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Sierra Club Oral History Series

Phillip S. Berry

SIERRA CLUB LEADER, 1960s-1980s:  
A BROADENED AGENDA, A BOLD APPROACH

With an Introduction by  
August Fruge

An Interview Conducted by  
Ann Lage  
1981, 1984

Underwritten by  
The National Endowment for the Humanities  
and the Sierra Club

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Picketing Standard Oil as Sierra Club President, 1970





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## PREFACE

## The Oral History Program of the Sierra Club

In fall 1969 and spring 1970 a self-appointed committee of Sierra Clubbers met several times to consider two vexing and related problems. The rapid membership growth of the club and its involvement in environmental issues on a national scale left neither time nor resources to document the club's internal and external history. Club records were stored in a number of locations and were inaccessible for research. Further, we were failing to take advantage of the relatively new technique of oral history by which the reminiscences of club leaders and members of long standing could be preserved.

The ad hoc committee's recommendation that a standing History Committee be established was approved by the Sierra Club Board of Directors in May 1970. That September the board designated The Bancroft Library of the University of California at Berkeley as the official depository of the club's archives. The large collection of records, photographs and other memorabilia known as the "Sierra Club Papers" is thus permanently protected, and the Bancroft is preparing a catalog of these holdings which will be invaluable to students of the conservation movement.

The History Committee then focused its energies on how to develop a significant oral history program. A six page questionnaire was mailed to members who had joined the club prior to 1931. More than half responded, enabling the committee to identify numerous older members as likely prospects for oral interviews. (Some had hiked with John Muir!) Other interviewees were selected from the ranks of club leadership over the past six decades.

Those committee members who volunteered as interviewers were trained in this discipline by Willa Baum, head of the Bancroft's Regional Oral History Office and a nationally recognized authority in this field. Further interviews have been completed in cooperation with university oral history classes at California State University, Fullerton; Columbia University, New York; and the University of California, Berkeley. Extensive interviews with major club leaders are most often conducted on a professional basis through the Regional Oral History Office.

Copies of the Sierra Club oral interviews are placed at The Bancroft Library, at UCLA, and at the club's Colby Library, and may be purchased for the actual cost of photocopying, binding, and shipping by club regional offices, chapters, and groups, as well as by other libraries and institutions.

Our heartfelt gratitude for their help in making the Sierra Club Oral History Project a success goes to each interviewee and interviewer; to everyone who has written an introduction to an oral history; to the Sierra Club Board of Directors for its recognition of the long-term importance of this effort; to the Trustees of the Sierra Club Foundation for generously providing

the necessary funding; to club and foundation staff, especially Michael McCloskey, Denny Wilcher, Colburn Wilbur, and Nicholas Clinch; to Willa Baum and Susan Schrepfer of the Regional Oral History Office; and last but far from least, to the members of the History Committee, and particularly to Ann Lage, who has coordinated the oral history effort since September 1974.

You are cordially invited to read and enjoy any or all of the oral histories in the Sierra Club series. By so doing you will learn much of the club's history which is available nowhere else, and of the fascinating careers and accomplishments of many outstanding club leaders and members.

Marshall H. Kuhn  
Chairman, History Committee  
1970 - 1978

San Francisco  
May 1, 1977  
(revised May 1979, A.L.)

#### PREFACE--1980s

Inspired by the vision of its founder and first chairman, Marshall Kuhn, the Sierra Club History Committee continued to expand its oral history program following his death in 1978. With the assistance of a grant from the National Endowment for the Humanities, awarded in July 1980, the Sierra Club has contracted with the Regional Oral History Office of The Bancroft Library to conduct twelve to sixteen major interviews of Sierra Club activists and other environmental leaders of the 1960s and 1970s. At the same time, the volunteer interview program has been assisted with funds for training interviewers and transcribing and editing volunteer-conducted interviews, also focusing on the past two decades.

With these efforts, the committee intends to document the programs, strategies, and ideals of the national Sierra Club, as well as the club grassroots, in all its variety--from education to litigation to legislative lobbying, from energy policy to urban issues to wilderness preservation, from California to the Carolinas to New York.

Together with the written archives in The Bancroft Library, the oral history program of the 1980s will provide a valuable record of the Sierra Club during a period of vastly broadening environmental goals, radically changing strategies of environmental action, and major growth in size and influence on American politics and society.

Special thanks for the project's later phase are due to Susan Schrepfer, co-director of the Sierra Club Documentation Project; Ray Lage, cochair of the History Committee; the Sierra Club Board and staff; members of the project advisory board and the History Committee; and most importantly, the interviewees and interviewers for their unfailing cooperation.

Ann Lage  
Cochair, History Committee  
Codirector, Sierra Club Documentation  
Project

Oakland, California  
April, 1981



March 1988

## SIERRA CLUB ORAL HISTORY SERIES

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## INTRODUCTION

This set of interviews with Phil Berry may be the most even-handed account we shall ever have of the great cautionary tale of the Sierra Club and those who coincided with its growth from an outdoor fraternity-sorority, where everyone knew everyone else, to the present far-flung organization—now more political than anything else, although it still seeks to encompass the old companionable groups.

It is sometimes thought that the transformation was wrought by the single hand of Dave Brower, executive director from 1953 to 1969. But there are no one-man revolutions. Although Dave was surely the most vehement and most visible of those who led the drive to a more militant conservation movement, and was indeed the great symbolic figure, it should be remembered that there were scores, even hundreds, of others who were leading in the same direction, impelled by the environmental crises of the post-war years, our age of technological madness. In the way that John Muir and others fought vainly to save Hetch Hetchy, Sierra Club leaders—young and old, Democrat and Republican—mobilized for defense of the natural world, from city walkways to national parks, from local issues to the battle for what remained of the once-great wilderness. Not many wished to follow Brower's more grandiose thoughts about Earth National Park, but there were many, very many, who took up arms. And not just liberals, let us remember. Many political conservatives became radicalized in the one area of conservation.

Phil Berry was one of the youngest of the club leaders who went through the hectic years of change in the fifties and sixties, and his experience is an exemplary story in its own right. At the beginning of this period when he was only thirteen, he went on his first High Trip, met Brower and adopted the mountain religion—or was infected by the mountain virus, if you prefer. Like Brower before him, he fell in love with the wilderness, spent his summers hiking and climbing. After his time at Stanford, and after joining his father's law firm, he found himself working after hours for the club and then getting into club politics.

The adolescent worship of Brower gradually wore off, or rather changed into a balanced view that was remarkable for one still so young. By the time he was elected to the Sierra Club Board of Directors in 1968 he considered himself an independent and attempted to play a role that should properly have been played by the executive director himself—the role of reconciling the opposing factions so that the club could go forward in a unified way. But it was too late; the antagonisms of the 1960s, which may now be seen as more psychological than political, were too deeply planted. Brower's very great abilities did not include the talent of holding disparate parts together; he was more war leader than peace maker, more John the Baptist than Henry Clay; and the wounds could not be healed until he was removed.



It is instructive in these interviews to note how early Berry saw the non-political and non-substantive nature of the controversy. He characterizes the two ways of thinking: "The orderliness of the Leonard mind prevailed for procedures within the Sierra Club, but the philosophy of the Litton mind succeeded within the Sierra Club mind." Result: chaos. By philosophy he means, I think, the emotional set of mind, the resulting style of action, and not the strength of conservation purpose. Patient maneuvering or headlong attack, which is the better way to go?

A vigorous course lying somewhere between these extremes was followed by the board during the presidency of Berry (1969-1971) and the succeeding presidency of Ray Sherwin. The club never tempered its conservation zeal, never turned conservative in the wrong sense. Indeed, the board was soon broadening the agenda to include energy, population problems, pollution, nuclear power, urban issues. (This is, of course, an inside point of view since I was a member of the board during those years; but the record will show, I think, that the change of 1969 brought no loss of determination or boldness, only a change in tactics and manner. Style changed; purpose remained.)

These words may lay too much emphasis on the old controversy. Time has passed; wounds are healed. Berry and Brower now serve together on the Sierra Club board, and there is no friction that I know of. What I mean to emphasize is that Phil Berry, still not out of his forties, has known the Sierra Club throughout its period of violent growth, through its time of politicization, has known it from rock climbing in the fifties to politics in the eighties, and continues to play a central role. If his story is not a microcosm of the club's story--none could be that--nevertheless it illuminates nearly every aspect of the club's history during the past three decades, including several that I have not mentioned--his role in conceiving the Sierra Club Foundation, his original and continuing part in the legal program, his work on forestry practices, his ideas about club organization and about the interrelationship of staff and volunteers.

It is an unfinished story. Perhaps it is like the first act of one of those mock dramas that Phil used to write and circulate in order to reduce tension in himself and others. Later acts are to come, meaning that there should be further interviews. It will be even more valuable if Phil will someday sit down and put together in his written style--so much lighter and wittier than the spoken style here--the Sierra Club story as he lived it and observed it.

August Frugé  
Director Emeritus  
University of California Press

June 1985  
Twenty-nine Palms, California

## INTERVIEW HISTORY

Still in his forties at the time of this interview, Phillip Berry nonetheless had over thirty years of Sierra Club activities to record for the Sierra Club Oral History Project. Berry joined the six-week Sierra Club High Trip in 1950, to fish and climb in the Sierra Nevada, and began what has been a life-long commitment to the club and the environmental movement.

Elected to the club's board of directors in 1968, he tried to resolve the intense controversy over siting a power plant at Diablo Canyon and was a key figure in the divisive internal conflict that resulted in the dismissal of his mentor, David Brower, as executive director.

Following Brower's demise in 1969, Berry was elected club president, at thirty-two the youngest to hold its highest office. His task was to heal the wounds from the club's internal crisis and, at the same time, to lead the club along the trails Brower had forged—broadening the agenda of the club "as far as we could go," taking "every tough and pure position we could." The new agenda for the club in the seventies included population control, pesticides, oil pollution, energy policy, nuclear power, and the urban environmental movement. Although these issues are now standard repertoire for the environmental movement, Berry's interview reminds us that they were once the subject of controversy both within and without the club.

If Berry's vision has been broad, his manner has been bold and combative, displaying the instincts of the trial lawyer. His interview demonstrates these qualities, with an amusing account of a formal meeting of heads of conservation organizations with President Richard Nixon, during which Berry was the only environmentalist to engage Nixon in heated debate. He also took on Standard Oil, picketing their headquarters in 1970 after an oil spill in the Gulf of Mexico. Along with his boldness and combativeness, Berry has always made use of a keen wit, livening up tedious board meetings and providing satiric commentary in his occasional written skits featuring fellow directors as main characters.

In addition to documenting his club leadership in conservation and internal affairs as one of its seasoned board members (1968-'73, '75-'80, '82-'87) and president (1969-'71), the oral history discusses in some detail two areas in which Berry has contributed most significantly: the club's legal program, as chair of its legal committee and a founder and board member of the Sierra Club Legal Defense Fund; and the move into environmental politics, including the process of endorsing and campaigning for candidates to national offices under the auspices of the Sierra Club Committee on Political Education (SCOPE). Portions of two interview

sessions were also devoted to Berry's service on the California State Board of Forestry, the agency which formulates forest practice rules and policy for the state. Berry's reflections on the board are of particular interest to students of state government and forest policy because he has served under three gubernatorial administrations during a crucial period for state forest policy.

The first three interview sessions were held from September to December 1981. During the lengthy transcription and editing process, Berry's work with SCOPE and the Board of Forestry continued. Both interviewer and interviewee realized he had more to contribute on these topics, and a final session was held on 24 October 1984. The final discussion of SCOPE activities took place, then, on the eve of the national election which saw Ronald Reagan elected to his second term as president.

The four interview sessions were recorded at Berry's home in Lafayette, California, in the evenings as he unwound from a long day at his active legal practice in Oakland. His is a distinguished conservation family: his wife, Michelle Perrault, is a dedicated Sierra Club volunteer and served as club president from 1984 to 1986; their young son for some time was the club's youngest member, having been enrolled as a life member at the time of his birth. His mother, Jean Kramer Jenny, is also active in conservation work in California.

Berry carefully edited the transcripts of his four interviews. Believing that his edited remarks more accurately reflected his perceptions and recollections of events than his candid and often witty statements recorded in the relaxed fireside setting, he asked that the tapes and original transcripts of the interviews not be saved.

Ann Lage, Project Director  
Sierra Club Oral History Series

29 February 1988  
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## I HIGH TRIPS AND THE MAKING OF A CONSERVATIONIST

Childhood Influences: Family and Education in Berkeley

- Lage: Let's begin at the beginning and try to build up a picture of early influences that led you in the direction you eventually took, into conservation. If you had to pick out one thing in particular that had the greatest influence, what would you say?
- Berry: When I was in the eighth grade, we were required to do a term paper. I don't know what moved me in that direction, but I dedicated it to John Muir. I think I was influenced partly by my grandfather's involvement in a variety of things as a government employee which were close to conservation concerns. My mother told me (I don't know whether it's true or not) that he invented fish ladders. Somewhere in the family is an early book that he wrote on how to build them. He was a civil engineer.
- Lage: Did he work for Fish and Game?
- Berry: He was born in Louisiana, taught himself to read by reading comic books and asking people what signs said; got a scholarship to Cornell where he met my grandmother, who was one of the first women graduates of Cornell. Then he joined the Forest Service, ending up with the Forest Service as regional engineer in what was then and is still described as Region 5, the California Region. As I understand it from what my family tells me, he then became the staff head of the Federal Power Commission. He worked on Boulder Dam.
- Lage: Did you know him?
- Berry: I knew him slightly. He died when I was about five, but I can remember my mother proudly showing me she was in Who's Who because her father was in Who's Who. At the time I thought that meant something. [Laughs]
- Lage: What was his name?

- Berry: E. W. Kramer. I suspect there are things I can't now resurrect about that and my mother's liberalism which led me into a feeling about conservation. As early as the eighth grade I had very strong feelings about things like soil erosion and I wrote about them.
- Lage: Now where would that come from? I mean, what kinds of direct experiences?
- Berry: I don't know, except that my mother was always oriented toward causes. Lately (that is, in the last twenty years) she has become involved in conservation, but she wasn't then. She was involved in things such as League of Women Voters and local and state politics, to a moderate degree. Somehow in all of that I acquired a sense of conservation, but as to the exact root for it, I can't give you any explanation.
- Lage: What about reading? Had you read John Muir by the eighth grade? He wasn't as much a household word--
- Berry: No, I can't account for why it was, but I know I dedicated the school paper to John Muir.
- Lage: Interesting. Maybe we should get to the basics; when you were born, where.
- Berry: I was born in Berkeley in 1937.
- Lage: Did you have any siblings?
- Berry: I had two older brothers, by the marriage of which I was a child, and subsequently, a half-brother who is twenty years younger.
- Lage: Did any of your brothers go into related fields?
- Berry: My oldest brother, John, was strongly interested in fishing and scouting, and there was a smattering of conservation influence from that source.
- Lage: Would you say there was something unique about Berkeley in those years that might have molded your kind of outlook?
- Berry: Well, that was Berkeley before it went stark raving mad [laughs]. It was liberal by the standards of those days, but not regarded as radical. One of my teachers, a Mrs. Curtis in the eighth grade, may have had some influence. She was a bright woman, interested in motivating students, and the first teacher I recall who expanded one's ideas beyond rote-memory lessons. It was in her class I wrote that paper.

Lage: Did your family take any wilderness trips?

Berry: When I was approximately twelve, my father took the three of us into Little Yosemite. We stayed at one of the Curry camps on Lake Merced. My father talked of how as a young man he had run over those same trails. I remember being fascinated with that idea--of my father being young--which is, to a twelve-year-old, sort of a fascinating idea. That someone would run over the trails--that was very appealing.

I was in boy scouting. My mother, for years, from about my age eight, took us to Calaveras Grove in summers. I guess that may have been an influence too because we went to the ranger campfires where I heard of the need to purchase and thereby preserve the south grove, which was then owned privately. That's the first I can remember of the Save-the-Redwoods-League, the first conservation organization I had any idea existed.

Lage: What about (this isn't directly related but it enters in) any religious influences in the home, or lack of religious influences?

Berry: There was a brief period when I had some interests in religion, but not at that time, no.

Lage: Your family didn't profess or--

Berry: No.

Lage: How about politics? Your mother was interested in the League of Women Voters--

Berry: My mother was, using conventional measures, decidedly more liberal than my father. My father was not illiberal but had a more conservative bent.\*

Lage: Was your family Republican or Democratic?

Berry: Well, half was, half wasn't, is what I'm saying. My father, an extremely good intellect, was aware of the issues and very just about how they were determined within the context of his conservative outlook. My mother was out-and-out liberal.

Lage: She had a concern for social issues and the like.

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\* Mother--Jean Mobley Kramer Jenny (Mrs. Hans Jenny)  
 Father--Samuel Harper Berry



Berry: Yes, more so than my father. Somewhere along the line, I got interested in the High Sierra because of the opportunities for fishing. Fishing was a big thing with my oldest brother. It became a big thing with me and with a cousin who died when I was about eighteen or nineteen.

We all read Charles McDermott's book as if it were a Bible-- Waters of the Golden Trout Country. That led me to go on my first Sierra Club trip, at thirteen. I'd been a Boy Scout for a year or two. That was my second experience in the Sierra Nevada.

Lage: How did you hear about the Sierra Club and the high trips?

Berry: In the scout troop was a fellow named Dave Tillis, whose father, Abe, was a member of the Sierra Club. Dave told me of the wonders of the Sierra Club burro trips, without mentioning that name. Looking in the Sierra Club literature, I determined that it must be a high trip. So I wrote the then-leader of the high trips, Dave Brower, and told him that at age thirteen I wanted to go alone, but had my parents' permission. That interested Dave, so he asked me up for an interview to make sure this kid wasn't utterly nuts. He allowed me to go without my parents.

Toward the end of the trip, which was the third of three two-week sessions, he showed up.

Lage: Would this be 1950?

Berry: This was 1950. He noticed I had acquired a great interest in mountain climbing since the interview. A friend in junior high school, Steve Copley, told me that rock climbing was fun, and I went with a group that he belonged to called the Edelweiss Club up to Cragmont Rock. I climbed with them for, oh, perhaps six months, before going on the Sierra Club trip. So I came ready for the mountaineering experience, which in some part I had on that trip when we went up Mount Lyell.

Lage: You are showing me that there was something in Berkeley that influenced you. There was the Edelweiss Club.

Berry: That's right.

Lage: You know, those are things that you would have not found if you had lived in Iowa.

Berry: That's right. I don't think I've heard of the Edelweiss Club since that time. As soon as I joined the Sierra Club I realized that there was climbing to be done there; that became the place to do it.



The Decisive Impact of Dave Brower and Sierra Club High Trips

Lage: So did that original high trip have quite an impact?

Berry: Oh, yes. It introduced me to Dave Brower, for whom I had enormous respect. I did not know that much about conservation at that point. It gave me a second really good taste of the High Sierra. I loved the fishing, I loved the rock climbing. I liked the packers on the trip; one of them, Tom Jefferson, is still a good friend of mine. To me there was nothing as important as that, from then on. It was a very good taste. We went from Dana Meadows south to Red's Meadow.

Lage: I've talked to people who have commented on Dave Brower, usually people who are older than he, and who look at him from that direction. What was he like to a young teen-ager?

Berry: He was heroic. He was someone you could talk to, someone you could admire a great deal.

Lage: Now, you met him without knowing things about him, I take it.

Berry: That's right. I went to the house and said, "Can I come?"

Lage: Where did the heroism come in, without any background or surroundings to create it?

Berry: Well, he was a super climber. He was someone who was genuinely interested in things, and that was communicated. When he said he liked climbing, it was real. When he ate the fish you brought him, he genuinely enjoyed it and thanked you. There's no question there was hero worship involved at the very start. It continued for a number of years.

Lage: What about on the trail? I've heard he cut quite a figure on the outings.

Berry: Well, he, of course, hiked faster than anyone, and he was proud of it. He climbed better than anyone; he was proud of that. Sang well; he was proud of that too. Played the accordion, which was about the only musical instrument that made much sense in the mountains (if you ever heard a clarinet up there, you know it needs the rest of the orchestra to sound good).

- Berry: He was authoritative. He was the leader, no mistake about it. Wore the mountaineering clothes that were envied by everybody who didn't have them--the old army mountain pants. He could tell stories about being in the Tenth Mountain Division and so there was a lot there to catch the imagination.
- Lage: Did that contact have a decisive influence on you?
- Berry: I think there's no question it did, on the entire course of my life. If you had to pick an influence that was pivotal? That was certainly more decisive in my life than any other. I wanted desperately to go back. The next year I came for a whole month, again without parents, but fortunately (for those who might worry about me) there was a contemporary of mine whom I'd known since the fourth grade, John Carpenter, who came along. So, at least they knew if I was gone, he was with me and vice versa. There was one night we spent out all alone.
- Lage: On purpose?
- Berry: No, no. In those days, they would move the cache ahead--that is move the food ahead--and ask for volunteers as bear guards. From the Fourth Recess over to Bear Creek was one move. As far as Brower was concerned, going cross-country was the only way to go anywhere. I agree with him now, but at that point it seemed quite novel to me. He, John's older brother, and John and I went ahead to establish the next camp, going from Fourth Recess over the top of some really tall stuff. I guess that's Glacier Divide at that point, though Glacier Divide may be somewhat to the east. Then down to (I may have my geography wrong) I'm pretty sure it's Bear Creek. We went to where the camp was to be established, and John and I were left there by Brower and the older Carpenter, who then went back over the same route. It was quite enough for one day as far as I was concerned, going one way.
- John and I waited around and no pack train showed up so the logical thing in our view was to go back down the trail, not up the overland route, which we did. Never saw a pack train. Walked by the trail until we were halfway back to the camp, and then it was pitch dark. We slept out that night at about nine thousand feet.
- Lage: With no equipment.
- Berry: No equipment and almost no clothes. He had a T-shirt and a pair of Levi's and sneakers. I had short pants, a T-shirt and sneakers. We huddled under ledges and wherever we could. We didn't even have any matches. Finally the next morning, we finished the longer

Berry: route by trail backward and showed up in the old camp in time to get the last corn bread and piece of pie, which we carried with us back over the same cross-country route we traveled the day before.

Lage: What had happened? Were you supposed to wait there?

Berry: Well, the packers had gone to a different spot than Brower had outlined. I knew something had gone wrong and wasn't sure whether I was wrong, or Dave was wrong, or the packers were wrong, but something had gone wrong. But we got back still alive. We'd been cold that night, but everything was great as soon as we got back to camp. I took a little bit longer over that cross-country route the second day. I can remember carrying a pie in one hand, which fortunately had been left over from the night before--Charlotte Mauk had made it, along with thirty other pies. We came back over the route and met Dave at the new camp. I remember his words: "Oh, you poor guys," which was enough. I mean, those words were enough, sharing my misery with me, and it was perfectly okay from there. And we were bear guards again, but I think with possibly a little more caution about matches--

Lage: --and clothing!

Berry: --and coats and such things [laughs].

Lage: Did you get into skiing?

Berry: Yes. Somewhere in those early years, when I was about fourteen, I went up to Clair Tappaan Lodge and learned to ski and got my fourth-class skiing badge all in one weekend. I can remember hearing about a "Christie" turn and for years labored under the imagination that somehow Cicely Christy (whom I did not know was a woman) was responsible for this name [laughs]. Later I learned that she had nothing to do with it. But in those days, as a kid, I read everything the Sierra Club sent me. When the name Cicely Christy showed up, of course, I thought this was who invented the Christie turn.

Lage: Were there any other outdoor activities that you took up? How extensively did you get into climbing?

Berry: I stayed with climbing through the Sierra Club. The Edelweiss Club, when I joined it, was sort of on its last legs. So I joined the Rock Climbing Section and continued avid climbing for at least the next ten years.

Lage: Mainly in the Sierra?



- Berry: They went down to Pinnacles National Monument several times, and I learned something about pitons there and learned about pitons also under Dave Brower. I did some climbs at Pinnacles and in Yosemite Valley. And of course climbing on high trips. I continued with high trips from there on through 1959 in the Sierra and through 1960 elsewhere. I used to spend the whole summer working for the Sierra Club while in school.
- Lage: Sounds like you really got "caught up" into the Sierra Club.
- Berry: Oh, that was the thing. That was everything. Very important to me.
- Lage: You went through public high school in Berkeley?
- Berry: Yes.
- Lage: And then, what about higher education?
- Berry: I went to Stanford starting in '54 and ending in '61, with an AB in English and an LL.B. that, for twenty-five dollars, they later converted to a doctorate in law. Cheap way to get a doctorate.
- Lage: How did you happen to choose law as a career?
- Berry: I didn't very easily. My oldest brother, had, right out of high school, decided to go into medicine. I guess I went to Stanford because he did, and I went into premedical because he did. But I always had some doubts. So I considered myself prelaw as well and completed two majors--the premedical major and the English major. Still involved in this straddle about ultimate goals, I was accepted to medical school at Stanford and was within a month or so of graduating when I visited the same older brother, then interning in Portland. I spent a whole week with him, sleeping in the hospital where he slept and following him around. Something about all that cooled the whole idea of going into medicine. I came back, and within a day I applied to law school.
- Lage: You got the kind of first-hand view most people don't have.
- Berry: There was something about it that I just didn't like. I think I didn't like the sickness itself.
- Lage: Did you ever have any idea at that point of using law in relation to conservation?
- Berry: Oh, I think I was always interested in politics, and law I saw as an instrument in that direction.

Lage: Anything else about the early years that you can think of that we should dwell further on?

Berry: I don't know what's important to you. In an assessment of the club, perhaps some insights can be suggested. The view I had of Dave (though perhaps a little more overblown, a little more idolizing, a little more in the hero-worship vein) was not far from the general view that people on those trips had. I learned, in the course of things, that Dave had not completed his college education, and there were little hints, in the way he would talk of that, of some self-doubt resulting from it. I think in analyzing Dave it's important to know how well he was received and well-liked by the people on those trips. In the history of the Sierra Club I cannot but feel that was a strong influence on him.

Lage: The way he was received was a strong influence on his later development?

Berry: Yes, because with all his superlative qualities, Dave has, at the same time, a big need for recognition. Here it was in very wonderful form. What a setting—the Sierra Nevada! People looking to him as a leader, which he naturally is—and with him, it's a role that requires not only leading but being recognized as a leader, not only wanting to lead but having people want you to lead. There's resonance between those things. That was a tremendous influence upon him. Here was someone who had not completed school but had a strong desire to excel; it started with climbing (he'd become an editor of some accomplishment but there he was a real star).

Lage: Could it also account somewhat for his feeling that he could carry on in the way that he wanted? I mean, if people had always followed him on the trail....

Berry: There's a touch of that. He was the best in everything that there was in the mountains. They even named a cooking pan after him: the "Brower pan." He recognized the need for a pan of a certain size and brought one to the commissary. That's a silly thing but suggests the esteem in which he was held.

Lage: The Colby mile--

Berry: Followed by Brower miles. And Leonard miles too. The leader of the high trip in those days was held in great esteem.

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Lage: I wonder what effect this esteem from the young followers might have had on Brower as a leader.

- Berry: There's some truth in that. His contemporaries, I'm sure, recognized some of these qualities, but being of even age found nothing to idolize. But it was perfectly natural to someone thirty years younger than he is (well, twenty-five as I was, twenty-five years younger): I could accept all these as superlative qualities. Enough younger people idolized him as "the leader" that it had an influence upon him. It gave his personality a little extra zip.
- Lage: Were there other people who went on in the club that you knew from the outings, other younger people, who may have had similar feelings as you?
- Berry: I can remember my friend John Carpenter being mildly frustrated at one point that I seemed to be closer to Dave than he was. I can recall his making a comment--one of those comments in passing-- "Isn't that lucky, you get to be so close to Dave." Gordon Benner, who has since been a mainstay of the outing committee, had the same views I did of Dave. Bob Golden, a member of the commissary, older than myself, certainly had some of the same feelings for Dave. Likewise the whole host of commissary people, who were ultimately very strong Brower supporters, based upon personal regard.
- Lage: So it worked both ways. It developed a loyal group, and it also affected Dave himself, it sounds like.
- Berry: Yes, I think it worked both ways. Of course, loyalty was a funny thing with Dave. He demanded a hundred and fifty percent. That was one of the problems.
- Lage: Can you illustrate that?
- Berry: I think a good illustration would come later. It was not evident then. It took battles with the older generation of Sierra Club presidents to bring that out.
- Lage: Did you ever have a sense (perhaps this should come later too) that there was some resentment on the part of the older generation, or a little bit of jealousy of Dave?
- Berry: No, I never had that sense then. On my first high trip Dick Leonard showed up and was introduced to the campfire as president of the Polimonium club, which meant that he could climb something nobody could. (I then and there wanted to be president of the Polimonium club, which I was later for a number of years.) This was a fictitious title, by Dave conferred on Dick, perhaps in flattery. I'm sure there was an earlier time when Dick could climb something that nobody else could because he was doggone good, when you look back to things he pioneered. Whether in 1950 he could



Berry: climb what all others couldn't, I don't know. But Dave introduced him that way, an indication of Dave's generosity. Francis Farquhar was, by chance, on that same trip. Of course, we're looking now through the eyes of a thirteen-year-old. I detected no problems between other club leaders and Dave.

