

TRANSCRIPT OF INTERVIEW ON OCTOBER 28, 1985,
OF EDWARD S. JOHNSON BY PATRICIA E. SLOAN

PS: Today is October 28, 1985. This is Patricia Sloan; I'm interviewing Ed Johnson regarding Cane Creek and some other things of general interest to the Oral History Class. (pause) Thank you for agreeing to be interviewed on such short notice. How much time do we have?

EJ: Let's see,...Its a quarter of three; I'd like to be done by a quarter after three or three thirty.

PS: OK. I'd like to know a little bit, if I could, about you and your family as well as your involvement in the Cane Creek controversy, and what things you consider to be particularly interesting in relation to that. We're also interested in the sense of community, and what kinds of feelings different people had according to their family backgrounds. (untelligible) So if we're not through today, I may want to make another appointment to talk with you further.

EJ: OK.

PS: Could you tell me a little bit about yourself and your family?

EJ: I'm a Chapel Hill native. My parents, especially my father, was on the faculty here. He's now retired. They themselves were Texas natives and they came here in 1924 I believe as graduate students. He was in Sociology and my mother was in History. They got their Ph.D.s in the late 20s and then stayed on in faculty positions. I was born here, grew up here. I got my Ph.D. here in the early 60s

then went away to Yale and then back here in the middle 60s. Settled down in town, with a wife and three kids, and after a few years got to feeling like I needed elbow room. And at that point in 1973, in the winter, built a house and moved out to Orange Grove. I didn't know too many of the people when I moved out; I'd met a few and it seemed like a pleasant community. It turned out later to be much more than a pleasant community, a very interesting place to live.

(Some shifting, voice recording check at this point)

PS: If you don't mind my sitting at your feet.

EJ: OK.

PS: It turned out to be more than just a pleasant community.

EJ: Yes. When I moved out I was aware of the plans that the university had to build a reservoir out there, and since the property that I owned bordered on Cane Creek I took some pains to be sure that the reservoir wasn't going to flood me out. And the plans at that point--this is early 70s--were still up in the air, but it looked like no version of the reservoir was going to put water up next to where I was going to build a house or to block off access. So I went ahead and bought the property and built the house; and had lived in it two or three years, and had joined the local church and was meeting all the people, when OWASA, which at that point in 1976 was just recently formed as a legal entity, put out a news story-I believe it was August of 1976--to the effect of that, Indeed, they were going through with the University's old plan of building a reservoir on Cane Creek.

This aroused some consternation in the community. There had been rumors around for quite a few years that the University wanted

to put a reservoir out there but nobody knew anything concrete. Well, OWASA has never been very good at public relations and they weren't in this case either. There were just rumors flying, and a news story, but nobody from OWASA had come out to the community to say anything. I chanced upon an OWASA member, prowling around in the neighborhood; and we had a conversation and I suggested that he ought to organize a community meeting, get everybody together and tell them what was going to be involved; and

(Telephone rings in background. Laughter) (Tape off)

and the meeting was held about this time of year, in 1976, put it at the end of October. I can date it precisely because it was during the World Series. OWASA sent out some people and apparently they had no inclination that there any opposition at all in the neighborhood to the reservoir. They had indeed expected apparently that people were going to receive them with great hospitality and welcome them and essentially say "Where's a shovel? We want to help too." And that was not the case. They began their presentation with a lot of engineering details- "The dam is going to be so many feet long and tall and contain so many cubic yards of dirt...and the reservoir is going to have so many acres in it" and so on. And after about half an hour of that, one of our more hot-headed farmers got up and bellowed out: "Who the hell do you think we are-a bunch of idiots?" And he began asking a bunch of pointed questions, and other members of the community began to join in. And the questions were to the effect of "What impact is the reservoir going to have on our lives and on our livelihood? How is it going to change the community? What about farming practices?" and so on. These were the things that the community was interested in; and these were the

things that OWASA had no answers for--other than some platitudes that they weren't going to impinge on anybody's lives. But nobody in the community was satisfied with those answers, and so another one of the people in the community suggested that everybody get together the same day next week and let's organize this thing. And that's what happened.

