

An Interview With
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Los Angeles Department of Water and Power
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The Interviewer is Dick Nelson

NELSON: OK Duane, we've covered a lot of your history in our previous interview, so, let's concentrate this time on the Department of Water and Power's "battles," for want of a better word, in Inyo and Mono counties. What was your first inkling of a potential problem with Inyo County over the Department's Second Los Angeles Aqueduct, and the need to increase groundwater pumping in the Owens Valley to fully supply that aqueduct?

GEORGESON: I had been in the Owens Valley, I guess, between October '66 and April Fool's Day, 1970, and the groundwater pumping issue was pretty quiet during that time. We were drilling some wells to help out the fish hatcheries. So, when I came back to town in 1970, groundwater pumping wasn't much of an issue. In part, because we had had several very "wet" years. Nineteen sixty-six/seven was extremely wet resulting in the flooding of the aqueduct. Nineteen sixty-nine was an all-

time wet year, so the Department was filling the first aqueduct without any need for groundwater pumping. It had been a little dry in '68 and we may have turned on a few wells to get us through. But, at any rate, I returned to town in 1970. I was away from the Aqueduct Division in terms of my responsibilities until probably April 1972, when I came back to the Aqueduct Division replacing Paul Lane, who had moved up to head the Water System.

Nineteen seventy-two was a pretty dry year. There was, what I would call, a premature commitment to a full irrigation supply to the ranchers in the Owens Valley. We turned on quite a few wells which had been part of the strategy of the whole Second Aqueduct program which was to use the groundwater basin to keep the two aqueducts full, as well as providing a firm irrigation supply for the ranchers in the Owens Valley. We were really scrambling to get well production up.

Along about that time, maybe the previous year, '71-'72, a commitment had been made to Inyo County to develop a water management program.

NELSON: Who made that commitment?

GEORGESON: Oh, I suppose it was Paul Lane. Paul was head of Aqueduct at that time. Probably a combination of Paul in consultation with Ron McCoy, who was Northern District Engineer at that time, and Bob Phillips, who was still head of the Water System.

There was a fairly rudimentary report being prepared at that time with a certain amount of cooperation by Inyo County. The County Planning Commission, that was chaired by Pat Wiltsie, of the famous sporting goods store, was kind of becoming a player. The County had a new District Attorney, Frank Fowles, who had been on the job a couple of years. The County was looking for some way in which to exercise some

"muscle" on the groundwater pumping. When a lot of wells are turned on some of the springs dry up. So, all this I think was the beginning of things.

In 1969, the federal government, Congress, had passed the National Environmental Policy Act (NEPA). In November, 1970, the California Legislature passed the California Environmental Quality Act (CEQA). The development community, including the L.A. Area Chamber of Commerce, thought something like, "Well, the Legislature wants to do something for the environment. Here's a nice harmless piece of legislation."

Jim Krieger, who I think at that time was Chairman of the Water and Energy Committee of the L.A. Area Chamber of Commerce endorsed CEQA because it didn't have any teeth. It was just a piece of platitudinous pomposity.

In 1972, up at Mammoth, Andrea Mead Lawrence, the Olympic Gold Medal skier from New England, formed a group called "Friends of Mammoth," to stop a condominium development. Basically they said that there ought to at least be an Environmental Impact Report (EIR) prepared for the re-zoning of the property. What was involved was a piece of land about 200 feet wide by over half a mile long to be re-zoned for medium height condominiums. They talked about a half mile long, "Great Wall of China."

The developers prevailed in Superior Court, but the California Supreme Court, took the case directly on a writ. So, the Friends of Mammoth by-passed the Court of Appeals and went directly to the Supreme Court. The Court gave the case a speedy hearing and in September 1972, the Friends of Mammoth Decision came down which basically created a great growth industry in California - preparing environmental impact reports.

When that decision came down, Inyo County just knew that they now had

a toe-hold on L.A.s Second Aqueduct Project and groundwater pumping.

The first thing Inyo County did was have their attorney's Fowles, and Lee Bray prepare the legal paperwork and approach the Inyo County Superior Court judge seeking a Temporary Restraining Order (TRO).

Fowles and Bray took off from Independence and started driving to San Bernardino where my X-neighbor Judge Verne Summers was sitting, like he did most of the time, outside Inyo County, on out-of-county assignment. Frank called our Ken Downey and said, something like, "Hey Ken, We're going to sue your a-- and seek a TRO. This is an ex-party order but, just out of courtesy, we're letting you know about it."

So, Ken and I hopped into a car and drove out to San Bernardino and met Fowles and Bray in the Judge's chambers. Judge Summers had a great line. He looks at Frank and said, "Well, Frank, I don't know if you're going to get away with this, but if you do, they'll probably place a statute of both of us on the Courthouse lawn in Independence." A great line, but still no statutes.

It was a good thing we were there because the way the RTO was written it basically was a freeze, to freeze groundwater pumping and to freeze the level of flow in the Second Aqueduct. It turns out that the Second Aqueduct was off that day! Because of an operational quirk there was no flow. The way this screwy litigation turned out, God knows if it had been off, it might have stayed off. So, the Order got rewritten with the limitation, as I recall, of 236c/f/s. It was the quantity of well pumping that was going on that day.

NELSON: That was not a bad restraining order was it?

GEORGESON: We thought we had died and gone to Heaven. We could live with that for ten to fifteen years. Maybe not 24 1/2, the way it turned

out. So Ken and I returned from San Bernardino thinking it wasn't too bad.

We settled on a Judge in Sacramento, White was the last name, I've forget his first name. Evelle Younger was the California Attorney General at that time and he had an environmental unit headed by Nick Yost and in the unit was Larry King. It was really facinating because here we were in a Sacramento courtroom, the State of California is not involved, nor is the Attorney General, yet a fairly high level guy, Larry King, in the AG's office is running in and out of the courtroom handing cases and assisting Inyo County in their legal arguments. Needless to say, it perplexed me and Ken.

We had put on some witnesses and presented evidence, but one of the great lines I recall from the trial was when Ken, at one point trying to make the point that although we were a big agency we were sensitive, said, "Your Honor, we don't want to be seen as the elephant running through the chicken yard yelling, 'Every man for himself.'" I thought that was a great line and I'm sure I laughed. The Judge remained stone-faced.

Judge White ultimately ruled on our behalf. A clean victory and life was sweet for a short period of time. Basically, what the Judge said, and I forget whether there was a written opinion or just a ruling from the bench, is that it would be an empty act to prepare an EIR on a completed project. The Second Aqueduct was completed on June 26, 1970. CEQA did not become law until November 1970, or five months later. We had the Second Aqueduct, completed and operating at full capacity, so the Judge said it was silly to have an EIR on a completed project.

Inyo County did the expected, they appealed the case and it went to the Third District Court of Appeals in Sacramento. An interesting

circumstance, as it turned out that the decision was being written by a conservative, I think a Reagan appointee, by the name of Richardson, who later became a member of the California Supreme Court. As a matter of fact, he had been nominated for the Supreme Court when the case came to them.

Under a lot of circumstances you might think, "Gee, someone who would get Reagan's support to become a member of the California Supreme Court is likely to come down with a strict interpretation of the law." I speculated that during those environmentally beguiling times a judge up for the high court might think, "Umm, It wouldn't hurt to have a blow for the environment in my dossier".

So, the decision that came out of the Third District Court of Appeals basically separated the groundwater pumping from the Second Aqueduct. Although, we had maybe two-thirds of the well capacity we thought we would ever need, there were still a number of wells that we acknowledged we wanted to drill. The Court made kind of a tortured separation of the well pumping from the Second Aqueduct. Following that line of reasoning, tongue in cheek, I characterized the Second Aqueduct as a project to bury pipe in the desert. I think we always viewed it as a project to deliver water. That decision came down in June 1973.

Then we were faced with the decision of whether we should appeal to the California Supreme Court. It turns out that the Court under Chief Justice Donald Wright was weighing the recently completed oral arguments on our Pueblo Water Rights litigation in the San Fernando Valley, which was another extremely important case, Los Angeles v. San Fernando, et al.

The decision on the appeal left us with a pumping limitation we could live with, 224 cfs (cubic feet per second) ask to Judge White to

establish a pumping rate. So, we went back to Judge White and received affirmation of that 224 csf. Our feeling was that we could live with that amount of pumping. We didn't want to particularly stick our finger in one judge's eye up in the Supreme Court who would soon be looking at the San Fernando case. So, our decision was made not to appeal. That isn't to say that we would have had any luck anyway in the high court.

NELSON: The two options at that time were to appeal, or do an EIR.

GEORGESON: Yes. We chose to do the EIR. It was a fairly narrow EIR, just covering the increased pumping, not all the pumping. We figured we could do that, it should be a simple enough task, or so we thought. So, we didn't appeal.

After we had made the decision not to appeal, Inyo appealed our pumping rate set by Judge White to the Third District Court of Appeals who whittled the rate down to 178 cfs. We weren't very happy with that, but thought we could live with it. That was the number set by Judge White the second time we appeared before him. Judge White was getting a little shellshocked in getting his decisions overturned by Third District.