The Conservation Message of Club Outings

Lage: What was the transition for you, from the avid climber and high tripper to someone who worked more closely with the Sierra Club and conservation?

Berry: Dave, at campfires, would talk about the philosophical and political side of what the experience meant--about the need to preserve, and how through enjoying these things we acquired an obligation to fight for them if threatened. It wasn't long after I got to know him that he became executive director. I'm trying to think of when that was.

Lage: Fifty-two.

Berry: In 1952, that was my third high trip. He and I set off to climb Mount Clarence King, and he rolled a rock on my leg, something he and I discussed on almost every meeting since then. It did whack the heck out of my leg. It didn't break it, but laid the bone open, and jarred loose the ligaments which, three years ago, required an operation. No big deal--it was relatively minor as injuries go and still is--but it created something of a bond between us because he was embarrassed, though he shouldn't have been. The rock he pulled on looked as solid as everything else around, but just happened to be the one that was loose. It was a very big deceptive rock, and moved maybe five feet to catch my leg.

We were close thereafter. I looked to him as a son to a father. About that time my parents divorced, so I was in need of something like this.

Lage: Did you spend a lot of time, on a personal basis, at his home?

Berry: Yes. Starting with that year--that was 1952, when I was fifteen. I could get on my bike and drive up to his house--which I did, frequently. I'd talk with him about all sorts of things and he

Berry: became a confidant, and a sort of substitute father--a person for whom I had a great deal of respect and affection. I taught his older boys how to fish that year.

Lage: Were you older than his boys, than his older boys?

Berry: Oh, yes. I forget the exact interval. I was thirteen when Barbara was born--I can recall that. I believe the others are less than two years apart because you go to Bob and then Ken. So, there's less than ten year's difference between myself and his oldest child.

Lage: We were getting into how you got involved in conservation.

Berry: Well, Dave would speak of these things and then, in '52 he became executive director. The next year, '53, things broke loose in Dinosaur. They needed a swamper, or pot boy, in Dinosaur for three weeks of trips in June and early July, and I was chosen. Lucky, for me. Dave led two trips, the first and last trip, something like that. Then, of course, conservation became more immediate to me; here we were in the very place the dumbbells wanted to dam. The native people you dealt with were all hostile to this crazy Sierra Club--"Who were these people from California?"

So, the concern was immediate. The circumstances were immediate. Here I saw firsthand, for three weeks, the very thing they would destroy. This was important to me. It became my fight as well as the Sierra Club's fight. Of course, the club was then getting militant. It was about this time the Deadman issue arose. I can't resurrect for you exactly what the issue was. It had to do, of course, with timber cutting--where, how, and how much. Dave wanted to take on the Forest Service. Some members on the board protested, such as Bestor Robinson (if I recall correctly--I don't want to do him a disservice). But as I recall, he was the club leader in opposition to Dave--he thought the Forest Service was doing just fine, or at least ought to be allowed to make its own judgments.

Dave went over to investigate it, and I went along to babysit the kids. I got more firsthand experience there of what conservation was all about. Certainly by this time the roots had sunk pretty deep in me.

Lage: You talked about Dave around the high trip campfires, tying together the outings experience with conservation. Do you think this had an effect on most of the outings' participants, as it did on you?



Berry: I think so. Dave couldn't stay through all of the trips. He had limited vacation and certainly not six-weeks worth. Typically he would show up at the beginning of the trip to walk in with the group to the first campfire--introduce them to the mountains, set the stage for a few things and then disappear, which was kind of heroic. We'd all just struggled in and here was a guy leaving, and he'd only come to stay with us a day! Then he would show up, semi-miraculously, at the last campfire, usually having walked in over some horrendous route.

I remember his once showing up with a pack frame tied to the top of which was a huge dunnage back. He's simply thrown everything in and then roped it onto his pack frame, a thing that I have repeated since, myself, never forgetting the first time I had seen it. Here you'd come to the end of two weeks, of this wonderful experience, and suddenly out of the mountains appears this guy who brought you there, and talks about how good it was, and of threats to it. Without using the word "moral," he tells you it's moral to protect it.

Lage: What was the style of the pitch? Was it a sermon? Was it quiet? Come on strong? Can you recall?

Berry: This will seem a bizarre reference: In The Godfather, Vito Corleone says, "To be convincing you speak from the heart." Dave's campfire talks came so much from the heart you believed every word of it. It was emotional. It was romantic. It was utterly moving.

Lage: Was it anything similar to the tone of some of the books later?

Berry: Yes. Not so eloquent; it was extemporaneous. But in an "around the campfire" sense just as good. In fact, perhaps more moving. A book with pictures is nothing like sitting, say, on Darwin Bench with a glowing sky behind you and a big fire--in an absolutely stupendous setting and hearing this sort of idea for the first time.

Lage: Did you see that the impact was pretty general, or was there any note of cynicism and a "We're just here for a good time" feeling?

Berry: "Just for fun"? If I heard anything like that, I would have been outraged. Here was a real hero, as I viewed it, speaking the truth. Speaking in a way that hits you very deeply. No, there were no doubts cast. If any had reservations they didn't state them.

Lage: So it wasn't just a fun-loving crowd. You did feel the seriousness of purpose.

Berry: No, group emotions were with what he was saying and were probably quite moved.





Sierra Club High Trip, mid 1950s



On Commissary Duty, 1954  
(Phil Berry cooking pancakes, in hat; Brower family on left)





## II THE TURBULENT SIXTIES WITHIN THE SIERRA CLUB

### Initial Assignments for the Club

- Lage: What about early official assignments for the club? When did that come? When you were in law school (I mean aside from outings)?
- Berry: I recall once being in a taxi with Dave in Salt Lake City going to or coming from a high trip or one of the out-of-state trips we began developing in 1954.
- Lage: Would it have been the river trip?
- Berry: It may have been the river trips. I caught ahold of an idea while questioning the cab driver. Brower listened and suggested I write it up. I attempted something along that line, but nothing ever came of it. That's the first time I took an active part myself.
- Lage: Was that college?
- Berry: No, I was between my junior and senior years of high school. The next thing I recall doing was in 1957. Dave asked me to scout in the Northwest, and when I reported back he was very disappointed in the results. I was concerned that I had failed. I forget now exactly what it was that I was supposed to find out.
- Lage: Whatever it was, you didn't find it out.
- Berry: I didn't do very well. [laughs]

Then, about 1959, or perhaps even in the 1960s, the concerns about the tax deductibility for the club arose. Dave mentioned these concerns and wondered what the club could do. Ironic he should speak to me because if ever a law student found income tax

Berry: boring, it was me. I absolutely hated it, to the point of cutting tax class. But Dave raised the question which gave me some interest in the subject. So I talked to some of my professors and it became apparent that the club could form a separate tax deductible entity. I went back to Dave with that information, which was somewhat contradicted by other advice he'd been receiving, from where I don't know.

Lage: Had he come up with the idea that there could be a foundation, and you checked it out, or did you develop the idea by yourself?

Berry: You know, that's really lost in my mind. He's very generously given me credit for the idea. I then brought him down to Stanford to one of those professors, who confirmed, yes indeed, there were ways you could do this. Dave carried it back, then, to the Sierra Club board. The progression of thought led to the Sierra Club Foundation.

Lage: But he had had some disagreement from the board. Did he share some of that with you, the frustrations he was experiencing even then?

Berry: I don't know personally of disagreements. He viewed it that way. People told him the idea either wouldn't work or was impractical. Whether it was an outright disagreement about policy, I don't know.

Lage: So that was an early assignment. I think you mentioned to me last time that you had gotten involved in the San Francisco Bay Chapter and the council. Did that come quite a bit later?

Berry: When I was still an undergraduate, I went to some meetings of the Sierra Club Conservation Committee. Believe or not, in those days, there was a conservation committee. We didn't have any of the other committees that now deal with conservation matters. None of the regional committees, none of the issue committees, nothing except one committee headed by Ed Wayburn. They met on Wednesday nights, I guess monthly, in the club office.

Another student and I, Sven Groenings, were interested, so we went a couple of times a year and tried to follow some of the issues.

Lage: Did Ed Wayburn pretty well run that show, or was Dave involved in the committee also?

Berry: I didn't have enough contact to really answer that question. Certainly when I was there, Ed ran the show, but I got the sense that the two of them worked closely and well.

Lage: Did you take any office in the Bay Chapter at any time?

- Berry: Later, after I graduated from law school, I did. I was on the Bay Chapter excomm--their records would show, but my memory can't--it was somewhere between 1964 and '66. I was on for one or two years.
- Lage: Let's just mention here that you became chairman of the legal committee.
- Berry: I think that was 1967. It may have been '66.
- Lage: Our next topic is going to be getting into Diablo Canyon and then the troubles in the club and your becoming a member of the board. But first should we mention anything about the legal committee?
- Berry: It's the thing on which I had the most follow-through. In law school, I wrote an article about the need to amend the Forest Practices Act in California. Thereafter, for three or four years, I was involved in legislative efforts to change the act and then wrote a follow-up article--both these were published in the Bulletin [see p. 99].

Then I began some legal efforts for which the club paid me a nominal fee. We achieved some success. By the threat of a mandamus suit we were able to effect some changes in the rules in the redwood district, the one that concerned us the most.

#### Choosing Counsel to Defend the Club's Tax Deductibility

- Berry: As a result of those efforts, which I think pleased George Marshall [club president, 1966-67] amongst others, I was appointed chairman of the legal committee. Then right after my appointment, in fact about a week after, the mess broke with the IRS.
- Lage: Did that give you a role in helping with that mess?
- Berry: I never had a claim to being a tax lawyer. I recognized, as soon as that thing came along, we had to get someone on the outside who was quite good. The role I played there was to select, or help select, that counsel. There was some issue with Dave, where he wanted to select the counsel, and for some reason or other, I was given the final word. That led to some minor friction.
- Lage: Did you have someone in mind that you disagreed about?



- Berry: Yes. I believe that he would have preferred Dave Sive to do it. (I'm not certain of that. You're getting recollections that are now a little dusty.) Dave Sive [from New York] was a very good lawyer, but I felt that his distance from our main office was a decided disadvantage. Sive also had no primary emphasis in tax. So it came down to a matter of choosing local, San Francisco counsel. I played a role in that.
- Lage: Did you know Gary Torre personally?
- Berry: No. In my law school class were two close friends with whom I ended up later doing a lot of backpacking. One was Pete Swan, who now teaches at Oregon. One was Fred Fisher. Both went into the Lillick law office in San Francisco. Through them, I met Don Harris. Don had nothing to do with the Sierra Club until about 1965 when, on behalf of what is now Cal Trout (used to be Trout Unlimited), he wanted to bring legal action to prevent the damming of the middle fork of the Feather River. We lived close to each other in Berkeley. He introduced himself on the phone one day, and we got together to talk about that. Because of those close links with the Lillick office, it was one of my first considerations when we were casting about to find tax counsel. That's how Gary Torre--
- Lage: Harris was in the Lillick office?
- Berry: Yes. Don Harris is still there; so is Fred Fisher. They're both partners now. Pete Swan left to go teach. At the time, I believe all three were there. Don had recently become a partner, or was about to become one. In any event, when given the job of choosing tax counsel, I went to the people I knew who might have ideas. Don was very helpful. He made a number of suggestions. Then, when I pressed him enough, he said yes, they had some good people at Lillick who might be considered if I really wanted to include his office. I had told him I did. We arranged a meeting with Gary Torre.
- Lage: Eventually there was disagreement with Dave over some of Torre's stands?
- Berry: Not eventually. At the very outset, based entirely, as far as I could see, on differences of style. Torre and Brower-- extraordinary intellect in both instances. Both with strong ideas and emotions when engaged. It's a strong combination. I sensed from the first meeting something I didn't understand. There was an antagonism, very slight and well concealed on both sides but I sensed it; I wanted to disregard it because I had instant admiration for Torre. He'd been a clerk to [William O.] Douglas and was obviously very able.



Berry: That antagonism seemed to be fed by what both of them said, as if each were trying to gain the upper hand. But on the whole, they worked well together. Torre is a superb lawyer. He put together a statement which described the club, its purposes, and its importance better than any other I had read before. I hope that hasn't been lost because it was a beautiful statement.

Lage: I know The Bancroft has a copy.

Berry: There were some antagonisms based upon lawyers' difference with a client. Lawyers can be told to be bold, and they will be bold. Or they can be bold all on their own. But lawyers learn that being bold all on your own without the client's wishing it sometimes can be dangerous. So, they tend to look for the client to tell them to take a bold course. There was something of that. Gary, of course, didn't have to look to Dave alone. He had to look as well to the board, as the ultimate authority. There were on the board a number of conservative people. Gary, as a lawyer, had to recognize that he wasn't just serving the executive director.

Dave, of course, thought, "What a beautiful opportunity to kick the IRS in the seat of the pants." Some board members, I think it's a fairly good assumption, were thinking, "Isn't there some way we can get out of this and preserve our deductibility?" Gary was seeing that perhaps the best case was on behalf of an individual taxpayer who conceivably would have other "soft" items on his return besides the allegedly illegal donation to the Sierra Club. You don't walk someone like that into a lot of tax trouble. You very carefully structure your case so that whoever's going to be the guinea pig there in court for you doesn't get into extra trouble.

These were niceties that I'm sure Brower heard but didn't really take with the seriousness Gary did. Gary is, to begin with, a great deal more conservative than Dave, but ultimately no less imaginative. The differences arose from the roles they played. Gary had to listen to others besides Dave, and he had to carry in mind other considerations beyond what Dave himself had.

Lage: I would guess that Dave was thinking what he had been trying to work with for the last several years, of having to worry about the deductibility.

Berry: Oh, yes! Well, Dave, of course--

Lage: Didn't want to fight the principles of it and not try to save the club--

- Berry: Yes-- not only fight for the principle; he wanted blood! That's when I began to write my short--they're not plays, they're skits--commenting upon Sierra Club affairs.
- Lage: You mean there's a whole series?
- Berry: There were. Most of them I would finish and then throw away. This one on the IRS I threw away. The theme was that Dave wanted to be crucified.
- Lage: Was that back in as early as '66?
- Berry: This was in '66. I would write these things when I felt frustrated and couldn't speak my mind openly. It started with Dave clearing a path to the edge of the Grand Canyon through the brush and putting up signs directing the public to take his path and to ignore the government's route. The point, of course, was that the public had to have his view of the Grand Canyon, not the government's. It ended with his crucifying himself because the government wouldn't do it. This was my spoofing the conflict in how to deal with this case. I understood and valued both views. I hoped everybody could agree on some reasonable modification of Dave's approach, with no craziness in it. We never quite got there, but we got closer as time wore on.

An Evaluation of Brower and The Board of Directors in the Mid-Sixties

- Lage: So your responsibilities in the club then, as you got more involved, gave you a certain perspective on Dave. The way that the history is told, at this point, is that you did a sudden turnabout after you were elected to the board in '68, from being an avid follower of Dave, to all of a sudden, beginning to oppose him. It seems to me, from this discussion today, as if you were gaining perspective over the past few years before you went this way.
- Berry: Oh, it started before that. It started, as the hero worship began to wear off when I was about sixteen or seventeen. Somewhere before I was twenty-four, my primary attachment was for the club and not the man.
- Lage: How did that happen? Just through the various positions you held?



Berry: Dave's power and his greatness grow in part out of his deep emotion, but he doesn't always have control over that emotion. If he has one big fault, it's an inability to distinguish between his good ideas and his bad ideas. Lesser men, for some reason, have an ability to do that. When you get into Dave's league, it isn't always there. Dave would attach the same passion to his bad ideas as to his good ones. He has enough ego--and if he has a second fault, it's there--that frequently enough he would not listen to people to whom he should listen. If the circumstances were aggravated by anything like a personality clash, it put real blinders on.

Lage: As you got more involved in the club--I'm thinking about the mid-sixties, when you had been on the legal committee, and active in the Bay Chapter--did you get some idea of the nature of the board at that time?

Berry: The board was evolving then as it did later. (It's only in the last few years that the evolution has slowed.) The board was decidedly more conservative than Dave. You had people such as the Hildebrands, and some of the other old-time Sierra Club people, to whom it was a startling idea that we would take off after and criticize the Forest Service. Or, that we would attempt to frustrate the building of an obviously "needed" dam. An important minority showed such views.

There was a larger middle segment of the board which needed time to adjust to the new Brower ideas, and even longer to adjust to Dave's militancy. It never got enough time for either because Dave moved so quickly.

Lage: Who would you count in that middle group?

Berry: Certainly Bestor Robinson. Bestor was part of the old Sierra Club point of view. His conflicts were not just with Dave but with people like Ed Wayburn, because Ed, as much as anyone else, pushed the idea that the Forest Service was dead wrong, or that we had to fight for a big park, not just some compromise park.

Then, of course, there were all of the problems that grew from the fact that many of those board members had attachments to industry; they served on boards; they worked directly for companies, or they were lawyers whose livelihoods were connected. The idea of playing hardball with big corporations--Standard Oil or PG&E and who have you--was a jarring thing to them. I don't mean to say necessarily they thought of their own personal interest in it; I don't know whether they did or not, and I'm not about to accuse anybody of anything. But certainly it was not the way things were

done at the Pacific Union Club, or at the Bohemian Grove, or anywhere in downtown San Francisco. You just didn't rock the boat that much.

Dave was militant--he came out of the war believing the greatest general in the world was George Patton. Dave had no attachments to business. He didn't come from a family that had worked for corporations. He had a devotion to only one thing, and that was conservation as he saw it. The world was going down the drain, and anybody who got in the way of saving it had better look out. So, you've got conflicts right there.

Add to that the rather extraordinary difficulties arising because many of these people were personal friends going back to rock-climbing days. Out of such relationships grows an expectation of respect. Well, from Dave's perspective, the expectation was that if you climbed rocks, you loved the mountains, and therefore to save them was good. They had expectations too. They knew more about finance and know how to deal politely with these outside influences--the Forest Service, the corporations, what have you. As board members they thought he at least ought to listen in the selection of methods. There developed out of all that a kind of a mutual disrespect, over a period of years, as I viewed it going to board meetings consistently for a long time before I was on the board. The scene just deteriorated!

Dave showed inadequate respect for people used to being respected. He saw them as dragging their heels in the attainment of his objectives. And he was right! They did drag their heels. They saw him as being unwilling to heed the caution of people who knew more about the ways of the business world, at least, if not the larger world. He didn't do things politely enough for them. So, they felt disrespected. In a way, both sides were right. When you add all that together, you've got more than a taffy pull.

Lage: What about the group that wasn't the old-time friends of Dave's? I'm thinking of Will Siri, George Marshall and Ed Wayburn. they didn't have those old climbing ties.

Berry: Siri, to an extent, did. Siri came along as a climber after Leonard, Robinson, and Clark. In one sense, Will could bridge the gap. He had ties to the climbers; he understood what they were about; he had their sense of the mountains and the need to preserve. Yet, you're right. Will was a new generation. George Marshall was not a businessman. He was independently wealthy. He didn't live in a business world in the same sense that many others did. Ed Wayburn was a relative newcomer--probably much closer



Berry: allied philosophically to Dave than any of the others, except maybe Will Siri. Will recognized new ideas and was instantly able to appreciate them.

Lage: Did you begin to develop ties with these other board members or closer ties than you had had, through the work you did on the legal committee and what not?

Berry: I never had many ties to the older group. I certainly admired Harold Bradley and appreciated the great sense of club history involved in his presense. I could understand and respect Dick Leonard, though there was quite an age gap. Lewis Clark I knew from having hiked together, but many other amongst the more conservative group I'd had little contact with.

Ed Wayburn, I knew from the conservation committee. Certainly from a philosophical standpoint, I felt increasingly closer to Ed and Will than to any other group.

There were some of the people who early on began to be recognized as a "Brower bloc" who wanted to give Dave full sway. I'm not suggesting they weren't independent minds. They were persuaded by the logic of ideas alone.

I was not willing, from before I went on the board, to give Dave full sway. I'd, by then, been practicing law for seven years. Though my mind wasn't traveling in the same channels as that more conservative, somewhat business-oriented group, I could at least understand their point of view. I had doubts about Dave's handling of the finances and inability to see the difference between his good ideas and his bad ideas.

Lage: In '68, am I right that you ran as part of a slate, more or less a Brower slate, the first ABC group?

Berry: In some places it was a slate, in other places it wasn't. It was intended to be a slate of five; I got kicked off in one section of the country--I've forgotten where--because of my ballot statement. There I made very clear I would not simply accept whatever Dave wanted. I used the phrase that "his genius carries some unwelcome freight" to show that, if elected, I would not necessarily agree with everything Dave wanted. I wanted him to know that because I wanted independence. You mentioned something about an abrupt turn. That's clearly not the true picture if you look at my ballot statement.

The Diablo Canyon Controversy: Confused Procedures, Conflicting Personalities

Lage: Let's talk a little bit about Diablo Canyon. Apparently you were attending board meetings as early as '66, when that first came up.

Berry: That's right.

Lage: Was your original stand against the resolution that the board passed in May, '66? [A resolution stating that the Sierra Club considered Diablo Canyon a satisfactory alternative site to Nipomo Dunes for a PG&E power plant.]

Berry: Well, my stand always was against the resolution. The problem was not how to be against the resolution. The problem was how to reconcile that view with the historic development of the issue within the club. A number of things were mixed up together. It came when the club was growing rapidly, not just in numbers but importance. There really weren't enough people to handle everything. So, as sometimes happens in the club, when a president gets interested in a particular subject, all decisions flow to the top, in this case to Will Siri. Will, unfortunately, did not have a wariness about nuclear power as some few people did at that point. Will had a primary objective of preserving Nipomo Dunes, where he thought the new plant would go if not at Diablo. With good intentions, he negotiated a compromise with PG&E, I'm sure thinking to himself that he was doing right. He must have been convinced the plant was necessary. It was a question of where. Did it wreck Nipomo Dunes, or did it go in Diablo Canyon, where, at least as he was led to believe by some of the local people, there was no controversy?

So, the thing got off on a wrong procedural foot. Growth of the club had left us with insufficient infrastructure to bring issues to the board only when mature enough for proper decision. One problem was the prematurity of the issue. It had not been adequately analyzed at the local level.

Lage: You mean there wasn't a proper procedure for dealing with issues locally.

Berry: That's right. There wasn't enough infrastructure. The second problem was that questions like "Do we need more power? Do we need nuclear power?" were just arising, merely being suggested by comments rather than argued hard. So, the more general issue was premature in that sense.



Lage: But they were argued; those things were argued.

Berry: Those things were argued but with none of the vigor they are argued now. Well, now it's a foregone conclusion in Sierra Club policy, but, in between the early days of Diablo and now, they went through an evolution.

The problems were compounded by the personality differences. All sorts of procedures on both sides were half-measures. There was the famous half-Bulletin. There was a tendency by some on the board, who I thought were right on the Diablo issue, to raise it in contexts where the issue was not clearly defined.

Lage: I'm not sure what you're referring to.

Berry: I don't know how many times the thing was considered by the board, but at least in the latter developments the issue was never clearly presented. It was always confounded or stultified in some manner or another by a confused procedural posture. You were either in the position of arguing that we should do right by Diablo and simultaneously overturn a referendum of the club membership, or you were in the position of trying to argue a motion that had just been voted upon. The thing never, in so far as I could recall, was addressed in a way so you were voting up or voting down an unclouded issue of "Do we want to sacrifice Nipomo, or do we want to sacrifice Diablo, or do we want to sacrifice either?"

Yes, these things were discussed. I don't mean to say the questions were not out on the table. But the procedure was always confused. This is part of the problem.

There were also enormous conflicts of personalities involved. You take a purist such as Martin Litton, who had little patience with "procedures," and you take someone like Dick Leonard. They could argue furiously with one another without seeming to understand each other. Will, taking the advice of our local people, had overlooked some important issues which should have been considered. He felt that the club had committed itself, at least by his acts, so he was deeply committed. The thing was always fraught with difficulty and then, of course, you add all these other antagonisms, growing up over many other issues and--

Lage: Do you think the other antagonisms created the heat around Diablo? Brower himself feels that Diablo was the key thing.

Berry: No, I think the issues started before that. The issues started with some of the problems about the Forest Service.

- Lage: Well, that's true. I mean, he doesn't deny that, but he feels Diablo, somehow, was really the final straw--that his supporters, like Will, had supported him all along, but when it came to to Diablo, they pulled back.
- Berry: That's the point I'm making: Diablo was never considered calmly and coolly at a point of maturation where it could be decided on the merits. It was always clouded with this snarled up procedure. It was always affected by these strong personal antagonisms. I can recall when I was chairman of the legal committee and not yet on the board, going into some of the closed sessions and seeing these enormous antagonisms, particularly between Leonard and Litton, which almost defeated any "on the merits" discussion before it started. It sounds as if I'm blaming people. I don't really mean to. You're dealing with such vastly different quantities, personalities, approaches, outlooks.
- I would say that, ultimately, the orderliness of the Leonard mind prevailed for procedures within the Sierra Club, but the philosophy of the Litton mind succeeded within the Sierra Club mind.
- Lage: That's an interesting way of looking at it.
- Berry: You take those two in the same room and with those personalities, and neither's going to prevail. Chaos is going to prevail! And that's exactly what happened.
- Lage: Did you have anything to do with the framing of that 1967 referendum [a vote by the club membership on the Diablo Canyon issue]?
- Berry: No.
- Lage: The other thing that's kind of interesting: Did you happen to see the Abalone Alliance newsletter that dealt with the Sierra Club's early concern with Diablo?
- Berry: No.
- Lage: Within the last year, Mark Evanoff, who I think is sort of leading the assault on Diablo right now for the Abalone Alliance, did a lot of research at the Bancroft and wrote a lengthy article. He brings up the charge again, or intimates the charge, of "collusion" with PG&E. Some people, I guess, felt that PG&E was tapping the phones at the Sierra Club and getting quite involved. Did you ever have any of those feelings, that there was collusion or--



- Berry: Collusion, no. No, and the further I get away from it, the less credence I would give to that. Tapping phones: I'm convinced my phone was tapped when I was president so I would give every other officer of the Sierra Club the right to have his phone tapped. Whether it was tapped by PG&E or not, I don't know.
- Lage: What was that about?
- Berry: When I was president of the club, from the sounds I heard on my phone and the change in their quality, I was convinced my phone was tapped.
- Lage: Did you have it investigated?
- Berry: No. I would begin and end each telephone conversation by telling them to go to hell. [laughter] That, to me, was enough.
- Lage: So you don't think it's unlikely that--
- Berry: No, I don't think it's unlikely their phones were tapped; now, I am not about to accuse any particular person or company. I do know that PG&E kept files on at least one person because at some point or another a representative, a high representative of their company, told me they had a file on Dave Pesonen, which in view of his opposition, is not surprising. If they didn't have a file, I would have been surprised. But, I think the charge of collusion is incorrect.

The charge that the club was dealing with an issue too early, with too much emotion, with unfairness between directors and unfairness to itself, I think is a valid charge. I guess I'm saying I view a lot of what happened as a growing pain. It's too bad the differences of philosophy were not presented in a clean fashion. The Litton view was most eloquently stated, really, by Eliot Porter. Eliot said at that infamous September, '68, board meeting, that the Sierra Club should never be party to a convention that lessens wilderness. It could not have been said more eloquently. That's the truth. We shouldn't be.

I think we gained strength from the mess of Diablo. Now, there may have been quicker ways to learn the lesson but I think the club did. It shouldn't forget but in recent times, seems to have once or twice.

- Lage: After you got on the board, wasn't your role a key one in that September, '68, meeting when the board, again, reconsidered Diablo?

Berry: I intended it to be [laughter], but the meeting turned out to be as confused and clouded as every other discussion of the subject. The issue came up then as it had at my very first board meeting, which was in May of '68. At that May meeting, someone attempted to take the subject off the table while it was not on the agenda, and this was denied by the president. Litton, then, rounded up eight out of fifteen directors--a bare majority--to sign a letter, stating that we felt the Sierra Club had made a mistake, which I felt it had.

Lage: And that's the letter to PG&E.

Berry: That was the letter to PG&E, for which we caught hell from a lot of chapter people because we had taken action, as some of them viewed it, without formal consideration in a board meeting.

Lage: But did you see that letter just as an expression of your personal views?

Berry: I saw it as an expression of personal views, but others didn't. They saw it as official action. Litton was well intentioned. There was some action about to occur and he thought he might forestall it by writing a letter indicating the Sierra Club now had a clear majority against the plant.

