of the time. There weren't enough people worried about where Austin was going. They just wanted to get some of the money while it was going. At—I was too early. I was too early. And I was real politically naïve. I had never been involved in electoral politics in that way. I had some good people working for me. But I just didn't know, you know—on the inside of electoral politics, you know, there's a lot of mechanics and there's a lot of shysters and there's a lot of, you know, it's pretty interesting. It's pretty rough. And so, that was awakening—and that—what was interesting is poor Lowerre—I left the city and we—

55:05 – 2007

SH: first client we had was Sierra Club lobbying in the legislature. And Rick was the—my assistant and he was still going to UT Law School. And I was running for council and Rick did most of the dadgum lobbying that session. Despite the fact that—because I was out campaigning and we were pretty successful. We passed strip mining bill. The first state in the United States to pass the strip mining bill, thanks to Ray Hutchison, Lyndon Olson, Max Sherman, Buddy Temple from East Texas, couple of others. We also passed another piece of legislation. I can't think what it was that session but that was our first encounter with the legislation—with the legislature.

DT: What was it like lobbying the legislators...

56:11 – 2007

SH: Well, I—you know, that—back then I was a lot more optimistic than I am now. And probably a—a—a lot more naïve then. I—I found it fun. Quite frankly, the house was a lot more liberal then. The senate was more conservative which is just, in fact, well it used to be the reverse. It no longer—both of them are conservative now. Both of them are conservative

now. Both of the houses are conservative now. And, in addition, the environmental stuff was on the upswing. In other words, back then you didn't have any trouble getting reporters and getting your story out. That is not the case now. There's very much an anti newspaper reporter—reporter sentiment against the environment, in my view. Back then, you know, that was the thing to do, it was the thing to be for and anyone was talking environment was, you know, was already the media darling of sorts.

57:26 – 2007

SH: And you just had to use it properly. So it was a lot easier to get publicity and going into the legislature, legislators believed, Texas legislators believed that it was good to be for the environment. That's not the case now and so it was a little easier to get stuff passed and so—and thank goodness, because with our lack of expertise in anything, we passed a lot more than we could ever hope to pass today. And so, at that point, you know, there wasn't a Sierra Club, Cramer was not even around. In fact, I was basically the Executive Director of the Sierra Club and the lobbying. I don't even think there was an Executive Director, come to think about it. \$600 a month is what I got paid I think. Rick got about \$200 a month I think. Anyway, that started up the Sierra Club's group here.

DT: When did you start your practice?

58:34 – 2007

SH: '73...

DT: What was your...

SH: I graduated from Law School in '71 and filed the Wallisville lawsuit right after I graduated.

DT: Let's talk a little bit about Wallisville. Can you tell me what your role was in that?

58:48 – 2007

SH: Well, Keith Osmore who, at that point, worked for Congressman Eckhardt—Keith had always been a sport fisherman and a bait fisherman. And Congressman Eckhardt had a big shrimping constituency. And, at that point, the Galveston based shrimping industry was pretty prosperous. In addition, one of the big environmental groups in Houston was the Houston Sportsman's Club. Big, big, political. And Keith kept telling, despite our disbelief that Wallisville was part and parcel of the Trinity River Barge Canal and they were going to impound more than probably 20, 30,000 acres in prime estuarine areas. So the Audubon Society, Sierra Club, CEC and a bunch of us started nosing around and checking on it and found out that Keith was right. And that indeed there was a lot of the oxbow lakes were really estuarine areas. The whole oxbow lakes were estuarine areas, up above the highway that goes from Houston east to—towards Trinity. I can't remember the name of the highway. We went down and checked things out and talked to a bunch of folks and we filed

a lawsuit. It was clear, at that point after doing a little research that Keith was right. It was the first locking dam in the proposed Trinity River barge canal. It was significantly oversized. It was significantly further downstream than it needed to be and the reason why they put it downstream and so close to Galveston Bay was because it was going to be the first lock of the Trinity River Barge Canal. We fo...

DT: Was this barge canal that would have gone to Dallas?

