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David E. Pesonen

ATTORNEY AND ACTIVIST FOR THE ENVIRONMENT, 1962-1992:
OPPOSING NUCLEAR POWER AT BODEGA BAY AND POINT ARENA,
MANAGING CALIFORNIA FORESTS AND EAST BAY REGIONAL PARKS

With an Introduction by
Phillip S. Berry

Interviews Conducted by
Ann Lage
1991 & 1992

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David Pesonen, fishing trip, 1963.

Photo by Julie Shearer

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INTRODUCTION--by Phillip S. Berry

The familiar chest x-ray taken anterior-posterior--"A-P," fore and aft, straight on through the patient--is usually good enough for most diagnostic purposes. Less familiar is the oblique angle shot, not so frequently used but at times much more informative, particularly for fine and subtle distinctions.

That my own thinking more often follows an A-P approach is probably one reason I have enjoyed so much my thirty-five-year friendship with David Pesonen, master of the oblique insight. Always catching subtleties others miss, Dave has that ability to see the unusual angle--a talent much needed by those who start public movements or innovate in public policy.

In the early 1960s serious questioning of so-called peacetime uses of nuclear power had barely begun, and Dave was one of those few who kick-started the movement to test the safety standards (which proved dismally insufficient), pop the balloons of the industry experts, and arouse a quiescent public to the dangers and incredible costs of generating electricity with atomic power.

Starting with the Bodega Head fight--which without him would have been merely a skirmish quickly lost by environmentalists and nuclear doubters--Dave pioneered a movement which has ended with the nuclear power industry on its knees, the victim of its own inflated promises, dangerous oversimplifications, and stupendous costs.

I wish I could say the Sierra Club was fully with Dave for all that battle, which started when he was a lower level club staff member seeking to forestall approval for a PG&E plant at Bodega Head, sited directly over, as later discovered, an active earthquake fault. The club was then in the process of change, and its leadership balked, taking the now (and to me then) incomprehensible position that nuclear power--and safety--was not a conservation issue. Dave quit his club job and continued on, with a few hardy allies, but clearly he was the real leader against the plant. He saw every angle to exploit and explored every weakness of his utility adversary.

It was almost ten years later that the club board of directors, in a divided nine to six vote on my motion, adopted the position implicit in Dave's early views: nuclear power could be approved only when, overwhelmingly, safety is affirmatively demonstrated and the waste problem permanently resolved. Both these problems remain unresolved thirty years later.

Dave brought to the Bodega Head fight, and every succeeding effort which spanned many conservation matters of great importance, an overwhelming sense of purpose, a keen mind, skill at guerrilla fighting,

and a doggedness in the face of adversity which I still see as a foremost trait in my fishing and camping companion of many years now.

Dave did much after Bodega. His fault finding continued with inadvertent help from PG&E, whose engineers seemed to have an unerring instinct for siting proposed nuclear plants directly over, or too close to, theretofore undiscovered but significant geologic faults. He quickly defeated two more plant proposals, bringing his total of nuclear "scalps" to a record level.

Dave's years as California Department of Forestry chief and later as head of the East Bay Regional Park District were marked by the same ability to see and do things not obvious to others. His imaginative legal strategies to save old growth plus a buffer for expansion of Redwood National Parks succeeded brilliantly. The loggers' most forceful spokesman wrote in 1983:

By the early sixties the Sierra Club was completing its transition from an organization primarily concerned with outdoor wildland enjoyment to environmental activism. The battle of the Sierra Club vs. the California Tree Farmer was begun. It was a battle in which the Tree Farmer was outclassed and out-maneuvered and he never won a single skirmish. Phil Berry and David Pesonen were both first heard in 1962 in testimony representing the Sierra Club calling for stricter and more rigid regulation; a song they continue to sing up to, and including, this very day.

Who else but Dave would have suggested that the State Forestry take over the task of preserving the great elm trees lining Sacramento streets, simply to save energy through the cooling shade they provided? Who else would have audaciously proposed that the park district join an Interstate Commerce Commission proceeding to oppose a major rail abandonment, with the result, through eventual settlement, that the old right-of-way became a public park? A few examples, and I can give many more, wherein Dave saw a way through the complex maze.

I wish at times Dave appreciated more my predominantly "A-P" approach. Then I might not so often have to correct his misreading of topographic maps. He might even give up insisting that we delay to make coffee when the fish are biting early in the morning.

But may he never lose his trademark "obliqueness." It has served him and us, the conservation movement, very well indeed.

Phillip S. Berry, Esq.,
Sierra Club, Vice President, Legal

Oakland, California
September 1996

INTERVIEW HISTORY

Best known for his highly visible leadership role in the battle to defeat a PG&E nuclear power plant at Bodega Bay in the early 1960s, David Pesonen has had a less visible but much longer thirty-five year career as environmental activist, manager, and attorney. Because of his importance to the history of the environmental movement, the Regional Oral History Office urged the California State Archives Oral History Program to record his work in state government; we then expanded the project to a full oral history documenting his varied life and career.

David Pesonen's first job as a graduate of UC Berkeley's School of Forestry was with the UC Wildlands Research Center, working on a Wilderness Report for the Outdoor Recreation Resources Review Commission. His brief stint with the Center resulted in a lasting contribution to wilderness literature. Struggling to complete his section of the report, on wilderness as an idea, Pesonen enlisted the help of Wallace Stegner, a writer whom he did not know but whose work he admired. Pesonen's request struck a cord with Stegner: the result of his entreaty was Stegner's famous Wilderness Letter (to David Pesonen, dated Dec. 3, 1960). Stegner later said, "This letter, the labor of an afternoon, has gone farther around the world than other writings on which I have spent years."

Not long after, David Pesonen was hired as conservation editor by David Brower, then executive director of the Sierra Club. One of his assignments was to represent the club at the May 1962 hearings of the Public Utility Commission on PG&E's plans to build a nuclear power plant north of San Francisco at the quiet harbor of Bodega Bay. He emerged as leader of what seemed to be a quixotic campaign by the north coast locals to defeat the utilities giant, and two and one-half years later his group, the Northern California Association to Preserve Bodega Head and Harbor, celebrated PG&E's abandonment of the Bodega plan. In his oral history David Pesonen recalls in detail the decisive moments, strategic decisions, publicity efforts, and inspired leadership of that first significant citizens' battle over nuclear power. Jazz concerts, picnics, "radioactive" balloon releases, picketing, legal action, Sacramento lobbying, expert scientific testimony--all were part of the success of the Bodega campaign and all influenced the many environmental campaigns to come later in the sixties and seventies.

Motivated by the Bodega experience to become an attorney, David Pesonen attended UC Berkeley's Boalt Law School. He then joined the San Francisco firm of Garry, Dreyfus, McTernan, and Brotsky, a radical old-left law firm committed to political causes. During this period he continued his work in opposition to unsafe nuclear power, helping the Sierra Club defeat a PG&E nuclear plant at Point Arena on the northern California coast and running the campaign for the Nuclear Safeguards Initiative of 1976.

This latter three-year effort was defeated by the voters but prompted strong legislation that accomplished most of its aims. It was another nail in the coffin of the nuclear power industry in California, as well as an early and imaginative effort to use the initiative process to further the environmentalist agenda. The oral history also gives his perspective on the Charles Garry law firm and Garry's involvement with the Black Panther Party and the tragedy of the People's Temple at Jonestown.

In 1977, Pesonen returned to his forestry profession as a member of the State Board of Forestry, then chaired by UC Professor of Forestry Henry Vaux. In 1979, he was appointed by Governor Jerry Brown to head the Department of Forestry, leaving at the end of the Brown governorship to become a superior court judge. Later he served for three years as general manager of the East Bay Regional Parks (1985-1988). His reflections on these two managerial positions illuminate the complex organizational issues and personal dynamics within two very different public agencies, as well as the environmental and resource management issues confronted, from fire-fighting to resource renewal, from land acquisition to interpretative programs.

The Pesonen oral history also contributes to legal and judicial history, with its discussion of his appointment and service as superior court judge in Contra Costa County (1983-1984) and his work as an attorney in private practice.

The eight interview sessions were conducted from December 1991 to May 1992, a total of fifteen tape-recorded hours.¹ David was familiar with oral history and the Regional Oral History Office because his former wife, Julie Shearer, was a longtime oral historian at ROHO. They had met and married during the Bodega campaign, which Julie covered as a reporter for the Mill Valley Record. Julie's recollections of Bodega and later events were a helpful source of information for the interviewer. Preparation for the interviews included research in the Sierra Club records and Joel Hedgpeth papers in the Bancroft, several ROHO oral histories on the Sierra Club and forestry, minutes of the Board of Forestry, records of the Department of Forestry, and a number of published and unpublished accounts of the Bodega campaign and the nuclear initiative campaign and other subjects.

Interviews were held most often in David's home in the Elmwood area of Berkeley, with two sessions in his law office at Saperstein, Mayeda, Larkin, and Goldstein, in Oakland. He spoke informally, clearly, and candidly. He was modest about his accomplishments, displaying a notable degree of perspective in analyzing these seminal events and his role in

¹Interview sessions 5, 6, and 7 (Chapters VI-IX of this volume) were recorded for the California State Archives State Government Oral History Program's "Oral History Interview with David E. Pesonen", 1992.

them. His transcribed words required minimal editing, and he made almost no changes during his review of the transcript.

The selection of photographs illustrating the Bodega battle come from a post-victory scrapbook prepared for him by his grateful co-campaigners Jean and Karl Kortum, and Julie Shearer. David's longtime friend, fishing and camping companion, and fellow attorney and environmentalist Phillip Berry wrote the insightful introduction to this volume.

In December 1992, David Pesonen married Mary Jane LaBelle of Berkeley. Now semi-retired, he divides his time between Berkeley, serving as a private judge and mediator, and his Oregon ranch on the Sixes River, a fine salmon and steelhead stream where he pursues his passions for fishing and growing things.

The Regional Oral History Office, a division of The Bancroft Library, has been recording first-hand accounts of leading participants in the history of California and the West since its founding in 1954. This volume adds an important perspective to our on-going documentation of the environmental movement and natural resources management issues.

Researchers interested in these topics may wish to consult Regional Oral History Office interviews with David Brower, Richard Leonard, Wallace Stegner, and Phillip Berry in the Sierra Club series; Henry Vaux in Forestry; Francis Heisler in legal history; and Joel Hedgpeth in the Parks and Environment series.

Ann Lage
Interviewer/Editor

September 1996
Berkeley, California

Regional Oral History Office
Room 486 The Bancroft Library

University of California
Berkeley, California 94720

BIOGRAPHICAL INFORMATION

(Please write clearly. Use black ink.)

Your full name David E. Pesonen

Date of birth April 6, 1934 Birthplace Washington, D.C.

Father's full name Everett Alex Pesonen

Occupation Govt. conservationist Birthplace Crystal Falls, Michigan

Mother's full name ~~Elean~~ Eleanor Sarah Barton

Occupation mother, poet Birthplace Bottle Creek, Michigan

Your spouse Mary Jane LaBelle

Occupation RN Birthplace Glaston, Mass.

Your children Kyle David Pesonen, dob 3/19/70
Judy Rose Pesonen, dob 12/14/73

Where did you grow up? New Mexico, Hawaii, Sacramento

Present community Berkeley, CA

Education BS Forestry, UCB 1960 / LL.D., Booth Hall, 1968

Occupation(s) Attorney, Government official

Areas of expertise Environmental policy, civil rights litigation

Other interests or activities Outdoors activities of all kinds/reading/
writing

Organizations in which you are active Sierra Club, Planning & Conservation
League

I FAMILY, BOYHOOD, AND EDUCATION

[Interview 1: December 17, 1991]##¹

Influences of Parents and Places

Lage: Today is December 17th, 1991, and this is the first interview with David Pesonen. We were going to start by looking back at family influences, boyhood experiences, that kind of thing. And I know your father, in particular, was a big influence on you. Do you want to start telling something about your parents?

Pesonen: Well, my mother [Eleanor Sarah Barton] was more of an influence, as I look back on it now, than I thought when I was growing up. Both parents were a good influence--quite different influences. In fact, how they got along, I don't know, but they did--they loved each other. I think it's because my father [Everett Alex Pesonen] was such a kind and thoughtful person, and my mother had all those instincts, too, although she was much more volatile:

I was born in Washington, D.C. on April 6, 1934. It was during the Depression. My parents were married in 1932, and my father had just graduated from Michigan State in landscape architecture. My mother aspired to be a poet and a writer, and she was an English major. I don't know how they met, and if I did, I've forgotten. They weren't very wealthy. My father came from an immigrant family in upper-peninsula Michigan. His father had come from Finland to work in the iron mines.

Lage: Was it a Finnish community?

¹This symbol (##) indicates that a tape or tape segment has begun or ended. A guide to the tapes follows the transcript.

Pesonen: It was a Finnish community, and he had gone to Finnish school. He was the eldest of five--five who survived, there were two who died in infancy--and they moved to a farm when he was very young. So he grew up working the farm. Since he was the eldest, he was the one who could go to college. It's a holdover from peasant culture in the old country that the eldest inherited whatever there was to inherit. None of his siblings went to college. All but one are still alive--they're a very durable bunch of people. But, in any event, they had some timber on the farm. They sold the timber, and that helped to finance my father's education. And he worked. He taught school when he was right out of high school.

So my parents met in college. There was a famous Finnish politician named Emil Hurja. I don't remember how to spell that. Hurja was one of the prominent people in the New Deal. He was very active in bringing Finnish immigrants to the United States. But he was also very active in promoting their careers and he took a shine to my father.

Lage: Now, how did he meet him in Michigan?

Pesonen: I don't know. He was a congressional aide from that area. I don't know for sure. But he got my father a job in the Department of the Interior, in the National Park Service.

Lage: Did he know William Penn Mott? He was a landscape architect, too. [Former director of California State Department of Parks and Recreation and of the National Park Service]

Pesonen: He went to school with William Penn Mott.

Lage: Oh, he did?

Pesonen: They were classmates. I think Mott was a year ahead of my father, but they knew each other in college. It just shows what a small world it is. In fact, I saw Mott just last week. In any event, my father got a job somehow as a minor designer in the New Deal administration in the Department of the Interior in Parks, and my father is a very good administrator--he's very good with people. He's got an equanimity about him that people like and are drawn to. So he moved up fairly rapidly in administrative circles.

For reasons I don't remember, when I was about a year old, we moved to Oklahoma City. He had some position with the National Park Service there--I don't know what it was. My brother was born there two years after I was born, on July 4th, in fact, 1936. I think we lived in Oklahoma for about a year and

then moved--the first place I really remember living was Santa Fe, New Mexico. My father had a position as a middle manager of some kind in the National Park Service in New Mexico. He traveled a lot, visiting parks, supervising the design and building of parks, supervising Civilian Conservation Corps crews.

Lage: So this was all Depression era work in the Park Service?

Pesonen: There was a lot of emphasis under the New Deal, I think really the result of--who was the Secretary of the Interior?

Lage: Ickes.

Pesonen: Ickes. Harold Ickes. Ickes was enamored of the idea of putting young farm boys and city boys to work rehabilitating the country. So there was a lot of that going on all over the country, including New Mexico. My parents loved New Mexico, and I loved Santa Fe.

My mother's stepfather died while we were there, and she inherited some money which was supposed to go for my college education. Her dream all her life was to own a bookstore. So she bought the Viagra bookstore in Santa Fe with that inheritance. In those days, Santa Fe was a kind of bohemian center for artists and writers--later led to what Taos is still today. So she hobnobbed with all kinds of people who were in that artistic community and she just loved it. She was a bohemian spirit.

Lage: Now you're still very young at this point.

Pesonen: Yes, but I remember this.

Lage: About what year would it have been?

Pesonen: This would have been 1938 and 1939.

Lage: So you were just four or five.

Pesonen: I remember it very vividly. I remember the smell of pinon smoke, I remember the hubbub of people coming through the house all the time, visiting my mother's bookstore--I loved the smell of books. I just loved the whole scene.

Then, in 1939, my father was appointed head of the Civilian Conservation Corps for all of the Hawaiian Islands. So we moved to Hawaii in late 1939 or early 1940.

Lage: That was a big change.

- Pesonen: That was a big change. I remember getting on the ship at Fort Mason here in San Francisco. It was just a wonderful time. And my mother was delighted.
- Lage: Oh she was? I was thinking it might be a hard move for her.
- Pesonen: She loved people and she loved new places, and Hawaii was another bohemian center. A lot of expatriate-type people. We got to Hawaii in late '39 or early '40 and I loved the islands. I never had any shoes, climbed the mango trees--it was just a playground.
- Lage: Which island did you live on?
- Pesonen: We lived in Honolulu. Since my father was a very high government official, my parents got invited to a lot of parties, and there was a lot of activity. It was a happy time. It was a happy time for me and my brother. We just loved to play, go to the beach--I learned to swim there. We lived about a block from Waikiki beach, and I went to the beach every day I think. I just loved to swim and play around. I don't remember that I did anything productive, but that's where I started school. They had a program at the University of Hawaii for a teacher's college where elementary school kids would be taught at the University by the teachers--
- Lage: Teachers in training?
- Pesonen: --teachers in training. So I went to the University of Hawaii. My brother wasn't in school yet then. All I remember is just that it was a lot of fun.

A Boy's View of the Attack on Pearl Harbor and its Aftermath

- Pesonen: The next big thing that happened was Pearl Harbor.
- Lage: So you were there at the time of Pearl Harbor.
- Pesonen: I remember that very vividly.
- Lage: You have a good memory.
- Pesonen: I remember some things. Some things I don't remember at all. I have a visual memory.
- Lage: And olfactory.

Pesonen: Well, before I started smoking I had an olfactory memory. [laughter] I remember Pearl Harbor day just like it was yesterday. It was fifty years ago this week.

I can remember waking up. We were thinking about Christmas. The tree was up, the presents were in, I was expecting my first electric train. The first thing I remember is going into the kitchen. We had a Japanese maid whose name was Matsuko. She was weeping and my mother was comforting her. The radio was blaring "The islands are under attack," and we could hear explosions. I got dressed immediately and went up on the roof to watch the action. We had a roof you could get onto--the other houses you couldn't get onto so easily--so all the kids from the neighborhood came and sat on our roof. We all sat on the roof and watched. You could watch dogfights in the air, and the ack-ack, and the airplanes going this way and that, and bombs falling--it was very exciting. [laughter]

Lage: I'll say--a kid's view of Pearl Harbor.

Pesonen: But we weren't scared. It was all just a big show.

Lage: It was all at a distance.

Pesonen: It was a ways away. It was about ten miles away. There were aircraft going over Honolulu--Japanese aircraft. The sky was full of action--little black puffs of ack-ack smoke all over the place and airplanes going this way and that. There seemed to be no pattern to it. Lots of excitement.

Lage: You didn't, as a young person, have the sense of something building that other people who were there seemed to have had in the period leading up to Pearl Harbor?

Pesonen: I seem to remember that my parents would listen to the Sunday night news. Even Drew Pearson had a radio program. Drew Pearson and a reporter named Gabriel Heatter--my mother called him "Bleater Heatter." [laughter] He'd say "There's good news tonight," or "There's bad news tonight." That was how he introduced his program. And there was some talk of this impending buildup of Japanese antagonism, and then there was lots of news of the war in Europe, which was going badly for the Russians and for a lot of people. I didn't really understand it at first. I was seven years old then, but I did understand what was happening in Pearl Harbor.

Well, after the attack was over--. My father, in fact, had been out at Pearl Harbor fishing earlier in the morning. He had

left before the attack started. So he had just gotten home. I suppose if he had been out there--

Lage: You might have been feeling a little different.

Pesonen: Then everything changed. They closed the schools. My mother had a job working for the Army Corps of Engineers, and immediately martial law was declared and people were frozen in their jobs. My mother couldn't quit.

Lage: Couldn't leave her job?

Pesonen: Couldn't leave her job and look after us. We didn't go to school then, so we had all day to just get in trouble. And we did. [laughter] We got bored after a while, I think after a couple of weeks, and we gathered all--I remember this--we gathered all the wastebaskets in the house and piled all of the papers in the living room and set them on fire. We thought that would be very exciting--that would be a lot of fun.

Lage: That might bring Mother home from work!

Pesonen: Fortunately a neighbor was going by and came in and extinguished this thing. But Mother was at her wit's end--what was she going to do with these two wild kids who had no school to keep them occupied. She couldn't leave her job; it was illegal. She'd be arrested. There was rigid martial law: lights were out all the time; there was black paper on the windows; we dug a bomb shelter in the front yard.

My father had gone out to various camps to inspect the damage after the day of the attack and had brought home the wing of a Japanese zero that had been shot down and crashed near one of his camps. I was the envy of the neighborhood. I had the wing of a Japanese airplane, or a large part of the wing anyway, to play with in the front yard.

We dug a bomb shelter, and then they dug big bomb shelters in all of the parks. We went through drills to go underground whenever these drills went off--they were always going off. You got so you almost didn't pay attention to them after a while.

Lage: So they expected more attacks?

Pesonen: They expected a real invasion. My father was enlisted into a businessman's training corps. I still have a picture of him somewhere in a uniform; he had a .45 automatic that he wore around his belt. They went out and marched him here and there. They never got into anything. [laughter]

Lage: I don't understand the closing of the schools too well.

Pesonen: Well, the schools weren't safe, and until they built bomb shelters, they wouldn't reopen the schools.

Lage: And most women didn't work? What did they think would happen with all these kids?

Pesonen: I have no idea. That was not my concern. [laughter]

Lage: Of course not.

Pesonen: Well, Mother was at her wit's end. She threatened to send us to reform school. We had no knowledge of what that was. I remember my brother and me packing our toys up in a little yellow box, and we went out and put it in the car. We got in the car, and my father started the engine, and he was going to take us to reform school. Mother just didn't know what to do with us. I pleaded with him to let me go back in and plead with her one more time, and she relented. Of course, she didn't have any idea what a reform school was--this was just carrying the threat. [laughter] Reform school was one of those things that was like hell for Catholics. It was a place where you went and never came back.

Lage: My mother used to threaten military academy to my brother. [laughter]

Pesonen: Finally, the schools reopened, and we went back to school. Of course, by this time my father's job had ended because the CCC [Civilian Conservation Corps] was a make-work program for young men, and the war took care of that. So there was no work for him in the islands. We stayed about a year. We lost our house--we were renting it and the military took it over or something. So we spent the last three or four months living on the far side of the island.

My brother, who was very gregarious, had walked in on some neighbor--just walked in and started talking. He had a way of doing that. He made friends with this family and they had a beach cottage on the other side of the island which they let us use while we were waiting to be sent back to the States. And that was a wonderful time. It was an isolated little house way out on the other side of the island. There was a little cane railroad that ran right through the front yard and a big empty beach.

My parents still had to go to work every day, so Bart and I just walked the beach.

Lage: You didn't have to go to school?

Pesonen: We didn't have to go to school. We just played on the beach. We would find little fish, and we'd find things on the beach. We just had a wonderful time. I remember one day we'd walked way up the beach and we were walking back and we heard a huge roar behind us and we turned around and just skimming the sand were five fighter planes in training on low-level flights. I mean just right at the surface. They were P-40s with the tigers painted on the front, over the cowling of the engine. We just fell flat on the sand and the planes veered up, and I can remember looking up and seeing the pilot laughing at us out of the cockpit.

Lage: This combination of the idyllic beach setting and these war-like maneuvers going on.

Pesonen: They were war maneuvers.

Well, finally we were sent home, and we were sent home in a convoy on the *Hunter-Liggett*, I think, was the name of the ship. It was a transport and we were crammed into a very small stateroom with the bunks stacked up along the side. Two days out we stopped and just sat, waiting for another vessel to catch up with us. It was the battleship *California*, which had been sunk on December 7th and raised and patched. But it wasn't completely repaired. It still listed about ten or fifteen degrees and was very slow. They were bringing it back to the states to, I think, Bremerton, to be completely rebuilt and put back into service. So this strange convoy was finally assembled outside Honolulu: the battleship *California*, three or four troop ships like the one we were on bringing people back to the states, a tanker, two destroyers, and we were very slow. It took us about twelve or fifteen days to get back.

Well, my brother got the mumps right out of Honolulu, and swelled up like a chipmunk. We were all stuck in this little stateroom and we thought we'd all get it.

And then it got stormy and we had--I can remember the drills for submarine attack. Well, finally we did have an attack and the drills really went off. The drill was to go to your stateroom, put your life jacket on, and wait for further orders. I can remember all of us huddling in this stateroom as depth charges went off where destroyers were searching for this submarine that supposedly had been spotted. It's a sound you'll never forget. It must be horrible if you're in a submarine to have that sound, but it's bad enough in a surface ship, because it's this huge explosion that comes in at you from all parts of

the room. The ship's hull must pick up this enormous explosion and then just implode it into each little space. And these explosions kept going off, one after the other. Finally they stopped and the order was given to get in the lifeboats. My brother still had the mumps, and it was freezing cold. I can remember sitting in a lifeboat with Mother holding my little brother wrapped in a blanket, and they swung the lifeboats out on the davits, and we were hanging out over the water. And then we just sat there. [laughter]

Lage: What an experience!

Pesonen: Finally it was all over, and the lifeboats were swung back in-- they had them all ready to drop in case the ship was hit with a torpedo--and then it was back to normal life on the ship.

Lage: How did people react?

Pesonen: All differently. Mother was a little hysterical. I thought it was a wonderful, exciting experience.

Lage: You weren't scared?

Pesonen: No, I wasn't--I don't remember being frightened. I remember thinking "This is just a great adventure." The whole thing was a great adventure. [laughter]

Lage: In general was the tone calm, or were people panicked?

Pesonen: People were pretty calm, I think, generally in those circumstances. As long as there seems to be somebody in charge, and things aren't falling apart.

Lage: You had a routine, you knew what you were supposed to do--

Pesonen: People were frightened, I'm sure, and maybe suppressing their panic, but there wasn't a lot of hysteria.

Father's Career with the Bureau of Reclamation

Pesonen: We finally got back to the States. We got back to San Francisco and I think they put us up in the Mark Hopkins--one of the big hotels downtown--for a couple of weeks. My father then got a job, or maybe had it already before he left the islands, with the Bureau of Reclamation, in the planning of Millerton Reservoir outside of Fresno.

- Lage: You mean that was going on in the middle of the war?
- Pesonen: Yes. The Central Valley Project was launched in the late thirties and was really getting started in the early forties.
- Lage: It's surprising that it continued through the war years.
- Pesonen: Lots of things continued through the war years, including the Central Valley Project which was a huge public works project that reshaped California. My father was a Progressive--a New Deal Progressive--and he thought it was wonderful. He believed in TVA [Tennessee Valley Authority], he believed in a lot of things which have become albatrosses, economically, now. And, of course, people didn't think about environmental consequences of big dams and great transfers of water and irrigation projects. It was all making the desert bloom.
- Lage: Right. It was the Progressive thing to do.
- Pesonen: And my father was certainly part of that. We lived in Fresno for about a year. I can remember we had Christmas there in 1943, I think.
- Lage: Was your father of an age where he was too old for military service?
- Pesonen: He was too old to be called. Well, he was born in 1902, so he'd have been forty years old.
- Fresno was fun, too. I mean, I just had--I enjoyed being a kid. [laughter] There were a lot of outdoor things.
- Lage: Was there hunting and fishing? Was that part of your upbringing?
- Pesonen: My father would take us to Kings Canyon fishing, and since he had a government job, he had a car, and he had a little money, and he had some leisure time, and he spent it with us. He spent a lot of time with my brother and me. In fact, the whole family--we did a lot of things together. My mother didn't like to camp. She wasn't a bit interested in fishing. But she loved just looking at scenery.
- Lage: How did she like Fresno after Santa Fe and Hawaii and--
- Pesonen: Well, I don't know. My mother was a pretty jolly person. Jeez, I don't remember her ever being somber or sour about it. She was a good mother--she took good care of us. That's all that I noticed, you know? I always had plenty to eat, and plenty of clothes, and felt loved, and my parents loved each other. They

got along very well. I don't remember any family strife in my life, of any kind, until many years later. That probably was a very important influence. I was a secure person from the time I was born.

Lage: Despite almost being taken to reform school. [laughter]

Pesonen: Well, that was just a matter of asserting authority. You need authority, too, when you're a kid--you need authority and authority figures. I don't recall any unhappiness as a child, or any sense of insecurity. These things that would cause--like being there at Pearl Harbor and being in the lifeboats and things that would be traumatic for people who were already unsure of where they stood in the world would be frightening experiences, but if you are very secure about who you are and where you are and about your emotional support system, then you've got time to think of them as adventures. They come to you that way. And that's the way I look back on that part of my life.

Then we moved to Sacramento. My father was promoted into some higher level position. I think he ultimately ended up as assistant regional director, but with responsibility for all of the fish and wildlife and park planning and recreational planning of the Central Valley Project. He loved that job, and I think he was very good at it. I never really quite understood what he did--I didn't pay that much attention to it--but he had to go out into the field a lot to these projects, like Shasta Dam, the Delta Mendota Canal--all kind of things. And he would take my brother and me with him. We traveled a lot of the time, whenever it was possible, to go and see what was building, then, at the Central Valley Project. Some people now see it as an environmental disaster for California, but nobody saw it that way then.

Lage: It was totally different--

Pesonen: And, of course, his job was to mitigate the environmental consequences to the extent that they were understood.

Lage: They wouldn't have used those terms--

Pesonen: They wouldn't have used those terms, and there probably was an economic reason for it. I think in justifying the cost of a dam or another water project of any kind, there would be a component for electric generation, there would be a component for irrigation benefits, there would be a component for recreation benefits, and some of these projects probably weren't economically feasible unless you manufactured a recreational benefit to justify them to Congress for the funding. So, as I

look back on it now--a lot wiser--a lot of what he did probably was window dressing from the point of view of the top manager of the Bureau. That wasn't the way he saw it.

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Lage: What was your father's perception of his work?

Pesonen: Well, looking back on it, he was mitigating the inevitable side effects of the great social experiments--the great social projects. A lot of people would look back on it differently now. I gave him, a couple years ago, a copy of the book *Cadillac Desert* which I thoroughly enjoyed, and that retrospective view of the wars between the Army Corps of Engineers and the Bureau of Reclamation over water development in the West just wasn't perceived then.

There has been a whole social awakening in the environmental movement. Maybe somebody saw then, but even Aldo Leopold didn't see that--didn't see it coming. We just know a whole lot more about selenium in water, about the effect of great transfers out of the Delta and the Bay. We were ignorant then. We're still ignorant, but we were more ignorant then.

Lage: How did your father react to the book?

Pesonen: Well, by the time I gave it to him, he was suffering from the early stages of senility, and I don't think he ever read it.

Lage: Had you discussed these changing perceptions of the big water projects with him?

Pesonen: I can't really, now. He doesn't have much memory left. He'll be ninety next year, and he's really fading fast. He was fading then. So you can't discuss those things with him now.

Lage: Yes, but the environmental movement did start raising these issues when he was still well. Was he defensive about it?

Pesonen: No, he wasn't defensive about it. He was really philosophical. He did what he thought was right and he had a lot of integrity. He's a cheerful person, and he doesn't torture himself with doubts about whether he did the right thing. He did what he thought was right and if it was wrong, it wasn't because he thought he was doing wrong. And so he doesn't have any regrets, or he didn't have any when he was capable of having regrets. That's the way history unfolded. He was very proud of what I did in the nuclear movement. I think he thinks--he's glad I've done what I've done; he's proud of me. I tried to live up to his

expectations. He never pushed me in any particular--neither parent pushed me in any direction. I always knew I was going to go to college, and I always knew I was going to be active in some socially useful way. That was just a given. It wasn't as though it was expected of me in a way that I was pressured. That's the environment I grew up in, that's what I expected to do.