When Inyo appealed that second number we went up to the Third District and came out with a 149 cfs limitation. That pumping limitation stayed with us for many years.

Also, the Third District Court of Appeals did something that was probably without precedence in the history of law in California, they took the case under "original jurisdiction". So, we lost the trial court, any trial court, as a forum to sort out factual disputes. That was a big handicap for us.

Anyway, we proceeded to prepare our EIR, which was finished in probably

1975. Who shows up as Inyo County's Counsel, one Antonio O. Rossmann, who is still in my life because what I have been working on more recently is the rewriting of the state water contracts. Tony as a board member of the Planning and Conservation League (PCL) convinced Gerry Meral, PCL's Executive Director to sue the state water contractors, so, Antonio is still a rich part of my life. We've been in that litigation for three years now. But, anyway, Tony showed up for Inyo County.

NELSON: When you made the decision not to appeal, you've indicated some consideration was given to the San Fernando water rights litigation. Was also the fact that CEQA didn't have much history and, I guess initially anyway, was not taken too seriously?

GEORGESON: It was being recognized very rapidly that CEQA was a powerful weapon to use against any project because right after The Friends of Mammoth decision cases started coming down very quickly. There wasn't much question that CEQA could reach any project of a public agency. It could also reach private projects because most private projects require some form of governmental approval. CEQA does not apply to private projects unless there is government approval involved. But, tell me something significant that the private sector can do today without government approval.

The Third District Court of Appeals found that our first EIR was inadequate because we had a flawed project description. Basically, they broadened our narrow project description beyond just the increased groundwater pumping to include essentially all groundwater pumping.

We then prepared an EIR covering essentially all the groundwater pumping. The Court rejected the second EIR in 1979, because we had a

flawed "no-project" description.

What we were trying to do was write the no-project description in a way to protect, certainly the first aqueduct, plus all the surface water supplies for the Second L.A. Aqueduct. By that time we were getting caught up in the whirlwind of Mono Lake. We felt it was important not to give anyone a toe-hold through CEQA for the Mono litigation.

About that same time it was decided that we needed to get into a partnership with Inyo County. I don't know what year we eventually got the Standing Committee formed. It turned out that Councilwoman Joan Flores, who had worked for Councilman John Gibson, as a staff person, took quite an interest in the issue. Councilman John Ferraro was already fairly interested. Then we got some courageous leadership from Johnny Johnson, a member of the Inyo County Board of Supervisors.

One anecdote about Johnny Johnson. When I first went to the Owens Valley, Paul Lane and I were both working in Independence. The typical bureaucratic drill was to go down to The Pines Cafe, morning and afternoon, and have coffee. A cosmic waste of time. But, there was a certain amount of camaraderie going down there. On an early occasion there the owner of the cafe, Johnny, who eventually became a Supervisor and provided the courageous leadership, came into the room red-faced, with a letter I had signed as Northern District Engineer, telling him to get most of his advertising signs off the highway. Johnny came up with a wastebasket and proceeded to tear this letter into small pieces and with great fanfare throw them into the trash in front of Paul, even though I had signed the letter, then stomped off. He was somewhat upset because we were asking him to get rid of his billboards.

NELSON: This was part of the Department's effort to get rid of

billboards on Department lands fronting Highway 395?

GEORGESON: Yes. Eventually we got them all down, except on the Indian reservations.

In the long run, I think it was a good move to get into a partnership with Inyo County. It took an awfully long time to get that done. I was gone by the time staff reached agreement with Inyo on the Groundwater Management Plan and the EIR.

Once Inyo and L.A. reached agreement and prepared a joint EIR and submitted it to the Third District Court of Appelas, the Court rejected it and invited third parties to come in.

Let me touch on a couple of other things. We had two extremely dry years, 1976 and 1977. In 1976, the first dry year we looked at the wording of our leases that had been rewritten for all the ranchers in the valley. There was a very clear paragraph in the leases which I think had been rewritten a couple of years before the groundwater pumping lawsuit had been filed. The paragraph stated that in time of shortage the first priority of the water went to keep the aqueduct full, so there was a clear right for the Department, as the landowner, to reduce the flow of water.

So, we reduced the water supply by 50 percent. Nobody complained. As a matter of fact, the farmers were kind of happy, because in previous dry periods they had been chopped off completely. So, we got through 1976 in pretty good shape.

In 1977, it turned even dryer. We again proposed to reduced supply by 50 percent and Inyo County appealed to the Third District Court of Appeals. The Court not only ordered us to supply full water to the ranchers, but they left that as a standing order and for the remaining

part of the litigation the ranchers had a firm supply of water. Eighty percent of the water on those ranch leases goes to irrigate native pasture. You talk about a low value crop. At any rate that's what the Third District Court of Appeals did.

L.A. approached the Court because it was such a desperately dry year in California. We were going to have to purchase such a huge amount of water from the Metropolitan Water District of Southern California (MET), that it was even complicating water supply up in Kern County on the State Water Project. So, we went to the Court and asked if we could turn on some wells that would not only help L.A., but would also help the ranchers, MET, and the farmers up in Kern County.

The Third District Court of Appeals wrote us a scathing opinion written by Judge Friedman, saying in time of drought, the standards for water conservation become stricter and that basically we wouldn't get another drop of water until we put in place a tougher water conservation program in L. A. I think they ordered us to achieve a 15 percent reduction in water use. Anyway, we put in place a 15 percent rationing plan and went back, and the Court grudgingly let us increase some well pumping, but, ordered us to continue the full supply to the ranchers.

One small, but bright moment occurred shortly after that decision, Tony Rossmann filed a brief on behalf of Inyo County to get attorney's fees and the same judge Friedman, wrote an even more scathing opinion denying the attorney's fee. It was really one of the happiest days of my life was reading that decision denying attorney fees to Inyo County and Tony.

NELSON: The Department did the first couple of EIR's primarily using

inhouse staff. In hindsight, would it have been better to, what's the politically correct word today, "outsource," the preparation of the EIR to, maybe a more environmentally, and/or politically connected group?

GEORGESON: I don't think so. It was absolutely certain that Inyo County didn't care a great deal about an EIR. What they were trying to do was get control over L.A.s groundwater rights over the exportation of water. The reason L.A. had such a tough time is that we were in a battle of legal strategies to try to reduce the exposure we had. Once you accept a broader definition of the EIR, then you have more at risk.

I suppose in hindsight that if we would have been able to look ahead and see that we were going to have to give up a huge part of our groundwater supply, why not do it graciously? In hindsight, that might have been a better strategy.

But, the Los Angeles City Charter says we don't give up water supply without a vote of the people of L.A. We bureaucrats over at the Department are charged with maintaining, protecting, sustaining and defending these large municipal assets.

CEQA has always been a procedural statute. If you give full disclosure, explore mitigation, and ultimately you have an adverse impact on the environment, there is nothing in the law that prevents you from having that impact, particularly when you bought all that d--- land in the first place for the express purpose of protecting the water supply.

The other thing, I think, that was always recognized, particularly after the experience of the 1977 drought, was that Southern California has a very tenuous water supply. Today, what's motivating the big battle between San Diego and MET is the fact that we're looking at the rights

to a legally half-full Colorado River Aqueduct. That big part of our supply, bigger than both L.A. Aqueduct's, is a big question mark. The State Water Project in 1977, was able to deliver only about 10 to 15 percent of the four million acre/feet that had been contracted for. With that kind of experience it reminds me of a great line by Mr. Pasternack, with the California Energy Commission, who said, "Power supply, you have to understand, is like the first rule of wing walking, you don't let go of one strut until you have another strut firmly in hand," i.e., don't give up one water supply until you have the replacement supply in your hands.

I think this was always the philosophy of trying to protect L.A.'s rights in the Owens Valley. Plus, we were going through a period where energy was a bigger problem in California in the 1970s than water was. We had an aqueduct that generated electricity whereas the alternative aqueducts, desalinization, and wastewater reclamation are huge users of electricity, so in terms of resource management, the Owens Valley electric production is far more benign, in terms of the use of renewable resources. So, these were some of the considerations.

As I mentioned in my previous interview, when we were negotiating with Inyo, I got a very straightforward lecture from Councilman Marvin Braude one day, He said something like, "I know it makes your life easier to cut this deal with Inyo, but you're not in your job to have a good time. Your job is to protect the City of Los Angeles' water rights."

By and large the Department had solid support from its elected city officials and even the state elected officials from Southern California.

NELSON: Was there someone in Inyo County who masterminded the attack on L.A., or did they just stumble onto the approach they took?

GEORGESON: I think they deserve a certain amount of credit for seizing the initiative for taking on L.A.s groundwater pumping. When I was up there in '66 through '70, the county starting developing a General Plan, something they had never had. Most rural counties around the country don't do a whole lot of planning. So, they started working on a General Planning and looking into local resources. At that time the whole country was in an environmental protective mode, starting with NEPA, CEQA, etc.