There was an absolutely furious debate in September. I cannot recall any board meeting before or since as highly charged as that one. After a devastating raking of the decks by each side's big guns, I attempted to state what I thought was a compromise. It unfortunately was as procedurally flawed as everything else I've criticized. I attempted to state by resolution that the club made a mistake of principle and policy in its initial announcement but that it was bound by its membership vote not to oppose. That's what I attempted to state.

Well, this resolution achieved a majority of something like nine to six, which meant that somebody had to misunderstand it. Otherwise we wouldn't have gotten a majority, would we! [laughs] No sooner had the vote been taken than everyone was offering their own interpretation of what it meant.

Lage: It didn't add to the clarity.

Berry: I thought I had at least some claim to interpretation since I had authored it, but there was more furious debate from there on. It's simply a sad chapter--the whole thing.

Lage: Who ended up liking that resolution?

Berry: No one.

Lage: Nobody liked it, not the people--?

Berry: No one, no one. I managed to get myself on both wrong sides of the same issue. There were people who wanted to adhere to procedural regularity and nicety. They viewed doing anything, even attempting to say we'd made a mistake, as a calamity. There was the Litton view, which required that the land come absolutely first and Sierra Club procedures a distant second, and that anything short of outright war against the first bulldozer was a mistake. My mistake was in failing to realize that those two positions could not be drawn together. I thought they could be, and that was my mistake.

Lage: So it didn't serve a lot of purpose. Did you support the second referendum? I think it was in December, '68, they voted to again put the issue to the club membership. Was that something you favored?

Berry: Well, I'll be corrected by the minutes, but I think I did.

#### Increasing Opposition to Brower, 1968-1969

Lage: You were elected to the board in '68, as part of the ABC [Aggressive Brower-Type Conservationists] slate.

Berry: Half on, half off.

Lage: But still, I think the expectation of others was that you were going to be a Brower supporter.

Berry: Oh, it was my expectation too, but it was also my expectation that where I strongly differed with him, I would differ. I was not a hundred-and-five percenter, as I viewed it.

Lage: I don't think we need to go into every one of the issues that occurred that year. There were a lot of them, and they've been discussed--the "Explorer," the London office, the issue of the ten percent royalties, as well as Diablo, which we've talked about. Were there particular ones that were most important in your eventual rather firm stand against Brower's continuing as executive director? Was there any key thing?



- Berry: There were about seven issues that struck me particularly hard. They were really all just illustrative of what I thought was a central problem. That was Dave's unwillingness to listen to people with other talents and equally important things to add to the club's program. I think that, ultimately, that explains the opposition of almost everyone who opposed him.
- Lage: He saw it more as a one-man thing and you saw it more as collegial or group effort?
- Berry: No, I think it's unfair to Dave to say he saw it as a one-man thing. Dave was not out to be a dictator. Some people have used that word, but I think it's overdrawn. No, I think the problem was his inability to show respect to people who deserved it because of their intelligence, their good motives, and their history of service to the club, even though they may be disagreeing with you in the particular circumstance.
- Lage: Would that explain the reason for your opposition to him? Did that happen to you also, or are you thinking more of the old guard?
- Berry: As I said, I was thinking particularly of Siri and Leonard because without those two, I don't think there would have been any effective opposition. I think particularly of those two because here are men of very superior intellect and accomplishment, people to whom you cannot give a nonresponsive reply and expect to maintain over a long series of exchanges either their respect or support. Dave was the greatest broken field runner in the world when it came to finding a way to his own objectives through board restrictions on his authority.

This became a frustrating process for people on the board who shared, for the most part, his objectives--people such as Wayburn and Siri, in particular--who tried to set the ground rules in a way understandable to Dave and sensible to people experienced in running corporations and business organizations, but so as to leave him free enough to do the great things he had in mind and which they agreed ought to be done.

But Dave was constantly taking short cuts. The minutest ambiguity in phrase or procedure and he was away! He was into the secondary, and he was past the safety and doing what he wanted to do with the ball. You simply cannot deal with people such as these two, Dick and Will, and Ansel Adams, on that basis and not expect mighty confrontation. Dave, of course, did it in the name of "By God, conservation's gotta win!" I think he must have been totally oblivious to the fact that his ignoring them was insulting.

Berry: You can't ignore people like these--even if they may have been wrong on some philosophic points, which I think they were. I've indentified one where I thought Will was wrong and certainly there were a number of times when I disagreed with Leonard on a philosophical basis; I thought he was too doggone conservative, though I might say, to his credit, he certainly changed a lot of ideas over the years. I would not want to say Dick didn't stay up with the times. He did, when not bogged down in this frustrating problem of dealing with Brower. In fact, Dave's actions had a way of making Dick more conservative than he was because you can't go insulting people who are friends and really bypassing what is clearly understood they want and have them do anything but react. And they reacted. So, that was the major theme that, I think, was throughout all these other specific things we could discuss as examples. The ten percent royalty you mentioned--

Lage: Let's talk about the ten percent royalty because it seems to be one where you had a role, a definite role. I think I mentioned to you that in Brower's oral history, he says--well, I guess this was his defense at the time--that he had sent the contracts over to you to review--

Berry: He certainly had.

Lage: --and that you hadn't said anything, and then you'd sprung it on him at this special executive committee meeting.

Berry: I think one has to analyze the highly unusual position I found myself in. I had been asked by the publications committee to take on, in my capacity as chairman of the legal committee, review of certain publications contracts, the general format of which I helped develop. Dave sent them to me; it was a week or two before I got them. When I got them, I was utterly amazed to find that there was a royalty for him. My first instinct was to call him and say, "Dave, you can't do this." I thought about it, and I had to decide what was my real role. Was I Dave's advisor or was I the board's advisor? It took me back to something that I had said to Dave much, much earlier--that, in effect, my loyalty was greatest to the club and that I should never be put in a position of choosing between the two, if it ever came to that.

I agonized over that, frankly, for quite some time because I thought there was a very grave impropriety in this. I could imagine in my own mind, that Dave had done it in a somewhat-- "whimsical" is not the right word but--"off-hand" way. I'm sure he intended to do it, but I'm sure he intended no evil by it. Certainly the last thing he intended was embezzlement. Why, had that been the intention, would he send it to me? So, I was deeply puzzled as to what this meant. I began to view it as a piece with



Berry: his sort of free-wheeling "the board doesn't count or at least you can ignore what they say" attitude. That hardened me a little bit to it. Secondly, there was the unusual circumstance that the chairman of the publications committee was my cousin by remote relationship--my second cousin, I don't know how many times removed--but August Frugé was my cousin. It was a blood relationship that I had known about for twenty years, but I had hardly known the man until the period of time since my election to the board.

I can distinctly recall several nights with very little sleep agonizing over what the hell I should do about this. I finally decided that it was my obligation, inasmuch as there was a clear impropriety involved, to go to the board, or at least to go to the president. I went to the president and said, "I don't understand this; you're a member of the publications committee, Ed. What's this all about? Is this as clearly wrong as I think it is wrong?" He said he had no idea that this had been done.

I assumed that was the end of it. There was no bringing up of this issue in open session. Ed brought it up in a closed session with Dave, at which the members of the executive committee were present--Ed was president, I was secretary. Will Siri was treasurer. Paul Brooks was vice-president?

Lage: I think so.

Berry: Maybe Lewis Clark was on the executive committee. I've forgotten who was the fifth officer [Patrick Goldsworthy]. In any event, Ed made the choice to bring it up in a closed session. Dick Leonard was there. Larry Moss was there. I can remember Ed's raising the question, and Dave's responding. Within a matter of days, certainly not more than a week or two thereafter, Dick Leonard sent around a verbatim recitation of what had been said. I remember reading it carefully because the issue had, by then, grown somewhat beyond my expectation. I can remember feeling his was a fair representation of what had been said.

Some of the things that Dave said in that could have been used against him with far more force than they ever were used. For example--I still have a copy of that somewhere and I would have to refresh myself exactly--one comment he made could have been taken as indicating "Well, you don't pay me enough so therefore what else am I to do?" The transcript was never quoted from in that sense, and I can recall Dick Leonard's putting in writing at about that time his own feeling he was certain Dave would never try to cheat the club.

Lage: Well, he did say it was for his discretionary fund.



- Berry: He may have said that. If so, I had forgotten that.
- Lage: I think that was the final explanation, that he was trying to enhance his discretionary fund because it kept getting cut back by the board.
- Berry: I'm sure there are copies of that document somewhere around.
- Lage: The Bancroft Library had copies.
- Berry: I know I have one of the original copies somewhere. It was never used by Leonard in any way that you might if you really wanted to get somebody. I appreciated Dick's sensibility on that question. Here was a man who was disaffected enough that he really wanted to make a case, and yet he did not use, or misuse, that statement as it could have been used or misused. The whole problem was like one of these Japanese movies where, in no matter what direction you turn, you're caught in the conflict. I remember the film, Chushingura, where it seems as if no matter what the samurai did, he was involved in some conflict with his conscience, his family, his god, his war lord. That's the position I was in. I thought everybody was in a similar position, perhaps not as acute as mine. Here was a clear impropriety, and I decided ultimately it had to be reported. But the thing was fraught with great difficulty.

There were other examples that were of the same sort, but they all came back to the same thing. Dave's actions were sometimes clearly inappropriate. He did them for what, ultimately, were probably good reasons, but if you allow such things to occur then you're really letting one oarsman steer the whole boat.

- Lage: Was there some particular point during that year where you decided that Dave would have to go? Where you actually thought yourself an opponent?
- Berry: Yes. When the Earth National Park ad came out.
- Lage: That was right at the end.
- Berry: That was really the end of it for me. Things had been growing, of course, and getting worse. But there was a strange irony involved in all that. That was when my frustration reached the point I published the first of these short plays. I knew nothing about the Earth National Park ad, but it's almost as if I did because the punchline, or the theme of that little two-pager, "Prometheus Unboundaried," was the same idea as Earth National Park. \*

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\* See Appendix, p. 134

- Berry: I had written this thing as I had written some others more or less to sort of work out, in my own mind, what I really thought. Then I thought, on a lark, "Well, I'll send it to-- I think I selected seven people; one of whom was Ed, one of whom was Will and one of whom was Dave. I've forgotten who got the other four.
- Lage: You sent it to Dave, though.
- Berry: Yes. Within a matter of three weeks, there evidently were at least a thousand copies of it circulating. At the next board meeting, people showed up with buttons printed in the meantime and captioned "Great Hero Books Club"--an obvious reference to this thing I had written. It became, at least to the extent there was a humorous side to all this tragedy, a symbol of what was going on.
- Lage: Now, you give Wayburn the title of "Patience" in that little two-pager. Would you have any further comments or evaluation of Wayburn's handling of all this during his presidencies?
- Berry: I thought if anybody could handle it Ed could--it was unclear, it was beyond Ed's control. That was one of the themes--that Brower was not only beyond Ed's control but the whole board's control.
- Lage: Do you think someone else might have handled it differently, and things might have had a happier ending?
- Berry: In the play? [laughs]
- Lage: No! No. [laughs] We're not rewriting the play now.
- Berry: No. No, I don't. I've agonized over this a number of times but from what I've heard of difficulties encountered since then in other organizations, I think there was a certain inevitability to it all. There was a period while I was an actor in the thing when I kept thinking "My God, if such and such hadn't happened, wouldn't it have gone another way?" The longer I think, the more I think the end result wouldn't have been a whole lot different.
- Lage: Do you think that this drama that the club went through is similar to growing pains that other organizations have had?--even though those who lived through it tend to really focus on it as an extremely unique and important event.
- Berry: Well, yes and no. There's no other organization, for all its faults, to which I have any attachment remotely like the Sierra Club. There's no other organization for which I have as much respect or feeling, so it's hard for me to say anything's in the

Berry: same league with the Sierra Club. You could almost say the same thing of Dave. I have tremendous respect for him. He's the world's greatest living conservationist.

So it's very hard to find parallels. I'm sure there are numerous instances--Darwin and Huxley--where it took a great man with a great idea, yet somebody else too, more practical, to put it over. There is a little theme of that in the Sierra Club story. But there's the greatness of the organization itself. I mean, we go back to Muir, and we come forward to Brower, and now we're going beyond Brower. So I find it awfully hard to compare it to anything. I really do.

The Lasting Impact of the Brower Controversy: End to Debate Over Directions

Lage: Do you think that incident has left an impact on the club?

Berry: Most people now don't even know it happened. Most people who join now seem to have little understanding there ever even was a controversy. Well, yes, it has had an impact in two senses: When we got control--and by "we," I mean myself, Siri, Frugé, Sherwin--Ed [Wayburn] was somewhat on the outs because there had been a dispute over the presidency. But certainly in a philosophic sense he was right in there with the four of us. Here were five people with an almost unanimous view that the club had to carry forward with these ideas that up to then had been subject to some debate. Very little question was raised after we assumed control. Those who might have regarded such people as Dick Leonard as too conservative prior to then, should certainly in fairness examine his votes afterwards, listen to the tapes of what he said in support of our positions thereafter. Because he very readily came along with the major positions we adopted.

It had another impact--it was the end of the debate over our general directions. Such issues as Diablo and Deadman could then be presented without the procedural muddle. This occurred to the point where, within several months of my assuming the presidency, looking forward, we knew we could map out an agenda of specific positions to be considered and adopted over the course of a year or two. At least privately, some of us did this. We knew precisely where we were going to take the club: we were going to broaden the agenda as far as we could go. We were going to take every tough



- Berry: and pure position we could. We were going to do it without the conflicts of personalities and without the procedural screwups of the past.
- Lage: So it cleared the air.
- Berry: It cleared the air. It gave us a clear majority for a particular point of view. The old guard felt they could trust us to be financially responsible and not run off on some tangent. So it left a very clear impact on the club. What may have seemed uncertain about directions before was made very clear. That's exactly how I looked at it. For two years, at least the two years I was president and following that with Ray Sherwin, that's exactly where we headed.



Phil Berry, newly elected Sierra Club President, and Director Paul Brooks, May 3





## III THE BERRY PRESIDENCY AND INTERNAL AFFAIRS IN THE SEVENTIES

Working Out the Proper Roles of Staff and Board of Directors

- Lage: We have covered the period up through the episode of Brower leaving the club, and we're going to start now with your presidency. Particularly, I would like to start with internal affairs, as much as they can be separated out. Then we'll go on to the conservation end of it.
- Berry: He left the club's employment; he never left the club.
- Lage: Right. Good point. Okay, leaving as executive director, then. I think the most obvious question is something about your selection as president. Weren't you the youngest president that had ever been selected? You had only been on the board a year.
- Berry: I think those things are true.
- Lage: How did that come about?
- Berry: There was a sense, on the board, that we had to, if not move in different directions, move somewhat differently. There was also concern to broaden the agenda. There was concern that we might get into a protracted internal battle even though things seemed to be resolved by the one vote.
- Lage: By the [April 1969] election, you mean?
- Berry: By the election. For a combination of those reasons, I was chosen by the group that had then gained the clear majority.

- Lage: Did they see you as someone who could gain the trust of the ABC contingent?
- Berry: In the sense of moving us toward the same conservation objectives, yes. At that point, there were high emotions running. Some of it running against me, strongly, in some respects perhaps even more strongly than people who had opposed Dave all along. There were some people who never did forgive me for what they regarded as turning my back on Dave. To this day, there are a few people who will go out of their way to insult me.
- Lage: I was under the impression all that had healed.
- Berry: It's a very few people, and it doesn't really bother me, but it exists.
- Lage: When you did become president, it sounds as if there were certain immediate problems of just running the organization after the staff changeover.
- Berry: There was a very significant financial problem. There were problems in running the organization that resulted from the great disaffection by some of the people who were very close to Brower.
- Lage: On the staff.
- Berry: Yes.
- Lage: Now, the problem with the staff, how was that dealt with?
- Berry: I think normal attrition took care of most of that. There were relatively few people involved, but one or two incidents let me know it was a problem. We started off giving everyone a clear shot at holding their job. I think except for very few instances--then, really only under the pressure of financial difficulties--people were not fired. In fact, there were almost no firings as such; there were some big financial problems where we had to make choices. I guess the difficulties that were encountered had something to do with those choices.
- Lage: How much did the board and the president step in and take charge of these administrative matters, and how much was left to your head staff men?
- Berry: There was a period of about five or six months during which we met almost weekly, and we took full charge.
- Lage: So the day-to-day administrative work was entered into by the board, would you say?

Berry: Entered into, yes, not discharged by. McCloskey was appointed as sort of temporary interim head.

Lage: Could you describe more fully how this operated, how it worked?

Berry: The major power was in the executive committee, over some protest. We put on the executive committee five members fully committed to a certain policy. There usually has been a tendency in Sierra Club elections to try to balance the executive committee in accord with the relative size or numbers of parties or factions on the board. We purposely did not do that because we didn't want continuation of the internecine battle. We felt the vote had been very clear and that we, at least in respect to internal matters, had a clear mandate. So we moved forward on that. We had to set the thing in financial order. There was no question about that. That required some very severe economies.

At the same time, we had on the outside, to not only adhere to the directions in which the club had been moving, but to really expand the agenda. So we set out to do all those things simultaneously.

Lage: Now in some of the material that I read in preparation for this, there were some remarks made in letters and whatnot, that the board was bogged down, implying that they were having difficulty taking charge and running the club.

Berry: I don't know where those remarks were made but I would be able to supply no evidence to suggest that's correct.

Lage: You didn't have that feeling?

Berry: No, not at all.

Lage: Did you have the sense that the board really competently took over and--?

Berry: Oh, yes. I thought we were in full charge.

Lage: On the other hand, there were criticisms that the board was too authoritarian. I guess Dick Sill would be the one who complained about that.

Berry: In later years, Dick Sill complained about a lot of things. Dick Sill's criticism was constant. The object of it changed.



- Lage: Let me just put the question again. I was going to explain that the letter I saw, saying that the board was bogged down, was from Raffi Bedayn, and he had called a meeting of the CMC people to try to get things going.
- Berry: I think that's overstated. Certainly Raffi remained in touch and Raffi had the ear of all of us. There were meetings, I would say four or five, held over lunch in his office during the ensuing nine months, roughly. On those occasions, he expressed some concerns. He also expressed thanks for what was being accomplished. I had this view of it: that Raffi had played a role, a significant role, in the CMC effort. He wanted to make sure, by staying in touch, that things were being accomplished. I never got the impression that he felt there was a lack of progress; there's always room to do better. In some instances he asked us to do better.
- Lage: What was his concern? Was it financial?
- Berry: He was concerned about finances. I think he also had some concern--sort of a conservative outlook on some of the conservation issues. But frankly, there was very little discussion of conservation issues in those meetings. There was more discussion of process, how the club financially was getting on its feet, how we were eliminating some problems on the staff. Raffi was quite concerned that the staff not be loaded with people who would either bog us down or cause trouble. He did express that view.
- Lage: What was the feeling about the proper staff role vis-à-vis the board or the president?
- Berry: That was in the process of being developed. There had been, very recently, a huge test of whether the board or staff was going to be in control, with a resounding answer to that question. The next question, then, was what type of staff do you have if it isn't in control? It was during that ensuing two years when, through a variety of special committees, we attempted to obtain an answer for that.
- Lage: Is this the reorganization committee continuing?
- Berry: The reorganization, yes. That's at the end of my presidency.
- Lage: Let's talk about that, how the answer developed over this period of time or how you saw the proper role, the breakdown between staff and board.

Berry: I felt then, and I still feel, that the club needs strong staff, capable of carrying the Sierra Club message to the country and particularly to elected representatives with real punch. In short, I think the staff needs real leadership in the traditional sense of a good, effective spokesman. At the same time, I thoroughly favor a staff that does not try to control, and I think these views were shared--

Lage: You mean control policy?

Berry: Control policy, that's correct. I think these views were shared very strongly by the majority of the board. To that end the discussions of reorganization occurred. That inevitably led into discussion of the personalities involved.

Lage: The other question (this is a little off the track): Another characterization that I saw in letters from two different sources were putting in one group Siri, Brooks, Wayburn, and Huestis as neutrals. This would be CMC on one side, ABC on one, and that foursome as neutrals, characterized as being conservative, in their conservation outlook I would guess. Does that strike true to you? I saw that in letters from Dick Sill and August Frugé also.

Berry: Each of those persons could be described, depending on what facet of personality or outlook you want to focus upon, as either liberal or conservative. Huestis, for example, was certainly fiscally conservative, and not apt to take the lead in respect to conservation positions. Yet, I felt he had a very good and open mind about almost any issue, so choose whichever label you want to apply to him. Labels have some usefulness, but generally they stick more than they should. Paul Brooks certainly came from a staid Boston background, but he was one of the foremost thinkers about wilderness. He, too, had a very open mind. So, stick either label on him. August Frugé is my cousin; I have a bias when I speak--

Lage: But he was one of the ones who described this.

Berry: But the same thing can be said of him, however. I thought with your question, you were bracketing him in the same way. He had his so-called liberal and so-called conservative sides. All of those men shared those qualities, and the thing that made them particularly important to the club at that moment was they were all very bright, all very well educated, all had open minds, and all had their own good, independent character.

Lage: Were they all as interested in moving the club in the direction you were, broadening the scope?

Berry: Did they have the drive to do that? Did they have the burning desire to do it? Not necessarily, except in the case of Siri. Intellectually, I found Siri, in that respect, closer to my position than anyone else. They may have. This is a suspicion, nothing more than my suspicion, that they felt I was more liberal than themselves. I was younger, inclined to pull the sword a little quicker and maybe use it with more vigor, but I think they, at the same time, sensed I wasn't going off any deep end, that I would pull the club into new positions and areas without embarrassing anyone.

Lage: Did you have the sense that you had support from your executive committee?

Berry: Yes. Yes, I felt I had full support. In some instances they let me talk them into doing some things that they perhaps would never have thought of doing themselves--picketing Standard Oil. It took me a bit of time to convince them but they agreed to it.

#### A New Style of Staff Leadership

Lage: I would like to talk more fully about how the ideas and relationship between staff and volunteer were worked out during those two years.

Berry: They were worked out totally by happenstance. There was a consensus, particularly amongst the people you have just mentioned, that McCloskey did not fit the description I gave, that he was a good second man but not a first man. That was a view shared, by and large, by a very big majority on the board. There was talk continually about either a replacement or creation of a new position superior to his.

In one meeting without any prior discussion within the board, Martin Litton moved to give Mike the title of executive director. The board was caught quite unawares. Had I been exercising the sense I think a chairman should, I would have said, "Look, this has not been discussed. This is a matter we usually take up in private. This should be discussed in private before we go ahead." The board simply voted to give him that title. There was a great reluctance on the part of a great majority of the board to do that. It was one of those things that happens by happenstance.



- Lage: So you were looking for a person who was more like Brower but could be controlled?
- Berry: I think that's one way of summing up what they were after. They were after someone who would have maybe something like the charisma Brower had, who would provide leadership without attempting to control. There was a perception that any person who did a lot of infighting would ultimately try to control policy. There was a big fear about that. There should be.
- Lage: Is that something you found McCloskey doing? Is that what you're saying?
- Berry: McCloskey's about the best infighter I've met in my life.
- Lage: What do you mean by "infighter"?
- Berry: Moving toward objectives that are rarely clearly stated. Moving toward objectives by indirection. Coatholding. Floating trial balloons and letting somebody else hold the string.
- Lage: Did you have the sense that he had a clear sense of where he wanted to end up and was going about it in this way?
- Berry: Oh, sure. He wanted to end up in control. The club is today more controlled by staff than it ever was at any time during Brower's tenure. Without question. There are today things done by staff, without the board even so much as raising a question, which if done by Brower would have caused all hell to break loose.
- Lage: I think most everything that Brower said he needed, and the board was unwilling to give him, staff definitely has now.
- Berry: Sure. There are a couple of good reasons for that. It goes back to the basic causes of the disaffection with Dave. Dave did not show respect to intelligent, well-meaning, good minds. It's inevitable when you do that you create an awful antagonism. McCloskey does not directly affront people. This is, if not the key, certainly one of the keys to his success, because he does not directly appear at any moment to be reaching for power. He does not appear at any moment to be thwarting the board. He, when there's a battle on, is either holding a coat or is not responsible for the immediate, precipitating action. But, mark my words, he's the best infighter you ever saw.

Let me give you an example that comes from what happened this year. The staff, i.e. McCloskey, seriously considered not opposing Watt. This was discussed within staff very seriously for a matter of weeks, without consulting with the board.

Lage: Would this be at the time of his confirmation hearing?

Berry: Yes. I heard about it because staff members secretly, in so far as they were concerned, called me and told me about it. They asked me, amongst others I assume—I don't know that they contacted others but they certainly did contact me—to put a stop to it if I could. I contacted a fair number of people about my concerns, and urged, number one, that the board be consulted if this were seriously to be considered; number two, that it not be discussed amongst the staff as if they were to make the primary decision. Ultimately, the thing went right, but there was some deep concern prior to that time.

Lage: Ultimately, was it a decision made by the board?

Berry: No, ultimately there was a decision made by the officers of the board and McCloskey. There was a struggle. It was kind of submarine warfare that went on, very much to my annoyance because I felt there was no question that, if things like this were to be seriously considered, they ought to be considered right out there with the board in control. The board never protested, in adequate fashion, that failure of consultation, which marked, to my mind, a real decline in the assertiveness of the board.

The second very serious incident also concerned Watt. The petition drive against Watt was launched without consultation with the full board. A few members knew about it, but it was not launched openly out of fear we would be co-opted by another conservation organization that might jump the gun. It was feared by the staff, or, I assume the staff head, that another conservation organization, if it knew of the plan, would announce it first. I suppose someone's entitled to the benefit of having a good idea. That idea is not so unique as to think anyone needs a Pulitzer prize for it.

Lage: Or that it can't be cooperated on.

Berry: That's exactly true. A decision was made to commit enormous Sierra Club resources, time, and effort to a project, without full board consultation. Now I agreed with the objective. I agreed with precisely what they were doing. I very strongly objected to the way it was done. There are other examples along the same line, but what two events could be more important to conservation in the whole year of 1981 than the nomination of Watt and our effort to get rid of him?



Lage: It's also amusing that they seem directly opposed to one another. I mean, first, considering not opposing Watt and then working to get him out. How can you swing from one extreme to the other?

Berry: I think it's reasonable to raise the question, "Do we lose more than we gain by opposing this jerk?" That's a legitimate question, and I'm not criticizing that it was raised. I'm criticizing very strongly the fact that it was raised without board consultation, that it was seriously considered and debated only within the staff. I don't think that's leadership. I think that's staff assuming the decision, in fact, is its to make. There is implicit in both those decisions a sense that the Sierra Club is whatever the staff decides that it is, and that is precisely what we fought about with Brower.

In fact, this is the startling point; Brower would not have done either of those things. I'm certain he would have opposed Watt. I'm certain he would have pushed the petition. But he would not have felt either of those decisions were his alone. He would have taken a very strong position in favor of the ultimate club position on both points, I'm certain. But I think he also would have consulted with the board, and if anyone resisted him he would have been very hard to live with.

Lage: Now, to move us back to your presidency, was this a problem you saw developing at that time? Or were you simply reacting against Brower? I mean, did you see that McCloskey, say, as executive director was moving in that direction?

Berry: I saw some things that disturbed me and gave me some pause. For example, when requests for major speaking engagements would come in from the outside, numerous times they were not passed onto me even if directed in the first instance to me. They were sorted through, and Mike would take the ones he wanted. Opportunities to make a statement in a book preface or something like that were not passed on to the volunteers. They were assumed by McCloskey. This concerned me in two senses. First of all, in a personal sense, it was annoying. That's personal and probably not too important from any historical perspective. It also annoyed me that here was staff assuming it was primary. It seems to me without question that within the club, every major opportunity to speak for the club ought to be the president's. If he doesn't want it, he can delegate it. He ought to think first of delegating it to another volunteer who can handle it, who has the ability and the command and the respect. Then, staff ought to be considered.

That's not happened ever since Brower was there.



Lage: And I would say, from today's perspective, there are those who disagree with you, who don't see that as being a proper role for the volunteer. People on the board itself seem willing to take a secondary role.

Berry: I'm sure there are some. The ones who acquiesce in all the rest of this.

### The Club as a Volunteer Organization

Lage: What is your model for the proper role of the volunteer in the club?

Berry: The club is a volunteer organization. Its primary strength is the volunteers. Unless they clearly see the way is clear to the top for them as a volunteer, there are somewhat defeated expectations. Also, the outlook of a volunteer is going to be entirely different from that of a staff member. There have been instances when the abstract notion of compromise, for example, has been pushed by the Sierra Club staff, coincident with certain national political events. That always made me wonder at the times I've seen it, whether something outside was influencing events.

Lage: Now be more specific.