There was another meeting the next week; and there seemed to be general community opposition to the reservoir; and also a lot of ignorance about what the law was, and whether there was any recourse at this late date, and so on. So there was a lot of information-gathering to be done; and various of us set about doing various things.

A rather neat thing about the community is that it contains a diverse set of people. There are a number of old farming communities that go back 200 years--The Kirks, and The Lloyds, and The Snipes, and The Teers, and so on, and The Crawfords have been around for generations. There were a number of people, such as me, who had moved into the community and some had University ties. There were, here and there, a lawyer or an executive of some sort or whatever--people who had had some contact over the years with bureaucracies. It turned out that one of the talents that we needed was dealing with bureaucracies. And there was another group of people. At that time we referred to them as "hippies" but they were basically counter-culture types who moved out in the country to get away from everything. They were into arts and crafts and conservation and organic gardening and so on. And all three groups were together at this meeting.

This was the first time that a lot of us had laid eyes on people

of the other sort. It all came together rather nicely.

Well, we contacted lawyers, eventually hired some; acquainted ourselves with laws, Environmental Impact Statements and such and found that OWASA had been cutting a lot of corners and did not know, apparently, that they had to file an Environmental Impact Statement because the corps of engineers had jurisdiction over Cane Creek because the flow average throughout a year was 20 million gallons a day down the Creek. I think at that point the corps of engineers had recently been given jurisdiction over all creeks up to the headwaters where the flow was five million gallons a day. So this means that the corps of engineers, although they did not want the authority, had authority over anybody who wanted to impede the water. That, of course, meant that OWASA had to file an Environmental Impact Statement.

Well, our first legal action involved an injunction against OWASA for getting on the land and surveying. This was a much objected-to practice by the landowners; they did not want OWASA people on their land surveying. We took that to court, and lost it; but I guess we also demonstrated with that action our determination. The focus of attention then shifted to the Environmental Impact Statement and that turned out to be a highly complicated affair. It was laden with politics and power and also a lot of bureaucratic paper-shuffling. It turned out that there was another legal hurdle that OWASA had to get over; and that involved the acquisition of land. It looked like, from our opposition, it looked to OWASA as if they were not going to simply buy the land by waving dollars. It looked indeed as if they were going to need condemnation authority. OWASA, being a strange legal beast, did not automatically have the power to condemn land.

Water authorities, which OWASA was one of, and I think there may be only one other in the state, the enabling legislation only dates back to the late 60s or early 70s. The legislature saw fit to require that the authorities apply to the state government for condemnation powers and in so doing they had to meet several criteria: Showing that their choice of a reservoir site was the best possible one and that water quality was going to be high and a number of other criteria, including some social impacts. So this provided another forum for us to meet and challenge OWASA.

OWASA's application for the condemnation permit was where the first battle occurred. There was a public hearing and both sides presented witnesses. The Environmental Management Commission then reviewed the record and granted OWASA their condemnation permit. We challenged it at the Superior Court level; lost; and then took it to the North Carolina Court of Appeals which overturned the action and sent it back. I guess they were saying, in essence, that the Environmental Management Commission cut corners, followed improper procedures and they had to go back and do it right. And so that whole set of actions had to be repeated. And the second time around OWASA was again granted a certificate of condemnation and we again appealed it and--if memory serves me--that action now is still out there. I think it could be resurrected but it is almost a moot point right now...but it is possible it could be resurrected...In the meantime, the corps of engineers (after a lot of diddling around) finally granted OWASA a permit to construct the dam.

Now all of this activity commenced in 1976; and it was going, tooth and nail, probably through about 1982, perhaps. My dates are a little fuzzy.