What the heck, the Department was having the billboards removed from the side of Highway 395 which showed a certain amount of concern. We were also building fish and wildlife projects up in Fish Slough. Clearly, everybody was moving in that direction. The District Attorney who came into Inyo County, Frank Fowles, probably provided some push. John Smith, the County Administrator, was always a thorn in the side of L.A., but his motivation was generally from the side of the ranchers, which were the old power structure in Inyo County.

What had happened was that Paul Lane and Bob Phillips had gone up and cut a deal with the ranchers way back in '63, '64, '65, '66, to reduce the amount of irrigated acreage, but to use the well pumping to provide them with a firm water supply. John Smith had been a long-time rancher and while he was sort of the titular head of the county government as the County Administrator, I don't think anyone ever accused John Smith of being a "green" environmental activist. He was trying to protect the interests of the ranchers.

The members of the Inyo County Board of Supervisors at that time were not particularly environmentally oriented. They were more of the business community-rancher type, plus someone down south in Tecopa, who didn't give a hoot about what was going on in the Owens Valley.

Pat Wiltsie had some environmental leanings and there was a League of Women Voters chapter up there who had a little bit of a following. Pat had been Chairman of the Planning Commission.

NELSON: Who brought Tony Rossmann in?

GEORGESON: I think Frank Fowles. Tony had worked for one of the big law firms here in L. A., Tuttle and Taylor, former Department Commissioner Mike Glazer's old firm. Tony had become the first Ombudsman for the California Energy Commission. After a couple of years there Tony had become such a pain that he was invited to go seek fame and fortune somewhere else.

NELSON: On L.A. - Inyo County coming together, I hear that you deserve a lot of credit for bringing the parties together.

GEORGESON: I worked pretty hard at trying to make that happen. I'm sure no one up in the Owens Valley or down here viewed me as a "softy" on dealing with Inyo. To quote a very important L. A. legislator, at least waterwise, Carley Porter, who liked to refer to "enlightened self interest," I thought it was enlightened self-interest for Los Angeles to join in a partnership with Inyo County.

The reason for this is that it became, after too many years, crystal clear to me that there was nothing, absolutely nothing, that L.A. could offer Tony Rossmann in the way of an accommodation because Tony's pocket and reputation were only enhanced by being in total and open warfare, much of which was fought through the newspapers, including the Los Angeles Times. You know throughout that period of time we had more objective coverage in the Owens Valley newspapers than we did in the L.A. Times?

So, I was enthusiastic about trying to work something out with Inyo County. The big leadership contribution Johnny Johnson was willing to make was to take the political risk of getting the attorneys out of the room and just meet between the parties.

In order for him to tell Tony to stay out of the meetings, we had to keep our attorneys out of the meetings too, which occasionally made Ed Farrell uncomfortable. But, Ken Downey, to his credit, and Ed Schlotman, "Fang," were reasonably comfortable with that arrangement.

NELSON: Were you there at the first meeting?

GEORGESON: I think so, but, it's possible there was a meeting between maybe Inyo Supervisor Johnny Johnson and L.A. Councilwomen Joan Flores. At one point when we got this thing started, Johnny Johnson and Joan Flores were sort of the leaders on both sides, then Joan wanted Keith Comrie, L.A.s City Manager, in all the meetings. I think sometimes there were meetings without Department staff present.

As a matter of fact there was one funny trip early on when Joan Flores, her aide Bernie ?, maybe Keith Comrie and I were on a plane going up to the valley. At one point, Joan Flores just ripped me up one side and down the other because she viewed, accurately, that I was trying to orchestrate things too much. Manipulate may be a better word. I think she might have felt that she was not being given enough credit, and I don't mean public credit, but in terms of recognizing that her interests were the same as ours and that we had to be a little more willing to trust her.

NELSON: She really contributed to the process?

GEORGESON: Absolutely! As you may recall every two years the

chairmanship would change on some City Council committees. The one vital to the Department was the Water and Power Committee, changed later to the Energy and Natural Resource Committee. The short chairmanship stint was due mainly, I think, because it was a "no-win" committee. There were never any campaign contributions received as a result of being on that committee. Inevitably, you would be having to raise the water rates, or the power rates, or both. Water and Power would be out disrupting neighborhoods, tearing up streets, running wires, building power stations, burning oil in the power plants, etc. For people who are trying to make a career as a politician, the last thing they wanted to be was a front for the Department.

So, Joan Flores came on as a freshman councilmember as Chair of that committee just like lots of other people had to endure. Pat Russell got that committee as her first committee assignment. Joel Wachs went through that committee early on. He was there during the "Blue-Ribbon" Committee period.

I always viewed that as a positive as we got to know the councilmembers pretty well early on. Marvin Braude served a couple of terms. He was an established councilmember at that point. There wasn't much in it for him, except a black eye for his environmental credentials. But, If we got our rate increase past Marvin. the rest of the council would rubber stamp it because they figured that if we made Marvin happy, things must be in line.

But, Joan Flores, as chairman of the committee really jumped in, and I think it was possibly because of her previous experience as John Gibson's aide.

One other thing that happened along the way and I'm sure I don't get high marks from my former colleagues for it, and that was the famous

water metering of the towns in the Owens Valley. I think it was viewed by some, and certainly our customers in Big Pine, Independence, and Lone Pine as Department retribution.

The circumstances of metering those town water systems related in part to what was going on in L.A. We had some pretty rough times with our Council pushing water conservation and rationing in '76-'77. In the early '80s, we had some tough battles with rate increases and it put us in a difficult situation to go to the City Council to get big rate increase and to be pushing conservation hard and then to have those little systems up in the Owens Valley with huge per capita use of water and spending huge sums of money improving the water system's for fire flows, building reservoirs and improving water treatment, drilling wells. It turned out we had a tough time getting a well just to supply Big Pine, because of geology.

Those were considerations, for maybe, "Georgeson's pigheaded program," to proceed with metering.

NELSON: As I recall, Sacramento was being hit pretty hard because of their lack of metering.

GEORGESON: Yes. One of the most dramatic exhibits shown in the statewide, "Water Atlas," at that time, were bar charts of per capita water use around California. L.A. was around 170gpd (gallons per day), San Francisco 130gpd, Sacramento was 350gpd, Big Pine was 1,200gpd! Independence was 1,000gpd and Lone Pine was right up there too.

One of the things that really helped in putting a deal together with Inyo County, and probably motivated Johnny Johnson in part, was the fact that in our package with the County, one of the things they really wanted, probably more than anything else, was to take over those

systems at no cost so they wouldn't have to see those big water bills. That was one of the key things in bringing Inyo County and L.A. together. If we would have not been pursuing the water meters, the people up there, including Johnny Johnson, would have been happy for L.A. to own those systems forever because of the no-win situation. You have huge water use which puts pressure to install larger pipes, reservoirs and pumps, in order to improve fire protection. When the county took over, no way were they going to give up the metered billing.

NELSON: When did you first hear about an interest in Mono Lake?

GEORGESON: Mono Lake had showed up as a little bit of an issue back in the early '60s. There had been a wet year and apparantly the former State Senator from that area, Bill Symons, was driving by one day and L. A. in its operations was letting water run down either Rush Creek or Lee Vining Creek into Mono Lake. Symons thought that was a waste of water, He had been a rancher. As a matter of fact, his father had been an agent for the City back in the '20s in terms of buying land. So, at any rate, Symons being a rancher was probably smarting from the fact that L.A. had dried up most of the water supply to its leases during '59, '60 and '61. Then to see L.A. mismanage the operation of the system and letting water run into Mono Lake maybe caused him to "heads-up" someone.

Apparantly that triggered an investigation by the State Water Rights Board (SWRB) on L.A.s filings. L.A. had made filings up in the Mono Basin about the same time Mulholland was filing on the Colorado River in 1923-24. When the Mono Basin Extension was completed in 1940, L.A. had gotten the permits a few years earlier when the Mono Craters Tunnel and Grant Lake Reservoir were completed.

There's a procedure where after you get your permits and you put your project to use you get your license. But, until you get a license, the SWRB is kind of always bugging you about the fact that you've got the project done, so, why not apply for the license.

Anyway, the SWRB, at Symons' nudging, had asked L.A. what our intentions were. That had led to one of the first projects I worked on at the Department, the preliminary feasibility study, that Paul Lane was responsible for. The study came out in 1960 and was sort of the genesis for the Second Aqueduct.

When I was in the valley, Mono Lake wasn't really much of an issue. The tufa towers weren't dramatic, plus the lake had gone up quite a bit in '67 and '69 because of those very wet years. Then the lake started dropping in '70 and '71 when I came back to town and then took over the Aqueduct in '72, I remember Paul and I had lunch with the Southern California Director of the Sierra Club, Larry Moss. He told us that they planned to sue us on Mono Lake.

One of the things I think I had quite a bit of influence on was the decision to recognize that we had a real "loser" of a position on Mono Lake. I don't know if I recognized it as an absolute "loser," but I knew we were on the wrong side of the public relations battle of watching that lake go down.