Berry: Let me come back to a specific example but complete my answer first. A volunteer who sees his position as club head in a narrow time frame--one or two years--is more likely to have a sense of club traditions, a sense of the club purity of purpose, a sense of the club community and the importance of his leading in line with these things toward certain goals. A staff head who sees this perhaps as a stepping stone to something else, who perhaps wants a federal appointment, who may have some political ambitions, is placed in a somewhat compromised position.

Now obviously, depending upon the personality you select or the circumstances, you could apply these arguments to either position. But by and large it seems to me true, the volunteer head is probably going to be freer of these other drawbacks, than a staff head. So, as a matter of principle, I think the major decisions, the major statements should be made by the volunteer.

Berry: Specific instances? Yes, I have one that worried me. I'm not certain of my ground; all I can state is suspicion. When McCloskey was under consideration by the Carter people for a federal position, he wrote an editorial on the virtues of compromise. Always made me wonder. I don't know, I'm not inside his head. I don't know whether the editorial was some long-thought-of statement on the virtues of trying to get along, or whether it helped a personal goal. I suppose one could take either view. But it greatly disturbed me because of its timing.

Lage: I saw that in the Bulletin when I was looking over things for this interview, and it seemed to come out of the blue.

Berry: It seemed to me to come out of the blue too, looking at Sierra Club traditions and everything else we've said. In the context where he as being considered for a federal position it caused me some concern.

#### Internecine Battle over the Idea of a Paid President, 1971

Lage: So let's get back to the time frame we're supposed to be on. Was it this kind of thinking that was behind the recommendation of the reorganization committee to have a paid president?

Berry: The major thinking behind the reorganization committee was that McCloskey was a good second man, but he wasn't a first man.

Lage: So again their recommendation was sort of fitted to the circumstances, to the individuals that we had.

Berry: That's right. I think they were reluctant to talk about a paid presidency but this happenstance vote of the year or so before put them where they had to deal with some kind of different titles.

Lage: You mean the earlier--

Berry: The vote relating to McCloskey no longer being called temporary what-ever-it-was and being called the executive director instead.

Lage: Oh I see. So because of that, they came in with a paid president instead of someone else as executive director.

- Berry: That's right. The decision was partly motivated by a sense that if you're going to give a little bit more in respect to leadership to the staff side, perhaps some title a bit higher would help. But that was not a huge part of it.
- Lage: It wouldn't have solved the problem of a volunteer being in charge, would it?
- Berry: They had accepted Dick Sill's idea that there could be a chairman of the board who was truly in charge. In respect to titles, they were coming closer to the commercial corporate operation where it's the chairman of the board who's the chief man in charge and policy is executed through a president.
- Lage: I've always been a little bit hazy on how this evolved. I know there was a controversy when you were suggested as paid president, but it seems a little hazy. Was that ever actually a suggestion or was that a rumor?
- Berry: Oh no, it was very definitely suggested. At the time it was suggested, there were ten out of fifteen board members strongly for it.
- Lage: Was it a motion in front of the board that was passed?
- Berry: It was discussed at great length in private sessions.
- Lage: Discussed in private sessions. I guess it's unclear from the minutes then.
- Berry: It's unclear from the minutes because the internecine battle began at that point.
- Lage: Shall we talk a little bit about that?
- Berry: The council met and urged caution, based, I suppose, on a couple of things. First of all, they didn't want another fight within the club. Some of them, I know from what I've heard, probably had a fear of me as too strong a personality. They had memories of the Brower days. Some of them, I'm sure, did not want that strong a leadership role from within the staff—in my view, failing to distinguish between leadership and control. I see clear distinctions between those things. It may, to other minds, not be as clear.

And also, there were a lot of kickbacks from the staff who felt loyal to Mike, which was another of the problems perceived as time went on. I felt—and this was a view, I think, shared by a majority of the board—that in the selection of staff people under



Berry: him, Mike was far more inclined to choose an Indian than an assistant chief. For example, he left the position of conservation director in 1969. That position was not refilled for approximately ten years. Why? It was my perception through those years that McCloskey would always choose someone who would be subordinate to him in a very real sense. The titles sounded like junior assistant scoutmaster.

It was only very recently, in the last year or two, that he has been able to break away from that mold and give substantial power to people under him. August expressed this objection, stating a sense of most of the people on the board—including particularly himself, Siri, myself, Sherwin—that somebody who's good enough for that job of executive director ought to want subordinates good enough for the job too. If you have to chose an Indian and call him a junior assistant chief, you shouldn't be chief.

Lage: The staff under him showed quite a bit of loyalty when this started happening.

Berry: Staff can show loyalty if they want. I'm not criticizing the staff; if they want to be loyal to their chief that's their business. I do think the chief has an obligation to the organization not to choose people based primarily upon their sense of loyalty to him--particularly, to fail to bring in people who may be as good or better and put them in positions of power.

In defense of Mike's recent actions I would say that he now has done that. That's an improvement. But there was a long, long period when it was not done, when the conservation director position was not filled.

Lage: Was the board asking to have it filled?

Berry: The board wobbled all over on this. They would always be seduced by Mike's coming up with some new title. I thought that was wishy-washy on the board's part. I thought the board should have forthrightly said, "Look, we need people with capability in these high staff positions and damn it, you're going to get another executive director, or you're going to get a conservation director, or somebody at high level, and give them power and authority commensurate with that position." The board should have said that and stuck with it.

Lage: What do you think the reaction to the idea of having a paid president showed about the club? It was really quite widespread and strong, wouldn't you say?

Berry: I think there were a variety of sentiments being expressed all at once. Part of it was, "We don't want another fight." Part of it was, "We don't want strong leadership." Part of it was--

Lage: "We don't want strong paid leadership," do you think? Strong staff leadership--

Berry: Yes. Strong, paid, staff leadership. There's no one thing to which you can assign the reaction that occurred. I think it was a combination of those things.

Lage: Do you think the club would have been better off had it gone in that direction?

Berry: You're asking me a very personal question, and I don't think my answer's going to be very meaningful to anyone else.

Lage: An unfair question. [laughs]

Berry: The question's all right if you're willing to live with the answer. Yes, I think the club would have been better had it moved in that direction. I think it would have been stronger overall. I remain convinced today that the staff ought not to feel itself separate from the board and least of all, superior to the board. I think it's perfectly possible for the staff to carry on the function of leadership and not insist upon having all its hands on all the levers.

Lage: It seems a little contradictory, except as you define it, making the distinction between leadership and control. You wanted a stronger staff person, more of a leader, and yet you're one of the strongest advocates for more board control.

Berry: That's right. I don't see any inconsistency between those things at all. I think it all depends upon what sort of staff you put together. I think there's plenty of opportunity for personal expression as leader without insisting each decision be made by you.

### The Real Issue behind the Club-Foundation Struggle

Berry: There's a whole gamut of other issues where we've run into the same problem, relating to control of money. There is, right now, and has been for a number of years, a tug of war that's more of a taffy

Berry: pull going on about the control of money. Who really ends up pulling the strings? It's not just a battle between the [Sierra Club] Foundation and the club; it's largely a staff struggle. That, again, has been one of these classically confused Sierra Club issues. Personalities on both sides confound the issue.

You've had pulling and hauling between some members of the club who have close attachments to the foundation and others who think that it's a totally antiquated institution. That has obscured the basic issue, and that is whether, ultimately, a staff controls the money or a volunteer organization controls the money. Without going into all the ins-and-outs of it, the instances of coholding during all this scenario, going on for six or eight years, are multiple.

Lage: So that battle, over the primacy of the foundation and the independence of the foundation--

Berry: That's right, has very largely been a battle over staff control of money versus volunteer control of money. There were other issues. There certainly were a lot of personality issues, but it all became clouded in the same way the Brower controversy became clouded--with a lot of stuff that was really quite secondary. At bottom, in that issue, was a--

Lage: At bottom--just control for control's sake, or the idea that we can do a better job raising money?

Berry: Probably a little of both. Why did people seek control? You're going beyond my knowledge. I can describe to you what I think is going on, but to supply motivation, go see a psychiatrist!

Lage: Do we need to cover more on internal affairs; shall we go on?

Berry: I don't know to what extent you want to receive my strong opinions, but [laughs] I'm giving you a lot of them!

Lage: Do you think we need any more explanation of what went on internally during your presidency and the controversy over the paid presidency?

Berry: You're dwelling on the least interesting parts of it. The things accomplished and worth talking about, at least I hope they are, were we broadened the agenda--

Lage: That's what I want to get to.

Berry: And we pushed like hell for a larger national presence.



Lage: That's what I want to get to but I want to know, is there anything else you'd like to say on these internal matters and then we'll get onto the interesting things.

Berry: We've already said probably too much.

Lage: Okay, good, I'm ready to move too.

## IV BROADENING THE CONSERVATION AGENDA DURING THE BERRY PRESIDENCY

Influences Toward a Broad and Bold Approach

- Lage: Broadening the club's scope, broadening the agenda was, I would say, the major conservation accomplishment during your presidency.
- Berry: We went about that very systematically. I sat down individually, with Siri, also with Frugé, Sherwin, and Wayburn to some extent-- though, oddly enough, Ed, who is generally pretty good about accepting new ideas, had a tendency to feel we ought to stick just with wilderness, but he wasn't really too difficult on that issue. And we mapped out those areas where we needed policy and where we ought to move. And we had them in our minds, at least I had it in my mind, mapped out to take a series of board meetings, maybe six or eight total, to move into a lot of new areas. Taking major issues each time to make fundamental statements, we charted logical extensions of Muir and Brower and tried to make as clear a policy statement as we could at the time.
- Lage: Let's talk a little about influences on the direction, then we'll go into the various policies. You mentioned last time that it was basically Brower's program without the--what was that?
- Berry: Did I say that on tape? [laughs]
- Lage: Anyway, were there other influences in your mind? What caused you to want to take the club in that direction?
- Berry: I always looked upon Aldo Leopold's writings, particularly Sand County Almanac, as being central to modern conservation thought, along with Muir. There was strong emphasis upon that. There was

Berry: continued emphasis upon the ethical ideal, the notion that our ideas are basically ethical ideas. And there was enthusiasm for the idea that we could win.

I can remember the first half-year that I was president, I visited at least half the chapters and made what turned out to be the same speech to each one of them, declaring emphatically that we could win, and that—I did not quote Roosevelt but perhaps it was an implicit assumption in some of the things I said—the only thing we had to fear was getting afraid, and that we ought to get out and really fight.

Lage: As I reviewed some of this, I was really quite struck by a different feeling from what we have today. A much greater sense of optimism and of being on the brink of big change in society. Do you recall that?

Berry: Oh yes, I can recall never being so exhilarated in my life as when I went before some of those Sierra Club audiences during the fall of 1969. Feeling at one with them and feeling that I was doing something effective and also getting a sympathetic vibration back from them. They were glad to see the club pulling together in one direction and that indeed there was not a change of philosophy; there was a reinforcement of basic philosophy, and we were going to move ahead vigorously.

Lage: Could you relate this to other things that were going on in society? It seems very much intertwined with the student movement or the feeling of those days of the student movement.

Berry: Oh, I think there are some parallels there. There were a few retrograde developments going on—like Nixon's presence, but even there we carried the battle right into the White House. There was a meeting in early 1970 which has been remarked upon by Bob Cahn (in his book)\*, wherein leaders of many conservation organizations were invited in to talk with the president. There was a premeeting called, I think, by Audubon or National Wildlife people, suggesting that we speak with one voice to convince Nixon to give more and that we were good responsible people, and then continue to fight for what we wanted individually. Well, that was all very fine.

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\*Robert Cahn, Footprints in the Planet; a Search for the Environmental Ethic (New York, 1978).



Berry: They also suggested that, if there were dissenting views, we try to state them privately. I did not agree to that last condition. We went in. Maybe twenty of us met with the president for what turned out to be about three hours. He told us that conservation was a fad, that we'd be lucky to get whatever we got, that here's what he was offering, and that all had the same goals and we ought to get behind his program and be good boys. After that everyone around the table added their own personal comments as if, you know, we were truly being asked for what we ostensibly were there to say. The questioning or discussion started with the person next to me, and went in the opposite direction ending therefore with me as the last speaker. Everyone advised Nixon that they'd like a little bit more of this or a little bit more of that, how indeed we should all pull together. I am afraid I disrupted the whole meeting by declaring at the end that I didn't think he believed the same things we did at all, that we were fundamentally not in agreement with him, that conservation was not a fad, that we were not going to, at all, accept this notion that what he wanted to give us was all we could get, that if we disagreed with him, we'd tell him flatly. There, then began an argument--I've forgotten how long it went on but it went maybe ten minutes--

Lage: Back and forth between you and Nixon?

Berry: Between myself and Nixon and at the close of that he suggested I read certain things, and I suggested he read certain things.

Lage: What else went on in your argument with Nixon?

Berry: We argued over population and energy and a variety of things. And then the meeting ended. I've heard about it ever since. But most I heard about it in the next three to six months, people saying either Nixon was amazed or angry or both. I heard some people say they thought the meeting had started when the argument began, others thought it ended there, all depending on your point of view and whether you take a harder line or a softer line.

The most interesting comment I ever heard was long after that. About two or three years ago, I was asked by Bob Cahn to review for accuracy certain portions of his book where this conference is mentioned. Then he confided in me something I had never known. He was to confer with the president perhaps over an hour after this meeting. He waited outside while, in the interim, Henry Kissinger was closeted with the president in the oval office. Kissinger came out early, meeting Cahn on the way out. Kissinger told him that the president would not listen to anything, that he was preoccupied, and "What is this Sierra Club, anyhow!" [laughs]

Berry: I wished Cahn had put it in the book that way because I thought it a very amusing commentary on both Nixon and Kissinger. He didn't.

Lage: The other conservation groups were not as interested in bold opposition?

Berry: I don't think I can speak for them on that. They did not announce bold opposition in the way I did but they were all, for the most part, gray headed too. I'm ten years older now; I don't know if I would say it quite the same way today as I did then. I was, you know, a younger person in a crowd of people who were known to choose their words carefully. I did not have any great sense of awe at Nixon. I also felt that, as a scrappy person himself, he might understand better if somebody put it to him bluntly. So, my statement was that of a person of my age at the time to somebody he thought ought to be dealt with directly.

Opposing the Rogers Morton Confirmation: Opposition to Corporate Political Power

Lage: Wasn't there something at the hearings to confirm Morton as secretary of Interior?

Berry: That's one of the things I talked the executive committee into, over their doubts. Rogers Morton had been a chairman of his party, and I long had the view that politics in the United States is too much affected by the power wielded by oil companies. Certainly the oil companies are amongst the very largest corporations. Many of them are multinational corporations. Their basic processes are more fundamentally exploitative than almost any other type of company. They have a strong sense that they damn well can make policy and they know best. Also, frankly, they're greedy. I felt then, as I do now, that their power is fundamentally the power of money, and their resulting influence upon Congress is extraordinary. Well, this view reaches, I suppose, its high water mark in this thought: if someone is chairman of his party, the lifeblood of which is political contributions, and if the poison in that whole system is oil money, then the last person you want to have in charge of the public's natural resources is such a chairman. As I repeat my own views of ten years ago, they sound a bit extreme. I might still subscribe to them, but I don't know that I'd go tell Congress that again. Because Congress couldn't have cared less what I had to say on the subject. But we did present the point of view to the confirmation committee of the Senate.



Lage: And you did convince the club executive committee that this was right

Berry: Yes. We presented the view to Congress, that it ought to, with great caution, examine whether a person who has been raising money as chairman of a political party, and therefore a person in very close contact with oil companies, regardless of party, should be secretary of Interior. I presented that view to the Senate committee which consisted, at the point I spoke, of only Senator Jackson, who himself had been chairman of his party. He disagreed with me and that was the end of it. We felt, overall, Rogers Morton was going to be far too conservative and, in particular, we were quite concerned about the oil situation.

Mind you, this was when the Alaskan pipeline and all the rest of the Alaskan issue was red hot.

Lage: That's right. The oil companies were pretty active.

Berry: I don't apologize for this view. Look at what happens in Congress, and where the money comes from and how legislators vote. Money has something to do with the way they vote. I personally believe it has a very great deal to do with the way they vote.

Lage: I think the interesting thing is that the circumstances haven't changed and the reality, but people aren't as willing to present these views anymore. The times were more radical. I don't think you would find the Sierra Club making that statement in front of Congress, even though the statement itself is probably as true as ever, maybe more.

Berry: As I look back on what we did or what I convinced the Sierra Club to do, I recognize a certain political naiveté about it.

Lage: Talking to Congress about it.

Berry: Yes. It's one of those things that's probably so damn true you don't dare say it for fear of offending somebody. In those days, I probably delighted a bit in offending them because I was mad. I was mad. In effect, you know, oil money pollutes Congress. And if oil money pollutes Congress, they've stolen democracy from us. Now there are subtle shades of gray all through this. Some people may be influenced very little but receive a lot of money. Some people may receive very little money and vote their way anyhow. But contributors by and large must not spend money without some idea that they're getting something for it.



- Berry: When I look at some of the very, very large natural resources decisions in the country which have been dictated by this type of consideration, it makes me sick.
- Lage: You talked at the time, also, about a national corporations code.
- Berry: Yes.
- Lage: Was that an idea that was bouncing around in various places, or was that something you came up with?
- Berry: I don't know how much it bounced after I threw the first ball. I hadn't heard the idea before we published it. There's nothing too novel about the idea but it came from something I had dreamed up.
- Lage: What did it consist of?
- Berry: It consisted of this. Historically, corporations didn't exist. The only way of carrying on business was as an individual or through a partnership. Partnerships, if they have enough people and enough capital, can have a long life. But their size is relatively limited by their capital requirements and the resources of individuals. So, the English kings chartered corporations as a means of putting together more capital. They gave this new entity life, which is perpetual, and by its very nature it can amass a great deal more power than anything else on the scene.

If you view the power a corporation gains from independent life in that sense, you can also view it as a part of government that got away, because there is a power that didn't exist until government said it could exist. Now this may be perfectly okay. The corporate form, of course, includes a lot of small businesses. Giving them perpetual existence may serve perfectly well a lot of purposes. But when corporations become so large that they are bigger as commercial enterprises than whole countries--and I'm not talking about just little tiny countries but enormous countries, which yet are smaller than, say, Exxon--then it seems to me that you must question fundamentally what it is you've allowed to be created. In the instance of many of the multinational corporations, you've created something that's beholden only to a very few stockholders who vote, or who have enough shares to make it worthwhile voting--an entity with greater power than that of governments.

You can either knock the whole system apart and prohibit them based on size or area of operation, and that's really the function of the anti-trust laws, or you can ask that their purposes be more circumscribed than simply doing whatever profits the shareholders. You can ask that their purposes include protection

Berry: of the environment. It was the idea we had at the time--that I guess I had and discussed with Ray [Sherwin] and some other people--that a fundamental purpose of each corporation should be protection of the environment. Then if the shareholders are given a right of suit, somehow, to enforce this on the corporation, you've done something that may fundamentally change their character. It's a very idealistic thought, maybe totally unworkable, but at the time we liked its focus on the fundamental problem we run up to time and time again dealing with large exploiters of the environment. They're greedy, and don't give much hang about other values as long as they're pursuing that one so hard. So, this was an idea that we tossed around for a while; it's had a few echoes since then.

Lage: Did this kind of thinking bring you into conflict with some of the older members of the club--

Berry: No. I had thought that it might, but I never heard any kickbacks from that.

Lage: Any kickbacks from taking on big oil? There were some critical letters.

Berry: Oh, yes, there were. There were some former Sierra Club presidents very close to Standard Oil Company. That's fine. Let 'em.

Lage: But from people like Dick Leonard, those who stayed active with the club, did you find objections?

Berry: If Dick had any reservations or criticisms, he never voiced them to me, and I think he would have felt open to do so. I don't mean to be speaking for him, but I've known him always to be willing to speak his mind.

#### The Environmental Survival Committee: A Sierra Club Think Tank

Lage: I wanted to ask you about the environmental survival committee. What particularly struck me in reading about it was the perceived need for a really major transformation of society.

Berry: Somewhere along in 1969, a group of us got together to discuss this whole broadened agenda--really the implementation of ideas that Brower and other people, Loren Eiseley, [Rene] Dubos--the whole cast of characters--Barry Commoner, had been talking about as



Berry: individuals for some time. We were talking about how to put this into a Sierra Club agenda for action. That's really what the survival committee was. It also sought, hopefully, to systematize some of this thinking so that it was more than a Sierra Club poster of an idea.

Lage: To make a program out of it?

Berry: Yes. I don't mean to diminish the Sierra Club posters or the power they had upon people's minds. But it was our conception we had to particularize this whole series of ideas in a program to be implemented by club people. So, partly under the urging of Dick Cellarius, whom I have to thank for being one of the spurs, we put together a so-called survival committee. Sounds a little ridiculous, unless you knew we weren't talking about rope ladders in case of fire. We were talking about the elements of a program essential to global survival as, for example, the Club of Rome was then just beginning to speak about. This was sort of a private Sierra Club think tank, which met three or four times as a large group, several times out in a cabin I then owned near the Big Sur wilderness.

We talked about these things in kind of a freewheeling fashion, trying to dream up ways that we could implement various phases as parts of Sierra Club program. Outgrowths of this, too, were additions to this agenda which several of us had been thinking of for quite a while.

Lage: But a lot of it also seemed philosophical; on one of the agendas I saw in, I think, Ray Sherwin's papers, was a discussion of whether society could be reformed--would it be reform or revolution. It really takes you into that ferment on the campus at the time.

Berry: I guess you could read the agenda and get that out of it. To a degree, an agenda for a meeting like that is a Christmas tree with a lot of trinkets various people put on it. As far as I was concerned, in leading those meetings, it was not preparation for the writing of a Declaration of Independence or manifesto. We weren't meeting for purposes like that as far as I was concerned. We were meeting very near the front lines to decide just how to deploy our forces. There was a philosophical bent to it all, but as far as I was concerned, we were lining up our guns on the enemy.

To a large extent, frankly, I thought most of the thinking had already been done. I felt that the day I assumed the presidency. Now let's organize the army and move. That was the spirit in which we entered the whole thing.



Lage: How did this particular program and this committee work with the staff to develop program?

Berry: Staff was invited to come talk along with us.

Lage: So you were trying to develop policies that the board would pass and then ways to implement them?

Berry: That's right.

Lage: Did the staff take a role in preparing policy?

Berry: The staff took a role just like anybody else did. If we saw a good thinker we invited him to think along with us. But staff didn't prepare anything, and they didn't go away with any specific instructions.

#### The New Agenda: Energy, Population, DDT

Berry: One of the outgrowths of that was the energy committee. It became obvious to us about the second or third meeting. It wasn't a static group of committee members. Siri was always there. I was always there. Sherwin was frequently there. It became obvious to us there was one big central block of issues attached to energy. So one outgrowth was the creation of the energy committee and working toward the energy conference held the following year in January back in Vermont: a very remote place that for some odd reason we picked.

Lage: That was a Sierra Club conference?

Berry: That was, yes, the first really big energy conference there ever was.

Lage: I thought we would just talk about some of the components-- you mentioned energy. What about population?

Berry: We decided that one real quick. It was one of the first things we put on the expanded agenda. Fred Eissler had tried for two or three years before the Brower debacle to get something said about that. We put that one together very quickly and I think we decided at least a good part of it in September of '69. From then on the population issue was a big part of the survival committee discussions. I've forgotten whether we had a population committee

- Berry: before that but we certainly found one to work at that point. Dr. John Tanton took a big part from then on. He was one of the original discussants from within the survival committee group.
- Lage: Was he from the East?
- Berry: He was from Michigan, upper Michigan, upper peninsula. He's an ophthalmologist, way back in the piney woods, but he spends his time thinking about how crowded other places are. [laughs]
- Lage: He seems to have really pulled together a good program.
- Berry: Yes, he did. He did an excellent job.
- Lage: And then got a grant to have a staff population person?
- Berry: Yes. This was part of our general outlook that when you've got a really good issue, you get a good person and try to give them some authority and some leeway and let him run, or her.
- Lage: Were there controversies regarding that population proposal? There was a very strong statement in it supporting unqualified abortion.
- Berry: You're talking about the September '69?
- Lage: Yes, [and also the five-year plan accepted in May 1971].
- Berry: If that's the one you're talking about, I personally wrote it [1969]. In one we took a position also about the primary thrust of foreign aid. If that's the one you're talking about I think I personally wrote all of that.
- Lage: Now that one brought some criticism from George Marshall in particular, maybe others--the foreign aid idea [that all foreign aid grants should be conditioned on a population control program and that aid should go to birth control rather than "purposes which compete with the need to limit population growth."]
- Berry: There may have been some criticism of it, but one thing I remember about that September, 1969, meeting: there was not a single dissenting vote on anything during the entire meeting. We had five or so ABC colleagues amongst us. I can recall remarking at the end of that meeting, "I don't know if there's ever been a Sierra Club board meeting where everything was decided unanimously." There's certainly not been one since, I'll tell you that! There may have been some before, but that was something new to me.
- Lage: Well, on some of the issues like abortion, which was accepted without much discussion, I guess the controversy came much later.

- Berry: There was a sense of momentum that we built up. The central five on the executive committee determined that, "By God, we were going to move the Sierra Club." We were going to push this broadened agenda. We were going to get the club really fighting. We were going to pull the club together. We saw historically the conservation movement was coming to a point of real strength. By gosh, we were going to see the Sierra Club at the very forefront of it.
- Lage: So there was also a sense of competition--or maybe I'm reading too much into this--with other groups.
- Berry: No. No, we had very little sense of competition with other groups.
- Lage: There were new groups forming?
- Berry: There were new groups forming, and we certainly wanted to see the Sierra Club lead. We discussed several times the possible issue of competition--"What about Friends of the Earth?" With only one dissent on an issue not really all that important, the unanimous vote was, "Well and good, as many organizations as want to join in this thing, the better." I can think of very few things where any sense of competition had much to do with it at all.
- Lage: There was that sense of optimism. I remember in one of your reports, president's reports, you mentioned a million members on the horizon.
- Berry: Did I? I must have been optimistic. Well, that will come. But if I saw it on the horizon, I had x-ray eyes. [laughs]
- Lage: Do you remember the controversy over banning DDT? Or was there much of one?
- Berry: There was and there wasn't. One very distinguished scientist member of the club who deserves great respect in his field, Tom Jukes, had a very decided point of view. I guess the only views as strong on the other side would be those of someone like Brower or Rachel Carson. Most of us were somewhere nearer the middle, but closer to Brower than Jukes.
- Brower or Rachel Carson would present the strong view that these things were absolutely wrong. Most of us were convinced that with as much doubt as there was, why run the risk? It all amounted to the same thing. You vote the same way whether you're convinced that the thing was horrible, or just bad, or gravely doubtful.
- Lage: And Jukes felt they were positive benefit to mankind.



- Berry: He numbered the positive benefits--and there certainly are some-- getting rid of mosquitos; yeah, I'd like to do that. It's what else you get rid of, I guess, that's the question.
- Lage: As far as you were concerned there wasn't a difficulty in weighing the scientific judgments.
- Berry: There was much difficulty in weighing the scientific judgments; it was very hard to figure out who was right. I guess the whole issue has still some doubts attached to it, because there are respectable scientists with good credentials, and I would certainly number Tom Jukes amongst them, who have views decidedly contrary to ours.

It comes down not to believing or disbelieving either extreme view. It comes down to a weighing. "If the negative viewpoints are correct, what are we risking?" I think that was ultimately the deciding factor: that if the Rachel Carsons are right in their negative view, then you really don't take any chances. You put a burden of proof upon those who would use all this stuff, which is a pretty doggone strong burden of proof. We discussed this in the survival committee. We finally decided that something like the criminal burden of proof ought to be imposed upon them. They must prove beyond a reasonable doubt that their "XYZ" chemical is absolutely safe. If they can't do that, don't use it.

I can't think of anywhere the law has yet imposed such a burden of proof. It certainly ought to.

- Lage: When you look to these various areas that are encompassed by environmental survival, did one seem to be the key to the others to you, or the most important? We haven't really discussed the whole range of issues.
- Berry: We talked a lot about nuclear energy. We discussed population. We discussed toxic hazards and pollution.

#### Opposing the Oil Companies on Pollution Issues

- Lage: Pollution was an area where you became personally involved in campaigns--the clean air act.
- Berry: Yes, yes I did. It's a lot of fun to go after the polluter.
- Lage: Tell us about F-310.

Berry: If anger motivates you, and I think that it motivates a lot of conservationists, it's well to have at least one issue on which you can vent a bit of that. F-310 was not a big campaign. It was particularly galling to hear Standard Oil tout its additive as creating good clean mileage, to use their words. It may have created good mileage, but they had absolutely no proof it was any cleaner than other gasolines. In so many things Standard was plainly the polluter. If they really cared to, they could have stopped all that, rather than trying to make a buck off this newly invigorated movement. It was hypocrisy! We met with the Standard Oil people over this. In fact, their president, Mr. H. J. Haynes, came across the street to assure us the product was a good one. I said something on the order of, "It may be, but let's not make claims for it that you can't justify." He showed me a filmstrip and a movie and presented a couple of people to tout the product. We said, "This is all very nice, but why do you say that it cleans up the environment when you have nothing to show that?" So they finally, within a matter of weeks, took that out of their adverti  
 We were able to claim a small victory.