PS: That's OK.

EJ: We were fighting fearfully, the community was mobilized, we were having fund raising events--two major ones a year and several minor ones a year. We were using the money to pay legal fees and were somewhat optimistic that eventually we could prevail. Then something happened that was a severe blow to us; and what happened was that a major land owner, who owned the dam site and several hundred acres of the reservoir site, cut a deal with OWASA and got out of the fight. And that was a severe blow because one way we had been keeping OWASA at bay was that they did not have access to the dam site. It was on private property and they were unable to acquire it. Well, as soon as they acquired that, that put the whole fight in a different light. There were legal ramifications and also there was a very serious matter of community morale and solidarity. I would say that perhaps that was the turning point in the fight and if that had not occurred, things would have turned out in a vastly different way.

That land sale acted like the unblocking of a log jam and various other land owners began to sell too and this was encouraged by the fact that OWASA was now making moderately generous offers to land-owners whereas before they had not been. So they would up acquiring a good deal of land, and in fact they have acquired all of the land they need with the exception of approximately sixty acres owned by The Teer family; and I am not sure what is happening with those negotiations right now.

The Teer family has been here, oh, perhaps a hundred years. They have been in the dairying business since the 1920s, and they are afraid that the presence of the reservoir is going to put their

operation in jeopardy. First of all, the reservoir is going to take some of their most productive farm land which is down by the Creek; and, being low land fields, they don't have to worry too much about the drought years, because the soil stays moderately moist and they can get almost year-in-year-out good crop off of that land and they use that as feed for the cows. They'll lose that. They're also worried about having the water of the reservoir so close to their milking operations where the cows come in, in concentrated fashion, twice a day. A lot of manure is dropped at that spot and also a lot of chemicals that have to be used and so there are problems with chemical and manure run-off. These things have to be kept and impounded when you are near a water supply like this. And so they are very concerned that the very presence of the reservoir is going to put them out of business. Meantime, OWASA is saying that there is really no danger, that they can keep on operating as they have been before.

There's a lot of confusion here; nobody knows really what the facts are. They're trying to forecast the future and nobody knows for sure. In any event, The Teers have held out. They're still waiting, as far as I can understand it, for OWASA to make some kind of concrete offers and representations about helping to ensure them that they can stay in the dairying business.

In the meantime, OWASA has cleared off a lot of land where the reservoir will be, and they have built a small temporary reservoir inside the big reservoir's basin. They felt they had to do this because University Lake, in a dry year, is simply not adequate to supply the town, even if you add in the capacity of the rock quarry which they acquired several years ago.

PS: After this started.

EJ: After the start of the Cane Creek issue, it became apparent to them that they were not going to be able to get a reservoir at Cane Creek on line as nearly as quickly as they thought and they did several things. They acquired an abandoned rock quarrey and they built emergency water lines--one to Durham and a second one to Hillsboro. So with these emergency measures, they have been able to weather the moderately routine droughts we get here in August, September, and October. But they felt that they needed still another back-up supply so they have recently spent a million dollars on this sort of 'mini-lake' in the middle of what will, later on, be a large reservoir.

Well, that's sort of a thumb-nail sketch of the whole situation. I'm sure you have some more specific questions you would like to ask.

PS: Yes. I looked at the Environmental Impact Statement and the summary of various sites that were being considered and I wondered if you had any reaction to how those arguments were presented. I know that it was based on procedures rather than content, but I was stuck by the lack of parallelism even in the way they presented the data.

EJ: Well, early on we realized that if we were going to successfully fight against the reservoir at Cane Creek, we were going to have to provide alternatives and there were two that we thought were viable. One was an enlargement of University Lake. This got us into quite a squabble with OWASA and their Engineering Company consultants. We discovered that when OWASA took over the utilities from the University, they did not acquire University Lake outright. They acquired I guess a 99 year lease on the water, the dam, and a small strip around it; the University retaining rights to the bigger buffer strip around it.