About 1972, Aqueduct Division staff had analysed the water balance at Mono Lake and had come up with a graph that forecast the level of the lake dropping 50 feet as we diverted bigger chunks of water as part of the Second Aqueduct program. So, one of the things we did was produce a fairly comprehensive report, I remember Lloyd Anderson worked on it when he was Staff Engineer in the aqueduct offices in L.A. We laid it all out including a graph showing the future water level

at Mono, and discussed some options for trying to reduce the rate at which the lake would decline.

One of options was the use of a thin monomolecular film covering the lake. We built a couple of concrete lined swimming pool shapes on the shore of Mono Lake and pumped them full of lake water then sprayed the film over the top. The thought was that maybe evaporation could be reduced by the film cover. The studies showed that while it would reduce evaporation some it tended to interfere with the mobility of the brine flies. So, it was recognized that besides being a public relations loser, it was a biological loser. However, It didn't seem to hurt the brine shrimp.

At any rate that report was put out saying, "We know it's an important issue, we know our operations are going to cause the lake level to fall even farther. Here is our best estimate of what's going to happen to the future." Our rationale was that as a responsible public agency we couldn't pretend that there was no problem so we laid it out for all to see.

Then David Gaines and the group from Stanford arrived at the lake and did their studies. Then Huey Johnson, Secretary of Resources for Jerry Brown, took an interest in it and put together the Mono Lake Task Force. For a couple of years we had meetings up and down the state. Eventually, a report was prepared, I think it came out in 1979, and there was a unanimous decision, but for one, D. L. Georgeson, who prepared a minority report. It really ticked me off because Jack Coe, from Water Resources, was on the Task Force, and he went along with the Fish and Wildlife Service guys, Fish and Game and Forest Service. He wound up getting a bonus for the "fine work" he did on the Task Force.

An interesting little chapter on Mono Lake. I came back to Aqueduct

in 1972. One of the first guys to come into my office from the aqueduct staff and giving me some badly needed advise was Louis Sanchez. Louie was in charge of the water rights group. "Duane," he says, "I don't know what's the matter with you guys in management. We finished the Second Aqueduct, it's been running full, we ought to go get our license. Once we've got the license, it's like burning the mortgage on the ranch."

Our legal advisor in those days was Ralph Wesson, keep in mind that this was probably mid-'72, so I said, "Gee, Ralph, what do you think? Louie thinks we ought to go get our license." Ralph says. "Naugh, Duane, I think we ought to wait, I think I see the environemntal pendulum starting to swing back." And here it is 26 years later that that pendulum is still out there, or we didn't duck and got hit.

We did request our license, and one of the fascinating things was that in checking old records in the filing process some guy on the staff of Fish and Game found that we had not built our diversion structure on Lee Vining Creek where we planned to build it. We had built it a mile farther up the stream. That is we dried up one more mile of stream than we had filed for. We got this information and we were really nervous figuring that the state Board could say, "Well, you've dried up a mile of stream, we'll give you your license as soon as you prepare an EIR on drying up that mile." We had visions of having to move the diversion structure down and pump the water back up and etc.

I had gotten to know the Director of Fish and Game, Charley Fullerton, so I went up to visit Charley and I remember we had the conversation in the elevator. I said, "Look, Charley, we're about to get our license and there's a guy on your staff who's quibbling about this mile of stream we dried up." When we got to the ground floor, Charley says, "Duane, I think the ship has sailed on that." And that was the

end of that problem.

We got our license and the thing that made it sweet to get the license was that Ron Robie was the vice-chair of SWRCB. As a matter of fact, Ron gave a talk out at Burbank a couple of weeks ago and he recalled that as one of the things he had looked pretty carefully at before the public trust doctrine came along. He said the attorney's told him he didn't have any choice so the license was issued. Little good it did when Rose Bird's Supreme Court got through with us.

NELSON: You mentioned David Gaines. Did you get to know David?

GEORGESON: We did a fair number of debates around the state. I think David's motivation was to saving the lake. I think the California gulls were always just the handiest dramatic vehicle. If every nesting seagull at Mono Lake died it wouldn't have made much impact. A lot of boat owners in California marina's would be happy. The seagulls were kind of a red herring in my opinion. But, I guess that when you get into the business of conducting a crusade, both a political and media crusade, dramatic is far more important than fact.

Biologically, the seagulls were not threatened. However, there is a species of bird around the shore of the lake, the snowy plover, that is threatened. The main reason it's threatened is the predation by the seagulls. The plover's don't nest on the islands, they nest on the shore.

NELSON: What about Martha Davis?

GEORGESON: Before Martha Davis came upon the scene there was a guy, Ed Grosswiler, who had been on Oregon Congressman Al Ulman's staff. Ulman had chaired the House Ways and Means Committee, a powerful position.

Anyway, Ed, an attorney, became the first director of the Mono Lake Committee and served for about a year before deciding to move on to greener pastures.

When he left the Mono Lake Committee he went to work for Portland General Electric power company. So, he wasn't quite as green as one might think, although power companies hire green attorney's some times.

Interestingly, in all the power deregulation here recently in California, Ed showed up working at putting together this new independent System Operator, the Power Exchange. I had dinner with him in San Francisco not long ago.

After Ed, Martha Davis showed up. I suspect she and David Gaines and the others decided that the most fertile ground upon which to do their political and public relations work was Los Angeles, even though their financial base was always in the Bay Area. So, Martha went out and rented an office in Westwood and started working on some council staff members.

NELSON: What would you estimate as her percentage of time spent in Lee Vining and West L.A.?

GEORGESON: I would guess that she only spent about 10 percent of her time in Lee Vining. If you would know anything about Martha's former organization, you'd understand how tough an advocate she was going to be. She came out of the Greenpeace movement - and those people are tough. I would say that by and large we had a professional working relationship with all of our adversaries up there. Unfortunately, they ran circles around us because they had the better story to tell.

One of the things I used to kid about at the Department when people would get sensitive about some of my aggressive proposals was, "For gosh

sakes, everyone accuses us of having all this heavy-handed clout. We've got the reputation, we might as well use a little of it once in a while."

NELSON: David Gaines was later killed in an automotive accident.

GEORGESON: That was sad. The thing that was really sad about it was that he had gotten married to Sally Judy and they had a child. They were probably a struggling couple. I don't know if David ever made much money out of the program. He was obviously a dedicated guy, but probably enjoyed, as we all do, some of the fame, if not the fortune, that went with it.

My daughter attended UC San Diego, Muir College. She arranged a debate between David and me. I told a little story about David that Ken Downey used to tell about going skiing at June Mountain and that in one of the stalls at the ski lodge someone had written, "Duane Georgeson sucks." Ken swore it was true and he had seen it. So, I told the story and I said the interesting thing was that it was written in David Gaines handwriting. I think my daughter was terribly offended by my coarse humor.

NELSON: What about dust on Owens Lake?

GEORGESON: The dust thing goes back quite a ways. One of the things I got the staff to do at both Owens Lake and Mono Lake was to take a picture every day at about the same time in the afternoon, so that at the end of the year we would have 365 pictures. The pictures were taken from a hill overlooking Mono Lake up, and I think, on Oak Creek, looking southeast towards Owens Lake. One of the things the pictures dramatically showed is that it's darn rare when there is dust in the

air.

The thought was that we could use the photos as a factual basis for showing that the dust issue was pretty much a red herring.

One of the problems we had on Owens Lake is that there is a huge scientific PH.d bureaucracy over at China Lake and Ridgecrest. In part, to deal with this, we developed a working relationship with the military CO, an admiral, then a captain, and some of the public works staff to try to keep things on a professional level, to balance the idle outrageous charges floating around like those made by Pierre St. Amand, one of the world's great windbags, no pun intended.

One of the lines I heard from the captain at China Lake was, "You can't imagine the mischief caused by a thousand PH.d's without enough to keep them busy." For awhile the President of the state chapter of the Sierra Club, was from China Lake. So there was a cadre of people with the scientific tools to pursue the issue and help out the Great Basin Air Pollution Control District.

In the case of Mono Lake the dust is almost 100 percent red herring because when there is dust it originates on the east side of the lake and blows east. Nobody lives anywhere nearby to the east.

But, you create a bureaucracy, whether it's the Great Basin board or the California Air Resources Board. You hire people and give them titles of air quality experts and it gets tiring monitoring air pollution along the freeways of Los Angeles or Sacramento. It's a lot more fun to go out and spend some time at Mono Lake.

Looking at it a little more objectively, when people are trying to make headway with a legitimate environmental issue it almost inevitably gravitates towards whatever problem it is that gets into the newspapers. For example, If you are trying to establish a

particular particulate standard and no one pays any attention to the particulates that come out of automobile exhausts or plating plants, but, they do pay attention to the particulate matter that originates on this pristine lake bed that was Owens Lake.

Keep in mind the truth is that Owens Lake was about two-thirds dried up before Los Angeles built its first aqueduct. It started drying up in 1860 when farmers started diverting water onto the fields. By the turn of the century there was quite a bit of land being irrigated, up to maybe 50,000 acres, primarily meadowland. At any rate, those dried up areas that produce the dust at Owens Lake existed before L.A. entered the picture. Of course, L.A. finished drying up the lake between 1913 and 1923. The part that L.A. dried up has been a a smaller producer of dust.