Physics, Poetry, the Outdoors, and the French Foreign Legion:
Youthful Interests

Pesonen: My first real interest was in being a nuclear physicist. I got fascinated with nuclear physics when I was a teenager in high school. I read everything I could about it. That's the way I do a lot of things.

Lage: Now what year would this have been?

Pesonen: That would have been 1951 and '52 and into '53 when I started in junior college. I get interested in things, and then I start reading all I can find about them.

Lage: Do you know how that interest developed? Was it a teacher or--

Pesonen: No, I don't know how that developed. I think that's just the way I was. When I was just a kid I got interested in raising rabbits, and I read everything about rabbits, and I built rabbit hutches, and I had rabbits, and then I lost interest in rabbits. I built model airplanes, I built all kinds of model airplanes, and I spent a year or two doing that. My brother was the same way. He got interested in collecting butterflies. He had butterflies all over the place.

Lage: Was this with the parent participation or just tolerance?

Pesonen: With parent encouragement, or tolerance, depending on what it was. I got interested in nuclear energy, and I read everything I could about it. I wasn't a brilliant enough mathematician to really ever be a good physicist or a good mathematician. I was a mediocre math student. I was fascinated by all this stuff, but I wasn't brilliant. And I knew at some point that I would never be a great physicist if I went into physics. And there were conflicting interests. My mother was a poet, and I always had a literary interest.

Lage: Did you read a lot?

Pesonen: I wrote a lot. I always had an interest in the outdoors. My father was very active in the Unitarian Church in Sacramento. He helped to found it and keep it alive and raise money for it and was president of the board. He insisted that I go to Sunday school every Sunday, but he gave me a choice, I think when I was twelve--I had to go until I was twelve, and then I could decide for myself. As soon as I was twelve, I quit going to church, because I thought if there was a God he was living out at the river. [laughter] And I wanted to go out and play around the river. I loved the smell of willows and river water and river banks and all that decaying stuff that goes on around rivers. I loved rivers. So Sunday morning I'd go to the river and go fishing, and we'd play up and down the river.

Sacramento's a great place for kids. There are two rivers there that come together, and they're both wonderful rivers: the Sacramento and the American. They're just interesting rivers. There's a lot of life in them--there was then, anyway. [pause]

Lage: We have you in junior college with an interest in nuclear physics.

Pesonen: Well, I wanted to go to the University [of California]. I didn't really know what I wanted to do. I knew I wouldn't be a physicist. I toyed with the idea of being a writer, but I didn't see how I could ever make a living at that. I didn't know what I wanted to do. Then I dropped out of school. I couldn't get into the University because, despite this wonderful background of an English major mother and my father was a very good writer also, I flunked the Subject A exam. [laughter] I couldn't get admitted into the University, so I had to go back to junior college to make up my English requirements. We got bored--I had some friends there: Neil Jones and Bob Connelly. We hung out and played cards and pretty soon we started cutting classes. So, without my parents' knowledge, I quit school entirely and got two jobs. We decided we were going to go to France and join the French Foreign Legion.

Lage: More adventure.

Pesonen: And I got a job in a can company, the Continental Can Company, making tin cans during the daytime, and at night running the computers for the Department of Motor Vehicles. We saved all our money, and I told my parents I was studying at the library every night.

That was 1953. I saved up enough money and my friend Bob Connelly, who's now chief of staff for the Assembly Rules Committee in the legislature--a very old, close friend--he took

off ahead of me chasing a girlfriend of his who was working in Pakistan, and then he and I were going to hook up in Paris and get on to Algiers or someplace and join the Foreign Legion.

Lage: Was that really an option?

Pesonen: We thought it was. It was at least an excuse. So I told my parents what my plan was and confessed that I had not been going to school and that I had saved my money for this great adventure. I didn't tell them that I was going to join the Foreign Legion, I was just going to go to Europe and have my European tour. So I hitchhiked to New York--I remember my father taking me out and dropping me off and shaking my hand and wishing me well as he dropped me off with a little pack on Highway 40. I hitchhiked all the way to New York City and hung around New York for a couple of weeks. I had a ticket on the Holland-American lines for \$200 to go to Europe. When I picked up my mail at general delivery, there was a draft notice. That saved me. [laughter]

Lage: Saved you from what?

Pesonen: If I had gone to Europe, I really was going to join the Foreign Legion. So I flew back to California and went down to the induction center on the appointed day, and they turned me away. They said "We thought you'd gone to Europe, so you're not being drafted." The Korean War was just over or just about to be over, but there was still a draft, and since I wasn't in school, I was classified 1A and ready to go. But they said they didn't have a place for me.

Firefighting for the Forest Service, 1953-1954

Pesonen: So I heard that the Forest Service had a job fire fighting up in the Mendocino National Forest, and I drove up to the headquarters in Willows and told them I wanted a job as a fire fighter. They had an opening up at a little place called Alder Springs, and there was one captain there named Julio Silva, and he hired me. He was in charge of the station, and I would drive the fire engines. I had driven trucks before when I was a kid. I had worked on a farm--the Waegell ranch--through high school. So I knew all about machinery and I knew how to work it, felt comfortable with it. This was a logging camp which also had this crew there. Julio lived with his family, and I lived alone in another little house.

When I had been there about a week, I drove down to Willows to get my physical exam for this job, and on the way back, I came around a corner and here was Julio coming down the hill in the fire engine. He said "Park your car, get in--we've got a fire." So I hopped in and we went down the road about a mile and around a corner. Here was a huge fire just taking off up the mountain side. We couldn't possibly do anything with it. We called for all the help. This was my first exposure to fire--I'd been on the job a week--no training, just a healthy body and knew how to use a shovel. It turned out to be one of the great disasters of all fires in Forest Service history.

That night one of the other fire engine drivers disappeared, so Julio had to go and drive that engine, and I was left alone driving our engine. There was a lot of confusion. By this time many forces had been brought in, and the fire was racing north into the timber. It was called the Rattlesnake fire. I think this was 1953, probably July or late June.

Suddenly I heard that there were some people who had been killed. A crew had been sent down into a canyon to put out a spot fire and stopped to eat their lunch there, and the wind had completely reversed. In the valley on the west side, during the day, the heat from the valley causes the breeze to go up-canyon. But at night, when the valley turns cold, that process reverses itself, and its almost instantaneous. It'll happen within a minute or two. The fire had turned around and run down into this canyon, and there were nineteen people burned to death--the crew leader who lived next door to us at our station, who was a forester, and a crew of eighteen missionaries from a little camp up in the Mendocino forest called the New Tribes Mission. These were born-again Christians who were training to go to Central America and convert the Indians or something. They made extra money by fighting fires for the Forest Service.

So I was diverted from fire fighting to look for survivors. I spent the night driving little back trails in this four-wheel drive wagon--in a fire engine. And I found a couple of people who had escaped this conflagration. But the next day we found the nineteen bodies down in the brush. They were all completely burned. So that was my initiation to forestry and fires.

Well, I stayed the summer and liked the work. We had a good, busy fire year. Julio and I went to a lot of little lightning fires and all kinds of fires and I loved the work. I loved taking care of the equipment, I loved sharpening the tools, I loved being out there, and I loved fire fighting. Also, I got paid well.

Lage: And that first experience didn't turn you off?

Pesonen: No, it didn't. In fact, Julio and I helped catch the guy who set it.

Lage: Oh, it was an arson fire.

Pesonen: Julio had spotted a car turning off into Grindstone Canyon when he was driving down before he had met me and picked me up. We went back to fire camp the next day, and as we were going through the mess line, an investigator came up to me and asked me if I had seen anything. I said "No, but Julio may have." Then he went and talked to Julio. The fellow who was dishing up my mashed potatoes or steak at that moment was a cook, and he said, "Well, they're describing my car." It turned out he had set the fire. They arrested him, and he was sent off to prison.

Lage: Did he just get the job after--

Pesonen: He had set the fire to get the job.

[tape interruption]

Pesonen: I loved that summer, and fire season lasted until about the first of November, so I decided not to go back to school and just make a lot of money. You could make pretty good money then. You got a lot of overtime. If you went on a fire, you were on overtime from the time you went out of the station until you got back, even if it was forty-eight hours; even if it was a week.

I went on one fire that was way back in the Yolla Bolly Wilderness Area above a place called Indian Dick--a little old ranger station that was way out in the wilderness. That fire was called the Yellow Jacket fire. I met some smoke jumpers on that fire who had jumped into that. It was a lightning blaze, and it had taken us a day to get in on horseback, and they were there--they had parachuted in, and they had gotten a line around the fire. Then we stayed a couple of days and put the rest of it out--cut down the burning snags and extinguished them, and did the mop-up. And I got to talking to these smoke jumpers and I thought "Gee, that sounds like a wonderful job." So I made plans to be a smoke jumper the next summer.

I went back to Sacramento and went to work for the Department of Highways just temporarily until school started in the spring. I remember that job. It only lasted a couple of months, but I was drawing the plans for the freeways in southern California. [laughter]

Lage: How you got into that--

Pesonen: Just the maps. I had taken drafting in high school, and I was a pretty good draftsman, so I had a draftsman's job. And I got very bored with it. I remember I made up a couple of little towns and put them on the map, that didn't exist. [laughter]

Lage: A trouble-maker.

Pesonen: The flyspeckers in the department caught it, and I either got fired or I was asked to quit. School was going to start anyway, so I went back to school in the spring, with the full intention of going to the University in the fall, but I still didn't know what I wanted to study--I didn't know what field I wanted to go into. Forestry appealed to me a little bit, but I didn't know very much about it. I was thinking about being an English major. I was thinking about still continuing in math. I didn't know what I wanted to do.

Lage: Except be a smoke jumper.

Pesonen: Well, that was just to make money and to have a little adventure. So I went back to school in the spring and I did very well--back to junior college, to Sacramento Junior College--finished up the year that I had let collapse when I went to Europe. Then I got a job as a smoke jumper at Cave Junction, Oregon, that next summer.

Lage: Was that something that you just threw yourself into or did you have a lot of training?

Pesonen: I'd never jumped out of an airplane before. So I went through the training. I was the only one who wore glasses. I had to have special goggles made with my prescription. I loved the training. It was very hard work, I mean, you really get in physical shape, but I didn't get along that well with the people there. I think I was kind of an arrogant young man. I had some problems with some of the other people in the station. I think it was just immaturity and arrogance. I thought I knew a lot more than I did. [laughter] And then I got hurt in the practice jumps. I made five jumps, and I loved hanging in the parachute. It's an experience beyond description; you are just up there. They were the old kind of parachutes; you couldn't steer them very well, and you hit the ground real hard. They would drop us over forested areas with clearings, and we had to steer this parachute and land in the clearing. I sprained an ankle on one of those jumps and so I was off for a while. You had to do seven practice jumps before they would send you out on a fire, and I wasn't able to do the seventh, so they got me a job on a trail crew over on the coast on the Chetco River, which I did for a

couple of weeks. I didn't like it, and by this time my friend Bob Connelly had gotten my old job at Alder Springs, driving the fire engine. I didn't know what I was going to do, but I didn't like the trail crew job, so I just quit and got in my car and drove down to Alder Springs to live with Bob. It turned out that there was a new position there, a patrolman position. One of these young missionaries had the job driving a jeep around to inspect buildings and clean up campgrounds and do fire prevention, and we decided to find a way to get rid of him, and I'd get that job. [laughter] Bob didn't like him--they lived in this little house together. I can't remember his name now.

To make a long story short, we persuaded him to go to this remote wilderness ranger station called Indian Dick because he could have a horse. He had this pioneer imagery in his head. He had a hand-cranked clothes washer--he loved that. He loved all kinds of things that didn't need any electricity. The only thing he needed to have power for was a radio that picked up short wave broadcasts from the missions down in Panama describing how they were converting the Indians and singing this doleful, doleful music, and he'd play it loud, and it was just awful. One day, when he was in town, we took the aerial connectors out of the casing and painted them with rubber cement so that they didn't work. He thought it was a change in the atmosphere that was interfering with his reception from his pals down there in Central America. He strung wire all over that camp--from tree to tree--trying to pick up that signal and it never worked. [laughter] Finally, we told him what we'd done when he left, and then I got that job. So Bob and I spent that summer working together, and we just had a wonderful summer.

Forestry Student at Berkeley, 1955-1960

Pesonen: That summer, I was on a big fire, and I met a forestry student from Berkeley. He said "Yeah, I go to forestry school. It's a great profession; you work outdoors all the time; there's lots of jobs." And so I decided that was what I'd do. That fall I went back to the University and registered in forestry.

Lage: That would have been '55 or '56?

Pesonen: That would have been '55. I think it was '55.

Lage: So you were attracted mainly to the outdoor experiences, fire fighting--

Pesonen: Well, no, forestry more. Soils and silviculture.

Lage: You had a sense, then, of what it was all about.

Pesonen: Well, I spent a lot of time sitting on the fire line talking to this guy, and he explained a lot of it and said it was a wonderful field. I didn't know what I wanted to do. It sounded like the best of all possible worlds. I never really bought into the philosophy, of course; I was always a bit of an outsider. I took a lot of English classes and a lot of classes in other fields. I loved the University, and I just loved going to school.

Lage: It was unusual to take a lot of the humanities classes as a forestry student, wasn't it?

Pesonen: Yes. Most of my classmates were going to go to work for a logging company or the Forest Service. I remember when they were graduating, and we'd sit around the library and talk about the various recruiters who had come from potential employers, and the talk was all about what their retirement plans were like.

Lage: Even at that age?

Pesonen: Yes--which companies had the best retirement plans. I couldn't believe that anybody would care about retirement when you're just getting out of college. But I think they were very conservative people.

Lage: Conservative in personality?

Pesonen: Yes. Conservative personalities and very worried about security.

Lage: It sounds more like the atmosphere today in a sense, where young people seem concerned, maybe rightly so, with financial security.

Pesonen: I think so. They were people who had come out of the war and come out of a less-secure economy. Maybe it's because my father was a government employee, and we never worried about that sort of thing. It was a secure, middle-class family. That was the last thing on my mind. I wanted something that was going to be interesting and productive, and I didn't care about retirement. I wasn't sure I'd ever live that long anyway. [laughter]

Lage: Did you find that there was a forestry student "type"? I know when I interviewed Henry Vaux [forest economist and former dean of the UC School of Forestry] he talked about a sort of a stereotypical type of forestry student, a little less people oriented and--

Pesonen: Less people oriented?

Lage: Yes, less people oriented. Particularly in those earlier years than later.

Pesonen: I don't remember that, but then I didn't think in those terms then. [pause] Yes, I think that probably they were introspective, or maybe not so introspective as...shy. It wasn't a very social group. There was a bond among men that do anything together, but it's not a deep emotional bond; it's a bond that fills an emotional void that doesn't have anything else to fit in it. It's like salesmen when they get together at conventions or something. A little camaraderie, but--

Lage: You didn't see a deep camaraderie among the students?

Pesonen: No, and I didn't feel a deep camaraderie. Except that we had all gone through a kind of experience together, which was some kind of a bond. But I haven't maintained those friendships over the years.

Lage: Were there women in your class?

Pesonen: No. Well, maybe there was one. But it was an all-male world.

Lage: That was very different from the University at large.

Pesonen: It's very different from now. There are a lot of women in forestry. Of course, there isn't much of a forestry school anymore.

Lage: It's very small now.

Pesonen: It's very small, and it's been absorbed pretty much into another college. But then, still, it was a residual of the frontier of logging. There were lots of virgin forests left.

Lage: Was the emphasis on logging?

Pesonen: The emphasis was very much on growing wood to be cut. We took logging engineering courses. We took a lot of courses on how to cruise timber, how to scale timber, how to scale a log. It was very production oriented.

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Lage: Which of your professors do you recall as being influential?

Pesonen: Well, Vaux was just a great influence on me, and John Zivnuska.

Lage: Vaux was dean at the time?

Pesonen: Vaux was dean; he also taught forest policy. Zivnuska taught forest economics. There was Ed [Edward C.] Stone who taught forest ecology. Those were--

Lage: So these are the broader subjects.

Pesonen: Yes. I took a course from Starker Leopold in wildlife management, which was a wonderful course. Probably the most influential professor I knew was an English professor--Tom [Thomas F.] Parkinson. He had a great influence on me.

Lage: Do you want to talk about that a little bit?

Pesonen: Well, he was just a fine teacher. He made literature come alive for me, and poetry, and really fine writing. I loved to read, and I started writing poetry around that time. None of it was ever any good, but it was a good discipline because it is very economical. It stood me in good stead my whole life. And he encouraged that. Every word has to count in a poem; there's no waste in a poem. So I think I write very economically now. I've sent you some of the things, and I don't think you'll find any wasted words in there.

Lage: That's interesting, thinking of poetry as a discipline for general types of writing.

Pesonen: You look for ways to get as much meaning into as few words as possible. I practice that discipline a lot. I think it's been useful in my writing, too, because I write well and I write legal writing and stuff. So that was a great influence.

Well, I never really thought I wanted to go into poetry. By the time I graduated--first, there was two years off for the army.

Lage: Oh, you did end up in the army?

Pesonen: I ended up in the army in 1957 and '58.

Lage: So that was a break in the middle of school.

Pesonen: That was a break.

Lage: Was that a choice or were you drafted?

Pesonen: I was still draftable, and I wanted to get it out of the way before I graduated. I didn't want to graduate and join the army.

I wanted to graduate and go into whatever else I was going to do. I still wasn't sure I liked forestry as a career, so I volunteered for the draft. I knew I was going to have to go in, so I figured "I'll get it out of the way and then graduate and then I don't have to worry about it."

I was just an enlisted man. I was sent to Texas after basic training, for a year, and wangled my way to Europe for a year. I got assigned to a little station down south of Ingrande near the Loire Valley in France, a beautiful place. There was this small station, and I had a lot of freedom to leave and go to Paris, and I went to Paris almost every weekend. [laughter] I loved France; I just loved Europe. I spent a year there. I met a girl in Paris, a New Zealand girl, and she and I started travelling together. We traveled all over.

Lage: This was while you are still in the army?

Pesonen: I was still in the army. I would take leave and go on vacation with her. That was a nice time. I had a good time in Europe. I hated the army. I hated the discipline; I hated the boredom; but it was a good experience.

I came back in February of 1959, and I went back to forestry school and graduated in 1960. I didn't graduate with all of the people I had been through school with.

The big event in forestry school is summer camp. You have to spend one summer up at Meadow Valley near Quincy, learning field techniques. It's the bond of the class. The class goes through school together; they'd been to summer camp together. Well, everybody I went to summer camp with graduated two years ahead of me. The class I graduated with, I hadn't gone to summer camp with. So I was always a bit of an outsider. That didn't trouble me. You look back on it now, and I didn't even think about it.

Lage: So in retrospect--

Pesonen: It's never been clear what class I'm in. [laughter] Occasionally, I go to the Christmas reunion party--I did this year, as a matter of fact--and they make everybody stand up from each class. It's never clear what class I stand up with.

Lage: Do you stand up twice?

Pesonen: My summer camp class is the class of '58, and my actual graduating class is '60. I would have graduated in '59--I had the units--but I wanted to take more English. I wanted to take

English criticism. I was really getting interested in a lot more English literature. So I took an extra year.

Lage: So that's how you were able to fit in all of the humanities, by spending a little more time.

Pesonen: Yes.

Lage: And you had your junior college classes.

Pesonen: I had some of that. That was credited against my graduation units.

II EARLY JOBS AND INTRODUCTION TO THE ISSUES AT BODEGA BAY

UC's Wildlands Research Center and Stegner's Wilderness Letter

Pesonen: When I graduated in '60, I didn't know what I was going to do. I didn't want to go to work for the Forest Service, I didn't want to go to work for a logging company. I interviewed with some of the employers, and it just didn't interest me. I guess that was when I started working for the Wildlands Research Center.

Lage: That was in '60.

Pesonen: When I was in school I had competed in some essay contests. I put myself pretty much through school. I got a little help from my parents, but I didn't ask for a lot of help. They were generous whenever I needed it. But I lived in a little room, and I hashed in sororities for my meals and for a little spending money, and I saved money during the summer. But one summer, when I went to summer camp I couldn't make much money--although I did get a job part time working up there for the Forest Service.

Lage: Even during summer camp?

Pesonen: Even during summer camp. I worked weekends filling in in a fire station. So I earned my way through school pretty much. It was a lot easier to do then than it is now, you know.

Lage: It was easier to live on a shoestring then.

Pesonen: It was much easier to live on a shoestring. I had a reliable car, and I didn't mind living in a little room and using the library to study. I got by somehow. I never felt deprived. I never felt poor or unable to support myself. And I always had my parents to fall back on if I needed it, and I did occasionally, and they were always--my father was always generous, too. By

this time my brother had died, so I was an only child. My brother died in 1952.

Lage: An accident or an illness?

Pesonen: No, he had cancer. That was the beginning of my mother's alcoholism. My brother was a much more outgoing person than I was, and he and my mother were more soulmates than Mother and I were. My mother was a very volatile, emotional, demonstrative woman, and that kind of turned me off for some reason.

Lage: What was her ethnic background?

Pesonen: Scotch-Irish. She was very neurotic in a lot of ways. She had been put up for adoption when she was about six because her mother had too many kids.

Lage: She didn't have that secure family background that you had?

Pesonen: Well, she loved her adoptive parents. It was a very strict family. Her adoptive father, for whom I'm named, David Wood, wanted to adopt her, but had a very strict Victorian wife who--I think Mother told me once that she was molested when she was a little girl and that was a taint on her. Somebody had fondled her and then her stepmother was always very disapproving of her after that. So Mother had a lot of emotional problems which were pretty much under control as long as my brother and I were growing up, but really got out of hand later, when--she really began to drink and be very unhappy after my brother died. That was a great loss to her. And I didn't fill the void. I didn't--

Lage: You were out of the house--

Pesonen: Well, I wasn't emotionally responsive, either, in the way that my brother had always been.

That was going on, so I didn't go home very much. I didn't like being around my mother when she was like that. Anyway, since I had done some writing in forestry school, they recruited me into the Wildlands Research project.

Lage: You started talking about an essay contest. That's how this--

Pesonen: There were a couple of essay contests. One was called the Walter Lathrop Pack contest. I don't even remember what I wrote about, but I won the prize. And I did it mainly for the money.
[laughter]

Lage: Not for the honors.

Pesonen: I needed the money. It was only \$100, but back then \$100 was a significant amount.

I guess because I had done some writing in school, they thought I was the perfect candidate to be on the staff of the Outdoor Recreation Resources Review Commission Wilderness Report under Jim Gilligan. [pause] We split the project up into various parts: we had an economic component, a philosophical component, and an inventory component--

Lage: We should probably just step back and say what the project was because only you and I might know.

Pesonen: The Outdoor Recreation Resources Review Commission was set up, I think, in '59, funded mainly by Laurance Rockefeller, to do a massive study of all recreation resources in the United States. They farmed out the projects to various institutions and the Wildlands Research Center, which was a non-profit spinoff of the school of forestry--a grant application entity in effect--got the contract to do the report on wilderness. I think it was mainly through Jim Gilligan's influence. He had written his Ph.D. thesis on wilderness.

Lage: At Berkeley?

Pesonen: No, the University of Montana, I think, is where he wrote his thesis. But he was the extension forester at Berkeley, and he was also on the staff or the board of the Wildlands Research Center. How he got the contract, I don't know, but he got it anyway, and I thought that was very clever.

Lage: Were you interested in wilderness at that time?

Pesonen: I was interested in wilderness as an idea, and I loved the outdoors and I always fished and--

Lage: But had you read Aldo Leopold and other wilderness philosophers?

Pesonen: No, I don't think I had. The reading that I had done that had caught my interest was Wallace Stegner's *Beyond the Hundredth Meridian*, which my mother loved and then encouraged me to read, and all of Bernard DeVoto's books on the exploration of the West --*Across the Wide Missouri*. There was a trilogy that Bernard DeVoto did which was a wonderful history of the exploration of the West. And I had read all of those--I had read a lot of western history, which is wilderness, really, and that's where the idea grew up. Not so much from the philosophers of the wilderness like Aldo Leopold--and I had read Thoreau, of course. So I started reading all of these things: Aldo Leopold and, well,

there was lots and lots of stuff, I don't remember what it all was--even the Bible had a lot about wilderness.

It was a hard time writing this thing.

Lage: Now, what was your assignment?

Pesonen: My assignment was to write about the wilderness idea. That was part of my assignment. I had other assignments, but that was one of them. And I struggled and struggled with that, and parts of it were okay. Parts of it were the history of the wilderness regulations by the Forest Service, which was pretty straightforward. But there was this notion of what wilderness is and what it means to people that confounded me. I mean, I could feel it, but I couldn't say it--couldn't get it articulated. That's what led to Wallace Stegner's Wilderness Letter. I finally put down what I was trying to say in a letter to Stegner. I chose Stegner because I had loved *Beyond the Hundredth Meridian*, and I knew he was a professor of creative writing at Stanford, and if anybody could do it, he could. I just picked him out because I knew who he was.

Lage: Did you contact him directly, or did you go through somebody?

Pesonen: I just contacted him directly. I just asked him to help me. I wrote him a letter. I may have called him up and discussed it a little bit with him--I don't remember whether I did or not. I did this all on my own. I don't think I even talked to Gilligan about--I might have talked to Gilligan, but I just sort of--. The idea just occurred to me.

And finally, we got the Wilderness Letter.¹ Stegner sent a copy to [David] Brower. Brower by this time was the towering figure of the Sierra Club. He had launched its publication program, he had fought the dams in the Grand Canyon and Glen Canyon and lost one or two, but his main dream was to get the Wilderness Act passed. The Wilderness Act had been introduced in Congress each year and defeated by the mining and timber and development interests of the West. It was the big environmental legislative battle. It had been going on for several years. Brower saw the Wilderness Letter as a valuable tool in lobbying for the Wilderness bill. This was now 1961--late '60 or '61. The Wilderness Act wasn't passed until '64.

¹For a copy of the Wilderness Letter and Stegner's recollections about writing it, see Wallace Stegner, *The Artist as Environmental Advocate*, an oral history conducted by Ann Lage in 1982 (Regional Oral History Office, 1983).

Lage: The campaign had been going on for several years.

Pesonen: It had been going on for quite a few years. There was a whole history involved with that that we don't need to go into. It was started by Bob Marshall when he worked for the Forest Service. He got the regulations S1 and S2, regulations that set aside, temporarily at least, parts of the National Forest as a kind of wilderness.

Brower immediately wanted to publish the letter. I said "No, it's my letter." [laughter]

Lage: Was that your first contact with Brower?

Pesonen: That was my first contact with Brower. I'd heard of him, but I'd never met him. We had a little argument about it, and Vaux mediated it. I felt a little possessory about that letter--it was my idea, you know? Brower wanted it for his own reasons. Vaux recognized that we couldn't own that letter; it was Stegner's to do with what he wanted. It was his words, and it was really his ideas, and I had just stimulated an event which was probably going to happen anyway in one way or another. So that's how I got to know Brower.

Lage: It ended up with Stewart Udall [secretary of the Interior] using that letter as part of a speech.

Pesonen: Well, I don't remember that.

Lage: He read it at a Wilderness Conference, and then it became part of the proceedings. I don't know if Stegner sent it to him, or Brower.

Pesonen: Well, the Sierra Club, by that time, had annual or semi-annual (biennial, rather) wilderness conferences. They were part of the campaign to pass the Wilderness Act, and they published their proceedings every year. I guess that's how it happened.

Staff Member for Assembly Fish and Game Committee: Counting Deer Tags for Pauline Davis

Pesonen: Anyway, we finished the report and the report incorporated the letter, and then I didn't know what I was going to do. I heard that there was a job opened as staff to the Assembly Fish and Game Committee. Well, here was everything I wanted: fishing, hunting, making policy, changing the world...it sounded fine. So I applied and I was hired by the chairperson of that committee,

an assemblywoman from Portola, up in Plumas County, Pauline Davis. I had no idea what I was getting into. The Fish and Game Committee was heavily lobbied by the commercial fishing interests, and my objective was to get some kind of legislation through to limit logging and its effect on streams. I talked Pauline into putting on some hearings--some interim committee hearings--up the coast on logging and its effect on anadromous fish.

Lage: Now what had started you with that concern?

Pesonen: Well, I think I had fished up there a lot, and I had seen the horrible damage some of those logging operations had done. I talked to people in Fish and Game and there were some people in the Department of Fish and Game that had written widely about the effect of logging on streams and lakes; they were concerned about that. Caught my interest, anyway. I talked Pauline into holding some hearings on that.

It was not a pleasant job. It was very political, and Pauline was a very changeable woman. She had succeeded to that seat after her husband died. Her husband had been the assemblyman from that district before. He died and she ran for it--

Lage: That was the way women became legislators in those days.

Pesonen: That's right. She was a great big, huge woman with a high bouffant hairdo dyed bright red--bright auburn, anyway, and very suspicious, very paranoid. You never knew where you stood with her. There were two kinds of people in the world as far as she was concerned. There were members of old pioneer families, who were good, and snakes-in-the-grass, who were bad. One week I'd come into the office, and she'd introduce me to a bunch of lobbyists: "I want you to meet Dave Pesonen. He's a member of an old pioneer family," [laughter] and I couldn't do anything wrong, and the next week I'd come in and the door would be closed and she'd be whispering and wouldn't talk to me, and I'd hear, "Mumble...mumble...snake-in-the-grass." You just never knew.

Lage: And you worked directly for her?

Pesonen: It was still a little office. She had a staff of two women secretaries, and herself, and me. The two secretaries and I shared an outer office. She was at war with the Department of Fish and Game, mainly over their hunting regulations for deer in the northeast part of the state. She didn't believe their statistics, so one day she made me go over to the Department of Fish and Game and collect all of the deer tags that had been

turned in by deer hunters and re-do all the statistics by hand. Now here were these crumpled pieces of cardboard, you know, with entries written on a stub pencil in the headlights of a truck someplace out in the woods with deer hair and blood all over them, with how many points the deer had and where they'd been shot. Boxes and boxes of these things, and I had to just sit there and count them.

Lage: What was her purpose?

Pesonen: She believed that the public statistics and the raw data were phoned up.

Lage: Did she want more deer hunting or less deer hunting--

Pesonen: She wanted more deer hunting; she wanted less doe hunting. Well, my numbers came out practically even with the figures of the Department of Fish and Game. Then she thought I was in cahoots with the Department of Fish and Game. It really became pretty intolerable.

I met some close friends there in Sacramento, people who remained friends for a long time. Dick Patsey, who's now a judge out in Contra Costa County, was on the staff of the Constitutional Revision Commission. Somehow he and I met and became very good friends, and we're still good friends. My friend Bob Connelly was still around, and we spent a lot of time together.

Lage: Is he the one who put you on to the job?

Pesonen: No, he didn't put me on to the job. I don't remember who put me onto the job. I think it was Vaux or Starker Leopold.

Working for Dave Brower and the Sierra Club, 1961-1962

Pesonen: One day Dave Brower called up and said that he wanted me to be on his staff, around early 1962. It was a chance to get out of this intolerable situation working for Pauline, get back to the Bay Area, live in San Francisco, work down on Bush Street in the Mills Tower with this towering figure, Dave Brower. It was ideal; it was perfect. I was single and I liked San Francisco. I've always had this ambivalence about cities. I think cities are a wonderful institution when they're right. I loved--who wrote *The City in History*--Lewis Mumford. I loved that book. I've always been a bit eclectic in my interests. I wouldn't want

to go out and just live out in the woods and be a hermit. I like what goes on in cities. I think cities are great institutions. And San Francisco in the fifties, in the early sixties, was a great city. A great city if you were a young, single person. So I accepted with alacrity. Well, Brower didn't know what he wanted to do with me.

Lage: Did Brower know you other than from that one--

Pesonen: I think only from the *Wilderness Letter* and that whole incident.

Lage: Interesting that he chose you on that basis.