Lage: This was a meeting face-to-face with the president of Standard Oil?

Berry: Yes.

Lage: He did take quite an interest in you.

Berry: Some. I've forgotten whether this was before or after we picketed his building. [laughs] I suppose it makes little difference. He was concerned enough that he wanted to meet with us, I suppose, to feel our pulse and find out whether we were willing to talk. I think you always ought to be willing to talk with the opposite side. I've expressed some strong views about oil companies, but I see nothing wrong with talking or being cordial; but I think they ought to be met head on.

Lage: Was the picketing of Standard Oil over a particular incident?

Berry: Yes. It was over a blowout in the Gulf of Mexico [March 1970], which could have been prevented by their adherence to federal regulations requiring a certain \$750 item to be placed on the ocean floor to stop a runaway well. They had failed to install such a device and had a large blowout with much oil on the water. They addressed this difficulty by spreading a chemical that sunk oil to the bottom, where it was sure to do more harm. We got into a very large debate with them over all of that. They refused to give us information when we asked probing questions about how much worse the oil might be at the bottom than at the top of the water.



Berry: So, this was one of those instances when I went to the club executive committee and convinced them we should take some action that was a little out of the Sierra Club's usual, but nonetheless worthwhile.

Lage: Did it have an effect?

Berry: There's a picture that I've seen in a number of different places of several of us carrying signs outside the building and surprised looks on very conservative faces coming out of the building. At least it had some momentary effect. There were some who remained up to that point, in doubt about whether we meant real business, whether we were following in the Muir/Brower path or not. That may have convinced a few. It certainly helped generate some antagonisms for me because I've heard since then my name's not too popular with that company.

Lage: Then you also ran for Standard Oil's board of directors, didn't you?

Berry: No, I nominated Will Siri to run. We went to the meeting, after trying a similar ploy with ARCO about three weeks earlier. To show you the difference in styles between Otto Miller, then head of Standard Oil and Robert O. Anderson, head of ARCO, Anderson not only allowed us to speak and ask questions, he freely and openly debated the issues with us before full microphones and a full audience.

When I announced that I had a nomination at the Standard Oil meeting--

Lage: Is that after you had picketed?

Berry: This must have been afterward. When I announced that I had a nomination at the Standard Oil meeting, the microphone was cut dead on a hand signal from Otto Miller, before I even got Siri's name out. I was not allowed to make any statement as to the reasons, or justification, or why we were seeking votes. Let's just say there are differences between oil companies, as reflected in those two incidents, which I think carry through into policy. I'm not wildly in favor of a lot of things that ARCO has done, but you could clearly see thereafter that people at ARCO at least were willing to meet and talk with you. Where our good purposes were at least roughly congruent with theirs, they would actually fund projects. Some years later, four or five years later, I, along with Tom Bradley and Jim Mills, were heading up a program to bust the gas tax fund. The major support for that came from ARCO at the direction of Thorton Bradshaw, who I believe was their president.



Lage: That sounds extremely surprising.

Berry: I appreciated it. I had clashed with Bradshaw earlier over the Alaska pipeline, particularly on a show-me trip to the north slope. I wrote him to say, "Undoubtedly we're going to have future differences, but when you do something obviously to our benefit, I think we ought to acknowledge it and I'm acknowledging it now."

So I got a reply from one of his assistants. [laughs]

Lage: They gave money to help fund that campaign?

Berry: Oh, they gave fifty thousand bucks. We needed it!

Lage: I had thought the oil companies pretty well lined up on the other side.

Berry: That one didn't.

Lage: Is this the clean air campaign?

Berry: We had an organization known as Californians Against Smog—it still exists on paper—a sort of corporate partnership between ourselves and the Lung Society (then known as the Tuberculosis Association). Out of our efforts and tandem efforts by Jim Mills we got something going. ARCO helped fund it.

Lage: Was this an initiative campaign?

Berry: There was some talk of an initiative; it actually was a referendum.

Lage: An eventually successful one?

Berry: Yes, oh yes! We broke the gas tax fund.

Lage: So that was '70 and '73--the two campaigns?

Berry: Later than '73. I can't fix the exact year; '74, '75.

Lage: When we first talked about this in our initial meeting, you said something about a problem with working in coalitions was illustrated by this? Was that right?

Berry: During my presidency we attempted to put together a coalition to work on clean air. The principal problem was the balkanization of the clean air effort in southern California. There were maybe ten organizations in northern California and forty down there. We tried to bring them into an organized coalition to coordinate policy. The coalition may even still exist, but after several

- Berry: years of effort it proved kind of futile. There were too many separate interests, too much disagreement, too many strong personalities leading tiny groups. After a while, I, at least, gave up. It was carried on by other people.
- Lage: That wasn't just related to this campaign, Californians Against Smog?
- Berry: No, it was during the course of that campaign that we began to have a real dialogue with the Lung Society people. That grew into a first vote to try and break the gas tax fund—the unsuccessful one. It was some three or four years later that we had the successful vote.

#### Developing a Position Against Nuclear Power

- Lage: Let's talk a little bit about the development of club policy on nuclear power. You mentioned that was one of the concerns of the survival committee.
- Berry: It was discussed in the survival committee at great length, and all of us independently read about it. The issue had been simmering in the Sierra Club for quite some time, with controversy. This was one of those issues with no clear Sierra Club position, but a lot of strong views. That came to a head, I guess, during the first or second year of Ray's presidency, following mine. At that point, we felt the ideas had jelled enough that we would take a position, and I wrote the resolution that finally passed, nine to six, or something like that.
- Lage: Was that a position that was difficult for you personally to come to? What were the major reasons for it?
- Berry: No, I wrote that policy in about ten minutes after having heard the discussion for years and having some sense of what the major elements were.
- Lage: This was the moratorium?

- Berry: Yes, it's a very short policy statement, not more than a hundred, two hundred words.\* But it spoke to what I felt was a developing consensus, or at least hoped I would be--and as stated it turned out to be.
- Lage: It was quite a debate, though, wasn't it, before it was accepted?
- Berry: Oh, yes! Yes, you had Siri on the opposite side. That always makes for quite a debate, whether he's right or wrong. In fact, it's a bigger debate if he's wrong. He had Larry Moss on his side. Together, that's formidable opposition.
- Lage: What about expression from the grass roots of the clubs? Was that strong one way or the other?
- Berry: Not strong one way or another, it was strong both ways. [laughs] There was a deep division on that issue; it was a division we had to speak to. Ultimately, I think, our position was generally accepted.
- Lage: How did your own opposition to nuclear develop? How early on? Fred Eissler was kind of a lonely voice against nuclear power in the sixties.
- Berry: I think the nuclear garbage issue was the one that ultimately hooked me. I read all the debates over whether reactors can be safe, and I thought that maybe they were safe theoretically, but I had grave doubts about whether the people who site reactors and make them, put them together, know what they're doing. If we were to speak today we'd cite the obvious example of Diablo. But there were equally bad examples in the past. Their initial proposed commercial nuclear site at Bodega Bay was a mud flat, which from a seismographic point of view, would have been the worst possible choice.

Then they chose the middle of Bodega Head. Apparently--I'm being as tough on them as I can be--they hid from view more recent geological surveys showing a fault right through the middle of the Head. They knew it, but apparently hid it from view, and just

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\*On January 12-13, 1974, the Board of Directors voted to oppose new nuclear fission reactors pending resolution of safety factors and adequate policies to curb energy over-use. See minutes of board or Sierra Club Bulletin, February 1974, p. 15, for full text of nuclear power policy.



Berry: tried to bull their way straight through every approval. Finally, after all the approvals, they dug a hole in the Head and sure enough there was the fault right where the latest geological map put it. The whole event gave me a sense that, just as war is too important for generals to be left completely in charge, nuclear energy is too dangerous to have nuclear engineers calling the shots.

PG&E followed that up with a series of similar miscalculations. They chose a site, I think near Point Arena, and in the process discovered another earthquake fault, or more to the point, discovered it was right under the site they'd chosen. And there were similar examples. After all that fault finding, I was very skeptical about either their good judgment or their something. I was quite skeptical, frankly, about just how safe they could make these damn things.

In Kansas they wanted to pour all the nuclear garbage into a salt mine. Reading on that and talking with Sierra Club people convinced me that disposal is a very, very serious--if not the most serious--part of the whole thing. And there was always the nuclear proliferation problem and terrorist diversion of materials. So, it was really a combination of those three things that convinced me this energy source is just too dangerous overall at the moment. I had grave doubts as to whether it would become, ultimately, safe enough. But it was more palatable publicly and within the club to favor a moratorium rather than to flatly declare it will never work.

There may indeed yet be adequate answers to all those concerns, but after almost ten years with our policy, I don't see need to change a word of it. They certainly don't know how to do any better building their reactors than they did then, judging by the example of PG&E.

Lage: Did you have a sense of McCloskey's views on the nuclear issue? Was this an area where your staff tried to make policy?

Berry: I don't think staff tried to make policy; they certainly dragged anchor.

Lage: How was that?

Berry: I thought that there was, at least on McCloskey's part--I can't speak about the rest of the staff because I never talked to them enough--there was some tendency to want to stay away from that issue. That's my memory of it.

Lage: You don't recall specifics, whether he was afraid it would divide the club or just that he didn't feel that strongly about it.

Berry: I don't know what his grounds were. I remember a distinct feeling he wanted to stay away from the issue. I guess he thought it too unpopular outside if we took that position. There's one fundamental difference, I guess, in approach there. If I think we're right, but know it will antagonize some people on the outside, I'd rather let that happen.

### Initial Efforts at Involvement with Urban Issues

Lage: Another issue--it's an interesting one I think--is the way that the question of urban conservation and more participation by urban minorities kind of join together and were brought to the board. Do you recall that?

Berry: Certainly the intital discussion occurred at that time. I ended up trying to work with a few different groups to bring conservation, where it would truly fit, together with urban concerns of poor people or minorities.

Lage: What were some of those efforts of early urban conservation?

Berry: When Public Advocates was formed in about 1970, I was one of the original board members. I was by no means a prime mover--you'd have to give full credit to people like Bob [Robert] Gnaizda and Sid Wolinsky and Tony [J. Anthony] Kline, et cetera--that whole group. Their basic agenda was not our agenda, but in those instances where we could join together, I thought we should do so. It was an appropriate sort of, not coalition-building, but building a community of interests that would here and there enable joint action: we joined their suit over the Hayward freeway, the La Raza suit that achieved some notoriety. Some of the health issues they raised also touched on conservation concerns, leading to attempts at further cooperation. Along with, was it Cecil Poole? (I've forgotten), I sponsored some sort of artistic endeavor by minorites down in Palo Alto. (I'm sorry to be so vague on it, but that was ten years ago.) We tried to, where there were legitimate policies that served both sides, pull together.

Lage: There also seemed to be a concern that the club try to incorporate more minority members.

- Berry: Oh, yes. We expressed that throughout. The only person who ever really did anything about it was Bill Futrell. A lot of us were concerned about it and did little things, but you've got to give the major credit to Bill.
- Lage: This was an attempt to bring minorities into the club as members? Or to work with them?
- Berry: To move more strongly as an ambassador to them and make a really hard pitch for coalition-building. Bill did that.
- Lage: Others talked about it but nobody had any--
- Berry: Yes. I'm one of those who did not much more than talk.
- Lage: What about Paul Swatek? I ran across some things he did as a council member.
- Berry: He may have, but he can tell you much better than I about what he's done. I don't know.
- Lage: But it was brought up in front of the board in the form of resolutions, as a point of policy, to try to broaden the membership base of the club in the early seventies.
- Berry: That's right.
- Lage: Now it never seems to be brought up quite the same way. It's a question of coalition, but not making an effort to have a more integrated club.
- Berry: Oh, I think it depends upon whom you speak with. No, some of us strongly would like to see a broader-based club—not just because it's inherently right but because there's no point in laying yourself open to the criticism. Even if such criticism rings untrue, it nonetheless has an effect, as when people try to make you out as an elitist. The people who will most strongly criticize us, of course, are those who could care less about the values of the Sierra Club or the concerns of minorities. They just hope to be divisive.
- Lage: Are there other areas we've missed in this whole field of environmental survival? I'm sure there are thousands of things, but any special things we can think of?
- Berry: Those are the major areas.



## V THE SIERRA CLUB'S LEGAL PROGRAM

Origins of Club Legal Action

Lage: We're going to start today to discuss the club's legal program and something about environmental law in general. Do you know the first case in environmental protection that the club got into, how early that started?

Berry: I'm not sure whether any suit was ever filed over Hetch Hetchy or Kings Canyon. That went well before my time. The first one I can remember being considered was a suit over Rainbow Bridge. I can recall talking about that, I believe when I was a law student, with Dave. That case was lost, as I recall.

Lage: Was that quite a new concept then?

Berry: There's nothing novel about filing lawsuits. It was an unusual step, given the composition of our board and its outlook in those days, to file a lawsuit against public officials because the thinking then was not to directly confront public officials.

Lage: I think of environmental law as starting, or mushrooming at least, in the sixties.

Berry: Certainly.

Lage: Was this kind of action against public agencies or actions by public interest concerns very common?

- Berry: That was rare amongst conservation groups. It started getting some momentum in the very late sixties. You would have to say it dates from then.
- Lage: When you came in as chairman of the legal committee, was that about '64 or '66?
- Berry: I believe that I was chairman starting in '66.
- Lage: Was your role then more as legal counsel for the club as an institution, or was it to consider law cases?
- Berry: It was more the traditional role of advising on general legal matters. We had at that time under consideration joining in the legal effort over Storm King [a proposed power plant on the Hudson River]. That effort was something I gave a lot of encouragement to, and others also. That suit was begun on behalf of a group of varied organizations in which the Sierra Club, if I recall correctly, wasn't originally the leader. Involvement by the club occurred shortly after I became chairman.
- Lage: Was that a subject of debate among the directors? Whether to get into that?
- Berry: The cost, the possible cost, in legal fees and court costs was a concern.
- Lage: I seem to remember a reference somewhere that Storm King was one of the actions that Brower took out of his executive director's discretionary fund.
- Berry: I don't recall that.
- Lage: It seems to me I recall a statement of his justifying his use of the discretionary fund because that turned out as such a milestone case.
- Berry: It certainly was a milestone case, more from a psychological standpoint than any other. It had some important precedential value in respect to standing issues. I would think its importance, though, goes more to demonstrating our willingness to stand up in court and fight toe-to-toe with some pretty big interests. It showed some willingness by the courts to listen.
- Lage: Did it set a precedent that was followed later as far as standing?

- Berry: In respect to standing, yes, it was an important precedent for a while. Those issues may again become more important than they have been because of the growing tightness of some Supreme Court decisions.
- Lage: Is this referring to standing? Are they tightening up the requirements again?
- Berry: That would be my reading of it. They've been discouraging it in a number of ways, including the denial of attorney's fees for prevailing public interest groups.
- Lage: Explain that a little bit.
- Berry: There are concepts embodied in various state and federal statutes which allow prevailing parties litigating a point of general public interest to obtain fees for the work they do. This is absolutely essential to an ongoing effort.
- Lage: Fees from who?
- Berry: There's no one answer to that. Some of the federal statutes allow for payment by the federal government. Some of the court doctrines allow payment out of, say, a fund of money that may be involved if affected with the public interest.
- Lage: Like a damage claim?
- Berry: Possibly. Those decisions, that case law, through a variety of different theories, has allowed recovering by prevailing public interest groups the fees they have expended.
- Lage: Was that true all through this period of the sixties and seventies, or is that a more recent development?
- Berry: That grows out of some rather old law established in a more commercial context, for example, shareholders disputes, but the idea is the same where you are battling for a particular public interest or the interests of a large group of people, you ought not be put to the expense solely on your own when serving the general good.
- Lage: So the Sierra Club Legal Defense Fund, for instance would be reimbursed.
- Berry: Yes, that's happened, both in federal court and state court.



Precedent-Setting Issues in the Mineral King Case

- Lage: How about the Mineral King case? Were you involved with the decision to undertake that?
- Berry: Yes, I strongly encouraged that and had delegated to me by the board the choice of counsel.
- Lage: How do you go about choosing counsel for something as important as that?
- Berry: It was very difficult.
- Lage: There weren't so-called environmental law specialists at that time.
- Berry: No, there weren't. We surveyed the field and took recommendations from legal committee people and made a choice.
- Lage: And who was the legal counsel you chose?
- Berry: Lee Selna was one of the counsel and the lead counsel.
- Lage: Was Mineral King a precedent-setting case?
- Berry: Yes, in respect to standing issues particularly. It also marked further progression of the idea of aggressive conservation litigation. Storm King, while it involved court decisions, was primarily an administrative law proceeding. The Mineral King case marked one of the first times we went to court where the ultimate disposition was expected to occur there, not before an administrative body. And it was an action which could have been very unpopular with some people. It directly confronted a huge commercial enterprise. It was a bold case.
- Lage: In choosing counsel do you discuss the tactics that they want to take--for instance, the degree of aggressiveness--or do you sort of turn it over to somebody?
- Berry: We generally discuss those things at the outset. Over the years, those of us managing cases have tried not to interfere unless we absolutely must in the tactics and strategies employed by individual counsel. First of all, if you chose someone competent, that's unnecessary. It's also somewhat presumptuous to closely supervise someone who's got a better grasp of the many details in a case than one could have while trying to look at thirty or forty cases all at

- Berry: once. Generally those of us managing the legal program have left such matters to competent counsel chosen, to begin with, with some care.
- Lage: Were you trying to develop a precedent on standing there? I may have misunderstood but somewhere I got the idea that you could have cited a more direct interest--the club did have a rather direct interest in the area--and instead it was left in a sort of general way that the club represented concern from conservationists.
- Berry: Pleading the case in that manner was the choice of the trial counsel, and I don't think that he was attempting to achieve a precedent on standing in doing it as he did. That was the final outcome, but was not our major goal at the beginning. We were aware of the possible standing problem. However, the case developed in a direction which no one expected at the outset.
- Lage: Will you elaborate?
- Berry: We had not expected the case, though it involved issues of standing, to become a major precedent in the area. We had expected the case, ultimately, to turn upon interpretation of statutes requiring the various federal agencies to take care of certain resources. And, ultimately, of course, those things were involved but not until there was a chapter which grew to be larger than anyone expected, relating to the standing issue.
- Lage: What issue was the precedent set on? The dissent of Douglas's on the question of "do trees have standing?" got a lot of publicity, but that wasn't the judgment of the court. What was the precedent?
- Berry: The precedent clearly established the right of an organization such as the Sierra Club to litigate issues with governmental entities as we raised them in that suit, which was in a broad enough context to be transferable to other suits where national park/national forest values are involved.
- Lage: What about the judgment on trees having standing--do you have an opinion on that? Will that ever be generally accepted?
- Berry: Some interesting articles have been written--indeed, a book has been written on that. It's like so many legal fictions. The law, by employing such terms as "standing," or use of a doctrine which gives certain people standing and others not, is enforcing a policy decision. The notion of allowing inanimate objects or species other than human beings to sue is a legal fiction raised to answer what to begin with was a legal fiction.

- Lage: [laughs] I'll have to see that in print before I fully understand it!
- Berry: To state that there ought to be a policy allowing trees to sue through human representation is simply an argument raised in answer to the notion that certain human beings do not have standing to litigate issues which might affect those trees.
- Lage: Were environmental lawyers, as a group, pretty inventive in the sixties and seventies?
- Berry: The basic idea I'm getting at is that the law will recognize and protect those things upon which there's a common perception of need. Human beings and their courts ought to, and some day will, fully recognize environmental values and fully protect them. It's in this interim period while there are doubts in some minds about the legitimacy of those values that we dispute issues such as standing. These "standing" disputes will no doubt be discussed with some humor by people a hundred years from now, when it is well settled that it is stupid to waste natural resources, that it is unfair of mankind to destroy other species, that it is immoral to do so, et cetera. The whole notion of having to litigate over whether you can litigate those substantive issues will be seen as an absurd interlude.
- Lage: So the courts, really, are reflecting the state of thinking of society.
- Berry: Yes. It's a lot of legal jargon applied to the question of whether or not these environmental values are worthwhile.
- Lage: Could you see, in cases that you were involved with, where the judges' individual sympathies would come into play?
- Berry: Oh yes! There's no question about that.
- Lage: Would you have any examples of that?
- Berry: Take a great man like William O. Douglas. His sympathies were obvious. Compare him to some of the other justices who don't share those views.
- Lage: Was it Judge Sweigert who handled the Mineral King case?
- Berry: You're testing my memory. I believe he handled portions of it. Whether or not he handled it all, I've forgotten.
- Lage: In cases that you were involved with, did you see instances where a judge's particular point of view would come out?



- Berry: Oh yes. There are some judges in the federal district court for northern California in whose court you could count on losing.
- Lage: Would this be their philosophical view towards environmentalism?
- Berry: Yes.
- Lage: And not their strict construction or broad construction of the law?
- Berry: Within limits, a judge's predilections are always important, and more likely than not will determine whether they will strictly or broadly construe the law. That's not always true, and I'm probably being unfair to a number of judges, but as a trial lawyer myself, I take it as a good rule of thumb. I think most trial lawyers do.
- Lage: Would you have any illustrations of your statement that before certain judges you could count on losing? It seems like it's important because it's the kind of thing that doesn't appear in the record.
- Berry: I would have some excellent examples of which maybe I'll spare you because some of those good examples still sit in judgment.
- Lage: Okay. Silence!
- Berry: Do you want to know who the turkey heads are? I'll tell you sometime when they're off the bench! [laughs]
- Lage: We'll have to come back in twenty years.

Hudson River Expressway and East Meadow Creek Cases

- Lage: Would you have comments on other cases that we hear of as being very monumental like the Hudson River Expressway or the East Meadow Creek in Colorado?
- Berry: Yes. I was involved in both those cases. First in the approval of both and second as a witness in both. In the Hudson River Case, I testified in federal court in respect to the standing issue which was finally mooted--either because the judge well understood the policy issue masked by inquiry over whether someone has standing, or because he found the cross examination by the state attorney general so revealing on the absurdity of the state's objection to

Berry: our standing. Dave Sive [the club's attorney in the case] took me on direct testimony to establish certain contacts the Sierra Club had with the state and with the particular resource involved and its importance from a conservation standpoint.

Lage: Were you president then?

Berry: I was then president, yes. On cross-examination, the state attorney general assumed he could kill us by showing we had no property in the state. The appearance of a property interest is sometimes taken as important with reference to standing, to show you the antiquated ways in which the standing issue can be considered. I didn't answer his question because I didn't know the answer, but Dave Sive informed the court that we owned two canoes. My memory may be faulty, but as I recall the issue was moot from that point on because the judge, if I recall correctly, got an enormous kick out of Dave's answer.

In the East Meadow Creek case, I likewise gave testimony going to the standing issue but directed toward a more meritorious aspect of it. That was our relationship with the resource, not just our presence and concern about it. I gave testimony relating to the long involvement of the Sierra Club with wilderness, it's preservation, getting important parcels into the wilderness system. And I spent some time in that case strategizing with Tony Ruckel and Don Carmichael, who dreamed up the theories that became law in that case. They accomplished a great victory in that case.

Lage: So that was precedent setting.

Berry: Yes. It certainly was precedent setting in the law. It, again, as Mineral King, was precedent setting in its psychological impact upon conservationists. The general prevailing view had been that the Wilderness Act was a legislative vehicle without great opportunity for forcing particular decisions or particular processes leading to decision by the administrative agencies. It gave conservationists a tremendous lift to win that case. It again indicated we were on the march, and we were coming after them if their decisions were wrong.

Lage: Now what were the theories that were used that were novel?

Berry: You're again testing my memory. We should come back to that. I would have to study the decision to give you a concise answer.\*

The Sierra Club Legal Defense Fund

Lage: I want to talk a little bit about the legal defense fund and how that was set up--how and why.

Berry: When I became chairman of the legal committee, we established a broadened committee with enlarged membership. Then, shortly after I became president, I and those people I appointed chairmen (after I left the chairmanship) decided to make an all-out effort in conservation law. We decided to retain counsel. Though they did not push for it, I wanted Fred Fisher and Don Harris, who were cochairmen of the committee, along with their firm, Lillick, etc., appointed as our counsel. And for about two years, that rocked along, until it was obvious that Don and Fred were being fully occupied with a semi-pro-bono effort, which was unfair to them and their firm. Also, simultaneously, the opportunity for full tax deductibility and a vehicle to generate donations arrived. They were principally responsible for the idea of having a defense fund. They did most of the work on it. I encouraged them and led the thing through the board, but give most of the credit to the two of them and to the first executive director, Jim Moorman.

Lage: What was the role of Don Harris and Fred Fisher with the defense fund? Did they work with it, were employed by it?

Berry: Most Sierra Club institutions grow organically, as this one did. Don became the president; I think Fred became the vice president. Together those two, and I, and a few others met to choose directors--a great many of whom, ten years later, still serve.

Lage: What was the relationship with the Sierra Club?

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\*See Julie Cannon, "New Standing for the Environment," Sierra Club Bulletin, October 1973, for discussion of the East Meadow Creek case.



- Berry: The defense fund is legally a separate corporation, as it must be under the internal revenue regulations which govern the existence and operation of such organizations. It has full tax deductibility, and its own fund-raising effort. It serves primarily the Sierra Club as client, but there are legal reasons, going to federal statutes, etc., which require a separate existence. And there's certain soundness in having a law firm, which in effect it is, separate from the client. I prefer that format because there should be a certain independence of view. There have been occasions when they have not wanted to take cases that the club has wanted.
- Lage: Then what happens? They don't take them?
- Berry: Sometimes they don't take them, or sometimes they take them reluctantly. On occasions I've been unhappy they haven't taken particular cases, but that does not dissuade me that it is better to have them separate and independent.
- Lage: So when the club is approving cases, as they do on the executive committee--
- Berry: A simultaneous process goes on within the legal defense fund, which has a litigation committee to receive the same basic information and ask "Is this a good case; do we have the resources to see it through? Do we want to become involved in this litigation?" Those of us on the club side approving the lawsuits give the same attention but also ask, looking at it from an overall policy standpoint, "What is the Sierra Club position and how is it served by this lawsuit? How can we guide and mold this legal effort to achieve Sierra Club policy ends?"
- Lage: And does the defense fund also take cases for other groups, besides the Sierra Club?
- Berry: Yes. Yes, it has.
- Lage: Do they work with chapters on local issues?
- Berry: The club is one corporation, and so the client is always the national club. We have developed within our procedures for handling lawsuits the notion of a client sub-entity, that is, a particular group or committee, chapter, what-have-you, within the club recognized as having primary interest in a particular lawsuit and therefore given some reasonable say in its direction and disposition. This could be a task force; it could be the president; it could be a group, a chapter, a committee--it all depends upon what's appropriate to the circumstances: the scope of the suit, what's involved, its level of importance, et cetera.

Lage: Where does the funding come from? Is there any involvement with Sierra Club Foundation?

Berry: If I gave you a full answer you'd get the feeling everyone was holding hands. The club promises to raise certain funds for the legal defense fund year by year, which it does largely through the foundation. Some of the same people who historically worked for either the club or the foundation have also worked for legal defense fund. It has its own separate list of donors and it--

Lage: Does it have a fund-raising manager?

Berry: Yes. It's own fund-raising effort raises well over half its funds. But with consideration of "What's the best way to raise money?", talking about needs and opportunities, the general direction of things, with the club and foundation representatives. In other words, there's an effort to coordinate all that.

Court Action to Protect the Public Trust: Upper Newport Bay, 1970

Lage: Let's talk about cases where you were trial lawyer. Did that occur very often, that you were trial lawyer in environmental cases for the club?

Berry: Oh, it's happened, not very often, no.

Lage: The Newport Bay case [Orange County v. Heim] was an important one, wasn't it?

Berry: I thought so.

Lage: Or am I again testing your memory?

Berry: No, that's one I can tell you about [laughing], but I'm not sure it's worth it. That was in some ways not a club suit.

Lage: That was before the defense fund had been--

Berry: Yes, that's correct. That case the Sierra Club started to fund in part, to help some taxpayers in upper Newport Bay in their effort to prevent consummation of a land swap that was highly--indeed

Berry: grotesquely--favorable to the Irvine Company. Coming up about ten days before trial, they found themselves without a lawyer. At that point I came in and tried the case.

Lage: Had you been involved with it before that?

Berry: I had been involved in the approval; I had conversed with the attorney a number of times; I had been down to look at the area and talk with plaintiffs--well, they're not plaintiffs, they were interveners, the people representing our interests. So I had some general idea of what was involved.