NELSON: Why hasn't the Department told the state Lands Commission to take care of the problem?

GEORGESON: There's a Supreme Court decision that requires L.A. to keep water off the lake as a result of a suit by the State. But of course, consistency is not one of the requirements when you get into one of these battles. As far as China Lake is concerned, I think the Naval Weapons Center was developed during WW II. So, Owens Lake had been dry, producing dust for at least 20 years before the Navy showed up. It's kind of like the people who bought in Westchester ten years ago and who now say, "By gosh, there's an airport here (LAX) and it makes a lot of noise."

Shortly after the Mono Lake Task Force report came out, which then became Exhibit A in the lawsuit that the Santa Monica chapter of the Audubon Society filed, their attorney's, Bruce Dodge and Palmer

Madden, came in (5-5-79) to meet with our General Manager, Louis Winnard. I was there, but don't remember who else might have been present. They said they were contemplating filing a lawsuit. They later quoted the Department as saying, "Good thing you're young, because we're going to drag this lawsuit out a long time." Which is a fairly accurate quote.

What happened is that as we were getting into this conversation, I pointed out that water rights litigation can be time consuming and I cited the example of the San Fernando Valley suit that was filed in 1933 with the Supreme Court decision. It was filed again in 1955 and wasn't settled again until about 1980. So, I said, "Good thing you're young..." So, it was a fairly accurate quote. But, the Mono Lake case got settled pretty quick, only 14 years.

NELSON: Were you satisfied with your legal representation as provided by the City Attorney's Office?

GEORGESON: By and large. But, there were occasional problems associated with Jan Chatton-Brown. In one other area I had a significant difference of opinion with Ed Farrell. Originally we had an attorney, George Grover, represent the Department in the appeal of the San Fernando case. George won that, and then became a judge, so we retained Don Stark to take the case. Then, when Mono Lake litigation fired up Don took on Mono Lake. Tragically, Don and his wife, Jackie, were in Italy on vacation when they were killed in a freak auto accident.

By that time I was completely convinced that we had a political lawsuit, not a legal lawsuit. There was a proposal by two young people out of Don Stark's office, Guido Smith and Susan Traeger along with Ann Schneider, now quite a successful attorney in Sacramento,

who at that time worked for the Governor's Water Rights Review Commission, as I recall, to take on the case for us. The three of them added Bob Pelsiger, who had been doing Indian litigation up at Pyramid Lake

I liked the idea because they were representing Indians and not big "black hats." But the City Attorney's Office was far more comfortable with the Adolph Moskovitz firm.

NELSON: Duane, let's talk about the politics of Mono Lake. Was there a North-South bias with the Court?

GEORGESON: The issue with the courts being involved with Los Angeles' water rights started first with the Owens Valley groundwater pumping which had started in the fall of 1972. That litigation which rather quickly came to be dominated by the Third District Court of Appeals in Sacramento, had been underway for seven or eight years before the Mono Lake litigation began.

It was always my impression that the Third District Court of Appeals clearly had a pro-environment slant and was probably anti-Southern California. This is not surprising. All one has to do to obtain a pretty clear reading of Northern California bias against Southern California on water issues is to look at the 1982 vote on the Peripheral Canal where virtually every California county north of Kern County voted against that measure, and not by small margins, but by margins of 9 to 1 and larger.

In San Francisco the No vote was probably 93-94 percent. In Marin County it was 97 percent. I have never heard of a 97 percent vote, except when LBJ was stealing the senate race in some of the border counties in Texas. It would probably be a real anomaly to find a court

in Northern California where the judges were able to eliminate that North-South bias on water issues that they grew up with.

The Third District Court of Appeals, which turned out not to be a big player on the Mono Lake litigation, clearly demonstrated a strong bias against Los Angeles on the Owens Valley groundwater pumping issue.

I don't remember all the details on Mono Lake, but there was a greater role played by a Superior Court Judge there.

In talking about the politics of Mono Lake, one of the things that the Department did in order to try and improve its chances with the California Supreme Court was with the Water and Power Associates and the active participation of Sam Nelson. The Associates put up the funds and I believe commissioned Pat Brown's law firm to prepare a brief on behalf of some minority customers in South Los Angeles. The brief's point was that the Department wouldn't be harmed by an adverse decision on Mono Lake. It would be the customers, many of whom were low income and minorities. I thought that was a pretty noble effort by the Water and Power Associates. They came up with a good law firm with name recognition including a member of the firm who had probably appointed one or more justices to the high court. I'm sure that's not the first time in history that kind of thinking has gone into the hiring of a law firm to try to make an impression with judges at whatever level.

The interesting thing to me was that the California Supreme Court selected the one minority justice, Alan Broussard, to write the opinion. It struck me that maybe it was an effort on the part of the Supreme Court to checkmate us on racial politics. I think Rose Bird was still Chief Justice, although I won't bet too much on it.

Justice Broussard's opinion (6 to 1 favoring) basically supported public trust values and opposed water and hydropower irrespective of

the fine brief written on behalf, I think, of the Black Agenda.

The Department had been pretty successful at generating community support, ethnic group support, City Council support and the support of Mayor Bradley in the battle over Owens Valley groundwater pumping and particularly in the Mono Lake issue.

NELSON: Who carried the ball for the Department among community groups?

GEORGESON: We had great support on a number of issues from the Valley Industry and Commerce Association (VICA). They helped in fighting legislation opposing reconstruction of the Van Norman reservoirs (Los Angeles Dam and Reservoir). VICA played a role there as well as did the United Chambers of Commerce of the San Fernando Valley, the Van Nuys Chamber of Commerce in particular. There was a fellow at the Van Nuys Chamber who really did good work on behalf of the project.

In VICA, we had Tom Sellack's dad, Bob Sellack, who was with Coldwell Banker. Then there was a guy, Al Zoraster, who was a terrific asset to us. Other groups like the Harbor Industry and Commerce Association and Headquarters City helped. Later, a little bit of help, but not too much, came from Central City Association.

Because of the North-South water bias, I used to question the efforts of MET in trying to separate their image from the Department. I remember some fifteen years ago MET hired a public relations firm to develop a new logo and try, as we kiddingly said, to make MET a household word.

My experience, particularly in dealing with North-South issues was that MET was probably better off having the Department be the high profile Southern California water agency because the bigger the water agency the more vigorous the Northern California bias and the more shots you took.

In general it seemed to me to be a better strategy to taking our case

to the community and business leaders rather than to the public and I think it was borne out by what we were just talking about. The handicap the Department has is that every month they irritate a million customers by sending them a bill. It's pretty hard, in my opinion, to try and overcome the negative aspects of that bill that rolls around and gets big during the summer time. In my opinion, the public relates almost totally to the size of their bills.

The City Council liked to "grandstand" on water rate increases because the revenue to the city general fund didn't amount to much on water. Then they could quietly slip through a power rate increase where the contributions to the general fund, between the Utility Tax and five percent transfer, were more important.

I guess the point I'm making is that with a million customers it's probably impossible to make yourself a warm, fuzzy water and power utility to them.

NELSON: In dealing with Sacramento, I guess the Department carries a lot of baggage and do not tip very well.

GEORGESON: As a matter of fact, we're not tippers at all. Since elected officials have to run an election campaign every two to four years, they tend to remember the people who show up at their fundraisers and write checks to the campaign.

Farmers do that and municipal utilities do not. I don't even think investor-owned water utilities, which are few in number in California, do much contributing, but farmers sure do. I don't know that the farm bureaus do much contributing, but individual farmers do, and then there's a number of different grower organizations like Western Growers and the Tree Fruit League.

So, there's a lot more farmers who see a far more direct connection to their water supply, it's a bigger part of their cost of doing business, than it is for the typical urban business operation. Even the power costs to Southern California business tends not to be a big deal. Labor costs are a lot more important, plus zoning issues and that sort of thing.

So, in trying to level the playing field in the Legislature and the California courts we seemed to have more success working with business groups which we talked about, and some of the ethnic groups. I think the Department got pretty actively involved for awhile in working with the local ethnic groups around Los Angeles. I mentioned the Black Agenda who filed a brief on behalf of minority members who were our customers. The Department had a program involving a number of our employees, including minority employees, who were encouraged to join local Chambers of Commerces. At some of the ethnic group functions the Department would purchase tables. As a matter of fact, in working with some of the ethnic organizations the Department sponsored a number of events where we honored members of the business community. We also sponsored the very successful annual Conservation Awards Luncheon, which Mayor Bradley helped establish with us. This had the benefit of the Water System being able to shine up its conservation image in the presence of elected officials who were important to us, like the Mayor. The thing that made it a successful program was that the typical company manager who oftentimes reported to a higher headquarters back east or someplace else, seemed to appreciate the value of showing up and receiving a certificate presented to him by the Mayor of Los Angeles. He could show the folks back home that he was doing his best for conservation, plus also hobnobbing with the Mayor.