Throughout this whole controversy, the University has loomed like a great hulking presence in the background. They have made their feelings known quietly to the members of the OWASA Board of Directors and I think OWASA knows which side of its bread is buttered. They know that the University does not want University Lake enlarged.

PS: But they have the power, with the condemnation power that you mentioned earlier to condemn the area around University Lake?

EJ: No. The condemnation permit was very specific to Cane Creek. But we've calculated that they could have enlarged University Lake to quite a large size and not have to acquire much private land-maybe a hundred acres or less compared to something like 750 acres at Cane Creek.

We - doing engineering calculations on lake size is not too difficult once you know a few rules; and so we made some calculations and we thought that they could get ten million gallons of water a day, which is their target amount, from an enlarged University Lake. But the University nor OWASA wanted to listen to that alternative.

Our second alternative was Jordan Lake. In 1976 when we began this, it had not yet been impounded. Indeed, this was towards the end of another legal wrangle over whether it should be impounded in the first place. And a federal judge in 1975 I think had finally said the case for it is much better than the case against it. So let's impound it.

The best information that we had-and all of this information came out of the corps of engineers hearings and the federal case on the reservoir-the best forecast about water quality was that it was going to be adequate for drinking water supplies. Indeed, that was

one of the purposes that it was built for. However, there was a lot of opposition-a one time mayor of Chapel Hill had led the fight against the formation of the reservoir based on the claim that it would become a cesspool and that in the summer there was going to be algae blooms and it was going to be pea soup green. And there were some members of the Environmental Engineering Department on campus--three or four experts had varying opinions about what the reservoir was going to be like. Some said that it should never be impounded; that it was, in their opinion, going to be a cesspool. Others said that it should be impounded and that it could be used for recreation but never for drinking; and then others said that it should be impounded, used for recreation, and the water quality would be fine for drinking...So you could get all kinds of opinions among experts who were apparently looking at the same body of data. The person who was actually collecting data in the upper reaches of the Haw River and the tributaries was Charles Weiss, and he was cautious. He thought, in those days, it might be drinkable water with proper treatment. And he has held to this view even to today, saying that...I guess his most recent pronouncement which was probably about a year ago...was that water quality in Lake Jordan has turned out to be much better than even the optimists thought and that indeed the Environmental Management Commission is now setting up procedures whereby communities can apply for their allocations of water from it. And it's going to be a great political squabble all kinds of communities want a chunk of the pie. The whole pie is about 100 million gallons of water a day and Cary and Raleigh-Wake County would like it all. Chapel Hill, and OWASA, to be on the safe side, applied for 25 million gallons of water a day, and I think Pittsboro wants some

and maybe Chatham County wants some. There are probably some downstream communities who would get theirs just from the releases from the dam, and then would take it out of the river.

Anyway this [Jordan Lake] was an alternative we always put forward as a viable one. And we got economists to look at it and it turned out, in our view, to be a very economical alternative. The water supply was going to be quite large-25 million gallons of water a day was well over twice what OWASA wanted; and we thought it would last well into the next century, maybe much more than that... But the whole issue of water quality was raised against us, and because the reservoir was not there...everybody was going on the basis of forecasts, and the forecasts were always hazy and fuzzy enough so that nobody could be sure. So we were always hoping that while our fight was going on with OWASA, the reservoir down there would finally be impounded and the water could be tested. And we were frustrated because one thing after another happened. One frustrating thing was that found some seepage inside the dam down there. Some people said that this was just routine, you would expect a dam to have some water flow down its core and others were worried; and it eventually meant that there was another year's delay impounding the reservoir.

And then, when it was finally impounded, the water quality experts say "Well it takes a year or two or three at least for the whole thing to settle down before we can get any good data on it." So we never really had hard data on it until it was basically too late.