Pesonen: Well, Brower had a way of doing that. He always has. Of finding people he's real simpatico with, young people in particular, and cultivating them. In any event, I accepted. It wasn't clear what my job was. I was to edit books. I was to be the club spokesperson at the Board of Forestry meetings on revisions to the Forest Practice Act, a jack of all trades. Sometimes I'd be editing books, and sometimes it wasn't clear what I was supposed to do.

Lage: But were you busy all of the time?

Pesonen: Sometimes I wasn't. Sometimes I was a little bored. But it was enough to just be in the penumbra of Brower's magic.

Lage: What do you remember that you could--

Pesonen: Well, I remember that he was chimerical, and he was full of spontaneous ideas. He was not a good planner or manager at all, but people loved him because he is who he is. I remember him as wanting to be surrounded with young people, and having ideas. He was very much like Jerry Brown in a way. I remember--I was thinking one time when I worked for Jerry Brown that he was a successor to my experience with Brower.

Lage: An interesting comparison. It seems to fit when you're--

Pesonen: David had big ideas, but he had a hard time reducing them to operations. He needed a lot of people to do that for him. I guess that's why he surrounded himself with people who could write, who could speak, who could think, who could plan--because he's not a planner.

Lage: Was the staff very large at that point?

Pesonen: No, it wasn't very large. There was a small staff in the Mills Tower in San Francisco. The library was there; the whole office was there; the club was a much smaller organization then.

Lage: Bob Golden was there?

Pesonen: Bob Golden was there. I think he was sort of the chief of staff. I don't remember who was the head of finances--somebody had a financial role and--

Lage: Not Cliff Rudden. He wasn't there yet--

Pesonen: Yes, Cliff Rudden was there. These are names that are coming back to me now. Bob and Fay Golden. I haven't seen them for years. Cliff Rudden, Hasse Bunnelle--

Lage: She was handling club outings.

Pesonen: I think she was doing outings. Who was the editor of the *Bulletin*?

Lage: Nash? Hugh Nash?

Pesonen: No, Hugh Nash came later. This was Hugh's predecessor. Tall, angular, Ichabod Crane kind of person.

##

Pesonen: I can't remember now. It'll come back to me.

Lage: I think that was a period when conflict between Brower and the board of directors was beginning. Did you have a sense of that as a staff person?

Pesonen: I was not so aware of that.

Lage: You wouldn't have been privy to all that.

Pesonen: No, I wasn't very privy to that.

And I still didn't know what I wanted to do with my life.

A Summer of Waiting and Writing, 1962: Security Clearance
Problems for United Nations Job and Atomic Park Articles

- Lage: Did you think of it in those terms? "Whether I want to do this all my life?"
- Pesonen: Well, I didn't know what career I wanted. I didn't want to go and work in traditional forestry, which was essentially managing timberland for cutting. I had studied it, but I didn't practice it. When I was in forestry school, I worked two summers with Southern Pacific, marking timber and cruising timber, and it was wonderful, healthy work--surveying of property lines and--. Those were great summer jobs in college, but I didn't want to do that all my life. It didn't have any policy implications; it was remote and I liked the city. It's the ambivalence I've always felt about cities and the wilderness--I like them both; and it was too much of one thing. It didn't have any intellectual excitement to it.
- Lage: So it's intellectual excitement. It didn't have a particular social purpose, which you mentioned earlier--
- Pesonen: Well, I didn't see it as a bad social purpose. I wasn't against logging. I wasn't against cutting timber; it just didn't interest me as something I wanted to do with my life. It was very limited--limited scope. There was no vision to it. So I still didn't know what I wanted to do. I think it was Vaux or Zivnuska who, while I was working for the club, told me about a position as a forestry advisor for the Food and Agriculture Organization of the United Nations in what was then Tanganyika. The prospect of going to Africa and being a lone forester in Africa was just so exciting; I immediately put in for it. The UN even then was a huge bureaucracy, and the paper work was horrendous. But while I was working for the Sierra Club, I continued to process this application to the FAO and to get letters of recommendations from Vaux, and Zivnuska, and other people.

And I started flying lessons, because I understood that I would have a little airplane in Africa, and I could fly all around. I had started taking pilot's lessons when I was in Sacramento, and I had soloed by this time. I didn't have much money to pay for it, so I was going out to Petaluma to some little back-country airport which had old airplanes and doing my flying lessons up there.

This UN thing just dragged on and on. Then along came Bodega, which was its own story--its own saga. While I was doing

Bodega, which we'll come back to, it began to look like I was going to get the FAO job.

Lage: Right in the middle of your Bodega campaign?

Pesonen: Yes. And I quit the Club over Bodega--

Lage: We'll get into that more, too.

Pesonen: --and took the summer to just sort out what I was going to do with my life and wait for this FAO thing to come along. Well, I was held up by the lack of a security clearance. There was an executive order that had been issued by Eisenhower that all American citizens working for the UN had to have security clearances. I have no idea why, but it was the heart of the cold war, and that was a reflection of our paranoia at that time.

Lage: The paranoia that the UN was actually a Communist organization.

Pesonen: Right. And I couldn't get a security clearance. I was held up because when I had been in the army I had been denied a security clearance. That's another long story.

When I was in high school, good family friends were the Waegell family. They had a ranch outside Sacramento, where I worked on my holidays and summers, starting when I was in junior high school, I think, driving tractors, baling hay, digging fenceposts, doing everything it took to run a ranch. The Waegells were Communists.

Lage: Communist farmers in Sacramento?

Pesonen: Mrs. Waegell was an immigrant from England. She was a dyed-in-the-wool Marxist, subscriber to the *People's World*. The Waegell boys--two twins, Jim and George--and their younger brother, Jack, were about five or six years older than I was, and so they would head out to town and I would be stuck in the farmhouse kitchen with Mrs. Waegell. She would sit me down and read me the *People's World*: about all of the miseries in the world, about the racism, about the poor people, about wars, and the oppression of capitalism. And I ate it all up. [laughter] Of course, I'd go back to school and spout it. One of my girlfriends in high school, it turned out, had thought I was a dyed-in-the-wool Communist.

Then I had had to apply for a security clearance when I was in the army, because I was in a headquarters company that did training maneuvers and had access to classified documents. In Texas, I was a clerk-typist for a corps headquarters, third corps

at Fort Hood, Texas. I had put in for a security clearance because I had to for that position, and it didn't come through by the time I went to Europe, and I had to renew it when I got to Europe. One day, two security people showed up at this little office I had in Ingrande, France, and they closeted themselves with the warrant officer for whom I worked. Everybody seemed very serious about all of this. I wasn't very ideological, you know; the thing I always looked forward to was when *Time* magazine arrived at the PX every week. [laughter]

Lage: Had you subscribed to *People's World*?

Pesonen: No, I hadn't. But they had done a thorough background investigation on me.

Lage: That's frightening.

Pesonen: My parents' friends were interviewed. They thought they had their hands on a real spy.

Lage: And when this girlfriend in high school--

Pesonen: This girlfriend in high school had started it, apparently, and then it had grown. You know the paranoia of the cold war. There was a dossier on me, which I now have a copy of, with names redacted so I don't know who all the people were, but it's a paranoid treatise. I was called down to Poitiers, which was the headquarters for that part of France, to the central headquarters of this security arm of the army, and put through an awful grilling about all of my background.

Lage: Were they asking you about beliefs? Philosophical beliefs, or actual action?

Pesonen: Beliefs, people--I don't remember it all. But it was a very unpleasant experience. I would have to take the train down there--a couple of times I had to travel down there for this interrogation. At one point, I remember, I was put through an interrogation right out of a television show. I mean, I was stripped and one guy was threatening me, another guy was being nice to me--it was the old Mutt and Jeff technique. And they wrote up a statement of what my position was, and it was full of falsehoods, and I refused to sign it. I was kept there for a day or so, and finally I edited it down and signed some edited version of this thing, just to get out of there. I've never seen it; I don't know what it looks like, I don't know what it said.

My father was a government employee, and his job could be in jeopardy if some of this rubbed off on him, and I got pretty

worried. But that came back to haunt me when I was applying for this FAO job. Apparently they had resurrected all of this record, and I couldn't get the clearance.

Lage: That is really bizarre, but probably not that unusual.

Pesonen: Not in those days. So that summer was waiting for this thing to be cleared up--that summer of '62. Since I didn't have anything else to do, I decided I would write up the Bodega story, and that's what led to that pamphlet, which you have a copy of, *Visit to the Atomic Park*.¹ I just closeted myself in a little old room over here on Durant Street over a garage and got a night job working for Joe [John B.] Neilands on campus making ferrochrome, which was an organic compound he had invented which supposedly had wonderful properties. It just required going into the lab and setting it up and starting this thing bubbling away and then tending it until the product came out the other end.

Lage: Perfect for a writer.

Pesonen: Yes, it was a wonderful job because all I had to do was go over there at night and tend it and make it work. But I got paid for all of that time, so I had plenty of time to write. I got into this story [of PG&E's plan to build a nuclear power plant at Bodega Bay], which is another story, and just thought that I had stumbled onto one of the great evils of all time and that the story had to be told. I worked all summer--well, I hitchhiked to Colorado and visited an old girlfriend for a couple of weeks and then hitchhiked up to Canada with some people I'd met on the train coming back from Colorado, went up to British Columbia and just saw the country, and then came back and decided to write that story. I thought about all this all the way. I thought about that FAO job and about Bodega and--turning it, in my mind, to something that had to be dealt with. Finally the FAO job did come through.

Lage: You finally got clearance?

Pesonen: It came through in the fall. I think, maybe, it was October or November of '62, and by that time, I had a leadership role in Bodega and had written the pamphlet. This great evil needed to be resolved and I wasn't going to leave it. So I reluctantly turned down the FAO job and never did go to Africa. Sometimes I wish I had; sometimes I wish I hadn't.

Lage: Let's stop here and pick up Bodega next time.

¹David E. Pesonen, *A Visit to the Atomic Park*, a pamphlet reprinted from *Sebastopol Times* articles on 9/27/62, 10/4/62, 10/11/62, and 10/18/62, available in The Bancroft Library.

New Left Philosophies and Bodega Bay

[Interview 2: January 23, 1992]##

- Lage: We want to get into the Bodega story today, beginning with a sense of where you were when you discovered Bodega. I have brought to your attention this newly submitted article by Thomas Wellock¹ where he calls you, "...part of the rising radical sentiment of the emerging New Left," and he refers several times to the Free Speech Movement at UC Berkeley, which came later [in 1964], and sort of implies that you were a harbinger of that. I wondered if you could tell me something about your political beliefs or activities at that time.
- Pesonen: Well, I don't recall that I was very political at all. I certainly didn't have any coherent political theory, left or right. I was a liberal and my parents were both Democrats. My father had favored Henry Wallace in the 1948 presidential elections, and Wallace was a populist and a liberal.
- Lage: Was there a lot of political talk around the dinner table?
- Pesonen: No, not very much. No, I don't think we talked politics very much. It just seemed like--. My parents were brought up through the Depression and there were a lot of people in those days who were brought up through the Depression who were very strongly Democratic and favored government intervention. What's called the New Left, which was a different movement entirely, as I understand it, was not a term that I knew anything about.
- Lage: It wasn't really in use at the time. He's putting it back on you a couple of years.
- Pesonen: Yes. I was very excited about the Free Speech Movement; I thought the University was wrong, but I never went to any of those demonstrations. I was particularly interested in the Bodega context because the University, in my view, as I wrote in *A Visit to the Atomic Park*, [1962] had caved in to pressure from PG&E and the Atomic Energy Commission with whom it contracted to run the labs [the Radiation Laboratory in Berkeley and the Lawrence Livermore Laboratory], and [Glenn T.] Seaborg was a nuclear physicist who was chancellor at that time [1958-1961].

¹Thomas Wellock, "The Battle for Bodega Bay: The Sierra Club and Nuclear Power, 1958-1964," later published in *California History*, Vol. LXXI, No. 2, Summer 1992.

That made it fairly easy for him to pressure the marine biology faculty to mute their interest in Bodega Bay. So I thought the University was a culprit.

Lage: So it made you sympathetic with the Free Speech Movement when it came around.

Pesonen: Well, all the Free Speech Movement did was expose what I thought was a very closed, hierarchical, reactionary administration in the University, which I hadn't really exposed. So I thought the Free Speech Movement was just fine and the principle was a sound and traditional one: the right of students to have views and express them on campus. It wasn't a very complicated--

Lage: It wasn't something that came up while you were on campus, was it? That's not thought of as too lively a time, politically.

Pesonen: It wasn't. It wasn't a lively time, and I wasn't politically active on campus. I didn't join any clubs--. I was too busy getting through school. I had to work; I worked every summer and I worked during school. I am a slow studier. I had to work hard to get good grades. I wasn't interested in extracurricular stuff; I was going to succeed in school, get out, and get on with my life.

Lage: You seem to have a habit of mind, though, of being challenging. Is this true? In fact, Henry Vaux told me he remembers that from school as well as later, that you challenged ideas and authority. Do you think of yourself that way?

Pesonen: Well, I think of myself as having a lot of confidence in my views and as being challenging. Yes, I get a certain amount of amusement out of it. It's recreational.

Lage: The other thing that I think ties you into this New Left mold is your interest in citizen participation in government. Was that a view that you had before Bodega or did it come out of your experience with what happened at Bodega?

Pesonen: Well, I don't think I ever articulated it until the Bodega case; it was just a given. It was one of those assumptions I had, that I hadn't formulated into a theory. I mean, I don't think that way. There are certain things that I just think are fair and right.

Lage: So the situation just struck you as something that wasn't right?

Pesonen: Yes. Then, I suppose, in order to explain my position, I had to articulate that view, because it is important to me to have a

reason for what I do. If I don't have a reason, then I begin to question whether my position is correct. And, you know, I'm an advocate, too. But I think I try to advocate honestly, and I have to believe it first. [laughter] If I don't believe it, I don't expect other people to believe it, and I don't think I ever said anything I didn't believe. But, you know, your views change as you get older and wiser, too. I was young and the views I had were, today, very conventional. Very conventional views of civics. Just high school civics. It wasn't anything more complicated than that.

Lage: Well, I sometimes think that our generation tended to believe what they said in the civics classes. Now kids are much more cynical. That's why we could have these idealistic bursts, because we really believed what we'd been taught, and then were horrified when it wasn't true.

Pesonen: Exactly. We were surprised, disappointed, and angry that everything we had just accepted as a matter of faith was subject to question. It was very threatening to some people.

Public Power vs. Private Power and the Bodega Issue

Lage: One other thing that comes up is your father having been with the Bureau of Reclamation--that this would affect your views of public power versus private power.

Pesonen: Well, I did believe in public power.

Lage: Was that something your father had talked about over the years?

Pesonen: He had talked about it, yes. He was an idealist, and a very fine man. He was very proud of what the Bureau of Reclamation was doing with the Central Valley Project, and he believed in it. He worked hard at it, and he devoted his career to it, and he involved me and my brother. He took us with him on his trips, and he told us about California, and about how two-thirds of the water fell in the north part of the state, and two-thirds of the arable land was in the south part of the state, and it just made sense to move some of that water down where the land was. I never questioned that at that time. I have grave questions about it now, but it made a lot of sense then.

We would go to Shasta Dam, we'd go to Friant Dam, we'd go to these big federal projects underway, and it was sort of a Woody Guthrie view of life. Here was electricity being made available

at cheap rates to the public generally, financed by the public, not for greed, not for private profit. It just made a lot of sense. We look back on the Central Valley Project as an ecological disaster, but people didn't know those things then.

Lage: But he was talking about power and not just water.

Pesonen: He was talking about both.

Lage: About public power and the benefits of--

Pesonen: Right. We lived in Sacramento, which was a public power city. In a bitter battle, Sacramento had purchased the distribution system of PG&E, I think in the forties or late thirties. So public power was the kind of power we had; we had the Sacramento Municipal Utilities District, and it bought its power from the Bureau of Reclamation, and it was cheap, and everybody lived better. It was that view of the world.

Lage: Do you think that had any effect on your attitude towards PG&E?

Pesonen: I don't think it had anything to do with my view of PG&E at Bodega Bay. I've been accused of that a lot, but I didn't see it as a public power issue. If the Bureau of Reclamation had been building that reactor out there, I'd have been just as dismayed about it. I might have attacked it in a different way, but I wouldn't have favored it. PG&E accused us of that, and there was a very right-wing publication in Berkeley called the Toxin. It was a real product of the cold war. It saw conspiracy theories everywhere and reds hiding under every bed, and we were accused of being fronts for a Communist takeover of private property; all kinds of stuff like that, and it just rolled off my back like water off a duck. It didn't seem to deter people anymore. The cold war, in some way--McCarthyism was over--it took a long time for the carcass to realize it was dead and fall over, but it didn't have the sting that it might have had in the fifties.

Lage: Nobody dug out that record of yours?

Pesonen: My record in the army, you mean?

Lage: Yes, the security report.

Pesonen: You know, I seem to recall that somebody published something about that, but I don't remember.

Lage: It wasn't a major thing. I don't find any trace of it.

Pesonen: Yes. I don't know what difference that would have made anyway.

Sierra Club Representative to PUC Hearings on Bodega, May 1962

Lage: Well, shall we start chronologically, or at least drop into the Bodega Bay issue where you entered it, when you were with the Sierra Club?

Pesonen: Okay, we can do that. I was working for Dave Brower, and my title was Conservation Editor. It sounds more lofty than it was. It was a jack-of-all-trades position, mainly because Dave Brower just wanted somebody like me around to do various things.

Lage: Were you assigned mainly to the *Bulletin*?

Pesonen: No, I didn't work on the *Bulletin* much. He was promoting the book program of the club then, it was just getting started. So he would get manuscripts, and he'd want me to review each manuscript and give him an opinion on them, or edit them if he had decided that the club would publish them. And since I had a forestry background and there was always some issue with the State Board of Forestry on forest practice rules, I would be called upon occasionally to testify for the club at the Board of Forestry. Then anything else that he thought I had a talent that he could address to the problem. Sometimes it had to do with what the library should buy--it was a wonderful job; I did all kinds of things. The club was very small then. The staff was very small, and we were one-on-one with Brower, who was a very charismatic person.

So one day--. You know, I didn't pay any attention to Bodega, I didn't know anything about it. I was a young, single guy, living in San Francisco and having a great time. I wasn't politically active or anything else. He handed me the Gilliam column that had been published, I think, in February of 1962, lamenting the loss of Bodega and the Kortum letter to the editor [see Appendix A], and some notice that the PUC [Public Utilities Commission] had reopened the proceedings as a result of this attention, and he asked me to go over and find out what was going on and to give him a report. So I did.

I can't remember the sequence now, but it was right about that time that I went over to PG&E to do a little research and went up to the engineering department, just cold, and talked to some clerical person and said, "I'm from the Sierra Club, and I'd like to see your file on Bodega Bay." They handed me a file and I sat down at a table and I began to see all kinds of things in this file.

Lage: It was a very trusting gesture on their part.

Pesonen: It was a very small file. I didn't see the whole file. Apparently, I was not in the engineering department. I was in the land department, or it was a file from the land department that ended up in the engineering department, but it had the exchanges of correspondence between top management and the political arm of the company--the public affairs department and the land department--on rounding up political support for the plan from local service groups, from the Board of Supervisors, from the planning commission. It reeked of a kind of arrogance that it was a foregone conclusion that the local elected officials were going to do whatever PG&E wanted them to, and were going to say whatever PG&E wanted them to, and pass whatever resolutions PG&E wrote for them. It was that flagrant. It was so flagrant it was unembarrassed. [laughter]

Lage: They believed it so truly--

Pesonen: They believed it too. It was in good faith, that was the problem with it. [laughter] Well, I made some notes from this file. Some of them were extravagant and direct indications that they had local government in their pocket.

Then I went over to the PUC hearing [May 1962] and talked to the people who had come down from Bodega Bay: Rose Gaffney, and the Ruebels, and the whole cast of characters. Ray and Marion Ruebel ran the Chamber of Commerce in Bodega Bay and had a little real estate business. They were very wonderful people--they're both dead now--you know, just simple midwestern folk who'd moved out here to kind of semi-retire and sell a little real estate, and they had a little real estate office right there in town. They were outraged by the history, since '58, of PG&E's hiding the ball and not disclosing what kind of plant it would be, the destruction of the harbor from the road [the road to the plant site in Campbell Cove was built in the tideflats of the harbor], the threat of power lines going over Doran Park and being a scenic wall on the harbor entrance. You know, they'd lived there for its tranquility and its beauty. The fishing community was very upset that the traditional way of careening their boats on the gentle mudflats on the west side of the harbor would be taken from them by the riprap along the road PG&E wanted to build.

And then there were some other little agendas of people in town who were going to get a good deal--who were going to get some money from PG&E and build another marina and be in competition with the other, existing, marina owners. There was a lot of that kind of thing going on at another level that had probably helped to stir all of this up. As in a lot of little towns, people find amazing ways to dislike each other, and suspect each other, and feed their gossip mill.

Well, I didn't pay any attention to that part, but this was clearly a group of people who had tried very hard to be heard and hadn't had an opportunity, or hadn't been listened to.

Lage: There had been previous hearings.

Pesonen: Oh, there had been a hearing before the Corps of Engineers on the road that had been held at the grange hall up in Bodega in, I think, 1960 or '61 [February 15, 1962], and that had been a riotous hearing from press accounts. There was Joel Hedgpeth, who had watched it from both the inside and the outside. Inside, because of his acquaintance with many of the marine biology faculty at Berkeley and his awesome archiving powers and his natural suspicious bent of mind. There was Karl Kortum who had grown up in Sonoma County and sailed out of Bodega Bay, and loved its beauty too. There were just a mob of people there.

It became very clear to me that they didn't have a plan. They weren't organized. They were angry; their testimony would be focused on whatever was personally of concern to them, but there was no coherent theory as to what they were doing. So I thought, well, here's a role for me--to pull this together and give it a theme. I just emerged as a leader.

I went back and reported to Brower, and he said keep on doing it. Well, then it started to hit the papers, and then his board started getting uneasy.

Lage: Didn't you testify at the PUC hearing?

Pesonen: I did testify.

Lage: Was Phil Berry [Sierra Club activist] involved in the hearing?

Pesonen: Phil didn't testify. Phil was a recent law school graduate from Stanford, and he came over and helped with the examination of some of the witnesses.

Lage: You could examine witnesses from the floor?

Pesonen: It was a weird proceeding. Anybody can stand up in the audience, and examine a witness. The hearing officer just says, "Okay, it's your turn; okay, it's your turn," and points at people in the audience, and they come forward to the podium. They are untrained, make speeches--a lawyer would be horrified at the form of questioning, but that wasn't the kind of proceeding it was. So that went on, and I testified, and I also examined some witnesses.

Lage: Did you testify based on some of the things you'd found out from PG&E files?

Pesonen: Yes. By this time we knew that we couldn't win this case before the PUC; we had to win it in the newspapers. So I set it up for the dramatic moment to come when I would disclose these quotes I had plucked out of this file that had been shown me at PG&E, about their, in our terms, having corrupted the local government. I was being examined by William Knecht, who was the farm bureau lawyer--the California Farm Bureau Federation had joined with PG&E as sort of a petitioner. Knecht was a lawyer for them, and he and John [C.] Morrissey both examined me for a little while, and then they had the good sense not to ask me the question, "How do you know that PG&E has corrupted the Board of Supervisors?" because they didn't want the answer.

Well, I thought they might not ask the question, so I had planted the question with one of our cohorts in the audience, [laughter] Tony Sargent, who worked over here at the Lawrence Labs. When the PG&E lawyers--when Morrissey and Knecht didn't ask that question, Tony came forward and asked the question. I brought out my black briefcase, and I put it up there next to the microphone, and I snapped the snaps on it, and it went "click" throughout the room. You should hear Karl Kortum describe it; it was a high moment of drama. I lifted the lid on this little black leather briefcase and pulled out these notes and then began to describe the circumstances: how I had gone over to the building at 245 Market Street and got in the elevator and pushed the button number eleven, or whatever it was, and went up and asked the receptionist if I could see the file. At that point there was a flurry like somebody had thrown a fox in a chicken yard at the PG&E counsel table, and people started running around, running out of the room, grabbing phones, and I don't know what else they did, but it clearly had them all excited. I described what I'd seen and got some quotes into the record, and that was a big moment of drama. That's all it was, I mean, it didn't go to the merits of the case very much at all, but it got some attention.

Focusing on Seismic Hazards and Quitting the Sierra Club Staff

Pesonen: As a result of that, as a result of that sort of sense of drama and sense of the need for coherence in approach to the case, and my recognition--I think I was the source of it--to begin focusing on the seismic hazards--

Lage: That's when you decided to focus on seismic hazards?

Pesonen: I saw that there was an issue there; there were some facts to support it; there was a reason. There was a geologist from the state Division of Mines and Geology. His name was Koenig--I don't remember his first name--but he had published a little paper in a quarterly publication that the Division of Mines and Geology put out on Bodega Head. The cover had a map of fault lines. We asked Koenig to testify, and he was very cautious in his testimony, but this was not a fabricated issue. This was real, and it was a serious concern. We weren't just exploiting it to stop the plant--we were doing that, too--but we carried it on the merits. There was a serious question here, whether the plant should be built there.

The PUC was the first place where we started to open that up, and it was my perception that that was something we should focus our attention on. Through that process, I just emerged as the leader.

Lage: Through the process of these hearings? Is that when all this occurred?

Pesonen: Yes.

Lage: But you are still with the Sierra Club?

Pesonen: I'm still with the Sierra Club.

Lage: And what happened with that relationship?

Pesonen: Well, that fell apart later, but by that time I had applied to the Food and Agriculture Organization for that job in Tanganyika, and it was held up because I needed a security clearance and I was a long time getting it. I didn't see any future at the Sierra Club for me--I didn't want to be Dave Brower's flunky all my life.

Lage: I had the impression that the club, or some members of the club, were disturbed by the testimony at the PUC and that was the reason you left. Is that inaccurate?

Pesonen: That, ultimately, was part of the reason I left. There came a point where Dave asked me to report to the executive committee on what to do next on Bodega Bay. Hearings before the PUC had concluded. The decision had not been entered. This was probably June of 1962.

Lage: Those are the minutes I can't find. [laughter]

Pesonen: Are they? Well, there probably weren't any minutes to that meeting.

Lage: You think that was more of an informal meeting.

Pesonen: I think it was an informal meeting. If I recall correctly, present were myself, Dave Brower, Lewis Clark, Dick [Richard M.] Leonard, I don't recall whether Ed Wayburn was there or not. It wasn't a big meeting. It was in Dave's office--right off the library there in the Mills Tower. I gave a report that wrapped up what we had learned from the hearings. I said there was a serious question whether a plant at Bodega would be safe because of its proximity to the San Andreas fault. I firmly believed that if we continued to pursue that issue we could stop the plant from being built, but if we didn't pursue that issue, we couldn't stop the plant from being built. If we restricted our public statements to lamenting the loss of another scenic part of the coast it would have no effect on the AEC's [Atomic Energy Commission] decision or the PUC's decision.

At that point Dick Leonard--if my recollection is correct, and it's not very bright in my mind, what's bright in my mind is the whole setting and how I felt; I was suddenly under siege and surprised by the antagonism I had generated with some board members--Dick Leonard shook his finger at me and said, "Don't you ever mention atomic power or atomic safety. You can't do that in the name of the club. We are in support of nuclear power. It's an environmentally wonderful thing: it will mean that we won't have to build any more dams in the Grand Canyon." I think that was a genuine view on his part, and what I was saying was inconsistent with club policy.

Lage: It's true. They had suggested atomic power as an alternative to hydroelectric for years.

Pesonen: So I was in a position where the people who made policy had said that I couldn't, as an employee, make a public statement inconsistent with policy.

Lage: But you don't recall that this was a formal vote of the executive committee or anything like that?

Pesonen: No. I don't recall any formal vote.

Lage: Did anybody step up and disagree with Dick Leonard?

Pesonen: Well, no. They weren't so vigorous, although some of the other people present were more conciliatory toward me and the spot it put me in. Leonard was not friendly at all at that meeting.

Lage: Somewhere I read, and I can't remember what I read this in, that he read you the so-called "gag" rule--they passed in 1959 to keep Dave Brower from maligning public officials.

Pesonen: Oh, well I had something like that, but I don't recall attaching much significance to that. That was not what was the matter--

Lage: The thing for you was the atomic issue.

Pesonen: Yes. Now that you mention it, I do remember something about that gag rule, but that was just procedural.

Lage: But it was important to Dick Leonard and others.

Pesonen: It was important to them, but what was important to me was that Leonard was focusing on the substance of what I said. I wasn't maligning anyone.

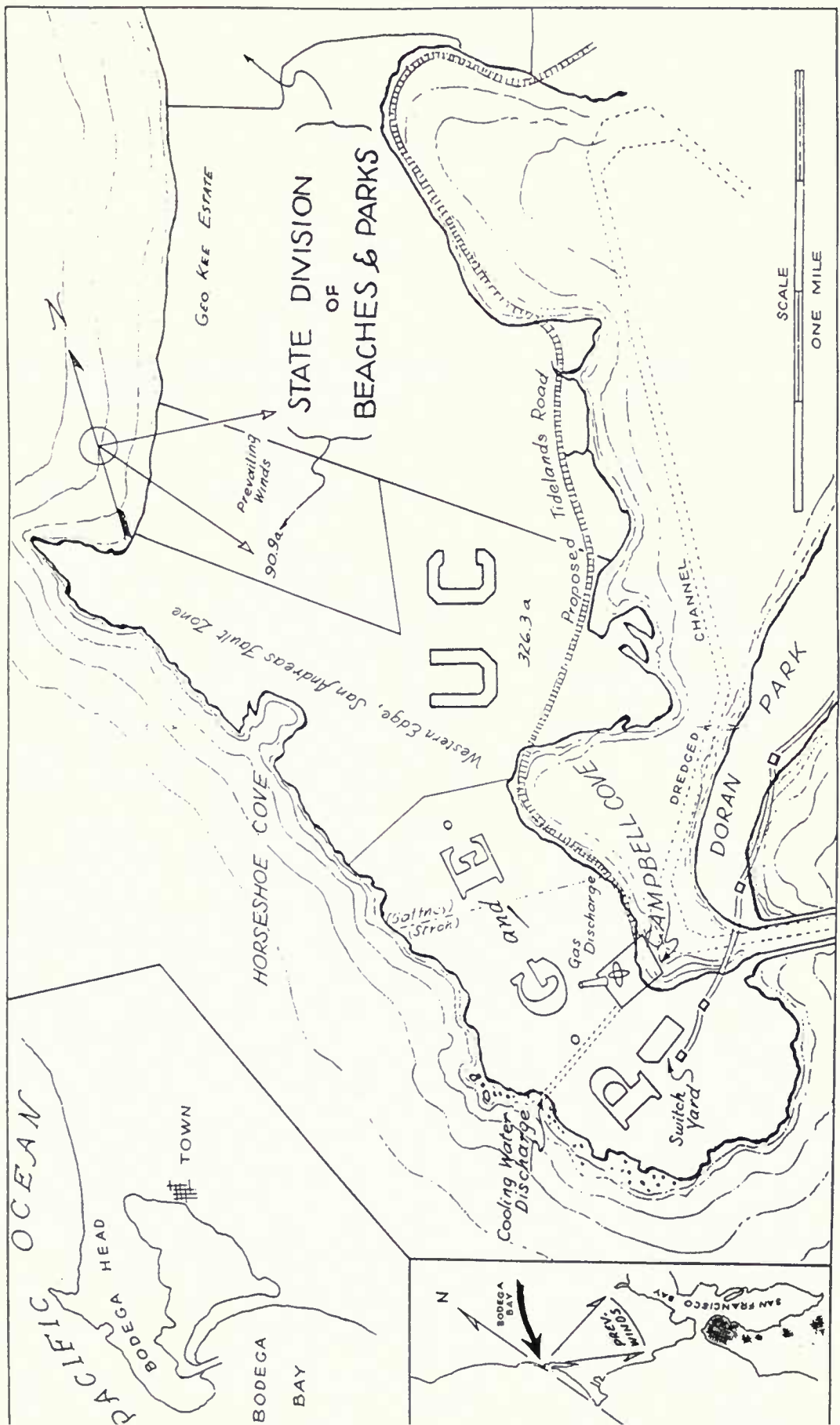
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Pesonen: I guess by implication the AEC and the higher management of PG&E were being maligning, for doing something stupid [laughter], that's what I was calling it. I was calling the whole thing a threat to public health and safety as well as to a very beautiful place. But that wasn't the real issue. He did not want me talking about nuclear safety. That troubled me a lot, and I thought about that for a while, and I decided that I didn't know what I wanted to do, but that was not a tenable position for me. So I quit.