1:00:54 – 2007

SH: Yeah, yeah, no Fort Worth. Takes a left at Dallas and goes to Fort Worth. And there were about 6 or 7 reservoirs in the scheme and so we sued them. Lack of just—you know, for all kinds of reasons. I think the primary—oh I know—I remember what the primary reason was—they had not done an environmental impact statement. They had hired this jack leg, this was the Corp of Engineers. They had hired this jack leg biologist named Gunther from Mississippi, I'll never forget it. Ask David Steed. Steed was our savior in this case, by the way. David Steed and I go back a long, long ways. Well Steed, at that time, was working for a Dallas environmental group called Environmental Consultants. Well Steed—well Steed, poor ole Steed, didn't know what he was getting into. And he wrote a critique. What had happened, the Corp, after we had sued, the Corp—and we jumped all over Gunther because Gunther says, there ain't no—estu—estuaries there, you know. Give me a break. And...

01:52 – 2008

SH: So Gunther had basically done a cover up job for the Corp of Engineers. After we'd filed suit saying they were going to impound estuaries, despite the fact they said there were no estuaries. I mean, the Corp of Engineers, at that point, wouldn't know—didn't even know how to spell estuaries much less recognize it. And they hired Gunther to come down and confirm there were no estuaries. He came down on the weekend. I forgot what the letter said but it was rather ridiculous. Anyway, we filed suit. They had hired environmental consultants which Steed worked for. He blistered them in his letter. I mean, he absolutely blistered them in a letter saying, you know, I can't believe you guys would say such things, you know. And Gunther probably went to the wrong area. So we used Steed—Steed's letter to sort of open the door to Judge Bue. At that time, our federal judge was Carl Bue. He was newly on the bench to convince the judge that they had failed to do an environmental impact statement. They had, at that time done, and this was '71, '70 or '71. NEPA had just been passed. I think NEPA was passed in '69 if I'm not mistaken and the—we'd just gotten Tellico Dam decision out I gather, as I recall. But anyway, we convinced Judge Bue that they should have done an environmental impact statement rather than just merely a environmental assessment. In fact, they may not have done anything as I recall. They just thought they probably had commenced construction prior to that time and—and so Judge Bue didn't buy it. The only thing the Judge said that we had and if—if I'd had more experience, we would have done it is we tried to introduce a bunch of hearsay evidence. And the judge read it but we couldn't introduce it and he couldn't rely on it. And if we had alleged conspiracy, we can—you

04:12 - 2008

SH: can—conspiracy is an exception to the hearsay rule. And we could have gotten all that great tapes in. At that time, the Corp of Engineers used to take tapes of all their telephone conversations and render it. And here they—and I'll never forget, Steve Matlock at that time was a law student of mine who unfortunately died a couple of years ago from being an alcoholic but was a senior partner at Walker up in Hous—up in Dallas. They did a dump on us. We had a room this size with all these documents and they didn't think we could find anything. We spent a week and a half in that room going through all the documents and discovered these tapes between the Corp of Engineers Regional Office in Dallas and the Corp of Engineer guy in Galveston. And one particular funny piece was the—well he told him to jiggle the figures. That basically that the locking dam was—was going to—they were—that—that—the Regional Office had decided they needed the locking dam bigger and, at that time, you had what was called unity with the Corp of Engineer projects where you had to meet unity on a cost benefit analysis. Well the Galveston Corp guy said well, they'll throw us off. We'll lose, you know, we'll go negative and so the guy from the district said well, just jiggle—jiggle the figures. Well we had all this great tapes and everything. It was just fun. And Judge Bew put it in the footnotes but didn't put it in the opinion. And, I mean, it was ridiculous. And that was probably the heyday when the Corp of Engineers did a lot of the port projects around the country.

DT: Can you talk about the Texas border plan and Burley's ditch?

06:10 - 2008

SH: Burley's ditch. Well, you know, what's interesting and it'll be interesting to see if history repeats itself in Texas with Senate Bill 1. After the '50's drought, John Connally was governor. One of his big assistants was Joe Moore who is a friend of mine but, at that time, I didn't know him and he would not have been a friend of mine. After the drought, a bunch of Texas leaders decided that we needed a lot more water in Texas, that we needed to basically dam up almost every river in Texas. It truly panicked a lot of people and—and I remember the '50's drought and it was awful dry. Well, as a result of that, a lot of folks decided they'd get in on the run. You know, and they'd—the Texas Water Development Board was given \$400 million to borrow in order to build reservoirs and that wasn't enough. As part of that, in order to get some major changes in the legislation because prior to that time, Texas was a very physically conservative state in terms of bonding. In order to get—free up that, get some legislation passed and change the constitution, by the way, which has been the key to most of the water legislation in Texas because you got to change the constitution is that they'd have to have a plan. And so here comes Billy Clayton. At that point, he was the lobbyist for Water Inc. out of West Texas. Here come all the, you know, the high falutin', you know, water hustlers and they decide they're going to build a two major water conveyance facilities. Both coming from the Mississippi. One would go to West Texas at—I think at Lubbock. And the other would be, the lower ditch would be right along, which is Burley's Ditch, Burley at that time was Executive Director of the Texas Water Development Board. And that would be the lower ditch. That would be cutting across all