Lage: What were the basic issues there?

Berry: This was a land swap involving, if you look at what ultimately was proposed--though not all these facts were known or provable at the time--the Irvine Company giving to the state three islands the state already owned, which were to be dredged away so then the state would have a piece of the bottom of the bay. The spoil from the dredging would be placed on tide lands along the five-mile shoreline of upper Newport Bay. Most of that shoreline would then be deeded to the Irvine Company. Because of bulkheading that was contemplated the Irvine Company would then be in a position to develop almost the entire shoreline for residential or commercial uses.

Lage: Were they given the shoreline property by the state?

Berry: Yes. You see the problem is that the tidelands, which, by strict definition, include only those lands covered and uncovered by the tides, belong to the state outright or are affected by an easement which effectively prevents any other use than public use. So, if someone owns the uplands, that is, what's shoreward of the high tide line, in effect, that land cannot be developed for uses that would be interfered with by public access across the tidelands.

What Irvine wanted to do in the upper bay was to duplicate what it had already done, probably illegally, in many instances, in the lower bay: bulkhead and put in residential lots. It was prevented from doing that by the existence of this strip of public land sometimes no more than ten or twenty feet wide all around the upper bay. It claimed ownership of three islands in the middle of the upper Newport Bay, which in fact were tidelands, though this took us some time to discover and to prove. I think we're now in a position to prove it fairly well. But, at the time, this issue was not in the lawsuit nor was it one on which, at that moment, we had anything more than just suspicion. And so those tidelands, which were erroneously termed islands, were ostensibly something Irvine had to sell, and it threatened to develop them if no swap occurred.



- Berry: So a land swap was cooked up by the Irvine Company through its proxies in the state legislature, which involved essentially these elements: the islands, ostensibly belonging to Irvine, would be deeded to the state. Then they would be dredged away, put on the shoreline, most of which would be then deeded to Irvine so that it could bulkhead about five miles of shoreline in the upper bay.
- Lage: So the state didn't seem to get much on its side of the bargain.
- Berry: You catch on quick. It got nothing! What it got was the right at its own expense to dredge out the bay for what would become Irvine Lagoon. Well, the unfairness was not so obvious to some people as it is when you explain it as I just put it. The state legislature was convinced it was a good idea. The State Lands Commission, at least at the point where it was controlled by the Republicans, thought it was a good idea. The state attorney general thought it was a good idea. The County of Orange thought it was a good idea, and so did the city of Newport Beach. It was only six interveners whose experience in conservation matters was relatively slight--
- Lage: Are these six individuals?
- Berry: Six individuals, who were otherwise convinced. Had they foreseen at the time what they were biting off, I'm sure they would not have gotten into the protracted battle that developed.
- Lage: Were they local people, then, who just didn't want those changes?
- Berry: They were local people. The two people who were the spark plugs of the thing became incensed because a beach they wanted to use would be taken away.
- Lage: Were they Sierra Club people, or how did the Sierra Club come into it?
- Berry: No. The Sierra Club came into it because these individuals realized, after a year or two of effort alone, that the Sierra Club might help them. The two key people were Frank and Fran Robinson. One of the most joyful things I ever did as a Sierra Club board member was to recommend and have them elected honorary life members. Without them, the upper Newport Bay suit would never have been won.
- There were enormous stakes in that suit. The land Irvine was proposing to accept in this swap we figured was worth, when bulkheaded, approximately three to five hundred million dollars.
- Lage: So you were working against a determined interest?

Berry: Yes. Yes, everyone in court was against us, including the judge.  
[laughs]

Lage: How did you proceed?

Berry: Well, I had had some involvement earlier on with tidelands law when we filed an amicus curiae brief in a suit that grew out of a private dispute up in Tomales Bay, Marks versus Whitney. So I had some smattering of tidelands law. But to answer your question more directly, I gave myself a crash course in ten days and thought of every issue I could possibly raise. There were a number of constitutional and statutory issues. We tried the case for six weeks.

Lage: You did ultimately win?

Berry: Not before that judge!

Lage: That judge was unsympathetic?

Berry: You've put it as politely as one could. No, we lost in front of him.

Lage: He was a local judge, I assume, or was he? What court was that?

Berry: Yes. He was an Orange County judge. He decided every point against us. We took an appeal, and, while there were a number of points on which I thought we should have won the appeal, the basic one and the most important one did prevail. The rest lost. The basic notion was that you can make trades that involve small parts of the tidelands trust; you can alienate small parts of the trust to serve the trust purposes, but you're not allowed to give away, in effect, the whole thing—which of course this trade obviously did when you analyze it. When the state ends up, after once owning the shoreline, with essentially just the bottom of the bay, there's something, indeed, wrong.

I've somewhat overstated that because there were some recreational areas left to the public but by and large, the great bulk of the shoreline was to be deeded over to the Irvine Company.

Lage: Was there any relationship between this and some of the San Francisco Bay public trust issues?

Berry: Oh, yes.

Lage: Did they come earlier?

Berry: There were a few suits that were on file earlier and many afterward. This was one of the first to reach the appellate courts.

Lage: So this one was precedent setting in regard to the public trust doctrines?

Berry: If you had to cite the very most important tidelands cases, this wouldn't be in the first group, but it was an important precedent, elaborating some important principles first announced in Supreme Court decisions.

Lage: You were club president when you took that on, weren't you?

Berry: Yes.

Lage: How did you happen to plunge into it? It must have been time consuming.

Berry: I'm a trial lawyer, and I was interested in the lawsuit. I was interested in the area of the law. I liked a good fight, and I think at the time I had some emotional needs for involvement of that sort. Anyhow, all those things sort of went together.

Lage: Were there other major cases where you were the trial lawyer? In your own private practice, are you involved in environmental law?

Berry: On a pro bono basis and in the representation of plaintiffs who have been injured by herbicides. I had earlier handled a suit for the club wherein we attempted to force, through writ of mandamus, a change in the cutting and logging rules under the Forest Practices Act in the State of California. We achieved some success in that. We had also evaluated the possibility of challenging the whole system and decided that, while there were some possibilities, the chance of actually achieving something was remote, and we didn't have, at least at the time we considered it, the legal wherewithal to attempt such an effort.

Lage: This was back in the mid-sixties?

Berry: This was in the early sixties. Subsequently, in the Bayside Timber case, the courts did decide the whole system of law was unconstitutional, and that led to the new Forest Practices Act which came into effect in 1974.

Lage: But the club wasn't involved in that case, or were they, basically?

Berry: I think we filed an amicus curiae brief.

Lage: Who was the plaintiff on that?



Berry: Again you're taxing my memory. Essentially the suit involved a dispute over whether counties could impose their own regulations, applied to the harvesting of timber on private land. I believe San Mateo county was involved in that but I'd have to review the decision to give a complete answer to your question.

### The Impact of Environmental Litigation

Lage: Just in a general way, what did you think as it was developing, and what do you think now, about the place that environmental litigation has in the overall spectrum of tactics, environmental campaign tactics? I've heard it said that it's partly just public education--

Berry: There certainly is that element to it. There are, of course, many suits where you win and you achieve all your objectives through legal means. I think in the upper Newport Bay suit you have an example of that. They were trying to give away an enormously important resource, and we stopped them cold. That was it. They couldn't come back and do something new.

In many instances, our legal result can be undone by Congress or state legislature, and there you may largely be serving just an educational purpose, though you don't always know, of course, until Congress acts. In many instances, you are forestalling precipitous action by an administrative body. That too can be important. Not alone from the point of view of public education but in just wising up the administrative agency.

Lage: Did some of the actions taken in the late sixties and late seventies change the outlook of the administrative agencies, do you think? Did it make them consider the environmentalists' side?

Berry: Yes. I think we've had some impact, for example, on the Forest Service. One impact I know of is they paid a lawyer to survey why they were being sued. We would gladly have told them. Well, that's the facetious answer to your question--

Lage: But is that an example of their sort of innocence or isolated quality?

Berry: If you equate naiveté and innocence. There were other impacts. As bureaucratic as some institutions may seem, when they are met again and again in court by a strong public interest insistent upon their toeing the line in accord with law, even the hardest minds in such an agency will give way. I think that the lawsuits, along with a lot of good legislative effort, have had some beneficial effects upon the Forest Service, Department of Interior, BLM, etc. It'll take more litigation, of course, too, to fully improve their performance. [laughs]

Lage: What about the National Environmental Protection Act [NEPA] in '69? It seems like an act that people almost didn't realize the significance of for a while. Is that correct? Was that something that the Sierra Club and others pushed for or helped write the language for?

Berry: I can't answer that specifically. I know we had some input; I personally had none. I agree the effect went far beyond what most imagined at the time. The people who formulated that law had great forward vision in picking legal avenues which made sense and in requiring a logical sequence to arrive at correct decisions. They were very innovative, the way they went about that. The problem, of course, with any act like that, is that where the one thing you really require of a public agency is the generation of paper, that may be all you ultimately will get. If you require along with some good thinking, the generation of paper to prove it, they may respond by generating just the paper--enough sometimes that a lot of judges will not bother to read it to see whether they've adequately weighed all that must be considered.

So there are really two answers to your question. It was far-sighted in requiring a process; whether the act today, ten years later, is having the full effect we would like, I question, because they can so easily paper you over if they want.

### Constitutional Protection for the Environment

Lage: In an early environmental law conference here in San Francisco, you talked about the possibility, or the need, for constitutional protection for the environment.

Berry: Sure like to have one.

- Lage: Has that been followed through on? Or is it within the realm of the possible?
- Berry: Yes, I think it's possible. It's been followed in a number of ways. There have been various proposals, including some of our own, for an environmental bill of rights. There's been an effort at the state level more recently in California for, in effect, an environmental bill of rights under the state constitution. There has been a lot of thought directed by many people in many different cases toward the notion that the concepts of due process and equal protection also comprehend certain basic human rights couched in ecological or environmental terms.
- Lage: Is that well accepted in the courts, or any more accepted than it was when it was first advanced?
- Berry: There was a high water mark from which Nixon Supreme Court appointees are forcing us to recede, if you want a blunt answer.
- Lage: Were there precedent-setting cases on that that showed some movement towards accepting a broadened view of the bill of rights, say, that would include environmental protection?
- Berry: If I thought a while, I could answer that. Let me answer in a very narrow scope with an example. The Marks v. Whitney case involved interpretation of the California constitution. The tideland trust doctrine, while it antedated the California constitution we're now living with, found reexpression in that constitution (1879). In Marks v. Whitney the tidelands protection in the constitution was found by the court effectively to embrace all environmental concerns. The court said it was not only important that people have access to tidewater to fish or to launch a boat but also important that the flora and fauna be kept in some kind of decent shape. So here's an example of interpretation of an old constitutional provision to recognize ecological concerns. In 1879, when it was formulated, those ideas weren't current. Yet, by interpretation, you now find the constitution expressing conservation ideas.

#### Environmental Law Organizations and Directions

- Lage: Were the Sierra Club Legal Committee and later the Defense Fund in touch with various other environmental litigation offices?



Berry: Yes.

Lage: What was the relationship? In the record of the 1970 conference that I read--the National Conference on Environmental Law in San Francisco--it sounded like a really exciting time with lots of interaction and lots of hope.

Berry: At the time there were a number of organizations formed, most of which still exist. They're all very good, staffed by excellent people, with individual successes, and I'm happy about all of them. They're--

Lage: Any differences in approach or tactics?

Berry: Some differences in approach. Some differences in tactics. None so great as to require remarking on them. The organizations, each of them, have tended to specialize in certain areas and carve out areas of expertise. While some crossing over goes on constantly, those areas of expertise are generally recognized by other similar organizations. Some deference is given where an organization has occupied a field. Why duplicate what they're already attempting to do?

Lage: There wouldn't be competition for cases?

Berry: In some rare instances I have seen competition for cases, but frankly, so little of that I would say it's not a factor in any dealings we've had. There's plenty to do, and insufficient resources overall. So competition, if any, is simply healthy competition to get the job done. It's not competition in any sense detrimental to environmental causes. There is, of course, some competition for funds, but it's not aggressive. It's simply a question of who's a good fund raiser, and how well do you make your case. I can't think of any instances where there have been outright conflicts.

Lage: What would the Sierra Club Legal Defense Fund's specialty be seen as?

Berry: Certainly forestry and wilderness issues is one of our strong suits. Clean Air Act, to a degree, tidelands issues, many energy issues. If you take things like herbicides, DDT, etc., that's always been the forte of outfits like EDF [Environmental Defense Fund]. There's a very healthy attitude between and amongst the organizations. I think they are quite willing to applaud good work the other fellow does.

Lage: Is there mutual consultation between them?

- Berry: Yes, frequently. And frequently they will represent us, and we will represent them. The organizations behind these names vary tremendously. Sierra Club is the only large membership organization with its own legal arm. In a way that's an expression of the fact that it is one of the most front line organizations within the family of conservation organizations.
- Lage: Other groups do take on cases, like the Friends of the Earth, the Wilderness Society, but do they just hire a lawyer to try those cases?
- Berry: Frequently we've represented them through the Legal Defense Fund. Frequently they've been with NRDC or EDF.
- Lage: What's the Environmental Law Institute?
- Berry: You probably should ask them because I think they are still evolving. It's something of a think tank, and it's put on a number of conferences and parleys of one sort or another, has publications. It's another one of the same family of organizations.
- Lage: But it doesn't do any litigation.
- Berry: I cannot recall their having been involved in litigation, but you should ask them. I could be egregiously wrong in that answer.
- Lage: Would you have anything to say about Dave Sive? He's someone we've wanted to interview for a long time.
- Berry: He's a very good lawyer and conservationist.
- Lage: Did he do a lot of groundbreaking in this?
- Berry: Yes, Dave was one of the pioneers in conservation law. He has long been involved in the effort to explain and popularize environmental law. There are conferences where that is done; frequently he is chairman. I think he's involved in some ongoing efforts along that line. Dave is an excellent lawyer, and environmental law owes him a very great debt, as great as it owes to anybody.
- Lage: Has he continued involvement with the Sierra Club or the Legal Defense Fund?
- Berry: He occasionally has represented us in suits, particularly in his native New York. He has not been on the board of any Sierra Club organization I can think of since he left the national board of the club [in 1969]. He's not been involved in the legal defense fund.

Berry: I'm certain that he's involved in affairs of the Atlantic Chapter. But you're right--you should do his oral history. I'm sure it would be interesting and rewarding.

Lage: Shall we turn to other issues, or is there anything else on environmental law?

Berry: With reference to the future I think the environmental law effort will remain a major part of the Sierra Club effort, if for no other reason than the frequent need to stave off action until some sensible decisions can be made. Now this does not mean we file frivolous lawsuits or that we file lawsuits solely for purpose of delay.

Causing an administrative agency to pay attention to procedural niceties it may have overlooked sometimes has only the short term effect of holding them up. But frequently it does in fact cause them to address the true issues, and that, sometimes, will result in a much better decision. Certainly in the present day with Mr. Watt in the saddle, we need every gun we can get.

Lage: At the same time, you say that the courts are becoming somewhat less sympathetic to environmental cases?

Berry: Some of the appointees are less then interested in our values, yes.



## VI ENVIRONMENTAL POLITICS AND FOREST PRACTICES

Evolution of the Sierra Club's Political Involvement

- Lage: Let's turn to the political arena and Sierra Club involvement in the political campaigns, specifically SCCOPE. But maybe there were earlier organizations? Weren't you involved somewhat in the League of Conservation Voters?
- Berry: In the League of Conservation Voters as it now exists, I was never involved very deeply. In the original conception of that idea, which was Dave's, I was involved. He commissioned me around 1954 to call various people to see what they thought of the idea.
- Lage: Fifty-four? That was way back there.
- Berry: I believe it was that far back. It may have been '55, but it certainly was in the 1950s.
- Lage: Who did he want you to call, or who did you call?
- Berry: I ended up just calling people I knew within the club which then of course, was the older Sierra Club. Maybe even the older, older Sierra Club! [laughs] The idea didn't seem to have a whole lot of appeal to them at the time. Maybe it was the way I presented it; we nonetheless tested it out on a few people and--
- Lage: What was the conception at that time? Was it an educational thing, or was it actually to get in the campaigning and donating funds and endorsing?
- Berry: That may have been one of the problems; we didn't have any firm conception of how it might operate. Some of the people who responded said they didn't want to join a new political party,

- Berry: which may have simply been a shortcut to saying they were uninterested altogether. I think, as Dave first announced it, it was intended really to have mostly educational effect.
- Lage: And then how did that proceed? Was the idea just dropped or did anything more substantial come of it?
- Berry: I have no memory of anything else for ten or fifteen years.
- Lage: Let's talk about how the Sierra Club's political role evolved. I think SCCOPE was founded in '76.
- Berry: I think that's about right.
- Lage: How did that come about?
- Berry: The opportunity arose, legally, to do it and still maintain the Sierra Club organization. We acted almost immediately on the possibility. There was vigorous debate within the club. The idea we would get involved in politics in any way was seen by some as the demise of the club.
- Some particular members urged that view on us. Those of us who disagreed felt conservation involvement in politics was necessary and we should see if it worked.
- Lage: What were the fears of people who opposed getting involved?
- Berry: That there's a certain purity about being for conservation and that you tarnish yourself when you become involved in politics generally. There was also fear that the Republican party, by and large, did not appear too sympathetic to our ideas, and it would tend to align us just with Democrats.
- Lage: Has that been borne out at all?
- Berry: In my judgment it has not made much difference at all; members remain, even if they vote Republican.
- Lage: I wonder what the makeup of the club is at this point, in terms of Democrats, Republicans. Does that get surveyed at all, along with other things they have surveyed?
- Berry: Yes, it does, and I've never liked the idea of such surveys.
- Lage: In general, you don't like the surveys on that issue?

- Berry: I don't favor sociological surveys of our members. Some useful information is generated. But there are always generated a few figures, which are then used to justify the false accusation that we are elitist.
- Lage: So it gives the enemy ammunition.
- Berry: It gives them what they take to be ammunition. If a fool like Watt wants to call me an elitist, I'll call him a dunderhead, but I don't like the idea of having to answer in public some charge that we're elitist, because it's a false issue. The real issue is whether the ideas we propound are good. An idea ought to be judged on its merits, not on the basis of some alleged selectivity on the part of the people propounding it.
- Lage: But it is something that the club has to answer quite a bit. The series of articles--was it in Harpers?--focusing on, I think, Storm King and condemning environmentalists as being a very elitist faction. Did you read those a few years ago?
- Berry: It all comes down to what you're describing with the word elitist. If you're saying a group has a higher educational level, that's certainly true of the Sierra Club, and you can tell without taking a survey. If it means that the group, in addition, has relatively higher income than average, I would concede that point straight-away. If you jump to the conclusion that, therefore, any ideas espoused by that group are selfish and narrow, which I think is the leap made in application of the term elitist, then, it seems to me, you've done a horrible disservice. In effect, you're raising a phoney issue.

Sierra Club Committee on Political Education: Purposes and Decision-Making

- Lage: How is SCCOPE set up? It's a committee, only, isn't it? Or does it have a separate set of directors?
- Berry: Sierra Club Committee on Political Education. It is a committee.
- Lage: Are you a member?
- Berry: Yes. I have been from the inception.



- Lage: How has it evolved? Initially it was only going to be educational, publicizing voter records. And then it seems, it gets more and more into advocacy.
- Berry: There are a variety of things such a committee can do. We selected at the outset only those things more appropriately termed education. We more recently have gone to the endorsement of candidates.
- Lage: Is that on a local level?
- Berry: Yes.
- Lage: Has that been effective?
- Berry: Yes, I think it has been.
- Lage: It's helped in elections?
- Berry: I think it has. And we've in some selected instances, helped raise money.
- Lage: How are decisions made, on which candidates to endorse, which to help raise money for?
- Berry: There's a very complicated process by which that's done. To describe that you'd almost need a diagram. But in essence, a veto power exists at almost every level, so if particular small parts of the club do not agree, as respects things that happen in their area, they don't happen. So there's a check and a balance against improvident decisions.
- Lage: So it takes a greater majority than ordinary club decisions. Isn't it two-thirds majority vote?
- Berry: Yes. It requires more than a simple majority. It's constructed in a way to achieve a consensus. Now, there will always be somebody who dislikes what you're doing. We've simply decided to run that risk.
- Lage: Have you had much negative reaction from club members?
- Berry: There's always the threat that whatever next step we propose to take down the trail toward more political involvement is going to undo the Sierra Club. It never happens.
- Lage: But it's brought up at each step. It's brought up every time. So this has been, I would take it, one of your interests.
- Berry: Yes, I have very strongly pushed this idea throughout.

- Lage: Who else has felt the same way? What other individuals?
- Berry: I think Bill Futrell had a strong interest in it. Brant Calkin, Howard Saxion.
- Lage: Does the committee have a changing membership?
- Berry: I believe that I and Dick Fiddler are the only remaining members from the original group.
- Lage: Who on the staff is most closely associated with it?
- Berry: Carl Pope.
- Lage: Is he the staff man in charge of it?
- Berry: He's not the only one, but he's certainly the most evident and knowledgeable, has a long list of involvements.
- Lage: Do you have a prognosis for the club's role in the political arena? Are we going to get more and more involved?
- Berry: I think we will. Not so much for the sake of becoming involved, but out of necessity. The polarization on conservation issues, at least in the short run, is fairly clear. That a sitting president feels free politically to put a man as disagreeable as Mr. Watt in the position that he has marks a clear political calculation that he can discount us. I don't think he can but that's evidently his assessment--quite clearly so. Because Mr. Watt not only believes our values are unworthy of consideration; he delivers that point of view with a snarling, contemptuous, personal animus.
- Lage: Have you been present during his speeches?
- Berry: I don't know that I've ever been present during one of his speeches.
- Lage: It would be an interesting confrontation.

Service on the California State Board of Forestry under Ronald Reagan

Lage: We've talked a couple of times, very briefly, about your early work in forest practices. You mentioned some lawsuits you had been involved in. Where did your interest in this come from?

Berry: When I was in law school, I became interested in the California Forest Practices Act. I wrote a paper, which ultimately was published in the Bulletin, discussing the need to revise it. That was published in 1961.\* I followed that interest up by appearing at a number of senate and assembly committee hearings, some interim committee hearings, amongst others. We made a fairly heavy effort extending five or six years to get some improvement in those rules, and had some effect. We also got some changes through the legislature.

Lage: Were there others in the club involved in this?

Berry: Yes, I think Martin Litton certainly gave a lot of encouragement. As did George Marshall and Ed Wayburn; Dave gave a great deal of encouragement. I published another article in the Bulletin in about 1963.\*\* We were active for a number of years there. And I got away from it somewhat in the late sixties and early seventies. Then came the Bayside Timber case that declared the whole law unconstitutional. Then I helped somewhat in the effort to write a new law, and at the instance of Ike Livermore, who was then resources secretary, I was the conservation appointment to the new nine-man Board of Forestry which Reagan appointed under the new law.

Lage: You seem an unlikely choice for Mr. Reagan.

Berry: I had known Ike and always respected him. His views are decidedly more conservative than mine, using conservative in a more narrow sense in that context. But there was always mutual respect. And in the way these political things go, it was acknowledged, I guess,

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\*"The Need to Revise California's Forest Practice Act," Sierra Club Bulletin, October 1961.

\*\*"California Forest Practices: A Progress Report," Sierra Club Bulletin, October 1964.



Berry: that because of the Sierra Club's deep involvement in the issue, we had "right" to name, or have some influence in naming, one of those appointed.

If I understand correctly what happened at a political level that is what brought my name to the governor's attention.

Lage: What was the makeup of the board then? Were you a minority of one in your outlook?

Berry: There were eight Republicans and one Democrat, and there was one conservationist. Total of nine--

Lage: Yes, I get it. [laughter] What was your role on the board, then?

Berry: Making motions that never got seconded. [laughs] More than that. I attempted, at the outset, to try to educate people to certain points of view, to question things, to lead where possible, to hopefully improve the situation somewhat.

When we first got on the board, the director of the Department of Conservation Ray Hunter, a Reagan appointee, was then trying to reorganize the Division of Forestry, which came within his authority, in a way that didn't make a whole lot of sense, regardless of your political persuasion. In-as-much as this was seemingly a reshuffling and realignment by the Republican administration, others on the board were more reluctant to resist it, despite obvious incongruities.

I announced myself very early in opposition to it. To my pleasant surprise, we ended up with a unanimous board resisting the attempts of the director to make these changes which fundamentally would weaken the division. We supported the man who headed the division--the state forester--and won in a political confrontation of mild proportions.

Lage: Are there clear guidelines, in terms of the power of the Board of Forestry versus the power of the Division of Forestry?

Berry: The Board of Forestry makes policy in some areas but the administrative control is through the direct political route to the governor. So, no, things were not entirely clear jurisdictionally. We had a right to talk to the issues because of our policy involvement. We were aided in all this by some really cumbersome footwork done by the man who wanted to effect all the changes. He would trip over his own feet politically, given half a chance.

Lage: Has he accompanied Mr. Reagan to Washington?

Berry: No, I think he accompanied himself to Placerville shortly after this confrontation.

Lage: Were there any changes on the board then, until Brown came in? Or did it continue, eight against one?

Berry: Reagan appointed a man to the chairmanship who was a second-generation Japanese-American, a man whose general outlooks were thoroughly Republican, but a man I always thought fair. I don't think his understanding of conservation issues was as broad at the beginning as at the end. But he made a conscientious effort to allow everyone to be heard and to do the right thing. His outlooks were thoroughly ingrained with the notion that small business is good, and he'd view most timber operations as falling in that category. So, he approached it all with conservatism, in the direction of the way the moneybags hang. But all in all, I thought he was a good appointment. I thought he did an honest job.

Lage: What was his name?

Berry: Howard Nakae. A very conscientious man.

#### Forestry Issues under Governor Jerry Brown

Lage: Now, with Brown coming in, you had Claire Dedrick take over from Ike Livermore. Did you relate with her very much in the job?

Berry: Yes and no. A number of things happened in a very short period of time which caused considerable confusion of all forestry issues. In my judgment, she was not fitted to the job. I went directly to Brown's people making the selections when I first heard her name mentioned. I told them that was a mistake.

Lage: From your knowledge of her from the Sierra Club.

Berry: Yes. I felt she was not emotionally and otherwise equipped for the job. I think events caused many other people to gain the same view. When she came in, I think that she was aware of my reservations, either through Sierra Club involvements or because someone told her of my opposition. In any event, she did not consult me about anything she did. For some reason, she got the notion the way to handle forestry problems was through direct intervention by her officeto lay down requirements for cutting and logging, through the medium of the California Environmental Quality Act, CEQA.

Berry: While there ostensibly was legal basis for what she did, I, all along, felt many of the moves had very questionable long-term legal justification. A far better way to change the rules--then we had in place a brand new set of rules passed by the new board--was to change the composition of the board as appointments came up. Appoint people who understand the issues based on experience, people willing to hear everyone out, willing to make every honest adjustment to get consensus. And then write a rule best for the long-term forest resource and, in particular, best to prevent erosion of forest soils. She attempted some legal short cuts, too complicated to explain here, but which ended up with some disastrous results politically.

Lage: This was in setting forest practice rules?

Berry: Well, in effect, doing so. It wasn't always done quite through that medium but that, in effect, is what she attempted to do.

Lage: Was that overriding what should have been the powers of the Board of Forestry?

Berry: Not overriding them but adding to them and to some large extent, ignoring them. I, first of all, thought this quite unwise politically. Secondly, I thought it would not last, because it generated so much opposition, so many challenges to its legality, as to be counterproductive. I think events bear me out in that judgment. We pleaded with them not to do things that way, to take them more slowly through the administrative law-making route. And ultimately, that of course, is what the Brown administration has done.

At first, they attempted to accomplish this by leaving in place the existing Reagan board and merely threatening replacement if things weren't done right. This led to dramatic meetings, confrontations and much spinning of wheels. Ultimately they began replacing some of these members. By and large, the new appointments were excellent. Nakae, ultimately, was replaced, I think after he himself asked to be replaced. And the man Brown chose as new chairman of the board was the best choice in the whole world—Henry Vaux, who had been dean of the School of Forestry at UC, a forest economist of international standing, who I would have to say is one of the most savvy people I've ever met. He, at this point, has the respect of all sides having been there for six years. He has led that board through very time-consuming processes in rewriting the rules to reflect the new legal requirements from section 208 of the federal water law and changes made in CEQA.



Lage: The board actually does this or is there a staff that prepares it and the board--?

Berry: Both things happen.

Lage: Sounds very time consuming.

Berry: Oh, it is. It takes two days a month just in hearings, plus a lot of outside work.

Brown appointed a number of people who've done excellently in their respective roles. People who work hard and came to the board with considerable knowledge. People of considered and well-supported judgment. Dwight May, now dead, was appointed as the rancher, Clyde Wahrhaftig, professor from UC in geomorphology, and a number of others--Cecile Rosenthal, Dick Wilson--who've done an excellent job.