Lage: Do you remember when you quit?

Pesonen: I quit at the end of June, I think. I'm pretty sure that it was about the end of June. I didn't have any clear plan of what I was going to do. I was still waiting for this FAO job to come through. I had saved a little money, and I hitchhiked to Colorado to visit a girlfriend and I just kept thinking about this thing. I was gone for about a month--spent a couple of weeks in Aspen. And then, on the way back, I met a fellow on the train who was going to British Columbia to go mountain climbing. I had never been to British Columbia, so I talked him into--he was going to meet his ride in Salt Lake, and so I got off in Salt Lake with him and drove with them way up to Revelstoke, British Columbia, and then I hitchhiked back home.

Bodega Head, Proposed site of PG&E Nuclear Power Plant, from
A Visit to the Atomic Park



III CAMPAIGN TO PRESERVE BODEGA HEAD AND HARBOR, SUMMER 1962- FALL 1963

A Visit to the Atomic Park

Pesonen: All of this time, I was thinking about this problem; this Bodega thing was just eating at me, and it began to sort itself out. By the time I got back, the FAO position still hadn't come through, and I was broke, so I moved in with some friends down the street here and got from Joel Hedgpeth his complete clippings file on the history of Bodega going back to '58, and I just sat down and read every thing he'd clipped, and every note he made, and every letter he'd written with [Congressman] Clem Miller. From that, emerged what happened. If Hedgpeth had not done that, I think that plant might have got built.

Hedgpeth was a meticulous keeper of records. Everything that appeared that had any direct or tangential relevance to what was happening at Bodega or in the field of nuclear power, he pasted up in bound volumes. [Joel Hedgpeth's correspondence and clippings on Bodega are available in The Bancroft Library.] They were about two inches thick, two or three inches thick, of old newspaper clippings. There had been a very good reporter on the Santa Rosa Press Democrat, Don Engdahl, who had covered the story well, who quoted these public officials saying really dumb things like ["Nin"] Guidotti saying, "It's so beautiful out there; it would be a shame not to build something on it." [laughter] The kinds of things that just skewered themselves.

I made up my mind that this was so important a story that it had to be told, and I would write a manuscript about it. I had no idea who the publisher would be, I didn't really know who the audience was going to be.

Lage: And you weren't hooked up with the association [the Northern California Association to Preserve Bodega Bay and Harbor] yet, I mean, officially?

Pesonen: During that summer it was pretty quiescent. It never was a very formal organization, anyway. It had a name, but that's all. It didn't have a letterhead, it didn't have a formal membership. It was a small group of people--Joe Neilands, Karl Kortum, Doris Sloan, Harold Gilliam, Tony Sargent, Phil Flint, the Ruebels up in Bodega Bay, and certainly Hazel Bonneke--her name was then; it's now Mitchell--she was a waitress at the Tides restaurant. She was one of the real active people, and still is, up there. She was active in the petition that's just been launched a few weeks ago to prohibit the State Department of Parks and Recreation from imposing entrance fees in coastal parks. But it was a very loose group, and it wasn't active that summer. We kept expecting the PUC to issue a decision any day, and so I was racing against the clock. I wanted the story told before the PUC made its decision.

I rented a little room, and, as I told you last time, Joe Neilands gave me a night job in the biochemistry department lab running a lab procedure that he had set up as part of his research--it didn't require very much of my time. I made some money; I had enough to support myself and pay my rent. I just buried myself in this material and writing this story: what was the University's role, what was the Atomic Energy Commission's role, what was PG&E's role, what was the role of the Department of Parks and Recreation and the county of Sonoma? How could this thing happen?

By that time I was convinced that I was on to something that was, to me, almost a metaphysical disaster. It was so wrong--it was just wrong in every possible way. It was scientifically wrong, it was morally wrong, it was politically wrong; it was just wrong. I didn't feel that I could just go out and say it was wrong; I wanted to prove it, and I wanted to prove it with evidence. This clipping file that Hedgpeth had pulled together over four years collapsed the story into one place so that, if you had read all those clippings over a period of four years you wouldn't have seen the story, but there was a pattern--you could see what had happened when they were all condensed.

Lage: So that was the basis of the article?

Pesonen: That was the major source on which I relied. I also went out and interviewed a bunch of people.

I finished the manuscript and I sent it to Karl Kortum to look at, and he was enormously impressed with it, and he sent it to his brother Bill, who was also very active--Bill and his wife Lucy--

Lage: And they lived up in Sonoma County.

Pesonen: And they lived in Petaluma. Bill's clients were mainly dairy farmers up there.

Lage: He was a veterinarian?

Pesonen: He was a veterinarian. He was afraid of the contamination with radioactive iodine of the dairylands. There had been an accident in Windscale, in England, in 1958 at a plutonium production reactor. It had had a fire in the plutonium and had released a huge cloud of radio-iodine, which had contaminated most of the milk in that part of England. From the press reports anyway, the milk had all had to be dumped.

Lage: Do you remember who made that connection? Between that accident and Bodega?

Pesonen: I made that connection.

Lage: You recalled the accident?

Pesonen: In all the research I did to prepare this manuscript I read a lot of other things. Hedgpeth's clippings told me what had happened at Bodega, but it didn't tell me anything about nuclear power or past nuclear accidents.

Then there was a series of articles, and I don't remember how I came upon them, in the *Massachusetts Law Quarterly* by a fellow named James B. Muldoon, and I talked to Muldoon. I think Muldoon's dead now, but I remember carrying on a long correspondence with Muldoon. He was a lawyer, and his brother had been very high up in the Eisenhower administration. His brother had leaked to him a lot of information about nuclear power. In the late fifties, there had been a proposal for a nuclear waste disposal facility in Massachusetts, and Muldoon had taken it on. He had taken it on in the form of a series of articles in the *Massachusetts Law Quarterly* called "Alice in Nuclear Energyland," and they were ironic and funny but had a lot of solid material in them. He had done a lot of research, so I relied on Muldoon's articles and bits of pieces of things I found in pamphlets about an accident in Canada, and just sort of odds and ends of things that I could find. There wasn't a whole lot.

There was a trade publication called *Nucleonics*, a McGraw-Hill magazine. It had a lot of good stuff--it was addressed to the nuclear engineering field. I went over to the engineering library, and I just spent a couple of months researching this thing.

So Kortum sent my article to Bill, his brother Bill, and Bill gave it to Ernie Joyner, who was the publisher of the *Sebastopol Times*. Joyner was an old Texas populist who had come further west to own his own little newspaper. He was a curmudgeonly--almost a movie character--small town newspaper publisher barely making ends meet. He had watched what had happened at Bodega with some concern from his populist point of view. Not nuclear power, he didn't care about nuclear power one way or another. He read the manuscript, and he was fascinated with it; he wanted to publish it in his newspaper. He called me up, and I'll never forget, he said [in Texas accent], "I want to run that. I read that thing, I want that like a duck going after a junebug." [laughter] Well, I didn't want it just published in some obscure country weekly where it would disappear; I wanted it to get wider circulation. If these people were that impressed with it, it must be pretty good. I mean, I thought I was a pretty good writer.

That became *A Visit to the Atomic Park*. Well, by this time, Dave Brower was feeling that he had let me down by not standing up for me with the Sierra Club board. I had no money to publish this thing--to get it printed or anything else, but he had some chits to call in with somebody who ran a printing plant in Berkeley. I made a deal with Joyner that he would let me proofread the article and he would print glossy galleys and I would use those, then, as the camera-ready copy so I didn't have to pay for it to print this pamphlet. If you look at *A Visit to the Atomic Park*, you'll see it is three columns wide per page. Those were the newspaper columns printed by the typesetter up at that little plant. And then Kortum was a very good photographer and had taken a lot of wonderful photographs, so I just spent evenings down at this fellow's printing shop putting this pamphlet together. I did a lot of the production on it, too.

Lage: Somebody--I forget if it was the Wellock article or Brower's oral history interview--said that Brower wanted it to be a Sierra Club publication. Do you remember any discussion about that?

Pesonen: I don't recall that Brower wanted it to be a Sierra Club publication. I don't think it could have been a Sierra Club publication.

Lage: That surprised me.

Pesonen: Dave may have harbored some notion that he would like to, but he couldn't. So he helped me get it published by having this printer pay off some debt he owed by printing the pamphlet for free and not charging me for it.

So I got it printed. I got a thousand copies printed for nothing. Typesetting by the Sebastopol *Times* layout by myself, and production by this guy who was paying off an old debt. It was just a barter. Then I went out and started peddling. I'd go to bookstores and I'd say, "You've read about this in the papers; would you stock a couple of these?"

Lage: Did you get a good response?

Pesonen: Sure. It didn't cost them anything--it was just on commission--sell it for a dollar, I get twenty-five cents, you keep the rest. It was not a profitable venture. [laughter] It wasn't done for profit.

Rallying Public Opinion: The November 10 Forum

Pesonen: Well, by that time we began to wonder if the PUC was ever going to issue its decision. Finally, we concluded that the PUC was waiting for the election, which I think was on the 7th of November in 1962, and Governor Pat Brown was up for reelection and this controversy, I suppose they figured--this is total speculation, I have absolutely no evidence to support this except for timing--

Lage: Except for timing, right.

Pesonen: --that the commission had decided to hold off their decision until the election was behind them. You know, they're political appointees like anybody else, and it's not an implausible theory.

Lage: I see they issued it on November 9th. Pretty close to that election.

Pesonen: Ninth or 10th, yes. Within two or three days after the election the decision was issued.

Confident that our conspiracy theory was right, that they were delaying the decision for political reasons, we organized a public forum in Santa Rosa. I think it was in October--I don't remember the exact date.

Lage: I have November 10th.

Pesonen: Maybe it was. That's right, it was right after the decision had been issued.

Lage: It must have been planned--.

Pesonen: It was planned well before. We put out some sensational publicity about it: oysters glowing in the dark in Willapa Bay up in Washington; radioactive debris was coming down the Columbia River from the Hanford plant. Some of it was pretty unscrupulous. [laughter]

Lage: I was going to say unscrupulous. [laughter]

Pesonen: Well, it was sensational.

Lage: Sensational, but were these things that had happened?

Pesonen: Well, everything had been said to have happened. [laughter] I doubt very much any oysters ever glowed in the dark. Not in Willapa Bay, anyway. And then we publicized Windscale and the dumping of the milk, to appeal to the dairy farmers. We got a big turnout. It was in some hall in Santa Rosa.

Lage: What kind of people came? Were these just ordinary--.

Pesonen: All kinds of people. Mostly dissidents and radicals, farmers, I think a whole collection of people from all over the county.

Lage: From the inland areas too, not just right there--.

Pesonen: Some from the inland areas. I didn't know most of the people. We put together this very boring panel discussion. Phil Berry was the moderator, or maybe I moderated it, but Phil was a principal speaker, about how hard it was to appear before the AEC and how unfair it was that the proceedings didn't allow you to testify, and they didn't consider environmental matters--there had been no environmental legislation passed by that time, by Congress or by the state.

We had a doctor from Washington University in St. Louis whose way we paid out here. He described a program to collect baby teeth to measure fallout of strontium 90¹ from all over the country. There was a rising concern about radioactive

¹A radioactive isotope of strontium with a half-life of 28 years, found in radioactive fallout.

contamination from atmospheric tests of weapons. The atmospheric test ban treaty had not been adopted by then, so we were still blowing off nuclear weapons out in Nevada in the air or in the Pacific; so were the Russians, so were the French, and so were the English. It was a bomb a week it seemed like, with mushroom clouds sending up debris that was going around the globe on the jet stream. And there was significant, measurable fallout from this atmospheric testing of nuclear weapons. There was a lot of press about it.

Lage: So people were aware of nuclear matters?

Pesonen: People were beginning to be aware of radioactivity as an environmental contaminant which could cause horrible diseases. And we played on that. I don't deny that we played on that. It was available to us, and it was not false, and we used it.

Well, the meeting got pretty boring. At the meeting I handed out stacks of this pamphlet, *A Visit to the Atomic Park*. The show was taped by KPFK. Joan McIntyre went up and taped the whole thing. I still have the tape of it--I haven't listened to it for twenty years, but--.

Lage: Who's Joan McIntyre? The dolphin lady?

Pesonen: Yes, whales and dolphins. She's now married to somebody in Tonga or someplace in the South Pacific. But Joan was a character, and she taped the program and then edited it and did a broadcast. At the end of the meeting, a person whom I had mentioned in the atomic park, a guy named Alexander Grendon, had been sitting quietly in the back and demonstrating more and more agitation. His body language showed that he was in a great state of unhappiness over what was being said by the panel. He probably saved the day for us, because his position was Coordinator of Atomic Energy Development and Radiation Protection, an office that Pat Brown had created right in the governor's office as a campaign promise in 1958.

The office had to do with development of nuclear power. Pat Brown was a great advocate of nuclear power. He had gone to the dedication of the Humboldt plant in 1958 and made a speech saying he was going to put California at the forefront of development of nuclear energy during his campaign in 1958. He made the speech in San Jose, I think, at the headquarters of General Electric, which was the manufacturer of these light water reactors. As part of fulfilling his campaign promise, he had created this office and appointed Alexander Grendon, who was a retired colonel of chemical and biological warfare.

Grendon couldn't keep his mouth shut. So, he got up to speak. He didn't come forward--. I remember this just like it was yesterday. He didn't come forward to the podium and speak to the audience's face; he stood in the back of the room, and I'm sure the psychology was wrong, and I knew it was wrong at the moment, and I decided to use it to fire up this audience. He talked at the back of people's heads. And he was arrogant. He said, "You don't know what you're talking about. The AEC shouldn't have to spend time listening to what you have to say because you're not experts..." and he confirmed everything we had said [laughter], and speaking from the governor's office!

Well, that was wonderful, because it enraged our audience.

Lage: You say you used it, but I'm wondering how.

Pesonen: I just let him go on.

Lage: You let him dig his own grave?

Pesonen: Yes. I didn't invite him to come forward. I just said, you know, "The floor's yours, Colonel Grendon." I made a point of calling him "Colonel Grendon," too. [laughter] He was wonderful. So that woke the meeting up. People said, "How can I help? Where do I sign up?" and they scooped up those pamphlets.

Lage: So the educational presentations that you put forth didn't really capture their excitement?

Pesonen: That wasn't really so terrific. The people were just dozing off and threatened to walk out. I thought the meeting was getting away from us. It was going to end in a whimper, until Grendon got up and saved it.

Lage: So then were you ready to get these people organized?

Pesonen: We didn't know what we were going to do; you know, we weren't very well organized. But we clearly had a solid, small amount of people who were determined to do something about it.

Lage: Had you ever run a campaign before, of any kind?

Pesonen: No. I had no experience.

Lage: You seemed to think you knew what to do, though. I mean, from the way you talk, you talk as if you had a sense that they needed the organization, they needed--

Pesonen: Well, I'm giving myself too much credit. The idea of the meeting was Karl Kortum's I think, and a lot of the publicity was Jean Kortum's and Bill Kortum's. Bill was politically active in Sonoma County. Doris Sloan was a shrewd organizer. She'd been with the American Friends Service Committee for a long time, and the ACLU, I think. They were a little older than I was, and they knew something about organizing.

We were all very innocent about it in those days. People are sophisticated these days. Even political campaigns were run without campaign organizers. You didn't have a campaign manager in the late fifties and early sixties. There weren't any computers. Presidents and governors still had whistle stop tours on trains. You've got to go back and reconstruct where we were historically at that time. That was thirty years ago. So, I didn't do all this myself, by any means.

Lage: But you did have a sense it needed organizing, you said.

Pesonen: Yes, and I had a basic talent about handling it when it was put together. But I'm not terribly creative about those things. The Kortums had run a successful battle against the State Department of Highways when it had planned to put the highway 101 freeway through the Petaluma area. The Department of Highways wanted to put it through the best agricultural land, and it also would have come very close to their house. They were successful in a campaign to get them to move the route of the highway further to the west and out of the best agricultural land and up on the hill. So they had a lot of skills from that battle. It was the first time the Department of Highways had been beaten in one of their freeway routing controversies.

Lage: That was the beginning of a trend also.

Pesonen: Yes. Well, the Kortums know how to make trouble--big trouble. Karl's involved in the palm trees on the Embarcadero right now. [laughter] Karl's wonderful. I don't know if you've ever talked to Karl, but--

Lage: I haven't, although he contributed some to the Scott Newhall oral history, so I've heard his name batted about.

Pesonen: He's a wonderful story teller, and he and Jean both are just a wonderful team, and they did a lot of this.

Saint-Amand and the Earthquake Fault

Pesonen: But anyway, after this meeting, within a couple of days after the PUC decision, or it was within a day or two of the PUC decision, and we were cranking up for the AEC hearings. We didn't know exactly when they were going to be held, but we knew they would come soon. And Joan McIntyre had this program broadcast on KPFA and its affiliate in Los Angeles, KPFK, I think. And, Pierre Saint-Amand, who was a geologist for the Naval Ordnance Test Station in China Lake, happened to hear the program on the radio, and he was outraged.

Lage: So he wasn't somebody whom you found?

Pesonen: No! He found us. This historian who wrote this piece--J. Samuel Walker--in the *Pacific Historical Review*¹ makes it sound like we went out and rounded Saint-Amand up, but that's not the case. Saint-Amand called me up--I don't know how he found me--and said he heard this program and he thought it was an outrage what was happening. He was Dr. Saint-Amand, a nationally known seismologist, and he knew something about the geology up there and would like to help.

Lage: That must have been nice to hear.

Pesonen: It was wonderful to hear. We didn't have any lawyers, we didn't have any experts. PG&E had everything. All we had was our voices. So I made arrangements to go out there with him, and by this time I had met Julie [Julie Shearer, Pesonen's former wife and a colleague of the interviewer], I think. I think I'd met Julie by this time. She was a reporter for the Mill Valley Record and covered a little speech I gave over there. I don't remember whether Julie went with us when we went up there or not, the first time. Maybe not. Saint-Amand and his assistant, whose name I don't remember now, drove up in their big van, and we all went out there, and we spent the day just walking along the ocean escarpment on the west side of the head [Bodega Head]. Saint-Amand was a character. He had a big beard and a funny Peruvian hat and--

Lage: Which must have blown off a few times. [laughter]

¹ "Reactor at the Fault: The Bodega Bay Nuclear Plant Controversy, 1958-1964--A Case Study in the Politics of Technology," Pacific Historical Review (1990), pp. 323-348.

Pesonen: It had a string on it which ran around his chin. He was a great story teller. He loved the site and found it technically intriguing to try to figure out what the geology was out there.

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Pesonen: And by the time we finished that day's walk, he said, "They've got a real problem out here." He said he would go to work on preparing a report, which took quite a long time to put together. He had to come back and make a couple of trips.

Lage: Did he tie it in to the Point Reyes area, or did he--

Pesonen: Not the way the USGS did a year later, but the San Andreas is so visible on an aerial photo, I mean, you can't miss it. There's got to be something going on, seismically, out there. You'll notice that picture in *A Visit to the Atomic Park* of a locomotive on its side, knocked over in 1906. Twenty-one feet of displacement right there at Bolinas, or north of Bolinas. That was a big earthquake, and it wasn't very far away, and here this fault runs right through the harbor. So what happened then?

Lage: You just got a certain verbal lead from him that there were problems there, but had no report.

Pesonen: No, I think he wrote a letter. This Walker article cites a letter that he wrote shortly after that, before his report was done [April 19, 1963, Saint-Amand to Harold Gilliam, quoted in Walker article, p. 331]. I don't remember that, but I'm sure it happened.

Lage: Walker says he wrote a letter to Stewart Udall's office [U.S. secretary of interior]. Maybe this was during the time when Harold Gilliam was working in Udall's office.

Pesonen: I don't remember that. I just don't remember what that timing was.

Lage: Because Udall seemed to be a key--

Pesonen: Udall was a very key person.

Lage: Did you contact him at all?

Pesonen: That was all done by the Kortums or by Gilliam, not by me. I don't think I ever talked to anyone in the Department of the Interior, and if I did, it wasn't for very much. I've never talked to Hal [Gilliam] about that. I'm not privy to his conversations, but it makes sense he would have spoken with Udall

about Bodega. He was part of our organization. We had a plant right there in the secretary of interior's office [laughter]; that's not bad.

Lage: We'll have to get this straightened out.

Pesonen: It's the kind of thing PG&E used to do; we accused them of it. [laughter]

Lage: Right. Looks very conspiratorial.

Pesonen: Well, it was. [laughter]

That spring of '63, for me personally, was a slow period. I had to have a job, and I got a job working for Henry Vaux and John Zivnuska in the UC School of Forestry on a report on the forest products industry in California. It may have been Agriculture Extension which was putting it together--I think Zivnuska was the lead author, and he had asked me to write a couple of chapters in it, do research and write some chapters.

Lage: Were they aware of all of this controversy at Bodega?

Pesonen: They were aware. I told them, "Look, I'm involved in this thing now, and I'm not going to let go of it. I may be spending some University time with University phones." They were very kind about it, very understanding. There wasn't any Free Speech Movement by this time, either. I think they just liked me, and they respected what I was doing, and they respected the way I did it. I was up front with them; if I was going to take this job, there would be times when I was going to be working on Bodega, and that was just the way it was going to be, or I wasn't going to work on that job. I'd make up for it. I'd put in hours elsewhere; I'd somehow keep the books straight, and I think I did, but I'm sure that I ran the University's phone bill up. [laughter] The University deserved it. And I had met Julie by this time and was courting Julie, so my personal life was busy and this employment was preoccupying, and Bodega was preoccupying. We didn't know what was going to happen.

PG&E then submitted, to the Atomic Energy Commission, as part of their application for a construction license, a much more comprehensive analysis of the site--geologic analysis and engineering analysis--than they had submitted to the PUC. Well, we had obtained the submission to the PUC and we had the AEC submission, and Sam Rogers, who was a biochemistry student who worked for Joe Neilands, took these two reports and read them and made a comparison. We found major discrepancies between what

they had told the PUC about the site, and what they told the AEC. They were much more honest with the AEC.

Lage: They didn't think the AEC would care as much, or do you think they'd found out more in the meantime?

Pesonen: Well, the AEC had more expertise, so it was harder to pull the wool over their eyes.

[tape interruption]

Lage: Julie had told me something about helping you get a crucial report. Was that the crucial report that she got in her role as reporter?

Pesonen: No. That wasn't it. It was a very crucial report, but another report.

PG&E had to submit what was called a "preliminary hazard summary" report, which they filed with the AEC. It's hard to imagine now, with the Freedom of Information Act and all of the environmental statutes that have been passed by Congress and interpreted by the courts, what in fact was the fact then, that the AEC said we couldn't have a copy of it. We could go in to their office, and under a guard, sit at a table and read it, but we couldn't get our own copy. Well, of course, PG&E had a copy, and we'll come to that in the chronology here.

But before that, Sam Rogers had gone over and read the exhibits that had been submitted on the seismic question. I think they were exhibits to this preliminary hazard summary report or part of the application, anyway. They disclosed facts about the proximity of the San Andreas fault which had been denied by PG&E at the PUC hearings and which had not been revealed in the seismic report submitted at the PUC. We saw this, two sworn statements that were in conflict, as another opportunity to try to get the PUC to reconsider their decision. So we prepared a petition. I wrote it, but Sam Rogers was the one who found it. I did the writing and the analysis and the compilation and prepared a long petition. I've forgotten what we called it, exactly, but it was a petition to reopen for false evidence, or some hysterical title like that [laughter]. We submitted it with a press release and filed it with the PUC. The PUC deliberated on it for a while and finally issued a decision denying our petition.

But William Bennett, who was a Pat Brown appointee to the PUC and who had political ambitions of his own--he ran later for attorney general and I think he really wanted to run for

governor--issued a dissent and held his own press conference when he issued the dissent. The dissent seized on both the scenic issues and the seismic issues and was a very eloquent treatise on Bodega Bay and why there shouldn't be a plant there. I'm quite convinced that he saw this as the opening shot at his own political campaign.

Lage: Why are you convinced of that?

Pesonen: Well, I've talked to him since, and he's pretty well conceded that he saw this as part of his building a campaign. That's the way people campaigned in those days. There weren't any television, thirty-second spots.

Lage: He could build on the interest in this issue.

Pesonen: Thirty years ago you campaigned through the newspapers, and you campaigned on issues, and they weren't negative campaigns. We've forgotten how far political campaigns have descended since then.

In any event, it was another occasion to keep the issue alive, keep it on the front page of the newspapers, keep the controversy hot. So we were very grateful.

Lage: You did that quite well, really, over this extended period of time.

Pesonen: Well, we had to work at it. I mean, you've got to make news. [laughter] But we found ways to make news. I don't think we ever made news that didn't have a real factual basis. Something happened, and all we did was see that it got plenty of attention. I don't think we ever manufactured anything. I think we ran the campaign with a lot of integrity.

Relations with PG&E

Lage: Does PG&E agree?

Pesonen: No, they didn't agree at all. [laughter] They were dismayed. They had never run into anything like this before. This was the first time that anybody had ever had a sustained campaign that didn't quit. About this time, they tried to talk me out of pursuing this.

Lage: Tell me about that.

Pesonen: That was Hal Strube, who was in the PG&E public affairs department. He was the person assigned the responsibility to handle all the public relations and see that it ran smoothly. We were driving Strube nuts, and Strube made the mistake of cultivating Julie. Here was a reporter. He went around and talked to all of the newspapers, talked to the reporters; that was the way he did his job. He didn't know that Julie and I were romantically involved. So he thought that he had an ally in Julie, and Julie was a good spy. She said, "Well, I'd like to read that preliminary hazard summary report." So he lent it to her, and she called me up, and we ran over to the Sierra Club and turned on the Xerox machine and photocopied the whole thing. [laughter] That's the report that Julie was talking about. Then she gave it back to Strube and said it was very interesting. Then Strube learned a month or two later that we were getting married. [laughter]

Lage: He must have been dismayed.

Pesonen: Poor Strube. [laughter] He knew he'd been had.

Strube then invited me to go out to the little reactor that they had out in Pleasanton. It was an experimental reactor that PG&E ran in conjunction with General Electric. It was a test reactor. They had hooked up a small generator that they had retrieved from an old ship and declared that this was producing electricity. Well, it never made any money, and it didn't produce much electricity, but it was a public relations coup: PG&E was now generating electricity from nuclear power in two places, Humboldt Bay and Pleasanton.

Lage: Was Humboldt Bay a legitimate nuclear plant?

Pesonen: Humboldt Bay opened in 1962, I think.

Lage: Was it as big as what they planned for Bodega?

Pesonen: Oh no. Humboldt Bay was sixty megawatts, and Bodega was planned to be three hundred megawatts. That's small by today's standards. They build them two thousand megawatts now; Diablo Canyon is two thousand megawatts. But Bodega was the biggest then, and Humboldt was as big as the only one or two other reactors that were operating in the West.

Lage: So this was very experimental.

Pesonen: Very experimental. Well, the theory wasn't experimental, but each design was a unique design, designed for its site.

Lage: I interrupted you. Strube took you out to Pleasanton.

Pesonen: Strube invited me to go out to Pleasanton and see the reactor. He thought maybe this would assuage my concerns. I agreed to go, and I asked Frances Herring to go with me. I think Frances is probably dead now; I haven't heard from her for years. She was a wonderful woman, and she was a friend of Barney Dreyfus, who had handled one of these little lawsuits we brought against the county--unsuccessful lawsuits--and she worked at the Institute for Governmental Studies on campus. She was an older woman, a good writer and a really fine person, and she was very interested in the Bodega case, interested in it as a social event, I think. She went with me, and we went with Strube.

It was a rainy day, I remember. This must have been in the early spring or late winter in '63, and I was living in a rooming house over here on Durant. The guy who ran the rooming house was a little technical wizard; he liked to play with electronics. He had made a little radiation detector that would fit in the inside of your coat pocket, and it made a little "beep" on exposure to radiation, and I took it along and stuck it in my pocket. We walked into this room out at Pleasanton where they were manipulating plutonium in one of these big boxes with the rubber gloves, and that detector just went crazy. It was tripping away in my pocket and I couldn't shut it up, and I was afraid Strube would hear it. [laughter]

Lage: He must have. [laughter]

Pesonen: There was a lot of debris around that place. It was dirty. So I was unimpressed. Nobody was being fried alive in this place or anything-- [laughter]

Lage: I wonder what he thought would impress you so much about it?

Pesonen: I don't know what he had in mind except that maybe seeing the awesome technology, and the care with which you had to walk through a radiation detector when you went into the room and when you came out, had to wipe your shoes and wear a smock, and stuff like that.

So we dropped Frances off, and we pulled into the parking lot of the place where I was living, and Strube wanted to talk. It was driving rain outside, and he shut the engine off, and the windows got all fogged up. He started to tell me that he was very concerned about what was going to happen to my life; that it would be very hard for me to find a job after this prominent role I had taken; that my politics was being questioned; that there was no future in what I was doing; and had I thought about that?

Here was this slimy, PR type giving me a fatherly lecture about What's going to happen to my life? I was infuriated, and I was depressed. And I got the sense that he was on the edge of offering me a bribe. He never did, and I can't accuse him of that, but I had this overwhelming nausea, almost, that I was being offered something if I would stop doing what I was doing. I thanked him and got out of the car and never talked to him about it again, but I'll never forget it.

Lage: But you did remain cool.

Pesonen: Oh yes. I didn't say "I'm--." No, I didn't blow up for him or anything. I thanked him for the trip, said it was very interesting. But inside, I was--. I wasn't seething; I don't get angry that way, I was just very, very depressed that something like that would happen. It was sort of like being in the presence of evil, you know. [laughter] I don't like to think evil exists, and when I rub shoulders with it, it always depresses me because I'm a fairly happy person and an optimistic one. That stayed with me for a long time.

Lage: Did it feel like a threat as much as a bribe? Like, "We can ruin you."

Pesonen: Well, it felt like both. It felt like both. And I was worried. I thought, "What am I going to do with my life?" I didn't have a career that was saleable, I was a forester and I wasn't working in forestry, I had taken on a huge corporation which had enormous influence. There were moments when I got worried. I would talk to Karl Kortum and say, "You know, maybe I'd better get out of this. What's going to happen to me?" I didn't have any support system. I didn't have any money. But I didn't quit, anyway. I put that out of my mind after a while.

Role of Udall's Department of Interior

Pesonen: By this time Udall was involved, the USGS was starting to issue preliminary reports of one kind or another. I'm fuzzy on the sequence, the details of those. They seemed to be very well laid out in this Pacific Historical Review article by J. Samuel Walker. There's a lot in that article that I had forgotten or didn't have in a linear way in my own mind.

Lage: Well, it's been a while since it happened, after all.

Pesonen: Well, I wasn't privy to all of what happened there. I wasn't supposed to talk to [Julius] Schlocker and [Manuel G.] Bonilla who were the two geologists from Menlo Park with the USGS. I felt it was not ethical for me to discuss with them what they were finding because I didn't want to appear to be influencing their assessment of the site.