If the timing had been different, then we probably could have prevailed simply by presenting the Jordan alternative as the best one. I still think it's going to be a cheaper alternative than Cane Creek. Cane Creek is going to wind up being vastly more expensive than people

in Chapel Hill think or than OWASA is letting on. I think it is probably going to push 15 to 20 million dollars before it is all through...While OWASA has been talking more in the 10 million dollar range. Now that they have put in a million dollar temporary impoundment they never mentioned a few years ago, that's already, right there, added a million dollars to the whole cost.

PS: Plus the past ten years of legal wrangling will be added on.

EJ: Yeah, part of this was going on during a period of rapid inflation, so as we delayed it, inflation inched the price up. A lot of things have gone on. I guess maybe the best argument in favor of the reservoir [at Cane Creek] is water quality, it is somewhat a pristine watershed...Although not as pristine as OWASA presents it. There is a large number of dairies in the area, and a lot of farming, and the Bingham township, where it is, is rapidly growing, so it is somewhat sub-urbanizing out there. And people are sort of the enemy of water quality. People have a way of using chemicals in the backyard and weedkiller on the lawn and so on and all of this stuff eventually gets into our reservoir. And I don't think there is anyway to prevent it.

One of the fears we've had and expressed from the very beginning is that the sheer presence of the reservoir was going to act as a development magnet. It wasn't very long after 1976 that we began to see ads in the newspaper--"Lots on the proposed Cane Creek reservoir for sale"...And this has continued. There have been a number of developments out there. We have headed off one or two that looked like they were going to be high density, low-quality kinds of developments; but its coming, and I don't think there is anything we can do about it, and we are fearful that, as newcomers move in, they are going to crowd out the old farms and dairies that have been characteristic of that

much we can do about that now.

PS: You sound pretty resigned to the eventuality that The Teers will sell and the dam will be built. *sf*

EJ: I think the community is resigned to that. There's probably a 99 percent chance that that's the way it will go. It's quite possible that The Teers may decide to fight the case and get it up to the State Supreme Court. We've had a couple of crusading-type lawyers with us from almost the very beginning. They're very sharp; they know the law; and they think that OWASA may be on the shaky legal grounds in one respect or two, and it may be enough to upset the whole thing at the State Supreme Court level. But it all hinges on whether or not The Teers want to perservere with that case. I don't know what's happening. I haven't talked with The Teers in about six month's; I don't know what their thinking is right now. *p*

PS: It sounds as if controversy brought divergent elements of the community together and talking in a way they hadn't before. It also sounds like it hasn't continued.

EJ: Well, the fight sort of institutionalized our coming together periodically. One way in which we came together was in the small group that formed the executive committee. We met regularly, sometimes once a week, as infrequently as once every 2 or 3 months, and that brought maybe a dozen people together fairly frequently, and then we had some community-wide events. In the fall we would have a Craft Fair. And that required the coordination of crafts people and in organizing this a lot of different people came together to do a number of things like cooking barbeque, organizing the kitchen and getting drinks available, arranging transportation and getting things for people to look at, tours of neighbors and so on.

And in the spring, we would have what we called "Farm-City Day."

This was more oriented toward equating-townsfolks with what a rural community looked like, how it operated. So here are two events...

One in the spring and one in the fall...That brought us all together. And occasionally there would be a meeting where we would have to have the group decide on some legal action to take, or whether or not to take it, and how to finance it and so on. That brought us together.

I think that some of these ties are still there. Friendships have been formed that would not have otherwise and that's gone on. We're going to have another Craft Fair this fall, and right now, we are planning to have Farm-City Day in the spring--partly because people see some value in doing this kind of thing, just getting together to do it, and partly because we have some old bills that need to be paid.

PS: (Poor recording)

EJ: Yeah.

PS: OK. I have about expended my allotted time with you for today. I would like to try to make another appointment if I can. I've got a whole page of notes...

EJ: I hope you find that it works.

PS: Oh, yes. It will. Thank you.