Lage: What about the Redwood Park issue in the seventies? I guess Dedrick was involved in failing to prevent logging in areas adjacent to the new Redwood Park.

Berry: That was one of the things that brought others to the judgment I'd reached earlier.

Lage: Did that go through your board?

Berry: Not her actions, but we took actions of our own which effectively shut down some of the logging plans and in effect, staved off--

Lage: Was that after the board had changed its composition then?

Berry: Yes. There, by then, was a conservation majority.

Lage: But then didn't she allow some logging that conservationists were very unhappy about? Did she override the board, or do you recall?

Berry: A series of things occurred. There, at first, were various attempts off the board to get her to act, and if I went into details I'd bore you. I can recall some long faces coming back from meetings with her, including that of Paul Swatek, who had served with her on the Sierra Club board earlier and was by this time a staff member of the club. They saw eye to eye when on the board together. But that alliance didn't continue after both had new positions.

I can recall Paul's being enormously upset with her. After the Sierra Club's failure to gain through that route, there was an attack in another direction, which essentially involved a denial of forest timber harvesting plans by the state forester (director of

Berry: the Department of Forestry). Those judgments were sustained by the Board of Forestry based upon legal advice from outside the attorney general's office because he said it was illegal to act as we did. His deputies didn't think so, but the attorney general [Evelle Younger] thought so. [laughs]

Lage: So you had to go elsewhere to get things.

Berry: Yes. And we were right legally. We shut down a lot of those proposed operations that would have made park acquisition much more difficult. Emotions ran pretty high. I recall one former chairman of the Republican party who appeared before us as counsel for a timber company arguing that we could not legally shut down certain operations. He pointed to an attorney general's opinion for support. Recognizing the attorney general was then running for governor, I asked somewhat innocently whether the two of them had discussed the matter (of that opinion) prior to its being written. He teed off on me as if I had somehow suggested an impropriety.

It wasn't 'till later that I found out that in fact they had met, that in fact the opinion had been written by deputies in our favor to begin with, and that as a result of the meeting the attorney general directed it to be rewritten to favor the other side.

Lage: I think we're running a little over. You're ten minutes past your schedule.

Berry: Oh, okay.

Lage: So maybe we better wind it up.

## VII THE BOARD OF FORESTRY UNDER THREE ADMINISTRATIONS

[Interview 4: 24 October 1984]

Chairman Henry Vaux, an Extraordinary Intellect

Lage: It's been three years since our last interview session. Today we want to elaborate a little bit on your previous remarks on the Board of Forestry and SCOPE. I talked with Henry Vaux in preparation for this. He suggested that your perspective on the Board of Forestry was a unique one since you've served under three administrations, and you might have some long-range view on how much stability or instability there is in the view of the board--how much it reflects the gubernatorial administration that it's serving under. That's kind of a general question to start off with.

Berry: Well, the appointments, generally speaking, reflect the administration in power, as one would expect; they are politically made. The board's stability is somewhat better than you'd expect, despite that. All three of the chairmen under whom I have served as vice-chairman have tended to be more moderate than the other appointees of the same governor. They've also been, by and large, men of good will and reasonable intelligence, and in the case of Henry Vaux, extraordinary intelligence. So there is a moderating influence.

Nonetheless, the record of the Vaux board versus the other two boards is markedly different.\* Vaux had a board with a fair conservation majority, but not an overwhelming one. It frequently depended upon his vote to pass regulations. The Nakae board was overwhelmingly Reagan conservatives. They weren't worried, as far as I could see, about forestry primarily. They were preoccupied with a group of Republican, almost right-wing, abstractions.

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\*Henry Vaux, Forestry in the Public Interest: Education, Economics, State Policy, 1933-1983, an oral history interview conducted 1984-1986, Regional Oral History Office, 1987.



Lage: Were they concerned about the industry in particular?

Berry: Yes, but not about forestry, as such. They were worried about Republicanism, small business--curious in view of the size of some companies involved in forestry. Their concern was keeping government off the back of poor business. That is a consideration, but certainly not the consideration, and in my view, it produced some quite inappropriate regulations.

Vaux is Republican, a careful, conservative, cautious man, but also courageous; one can be cautious and courageous at the same time. That and his extraordinary intellect make Henry unique. Though prepared to move slowly and with caution, after having heard everyone out, he was prepared to move. One of the great pleasures of my life was to work with him in developing rules for private forestry in the state. I have a tremendous respect for that man.

Lage: Can you give me some examples? When you talk about "cautious, but courageous," what kind of stands was he willing to take or did he feel it necessary to take?

Berry: That board has a majority of laymen. There are, of course, three members appointed from industry. By and large, those people, while quite knowledgeable, are not as free in sharing their knowledge even-handedly as, say, a geologist or geomorphologist might be. They're appointed as industry representatives and so, ipso facto, their allegiance is to industry. When there's a technical question, you cannot always rely upon them to provide a comprehensive view of the alternatives. They may offer expertise channeled into what essentially is the industry line. This is not always true; there are, fortunately, remarkable exceptions.

Vaux almost always knew more about the point under discussion than any of these people. His ability to articulate his position outclassed them all. Henry would introduce subjects to the board with general questions, to which, I came to learn, he'd already formulated answers. Later, there would be staff and committee workup. The staff draft, you could tell, had his stamp on it. There was always a flash of brilliance in it, plus a very practical, sensible overlook, something you hadn't expected, something more workable than you thought a rule addressed to that issue might be. It all showed his extraordinary intellect.

Lage: What kinds of rules was the board setting down? Were they general rules to govern forestry in every situation?

Berry: That's the problem; they were both. You cannot write rules of forestry specific enough to cover every situation, unless you write rules so general they are meaningless. So you must take a middle course: you write rules specific to the degree that they can be and

Berry: still make sense, and then you allow some leeway in areas where discretion, professional judgement, some sort of hedge factor, becomes involved.

If we established any format, it was to first attempt to state the specific rule and then fashion--for those special problems discovered in the course of working on that--the supplementary second "discretionary" rule, always trying to maximize the extent to which foresters might exercise judgment in a good way and minimize the possibility of giving in to expediency. Henry was quite good at working those things out. When wrong, he would admit it. (It's the one place you would find him a little stiff.) But he was rarely wrong.

Lage: How did the other board members relate to him, say, the Reagan holdovers? Did they have the kind of respect for him that you have?

Berry: I didn't know until Henry's retirement dinner. Henry Trobitz and I had been on since Reagan appointed us. I first met Henry [Trobitz] in about 1964 when he represented the loggers on some legislative proposals that had arisen in part out of things I had done or suggested. I thought then that he was a real fire-eater. He's always been extraordinarily conservative, in the way lumber companies are. His votes since appointment you could put in that category. His were largely negative views: you really shouldn't mess with business; business knows what it's doing. He was the philosophical voice of the lumber companies resisting what Vaux wanted to do.

At Vaux's retirement dinner, I made a speech praising Henry [Vaux], in about the terms expressed here. Following that, extemporaneously, Henry Trobitz said he found it truly humbling to deal with and to exchange views with Vaux.

Now I read that as more than a tribute to Vaux's rhetorical abilities. It was a tribute to his intellect, pure and simple and quite genuinely stated. One thing I've learned over the years is that, while Trobitz takes the company line, he's trustworthy, he's not going to tell you something he doesn't believe. He may slant it toward the industry view because he grew up with that, but he's not going to try to fool you. He spoke from the heart when he said that. He had, in his own way, the same respect for Vaux I did, and I appreciated that.

Vaux is truly extraordinary and one of the greatest men I've met.

Deukmejian's Forestry Appointments: Walt and Partain

Berry: You were asking me, "How did the administration in power make a difference?" The chairman appointed by Deukmejian [Harold Walt] was a pleasant surprise to me. First, while he is something of a politician (as you would expect of anyone appointed), he has integrity. I have personally no reason to doubt that; some people complained of things he's done they thought were political, but in dealings with me I found he has integrity.

Lage: What's his background?

Berry: He's a forester who is teaching finance at either San Francisco State or USF. He's in the middle of Republican politics. He's bright and earnest. I was surprised, frankly, at the quality of the appointment. He splits his votes on about a 40-60 basis; conservationists get about 40 percent. And he makes an earnest effort, I think, to draw people together.

Lage: Does the governor or do other members of the governor's administration exert an influence? Were there instances over this time period where there was direct influence coming about? There must have been in the redwoods, at least.

Berry: Is your question at what point did we have interference in what we were trying to do? The most came from Claire Dedrick, who did not want what we did on the redwoods. The second instance I recall was the one I described with Ray Hunter, then director of the Department of Conservation, which in those days included the Division of Forestry--now the Department of Forestry. He did some absolutely crazy things trying to reorganize the whole thing.

Lage: But that wasn't something the Board of Forestry had control over, was it?

Berry: Yes, it was. He was meddling with the agency over which we had policy control. So, sure, he was monkeying with what we were trying to do. Those are the two biggest examples. A somewhat pleasant surprise on that score, is Jerry Partain, the man appointed director of the Department of Forestry under Deukmejian. He has extreme conservative views. He had taught at Humboldt State formerly. When addressing the Board of Forestry before his appointment, he was something of a fire-eater. He ran as a sort of hard-line Republican in an assembly district up there and lost. Thereafter he was appointed head of the Department of Forestry. My reaction at first was, "Oh, Lord, what are we facing?"

There has been only once in the whole ten years I've been there when two times in one day we sustained the director of the department in turning down timber harvest plans. That occurred with



Berry: Jerry Partain, who for all his conservatism and "business is right, business as usual"-type Republicanism had turned down two plans that should have been denied. One involved an eagle tree and I've forgotten what the other involved, but he had turned them down, and we sustained him. Frankly, at the end of all that I had to say, "Jerry, I never thought I'd be saying this to you, but here we've sustained you twice on turn-downs of timber harvest plans in one day. I never thought that would happen."

He has courage. He may not have all the right ideas, but at least he's not one I'd distrust. That's been an encouragement to me.

Lage: How does the board relate to the Department of Forestry?

Berry: We formulate policies for the department's direction. The administration of the department is by whoever is in power. Now that means in some things they have to pay attention to us, but primarily they pay attention to the governor who appointed them.

Lage: So when you say that you are formulating rules, are these rules for the industry or rules for the department?

Berry: We're talking about two different statutory functions of the Board of Forestry. We write rules--and by gosh, they're law--for all logging on private lands within the state.

Lage: The department must enforce them.

Berry: The department has to enforce those. Then, as respects general aspects of what the department does, we write policies. They must pay attention to that, too, but these policies do not have the force of law.

Lage: I looked over just a few of the minutes of the Board of Forestry meetings about the time that Vaux came in, and the striking thing was that he seemed to step back and say, "We need to look at a lot of these general policies." That was another area where he must have moved the board along.

Berry: Oh yes, he did. Henry did an extraordinary job moving the board along. He was helped by the impact of events. The first occurred before he got there, leading to establishment of the new board. In the early 1970s, a court decision in the Bayside Timber case invalidated the whole existing set of rules because the statutory procedure by which they were developed was unconstitutional.

So it was necessary to write a new act, the Z'berg-Nejedly Act as it turned out, and to constitute a new Board of Forestry, the one I joined as a ninth member in 1974. It was then necessary to rewrite all the rules. On an emergency basis we adopted all the old

Berry: rules and then went through a rather extensive hearing process to decide what the people Reagan had appointed to our board thought was right, which was a minimal set of rules.

Brown, Dedrick, and the Board of Forestry

Berry: Then Brown and Claire Dedrick came in. Using the rubric of the California Environmental Quality Act, she sought to amend the rules administratively without replacing the old members of the board with people more in tune with actually regulating. I think she had been advised that legally this was possible (though I thought it was stretching the policy act a bit), to take a short cut, and she did that. She tried to state rules under CEQA which didn't really work and brought down a lot of condemnation on the whole administration, particularly the Division of Forestry. There were logging trucks circling the capitol, and whatnot.

So she finally had to relent and go along with obviously the more sensible plan, that was to replace board members so you weren't dealing with all this Reagan conservatism. With that accomplished, a new majority in place with Vaux at the head, we truly went forward.

Lage: Vaux had a board to work with.

Berry: Well, he did and he didn't. It's unfortunate Claire had led people down that road because I think it forced Brown into a compromise position where he felt he had to appoint representatives of the thorough-going industry viewpoint to the three industry positions. A whole third of the board, then, is of rather fixed views.

Lage: Now, who are the three industry people?

Berry: Well, it varied from time to time. They were, by and large, good people but having come from industry and mostly from the heart of the industry, they could not really be expected to take very advanced positions. Trobitz was renominated and reappointed twice, as many times as I was. He's an honest man and intelligent, but he comes from a background of industry conservatism: "Don't bother us; we'll do a good job. We're foresters, we're professionals."

Those Brown appointed representing industry were not bad people. There's not one I distrust; there's not one I would criticize on any character or personal grounds. But as Trobitz, they came from the heart of the industry, not the more independent parts.

Berry: So Brown's dilemma was, having gotten himself into trouble with both the industry and the labor union associated with it, he could not really make truly independent appointments. There are such people around, if you look hard enough. Jim Greig, for example, could have been appointed; he never was. He would have been a perfect example.

That left six members, one being the chairman, who has to maintain something of a neutral stance. So you've got five, the number needed to pass any rule. So you've got to maintain order amongst all five of the public appointees. Brown appointed strong-minded, independent folks who didn't always agree, and it was something of a problem to maintain order in that group.

Certain patterns developed, where Henry would talk with us to get some idea of the conservation position. He would then put out his own ideas, which might or might not reflect a consensus. Sometimes his views were not "liberal" enough for one or "conservative" enough for another. He had to hit it right. He's not given to passions or ideological discourse. He's more practical than that and never leaves his brilliance behind.

#### The Sierra Club and the Redwood Park Issue before the Board

Lage: You referred to some of the industry members of the board; did you see yourself as a Sierra Club member of the board to represent Sierra Club views?

Berry: I didn't always. At times the Sierra Club came with views I thought unsound, and I tried politely to tell them so off the record. If unsuccessful, I simply voted against it, and if truly put to the test, I had to tell them publicly and on the record I disagreed.

Lage: Can you think of a specific time?

Berry: The proposed Santa Cruz rules had some ideas the club was pushing that I couldn't agree with.

Lage: Would this be a club chapter that was presenting these views?

Berry: Yes, but they were nonetheless representing the club view. I became convinced that outright, wholesale, "never do it ever" opposition to clearcutting is inappropriate; I think there is a place for clearcutting--vastly more restricted in proper operation than Georgia-Pacific will tell you, but there is a place for it.



Lage: Is this a view you came to through your experiences on the board?

Berry: Yes. I didn't think so before I got there.

Lage: And is it the Sierra Club view that there is no excuse for clearcutting?

Berry: I don't know if it's an official Sierra Club view, but there are a lot of folks who, hearing the mere word "clearcutting," see a dimension of evil I don't see. I certainly am not for large clearcuts. I would limit them rather severely, to fifteen or twenty acres, but I am convinced, having talked with foresters I think are honest, there is a place for clearcutting.

Lage: Does the club have forestry policies on the books that guide the chapters?

Berry: Yes. They're not specific on the size of clearcuts, though.

Lage: Did the club officially, the national club, ever come to you to confer about decisions that were before the board?

Berry: A couple of times. It happened in the redwood park battle when Claire Dedrick had not followed the route of reappointing people to the board and letting them write the rules. The "CEQA can solve it all" solution. Well, CEQA couldn't solve it, and her attempts, unilaterally without public hearing, to rewrite the rules of forestry had brought down all the labor unions, which embarrassed Brown, so it was a totally counterproductive effort. Brown could be four-square for a redwood park. Claire's actions had embarrassed him, and the unions were down on his neck, so he couldn't really push for a redwood park. She then equivocated.

Sierra Club people, including Paul Swatek, had gone to her and said, in effect, "Can't the administration take a strong view in favor of this redwood park? It's a major Sierra Club priority." Well, I gather she had gotten the word from higher, "Look, I've been embarrassed enough over these forest rules. I can't endorse this in the teeth of what the unions want to do." So Claire did a lot of equivocating and back-and-forth and this-and-that about, but not doing what the Sierra Club wanted. So we ended up very, very disappointed in her.

I recognized some real peculiarities to this. She'd gotten herself into a compromise position. The unions were upset, probably for good reason, because she had tried to write laws, in effect, from her office instead of through the hearing process. I could understand where they were coming from: they were afraid things were out of control, not being handled through the legal process.

- Lage: On the redwoods, what I had noticed in looking at the Board of Forestry minutes had to do with trying to stop the cutting in Redwood Creek, while the enlargement of the park was being considered by Congress.
- Berry: That was going on, but you have to recognize the two aspects of it. One was a purely political question: Does the Brown administration come out and say, "Congress, we really want this park. The people of California want this park. We want to do legislatively and administratively everything we can to help it"? That's the political dimension. On the other end of things, could we, the board, deny individual harvest plans on some ground or another, within the law? Those are two completely different arenas in which this issue was being debated.
- Lage: That was one of the things the club was pressuring—to deny those timber harvest plans.
- Berry: The Brown administration was somewhat compromised in addressing the political issue as a political issue. We, as a board, were frankly a lot tougher than they were because we had the ability to say, "No, the timber harvest plan number whatever will not go forward because it is contrary to our rules." Now, to do that we had to strain a bit, but we stayed within the law and the courts approved what we did.
- We had to take the position, in essence, that the Z'berg-Nejedly Act and CEQA were designed for broad public purposes, which included saving a national park or temporarily protecting lands to go into it, if there was some reasonable expectation they were about to do so. So in our discussions a lot hung on what was the status of things in Congress. We turned down a number of plans and paid a political price for it; Henry, in particular, paid a political price for it.
- Lage: Did he vote along with the majority, or not?
- Berry: I recall he did, but in any event the plans were turned down. That held things in abeyance, and gave people time to operate in Congress.
- Lage: But initially they weren't turned down. I guess that was before you had a majority on the board.
- Berry: That's right. Oh, yes, there were some dramatic and highly amusing hearings to begin with, when they were not turned down. It was at the point we could have used a Brown-appointed majority but didn't have it.

Berry: There was an interesting accident of history. There was a board member by the name of.... I always forget his name and feel embarrassed. His name was very similar to another whom Brown intended to appoint to the board, but by mistake he got this man instead because of a mix up. The guy was a poor appointment. He didn't know anything. He didn't care to know anything. He would drone on incessantly.

Lage: And you've really forgotten his name?

Berry: I've forgotten his name.

Lage: And he was appointed by Brown?

Berry: He was appointed by Brown. Nice enough guy, but he didn't know much. And on some of the early votes on plans within what would have become and did become Redwood National Park expansion, he took a very firm "let's log the trees, that's how people get jobs" view, which you would expect him to do given his union background.

There was furious debate over a number of things; one being what causes the floods in Redwood Creek. Everyone knew this mountain of gravel was moving downstream, causing all sorts of problems to the existing primeval groves. Why was there so much erosion? Was it roads in the upper reaches, was it logging long prior to these laws, or was it the foolishness going on recently? What caused this mass movement? Well, there were a number of causes, it turned out, but most of them, and overwhelmingly, were related to logging.

Wingler and Kelly, the hired-gun experts ("experts" if you will, but use the term here rather loosely) of the industry, came in with their testimony. There was in opposition Dick Janda from the USGS who came with, I thought, a whole lot more supportable views. All sorts of people testified about just how bad things were in Redwood Creek, and of course, the issue was "Why?". Dick Janda said things to which the industry took marked exception. The industry produced what was known as the Wingler-Kelly report.

Fortunately, but this time Clyde Wahrhaftig had been appointed to the board. He was then an eminent, and I guess now is an emeritus, professor at UC. Clyde knew what he was doing; he looked at the Wingler-Kelly figures, and lo and behold, their estimates of certain consequences were half of those that Janda had. Part of the reason was that, instead of taking their data from a whole storm, they started taking their data halfway through. Partly it was just simple arithmetical errors. Clyde, once he saw this, mentioned it to them (which I would never have done as a trial lawyer--I'd have waited to blast them in public--because I couldn't believe that errors of that nature are made all that easily).



Berry: Anyhow, Clyde let them know by letter prior to a particular meeting that such and such was wrong with what they had done. I guess he simply thought it was wrong. I thought it was outrageously wrong, which I guess, shows a difference between trial lawyers and geomorphologists [laughter]. I saw no reason to give them any quarter. As far as I was concerned, they were not willing to give Redwood National Park quarter, so why be polite? I would have fried them for these errors.

Clyde handled the thing in a much more academic way. He presented his views almost as if apologizing for having to correct someone; I think he honestly felt that way. To him, it was so embarrassing somebody could go so far wrong, he was sorry to correct them. I've witnessed testimony I don't believe, from people I don't trust, all my life because you learn as a trial lawyer that's the way certain witnesses turn out. When you've seen enough of this, you're not at all tender toward it. Your view is, "All right, if they do that, nail them."

Lage: He was treating them as fledgling graduate students.

Berry: Well, he treated them as people who simply made an error, and I couldn't regard it that way. I had a lunch with Clyde afterward to discuss in a philosophical vein our differences in approach. I would not have foregone shedding every drop of their blood because I felt they were really out to shed every drop of ours. For whatever reasons, and I'm sure Clyde's motivations are always good, though I might disagree with them, he let them off the hook rather gently, saying they had done wrong and "the book was closed." Well, the book wasn't closed as far as I was concerned, and I seized upon a number of opportunities thereafter to remind them they didn't know what they were talking about, though they maintained they did.

The funniest event was when the member whose name I forget announced at one point while Dick Janda was testifying that the high water in Redwood Creek wasn't a consequence of what Janda said: mass wasting of soils, over-logging, too quick a run-off, cutting down too much of the overstory—all the reasons you learn about when you study forestry.

The member didn't assign any of those reasons. He said the water was high because of high tides [laughter]. Well, you laugh, and with good reason. There were a couple of things against this: one was the areas involved were, measurably, at least, five hundred feet above high tide [laughter]. I recall ever so vividly Janda's mouth dropping open [laughter]. Here, mind you, is a quite capable guy, who knew his stuff, was cautious and scientific, and to hear this out of one of the board members was like hearing "Donald Duck lives; he's a roommate in my house," or something equally absurd.

Berry: It was absolutely crazy for him to say this. He had confused the memory that Orick, which is close to the sea and had suffered damage from high tides coinciding with heavy river flow with the idea that much further upstream damage occurred to large redwoods during roughly the same period of time. He had put a couple of things together that simply didn't fit [laughter]. It was a point of amusement, though also one of amazement.

Lage: An embarrassment, I would think.

Berry: Well, others were embarrassed for him. He registered no embarrassment even when corrected [laughter].

#### Local vs. State Control over the Forest Resource

Lage: Another area that Henry Vaux suggested that you might have comments on was the issue of state versus local control.

Berry: That's a particularly thorny area. You'll not find two people with quite the same views, nor anyone whose views are particularly popular. There are many issues involved there, some foolishly political, some de minimus, some real.

There's some important history to this. The Bayside Timber case which overturned the old Forest Practice Act, before Z'berg-Nejedly, was based on the notion counties had no business regulating forestry. The County of San Mateo, which is an urban-rural county of a very peculiar sort (it's not quite like either Santa Cruz, Monterey, Sonoma, or Marin, where similar problems have arisen), has a thriving and fairly good forest products industry, mostly on the west side of the slope, whereas the population is mostly on the east. In each of the other counties mentioned there is an intermixing of the two usages, forest and urban neighborhoods close together.

Ever since Bayside Timber, that issue has never been left alone. A right was given counties, under the original Z'berg-Nejedly Act, to have their own regulations, which some of them did: San Mateo did a magnificent job, Santa Cruz did a pretty good job. The problem arose in a county where there was almost no timbering at all, but many people ready to argue about it. That's Santa Clara, where there wasn't a dime's worth of timbering, really, but there were a couple of timber plans proposed. Some people got riled up about this and, I think quite mistakenly, some of the supervisors set on a course which would effectively deny the right of timbering altogether.



Berry: Some of us were quite unhappy about this because the board is supposed to promote timbering as a good, viable, long-term, sustainable economic use in California. I believe it's an attainable goal, and a proper one. Here was a county, in a very minor but symbolically important way, frustrating us. We tried first to talk. We appeared amicus curiae in some of the suits intended to defeat what they were doing. We tried in various additional ways to influence so they wouldn't upset the apple cart.

It wasn't the only county where there were such problems, but they were, by far, the most acute. Emotions ran the highest there, and reason had less sway than anywhere else. There were also problems in other counties, some in San Mateo, some in Santa Cruz, some in Sonoma, some in Marin.

Lage: How did the Sierra Club line up on that?

Berry: Well, it never was a totally consistent approach. It was something of an uneven performance, depending upon how knowledgeable our people were in each particular county.

In one context it was a question of state versus local control. You could frame it in another context as a neighborhood problem, long-established uses versus new proposed uses. So, there's a whole mix of questions very hard to sort out, and the Sierra Club was involved on a somewhat hit or miss basis, depending on what the issues were locally.

Lage: So it was more at the chapter level that decisions were made.

Berry: It was policy made at the chapter level, and there was no overall Sierra Club view. If you tried to restate the Sierra Club view, distilling it from all the individual viewpoints stated, it was that, "Yes, there is a certain value in local control. Yes, there's a certain value in maintaining the forestry resource. Why can't we have cooperation between these two?". That's not too distant from the view taken by most of the Board of Forestry.

On the board, too, there were varying viewpoints. My own was there are a number of issues, as the legislature finally determined, more appropriately within local control: haul routes, bonding for maintenance of roads (they can be wrecked, of course, by heavy logging trucks), health, safety, hours of operation, etc. A whole bunch of issues quite properly within local control.

There are some very difficult issues arising from growth of urbanization, particularly up some of the narrow canyons on the coast side of these counties. Those problems were never quite the same because the terrain is never quite the same. There are a whole



Berry: lot of practical considerations: Where is the water: Is it a domestic water supply? What are the roads going to do to this area? Hours of operation? Do you fell big trees right next to houses (safety of the kids)?

There are numerous issues involved in that, and they're not easy to resolve. Frankly, good will and careful attention to the other fellow's concerns means a whole lot more than any rules you might draw. We struggled with these types of problems a number of times on the board.

Lage: Was it ever resolved in any permanent way?

Berry: Well, it's impossible to resolve questions of that sort on any permanent basis overall or in a general way because the problems as they arise are so individual.

Lage: But if there's a conflict between the state board and a local government agency....

Berry: Oh, you mean did the legislature attempt any statutory resolution? Sure, they told the counties the State Board of Forestry is the final authority. This created another arena for a taffy pull. Since then we've gone through innumerable hearings where the county's proposals have been presented, and the board has reacted. There have been lengthy hearings in all the urban counties.

### The Evolving Acceptance of Conservationist Concerns in California's Forest Practices

Berry: There is an historically important outgrowth of all this county versus state control issue. Soquel Creek down in Santa Cruz County became a cause. It was an area where you had this interface problem. People with their houses strung out on a narrow, vulnerable watershed; ownership patterns that weren't what you would find in most subdivisions where the county enforces certain rules-- building standards, grading, roads, etc. Soquel Creek was urbanized on an ad hoc, do-it-yourself basis not as the result of subdivisions for which the county was able to plan in advance.

The residents in the Soquel watershed took it on the chin a couple of times, suffering massive floods they blamed on the pattern of upstream logging. Some of the upstream owners blamed the weather, or the unusual precipitation, or what have you. There was a lot of grist for everybody's mill.

Berry: The upshot, which had the approval of Jerry Partain, was an historic event because in effect the department gave approval to the approach that said, "You have to consider a watershed as a whole." There are certain cumulative impacts from land uses up and down the stream. Depending upon the vulnerability of downstream users and the geology and climate and pattern of land use, there might be instances where you view on the basis of an over-all watershed plan, rather than on the basis of a particular harvest plan.

Well, I say that is historic because the board has a number of times tried to address the problem of cumulative impacts. That was obviously involved at Redwood Creek. Clyde Wahrhaftig told us a number of times, "Look, what's really happening here is that, over the years, so much of this watershed has been logged--either well or poorly, but anyhow logged--that you have changed the hydrology. There is a faster, bigger, quicker runoff." What Redwood Creek was saying is, "I've got to widen my banks. There's too much water here, there's too much gravel, there's too much whatever it is that's coming down. I've got to grow."

Well, there are certain consequences of that. You undercut the toe of the slope along the way, including where it's vulnerable to mass wasting. So all sorts of problems are triggered because of the cumulative effects within a watershed.

We had addressed this, or at least tried to, in a number of ways in our discussions before. Now, oddly enough, with a Deukmejian majority on the board and Jerry Partain as director of the Department of Forestry, this concept has been accepted. I don't know whether to stress that through their acquiescence it has occurred, or simply the fact it has occurred. I guess, historically, the fact that it's occurred is the more important thing. It's amazing and paradoxical to me that Jerry Partain has done this.