the reservoirs on all the rivers going to the valley and distributing substantial amounts of water to valley. It was

08:55 – 2008

SH: clear from day one, quite frankly, that the cross—Texas canal to Lubbock was simply not going to work. I mean, the—the energy alone to lift the water would far exceed the capability of ever paying for it for many, many years including tax—by taxpayer money. Just was stupid. But it was to placate West Texas interest which, at that time, controlled a good bit of the legislature, including Preston Smith as—who was from Lubbock that was—I think, at that time, was probably Lieutenant Governor. That was tacked on. The West Texas Transfer Facility was never seriously, seriously considered, quite frankly, based on what Joe Moore tells me. If you look in the book it was but if you look at the Texas Water plan, by the way, I'm probably the only lawyer in the United States that's got a full set of the Texas Water plan documents from the early '60's all the way through the latest rendition they have. I've also—I think I'm probably the only person that's got Texas land use plan that Dolph Briscoe did that he deep sixed after there were 400 of them published. This was in '72. It was a—it was actually the assessing of all the land uses in Texas. Dolph Briscoe had that done. And he saw what it looked like, boy he told them to not print anymore. Cost Texans about a million or two. But Burley's Ditch was another thing. Burley's Ditch was not going to basically use Mississippi water. It was going to use East Texas water which, as everybody knows, East Texas has got an abundance of water. There's a bait camp and a boat shop every ten miles in East Texas and a lake damn near that close. That was going to take East Texas—surplus East Texas water and transfer it to the valley. If you look at Burley's Ditch, you will see there have been several reservoirs built to do Burley's Ditch, one of which is Palmetto Bend which the Sierra Club sued in Corpus Christi back in '72 and

11:35 – 2008

SH: we lost. It was in front of Judge Cox as I recall. Dick Shannon, at that time, was a lawyer for Sierra Club. He's still a lawyer in town. I haven't talked to him in years. But Burley's Ditch, Palami—Palmetto Bend was one of them. That was almost totally financed by state taxpayer money. In fact, the—the—the Lavaca River Authority still owes a good portion of the taxpayers money today. Now Palmetto Bend though was a great reservoir for the clubs to just beat them over the head with. Never was needed. Quite frankly, may be needed now but it's doubtful. It intersects very critical fresh water inflows into Lavaca Bay which, at that time, there was no cut from Matagorda to Colorado into the Matagorda Bay. And if you look at the Texas bays, you will see that as you go east, you get fresher and fresher water and you get more shellfish. We've turned Corpus Christi Bay due to Choke Canyon and Lake Corpus Christi into a finfish bay. It no longer harvests shellfish. We've turned Corpus Christi Bay saline and, you know, there are—the big fisherman really like those finfish better than they do the shrimp. You know, they get their big boats and their big junk and get out there and get the big fish. San Antonio Bay is the bay right now that is at risk. And at San Antonio Bay there's still a little bit of fin—a little bit of shellfish. The oyster production in Lavaca, Matagorda Bay is still pretty good but it is in danger. And as we build more and more reservoirs, we're going to turn some more and more bays into—into fin fish areas. We're

going to lose our shellfish population. If we don't lose it by freshwater inflow reduction, we'll lose it by—by pollution. The bays are becoming more and more restricted due to pollution anyway. That is a big issue—that's one of the biggest issues in Texas for which there is not a built in constituency which has always concerned me.