In that type of activity I thought the Department served somewhat to mitigate the fact that we couldn't write campaign checks. One of the comments I used to make and I still believe is that the average farmer in the San Joaquin Valley had more access to a state Assemblyman or Senator representing the City of Los Angeles than the Department does. The reason being that the Assemblyman or Senator, particularly those serving on the Assembly or Senate Water Committee, saw it in their best interests to listen to the farmers, growers and cattlemen.

I was very proud of the efforts of a lot of Department employees, Public Affairs Division, and Department Management in programs to work constructively with our communities. By building relationships we were able to go to those communities when we needed help on political or even legal issues.

Our local community leaders know the value of an affordable supply of water and electricity. They know that a lot of members of their community don't have a lot of money to fritter away to preserve the lifestyle of some hiker in the Sierras.

NELSON: When did you come to realize that the Department was going to lose something on the Owens Valley groundwater pumping?

GEORGESON: I was always more optimistic on the groundwater pumping and maybe more enthusiastic on the groundwater pumping than Mono Lake for two reasons. The first was that the groundwater pumping was a more critical part of the water supply because it was a dry year supply. It was what you relied on to get you through the drought. Whereas, in time of drought the runoff from the streams in the Mono Basin tended to drop way back. Maybe it averaged 100,00 acre/feet in wet years, but that was irrelevant, because we had enough water in the Owens drainage

to fill the aqueduct and we were prevented by Court cases from bringing Mono water in and flooding Owens Lake. So, the Mono Basin didn't mean anything in wet years, except it brought the level of the lake up. In average years it was 100,000 acre/feet. In dry years it was not much more than 40,000 acre/feet. And, we would be irrigating with some of that water.

By contrast, in dry years, the groundwater pumping was expected to be 250,000 acre/feet, five or six times the expected dry year supply from the Mono Basin. Secondly, it struck me that in a rational world the dramatic lowering of Mono Lake was something for everyone to see as they drove by on Highway 395. The lake was much prettier at a higher elevation than it was at a lower elevation.

In 1972 when Lloyd Anderson prepared the first report on the future of Mono Lake, I think there was a recognition that the Department was going to have an extremely difficult public relations-political-environmental battle over the lake. Even though we gave it a pretty good rip in litigation in Washington and Sacramento in protecting our rights quite a while, it didn't surprise me a great deal that Mono Lake went the way it did. How badly the SWRCB decision turned out surprised me coming from the Pete Wilson administration. I guess I chalk that up to the water folks in Sacramento doing a little bite of their "environmentaling" outside the Central Valley where they had a bigger political interest. It was easier to stick it to the people of Los Angeles than, for example, to tell Boswell they had to refill Tulare Lake.

At any rate on Owens Valley groundwater pumping I thought, "Gee Whiz, L.A. owns the land. They've been pumping from the groundwater basin since the '30s, plus the impact was on the salt brush that didn't have

much in the way of natural habitate associated with it. We should be able to turn this into a winner for us." Boy, was I wrong.

But, the Third District Court of Appeals pretty well demanded some constraints on the operation of that groundwater basin that I think denies most of that groundwater pumping, not only to Los Angeles, but it's denied to the people of the Owens Valley. Basically, what they're saying is that we have to keep the basin full, even though that causes the water to evaporate directly to the atmosphere and leaves behind alkalai salts.

Owens Lake had not blossomed into the issue it is today while I was with the Department, althought, I was part of an effort in the legislature with Senator Ralph Dills, trying to protect ourselves from the clutches of the regional air quality management district. We finally agreed to a process whereby if we were taken advantage of too badly by the regional folks we could appeal to the state air resources board (CARB). The Department has recently completed that process and has gotten a little bite of relief from CARB, but not much.

Owens Lake was pretty dry even before L.A. showed up because the farmers had been diverting a lot of the water that would have flowed into it. Some people have waxed eloquent about the Owens Valley before L.A. arrived in 1905. Any agriculture there was in the valley probably resulted from water being diverted from the Owens River and drying up Owens Lake. If there was as much irrigated land in the Owens Valley as some have claimed, it was at the expense of Owens Lake. It couldn't be had both ways.

There was an interesting letter to the editor recently in the Los Angeles Times in which the writer pointed out that it was a shame to stick the people of L. A. for the dust problem at Owens Lake

since the Owens Valley farmers would have certainly dried up Owens Lake within ten years of when L. A. did it. But, that all gets swept under the carpet.

Going back to your question about when I realized we were in trouble over groundwater pumping. It was when the Third District Court of Appeals took over the entire case on original jurisdiction. An appeals court is a terrible forum to try to deal with factual issues. There were a lot of facts involved, at least on the Department's side of the case. Then at three different times the Court reduced the interim pumping limitation. It went from 240 to 220 to 178 to 149 (c/f/s? acre-feet?). In the drought of 1977, which was four years into the Third District Court of Appeals handling of the case, the Court gave a higher priority to the use of the groundwater pumping to our rancher leasees than they did to the people of Los Angeles who were using the water for municipal purposes.

The Court rejected our first EIR in 1976 because of an inadequate "project" description. They rejected our second EIR in 1979 because of an inadequate "no-project" description. So, seven years into the case people were starting to feel like Brer Rabbit and his tar baby. We were saddled with this EIR and there didn't appear to be anyway to get rid of it. The Third District Court of Appeals and Judge Coleman Blease in particular, clearly seemed on a vendetta to punish Los Angeles.

You kind of wonder what goes through a judge's mind. Obviously, it certainly would appear that the Court felt that the Department's behavior was deserving of punishment. I recently read a book, A Passion For Justice, where Coleman Blease was prominently mentioned with Congressman Phil Burton in the efforts to save Lake Tahoe. So, Blease

appears to be a man with longstanding interest in protecting the environment. He apparently felt protecting the environment was a lot more important than protecting a dry year supply of water for the people of a big city.

NELSON: The issue of original jurisdiction taken by the Third District Court of Appeals has puzzled me. They really don't have staff to ferret out facts do they?

GEORGESON: That's not their role as I understand it. Basically, their role is to review whether a lower court has properly interpreted the law. Typically, all matters of fact are resolved at the trial or superior court level. Secondly, appeal courts have very busy appeal schedules. While they kept the case a long time they didn't give it much attention. They would review a few briefs every year or so. They might have a two or three hour hearing. In a case that has the kind of scientific and technical complexities that the Owens Valley groundwater pumping project had, they were totally unprepared to deal with this case. I've talked to a lot of water and other attorneys and have never heard of a similar case where it was kept at the appellate level for one year let alone 24 years under original jurisdiction.

NELSON: Maybe you don't know this, but what types of cases would be kept by the appeals court?

GEORGESON: I only know of this one. I think it would be an interesting subject for a law review article. I think that most people familiar with the Owens Valley realize that the Department's history in the Owens Valley gets written about frequently. Usually every reporter describes it the same way as the 10,000 reporters before him or her described it

with very little in the way of new research.

Even recent scholarly authors like Bill Kahrl, Water and Power. and Abraham Hoffman, Vision or Villainy, didn't put much effort into reviewing recent history. Kahrl covered maybe a ten year period of the Owens Valley groundwater pumping litigation and was published just as the Mono Lake issue was heating up. Anyway, Kahrl covered the groundwater pumping controversy but he did it by quoting from newspaper articles. I was very disappointed because I thought Kahrl had done some good original research, using original documents when he was researching the period around the turn of the century and up through the 1920s. He reviewed documents in the National Archives, Bureau of Reclamation, and the histories of Joseph Lippincott, Fred Eaton and William Mulholland.

He didn't write that part of his book by quoting from newspaper articles. I think we all realize that a newspaper is a pretty poor way of getting a balanced view, particularly when there is controversy involved. About all Bill Kahrl did in the groundwater pumping issue was quote from Bob Jones' articles in the Los Angeles Times balanced by a few quotes from the Department, usually me, denying Jones' conclusions and journalism.

Kahrl handled this as if the news stories in the L.A. Times during that era were an accurate representation of what was really going on in the Owens Valley. During that period of time, I had recently returned from living in the valley and was still a subscriber to the local Bishop newspaper, having it mailed to me in Los Angeles. Throughout most of the groundwater pumping and even the Mono Lake controversies the Owens Valley newspapers were far more accurate in their reporting than the Times was.

NELSON: I am still facinated with the Court's original jurisdiction on the groundwater pumping issue. They really didn't have any investigative powers did they?

GEORGESON: No, not really. Tony Rossman, the attorney for Inyo County, a flamboyant, colorful writer, seemed to produce the characterizations that were more in keeping with what the judges thought was equity than what Los Angeles put forth in our thick documents.

When Coleman Blease was in private practice prior to his appointment to the bench by the then Governor Jerry Brown, he shared practice with another to-be judge, Lawrence Carleton. At about the same time Blease was appointed to the California bench, Carleton was appointed by President Jimmy Carter to the federal bench. At one point the Mono Lake litigation was in federal court as well. Lo and behold, who was it in front of, Judge Lawrence Carleton.

NELSON: When you realized the groundwater pumping issue headed a little "south", what was the strategy then?, prolong the process and obtain as much water as possible?