Lage: It shows a certain amount of education toward a conservationist point of view.

Berry: Well, it does, yes. That's been going on all along. Industry still drags its feet and adheres to its conservative positions, but if I were to measure what's happened since 1961 when I first got involved, there's been a considerable evolution. I have felt free for most of the last ten years to say directly to the other side what I think and have them accept it as that, not some extreme, crazy view. I think it's been gone over, and at times been taken lightheartedly on both sides. In a recent meeting, Fred Landenberger, one of the loggers' chief lobbyists, said he didn't want to answer my question because I always cross-examined him and into a corner [laughs].

Berry: Sometimes Henry Vaux would say something I viewed as a political compromise, and so I would address it as such. I would say something like, "Addressing the chairman's proposed political compromise, I have these comments," and I would speak for or against it, depending upon my view. It was interesting repartee Vaux and I would get into, wherein he would cleverly avoid admitting the political compromise, and I might for fun call it just that [laughs].

Lage: And you say it tended to get his goat?

Berry: Well, it's hard to get Henry's goat. It's impossible to outwit him, and it taxes all your abilities to fence with him. That's one reason it was stimulating going to the meetings [laughs].

Lage: How much longer does your term last?

Berry: A couple of years.

Lage: Do you have any thought that you might be reappointed?

Berry: I'm not bucking for it, but if it happened I'd welcome it.

Lage: Do you think it's a possibility?

Berry: Oh, I have no idea.

Lage: I just wondered how drastically Deukmejian is trying to change things.

Berry: Well, you get some mixed views on that.

[Page 120a of this manuscript has been sealed until the year 1996.]



Lage: I'm sure we could talk forever on the Board of Forestry, but maybe we should move on to SCOPE, unless there's something you want to comment on that we haven't covered.

Berry: Overall, in the twenty-something years I've been with the forestry problem, I think there's been growth on both sides. We've made a lot of progress. There's even some goodwill. Mind you, this doesn't extend to places like the boardroom of Georgia-Pacific.

I think, basically, foresters don't get into forestry to make money, but because they have a love somewhat like our passion for wilderness or nature. There are always tensions, there are always differences, particularly where the vice-president for dollars gets involved and tells them what to do. But I have seen some real movement.

Lage: We discussed this just a little bit on the clearcutting issue but, in a general way, has there been any movement in your views, a moderation of your views, having served on this board for the length of time you have?

Berry: When I've seen my position proved wrong, I've been, I hope, willing to change it. Clearcutting is one example. I once was entirely against it. Now I believe the size of clearcuts is the big issue.

I started out believing the laws were too general and that the heavy effort ought to be toward making them more specific. That's still true, but one of the primary shifts in my views is toward a belief that it's absolutely necessary to depend on professionalism. In many instances you cannot write specific rules. So what do you do? You don't want a rule so vague it makes no sense, so you have to depend on the forester's judgment.

The rubric we hit upon in such special circumstances is to depend upon the judgement of the individual forester as overseen by the state forester. Of course, that depends heavily on who these two folks are, but I think it's probably the only way out because of the wide variation in geology, rainfall, forest cover, etc., all the variables (and there are a great many).

Lage: Is this a point of view that you've come to through your experience on the Board of Forestry?

Berry: Yes.

## VIII SCOPE REVIEW, 1984

Endorsing Candidates: Procedures and Criteria

- Lage: Shall we turn our thoughts to SCOPE and the club's involvement in political campaigns? Our last interview session was in 1981, and the club had just given the okay to get involved in the 1982 congressional races.
- Berry: It was a big success in 1982.
- Lage: Was that nationwide, or just in a few selected areas that the club got involved in 1982?
- Berry: We got involved in quite a few races; it was nationwide--wherever we thought we could be effective.
- Lage: So when you say it's effective, you could tell you had made real changes?
- Berry: Oh, yes. We thought we had made a real dent.
- Lage: What criteria are you using in choosing the candidates that you're going to endorse?
- Berry: I wish that could be reduced to a simple formula; it can't be. Partly, that's a result of things, as you can imagine, based upon the vagaries of the political process. Partly, it is a result of the procedural process the club goes through. Let me address the procedural process first.
- Our process requires agreement at two levels. If you're talking about congressional races, it's a chapter deciding and then national SCOPE agreeing. And so, there might be any number of reasons, from idealistic to totally practical, that will motivate either of those two groups.
- Lage: So there's not a set guideline?

Berry: There are guidelines, sure enough, mostly reference to doing good in conservation and advancing Sierra Club ideals. You need those things, and you constantly think about them, but they don't make it easier to vote in individual situations sometimes.

Lage: We should talk about an individual situation to get more specific, if that's possible.

Berry: Well, there are some examples of that, but first let me expand on what I've said. Any number of pure conservation ideas can be advanced to vote for some candidate. But if the purist is obviously in a losing battle, and you have a moderate on the other side, you're inevitably going to face the countervailing argument of, "Isn't it better to go with this moderate, who's going to be elected anyhow, and bring him a little closer to us by, perhaps, giving him our endorsement, or at least not engendering his wrath by opposing him?".

Generally, where the opponent is horrible, the club has been very willing to say "damn the torpedoes" and go against him; in fact, rather joyously oppose that type, regardless of the chances. In some instances, we have even voted for people with very low conservation vote records because our Washington staff recommended we not pay much attention to that, and instead note what happens in committee, where such people may prove to be our friends. They may be lobbying their fellow senators or congressmen for our point of view. They may find it necessary to make a few votes contrary to us simply because their folks back home, their larger constituency, expect it.

You get into situations where it's very difficult to state a formula. You can't say the League of Conservation Voters assessment is all important because we've endorsed some people with records as low as thirty, forty percent, usually on the recommendation of our Washington staff, who say to us, "Look, the guy's in an extraordinarily important position," or "This congresswoman has this position on that committee, and while if you look at the League of Conservation Voters [LCV] record it may seem bad, in critical situations this person is important to us."

On the other hand, you can have people with seemingly good records but they've been fighting you all along, and you ignore that high LCV score. Sometimes our people say, "Look, the votes upon which the LCV score is based aren't necessarily our critical issues, and we would prefer some other standard be applied." Sometimes you'll find chapters going for what I, on occasion, have felt is too moderate a course—to gain some marginal influence with a rather mediocre senator or congressperson, and not damning enough of the torpedoes or, perhaps, none of them.

Lage: Or sitting it out.



Berry: Or sitting it out, sure. In the political process, there is a whole spectrum of views and considerations. No two situations are exactly the same.

Lage: Does the national committee often overrule a chapter?

Berry: Not often, no. I think in 1982, when we went through this process, the attitude of most of us on SCOPE was, "This is something of an experiment, we will defer to chapter people. They may be wrong, and we're then wrong in turn, but unless there's something that really turns our stomach, we're going to go along."

### Two Contended Endorsements in Washington

Berry: Since that time, there has been more than one situation arise with a lot more reason for differences. Two arose in the state of Washington.

Without naming names, there was one race where a former Republican governor was almost certain to gain his party's nomination and, because of his personal popularity, most likely to win the election overall. He wasn't a bad guy, from our point of view--let's say, arbitrarily, he was two-thirds with us. There was a hundred-and-five percenter running in the Democratic primary, a fellow who had laid his political life on the line for us. And the question was, did we give him an endorsement in his primary, where he was fighting some people who were also pretty good, but not like he was.

A variety of views could get expressed in such a situation, and were. One view was, "Why do anything until you really know who the Democratic nominee is, and also the Republican nominee?". That was an extreme view toward the side of caution. Another view which, in that instance, I personally endorsed was, if you have a friend who has come to your aid when in trouble, you can't worry that much about the later consequences. He's your friend and you go to his aid, and, all right, down the line you may pay for that. And I think, by and large, I still subscribe to that view. Then there were views in between: "Why not endorse them both, in their primaries, and then see what happens?".

A subsequent situation in the same state became aggravated partly because national seemed to be dictating to the chapter. It involved Brock Evans\* running as a Democrat in a largely Republican

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\*Sierra Club board member and former head of the Sierra Club's Washington, D.C., office. See oral history with Brock Evans in this series.

Berry: district. In the Democratic primary, where in the view of some he wasn't sure to win, he was running against other good Democrats. In the general he would have to run against a Republican who was a pretty good Republican. So all sorts of idealistic versus practical considerations were out there, and of course, there were advocates of each view.

Lage: Has that been resolved?

Berry: Well, yes, it was--to support Brock. It was bloody, to a degree, because there were strong differences of opinion. In the prior case, the national had seemed in the view of the chapter to dictate policy, and now seemed to be doing it again. For whatever reason, some differences may have been personal only to Brock and had nothing to do with the actualities of the political contest. There was some reluctance to endorse, or at least to give whole-hearted or four-square-type endorsement to Brock.

I believe the thing came up to us on the national SCOPE as a proposal not to endorse anybody, or what is the practical equivalent of that, to endorse a good Republican and also Brock in the primary, which dilutes the effect of what you're doing. In any event, I took the view which may have been a personal one--but was in line with other votes I've cast on SCOPE--that your friend is your friend.

A few stones have been chucked at Brock here and there about how good he was as administrator of our Washington office, or what he did in this or that connection. Accepting all those stones as true criticisms and properly thrown, I cannot say he is anything but our friend. He's our fellow board member; he's a damned good conservationist, which seems to me to dictate standing with him. He may lose, but I'd rather stand with a guy I admire that much and whose conservation has been that good and lose, than go for some--what would Brower say?--"cringe benefits." And fortunately, enough of us on SCOPE felt that way.

There was a real period of difficulty. Finally, I was assigned to call the chapter people to tell them our views and try to get agreement. I called them all, but couldn't reach the chapter chair and the SCOPE chair. After waiting a while, I heard the response indirectly, which was, "All right, you guys up there, you're telling us what to do, we'll go along with it. But we're not too happy."

Then there some follow-up calls I made, in which I said, "Hey, look, we're disturbed by your response. We're happy to have you go along, but we don't want you to feel we're playing big brother. We do want to listen to you and, by and large, we do listen to the local group." Finally, when we got down to discussing--and I spent

Berry: a fair bit of time on the phone discussing it with these people-- they could see we weren't really trying to dictate terms. Very rarely have we tried to dictate terms to chapters.

Lage: Of course, you have to rely on the local chapter to do the work of campaigning.

Berry: Well, you do, and that's part of the reason we don't dictate to them. In 1982, there was one instance where I sure wanted to-- Indiana. For whatever reasons, the Indiana Sierra Club did not want to endorse anybody. They had at least a few worthy of endorsement, but there was resistance by the chapter that I didn't understand or approve of. So, I was, frankly, somewhat annoyed at all that. They didn't want to do a damn thing. Since then, they've moved a step or two further in the right direction.

That's one instance where we tempted to say, "Look, if you don't endorse, by gosh, we're going to endorse." I guess we would have had some internal problems with that, but we were tempted to try to dictate terms to them because it's inappropriate to totally opt out of the political process. Since then, they've gotten more interested.

#### The 1984 Presidential Campaign: History-Making Attention on the Environment

Lage: Do these Republican-Democratic side-takings figure in?

Berry: Good point. Yes, the side-taking does. While I've been on the side of greater activism, I've also strongly maintained the view that we should not become the captive of a particular party. I guess if anyone has been the voice of restraint in that area, I have; I've resisted staff a couple of times when they have recommended things that seemed to take us totally, or at least further, within the Democratic fold.

It's a major mistake for the club to become part of a party. I think our real salvation has been and always will be, in engendering bipartisan support for the environment. With a president like Reagan, of course, it's temporarily impossible. That impossibility led to our last step of endorsing Mondale.

Lage: Do you think there wouldn't have been a presidential endorsement if the feeling about Reagan wasn't so strong?



- Berry: There might have been. That's speculative, of course. Reagan made it real easy, that's clear. He is such an environmental know-nothing, in my view. He's environmentally unaware, and perversely, almost purposely, so. The whole administration seems anti-environment. And it isn't just his appointing Watt.
- Lage: Well, what were the strategies on the presidential endorsement? You withheld the endorsement on the primary.
- Berry: The trouble is, we didn't know who was best for us. We didn't want to forestall the better by endorsing the good, so we didn't endorse anybody. We said, "Let the horses run, and whichever wins this preliminary heat we will endorse for the big race."
- Lage: Was there much discussion about that, or was everyone pretty well agreed?
- Berry: Initially, everybody was agreed. When it seemed like Mondale had it in the bag--that is, before the New Hampshire votes were cast--there was a move with a fair amount of support in SCOPE, and some support on the board, to go ahead and endorse Mondale. I strongly opposed that. I thought we ought to stick with what we started out to do. For one thing, we had told Cranston, Hart, etc., that we would not. And I thought it a mistake to do it until the nomination was made. I think that was the right course. I'm not moved to differ with my earlier views.
- Lage: And what was the movement to try to get delegates elected to the convention? How did that idea come about?
- Berry: We sat down a year and a half, two years ago, and tried to dream up things that might effectively move our program forward. There were a lot of ideas, some impractical, some we couldn't fund, and some which came forth better in actuality than we had dreamed of in theory, and this was one of them. We had thought we might get a certain number of delegates to pledge to an environmental caucus statement organized around our ideas, or something approximating it, and make a little splash at the convention. We actually got about three times what we expected, and there was a lot of enthusiasm for it.

Even if Mondale loses, I think we have made history in presidential politics because we've gotten our issue out as one of the major issues. We've certainly gotten it out as a major issue for Democrats. If we've done nothing more than that, we still have been successful. When you look to the media, the environment is a big issue, one of the major four or five. That is an accomplishment of the SCOPE program. Not just of the program--it was a maturing issue--but I think we've pushed it over the top.

- Lage: It was one of those issues where the differences were very clear cut.
- Berry: Well, sure. Reagan is such an utter disappointment on the issue.
- Lage: Did this election of delegates have an effect? Did it affect the platform, or publicity? What was the main thing?
- Berry: It probably affected both those things. It's hard to separate the platform from publicity in the abstract because they're both, in the public eye, somewhat the same. In my judgment, the most important thing was to get the environmental question out to the public.
- Lage: Do you have any feelings about the criticism that single-issue campaigning, the emphasis on single issues, is really a detriment to our political system?
- Berry: Do I criticize what I am, myself, doing?
- Lage: Does it trouble you, or do you think it's a valid point?
- Berry: I understand the criticism laid on us that people don't generally vote based upon a single individual issue. I happen to; I can't vote for somebody who is environmentally unaware and unconcerned. So, for me, this is a litmus test.
- Lage: I don't see the criticism that way. What I've heard discussed is that people shouldn't pick their leaders based on one issue. If you consider, say, the anti-abortion campaign, to sort of remove yourself from something you feel strongly about, it seems to me that choosing candidates for their stand on this issue alone might be distorting the democratic process in some way.
- Berry: Most of us say in the abstract, "others ought not to decide based on single issues," but it's a thing that we, in fact, tend to do for ourselves. If Reagan were perfect on everything and lousy on the environment, I don't think I'd support him.
- Lage: So maybe this is the way people make up their mind anyway?
- Berry: I don't think we're out of step to focus on a single issue. The alternative, of course, is to become part of a political party, which I think for the club would be a major mistake. I believe club views are profoundly conservative but also I can understand why they might be regarded by some as liberal.
- Lage: Or radical.
- Berry: Radical? I guess I dislike the idea of radicalism, so I can't include myself as a radical [laughs].

SCOPE'S Place in the Sierra Club Spectrum

Lage: How did political action fit into the spectrum of the other ways the club goes about trying to effect environmental change? Is it overshadowing some of the other aspects of the club's program?

Berry: Oh, no. In 1982, we had a pleasant surprise. We found than in many instances the people acting for the club politically had not been in leadership roles before. They were grass-roots activists who seemed to say, "I wished somebody had done this, and now the Sierra Club has. I'm going to go join to help out." And so, we got new blood—people wanting to be politically active. Their motivation was environmental politics, and we were the vehicle.

I think that's all been kept in proper balance with our traditional lobbying on legislative matters, our other activities of various sorts, our use of the courts when necessary. I don't think it's gotten out of balance. Certainly, if you look at what the national board has done with the SCOPE budget, it has been anything but generous. We started out a year and a half ago with a budget that has been whacked and whacked to the point it is now half what it was, and it wasn't a wish list then. It was a fairly practical and hard-minded budget.

Lage: Does that reflect a certain amount of lack of support for SCOPE, or just plain economics?

Berry: The question in the board's mind is what is a cost-effective SCOPE program. There has been some questioning about that. Certainly, SCOPE has been one area where they've found it easiest to cut. That might simply be because it's not a fixed expense. It's an add-on, as the board views it, a new program, which is the one that usually gets cut over the old program.

Lage: Does SCOPE raise its own money?

Berry: You could argue it does. The club raises the money for SCOPE purposes. Fund raising's a tricky thing; if you go out and ask for money in general, you get general money. If you go out and ask specifically for, say, the XYZ seashore, you get money for the XYZ seashore. Sierra Club people will respond to perceived need. If you go out and say "politics is it," you could probably get a great deal more money than we have now for Sierra Club political efforts.

You can very easily raise Sierra Club money for things like lawsuits. I think this arises out of the perception that the legal machine we have in place is quite efficient: it grinds out a lot of victories; it pokes the other side in the nose. To our Sierra Club donors it's a very emotionally satisfying program, so it's easy to raise money for it.



- Lage: Any major controversies or contrasting views about SCOPE or within SCOPE itself that we ought to bring up?
- Berry: Well, steadily from 1976 to the present, with every major expansion of the program, the issue was raised that this would ruin the Sierra Club. It would politicize the Sierra Club; it would cause us to be divided within; the members would leave; and it would change the nature of the club. We've gone at it with moderate-sized rather than giant steps and each time a consensus was reached: yes, this was a good idea. And so, when the history of all of this is written, they will say it was done in an orderly fashion. Nonetheless, at every point, there have been some very, very strong disagreements. Some club people have talked about this being the end of the world. Well, that's an exaggeration.
- Lage: Were there any people in particular who represented that point of view? Were these board members?
- Berry: Well, Denny Shaffer [former club president and board member] represented those views early on.
- Lage: And now he's a SCOPE member.
- Berry: That's right. I think Hocker [Phillip Hocker, board member] represented those views. Marty Fluharty [board member] represented those views; she also is now a SCOPE member.
- Lage: So these people have come around, or are they on SCOPE to influence it?
- Berry: Well, you're raising a question that I can only address in a broader way. There's no question that Denny was not enthusiastic to begin with about the political activity of the club. He's now a member of SCOPE. He still has some of the same conservative views, from the point of view of money and finance and getting it together: "Is it regular?" "Do we know what we're doing?" "Do we have a written plan?"—and all that kind of orderliness that one finds in Denny Shaffer. At the same time I think he's also come around to the view, perhaps somewhat more enthusiastically than he had before, that, by gosh, it's fun to get after the bastards. Jesse Helms may have helped; they're from the same state [laughter].
- Lage: He seems like a strong supporter in his public statements.
- Berry: So it seems, yes.
- Lage: Has there been any bad fallout with SCOPE? I'm thinking of a situation like we have with the San Diego mayor, Roger Hedgecock, who we so strongly supported and now is having a period of embarrassment in his political career. Is there any reflection on the Sierra Club from this?

Berry: Well, I don't know whether you and I even discussed this; he's a personal friend of mine. His start in Sierra Club matters was through me.

Lage: No, we didn't discuss that.

Berry: His one and only Sierra Club job was as my assistant when I was president. His first job in the law was with me, trying the Newport Bay lawsuit, so I've got a lot of pain over Roger's problems. I continue to give him money. I continue to have personal faith, though reading the papers does give me a lot of anguish. I don't know what's gone on and don't presume to judge it.

Lage: That makes it harder to talk about, in this context.

Berry: Yes, that's probably a tough example. No, there has not been a lot of negative result from SCOPE. Some members have quit; a lot of members have joined; some nasty letters have been written; some moderate letters have been written back. That's really all kind of de minimus. The choice has been made and rather enthusiastically endorsed by Sierra Club members. There certainly isn't the sort of fallout that's going to turn it back. It's never going to go back to where it was.

Whether or not in the next election we will endorse anybody, I don't know. I suspect that will come down to the same sort of hard choices we've made in congressional races recently. If there's a real son-of-a-bitch versus a good guy, it's simple. If there's a fairly good guy against a moderately good guy, and the latter's going to win, it'll be a difficult choice. That's in the nature of politics.

Lage: Has enough time occurred to know if endorsing some of these moderate candidates has affected their later votes on environmental issues in Congress?

Berry: Well, we think so. At least our office people, Holly Shadler and John McComb, seem to think it has.

Staff and Volunteer Roles in SCOPE

Berry: One problem that has arisen in SCOPE is the degree of staff versus volunteer involvement. We have some good staff people. We also have a lot of good volunteers. The trick, of course, is to mesh those two together. It's always difficult, regardless of the personalities, simply because the person who becomes a professional assumes rightly or wrongly that the volunteer is an amateur. Certainly, volunteers are more prone than professionals to failing deadlines, burning out, overlooking, getting too busy, being overcommitted in other areas of their lives. The volunteer is overall less reliable.

There is always tension between staff and volunteers. I guess that's more likely to become a problem where there are public benefits or public exposure, etc.

Lage: Is this more pronounced in SCOPE than in other areas?

Berry: Well, the common perception of people on the SCOPE board is that they do not have enough control or, if not control, they are not sufficiently informed to decide what they might want to control and what they might not want to control. There is a perception amongst them that the staff doesn't communicate well enough or fully enough. Now, of course, that perception varies depending upon which staff member you are talking about.

Lage: How many staff people are involved with SCOPE?

Berry: Oh, there are four or five involved. They're not all strictly SCOPE staff, but there are four or five utilized at one point or another.

Lage: And is there one that oversees the rest?

Berry: Overall, it would be John McComb. If you're looking to day-to-day, it's Carl Pope.

Lage: Who would Carl, say, deal with on the SCOPE board? With the chairman?

Berry: There is an organization that doesn't quite make sense unless you look to the way it operates. The chairman of SCOPE is one person, that's Dick Fiddler at the present. I'm a member of SCOPE, as vice-president for political affairs. Under the guidelines Denny Shaffer laid down when he appointed us, I would take the more public role and Dick would run the committee.



Berry: It ends up that our household is busy because Michelle [Michelle Perrault, Berry's wife] is constantly out there on the political path. I suppose there are two reasons for that. By far the bigger is that she's the president of the club, and so, of course, they want her rather than anybody else. Partly it's that she's not working except as club president. I'm sure that reinforces the idea that she should go rather than me.

Lage: It sounds like one of those SCOPE positions that is not defined.

Berry: Oh, it's defined, but how well?

Lage: Any other things we should talk about in relation to SCOPE?

Berry: I think it will continue. We're now two weeks away from the election. It's going to continue regardless of whether Reagan wins. It will be a regular part of the Sierra Club program. The Sierra Club is big enough and involves enough diverse personalities that it has a certain inertia.

I don't see this program becoming the tail that wags the dog or a liability. It will be another regular part of what we do. We'll do it cautiously, as we do many things. There will be people who will criticize us for not moving quickly enough. Some will think, as the Republicans did in Dallas, we're a fringe group, but most people will perceive us for what I believe we are: a thoughtful group interested in ideas and moving agendas forward in an effective way. I think SCOPE will be a part of that.

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## APPENDIX

WRITTEN 2 weeks before N.Y. Times Ad

Nov. 1968

## PROMETHEUS UNBOUNDARIED

SCENE ONE:

(Meeting of the Board in progress - right and left factions on right and left; middle group caught in middle. The Chairman speaks.)

- Patience: "The next agenda item is the proposed International Book Series. At the President's direction the By-law's Committee has examined this and ruled we can't operate beyond the boundaries of the United States. The series is therefore out."
- Wilfull Serious: "We also need the money to proceed and haven't got it - "
- Still: (Interrupting) "I second the motion!"
- Patience: "But there is no - "
- Assistant Hero: (Declaratively) "Mr. Chairman, I believe we should hear from our valiant leader, Great Hero. He has a solution which aggressively attacks the evils before us."
- Stark: (Alarmed) "What evils?"
- Assistant Hero: (Enthusiastically) "The lack of foresight by Muir and the other original incorporators - they failed to see we could save the world in 1969 and thus provided us with By-laws which are now out of date."
- Won't Brook: (Reasonably) "Isn't the obvious solution to amend the By-laws?"
- Great Hero: (Sternly) "No, that takes too long and involves the membership." (Now turning heroic) "No, the thing to do is the thing that would not be done if we didn't do it as we do so well. We extend the United States boundaries world wide - solves the problem in a stroke! It would help if you were more imaginative."
- By Andsell: (With deep concern) "The man's crazy! I'm no lawyer, but how can you do that? We have to get rid of this man; he's impractical."
- Patience: (Patiently) "Will the Legal Committee give us an opinion?"



- Bearishter: "Rather clearly we have no power to extend political boundaries. The Constitution and a flock of international treaties stand in the way. Also the -"
- Leanhard: (Forcefully) "It's ultra vires as Sieve would know, as a lawyer."
- Bitton: "Anything is legal once they get used to it - that's the common law."
- Patience: "Look, Great, this idea seems impractical and I -"
- Great Hero: (Angrily but with courage) "But you authorized it in March. The Executive Committee knew I was going to London and said nothing. I went to do the things that would not be done if I didn't do them. It would help if you could encourage great ideas."
- Wilfull Serious: (With an obvious effort to be calm) "But, Great, such silence in the face of your plan to travel is no authorization for you to engage in international politics. I can tell you right now this is something we simply can't do. I, for one, won't sign checks that relate to an extension of the United States boundaries."
- Great Hero: (Hurt, but undaunted) "You at no time have told me I couldn't extend the boundaries and when those four memberships in London were threatened I had to act."
- Leanhard: (With questioning alarm) "What memberships? Act how?"
- Great Hero: (Triumphantly delivering a non-responsive reply) "Act how? By saving the Club's face, honor and credit in England. There was no other way. I had signed up four English members last week and their dues had already been committed to my Antarctic fund. Uh, more of that later. We had to take all necessary steps to protect their status when I got the By-law Committee report on the boundaries question last night upon returning from Afghanistan. Legally and morally I had no alternative."
- Wilfull Serious: (With growing anxiety) "No alternative but do what?"

- Great Hero: (Testily) "Tell the Chorus to shut up. I object to their demonstrations and disturbances which impede our progress and keep us from our heroic roles. Let's move on to the next agenda item."
- Great Hero: (Heroically) "No alternative but to announce that the borders of the United States are now world wide."  
(He pauses as a pall falls over part of the group.)  
(Picking up again with a slightly light hearted and vaguely embarrassed questioning tone) "Why are you so surprised? I did it a full hour ago. Telegrams of explanation were sent to President Johnson and the heads of all nations which might possibly be affected. Incidentally, the action not only saves us the four members in England but also solves the little by-law problem that you say stood in the way of the International Series."
- Council Chorus: "Lament, lament, Oh me, oh my,  
Can no one stop this impossible guy."  
"Lament, lament, Oh me, oh my,  
Can no one stop this impossible guy."  
(Stony silence is finally broken by the Chairman.)
- Patience: (Obviously exhausted) "Well, are there any resolutions on the International Series?"
- Sieve: "Let's all trust each other and exercise good faith. I make the following resolution (reading from lengthy document): Insofar as the actions of Great Hero in extending the United States boundaries raise questions respecting whether or not he followed the prior directives of the Board, said acts are approved as consistent with the by-laws. Insofar as the said actions raise questions of international and constitutional law, the Board makes no comment at this time. This resolution is expressly conditioned on the understanding that Great Hero shall not without prior authority extend the United States boundaries to the Moon or expend more than \$50,000.00 on any Moon project."
- Great Hero: "I don't like to be restricted that way, but in the spirit of compromise, I accept. I was on the verge of picking up all my marbles and leaving. Now I'll stay."

Assistant Hero: "Therefore, I second the motion."

Still: (Shooting straight upward from his chair and accelerating rapidly to orbital speed.)  
"You haven't got all your marbles!"

(The shocked silence continues for the rest of the group until several directors finally keel over. Ultimately a vote is taken and the motion passes four to two. Patience tends to directors who have suffered heart attacks. The curtain falls)

SCENE TWO:

(Great Hero alone, Stage Center. Lighting set to suggest nighttime. He carries a flashlight. Pensively, he gazes up at the stars and then at the paper before him. He speaks.)

Great Hero: "Life on Mars . . . uncontaminated by man." He turns again to the paper and reads) "Shall not extend . . . to the Moon. (Excitedly) Of course! That's it. Only the Moon was ruled out!" (Striding heroically to the telephone) "Operator, give me NASA." (A pause) "Hello, NASA? Great Hero here. Look this Club I am is planning an Interplanetary Book Series and I need . . . (And the curtain falls).

THE END



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