14:06 – 2008

SH: There is not a built in advocate, if you will, like a Sierra Club or coastal group that watches the bays. There used to be. There used to be the bay fisherman but the bay fisherman are having such a hard time just making a living, they don't have time to organize and concern themselves. Steed, in fact, at one time represented a bunch of the—the bay fisherman. The deep sea fisherman, on the other hand, could do it. They just don't care is what I gathered. The coast of Texas is probably one of the most vital resources that had, in my view, that does not have a environmental group focused on it. We all focus on it a little bit but I—it gives me a good deal of concern because there is a big push now in Texas to develop most of the inland water resources. The bays have been the beneficiaries of our waste. Most of the water unused despite the fact that if you talk to every water hustler in Texas and every river authority, they say they're using all the water. Indeed they are not. A lot of it is pure speculation. The state quite frankly is giving all the water to all the river authorities. Through this administration and previous administrations including democratic administrations, basically the water that's unused in the Texas rivers has been given to the river authorities because it's politically too hot, we don't cancel any water rights in this state despite the not—despite them going unused. We have basically still have the public trust doctrine in Texas but we got no trust over nothing. What it boils down to, we've given all the water in the Colorado to the—to LCRA [Lower Colorado River Authority] and while LCRA among the river authorities, in my view, is probably the most sensitive environmentally, it's not the same and they'll claim they have water rights despite the fact they won't. Texas water law has changed a lot in—in 10 to 15, 20 years. And I think that's one of the—one of the Governor Bullock and I and a bunch of others

16:29 – 2008

SH: schemed back in the early '90's to create the TNRCC because we wanted to have an agency that we could refer to as an environmental agency, somebody that we could look to to be responsible. Because we knew the damn governor wasn't going to be and we knew if you had to refer to the Railroad Commission, forget that. And the Texas Air Control Board, nobody ever knew them except the industry. As a result of that, there has been a great exodus of the institutional memory and water rights from the TNRCC [Texas Natural Resources Conservation Commission]. You go over and talk to these commissioners, they don't know a hill of beans about water rights. You say, trans basin diversion and they ask you to slow down because they don't understand what it means. The TNRCC basically doesn't give a damn about water rights in Texas. It is too controversial. It is incidental to hearings. You don't ever mess with water rights without a hearing and this commission doesn't like hearings. And so that's, you know, that's what's occurred there. It's unfortunate but I got off base.

DT: Can we switch from surface water to talk about groundwater and your work with the Edwards Aquifer?

(misc.)

18:20 – 2008

SH: The Club, Sierra Club, as you know, I represented Sierra Club off and on for years and years. Fortunately or unfortunately. I like to say that we represent ranchers and farmers and they pay for those who can't. You know, and they all get uptight when we

18:38 – 2008

SH: tell them we represent the Sierra Club but they sure like what we do for them. Club's always been interested in groundwater and in conservation of groundwater as all environmentalists have. In addition, Texas probably the most unique environments we have in Texas, quite frankly, are in West Texas. And it is almost invariable where springs exit. Probably got the richest, most diverse environment and ecology in areas where you're semi arid except for spring exits. Texas also has had an extremely very varied spring environment, contrary to a lot of the other states. You read some of these old books on springs and it's—it's—it's real interesting. It's really, really interesting. But we're losing them. We're losing them very fast. And quite frankly, that's a result of our water consumption. What most Texans don't understand which is rather stupid is that 75% of the population in rural areas, if not more, depend on groundwater and there is no way in hell you're going to supply these folks with centralized water. And so what's interesting about it in Texas and a paradox is is that the people who rely on groundwater are the ones that don't want you messing with their groundwater. You know, I mean, the—the folks who are going to get hurt the most, do you think these rural folks are going to swing any weight when it comes to the urban? Money talks. Money makes water go up hill. Money draws water out of the ground. Just that simple. And these are the guys that are going to be paying \$100 a thousand gallons when they got to bring water from Dallas or they got to bring water from Lubbock or somewhere. And these are the ones that say no, no, don't mess with my water. They are coming around to realize it but it's real slow. In addition, Texas, a lot of the reservoirs in Texas, due to recent developments rely on groundwater supplies as well as surface water. There are probably 70% of the