GEORGESON: After having busted our behinds trying to get an EIR through the process only to have it summarily rejected by the appeals court -- I'm trying to remember -- when we originally received the court's decision on our groundwater pumping EIR, as I think I mentioned earlier, we consciously choose not to appeal it to the California Supreme Court because we had a pumping limitation we could live with. Judge Richardson had been appointed to the California Supreme Court.

Later on as we received further rejections by the Third District Court of Appeals, I'm pretty sure we made some effort to get the California

Supreme Court to overturn the decisions. The Supreme Court showed no interest whatsoever in taking the case. So, at that point, we were saddled with the Third District Court of Appeals.

When they rejected our two EIRs, it was pretty clear that we were going to have to do something different. There was probably some recognition that as long as the pumping limitation didn't get cut back further we wouldn't be hurt too badly. But actually a delay strategy was not too appealing because five years into the case the Third District Court of Appeals had basically ruled in favor of the ranchers over the people of Los Angeles. So, there was certainly no great comfort living under the restrictions of the groundwater pumping.

I think the biggest strategic decision that was made was to try and remove the attorney's from the loop and to work out some sort of accommodation with the Inyo County elected officials. Our thought was that if we could satisfy Inyo County, the Third District Court of Appeals would be satisfied. Of course that thought was wrong.

NELSON: You say there was a disappointment later in the Mono Lake issue when the California Water Resources Control Board got involved. Why was that?

GEORGESON: Throughout the case there was kind of a magic number, I believe it was 6378, and that was the elevation of the lake that would keep Negit Island an island. There were always suggestions by outsiders that we idiots at the Department should sit down with the Mono Lake Committee and reach an accommodation because we were obviously not on the popular side of that environmental issue.

What I used to hear from some of my friends in the water business was something like, "Frankly, it's kind of embarrassing to us in

Northern California trying to jolly up people in the delta and you're poking your finger in Northern California's eye by what you are doing at Mono Lake."

NELSON: Was Mono Lake considered a Northern California resource?

GEORGESON: Absolutely.

NELSON: Where's the line?

GEORGESON: I think the line between Northern and Southern California is the Tehachapi Mountains. In 1982, every county except Kern County north of the Tehachapi's voted against the Peripheral Canal, and not by a small margin. I think that in 1982, at least from a water standpoint, we discovered where Northern and Southern California are located.

Although I have to say that a few years after that there was a move to divide the state politically and I got the biggest kick when the enviro's, or Northern Californians drew the line, San Francisco was in Southern California. Since that was intolerable, shortly thereafter the San Francisco folks came up with a plan to divide the state into three pieces. Maybe the people in the north end of the state couldn't tolerate San Francisco being in the same state as them, but San Francisco couldn't tolerate being lumped in with Los Angeles.

At any rate the Mono Lake Committee tended to focus on this magic number of 6378'. As it turns out the Department could have maintained the lake at 6378' by only giving up only half the water. From time to time people in the Mayor's Office and Mike Gage, when he was Deputy Mayor, and later on when he became a member of the Board of Water and Power Commissioners, and Mary Nichols, when she was on our board, took a

run at trying to sit down with the Mono Lake Committee and cut a deal. But, usually the deal would be no where near a lake level of 6378'. Immediately they would say a ten foot cushion was needed to protect the lake during dry periods, etc. etc. There didn't seem to be any real concern about scientific issues like the brine shrimp or brine flies or salinity levels.

I suppose that if you look at the dynamics of running a volunteer organization the last thing in the world you would want would be a solution to the Mono Lake problem. They were getting by on contributions largely with some grants. They sold a few books, maybe more than a few books, at their visitor's center in Lee Vining. I probably bought a book or two there myself.

As I said before they were doing a good job, but from my experience there was never a deal on the table that basically gave Los Angeles anything. Maybe the Mono Lake Committee accurately assessed their political strength and assessed the willingness of their constituency to cut a deal. What they wanted, as Ken Downey would say was the "whole Enchilada." People who had pretty good credentials in the environmental community like Mike Gage and Mary Nichols discovered that finding any kind of accommodation was pretty hard. As a matter of fact, they didn't have any more luck than anyone else.

When the state board got the case they spent a huge chunk of the Department's money on science, and then in my opinion, ignored the science, and settled on a lake level of 6392', which is four feet higher than even the ten foot buffer on top of the magical 6378'.

I can only conclude that the state board did that because it was good politics for the Pete Wilson administration. The City of Los Angeles is not closely associated with the Wilson administration and

the Department is a big bureaucratic organization. If one wants to strike a blow for the environment, at least you weren't punishing the Central Valley farmers who write big campaign checks.

NELSON: You're saying the 6392' elevation was not supported by science?

Georgeson: No, I think that in order to justify an elevation as high as 6392', given the fact that the ecosystem, the birds, along with their food sources was the primary ecosystem at Mono Lake, were thriving when the elevation was about 6378'. The only way one could justify going up to 6392' would be to get into, what I consider an absurd area, air quality.

At the higher elevation a large source of the fine particulate matter on the east side of Mono Lake would be inundated. That material doesn't get stirred up into the air very often, but when it does it tends to move east out into the high desert of Western Nevada. Out there the issue of population centers like Keeler, Lone Pine or China Lake is moot. It always struck me that the dust issue at Mono Lake was a total red herring.

NELSON: Were you comfortable in your dealings with the Mono Lake Committee?

GEORGESON: I had many, many cordial meetings with members of the Mono Lake Committee. I just don't think it was in the cards. Trust never really got to be an issue. They had their propagranda, and we had our quote, "facts". It was kind of an agreement to disagree without being too disagreeable.

NELSON: They were a moving target?

GEORGESON: It's pretty clear what their goal was. It was to stop all water exports from the Mono Basin.

NELSON: Do you think that was their goal from the beginning? Could they have imagined in the beginning that they had a chance to battle toe to toe with the Department and win so decisively?

GEORGESON: To get into that business, and maybe I shouldn't characterize it as as business, I should maybe say cause, I think one must possess a high degree of optimism. I don't know if David Gaines or some of the people he worked with early on, or even Martha Davis, ever indicated their initial goal was to halt all water exports. It's pretty clear that their pronouncements that they wanted to reach an accommodation was an important part of their political strategy, particularly when they started working with closely in Los Angeles when they opened an office in Westwood and developed some close working relationships with some staff members for Zev Yaroslavsky and particularly Ruth Galanter. I think it was important for them to have a posture that was reasonable. For them to announce that their goal was to halt all water exports would have probaly been perceived as unreasonable. But, it wouldn't surprise me greatly that some of their motivation was based on a goal of halting all water exports.

It's like Congress who have passed the Endangered Species Act. The Courts had basically said it surpasses all the other laws in the land. It is superior to property rights, it is superior to water rights. Endangered species basically is a federal policy to return the environment to the way it was in its pristine state.

We have a situation where the goal of the present Secretary of The Interior is to tear down dams. Not only to prevent new dams, but to tear down existing dams. Late in his life, Barry Goldwater is quoted as saying he thought building Glen Canyon Dam a mistake. Now there's a group with a goal of tearing down Glen Canyon Dam, so, it's not much of a stretch of the imagination to think that an environmental group would have as a goal stopping the export of water from the Mono Basin. I'm sure there are people who are familiar with the Owens Valley who's goal is to stop the export of water from the Owens Valley. There is a pretty sizable group of people who would like to halt the export of water from the Sacramento Delta to Southern California.

You know we have the U.S. Fish and Wildlife Service and the National Marine Fishery Service managing fisheries to eliminate any introduced species if that's what it takes to protect the native fish there. In the Colordao River there is the very popular trout fishery which is an introduced species. The trout are predators on the native fish which are suckers, chubs and squawfish. The law of the land is to favor those suckers, chubs and squawfish over the trout. That is the law.

NELSON: What is the makeup of the California Water Resources Control Board?

GEORGESON: There are five members of the Board with a staff of seven to eight hundred people. They are appointed by the Governor and confirmed by the Senate. They have a four year term and can be reappointed and they tend to bridge administrations. They are not as partisan as some boards. In the last 20 year or so they have had the responsibility for both water quality and water supply.

While my comments are probably a little harsh in terms of the decision

they made, I would make it clear that I think we presently have as good a Board as I've ever seen. They are competent and far more balanced in terms of North-South than previous boards. The problem faced in getting water decisions in Sacramento is that the people who provide staff support for the state board, and the board members themselves, even though they may have been Southern California residents when they were appointed, have become Sacramento residents. They live in a city that is committed to having no water meters. They are part of a group of people who voted 92 percent against the Peripheral Canal. I think there is an antipathy towards the sprawling masses of Los Angeles. I think it's kind of unavoidable. I don't think either the staff or the board members are bad people. But, I think that to some extent they have become products of their environment.

When I talk about the board settling on 6392' elevation for Mono Lake, I think that's a reflection of recommendations that came from the staff. I think the staff weighted the science that was developed by the Department and the science developed by the Mono Lake Committee and when they were developing recommendations for the board the environmental they were born into, or live and work in tended to favor the Mono Lake Committee science and not that of the bureaucrats of the Department. I think that has an influence on the decisions the state board makes.