By this time, PG&E had started construction. Preliminary construction could be commenced without a construction license and without any environmental review; there was no requirement of environmental review then. What I learned from Walker's article is that there were informal efforts between the AEC and the Department of the Interior to do what the National Environmental Policy Act now requires them to do.

Lage: I thought that was a very key thing when I read that--

Pesonen: That was very interesting.

Lage: --that Udall--

Pesonen: Yes. They proposed a joint memorandum for evaluation of nuclear power plants generally.

Lage: Right. To be sure they would comply with conservation efforts of the Department of the Interior.

Pesonen: And the AEC said they didn't have jurisdiction to look at environmental consequences of what they did there. It's a mandate now, under federal law. The Calvert Cliffs decision by the District of Columbia circuit made that very clear. It was one of the early, fine decisions under NEPA. But at that time, NEPA didn't exist and so Udall was approaching this, and using Bodega as a case history, as a centerpiece, to do what Congress finally mandated all federal agencies do. He was ahead of his time, and Bodega was the precipitator of it. I don't think there's any question about that.

Keeping Bodega in the News: Memorial Day Concert and Balloons

Pesonen: Well, we had to keep cranking the publicity up, so that's what gave rise to the Memorial Day '63 balloon episode.

Lage: Tell me about that.

Pesonen: That was--. Whose idea was that? That was not my idea. That was Pat Watters--that was Lu Watters's wife's idea.

Lage: I haven't heard her name mentioned in all these things. You hear about Lu Watters, but I don't hear about his wife.

Pesonen: Well, Lu's dead now, too, and they divorced a few years later, but they were living in Cotati, and they were very involved. Somebody had talked Lu into trying to play his horn again and--. Karl Kortum really thought this one up, Karl and Pat, and they put it all together. I just went and gave a speech. Karl had been a college student when Lu was at the height of his powers with the Down Club in Annie Place in San Francisco. Lu was the father of the revival of Dixieland jazz in San Francisco in the early forties, then after the war. So there were tens of thousands of people who knew who Lu Watters was and who didn't know anything about nuclear power or Bodega, or cared very much.

So we put that whole thing together, and it was a wonderful day. It turned out to be a beautiful windy day--the wind was blowing exactly the right direction. [laughter]

Lage: For what purpose?

Pesonen: To blow the balloons into places where people would pick up the cards and call the local newspapers. I was told, and it may be apocryphal, one of the balloons flew right into a hotel room in San Francisco, one of the balloons landed in the fountain at the Civic Center in Marin County--they came down all over the place.

Lage: Now, that wasn't your idea either, or was it? Whose idea was the balloon release?

Pesonen: No. I thought it was a wonderful idea, but I didn't come up with the idea. Pat Watters came up with the idea of the balloons, I think.

Lage: Because that was used a lot later.

Pesonen: It's been used a lot by people since then. So we brought Turk Murphy's band out there. Lu talked Turk Murphy into coming out with his band, Bob Helm, Wally what was his name--most of those guys are dead now. By this time Don Sherwood had picked the thing up and was talking about it on his morning talk show [on KSFO].

Lage: Now, he was quite influential on public opinion.

- Pesonen: He was very influential. He was funny, and he was irreverent. There was another group called the Goodtime Washboard Three out here in Berkeley that put out a record called "Don't Blame PG&E, Pal, It Must Be San Andreas's Fault." [laughter]
- Lage: That's a good one. And we didn't mention, I don't think, that Lu Watters recorded "Blues Over Bodega," or was that later?
- Pesonen: That was later. Lu hadn't recorded anything by this time. So there was a lot of attention. Sherwood was talking about it on his morning talk show, and then we had this big Memorial Day thing. Lots and lots of people came. We all drove out on the head, and PG&E had a public relations guy in a trailer out there and he just fled. We got all the balloons out, the band got their instruments out, and they started to play good old Dixieland, and we started letting these balloons go. They just soared off into the beautiful blue sky, sailed out over Sonoma and Marin counties and disappeared from sight. Each one with a card tied to it saying, "This balloon represents a radioactive molecule of Strontium 90 or Iodine 131"--molecule is technically incorrect, but it didn't matter--"If you find this balloon, call your local newspaper. It was released on Bodega Bay on Memorial Day, 1963." And they did come down in all different places.

The thing just caught people's imagination, and they had a point to make, which was that they were going to build a nuclear power plant on an earthquake fault, or next to one--certainly in a seismically dangerous place--upwind from where millions of people lived. That was our strategy--that really epitomized our strategy. We knew we couldn't win if the people in Sonoma County were the only ones who got concerned. We had to get the metropolitan San Francisco area up in arms. People had to feel personally threatened here.

- Lage: And, up until then, had they not been?
- Pesonen: Up until then it was some remote controversy way off up the coast someplace, it didn't affect them. This helped to bring it home.
- Lage: Did that event get a lot of coverage?
- Pesonen: It got a lot of coverage, and colorful coverage, and attention-gathering coverage.

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- Pesonen: So, our political theory was to make the Bay Area feel that this was part of the Bay Area's concern. By this time, Save San Francisco Bay Association had been started, so there was a

reviving environmental consciousness in San Francisco. We wanted to play into that. We found an atmospheric physicist at the University of Arizona, James McDonald, who was very well respected in his field. He came out and we got all of the meteorological reports and we dug out historic weather records and all kinds of stuff, and he put together a report.

The idea really was triggered by Karl Kortum, who remembered a forest fire up there back in the early fifties or late forties in which the smoke had gone down the coast and come in the Golden Gate. So we had a theory that, if there were a major accident and a release of radioactivity, it would come into San Francisco Bay, the prevailing winds being from the northwest. This atmospheric physicist was able to establish a high likelihood of that based on his analysis of all the weather records.

Lage: It would come down the coast instead of more inland?

Pesonen: Right. It was going to come down along the face of the coast and then blow in the Gate. It certainly would come into the San Francisco Bay Area. He had wonderful diagrams with maps and all kinds of stuff, and we put out a nice, impressive-looking report. We released that, and that got people's attention.

Lage: Now, was he someone you had to hire?

Pesonen: No. I think we paid his expenses, but he read *A Visit to the Atomic Park*, and we talked, and he felt the way we did: that this was wrong. There is no such thing, in my opinion, as a totally disinterested expert. That is a fiction.

Lage: On either side?

Pesonen: On any side, that is a fiction. There are certain professional standards, and an expert will only go so far, but they will make as favorable a report as they can within professional standards, most of them, on behalf of who paid them or what they believe in.

McDonald wrote his report because he believed we were correct, and I think that it's not a dishonest report. But there are a lot of uncertainties too. It depends on what time of day, what direction the wind is blowing. He just said it's possible, and it's not a low probability.

Growing Doubts about Site Safety and PG&E Pullout, October 1964

Pesonen: So we had this compilation of pretty good stuff. I think by this time we had Saint-Amand's report--I don't remember exactly when we got that--but we had McDonald's report, we had Saint-Amand's report, we had several reports that even PG&E's people, some of them, were uneasy about. Don Tocher, I think, was very uneasy about the project.

Lage: Was he with PG&E?

Pesonen: He was one of their consultants. There were a lot of people involved at this point that I wasn't personally acquainted with.

So it was building. You could tell PG&E was nervous. They did something that they had never done before, that I know of; they attacked us in the press. When they first did that, they put out a fact sheet: "Statements by the Northern California Association to Preserve Bodega Head and Harbor: The Truth." It had a question and answer format like that: falsity, truth; falsity, truth. Some of our supporters called; I know the Ruebels called, and they were very worried, "PG&E's come out and they've attacked us now. We're in real trouble," and I said, "It's the best thing that ever happened to us. I hope they do it more." Because all it did was give credibility to us. A little disorganized band of citizens, and the largest utility in the world is putting out lengthy statements refuting what they say. There's enough smoke there; there must be some fire in what we're talking about.

Lage: Was PG&E taking out ads, or putting out press releases?

Pesonen: Press releases. I don't recall any ads. You know, newspaper reporters are pretty cynical, and I think it changed the way the press perceived us. If we were worthy enough to get an attack from PG&E, then we were worthy enough for them to listen to us. When they got a press release from us, they paid attention to it; it wasn't just somebody blowing their horn out there. So we were able to get a lot of press, and we had a high level of credibility because PG&E attacked us. All of these things fed on each other. Everything is connected to everything else in something like this.

I get a little fuzzy on how things unfolded then. It seems like the fall of '63 was pretty quiet.

Lage: The report from Saint-Amand was the end of August '63.

Pesonen: Was it? Okay, yes. That sounds about right. I remember when we got the report, I went to see the president of PG&E and I said, "We've got this report, you are in an embarrassing situation, you are going to lose this fight eventually. We'll be glad not to release the report if you'll just pull out." [laughter] I can't believe how naïve I was.

Lage: How did you relate with him? Had you ever met him?

Pesonen: I'd never met him before. I didn't have any trouble getting an appointment with him.

Lage: Was this Sutherland still?

Pesonen: I think it was Sutherland. He had a staff surrounding him, and they all sat there and listened solemnly. [laughter] I can't believe I did that! Anyway, I did.

Lage: How did he react?

Pesonen: "Thank you very much, but we believe we are on the right track." Something like that. I didn't keep a diary then, and I wish I had, but it's funny when I look back on it. I didn't believe then, really, that they would pull out, but it would have been in their self-interest, but people don't act in their self-interest in big institutions.

But I seem to recall that things were pretty quiet then. Julie and I got married in August of '63, and so I think we were setting up a household, and she was working, and I was probably starting to think about writing a book on this. I was getting worried because we'd kind of run out of things to keep this story alive in the newspapers, and there were no AEC hearings scheduled.

Lage: You weren't spending every minute on this, it sounds like.

Pesonen: Pretty much. I don't think I had a job. I wasn't employed. But we just exhausted our--. By this time we had what we called an organization. We were raising some money, and I had a newsletter I was putting out and issuing press releases now and then. But it seemed quiet, and I was a little worried about that. And then, along came the Good Friday earthquake [in southern Alaska] in 1964.

Well, the USGS people were out at Bodega schlocking around, following the construction, and there would be a little story here and a little story there.

Lage: On September 25, '63, the USGS preliminary report came out that was strongly negative toward PG&E.

Pesonen: Preliminary report, but you get one day's press on that, and then what are you going to say?

Well, I think I was busy keeping track of all of these various reports and studies that were going on and putting out a newsletter to our members, and raising money from them, all of which we did by hand, you know.

Lage: Most of the money you raised was from small donors?

Pesonen: We had a few large donors. It wasn't a lot. I don't think we spent more than \$20,000 on the whole campaign.

Lage: Were your donors Sonoma locals?

Pesonen: One was George Wheelwright who lived in Marin County, on the ranch that is now the Zen Center, the Wheelwright Ranch. Wheelwright was very interested in what we were doing. He was a friend of Peter Behr's [Marin County supervisor and later state senator].

We had some public hearings. We had a public hearing before the Marin County Board of Supervisors, which Peter Behr chaired. We put together a meeting before a committee on the San Francisco Board of Supervisors, chaired by Leo McCarthy at that time.

Lage: Did you get them to pass resolutions?

Pesonen: Yes, or recommend resolutions, but mainly we used them as forums for more public attention, and they worked pretty well for that. They were just ways of keeping the thing alive until--. We fully expected we would be going to an AEC hearing.

Lage: Was there a lawsuit somewhere along the way?

Pesonen: There were a couple: against the Board of Supervisors for the way they had granted the local permits, but those were dumped. Barney Dreyfus brought those and did a nice job on them, but he knew that they were what the courts would have called frivolous, I think, today. They sanction lawyers for frivolous lawsuits today; they didn't then.

Lage: There probably weren't so many of them then.

Pesonen: There weren't so many of them then. There wasn't a need to sanction lawyers for them. And, in the larger sense, they weren't frivolous.

I don't recall what happened with any great detail, month-by-month until the Good Friday earthquake.

Lage: That was March 27, 1964.

Pesonen: Yes, that is right. That is when it was. And that was a big deal, because it was a horrendous earthquake. Life magazine had a cover showing whole hillsides of houses sliding into the ocean in Anchorage, and there was a tsunami created by that earthquake which hit Crescent City. It came into San Francisco Bay, too, and damaged some boats, and the wave killed some people in Crescent City. Here was an earthquake 3,000 miles away that killed people in California. It gave credence to what we were talking about: the power of these big seismic events.

Lage: Did that get immediately connected to Bodega?

Pesonen: No, I made the connection. We issued a press release, "This demonstrates what we've been talking about." People were scared. People forget, but they were scared for a while.

I was getting worried and optimistic at the same time. Our membership was losing interest. Nothing was happening. All we were hearing was press releases and press coverage. By this time, of course, Udall was involved, the USGS was involved, so this was big time! It wasn't just a little band of dissidents out here.

Lage: When you say your membership, who are you--

Pesonen: Oh, the people who got this newsletter. They didn't send money in as much, and I could just feel that our support was dwindling just out of boredom by the length of this campaign. It had gone on for two years, by this time, unresolved. But I was encouraged by what the USGS was doing and what Udall was doing and the uneasiness we detected among PG&E's experts. They didn't sound real confident. They'd come out and say that it was okay, but they didn't ring with confidence. Finally the AEC said they were going to have preliminary reports from their regulatory staff and from the Advisory Committee on Reactor Safeguards, and we anticipated those. When those came down, that was all she wrote. They came down in October [1964]. I think by this time I was getting ready to go to law school.

Lage: So you were making plans for your future by this time?

Pesonen: I was making plans for my future.

What happened is pretty much what Walker says happened: the Advisory Committee on Reactor Safeguards concluded that the site was adequate, with sufficient engineering safeguards, and the AEC staff went through a philosophical analysis of what "unacceptable risk" means and said that they didn't exactly know what it meant, but they knew that this one was over the line. That gave PG&E the out that they needed to say that, "We've always maintained it would be safe, and this distinguished panel of experts, the Advisory Committee on Reactor Safety agrees with us, but the staff has some questions, and we've always maintained if there was the slightest doubt about public safety we wouldn't go ahead with the facility." That was the gist of their statement and it didn't fool many people, but it made them feel better.
[laughter]

Lage: It made them feel that they had gotten out graciously. Do you think that all of the public attention was the key thing in raising the AEC staff--

Pesonen: Oh, absolutely. You wouldn't have gotten Udall interested; we had the Lieutenant Governor Glenn Anderson writing letters.

Stance of Governor Pat Brown and Democratic Party Officials

Lage: Now, how did you get the state people involved?

Pesonen: Well, when there is enough public attention on this thing, you know, politicians come to you because they want to ride on your coattails, and we want to ride on theirs. It's a symbiotic relationship. We need the emphasis that they give, the credibility and prestige they bring to our campaign, and they want to be identified as something they see as politically useful to them.

Lage: What about Pat Brown with all of his enthusiasm for nuclear power? At some point he comes out saying, according to the Walker article, "I don't like to see Bodega Head with a steam plant located out there in that beautiful place."

Pesonen: But that is not all of what Pat Brown said. If I recall correctly--I don't want to dispute this writing without looking up the original document, but my recollection is that he regretted that beautiful site was being used for nuclear power; he was sorry about it, but nuclear power was important and the

plant should go ahead. I don't recall that Brown ever came out against the plant.

Lage: It was after the AEC had issued its report in October, I see, that he held a press conference saying nuclear danger is too great to take a chance.

Pesonen: That was PG&E's position.

Lage: Right. It was just before PG&E withdrew.

Pesonen: They probably put him up to it [laughter]. It paved the way for their statement. I wouldn't be a bit surprised at that.

Lage: Did the issue get involved in Democratic Party politics? Somehow Jean Kortum is mentioned with the CDC [California Democratic Council] and--

Pesonen: Well, one of the first talks I gave to get support was to the Democratic Central Committee. Roger Kent was chair at that time, and they had a meeting in Rohnert Park. I don't remember when that was. I think it was late '62 or early '63. I carefully wrote what I think was a very good speech about what was happening, and they allowed me to get on the program. I used it as a forum. I gave a lot of speeches, most of which I don't remember where they were, but I talked to a lot of groups. I talked to the Garden Club in Mill Valley, the Rotary Club in Sonoma. I was all over the place.

Lage: Just like PG&E.

Pesonen: Just like PG&E. [laughter]

Lage: Did you get a good reception?

Pesonen: I almost got lynched by the Rotary Club in Sonoma. They all got drunk.

Lage: This was a lunch meeting.

Pesonen: No, it was a dinner meeting. It was the Kiwanis or the Rotary, and a local banker was the moderator, and I think they had a debate. It might have been Strube and me. These guys had too much to drink, and they really started coming after me.

Lage: Verbally?

Pesonen: A couple of them got up and wanted to take their jackets off.

Lage: Had you made statements that would provoke people?

Pesonen: No. I just told my story, but they believed in PG&E, the nice guys from PG&E were part of the Kiwanis or the Rotaries.

Lage: That's right, they were their fellow--

Pesonen: They were their fellow people, and I was attacking their integrity, I guess. And it meant tax revenue for a depressed agricultural economy. Lots of tax revenue. So I was a threat to their bourgeois values. This banker stepped in and calmed things down. He said, "Look, we invited this young man to come and talk to us. He is our guest. We have an obligation as gentlemen to," there are no women in Kiwanis, so he could say, "we have an obligation as gentlemen to treat him with courtesy." That chained them, and they all settled down and went home.

Lage: Now how was your reception at the Democratic Central Committee?

Pesonen: Very good. Roger Kent was very helpful. He was helpful throughout the matter, behind the scenes. He may have had something to do with Udall being involved, too. Roger was a wonderful man.

Lage: Do you remember other things that he might have done?

Pesonen: I think he opened doors for me. He was a person who peddled influence. He had a lot of influence; he was widely respected, and he had been active in Democratic politics for a long time, and he was from a prominent Marin County family that was very wealthy. I think he even gave me a little money. It was more Roger than the central committee. I don't remember who else was on the central committee.

Lage: And did Jean Kortum work in political circles?

Pesonen: Yes, Jean was very active in San Francisco politics and Democratic politics. I don't recall if she was ever on the central committee. She was very close to Jack Morrison, who was mayor [of San Francisco] or became mayor right around that time. She worked on Morrison's campaign. She was part of what would now be called the old-line San Francisco liberal establishment. Jean's very smart. Jean did a lot of the hard work on this. She set up an appointment for us to go and talk to Jerry [Jerome] Waldie who was speaker of the assembly at that time, out in Antioch. She had a lot of contacts and was creative and worked hard and she had good public relations sense. She's the one who put together that collection of clippings that we distributed to

show how much attention was given to this, which was a political device.

Lage: To interest the people in politics?

Pesonen: For people in politics.

That's the story.

Lage: What have we not covered? We've gotten PG&E out.

Pesonen: There are hundreds, thousands of anecdotes.

Lage: I'd like some of the anecdotes.

Pesonen: Well, you know, I don't remember any.

Lage: If you remember them.

Pesonen: It's hard for me to dredge them up on my own. They have to be precipitated by a bottle of wine and story telling and then they come. I think that I am the kind of person who--. One of my strengths is to see the big picture, but I lose the details.

Lage: Well, it has been thirty years.

Pesonen: Yes, and I remember this one better than a lot of things I've been involved in, because it was a big part of my life. It really shaped my life in a lot of ways.

Lage: Well, if they come back to you at some point, throw them in.

The Technical and Human Problems with Nuclear Power

Lage: One thing you didn't tell here, which you told me the first time we met, was how you delved into some of the technical matters and what your background for that was.

Pesonen: Yes. I felt it necessary, when I said something about nuclear power, that I knew what I was talking about. So I spent a lot of time reading a lot of technical material. I had had the brief hope to be a nuclear engineer when I first got out of high school. I was kind of dazzled by nuclear power, too, but it became clear to me that I did not have the mathematical proficiency. I wasn't going to be a brilliant nuclear physicist,

but I found the subject fascinating and I had read about it long before Bodega.

How did it work? I've always been interested in how things work. When I was a little boy, I used to take clocks apart and try to put them back together, and I always fixed my own fishing reels, and I was always taking things apart and putting them back together. I've just always been interested in how things work. I was very interested in how nuclear power worked. It was a fascinating topic and very interesting physics. It was the big breakthrough in science.

Lage: So you were part of the same group that was affected by this feeling that atomic power might be the saving grace?

Pesonen: Yes. At first I did believe that. I wasn't against it. So I got interested in how a nuclear power plant works and how you keep it safe and what does it do?

Lage: Did you get a more jaded view of nuclear power aside from the site at Bodega, with the faults and all that?

Pesonen: No, I didn't get a jaded view about nuclear power. I never thought it wouldn't work. I thought there were some real problems. The waste disposal problem was very serious, and whatever was necessary to protect against a major meltdown and a release of this intensely radioactive material--fission products--into the environment. I became convinced that it wasn't safe, not because of the physics of it, but because of the kind of people I ran into who were in charge of it. [laughter] The same kind of people who ran the plant at Chernobyl, you know? They believed so strongly in what they were doing that they would cut corners.

Lage: Now, where did you see that happening?

Pesonen: Well, Bodega was the best example.

Lage: The way they handled the reports?

Pesonen: They would sort of deny what was plain on its face to me. I didn't trust them. It wasn't any emotional antipathy toward nuclear power as a physical means of making energy.

Lage: There's a lot of, and I suppose it's in the Wellock article but other places too, talk about the anti-technology theme as if there was just sort of a dislike of technology.

Pesonen: Well, I didn't share that. I'm sure a lot of people who supported what we were doing were part of that anti-technology--the Luddites of the world. And I'm not a Luddite.

Lage: Later, did you come to oppose nuclear power in a broader sense?

Pesonen: Mainly because of the waste disposal problem. I don't know the answer to that. I don't know that anybody does. And also because I think the design of the generation of plants that we are involved with is inherently unsafe. I gave a speech, in fact, in 1974 to the American Nuclear Society where I said that. I said, "You could make a safe nuclear power plant, but you're in too big a hurry to make a profit from a design which was invented by Alvin Weinberg to run submarines with about five megawatts of power, and that's pretty safe because it's small. There's not enough heat there to melt the whole works down. But you move up to 2,000 megawatts, and you've got too much residual heat there and you can't get rid of it if something goes wrong."

But there are entirely different designs--some that use thorium, some that use graphite for a moderator. The Canadians have a reactor that's almost impossible to melt down. They're called CANDU reactors. But there are other designs that have inherent feedback safety mechanisms: as they start to run away, they shut themselves down.

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Pesonen: I still feel, on one level, that nuclear power could be made safe. It may have to be at some point. I'd like to see it made safe, but the industry used the 1954 Atomic Energy Act as a way of appropriating a technology which had been developed for a different purpose--scaling it up, but without changing its fundamental design: a water-moderated, enriched uranium reactor that is controlled by boron rods that are mechanically operated is inherently unsafe. So you have to have emergency core cooling systems and huge containment structures and all kinds of other safety devices that are extraneous to the operation of the reactor; which are only designed for safety, to work in emergencies and not to work at all until there is an emergency. And, like the fire extinguishers in most houses, they don't work anymore--or the smoke detectors--and even when they are needed, they don't work very well. It's not a particularly good analogy, but it will do for the moment. I know enough about reactors from what I read back then that I am sure there are inherently safe designs. But the industry was in too big a hurry to get out front, competitively. The profit motive drove them, not so much to cut corners, but to avoid the heavy capital investment and the research and development investment into safer design theories.

- Lage: It seems very much kind of the engineering, seat-of-the-pants approach. They found a system at fault, so they devised a--
- Pesonen: Yes, there was some of that at Bodega, but we're talking about nuclear power, generally. And I've always felt that. On some other level, I think that there is a societal problem that we are going to run out of resources sooner or later--not just energy, we are going to run out of a lot of things, and a substitute source of energy for fossil fuels will just delay the day when we are going to have to reckon with the size of our population and demand on the planet. But that's a different issue.
- Lage: You probably hadn't worked all of that out at Bodega.
- Pesonen: But that's not a technical question. In a nutshell, that's how I feel about it, and always have.
- Lage: You haven't changed over time?
- Pesonen: No. I haven't changed over time about that.
- Lage: Did you have any feed-in to the Sierra Club as they were working out their position on nuclear power after Bodega?
- Pesonen: Some, but not too directly. That really happened around the Diablo Canyon fight, and I was in law school when a lot of that happened and I didn't have time to get involved in it.
- Lage: And it happened later, too.
- Pesonen: It happened later.
- Lage: Did you know Fred Eissler, who seemed to sort of carry the flag in Diablo?
- Pesonen: Yes. Well, Fred was involved with Bodega, too.
- Lage: Oh, he was? How was he involved in that?
- Pesonen: To some extent. He was one the board--I think he was one of the dissidents on the board who wanted the club to support us, and he was in a minority. He was down in Santa Barbara. He wasn't close enough--.

I was not that involved with the Sierra Club. You know I worked, for a short time, for Ed Wayburn [Sierra Club president during the 1960s.]

Lage: Now when did you do that? I saw a notice in the minutes that they had gotten some money to hire you as an assistant to--

Pesonen: Assistant to Wayburn, who was president then.

Lage: And that was in '63.

Pesonen: That was in '63.

Lage: Did you go back and work for them then?

Pesonen: I did for a while. Not for very long, because I was still working on Bodega then.

Lage: I was kind of surprised, given the split about Bodega, that they would hire you right at that time.

Pesonen: Well, they thought I was pretty effective, I guess. I did a lot of other things for the club, besides nuclear power, and I could write, and I could speak well, and Wayburn needed help. He was a physician; he had a practice. But it became very clear that it was an embarrassment to him for me to be his executive assistant and do what he needed and comply with club policy on nuclear power and then put on my other hat and go speak out on Bodega. It just got too confusing, and it just wouldn't work. He didn't have that much for me to do. [laughter] I suppose you could spin out a conspiracy theory that this was a way to try to keep me quiet. If somebody had that notion, it didn't work. [laughter] I don't think Ed was party to any such idea. And I'm not suggesting that was a fact.

Lage: From the minutes I read [looks at notes] it sounds like they had gotten a specific donation. Maybe just to hire somebody for Ed, but I wondered if they had gotten a specific donation to hire you? [Sierra Club Board of Directors Executive Committee minutes, October 5, 1963.]

Pesonen: I would be interested to know where the donation came from.

Lage: I would too. That's not in the minutes.

Pesonen: I don't remember that.

Lage: There are still some ends I think we need to tie up, or some reflections, but we can begin with that next time.



The Hole in the Head, nuclear reactor under construction at Campbell Cove, Bodega Bay.

Photo by Karl Kortum



Harold Gilliam and David Pesonen at Sierra Club Offices, 1962.

photo by Karl Kortum



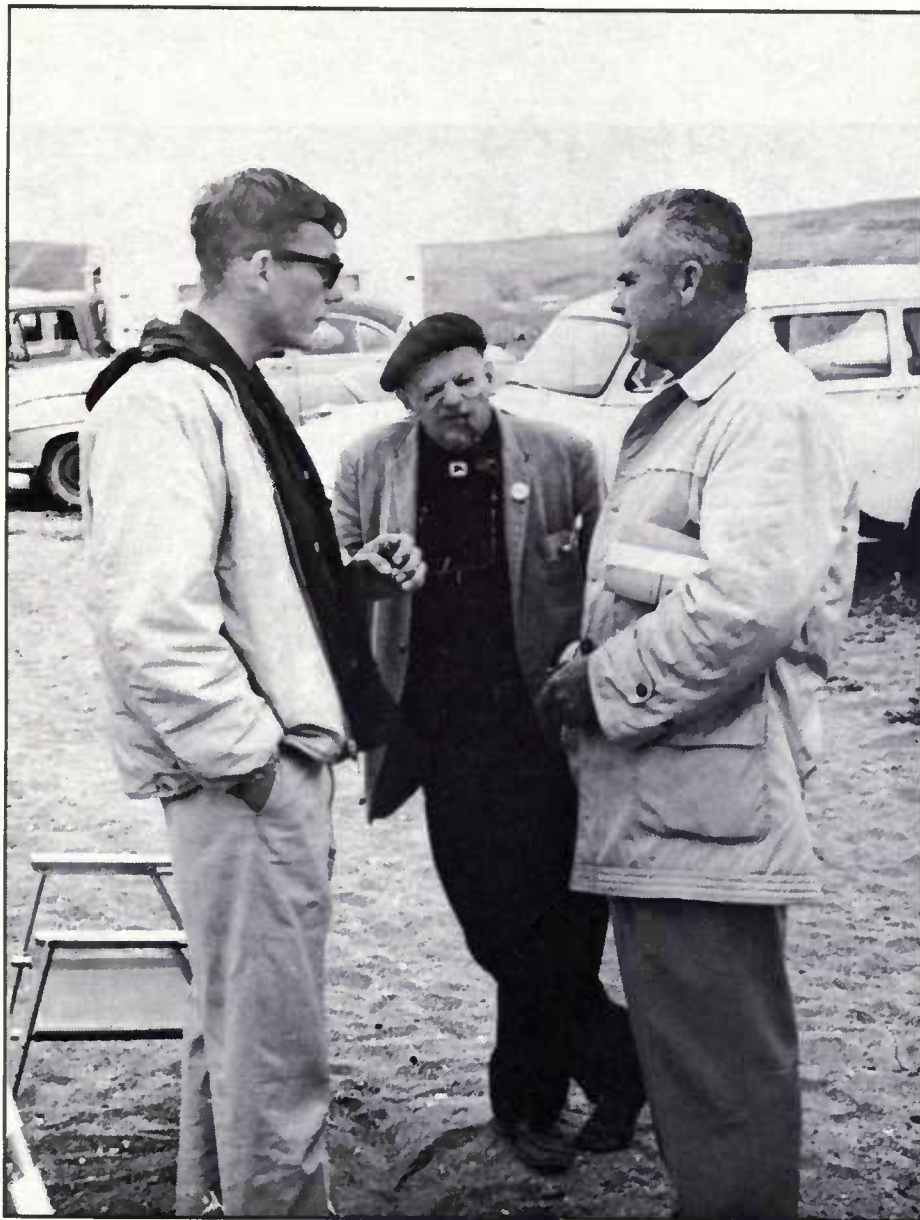
Karl Kortum, Joe Neilands, and David, after the PUC hearings, March 1962.