21:09 – 2008

SH: rivers in Texas as base flow, rely on groundwater discharges. Now, in the old days, old days being prior to—late '50's, when you built a reservoir, you could not impound the natural flow of the river. You only were allowed to impound the river flow—the flood flows. The reason was that—that you had to pass through, you couldn't dry up a river. You had to pass through the base flows. Well it had a good environmental reason although they never used it. I mean, they never thought about it in that way. And that was because, you could not assure, with Texas rule of capture, you could not insure over any length or period of time over those base flows. Because those base flows were coming from groundwater

exiting in the rivers and creeks. Well, we've now got areas that we've got reservoirs that relied on—that, in fact, captures the base flow and so-called appropriates it. That those surface water reservoirs are not going to have near as much water in it as they think. Because they're capturing not only flood flows but base flow. Very good example is Waco, I mean, like Brazos River Authority, Lake Waco. Another good one is, for example, Guadalupe Blanco River Authority. 60% of the base flow of the Guadalupe River at the entrance to the estuary comes out of those springs. GB already knows that. Victoria's water depends on those spring flows. When he—I'm going to tell you what, in the '50's there was only one river running in this state that was west of IH-35 and that was the Guadalupe and it was running at the lower part of the river. And that was due to the springs. I'm telling you. It dried up but it was the only one running. Well, because the Guadalupe Blanco River Authority had so-called surface water rights which 40% of it probably relies upon groundwater discharge, i.e., Comal Springs, San Marcos Springs. Naturally they were concerned about the environment and

23:38 – 2008

SH: just so happened that they didn't consume much of the water they were interested in. There were only just sort of beneficiaries of—beneficiaries of it as it passed through. They got us interested and it's like coalitions, like I told you before. People say, Stuart, well you're a whore. You deal with GBRA [Guadalupe-Blanco River Authority]. Damn right. If I find somebody that wants to put out money to save a species or put out money to protect the environment, hey, I'll deal with you. And if then you start messing around, I'll tell you to kiss my ass. It's just as simple as that. That's the way you work. That's the way you get things done. Well Guadalupe Blanco River Authority was willing and—and San Marcos and—and New Braunfels were willing to really put some teeth behind it to try to get the Edwards regulated, as they should be. It's in their interest to do so. And it's in San Antonio's interest, long term interest to do so too but I can never convince them. And the irrigators, you never could convince them although they are now our allies because they now realize it's going to be regulated and now they want to sell it to San Antonio. You know, things change, you know, coalitions change. I tell the irrigators. Irrigators call me whores. You know, now—you know, and I've got environmentalists and some of the folks, Stuart, you're crazy to work with these irrigators. Hey, if they're willing to fight for protecting those springs. Now they're—they don't care about protecting the springs, they just want to protect the springs so there's a market created so they can sell that water at exorbitant rates to San Antonio. That's fine. I can go along with them up to that point. I don't care. If the fish are the beneficiary of it and the darters are the beneficiary of it, hey, I'll do that deal. I think, that's what it's all about. That's the way you accomplish things. So that's what got us into the Edwards. San Antonio is probably the most

25:42 – 2008

SH: backward city in—well I can't say in the United States because I don't know that much about a lot of the other cities—but San Antonio is going down—go down the crapper unless they get their act together, in my view. San Antonio is—what's really unique about San Antonio is its position under NAFTA to probably be the most transitioned city of any—of

any city in Texas and Mexico but they don't know how to manage things. They have a total lack of leadership. Once General McDermott left and retired, the politics is so screwed up in San Antonio, the newspaper is so screwed up in San Antonio, that we ended up spending most of our time fighting the newspaper and fighting their lawyer rather than San Antonio knowing what to do. And quite frankly, which is interesting, the person that's setting the water policy in San Antonio is Carol Patterson, old Sierra Club member. She's filling a vacuum, a leadership vacuum. She's got the time, she's got the energy and she's smart. She's a little bit crazy but she's smart. But it takes a little bit crazy to do half this junk we do anyway, you know. But we got, as a result of the Edwards litigation, we got Judge Bunton. We knew Judge Bunton would be willing to do something because anytime you find a federal judge that's willing to tell the FBI that they're discriminating against Mexican-Americans, you know you got a judge that's got cojones—big cojones and Judge Bunton's got them. Even though he's only about five feet. He looks like, in fact, I screwed up the first time he got off—I'd ever seen him off the bench, he walked down in front of the lectern where the lawyers—he's a real small guy and I said I thought you—I never realized you were so small which was stupid—he just laughed at me. He got a big kick out of it. But, I mean, you know, you set—you see him setting up on the bench, you think the sucker's a god