There's a similar problem over the decades as the state board reviews the water rights for the State Water Project. I think we have a more balanced set-up now with the present board, but back in 1988 the state board came up with a ruling on water rights for the Sacramento Delta. Basically, even though Southern California is paying 70 percent of the State Water Project, the board said there should be a moratorium

on further exports to Southern California and that the south should solve its problems with water conservation. Even though the state has a contract for Southern California to keep paying 70 percent of the costs. That was a totally outrageous recommendation from the state board. One of the things that was helpful in convincing the Governor, at that time probably George Deukmejian, to put a little pressure on the state board to abandon that position, was a letter he received signed by five California mayors, on Tom Bradley's stationary and containing the signatures of Art Agnos: San Francisco; Lionel Wilson, Oakland; Tom McInerny San Jose; and Maureen Connally, San Diego.

The point I'm making is that for the state board to appear to be prejudice against Los Angeles or Southern California on the Mono Lake issue is not a departure from the degree of prejudice they showed in their 1988 proposed decision on water rights for the State Water Project. That decision was so outrageous that the mayor's in the Bay Area could join the mayor's of Southern California in opposing it. Mike Gage, Los Angeles Deputy Mayor at that time, should be given a lot of credit for putting the letter together. I composed the letter with Mike's help and he got the signatures.

NELSON: We've talked about the Mono Lake Committee experts and the Department experts. I remember during the nuclear energy controversy, which I guess still rages, a small group of scientists veered off from the main body and forecast doom and gloom. That relatively small group, many of whom were in specialites outside nuclear energy and physics, were afforded the same credibility as the mainstream scientists.

GEORGESON: I think that when you get into a court or the legislature where from a scientific standpoint you have lay people trying to decide complex technical facts you may face trouble, I heard the terms, "warring experts" many times.

A lay person like a judge or legislator typically doesn't have the ability to distinguish between a scientist who is learned, experienced and conscientious and one who is merely for hire. Generally it's just assumed that the experts offset each other. The 5 pound scientist offsets the 600 pound scientist. Then the judge or legislator does what they darn well feel like.

I've even heard and seen that applied elsewhere. For example, the O.J. Simpson case. A lot of scientific facts are presented by the prosecutors and the defense attorneys manufacture some pseudo-science and then they tell the jury that the science balances out so it was up to the jury to apply its judgement.

As it turns out Los Angeles has been pretty lucky because since the state board made its ruling, we've had four consecutive wet years so that the Mono Lake level has come up and some water is now being released to the Department. Actually, this year they have two full aqueducts without any Mono Basin water and without groundwater pumping because it had been such a wet year.

NELSON: When Grant Lake Reservoir was constructed, I was under the impression that the Department supplied the funds to build Hot Creek Fish Hatchery as mitigation for drying up the lower reaches of Rush Creek. What happened?

GEORGESON: I think what a dam builder faces when they provide mitigation is the refrain, "What have you done for me lately?" In

hindsight, that's the problem in going back and applying today's circumstances to the circumstances that existed 60 years ago. A few miles of trout stream in 1936 was no big deal because you didn't have fishermen standing shoulder to shoulder at all the lakes and good fishing spots up and down the Sierras.

Secondly, fishermen in those days were interested in catching and eating fish. They didn't care whether the fish had been raised to catchable size at the Hot Creek Fish Hatchery. All they cared about was that when they went fishing they wanted to catch fish. But now, and I suppose it's part of the philosophy of endangered species that one tries to preserve things in a natural setting. So, now a fish that is raised naturally in Rush Creek without the intervention of man is more highly prized than the one that is given a big boost by man by being raised in the hatchery.

You see this all over the West where artificial spawning channels have been constructed to make up for the salmon runs that are intercepted by dams. Those are viewed by the naturalists as totally inadequate. As a matter of fact, if you left it up to the environmental and preservation people the dams would be gone so you wouldn't need fish ladders. Hatcheries would also be gone as they are considered worthless and an interference with the Darwinian principals of the survival of the fittest.

So, you don't get any credit at all because you have mitigated and are generating maybe a hundred times as many trout at Hot Creek as were ever produced in the lower reaches of Rush Creek. Rush Creek has now been restored, but do you see fishermen standing out on the hot brush slopes of lower Rush Creek. Heck no! They're back up 2,000' higher in the Sierras among the trees doing their fishing.

It turns out that the pressures that resulted in the Mono Lake decision by the courts and the CWRCB are building all the time. When the Department was being accosted by the Public Trust Doctrine in the Courts and in the Legislature, we went to our brethren over in the Central Valley of California, including the City of San Francisco. We said something like, "You know, you guys ought to take an interest in this Public Trust Doctrine because if it can beat up a Los Angeles water project it can beat up a San Francisco water project or an irrigation district project."

We received pretty good support over the years from the water people in Kern County. The Kern County agriculture people are pretty far-sighted in terms of seeing trends and where things are going. San Francisco, on the other hand, turned a deaf ear to us. They actually filed a legal brief against Los Angeles when we went to the California Supreme Court. This was very short-sighted on their part and obviously not influenced by their water people. As it turns out, in the last 10 years the City of San Francisco has been far more conscious of what they have at stake in terms of protecting their water supply. It's an important money maker for them in addition to being an exceedingly high quality supply. Now, some of their key managers and attorneys have come around to recognize that they were on the wrong side of the Mono Lake Public Trust litigation.

As it turns out, the Public Trust is a very powerful tool for the environmentalists to use, not only against the Department, but against all water rights, because it's no respecter of water rights regardless of whether you were first in time or whether you have a riparian right, or were pre-1914, or area of origin. Public Trust can beat up any water right. What's happened down here makes a lot of water folks in Northern

California nervous.

NELSON: The next target should be up there. There aren't many targets left down here.

GEORGESON: You're right.

NELSON: Department Aqueduct Division had 2-300 employees and their families living in the Owens Valley. They didn't seem to stand up for the Department. Why do you think that was?

GEORGESON: I think about the best one can hope for in situation like that is neutrality. They have to live there.

In the early years the Department's operation in the Owens Valley was kind of a company-town operation. During the '20s, '30s, '40s, it was sort of a rural outpost and Los Angeles was a nicer place to live and I understand the Department even had difficulty getting employees to move up there. One of the things the Department did and is true with a lot of public agencies is that they provided cheap, sometimes free Department housing. As inflation crept up the Department didn't keep its rents in line and some employees were trapped into remaining in the Department housing. I had a strong feeling that that was a very poor social policy because the feeling I had is that many of our employees didn't have any real stake in their communities. They were living in a subsidized home, they didn't own the property and I think that it is always a more positive situation in terms of community interest and involvement when people are living in their own homes. They have an investment.

One of the things Paul Lane and I worked on was to raise the rents to a point where they covered the cost of providing the housing. That was within our responsibility of managing the Department's assets. Our

goal was to motivate employees to move into their own homes because we thought in the long run it would make for better citizens in the community.

It also helped solve another problem. The Department was become a slumlord because we couldn't justify fixing up the old homes because the rents were so low. When we fixed up the properties and charged higher rents the employees had less incentive to remain in our housing. Many times the employees were greatly advantaged moving out of a Department house and purchasing a house that created increasing equity for them.

I guess that what I am saying is that when you have a group of employees living in Department housing you have mostly disinterested people in community activities in general. It may be that as they moved into private housing they felt a greater independence from the Department and maybe that made it easier for them to become critics of the Department, although I didn't notice that. I'm sure we had critics among our employees, but I think it's too much to expect that employees in a situation like that with a highly charged issue to try and influence the elected officials.

I would hope that they would have the courage of their convictions to speak in terms of what the facts are.

NELSON: The Department made no effort to band them together.

GEORGESON: No, we were probably better served in not trying to "pressure" our employee's. Department management was accused, from time to time, of not so much pressuring the employees, but pressuring our lessees. The attorneys who used to do battle with us were fond of pointing out the fact that our leasees were "toddies" of the Department

because we would cancel their lease or raise their rents if they didn't follow our line. Local "media people," particularly John Heston and Bennet Kessler, liked to imply that the Department twisted arms, although they presented no bruised arms as evidence.

In 1976, the first of the two desperately dry years, we worked with the ranchers and reduced the irrigated supply to half of what it had been the previous year. We probably figured that was a way of showing that the ranchers had a stake in the well pumping just like the people of Los Angeles did. But then 1977 rolled around and we attempted to do the same thing and Tony Rossman quickly got that issue before the Third District Court of Appeals who slapped our wrists, no, they gave a whack upside our head, and gave the ranchers their full water allotment, over the priority of municipal use.

My experience was that our employees were pretty neutral. What came closest to alienating them was when we began metering in the town water systems. As people moved into their own homes, it seemed to me that more of them became involved in community activities.

NELSON: Was a Department employee ever an Inyo County Supervisor?

GEORGESON: I think going way back there may have been one. At one point Independence was such a company town that it could have happened.

NELSON: Duane, I want to thank you for taking your valuable time to talk with me.

GEORGESON: It was my pleasure.