Kortum photo



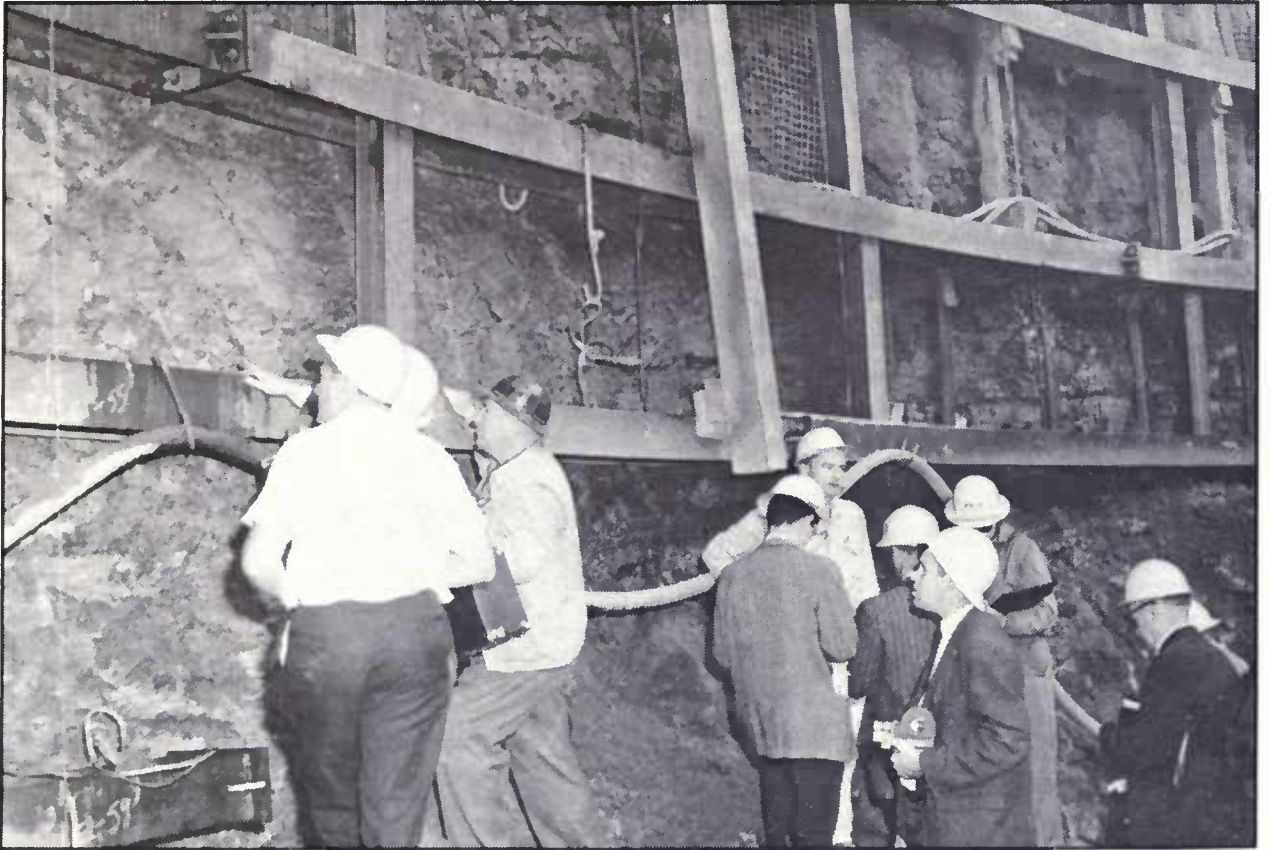
Bob Helm, clarinet; Bob Neighbor and Lu Watters, trumpets; Turk Murphy, trombone--Memorial Day 1963 concert and balloon release at Bodega.

Photos by Karl Kortum



David Pesonen, Joel Hedgpeth, Lu Watters, at a Bodega event. "Regarding Dave Pesonen, it was a disastrous break for PG&E when this talented and determined Finn appeared on the Bodega scene blessed with the energy of a dozen pack mules!" (Lu Watters, 1964).

photo by Karl Kortum



Finding the Fault--USGS team in the reactor hole.

Photo by Karl Kortum



David Pesonen with Rose Gaffney, a rancher on Bodega Head whose land was condemned by PG&E. "Before the man even sat down in my house, he told me that PG&E's powers of condemnation were greater than those of the State of California" (Rose Gaffney, ca. 1964).

photo by Karl Kortum



Jean Kortum and David on a lobbying trip to Sacramento.

Photo by Julie Shearer

Protestor at a demonstration at PG&E's San Francisco headquarters, 1963.



Joe Beeman, Willie Brown, John Burton with protest placards, 1963.

Photos by Karl Kortum



"Saved: Bodega Head"
Hazel Bonneke [Mitchell] and David after the
victory.

Photo by Julie Shearer

IV MORE REFLECTIONS ON THE BODEGA CAMPAIGN AND ITS AFTERMATH

[Interview 3: February 12, 1992] ##

Pioneers of Sixties-Style Activism or Pragmatic Campaigners?

Pesonen: I am probably finding out more about the Bodega campaign from this interview than you are, because these articles are coming out now that have done a lot of research that I never did, uncovering things I didn't know about. I didn't know there was an FBI investigation or a J. Edgar Hoover dossier on us until I read the Wellock piece.

Lage: Oh really?

Pesonen: No, I had no idea about that. There were people who suspected that there was some kind of FBI investigation of the "subversives" running this thing, and I just brushed it off. It wasn't worth the psychic energy to go play with that idea when I had other things to do; it was just not my temperament. But it is an interesting fact. It was all speculative until I saw the authority in that paper form. There are lots of little odds and ends and tidbits from the two articles: the one in the *Pacific Historical Review*¹ and the Wellock piece². They both did a pretty fair job.

¹ J. Samuel Walker, "Reactor at the Fault: The Bodega Bay Nuclear Plant Controversy, 1958-1964--A Case Study in the Politics of Technology," *Pacific Historical Review*, 1990, pp. 323-348.

² Thomas Wellock, "The Battle for Bodega Bay: The Sierra Club and Nuclear Power, 1958-1964," later published in *California History*, Vol. LXXI, No. 2, Summer 1992, pp. 192-211.

And I got confirmation of some things in the Sierra Club that I suspected but didn't know about. I didn't realize how vehement Dick Leonard was.

Lage: You didn't get that impression from him?

Pesonen: I didn't get it personally.

Lage: I think maybe Phil Berry did. He might have been present at the meetings; maybe you weren't even present.

Pesonen: Well, yes, he was much more active in the club than I was. I was never very active in the club; I am not much of a joiner, actually. I'll talk to Phil about that.

Lage: Today we are going to go over what we missed about Bodega and wind that topic up. Did you have a chance to look through the scrapbooks that Julie mentioned?

Pesonen: I'm not sure what Julie means by the scrapbooks. I've got about eight volumes of newspaper clippings.

Lage: Maybe that is what she was talking about. That would take you a while to review.

Pesonen: That is a huge undertaking.

Lage: I thought maybe we had one scrapbook of pictures.

Pesonen: No. There is a little book of commemorative parties we had when PG&E pulled out, but that was a gift to me at that party. It is not historical in that sense.

Lage: Are the eight volumes going to go to the Bancroft sometime?

Pesonen: They could. They are all bound up in binders with all of the newspaper clippings for years.

Lage: Think of what a source it would be for somebody. Joel Hedgpeth's Bodega papers are there.

Pesonen: Well, Hedgpeth is a real pack rat. In fact, I got that out of the Wellock article, that there was correspondence between Hedgpeth and me that I had forgotten all about, that Wellock very selectively quotes from to support the thesis he has got that we were precursors of a technique of agitation that ripened and got mature in the sixties, and we were the pioneers of it. I don't share that thesis, and I think he had to get a little selective in his choice of materials to support it, but--

Lage: Well, you wouldn't necessarily have to say you were doing this consciously, but do you think that you did bring new techniques that were precursors or were elaborated on later? Or maybe even served as a model for later?

Pesonen: I don't know. It certainly was no conscious plan on our part. I think it was happening all across the country and it was happening in various ways depending on what the issue was. Right here in the Bay Area you had three very prominent establishment women spearheading the "Save the Bay" campaign simultaneously with the Bodega campaign, and using many of the same techniques. They were much more decorous and polite about it, but they were appealing to the same instincts in the public: the emergence of an environmental consciousness. I thought we were operating on parallel tracks.

We had different problems, and we had to respond to those problems in different ways. We had a huge corporation which had a great deal of political influence and was conscious about fostering its political influence; it had ties to the University through the Sproul family; it had been around a long time; it was a monopoly; it made sure that it gave charitable contributions to a lot of people; it had a conscious corporate policy of having its field personnel active in social clubs and service clubs in the rural areas. This was still largely a rural state. This was before reapportionment, when each county had a state senator.

Lage: The Rotary Club in Sonoma County had some political impact?

Pesonen: The Rotary Club in Sonoma County could swing the vote of one state senator. They couldn't now; there have been enormous political changes in this country. But we had to respond to the environment that we operated in, and we knew that we would never prevail if we relied on rural sentiments. They were very conservative. It was inherent and natural to accept a whole set of values that are traditional capitalist values. Small businessmen admire big businessmen. [laughter] And believe them and believe they do right.

Lage: And that it is good?

Pesonen: And that it is good.

Lage: The statements of Nin Guidotti [Sonoma County supervisor] are just classic.

Pesonen: Sure.

So we had to respond to that environment and we had to pull that issue into the urban Bay Area. The balloon event on Memorial Day, 1963, is a classic because it visually and dramatically caught the attention of the urban community, reminding it that its destiny was tied to what was happening way out here, fifty miles away in a little rural county up north on the coast. Until that kind of thing took place in the mind of the urban public, or at least some opinion leaders in the urban public, we didn't have a chance. Whereas the Save the Bay Association had the bay right here in the middle of the urban community, and they could use different techniques. But if the situation had been reversed, I think they would have used the same kind of techniques we did.

So we didn't see ourselves as pioneers of any technique. We tailored what we did to the needs of that campaign.

Some Key Figures: Doris Sloan, Joe Neilands, Charlie Smith, Sam Rogers

Lage: I don't think we talked about Doris Sloan. Did--

Pesonen: I don't know how much we talked about Doris, but Doris was a very important factor in the campaign. Everybody was important; it was very much a team effort. Maybe that was just a reflection of my style of leadership.

Doris had been active in the Sierra Club in the newly organized--I don't know if it was officially organized, but it was a nascent--Redwood Chapter. She was a young, active woman with a lot of energy.

Lage: Did she live in Bodega?

Pesonen: She lived in Sebastopol. She had been married; I think she had recently been divorced. She had four small children. I don't know how she got the energy to do all of this stuff. She was very active in the American Friends Service Committee. I don't know how she supported herself.

Lage: She is a scientist now, at UC, isn't she?

Pesonen: After Bodega, she went to the University and got a master's degree in geology and she is now an instructor.

Lage: But at the time she wasn't?

Pesonen: At the time she didn't have the scientific background. But she was very bright and sensible and has a low threshold of anger over the way PG&E was steamrolling through the county. There may have been some other connections that got her stirred up. I don't remember how I got in touch with her, I just remember that very early on, Doris was involved and she really got involved after that meeting in Santa Rosa in November of 1962 when Alexander Grendon stood up and made a fool of himself.

Lage: That fired her imagination?

Pesonen: It fired the whole audience up, as I described in our last session. After that, Doris was full time. She wasn't being paid, but we gave her a title: Sonoma County coordinator. She was the eyes and ears of what was going on in Sonoma County. If we had to appear before the board of supervisors or the planning commission, Doris would make the appearance. I didn't have time to go do all of that. We were constantly in communication about what was happening and strategies. I don't recall that we ever had any disagreements about what to do. Somebody would have an idea; we would toss it around, and if it was good, we would go with it.

Lage: It sounds very informal. Did you have formal meetings of the council?

Pesonen: We never had any elections; we didn't keep any minutes. It was very informal. It was a network more than an organization.

Lage: Were there certain people that you were always careful to check with before something was decided on?

Pesonen: Oh sure. Well, there were lots of things I did on my own. Pretty soon after you network long enough with people, you get to know what their reaction is going to be. We were in almost daily contact, so people shared information, and we had enough of a mix of talents that without there being any real discussion about it, things would just fall into place, depending on who could do what, where they were, when they had the time, and what abilities they had.

Lage: Did you have any trouble keeping people stirred up? The people at the top, shall we say?

Pesonen: Not the inner group, no. We stayed stirred up. We didn't work on it all of the time. It is not a nine-to-five job. We responded to needs.

Lage: Now, you didn't get any salary?

Pesonen: No, I didn't get paid at all.

Lage: You were supporting yourself on the side?

Pesonen: I was supporting myself on the side. After the first year of the campaign or so, Julie and I were married and Julie was working, so Julie gets a lot of credit for this. She carried this worthless husband [laughter] through the whole thing. We lived off of her salary.

Lage: Well, she was pretty committed to it too, it seems.

Pesonen: She was very supportive. She was a tireless worker. She had a lot of good ideas, too. But she had a regular job. She worked for [UC Agricultural] Ag Extension, and I was either writing or agitating or doing whatever I was doing. Sometimes I would pick up a little money on the side, maybe some kind of little consulting job or something, but it was mainly a gratuity. Somebody was trying to help me out and justify it to themselves that it wasn't a gift. I don't even remember what that was, it was so little.

Lage: You said you worked for Neilands. Or was that earlier?

Pesonen: That was earlier. That was when I was writing *A Visit to the Atomic Park*.

Lage: Was he involved in the inner circle, too?

Pesonen: Neilands was very much involved.

Lage: Tell me about him.

Pesonen: Neilands is an interesting guy. Neilands was more ideological about this. He was very much a public power advocate. He comes from an old radical background and we sometimes had some disagreements with Neilands about what direction the campaign should take.

Lage: Did he want to take it in a more ideological way?

Pesonen: He wanted to take it in a more ideological direction. I firmly eschewed that. I thought that would be the death knell. We had to keep it completely unideological. We were going to save Bodega Head. It was a bad project, it was full of risks, and that was it. We weren't interested in taking over PG&E, we weren't interested in promoting public power. There was a movement then for Berkeley to buy out the PG&E distribution system.

Lage: I remember that. Was that at the same time?

Pesonen: Neilands was very active in that campaign. His bugaboo was the Raker Act. The Raker Act had been passed as a compensation for the damming of Hetch Hetchy during the progressive era, and the Raker Act required that San Francisco buy out the PG&E distribution system and become a public power city. There are seven or eight cities in the state that have their own electric distribution system: Alameda, Glendale, Anaheim, Sacramento had bought out the PG&E system in the late forties or early fifties--Santa Clara, Ukiah. There are little communities around that as a holdover from the progressive era had developed their own electric distribution systems. They didn't generate electricity; they wheel power across PG&E lines. PG&E was required to distribute it, and they bought Bureau of Reclamation power. Then the Reclamation Act gave preference for the sale of federally produced electricity from federal dams to municipal systems.

Well, Neilands wanted Berkeley to have a municipal system. And he had an ally, a guy named Charlie Smith. Charlie Smith was a great advocate for public power and Berkeley's buying the distribution system. They wanted to bring that issue in and bring enforcement of the Raker Act to compel San Francisco to comply with that federal statute. I wasn't opposed to the idea; I just didn't think that it ought to be mixed up with the Bodega campaign.

Charlie Smith was helpful because in those days there were no fax machines; there were no xerox machines; there were no computers. So our printing was done either on old offsets or mimeograph. Charlie fancied himself as a pamphleteer in the Tom Paine tradition. He had a mimeograph machine in his basement. It was like stepping back into the revolutionary times. He would wear a sandwich board [laughter] and print up these pamphlets--he even had a folding machine, I remember, that would fold them three ways--and stand out on the corner down here at Shattuck and University and hand out these pamphlets on anything; on all kinds of things: world peace, stopping atmospheric testing of weapons, buying out the PG&E system. He had ten or fifteen issues that he was a pamphleteer on. He would spend his Saturdays and Sundays pamphleting. It was his recreation.

Lage: What kind of work was he doing?

Pesonen: He worked for the Department of Highways; he was an engineer. The Department of Transportation now. He was a nice guy, and he did all of our production for free, which was a big saving. We couldn't afford to go to a print shop and mimeograph all of those

newsletters and press releases and stuff. Charlie was a lot of fun.

He and Neilands were the champions of public power. Neilands gave some money. He was a full professor at the University and was very kind to me by giving me that job in his lab at night while I wrote that pamphlet. I have kind of lost touch with Neilands over the years.

Lage: He is interested now in animal rights.

Pesonen: He is very much interested in animal rights now, I understand. That is just from what I get in the paper. I haven't talked to him about it.

Lage: I hear Charlie Smith's name periodically. I can't remember in what connection.

Pesonen: I think he still lives in Berkeley. Once Bodega was over, there was not a tight bond among all of us. A tight bond and a close friendship continued with Doris Sloan and the Kortums. Sam Rogers, if he hadn't moved away, I think we would have stayed good friends, but he is teaching up in Montana, I think, and we kind of lost track of each other because he lives so far away.

Lage: Who was Sam Rogers?

Pesonen: Sam Rogers was a grad student who worked for Neilands. Rogers was the one who spent the time and dug out the contradictions between the seismic geologic and engineering reports submitted with the AEC license in late '62 with those same kinds of material that had been given to the PUC. And he found just major inconsistencies. It was his work that was the foundation of the petition we filed in early '63--I don't remember when we filed exactly--with the PUC to reopen the whole proceedings that led to Bill Bennett's dissent from the decision of the PUC to deny that application. I think I mentioned that last time.

Attorney Barney Dreyfus and the Use of Lawsuits at Bodega

Lage: Then there was a lawsuit you mentioned that you said would now be considered a frivolous lawsuit. That followed?

Pesonen: That was right about the same time. I think it was in the spring of '63.

Lage: Did you see it as a frivolous lawsuit at the time? A sort of delaying action?

Pesonen: I wasn't a lawyer then. No, I didn't think it was frivolous. I thought what the county did was a major violation of the law. It had to be wrong some way or another for the board of supervisors of Sonoma County, without a public hearing, to grant a permit to build this massive industrial facility on a beautiful site.

Lage: It would be illegal now, wouldn't it?

Pesonen: Sure, today there would be an environmental impact report, there would be ten thousand permits--

Lage: Lots of public hearings?

Pesonen: Lots of public hearings. There would be all kinds of stuff. But that didn't happen in those days. So we persuaded Barney Dreyfus to file that suit. And it wasn't a frivolous suit--I don't think it was frivolous. It was a creative piece of lawyering.

Lage: That is a good way of putting it. Now, how did Barney Dreyfus come in on it?

Pesonen: We were looking for a lawyer to do something. We knew we had to file some lawsuits that were vehicles for getting some attention, for one.

Lage: In a way that was new, too. The environmental lawsuit was not a common thing.

Pesonen: Not yet. It was not a common thing yet. It was pretty much my idea that we had to file some lawsuits because there was something that was wrong. I was not a lawyer and I didn't know exactly what was wrong, but it just felt wrong.

Lage: It should be illegal.

Pesonen: "Where there is a wrong, there is a remedy" is what they tell you in law school. That is not always the case, but I believed it anyway at that time. We were looking around for a lawyer. We knew that we weren't going to get any big conservative law firm to represent us. Barney's firm was Garry, Dreyfus and McTernan at that time. They were probably all old members of the Communist party; they were all idealistic radicals from the thirties. Barney was a very elegant lawyer.

Lage: How old a man?

Pesonen: He was probably in his fifties then. Charlie Garry had not become famous through the Black Panthers yet. He was a criminal defense lawyer. And McTernan did civil law, probate and other things. Their clientele was the radical community; the old left community in the Bay Area. They had all been very active in the National Lawyers' Guild, which had been a target of the House Un-American Activities Committee. Barney had been president, and I think Frank had been president, and I think Charlie Garry had been president at one time. At least Garry had been president of the Bay Chapter which was the biggest chapter outside New York City of the National Lawyers' Guild. The Lawyers' Guild was a left-wing bar association; I don't think there is any doubt about that.

They were the people who were used to taking risks and used to trying to be creative. You had to be creative if you were going to protect yourself. Barney had been called before the House Un-American Activities Committee, and I think Frank and Charlie had been and had distinguished themselves very well.

Barney was very reluctant to take the case.

Lage: Who approached him?

Pesonen: Doug Hill--Doug and Mary Ann Hill were very helpful in the campaign. I don't remember how I met them. Doug was a law student and they came to a meeting one time. I think we had a meeting in Berkeley and word got out. They showed up and Doug got very interested in the campaign. Doug was more interested in the printing and the communications side of it. He and I, I remember, spent all night one night running an old offset machine he bought someplace to print the pamphlet about the earthquake hazards and bind it ourselves. We did everything ourselves, typed it ourselves, typed the plates; we did it all, the two of us.

Doug was active in the Lawyers' Guild, and he somehow found Barney. I didn't know anything about that world. I was not active in left-wing causes, and I didn't know what the Lawyers' Guild was. Barney was very reluctant. Francis Heisler was helping us, but Heisler was not really a lawyer.

Lage: He didn't practice?

Pesonen: Heisler was a unique character. He was a Jewish refugee from the holocaust. He looked like Albert Einstein. He had white hair down to his collar, a very kind, elderly face; he was the spitting image of Albert Einstein, every classic picture of Einstein. And he was a Talmudic type. He lived in another

world, and he would file lawsuits. I am told he was a pretty good lawyer back in Chicago, but he had kind of semiretired and was living in Carmel. He would write letters and do things for us, but he wasn't in a position to file any lawsuits.

So we called a meeting down at a hotel near the San Francisco airport. Heisler was coming through San Francisco on his way to Chicago, and he agreed to meet with Barney and try to talk Barney into taking the case. I still have a photograph someplace of Barney sitting back on a couch in some motel down there by the San Francisco airport and Heisler with the light coming in the window, shining off the top of his head, with four or five other people--I think Neilands was there, I was there, Doug Hill was there, maybe Doris was there, Jim Goodwin--I can just see that picture. Heisler very eloquently described what this case and the whole thing was about. It was a breakthrough, historically, and Barney had a professional obligation to take the case even if we didn't have any money. To Barney's credit, he finally, after a long time, said he would do it. My heart was thrilled.

Nowadays, you go out and get the Sierra Club Legal Defense Fund, the Environmental Defense Fund, or some other lawyer. Even the big law firms have *pro bono* operations that will do these things. But those days were different. You couldn't get a lawyer. I told Barney we would try to raise a thousand dollars, which today wouldn't get you in the door at a law firm; wouldn't get you a cup of coffee. And he put on it a young, very bright lawyer in the office, Don Kerson. Don Kerson really handled the legal work; drafted the complaint and went with Barney to make the appearance. Ultimately, we paid Barney the thousand dollars.

I got kind of disenchanted after maybe six or eight months. It didn't seem like Barney was doing enough. I made a terrible mistake, which didn't have any permanent consequences. I got a call one day from Melvin Belli, and Belli said he wanted to work for us. We were getting a lot of publicity, and we were getting a lot of ink and attention, and I think that if there is anything that is mother's milk to Melvin Belli, it is the press. [laughter] So he invited us over to his office on Montgomery Street.

Lage: That wonderful office that you can peer into from the street?

Pesonen: It is full of antiques, and he sits there and pontificates. So we had a big meeting over in his office.

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Pesonen: Belli was working with the Anti-Digit Dialing League.

Lage: What was the Anti-Digit Dialing League?

Pesonen: Well, Pacific Telephone at that point had announced that it was going to abandon the old prefixes for phone numbers, Klondike and Thornhill. You used to dial the first two letters and then five numbers. You just remembered phone numbers by the word prefix. I have forgotten what they were now. But people were very attached to them.

Lage: They had kind of neighborhood ties.

Pesonen: They were very sentimental. There was also the campaign to save the cable cars going on at that time, so the city was full of this sort of nostalgic turmoil. And Belli was one of the leaders of the Anti-Digit Dialing League. That was winding down, and I think he wanted another utility to take on to get some more ink. We had a long meeting with him, and he said we were doing a great job and he would like to handle it. Apparently he called Barney to see how Barney would feel about it, and Barney told Charlie Garry, and Garry was furious. He just exploded. He called me in, and he just read me out like I have never been read out in my life. Here they had put their firm on the line; they had done this for free; they had taken great risks; they had done it out of eleemosynary instincts and out of belief in the cause; and here I was going around behind their backs to some other lawyer. Charlie liked ink too, you see. [laughter] The only thing we were going to steal from Charlie if we went to Belli was the opportunity to get your name in the papers.

Belli never followed through with it. He is a flake. That probably shouldn't be on the tape.

Lage: That he is a flake? Well, you can take it out, but I think people know. [laughter]

Pesonen: But Barney was a wonderful man. He had a great sense of dignity, he was very bright, and he never lost sight of the objective of what he wanted to accomplish. He never exhibited anger. He was always kind. He was widely respected throughout the bar, even by the most conservative people who hated his politics; they adored him. He had a nice, wry sense of humor. He was just one of these people you adored.

Lage: Did he take a larger role in the campaign?

Pesonen: He never took a role outside the lawyer's role. He'd give me advice now and then if I asked for it, but he didn't try to put

himself out in front and make strategy. He was very clear about what our roles were.

Lage: Did he get committed to the cause?

Pesonen: Oh sure, he thought we were on the right track, and he was delighted when we won. He was one of the first people that I called when we got word that PG&E was pulling out.

Lage: But the lawsuit itself, did that have much of an effect?

Pesonen: Oh, that was a flash in the pan. We got one day's press out of that and that was gone. We filed two or three, but they were little procedural kind of lawsuits. Hold a hearing instead of going ahead. They were attempts to compel some process to take place. We never filed any lawsuits to substantively stop the plant. We had no authority for that.

That is one little byway in this whole story. I suppose Wellock would find in it support for his thesis that we were precursors of a radical movement. We certainly drew on people from the left because they were and still are to some extent, although times have changed a lot in the last thirty years in that political landscape, the people who had seen oppression. They were the people who organized the freedom rides in the civil rights movement; they were people who wanted social change.

Lage: And they weren't afraid of PG&E, I would think.

Pesonen: They weren't afraid of PG&E. They weren't afraid of anything. They weren't afraid of rednecks in the South who gunned them down.

So there was a ferment in the country going on, and I guess it was just natural that we would come along and be part of it.

Rose Gaffney: A Fearless Volcano

Lage: I don't think you have really described Rose Gaffney on the tape. I think you told me about her when we had our first meeting. It might be nice if you could talk about Rose.

Pesonen: I described Rose in *A Visit to the Atomic Park*, if I recall correctly, as looking like Bodega Head. She was a big, huge, homely woman with a great big bulbous nose and a wrinkled face. She just emanated energy. Her life story, as I understand it,

and I don't remember where I heard it--part of it I heard from her, but she was kind of private about it--was that she and her family were immigrants from Poland who had come to Canada around the time of the First World War, maybe before. She must have been a pretty attractive young woman, and she ended up, for some reason, as a housekeeper for a family in the Napa Valley. She got pregnant and had to leave there to have the baby--I never heard what happened to that child--and went to work as a housekeeper for the Gaffney family who were dairy farmers out in the Bodega area. She married one of the Gaffney boys and survived all of the Gaffneys and inherited the ranch.

Lage: Which was on Bodega Head?

Pesonen: It was on Bodega Head. It occupied most of the headlands. It wasn't a very productive ranch.

Lage: I doesn't look like very rich country.

Pesonen: It isn't very rich. It is sandy and windswept. There are very few nutrients in that sand. But she loved that landscape. She would just prowl it. She knew every little rock and every little spring. She found lots of arrowheads; she had an arrowhead collection which she said should go to the University, and it was collected from all over. People would bring her arrowheads from the Sierra or from the Sonora Desert. She'd stick them all in her big box of arrowheads and claim they were all from Bodega Head. [laughter]

She was just a fiercely independent person who was devoted to that land in an emotional way. It was all she had. She leased it out to people that ran a few cows on it, and that was her source of income.

Lage: And she lived out there?

Pesonen: She lived in a little house right by Salmon Creek. There is a cluster of houses down there by the creek, and I guess it had been the old farm house. She lived there alone, but she was a mountainous woman and absolutely fearless. She wasn't afraid of anybody or anything. She was smart in a cunning sort of peasant way. She figured things out her own way, but she was always figuring things out; she never stopped thinking about things. She got it in her head that the original land grant from the Spanish to whoever was the predecessor in title of the Gaffney's had some restrictions that would impose a public trust on all of that land.

Lage: Interesting that she would have thought of that.

Pesonen: She had a probate lawyer here in the Bay Area who represented her in the condemnation action, and he tried to develop that theory as a defense in the condemnation action, but it didn't work. But she collected all kinds of papers, and she started reading history and reading Bancroft's history of California. Anything she could get her hands on that would buttress this theory of hers. That is all she would talk about after a while. In some way it was tied to her sense of oneness with that landscape. She was such a colorful person. She was absolutely fearless. She would stand up in the middle of a meeting and start to let loose. She had a big booming voice. She wasn't unarticulate; she could be very articulate, and she could be very emotional about it and it would come across some way that there was this powerful personality boiling inside this huge, shapeless woman--she wore these old cotton dresses that had no shape to them at all that just sort of draped down to the floor and old beat-up shoes. She smelled terrible; she never took a bath.

Lage: Did she have much money to defend herself from the condemnation?

Pesonen: No, she didn't have any money. No, I think her lawyer was going to get paid out of the sales price after the condemnation went through. That is usually what happens. She had enough to live on, and she had an old car. She kept her house in pretty good shape.

My recollection of her is odd. It is not like a lot of people. A lot of people you remember particular things they did or you remember their character, but I just have this big image of a kind of volcano of a woman that just seemed to be present all of the time. [laughter]

The Role of the University of California

Lage: Is there anyone else we have missed that we should talk about? We haven't talked about the University very much, only alluding to the University's role, which seems interesting.

Pesonen: What I knew about the University, I got second-hand from Hedgpeth.

Lage: So he sort of researched it?

Pesonen: Well, he knew all of the people. He was a marine biologist himself. I knew Starker Leopold [wildlife biologist, UC professor and administrator], and I was very disappointed in

Starker when he testified that the University was not interested [in opposing the power plant at Bodega, near the site for a proposed UC marine station] at the Public Utilities Commission.

Lage: He had such a reputation for integrity.

Pesonen: Yes, and his father's [Aldo Leopold, author of *A Sand County Almanac*] reputation permeated the environmental movement. In those days, the Bible of the emerging environmental movement was *A Sand County Almanac*. Starker basked in that glow of his father's wonderful writing. I don't know why Starker did what he did.

Lage: You had known him when you were a student, probably?

Pesonen: I had known him as a student. He had been one of my professors. I had taken wildlife biology from him or wildlife management. I knew him from the wilderness study, the ORCC study, and some other things. I don't remember how I got to know him. I first met him when I was a student of his.

Starker just terribly disappointed me. I expected him to come over and stand up and say this facility is going to dump hot water and radioactivity in a place that is the greatest site for a marine lab on the Pacific coast; it is going to destroy an irreplaceable resource. He said none of those things. He hedged and he prevaricated, I think. He disappointed a lot of us. Hedgpeth was furious. He fulminated all over the place about it.

So there was a lot of curiosity over why this had happened. Why would a man of such integrity, of such scientific purity, in a way, take a position which was so bureaucratic and so politically influenced?

Lage: He was vice chancellor at the time?

Pesonen: I think he was a vice chancellor by then. We had a lot of speculation, but I didn't have any inside information. It was speculation that PG&E, through the [family of former UC President Robert Gordon] Sproul connection, through [former chancellor and then chairman of the AEC] Glenn Seaborg, who knows through what channels, through the Hearst family, maybe, who knows, had persuaded the University to pull out.

We got our hands on that report by the committee headed by Emerson.

Lage: The faculty committee?

Pesonen: The faculty committee. Ralph Emerson was a marine biologist on the faculty and the committee had been asked to go and find an alternate site. They had surveyed the coast and came back with a report that contained a sentence that frankly stated, this is not an exact quote, but it is pretty close, "A unique and irreplaceable site for study of marine biology is being sacrificed for power production." That is pretty strong words for an academic report. We got our hands on that report, and after it was all over, I went and interviewed Emerson and I made a chapter in a book that I wrote but never published that contains what I found about it.

Emerson was very reticent to talk about pressures having been put on him, but he pretty much conceded that pressure from the administration had been put on the faculty to mute his criticism and not participate in the Public Utilities Commission hearings or anything else, that would jeopardize the plans. I don't think there is any real doubt about that now.

Lage: Did you ever have any conversations with Seaborg?

Pesonen: [laughter]

Lage: It must be a good question!

Pesonen: Oh, Seaborg despises me. Seaborg still despises me to this day. When I was appointed general manager of the East Bay Regional Park District, he wrote a bitter letter to the board of directors castigating them for appointing me. That was only 1985.

I only recall seeing Seaborg once, and that was in about 1965, after Bodega was over--maybe it was December of '64. PG&E had pulled out in October, the American Nuclear Society and Atomic Industrial Forum had their annual convention in San Francisco in December of that year at the St. Francis Hotel. I went over there to watch and listen and have fun. And I got into the elevator with Seaborg. You know, he is about six feet, six inches tall, a great big man. I stood next to him in this crowded elevator and I said, "Good afternoon, Dr. Seaborg. My name is David Pesonen. I don't know whether you know me." He looked down at me and he said, "I know who you are." The elevator doors opened and he stepped out on the mezzanine and I was going someplace else, and I never saw him again. And that is the only exchange of words I have ever had with Glenn Seaborg.