27:52 - 2008

SH: and he is when he's on that bench. But we got him to regulate the Edwards. We got him to do probably the most we could. What people don't understand in the Edwards fight is that we've got probably two or three federal judges in Texas that are very forward thinking, good federal judges that are not afraid of the politics. But we've got a Fifth Circuit that's about as backward as you can get it. And so our Edwards strategy has always been to do the most we can to sustain in the Fifth Circuit. And we've not lost any cases in the Fifth Circuit. And for—for any environmental group in the Fifth Circuit to do that, that's saying a lot. Fifth Circuit is extremely backwards on environmental stuff. When Judge—Justice, I mean when Judge Brown left of the Fifth Circuit and when Reagan packed the Fifth Circuit, it's been hell to get anything done in the Fifth Circuit.

(misc.)

DT: Do many people think that water is one of our most challenging issues in Texas? Can you think of others that may be coming up in future years?

29:38

SH: Boy that's a tough one. I—I—I don't think water—I think water will be a political challenge. I do not think it'll be a natural resource challenge. There's a lot more water in Texas than people claim. The conservation potential for water is almost double the magnitude of what we've been doing. Nobody really conserves water very much, particularly East Texas. I think the real challenge will be in—in water per se will be

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SH: getting the water from East Texas, which is rich in water, to areas where it is not. Now one of the big disagreements I've had with environmentalists, at least on a conceptual basis, is I've never seen a reservoir, I've never seen a pipeline that I like—that I dislike more than I do a reservoir. I think the short-term future of Texas in a 100 years is going to be building pipelines to transfer water to West Texas. It's stupid. It makes no sense at all but it's going to happen. You're not going to tell San Antonio they can't grow. We're not going to shut them out. I wish we could. I think that would be the smart—what we ought to do is send the people where the water is but I'm going to tell you what, have you ever seen portions of East Texas? Ain't nobody gon' go to East Texas to get water and live there. They're going to go to San Antonio and I—as much as I think it's stupid, I'm a realist in the sense and so I think what we have to do—one of—everybody—environmentalists that I know of are real concerned about inter basin transfers as they ought to be. I'm of the view that so long as you protect, and I mean protect, the in basin, the basin of origin's environment, there may be water to send to West Texas. There better be because what we will do is dam up the rest of our rivers in Texas otherwise. You can fight it so long but the bottom line is money—money makes it. And it's unfortunate and all you can do, I mean, I like to fight reservoirs because it's fun. But I know as well as anybody, I'm just fighting time. That there may be a time when these rive—when—when we're going to have to develop more reservoirs in Texas. If we're smart and if we're conservation oriented, it may not be for another 200 years. And I'm willing to bet we come up with something different in 200 years. But, I mean, that's what we're doing. We're fighting time. And I—I mean, I—I—water's going to be a big challenge to Texas

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SH: but I don't think that's—I don't know what the big—I mean, technology. I'm getting to be old and technology is frightening to me in the sense of how rapid it changes. I don't—I just don't know. I'm not a procrastinator in that sense. I don't know what the big challenges are. I think the big challenge to the country is going to be—in terms of the environment, is going to be the health aspects. I think we're going to end up killing ourselves and it's not going to be one big explosion. It's going to be the DNA changes, the subtle things that, all of a sudden, we can't turn around. And that's what's scary. That aspect of it is that, you know, and we are so far—one of the reasons why I'm an environmentalist is because I don't like technology in the sense that you can't control it as fast as the consequences. The consequences from technology is real rapid. And, you know, it's—the old deal about chemistry, you know, better life through chemistry but there's also a downside. There ain't no free lunches and I see people in urban areas getting sicker in not a very specific way but a very non-specific way. And you can't seem to get anybody to pay attention to it. And what I'm fearful of is that we're—we're making some very fundamental change to the biology and I'm not sure that we have the capability and I'm damn sure we don't have any sense about us to be able to even—once we recognize it, do anything about it. I mean, that's what scares me is that we're just—you know, we're just a bunch of little small dinosaurs that don't know the damn difference when we're killing ourselves. And that's the big challenge to Texas. And Texas will be way behind, you know, the curve on that on. You know, cause we've still got a lot of places we need to plow up and a lot of places that we need to mess up, you

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SH: know, before we realize we got to live with each other. But that's concerning. That concerns me a bunch.

End of reel 2008

End of interview with Stuart Henry