

## Opposition to the Reservoir - Edward S. Johnson

**Audio**

**File:**

**Duration:** 8:19

**Transcript:**

**Audio Transcript** There was another meeting the next week; and there seemed to be general community opposition to the reservoir; and also a lot of ignorance about what the law was, and whether there was any recourse at this late date, and so on. So there was a lot of information-gathering to be done; and various of us set about doing various things. A rather neat thing about the community is that it contains a diverse set of people. There are a number of old farming communities that go back 200 years - The Kirks, and The Lloyds, and The Snipes, and The Teers, and so on, and The Crawfords have been around for generations. There were a number of people, such as me, who had moved into the community and some had University ties. There were, here and there, a lawyer or an executive of some sort or whatever - people who had had some contact over the years with bureaucracies. It turned out that one of the talents that we needed was dealing with bureaucracies. And there was another group of people. At that time we referred to them as "hippies" but they were basically counter-culture types who moved out in the country to get away from everything. They were into arts and crafts and conservation and organic gardening and so on. And all three groups were together at this meeting. This was the first time that a lot of us had laid eyes on people of the other sort. It all came together rather nicely. Well, we contacted lawyers, eventually hired some; acquainted ourselves with laws, Environmental Impact Statements and such and found that OWASA had been cutting a lot of corners and did not know, apparently, that they had to file an Environmental Impact Statement because the corps of engineers had jurisdiction over Cane Creek because the flow average throughout a year was 20 million gallons a day down the Creek. I think at that point the corps of engineers had recently been given jurisdiction over all creeks up to the head-waters where the flow was five million gallons a day. So this means that the corps of engineers, although they did not want the authority, had authority over anybody who wanted to impede the water. That, of course, meant that OWASA had to file an Environmental Impact Statement. Well, our first legal action involved an injunction against OWASA for getting on the land and surveying. This was a much objected-to practice by the landowners; they did not want OWASA people on their land surveying. We took that to court, and lost it; but I guess we also demonstrated with that action our determination. The focus of attention then shifted to the Environmental Impact Statement and that turned out to be a highly complicated affair. It was laden with politics and power and also a lot of bureaucratic paper-shuffling. It turned out that there was another legal hurdle that OWASA had to get over; and that involved the acquisition of land. It looked like, from our opposition, it looked to OWASA as if they were not going to simply buy the land by waving dollars. It looked indeed as if they were going to need condemnation authority. OWASA, being a strange legal beast, did not automatically have the power to condemn land. Water authorities, which OWASA was one of, and I think there may be only one other in the state, the enabling legislation only dates back to the late 60s or early 70s. The legislature saw fit to require that the authorities apply to the state government for condemnation powers and in so doing they had to meet several criteria: Showing that their choice of a reservoir site was the best possible one and that water quality was going to be high and a number of other criteria, including some social impacts. So this provided another forum for us to meet and challenge OWASA. OWASA's application for the condemnation permit was where the first battle occurred. There was a public hearing and both sides presented witnesses. The Environmental Management Commission then reviewed the record and granted OWASA their condemnation permit. We challenged it at the Superior Court level; lost; and then took it to the North Carolina Court of Appeals which overturned the action and sent it back. I guess they

were saying, in essence, that the Environmental Management Commission cut corners, followed improper procedures and they had to go back and do it right. And so that whole set of actions had to be repeated. And the second time around OWASA was again granted a certificate of condemnation and we again appealed it and - if memory serves me - that action now is still out there. I think it could be resurrected but it is almost a moot point right now ... but it is possible it could be resurrected...In the meantime, the corps of engineers (after a lot of diddling around) finally granted OWASA a permit to construct the dam. Now all of this activity commenced in 1976; and it was going, tooth and nail, probably through about 1982, perhaps. My dates are a little fuzzy.

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