Lage: Were his feelings about you based on what you had written?

Pesonen: It was probably from what I had written and the fact that I am sure Bodega was what he thought was the crown jewel of his career as chairman of the AEC. It was going to be the first plant that was going to break the economic barrier. Here I came along and in his eyes sabotaged it. Sabotaged it for extraneous reasons as far as he was concerned, out of probably what he perceived as ulterior motives. I don't know what went through his mind. I do know that he took it very personally, and he has demonstrated, to me, that he has taken it very personally. I have no animosity toward him. He was doing his job as he saw it, and he is a prominent and properly distinguished man, but I didn't care. I don't care. It is too bad. I think it is his loss. We could probably have some nice visits.

Lage: It is too bad he carried those feelings for so long. It surprises me. I guess I have heard very positive things about him in other settings.

Pesonen: I'm sure he is a fine person. But anyway, that has been my only contact with Seaborg. I have written about Seaborg in *A Visit to the Atomic Park* and other pamphlets and things. It is too ripe a fact that he left the University at the time this controversy was just getting started and went to be chairman of the Atomic Energy Commission, which had the promotional role for nuclear power, not to think there is a connection. In fact, the article in *Pacific Historical Review* makes that connection, and that is written by the historian for the Nuclear Regulatory Commission, not me.

Seaborg resented the Department of the Interior intrusion into this process. He apparently demonstrated his resentment. That was all history; I didn't know about it. That went on in Washington and I wasn't part of that.

Speculations on Conspiracies and Phone Taps

Lage: I mentioned Dave Brower's feeling that the reason PG&E was supportive of Point Reyes National Seashore back in '62 when it was authorized was that they wanted this open space downwind from Bodega. Would you agree with that?

Pesonen: I never saw any evidence of it. It is a plausible theory.

Lage: You did not originate that idea? That is Dave's idea?

Pesonen: No, that idea didn't come from me. It kind of makes sense. But I think it takes too much away from PG&E. They are not incapable

of some public spirit, even back then. Now, they are quite a different company; they are much more enlightened now. But they weren't completely unenlightened then.

Lage: I think that one of their land agents was active in that campaign for Point Reyes, but he also had a life in his own community and was interested in the environment of Marin, so just as a private individual he could have been--

Pesonen: Sure. That makes perfect sense. I don't know if it was a corporate strategy connected with Bodega or not. I simply have no information about that. If Brower wants to speculate about that and has some information about it, I'd be interested to know, but I--

Lage: People I have asked who have been involved in the Point Reyes campaign just can't imagine it. It just boggles their mind that anybody could come up with that idea.

Pesonen: It doesn't boggle my mind. I don't know whether to believe it or not.

Lage: It is an interesting thought. Now, what about the ideas of phone tapping or things like that going on?

Pesonen: Well, until I read, last night, Wellock's piece where he has a footnote that cites a J. Edgar Hoover file on us, I never attached much significance to those speculations. I am not a paranoid person. Maybe I am still too innocent.

My reaction to those kinds of things is twofold. One is that it may be true, but it doesn't make any difference. If you spend your energy brooding about it, it is energy you don't have to pursue what is important.

Lage: It also deflects public interest?

Pesonen: It changes the issue. I am very goal oriented in these things, and I am pretty good at keeping my eye on what is going to work and chasing wire taps does not work. It is very hard to prove, and if you do prove it, once it is over it is over. I suppose Watergate was an exception to that, but I didn't have the resources to chase that one down.

Lage: It wasn't something that you felt at the time, it sounds like. You didn't suspect it?

Pesonen: We were careful on the phone. We thought it was possible and so you just didn't say a lot. Sensitive things you just did not say over the phone.

Lage: So you did think of it at the time. One other little thing: in *A Visit to the Atomic Park* on the frontispiece it is a dollar "Contribution toward a People's Park at Bodega Head." That struck me. Was that a common term at the time--People's Park?

Pesonen: I just made that up. We were the first ones to use that term.

Lage: It got such prominence later.

Pesonen: In Berkeley, yes. Much later. I don't think there is any connection.

Looking Back: The Disembodied Evil of Industrial Civilization

Lage: What ever happened to this book on Bodega? It sounds like everything we are talking about is probably written down in the book.

Pesonen: Some of it is. I started to write the book as soon as this campaign was over in '64. I had applied to law school and been admitted and then went to Preble Stolz who was the admissions dean at that time.

I had met Preble in the Bodega campaign. He was a friend of the Goodwins, whom I had met also through the campaign, and they are now the godparents of Julie's and my kids. Preble was a friend of theirs. I went to Preble and I said, "Look, I want to write this book and I can't do that and go to law school. Can I put this off for a year?" So he agreed to put my admission off for a year without my having to take the LSAT and do everything over again, and I just started to write.

Well, I also went fishing, and I wrote most of it. I made a mistake in writing it. I wrote it as though I were a third party observer. I tried to keep my own role out of it pretty much. And that is not possible; it doesn't work, because I was too much a part of it. I was too central a figure. So I wasn't satisfied with it. It didn't strike me as having artistic integrity. It was not a true story. So I didn't publish it. I had an advance to publish it, an advance from--

Lage: You couldn't revamp it and make it an "I" book?

Pesonen: I thought about revamping it, but now my ideas are different and it would be a different book. So the manuscript is around. In fact, I pulled it out the other night and tried to read it again.

Lage: Now, when you say your ideas are different and it would be a different book, is that something worth commenting on? I think it is interesting how your view of things changed with the passage of time or maturity or whatever.

Pesonen: Well, it is multi-leveled. I tie my perception of it now, and I would use this as a centerpiece of an introduction to the new book if I wrote it: I was driving out there one night in my old Ford, and it was turning evening--I can remember this so intensely--and I couldn't figure out why PG&E was continuing to insist on building this plant. The was probably in spring of '64. By this time we had Saint-Amand's study, we had all kinds of information that this was a terrible decision. It was a terrible decision technically, it was just bad. It was so stupid. Here was this great, well-run corporation pursuing this idiocy and getting beat up in the newspapers every day. Their dogged determination to go ahead; it didn't make any sense to me and I was constantly trying to figure that out.

I had almost like a mystical insight--in my mind it is all connected with that glowing evening landscape with the eucalyptus trees on the hillsides--that I was up against some kind of evil. Not evil people--a disembodied evil of some type that was out in the world. And it was scary. I wasn't angry; I was overwhelmed by this sadness that there could be such evil in the world that was immune to reason, immune to sound argument. We weren't agitating; when we put something out, we studied what we were talking about. We had a respect for facts.

Well, that idea has stayed with me. It is almost a mystical feeling. What I would like to do is convert that to an argument. If it is possible--

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Pesonen: It wouldn't be an original thought with me in some ways; Dave Brower has talked about it and a lot of people have written about this sort of moment in history of the planet that is industrial civilization. I suppose Henry Adams felt the same things when he wrote *The Education of Henry Adams*. There is an aspect of that that is going on in my mind. That industrial civilization is very dehumanizing and destructive, ultimately, and has no sense of history and no sense of the future. This nuclear power development is a centerpiece of that. The reason so many people in the Sierra Club and elsewhere and most of the public was

supportive of nuclear power was that at some visceral level we knew we were using up the resources of the world to support our comfortable way of living, and we had to buy some insurance against when they ran out.

We are totally dependent on petroleum. We farm with it, we heat with it, we get around with it, we couldn't live without it in our current way. And nuclear power looked like the salvation of civilization when it runs out of oil. And I'm sure it is still seen that way by a lot of people. In fact, there is a resurgence of interest in that. And I want to say something about that. What I want to say, I have to sit down and write before I know exactly. Right now, it is a holistic image in my head that is related in some way to that experience I had that one evening driving out to Bodega. I am not very articulate about it right now because there are too many pieces to it all at once.

Lage: It is a hard thing to express and then relate to the--

Pesonen: I can do it. I know it can be converted to an elegant argument, but I keep putting it off for some reason.

Lage: It might not be the time.

Influences of the Bodega Experience on PG&E

Lage: My next question has to do with the influences of the Bodega campaign. Do you think Bodega made a change in PG&E, or did they have to be hit two or three more times?

Pesonen: Well, it certainly started the process of change. I think Diablo Canyon finished it. They just paid too high a price for their old way of doing things. There was a change of personalities; some old dinosaurs left and new blood came in. They faced a different Public Utilities Commission under Jerry Brown. There was the influence of the Environmental Defense Fund--Tom Graff and Zach Willy--on their attitude towards energy conservation.

Lage: On PG&E directly?

Pesonen: On PG&E directly. They were able to persuade them--it took quite a while--that they could make money with energy conservation.

Lage: So that was a new tack?

Pesonen: That was a new tack and it was very creative on the part of Graff and Willy. The whole society changed. They couldn't stay the way they were, it would have been fatal to them. Their survival depended on their becoming more enlightened because they were dealing with a more enlightened, more active public, a much more active regulatory climate, much more regulatory and environmentally funded legislation. They live in a different world now. They could either go down with their old ideology or adapt. They were smart enough to adapt. But Bodega certainly gave arguments to people within the company who were pushing for change.

No organization is monolithic. There will be disputes within about what direction they should take and they take time to get resolved. I am sure that there were people who were more enlightened than some of the old guard. I don't know a lot of these people--but I know enough about institutions to know that this had to have happened--that argued for swifter change, and they could argue from events like Bodega that it is in the company's self-interest to change. Whereas if they had won at Bodega, the power of the old guard would have been reinforced. They would have said, "Look, we can beat these people back."

Lage: I was surprised that one of these articles, I think the Wellock, shows that they made the approach to the Sierra Club over at Nipomo Dunes and Diablo right during this Bodega campaign and that was Ed Wayburn and--

Pesonen: Yes, they learned that they had to do their political homework in a different way. They couldn't go just to the Rotary Club and the Chamber of Commerce, they had to go to these organizations like the Sierra Club which could cause them trouble. That is why they have got Diablo now: they did it right. They did a terrible job of engineering, but they did a pretty good job of politicking.

Personal Impacts of the Bodega Campaign

Lage: You had said last time that this campaign shaped your life in a number of ways.

Pesonen: It made a public figure out of me, and I've been a public figure in some sense ever since. I am not really a public figure type of person. I am a pretty private person, but it thrust me into the public eye, and it was a bigger event than I thought it was

to a lot of people. It had a lot of significance to a great number of people and for a lot of different reasons.

Lage: For the people involved in the association?

Pesonen: No, the public generally. Newspaper reporters knew who I was. I still run into people on the street who say, "How are you doing, Mr. Pesonen?" and I have no idea who they are. I run into people now who remember Bodega--people introduce me at cocktail parties and stuff because of Bodega. That is the identification. They don't remember Point Arena, which I think was a swifter, more elegant victory in a lot of ways, against a much bigger plant, with a tougher geologic question. But we had honed our skills by then. PG&E had also wised up to what they were in for if they didn't pull out early. But that was a very elegant little victory.

Lage: Shall we talk about that before we talk about law school? Since you are feeding right into it?

Pesonen: It came after law school.

So I just became a public figure in many people's eyes. I continued to live in the Bay Area; I continued to be active in one way or another in environmental matters. I became a lawyer who was pretty successful--successful in my lawsuits, not successful financially, but I was a good lawyer. I got cases that tended to get public attention, and I knew how to use the press if it furthered the objective that I was working on. I understood how the press worked, and I learned it in Bodega. I learned a lot of lessons in it; I learned a lot about politics, I learned a lot about public relations, and I learned a lot about dealing with the press. If I needed to use those lessons to accomplish something I was working on, I did. I think people respect the way I think and act, and I think I have a lot of integrity. People recognize that and I trade on it. I don't know exactly what happened. I saw the world differently after it was over, and I continued to see the world differently.

Lage: Did it affect your decision to go to law school, or did it have a part in the decision?

Pesonen: It had a big part in the decision. And I'm glad I did.

Lage: What was it that made you decide to go to law school?

Pesonen: Power. [laughter] We felt very powerless at Bodega. That whole story about rounding up Barney Dreyfus--lawyers are a source of

power, and if I was going to do any good in the world, I needed more power.

Lage: You couldn't imagine an environmental campaign now that didn't have a lawyer signed on.

Pesonen: That didn't have lawyers involved, absolutely! And I didn't know what else I wanted to do. Law sounded like a way to get power that could be used in a lot of different ways and used for good.

Lage: Had you considered law before?

Pesonen: I had thought about it, and I remember thinking it was awfully stuffy and I wasn't sure that I wanted to be involved in something that was so stuffy. But that changed over time, particularly in Bodega, when I realized that it didn't have to be stuffy.

Law School: UC's Boalt Hall, 1965-1968

Lage: How did you find the law school experience? Was it stuffy?

Pesonen: It was hard for me. I am a slow reader; I am not a quick thinker, and law school was hard. I worked hard in law school. And Julie put me through law school.

Lage: Wives are very handy.

Pesonen: Julie was a good one. I didn't work much in law school. I worked in the summer, but during school I didn't work much; I studied hard. I liked it, but I wanted to get out.

Lage: Were there any particular professors who helped shape your thinking?

Pesonen: No, not particularly.

Lage: Did you find them interested in public issues?

Pesonen: No. They were a little suspicious of public issues. Law schools tend to be pretty conservative. I liked Jesse Choper, who was the professor I took constitutional law and contracts law from. He was a very good teacher, and he later became dean. He was a fine man, and he was a wonderful teacher. But he wasn't a political activist. None of them were. I set up the Lawyers' Guild chapter and became president of it, and I was class

valedictorian, not because of academic achievement but because my classmates elected me.

Lage: It is not from being first in the class?

Pesonen: No, not at all. It has nothing to do with academic achievement. I suppose if I had been flunking completely I would not have been selected, but it was an elective process and I was recruited to it by my classmates.

Lage: That is quite an honor.

Pesonen: Well, I was older and I was irreverent. [laughter] That was during the Vietnam War, and there was lots of agitation on campus. I guess it was just my temperament and my irreverence. I was not awed by law school. I didn't think this was the Talmudic truth being handed down to us. I questioned it and I was a little bit sassy with teachers sometimes in class. I was never disrespectful, but I kept my sense of humor about it.

Lage: Did you get involved in any of the political happenings on campus during those years?

Pesonen: Yes, a little bit. Not much. On the lower campus I didn't get involved in those things. But we had a couple of events that sprung out of the law school itself. The law school always saw itself as detached from the rest of the University. It calls itself Boalt Hall; it doesn't call itself the school of law at the University of California. There is a psychology of lofty detachment in the law school that is very elitist. So what went on in the lower campus, that was undergraduates.

Lage: I have never even heard that term: the lower campus.

Pesonen: That was undergraduate high jinks that we weren't too involved in. Some of the students were, but I was just as elitist as the rest of them, I guess.

When the Oakland police shot up the house that Bobby Hutton and Eldridge Cleaver were hiding in and Bobby Hutton was killed, on April 6, 1967, I think, there was a big protest about that and I spoke at that.

Lage: What drew your attention to that?

Pesonen: The National Lawyers' Guild and the fact that I had been with them. I worked the summer the second year I was in law school, I think, as a law clerk in the Dreyfus office, and I ultimately

went to work there as his partner. And [Charles] Garry was involved in--

Lage: Garry was defending the Black Panthers.

Pesonen: So there were these other connections.

Lage: The times were just so different.

Pesonen: Those were lively times. They had to happen, I think.

Defending People's Park Activist Dan Siegel

Lage: Julie said that one of your first cases out of law school was defending Dan Siegel on People's Park?

Pesonen: Siegel was a year behind me at law school. He had been active in the Guild, but for some reason he sort of adopted me as his mentor. He was out here from New York and he didn't know a lot of people, and he was a very idealistic young law student. He had written a philosophical paper of some kind--I don't even remember what it was--but he was very interested in my comments on it. He wanted me to read it and we talked about it. As soon as I was out of law school and got admitted to the bar in January of '69, I went immediately to work in the Garry office.

I think the People's Park event happened in spring of '69, and Dan was charged with inciting to riot for his speech on the Sproul Hall steps that ended with the words "Take the park." That led to several days of violence in town and a couple of people were killed, I think, and one guy was blinded.

Lage: One person was killed, as I recall.

Pesonen: It was national news, [Governor Ronald] Reagan called in the National Guard. [Alameda County District Attorney] Ed [Edwin] Meese came over and arrested hundreds of people. It was a huge, violent couple of days in Berkeley. And they needed a scapegoat.

So Dan asked me to defend him, and I was delighted to do it, but I was also very scared because I hadn't tried a case; I had no trial experience. I knew better than to think that I could do that by myself, so I asked Mal [Malcolm] Bernstein to come in and join me.

Lage: He is older?

Pesonen: He was older; he was a partner in Bob Truehaft's firm. Doris Walker, Bob Truehaft--Truehaft, Walker and Bernstein in Oakland. That was another old radical firm, in the East Bay. Mal was the youngest partner in that firm, and he was a Harvard or Yale law school graduate. A very smart guy. He had some trial experience, and he also had the first amendment seasoning that I didn't have. I had the abstract learnings from law school, but he was a street fighter. He knew how to do it if he had to. I had enough modesty to know that it would be a big mistake for me to try this case by myself.

Lage: And there was a lot of attention on the case, I remember.

Pesonen: So I asked Mal to help, and Mal was delighted and the two of us did it together. Mal really took the lead, I think. I get a lot of credit for it, but I have to give Mal the main credit for that victory. It was a great learning experience. We tried it in a municipal court in Berkeley. It was not a felony; it was misdemeanor inciting to riot. The jury was a lot of the Berkeley blue rinse set.

Lage: Older Berkeley women who must have been horrified at what was happening in their community.

Pesonen: Not at all!

Lage: They weren't?

Pesonen: No. It was not a radical jury at all.

Lage: That is what I mean. It must have been very disturbing to them.

Pesonen: No, they were--. Berkeley is a unique town. The blue rinse set can be pretty radical in this town. I don't remember--that is not the whole jury, but there were some older, distinguished looking women on the jury, and I think it was about a week-long trial.

Mario Barsotti was the judge. He was a Reagan appointee to the court. He was a very nice judge. I don't think he was a terribly bright judge, but he was a decent judge. There aren't very many bright judges. If they are bright, they don't become judges.

Lage: We'll have to get more elaboration of that when we get to the later points in your career.

Pesonen: They go out and make a lot of money doing something else. I was being a little bit facetious. But he was a decent judge and

followed the law the best he could. The prosecutor, whose name escapes me at the moment, was a very uptight guy. He is now a Superior Court judge in Alameda County. But he was a young deputy district attorney at that time, and he so much wanted a conviction he could taste it. This was going to make his career. Of course, the press was there all of the time. I remember after we argued the case--. I put on a couple of witnesses; our theory was that this statement, "Take the park," was a metaphorical statement by Dan that we should, through political means, accomplish our ends, not physically go down and seize the property.

Lage: And Dan testified to that?

Pesonen: He testified to that, and we brought in people who had been in the audience on Sproul Plaza who understood it that way and who testified that they understood it that way. Well, the jury came back after deliberating half a day or a day with a note. The judge took us into the chambers, and he handed us this note from the foreman, and the note said, "Can we find him sort of guilty?" [laughter]

Mal said, "That sounds like reasonable doubt to me." The judge said, "Sounds like that to me, too." The prosecutor was furious, and he said, "No, it just means they haven't deliberated long enough." We said, "No, judge, you should go out and read them the instructions on reasonable doubt again." The judge agreed. We went out, and the judge read them the instructions. He said, "I have this note and I can't respond to it directly, but I can give you some of the instructions you have had." He read the reasonable doubt instruction again, which is very clear that if there is a reasonable doubt--unless they feel he is guilty to a moral certainty, they must acquit. It was not very long after that that they came in with a 'not guilty'.

There was a party after that, but I kind of felt that there was some culpability on Dan's part; he knew what he was doing.

Lage: He knew that the crowd was at that point?

Pesonen: He knew that it was very likely that this would ignite that crowd. And I wasn't happy. We have remained friends, in a way, but it is not a cordial relationship any more. And I think that it is because he sensed that I disapproved of what he had done.

Lage: Interesting that in your first case you had that dilemma, then.

Pesonen: I was ambivalent about it. I wasn't ambivalent about--I was delighted to win. That is the lawyer in me; that is the

gladiator. But there was another part of me that was not disappointed in the result, sort of disappointed in the person.

Lage: Is this the same Dan Siegel who is now a lawyer for the Oakland School District?

Pesonen: Yes, he matured too. He is a very good lawyer on civil rights and employment matters. He was with the city attorney's office in San Francisco for a while. He was in private practice for a long time. In fact, he appeared before me once when I was a judge out in Contra Costa County in a settlement conference. Then he left private practice and went in to the city attorney's office on civil rights matters and then became the general counsel for the Oakland School District about two years ago. Same guy. His brother is associated with my firm now.

V ATTORNEY IN THE FIRM OF GARRY, DREYFUS, McTERNAN, AND BROTSKY

[Interview 4: February 27, 1992] ##

The Partners and Clients in a Radical Old-Left Firm

Lage: We are going to talk today about your work with Garry, Dreyfus, etc.

Pesonen: Well, after they represented us on the Bodega nuclear plant controversy and two or three small actions which had more political purpose than legal purpose, we impressed each other, I guess, and so I clerked for them when I was a second-year law student, for the summer in 1967. I went to a trial with Charlie Garry of some young black woman from Richmond who had been roused by San Francisco police and then accused of some misdemeanor crimes of some kind to cover up what had happened. I sat through and helped Charlie do the trial. I was just fascinated with him as a trial attorney, and I asked him if I could go to work for them once I got out of law school.

It may or may not have been a career mistake; I don't know. But I was full of excitement about these radical lawyers. I went to law school to try to do good things and have some impact on social change, and they were committed to that. At least they came across as committed to that. They were still a business and had to make a living. Barney Dreyfus had some independent wealth, I think, so he was able to spend more time on important political cases, although Charlie was temperamentally committed that way, and so was Frank McTernan. They were the three partners, along with Alan Brotsky who had joined the firm a year or two before I went to work there and who had a successful labor practice of his own before that. So it was Garry, Dreyfus, McTernan, and Brotsky when I joined the firm.

At the time I joined the firm, the first Huey Newton [Black Panther leader] trial had just been completed, and Fay Stender was in that office.

Lage: In the office of Garry, etc.?

Pesonen: Yes, she was one of the associates in the firm, and she was writing the appeal brief that, in fact, resulted in the reversal of the first conviction. We were at 345 Market Street. It was an old building--it is gone now. Owned then by Bechtel who, I think, had long term plans to build what currently is one of their main structures in downtown San Francisco. It was a raggedy, old building and Fay and I shared a little cubicle space. She was hammering away on her typewriter writing this brief, and I just handled all kinds of cases. Little probate matters, little divorce matters.

Lage: How did you get assigned to cases?

Pesonen: The partners would get some old client who would come in who had some minor matter that had no political or other significance and they could make a little money on it--fender bender and small personal injury cases. I didn't get much supervision. They would just turn them over to me, and if I thought I needed help, I would wander in on them. There was no training plan.

Lage: Is that unusual?

Pesonen: Well, it is not unusual in small firms. In large firms there is a very coherent plan for training young associates under the tutelage of a partner. But that is not the way that firm operated. It was a sink or swim situation; I either succeeded or I didn't. I was pretty much on my own. And I liked that. I liked the freedom and independence of that, but I also had a lot more freedom to take in cases that an associate in a large firm wouldn't have. You would have to go through a clearing committee, and there would be a lot of analysis. I could just sort of take them on a seat-of-the-pants feeling about them. On the other hand, they were not big, complicated cases, either. I went to court, and I tried cases, and it was about that time that Dan Siegel called me up on the People's Park case we talked about last time.

They were an interesting, wonderful mix of people. Barney Dreyfus was a man of just total class. He was a patrician; he was a gentleman. He was a wonderful writer, and he had a fine, dry sense of humor and very good judgement about people. He was the center of that firm. He was the emotional and stabilizing

center. Charlie Garry was very volatile and impetuous in some ways.

Lage: What was Garry's social background?

Pesonen: Garry had grown up in the Central Valley. His name was actually Garabedian.

Lage: Armenian?

Pesonen: He was Armenian, and Armenians were discriminated against. He became a tailor in San Francisco and active in one of the unions --I don't know what union it was--and decided on night law school at Golden Gate or one of those. He started out in labor law, but it was more agitating and labor activism than it was law. How he and Barney got together, I never really heard that story. They were entirely different kinds of people. Charlie was profane and loud and impetuous and he couldn't write, could never speak a sentence in the English language. And Barney was just the opposite. Barney lived in a big house in Mill Valley and had four kids, I think, and his wife was quite an elegant woman. She is still alive, and she is a fine person. But they lived on a different social level. He and Charlie just had a bond of some kind that was unbreakable. Barney was a levelling influence on Charlie. He was the only one I ever saw who could back him down from one of his more unusual and dangerous positions.

Frank McTernan was another stabilizing influence, although he was much less prone to intervene in disputes of one kind or another. His practice was different; he handled a lot of probate and estate matters. He was very good at it.

Lage: Now how did he get tied in with this more political--?

Pesonen: Well, they all came from an old radical background. They were part of the Communist Party in the forties and the thirties and the early fifties. They had all been subpoenaed at one point or another to testify before the House Un-American Activities Committee.

Each community in the Bay Area had an old left-wing law firm. It was Newman, Marsh and Furtado down in the Fremont/Hayward area; it was Garry, Dreyfus, McTernan and Brotsky in San Francisco; it was Truehaft, Walker and Bernstein in Oakland. They all knew each other and they networked and they were social friends. And their clientele were in the old radical left community.

Lage: Until the sixties when we saw new action?

Pesonen: Yes, and then they were kind of passed-by by the times. But they were successful. They had a steady business. A lot of their clients were business people who had small businesses of one kind or another and some of them were quite successful. They tend to be an educated group of people, and that was their market.

Lage: You said Garry was not very articulate. I thought he was kind of famous for his court presence?

Pesonen: I didn't say he wasn't articulate, I said he couldn't complete a sentence in the English language. Before a jury or when he wanted to be persuasive, he was a powerful speaker with a lot of emotional content, and that was his strength. There was enormous emotional content; he just believed in what he did and it just emanated--it came across. That was his gift with juries. I am not saying he wasn't a good lawyer, that he was stupid; he wasn't. He was a great man, but he just didn't--. Formal language was not his gift; emotional content and power were his gifts.

He also knew his limitations. He knew when he needed to get assistance on more technical matters. That was just boredom. He was bored with the technical side of the law. But he loved it. He had a great memory for principles that had been announced in cases. He couldn't remember the case names. He would say, "Go find that case that was cited in 1948 that had to do with such and such," and you would look around, and you'd find it, and he was usually right.

There was another lawyer in the firm, Don Kerson, who was a young lawyer who had worked on the Bodega stuff. He was a very bright, quiet, somewhat troubled person. That was about it. I think there was six or seven of us in the firm, and then there were a few people who came and stayed a little while and left: Bill Schuler, Bob Meyer. Bill Schuler isn't practicing any longer, and Bob Meyer is a solo practitioner down on the Peninsula now. He had come out of the U.S. Attorney's Office. Bill Schuler had come out of one of the big personal injury firms.

We had a nice time. We got along well. I never made any money. I was on a salary. I started out at \$750 a month, which was--you pay a housekeeper that now. But I didn't really care. I wasn't thinking about money. By two or three years, I was a partner.

Lage: Does that mean a share in the profits of the firm, such as they are?

Pesonen: In the losses, too. [laughter] There were some months when we went without any partners' draw and paid the staff. But it was a very tight-knit group. They had known each other a long time, and they were very close. The firm ultimately broke up after Barney died.

Lage: Which was when?

Pesonen: I don't remember the year that Barney died.

Lage: But was it while you were still with them?

Pesonen: No, no. It was after I had left. It was probably 1982. I think he died in 1982. He was very prone to skin cancer; he had very light skin. He always wore a hat and he would get little cancers on his--. He was very fair. And I think he died of melanoma.

Peripheral Role in Black Panther Defense

Lage: The thing I've heard most about Garry is the defense of the Black Panthers.

Pesonen: The Black Panther matter--matter is too mild a word for it--was all going on--. The big invasion of the legislature with guns by Huey Newton and his crowd had come before I joined the firm. But that had put them on the front page of the papers and vaulted them and Charlie into prominence. That was a concerted effort--

Lage: Was Charlie their lawyer from the beginning?

Pesonen: Yes, from his having defended Huey Newton. And he got very involved in advising the Panthers. Well, there was a concerted effort by law enforcement to infiltrate the Panthers, and by the Nixon administration, to do them in. I haven't read all of the books on it, but I have read about it.

I was not that enamored of the Panthers. I thought they were a useful social force to wake people up, but I was a little troubled by all of the weapons. More than a little troubled by all of that.

Lage: And was Garry not troubled by all of the weapons?

Pesonen: I don't know whether Garry was troubled by it or not.

Lage: Did they take him as an advisor well? Did they listen to his advice?

Pesonen: Well, you could tell that it was a volatile, fragile organization. I never liked Huey Newton. I thought he was arrogant and manipulative. But I didn't think he ought to go to prison, either. Kathleen Cleaver I really liked. She was a great woman. Eldridge Cleaver I always felt was a nut.

Lage: How involved were you?

Pesonen: They were in and around the office, and they knew who I was. But I didn't work on Panther cases very much. I didn't have occasion to. The only Panther cases I worked on involved the federal grand jury--there was a special grand jury set up to investigate organized crime, and its real focus was the Panthers. There was a strike team from the Justice Department in Washington that would come out periodically and conduct a grand jury proceeding to see if they could come up with an indictment against some of them. They called a lot of witnesses and gave them immunity when they refused to testify.

My role with the Panthers mainly was representing witnesses who had been called before this grand jury. Particularly two young women--Shelly Bursey was one of them, and I don't remember the name of the other, who were Panthers, but they ran the newspaper, or at least the production end of it. They were called, and they testified week after week. The grand jury convened each week the morning after the paper had to get out, so these young women--they were only in their early twenties or their late teens--were exhausted from putting the paper out all night. They never followed advice. I'd say, "Don't answer any question in there if you have any doubt about it; come out." I wasn't allowed in the grand jury room, I had to sit outside in the hall.

Lage: So you advised them to come outside and confer?

Pesonen: They had a right to ask to come out and talk to their lawyer if they were uneasy about a question, but they always forgot.

Lage: They didn't have the legal mind?

Pesonen: Sometimes they just didn't know how to--. They weren't very bright, and they sometimes talked and sometimes said, "I take the Fifth Amendment." There was no pattern to it. So they were finally held in contempt by a judge who is on senior status now. A fine judge, but he really didn't have any choice under the law, and they were sentenced to jail until they talked. He said they

had the key to the jailhouse in their mouths. One of them was quite pregnant by that time, by David Hilliard. In fact, I think she is now married to Hilliard. Her daughter graduated with Kyle [Pesonen's son] from Berkeley High.

Lage: This daughter she was pregnant with?

Pesonen: Yes. So there was a big demonstration--a lot of women and Panther supporters--outside the courtroom when they were sentenced; we knew it was coming. They were hauled off to the top floor of the Federal Building in San Francisco. There are a couple of holding cells up there. The marshals were not used to this, and they were afraid. They thought this crowd, which had all come up in the elevators and were banging on the doors, was going to do something--

Lage: Where were you when all of this was going on?

Pesonen: I went in with my clients to see that they were comfortable in their cells and to try to keep things calm. So I went out and talked to the crowd and said that I would ride on the bus with Shelly--they were particularly worried about Shelly because she was pregnant--I would go with her to county jail and I would watch what they did all of the time and go out and visit her when they transferred her to Santa Rita. That satisfied the crowd that somebody was looking after them. I talked them out of any further violence, and the crowd finally dispersed. The Justice Department lawyers were very impressed. [laughter]

Lage: That you had this kind of power?

Pesonen: I don't know whether I had much power or not, but they--. My style has not been ever very confrontational. On a personal level I got along pretty well with these two clowns who would come out from Washington every week to harass these two women. They joked about it and said they didn't know I was a bra burner, and I said, "I'm not." [laughter]

Then it just kind of fizzled after a while. Christmas time came, and Shelly was still in jail. This must have been 1971 or so.

It was Judge Zirpoli, Alfonso Zirpoli. I went back to Judge Zirpoli, and I made a motion to release them since they weren't going to talk, and they weren't going to stay in jail forever, and it was not right. And he turned them loose.

I am sure there have been investigative reports of this Justice Department strike force. The Pratt case is one. I've

forgotten Pratt's first name [Geronimo]. He is still in jail, and the allegations have some merit that he was set up and framed. I don't know anything about that, I never got to that level of involvement with the Panthers. What I handled were sort of peripheral things that didn't require a good trial lawyer, didn't get involved in policy.

Then I got further and further away from any of the criminal work and finally just wouldn't do it.

Lage: You didn't do it by choice?

Pesonen: It was pretty much by choice. I didn't like the criminal work; I didn't like the atmosphere at the Hall of Justice in San Francisco, and I didn't feel comfortable with it. And I didn't feel like I was lawyering, you know? I mean we would handle an occasional small criminal matter of one type or another. Some little Chinese gambling ring busted down in Chinatown for playing Pai Gow or whatever they did. We had a few like that, but I didn't consider it my career direction.

Defending Point Arena from a PG&E Nuclear Power Plant, 1972-1973

Lage: Let's talk about some of the cases that you did take on.

Pesonen: I was looking for big things to do. There was always a tension between me and the rest of the firm over the environmental issue. I wanted to do environmental law, and they thought that was kind of a white middle class perspective on the world and didn't really have to do with justice.

Lage: Did all of them feel that way?

Pesonen: No, Barney was much more sympathetic than Charlie was. They weren't hostile or antagonistic, but they didn't give me a whole lot of support either.

The first big opportunity was the Sierra Club hiring me to handle the Point Arena nuclear power plant. I think I have talked about that.

Lage: We really haven't talked about it. We referred to it, but not in any--

Pesonen: I consider that a more elegant victory than the Bodega victory, but nobody remembers it. Because of my role in Bodega, people

came to me all of the time whenever a nuclear power plant was proposed in California for advice. There was the Davenport plant; PG&E still had on its drawing boards a lot of nuclear plants down the coast.

Lage: Where was the Davenport plant?

Pesonen: Just off of Santa Cruz.

Lage: And that was defeated?

Pesonen: Well, it never got off the drawing boards, really, because there was local protest and there were pretty obvious seismic hazards.

The Svengali of the Antinuclear Power Movement?

Lage: You had also mentioned off the tape that PG&E had come to you when you were in law school about Rancho Seco?

Pesonen: No, not PG&E. The general manager of SMUD [Sacramento Municipal Utilities District].

Lage: What was that?

Pesonen: The general manager and the assistant general manager of SMUD had called me up and come all the way down from Sacramento to take me to lunch. We went to lunch at Larry Blake's, and I was all very flattered about this. I think I was in my first or second year of law school. Their agenda, it became very clear, was whether I was going to move in to Sacramento and help organize a campaign against their nuclear power plant. I had never even thought of doing that.

Lage: So they really had a vision of you as a kind of the overall leader of the--?

Pesonen: Svengali. Stop any nuclear power plant. Well, that wasn't my perspective; I wanted to finish law school. And I didn't think the Rancho Seco plant was such a bad idea. It was way south of town, there was no significant population around it, and downwind was toward the Sierra; there were no communities down there. It was just flat alkali hardpan ground with scattered Digger pine trees. It wasn't a very attractive site. It wasn't scenically useful at all. And it wouldn't use ocean water, it would get its water from the Folsom South Canal. It wouldn't use very much water, it would use cooling towers. So, given my view of nuclear

power at that point, it seemed like a pretty good way to go. In any event, I didn't have time, and I didn't know anybody. I didn't have an organization; it just wasn't my agenda. And I told them that and they went away happy. They paid for the lunch. [chuckles] I never heard from them again, but I never got involved in that dispute.

After Bodega, PG&E had focused its energies on the north coast for nuclear power at Point Arena, at a site just north of the town of Point Arena. Very close to a Coast Guard station; a Coast Guard Loran station--a navigational outpost. By coincidence, my cousin, Dan Pesonen, who was in the Coast Guard at that time, got assigned to this Loran station.

Lage: Is that the name of the station, Loran?

Pesonen: L-O-R-A-N. I think that is what it was. It is a navigational technique.¹

He was an electrical technician, and he worked at this plant. So he became my eyes and ears as to what was going on. It was right next to the PG&E property. The first thing we did was start to organize in the town of Mendocino and the town of Point Arena.

Lage: Now, was this after the Sierra Club took you on, or had you gotten involved--?

Pesonen: This was when the Sierra Club took me on. I had watched this through law school. I had seen it developing, and I read the press accounts. It was clear the PG&E had done a very thorough job of saturating the community with pronuclear material: comic books in the schools, and speakers at all of the social clubs. I followed it, but I just didn't do anything about it--couldn't afford to.

So I went to the Sierra Club--the Sierra Club, by this time, was opposed to it, but they didn't have any organization or organizational approach--and I proposed that they retain me, through the Sierra Club Legal Defense Fund, which had just been set up a year or two earlier. John Hoffman was the executive director or whatever his title was--it was Jim Moorman at first, and then it was John Hoffman--I think I started working on it when Jim Moorman was still heading the organization. I knew it

¹Loran (derived from long range navigation) measures the time-of-arrival difference between two signals transmitted from two geographically separated ground stations.

would be a big commitment of time, and so I went to Barney and said, "This is what I would like to do," and he said, "Sure, as long as you get paid for it."

Lage: So you were hired as a member of the law firm?

Pesonen: Yes. But they hired me. The firm infrastructure backed me up--I didn't use any of the people in the law firm. Then I had a long talk with Julie because I knew what kind of a commitment of time this would be and I wanted to get her approval. So we went for a long walk up in Redwood Park and I told her that this was what I really wanted to do. She gave it her blessing, so then I was on my way.

The first thing I did was some community organizing. There were already people who had protested, and I helped them pull together an organization, but I had no official position in the organization. I brought [Pierre] Saint-Amand back to take a look at it, and he flew up in his own plane and took a look at it and said sure it was a lousy site, and he was going to work on it.

Let's see, how did that develop? That was 1973, I think.

Lage: I have the dates '72-'73.

Pesonen: I may have started on it in '72.

A Seismically Interesting Problem

Pesonen: That was seismically a very interesting problem. The site was picked because it was on a high marine terrace which supposedly had been stable for a very long time and had no evidence of any fracturing through it. Quite apart from Bodega. It was in a Franciscan formation, not the Bodega granodiorite formation which also forms Point Reyes. The San Andreas fault doesn't run too far from that site. It runs inland. The Gualala and Garcia rivers run in the fault zone; that is why those two rivers run north south, right parallel to the coastline, and then just as they get near their mouth within a mile or two of the ocean, they cut off and discharge into the ocean. So if you look at a map, these two rivers are lined up like two match sticks in a line and that is the trace of the San Andreas fault. Then it runs north, and there is an extension, and then it goes out to sea. It goes out to sea north of this site that PG&E had selected.

I got to looking at the maps and driving around the country and looking at the geology, and at some point I was given notice that the Atomic Energy Commission siting regulations on seismic hazards were being amended. They didn't hold public hearings on these things; they were technical meetings. The US Geological Survey was brought in very early to advise the AEC on its new regulations. And so I was invited to attend some of those meetings down in Menlo Park--

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Pesonen: --which I did. At one of the meetings, one of the USGS geologists took me aside as we were walking back from lunch and told me that they had found some evidence that the site had been tilted in recent geologic times. He had done his graduate thesis on that area, and he had used the technique of using aerial photos, mainly, to measure the elevation of marine terraces. And he had found through some technique that he used that the marine terraces weren't level there.

Well, the ocean is always level. So if the ocean was level, and the marine terraces that were cut by the ocean in recent geologic times were not level, that meant that the ground tipped, not the ocean, which was an enormously interesting fact for that site, because it said that the site was not free of major seismic disturbance. And it had been touted by PG&E as a place that was free of any major seismic disturbances. If there were any disturbances, they would be on the fault line which was about two miles away. The plant could be built to withstand shaking, but it couldn't be built to withstand tilting.

Unfavorable Publicity and PG&E's Swift Abandonment of Point Arena

Pesonen: I took this information to a reporter on the *San Francisco Chronicle* whom I had gotten to know pretty well, and it took him a long time to understand it.

Lage: Who was this?

Pesonen: His name was Dale Champion, and I think he is retired now. I worked with Dale to educate him on what this meant for this plant. It would be the Achilles heel of it; this would kill it. There still wasn't much publicity on the plant, it was very early in the process. PG&E had done some trenching up there to check for fault displacement at the site. Champion finally figured it

out and finally understood what I was talking about and did a very good job. He wrote a long article and had maps prepared and it hit the front pages of the *Chronicle*, I think it was December 28th or 29th of 1973. It might have been '74--I would have to go back and look at the clippings.

It was right in the Christmas holiday season, and it was a good story. It really laid out in good laymen's language what had been discovered by this USGS seismologist whom I had met in these rule-making meetings. When that hit the papers, I heard through some grapevine, I don't remember where it was, that the president of PG&E had been called to Washington by the AEC and that there was a high level meeting. A few weeks later, they announced that they were dropping plans for that plant.

Lage: It is such a contrast with Bodega.

Pesonen: Well, they knew I was involved, and there was this mystique about some power I could wield. [laughter] They knew that the facts were there. I would love the internal memoranda of the USGS or the Department of the Interior and the Atomic Energy Commission, but I haven't seen them. We have that article from the *Pacific Historical Review* on Bodega. I would love to have him write the same kind of piece on what happened at Point Arena because I don't really know what happened.

Lage: Behind the scenes?

Pesonen: I saw it from the outside. But I know what the result was. The result was a very swift abandonment. So soon that it never had a chance to build up to being a public issue. I take credit for that because I was the one who got in early and because of my historic role at Bodega I was in a position to find out this information. I was approached by the geologist because he figured I could do something about it. He wasn't going to go to the newspapers. He couldn't do that in his position, but he knew I could. He was very professional about it. He never was an advocate. He just said, "Here are some facts that you may find interesting." I knew enough to know that when somebody in that kind of position told me that, that it was my responsibility to do more than just find some interest in it.

So that was the first real environmental action that I took after I went with the Garry firm. It was successful, and I got a lot of praise for it, and I got a lot of satisfaction out of it.

Lage: The role of the local organizers and the public doesn't seem to be great.

- Pesonen: Those things all fit together. If the proposer of a facility like that doesn't feel that there is a strong local opposition, if they figure they can roll over it--. Opposition worries them and creates a lot of uncertainty and a lot of opportunity for delay and expense.
- Lage: What first interested you in the Point Arena?
- Pesonen: Well, it was the "son of Bodega," in a way.
- Lage: It was where PG&E moved after Bodega?
- Pesonen: It was where they moved after Bodega. It was going to be a lot bigger plant. It was a two thousand megawatt facility.
- Lage: You said you weren't objecting wholeheartedly to nuclear power.
- Pesonen: I was real skeptical of nuclear power, particularly in the seismic coast.
- Lage: Were you getting more skeptical as time went on?
- Pesonen: Yes.
- Lage: You said with Rancho Seco you thought it was okay.
- Pesonen: There were just a lot of practical reasons I couldn't get involved in Rancho Seco. I suppose--. I think probably because it was a public power facility, I was less inclined. It was not a scenic site, it didn't use ocean water, it wasn't in a seismic zone, and it was a public power agency. All of those things together made me less enthusiastic about taking that one on, plus my personal circumstances, which was the overriding factor. Now, here was an opportunity to make a little living, bring some little revenue into the firm. It wasn't very much; I think it was twenty five dollars an hour for all of this work, and I didn't charge for a lot of it--all of the trips up there, I didn't charge for all of that time.
- Lage: Because the work you were doing wasn't really as a lawyer so much. Did you have some lawyering, also?
- Pesonen: Well, I did do some lawyering in that case. Dow Chemical was an intervener in the AEC license proceedings to oppose the plant nominally. Their real agenda was to coerce--to get some leverage on PG&E to require them to wheel power that was generated by Dow Chemical plants over PG&E lines so they could sell cogeneration power. I brought a petition on behalf of Dow Chemical that I filed with the--I think it was still the AEC then--in that

licensing proceeding, and it was a petition for Dow Chemical to be allowed to intervene. It was a nice, elegant piece of legal work in antitrust law, and the Sierra Club Legal Defense Fund was very impressed with it. But most of it was not lawyering.

The Sierra Club, Ike Livermore, and Nuclear Power

Pesonen: There was another element to that case that did involve the Sierra Club. As part of its political ground laying, PG&E had approached the Resources Agency under the Reagan administration, and the secretary for resources then was Norman "Ike" Livermore, who was a good environmentalist, a liberal Republican, old California family. His brother, Putnam Livermore, was very prominent in Republican fund-raising circles. Ike was a close friend of Ray Sherwin, who was then the president of the Sierra Club. Now, Ray Sherwin was a superior court judge in Solano County, and I worked with Ray--there was a lot of work with the club to get them to let me take the case, a lot of meetings.

Lage: To get them committed to opposing the Point Arena plant?

Pesonen: Yes, and to get some guidelines on what my responsibilities were because they weren't just hiring a lawyer, they were hiring a lawyer and an organizer. I wrote a pamphlet which was used as an organizing tool, which I have sent you, *Power at Point Arena* [July 1972, available in The Bancroft Library], I think is the name of it.

The Department of Fish and Game had agreed not to oppose the plant before the PUC or the Atomic Energy Commission in exchange for PG&E paying for a lot of studies of the effect of the plant on the marine environment. It was a mitigation. And the *quid pro quo* for their mitigation was Fish and Game silence. Well, I thought that was illegal, and I brought suit in San Francisco superior court against PG&E and the Department of Fish and Game to invalidate this agreement because I knew there were staff people in the Department of Fish and Game whom I had talked to who were very skeptical of this plant but were under a gag order.

Lage: This agreement was up front? Acknowledged?

Pesonen: Well, it hadn't been publicized and it hadn't been published anywhere, but I found out about it and got my hands on a copy and brought this action in the superior court. We were on our way into the courthouse to have a hearing on this petition when PG&E decided they would abandon the agreement with Fish and Game.

While that was pending, Ray Sherwin had lunch with Ike Livermore and had just agreed without talking to me that we wouldn't try to invalidate this agreement, we would get some other benefit out of them. I was furious. I felt they just yanked the rug out from under me on an approach that had political and legal significance. So I told Ray, "If you are going to do this, I can't represent the club. I've got to do something else because I can't have my clients going off and making cozy little side deals that undercut my lawsuits." And he apologized and agreed that it was wrong and called Ike and said he couldn't keep his word on that one. And it was all fine. We had lunch down here at what is now Skates, but it used to be another restaurant down there on the Berkeley waterfront. Ray drove all the way down from court in Fairfield. So that problem got taken care of.

There were little anecdotes like that that sprinkled through this Point Arena case.

- Lage: Now, Ike Livermore tells in his oral history a little anecdote, quite fondly, actually, recalling that he picked up the papers one day, and David Pesonen had said, "Ike Livermore ought to be sent to jail!" [laughter] Do you remember this?
- Pesonen: No, I don't remember it.
- Lage: He seemed to think it was amusing.
- Pesonen: You know, we are pretty good friends, we've been on some pack trips in the high Sierra together.
- Lage: He indicated that, but--
- Pesonen: Well, I might have said something like that--
- Lage: It had to do with the site selection committee--the way that the state worked with PG&E to select sites. And he even agreed that probably that was outdated, outmoded. But he had participated in it, and I guess a site was selected; the state signed on to the Point Arena site.
- Pesonen: I think it did, yes. That is why the deal was done with Fish and Game.

Well, I don't remember saying that, but I could have. A little hyperbole never hurts, if you want ink. I certainly wanted ink on that case. You need it. Probably other things will occur to me about Point Arena, but I don't remember what they are now.

- Lage: Did you work very much with other Sierra Club entities on this?
- Pesonen: Well, I worked with the club's publications people putting that pamphlet together.
- Lage: Any local environmentalists or anything like that? The pamphlet acknowledges "the assistance of volunteer members of the energy subcommittee, Northern California Regional Conservation Committee."
- Pesonen: Yes. That was a volunteer group. There was a young woman who headed it up named Joanne--I don't remember her last name now, I haven't seen her for years. They were kind of an advisory group. But I pretty much ran it.
- Lage: You ran the show; they didn't direct it?
- Pesonen: They didn't direct it, I directed it. You can't have committees run these things, you have got to have a leader, and a leader who has some confidence about his judgment. I knew I had this mystique about me from Bodega, and I knew that I had a certain amount of clarity of what the strategy should be, and I would call on them for help in implementing the strategy and for advice, and we would brainstorm together, but once decisions were made, I put the--
- Lage: Did you notice during the Point Arena campaign changes in attitudes toward nuclear power in general, since Bodega?
- Pesonen: Well, by this time there was a lot of skepticism about nuclear power. It had really changed dramatically.
- Lage: And the club itself had changed. It hadn't been too many years before when they had the big fight over Diablo.
- Pesonen: Well, the big fight over Diablo started before that, in the club, that's true. The big public fight over Diablo started later. The internal club dispute over the deal that was struck (that's maybe too harsh a term), over the agreement [in 1966] that the club would not oppose Diablo in exchange for PG&E moving from the Nipomo Dunes, had occurred within the club and caused the rift which led to David Brower's departure [1969]. But I was not very much involved in that. First of all, I didn't want to get involved in an internal club dispute; I didn't see any point in that. There was nothing that I could add to that that would be constructive, so I stayed out of that controversy pretty much. I watched it with a lot of interest, but I had no role to play.
- Lage: It was complicated enough.

Pesonen: It was complicated, and it was full of politics that I wasn't part of. I have never been much of a joiner. I had never been an officer in the Sierra Club; I wasn't anything but a member, paying dues, pretty much. But as a public controversy, Diablo construction hadn't even started yet. All of those problems with the switched plans and the Hosgri fault discovery; that all came later.

Lage: Did you get involved in that later battle at Diablo at all?

Pesonen: Not very much. I went down and talked to a group down there once during the Prop. 15 campaign, and I had a very interesting time when I was director of forestry with Diablo. It is a wonderful story.

But anyway, that is Point Arena in a nutshell.

Defending Public Access to Beaches

Lage: Well, it seems like a story you could tell in a nutshell--it is cleaner.

Pesonen: Yes, it was clean and I picked all of the meat out of it.

The next case I handled, right about the same time, for the Legal Defense Fund, involved public access to some beaches in Humboldt county, north of Petrolia. There was a retired gentleman up there, who heated his house with driftwood that he collected off the beaches in his old jeep, and there was a rancher up there named Zaroni, who owned a beautiful piece of land north of Petrolia where the little coastal road runs right along the beach for ten or fifteen miles.

He one day closed the fence off after this fellow had driven through, and then threatened him with a shotgun and said he couldn't go to the beach. Well, by this time *Gion-Dietz* had been decided and the *Gion-Dietz* doctrine had been established in California that the public had an absolute right to the public trust lands to mean high tide.

Lage: Now, when was that decided?

Pesonen: That was decided in the sixties sometime, late sixties or early seventies. The Sierra Club Legal Defense Fund came to me and asked me if I would like to handle this case, and I did. And again it was another one of these things at twenty-five dollars

an hour, but it did bring in a little money; I could justify it to the firm.

That was a very interesting case. I filed suit against this rancher that he was illegally barring the public from crossing his land to get to the public land on the beach. He hired an old, very well-known lawyer in Eureka who went by the nickname "Moose". He still has an office right across the street from that big old wonderful Victorian building, the Ingomar Club. This case sort of kicked around in the Humboldt County Superior Court for a while, and we couldn't seem to get it off the ground; we took some depositions. I didn't have a lot of time to spend on it, but finally I got to the point where I proposed that we settle it with some easements--recorded easements across this land--but we didn't know who to grant the easements to. We couldn't grant them to the Sierra Club, so I brought the state attorney general's office in, persuaded them to come into the case and be the recipient on behalf of the people of the state of the grant of the easements. So we laid out five easements and got them surveyed and Zanoni signed the deeds, we dismissed the case and we all went away happy.

I was up there a couple of weeks ago, and I presume the easements are still there, but there are no signs; there is nothing to tell the public that they can get out of their car and walk across these little strips of land to the beach.

Lage: That's too bad. I thought the coastal commission had taken care of all of that.

Pesonen: Well, nobody did anything about it, I guess. I probably ought to write to them and suggest they let the public know they own a little piece of that land up there. That was fun.

The Widener Case: Another Encounter with PG&E

Pesonen: Then, because of all of my notoriety, one day this guy walks into the office named Don Widener. Widener laid out a story that just lit my eyes up. His case had languished. He had been a television producer for KNBC, the flagship station for NBC [National Broadcasting Corporation] in Los Angeles. He had started out as a little publicity writer. He had a brash, aggressive personality and fine eyes for muckraking, and was not shy about going out and trying to do things. He had talked his boss into letting him take a crew and do a little documentary on pollution in Tijuana. *Tijuana Brass* was the name of the film; it

was just a short. And it got an Emmy, or it got a big award, so he was given some more resources, and he preempted a role for himself in NBC as a documentary producer. He had no training or background, but he could do it. He befriended movie stars to narrate these things and brought in a lot of audience for that station. Ed Asner narrated one of his films. And then he hooked up with Jack Lemmon, who was a superstar.

Jack Lemmon and he did a film on ocean pollution that got a bunch of awards, and then he and Lemmon put together the film called *Powers That Be*, which was about nuclear power. It was the first feature-length documentary, that I know of, done by a major media source on the nuclear power controversy as it was bubbling across the country.

Lage: When would this have been?

Pesonen: The film was produced in '72, I think. In the film, Widener had read in a *Look* magazine article that there were problems with the Humboldt nuclear plant: that it was leaking radio-iodine, that the fuel elements were cracking. The material that they had originally used was either stainless steel or a zirconium alloy, and it would become embrittled in the high intensity neutron environment in the core. Radio-iodine is one of the by-products of fission, and there were rumors and reports of airborne contamination of radio-iodine. Widener called the company and made arrangements to interview a spokesperson at the plant. They were right in the control room, kept all the atmosphere. And he interviewed the engineer who had had a management responsibility before that plant, his name was James Carroll. In preparing for the interview, they talked a while outside, and then they went into this control room and Widener hit with the question and said, "Mr. Carroll, there have been reports of problems with the fuel elements in this plant. Can you comment on that?" Carroll looked right into the camera and said, "That is too long of a question. I don't think we can answer it."

Widener took that little snippet of film and used it to introduce his whole documentary. After this shot of Carroll saying, "Too long a question, I don't think we can answer it," the film cuts to Jack Lemmon who raises one eyebrow and says, "Long questions, short answers. The main questions about nuclear power are accidents, waste, radioactivity." It was clearly a commentary intended to show Carroll, and PG&E by implication, as being evasive.

Carroll heard about it at a conference in Chicago from somebody who had seen the finished film broadcast at prime time in Los Angeles and told him he looked very bad and looked

evasive. Carroll--this is my theory, anyway--at that point in his career saw that he was rising into the executive levels of the company and had volunteered to be the spokesperson for the company in this interview. He was very upset and elected to write a letter of complaint to NBC which turned out to be a far bigger mistake than anything ever said on the film. He accused Widener of having secretly taped, off camera, a conversation in which Carroll had said these words, and then having dubbed the sound track into Carroll's visual, camera appearance. Carroll denied having said those words on camera.

Lage: He accused him of not having had that on camera?

Pesonen: Yes. That would have been a very unethical thing to do. My theory was, and I've never had it destroyed--never had it questioned, really--that Carroll submitted a draft of this letter to the public relations department of NBC, and they were worried about the Widener film. They still had plans to build a lot of nuclear power plants, and the prospect of a major network program with Jack Lemmon as the narrator getting national attention just when the nuclear industry was taking off was something of grave concern to the public relations department. So they approved this letter and helped him edit it. It went through four or five iterations.

Widener said it was not true, it couldn't have happened, it has just destroyed my career--he never got any more work with NBC after that. He was broke, living out of a suitcase. He was libeled; he was defamed by that, because the letter was sent to everybody who could in any way bring pressure on NBC. It was sent to the congressional committee that was overseeing journalistic ethics at that time because there were complaints about journalistic coverage of the Vietnam war. Spiro Agnew was vice president then; you remember he was taking after CBS [Columbia Broadcasting System]. The president of CBS had been subpoenaed before Congress about the way its reporters were reporting. They supposedly had dubbed some words of General Westmoreland when he was in Vietnam. On and on and on. The media were very worried that--. I mean, I can remember all of that controversy going on back, twenty years ago. The Nixon administration had a concerted strategy to suppress full coverage of what was happening in Vietnam.

The Carroll letter came along right in the midst of this sensitivity and worry and concern on the part of the major media. And they are not courageous. These big networks are not courageous; they are a business. The days of Edward R. Murrow are gone. That kind of investigative reporting is seldom done. *60 Minutes* is more of a *People* magazine tabloid than it is

investigative reporting anymore, with some exceptions. That is my opinion, now.

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Pesonen: Copies of the letter were sent to the manager of the NBC station for whom Widener had worked. They were sent to one of the big brokers of advertising accounts in New York. It was clearly a concerted campaign. Copies were sent to the Washington lobbyists for PG&E.

Well, I didn't know all of that when Widener first walked in. I saw the letter, and I saw how damaging it was to Widener's career. Widener had hired a lawyer in Los Angeles who became a judge and had to abandon working on the case, and the case was about to be dismissed for lack of prosecution, and he was worried. He knew it was about to be dismissed. PG&E had had it transferred to San Francisco on a change of venue motion of some kind that they had won. So it was just languishing over in the superior court in San Francisco. Widener had gone to four or five lawyers and they had said, "Well, you have got an interesting case," but they didn't want to take it.

Lage: He probably couldn't even offer the twenty-five dollars an hour.

Pesonen: He couldn't offer any money. He was looking for a lawyer who would take it on a straight contingency, and nobody was willing to do it. But I saw more than just the lawsuit in this. I saw this as a vehicle for a lot of things that I cared about. So I said I would take the case, but it was subject to approval from the partners of the firm.

A Libel Case in the Interests of Free Speech

Pesonen: I went to Barney and Charlie and Frank, and they were skeptical of it. I had a copy of the film and I showed them the film.

Lage: Now, why were they skeptical?

Pesonen: Well, libel is not a favored area of the law, because it is intended to suppress speech. I saw a great irony in this. Here was a libel case, which has usually been seen as a way of shutting people up, sanctioning them for speaking too freely and too vividly and untruthfully sometimes--sometimes you skirt the truth when you get excited. As the Supreme Court said in the *New York Times* case, speech should be robust and wide open. So they

were-- . And libel suits historically had often been a tool of repression. So they were philosophically uneasy with a libel suit. I said here was a great irony: here was a libel used to suppress speech. I knew of no case, historically, where it had been used for the opposite effect, where a libel suit had been used to promote free speech. So I was very intrigued with it just as a philosophical matter, as a legal matter, and as a political matter.

They finally agreed that I could take the case if I could raise twenty-five thousand dollars as a fund for costs. Widener didn't have that, so we went to the antinuclear community, nationwide. Barney had some connections, the publisher of *Scientific American*, and I went to some other people who may not want their names used, but I suppose it doesn't make any difference. Henry Kendall, who had been one of the founders of the Union of Concerned Scientists in Massachusetts, who was an MIT professor of physics, and who recently won the Nobel Prize, was a friend of mine and he put up some money--he also had a lot of independent family wealth.

Lage: Was he a friend through your inquiries into nuclear power?

Pesonen: Yes. By that time we already had the first meeting at his house that led to Proposition 15. So he was a good ally and colleague in the antinuclear-power movement. He put up some money, and we got money from three or four other sources, mostly through Barney's efforts, and when the twenty-five thousand was in the bank, I told Widener, "Okay, we'll go with it."

The first thing I did was move to get it back on the trial scheduling calendar and get some more time on it and defeat the pending motion from PG&E to dismiss it for lack of prosecution. So I got it back on track, procedurally, in the court. Then I noticed Carroll's deposition, and I took Carroll's deposition in my office, and I requested that he bring all papers that he had. That company is so arrogant, or was at that time, that they didn't look at Carroll's file.

Lage: They just sent it along?

Pesonen: He just walked in with it; he walked in carrying this little manila folder. And we sat down at a table and started. There were two lawyers representing him, one for PG&E and one for him personally. I said, "Did you bring some papers with you?" and he said, "Yes," and hands over this little file. I started going through it and here were all kinds of smoking guns. Here were the notes from the Washington lobbyist for PG&E saying that he had talked with the staff of the house committee which was

involved in media ethics at that point--I don't remember the name of the committee--and said, "He tells us we are all wet--they investigated this--but the fact that NBC is scared is just what we wanted." All kinds of stuff like that.

Lage: It is kind of amazing that they--

Pesonen: And all of the iterations of this letter, from the first draft that Carroll had drafted on his kitchen table, to the final version that went out to all of these high mucky-mucks. The file was full of revelations. And the two lawyers for PG&E and Carroll began to figure out that they made a terrible mistake. I just walked out of the room with the folder and went down the hall and copied it all and then gave it back to him. Any good corporate lawyer would have sanitized that file.

Lage: And then could you have subpoenaed for more?

Pesonen: It might not have been an ethical thing to do, but I never would have found out about it, and I never would have done anything about it. Sure, I could have subpoenaed that record, but by the time I had done it, it would have disappeared. So that was a very expensive mistake. And very bad lawyering on their part.

Well, I had what I needed. I pretty much had the proof by that point that there was a malicious intent, there was knowledge of falsity, and there was falsity, and there was some sense that Widener had been damaged. Whether Widener really was damaged was the weak point in the case which the PG&E lawyer and Carroll's lawyer never figured out.

Lage: They never attacked that?

Pesonen: No. Because I think Widener was such a brash, impossible person who always went over budget, that NBC wouldn't have hired him again anyway. I don't know that for a fact.

Lage: But they hired him for so many before that.

Pesonen: Yes, but this was the third of a contract--of three that he was contracted to do. I have no evidence that they would have gone into a new contract with him. I suspect that they wouldn't have. He was a thorn in their side. He was an agitator. A very good agitator, but he didn't fit with the corporate system. His expense accounts never added up. When he got his eye on a film, he just spent money, to hire airplanes, fly crews all over the world, and do whatever needed to be done to make it a good film. That just didn't sit well with corporate management. I think they were going to let that contract run out and not use him

again. Although they might not have fired him, they might have given him a lower level job in the operation. But PG&E never figured out that they could weaken this case by showing that Widener wasn't really damaged even though it was a libel.

A Corrupt Judge, a Sympathetic Jury, a Final Settlement

Pesonen: So we took it to trial finally, in superior court, and it was about a six-week jury trial. Unfortunately, it was heard before a judge who had come back from semiretirement, Byron Arnold, a corrupt, old, former member of the board of supervisors, old-line San Francisco--a lot of business connections. And Arnold was hostile from day one. I should have challenged him and not had it go to him, but I was too naïve and young, and I thought he would at least follow the law. It became clear to him as the trial progressed that I was going to win, and I was going to win big. He tried to dismiss the case before it got to the jury, and I brought in an expert on libel law from Hastings, an old guy who had just written a book on it, Laurence H. Eldredge, who was about Arnold's age, and he looked a lot like Byron Arnold. He had just published a textbook, *The Law of Defamation*. He came and argued it with me, and Arnold decided to let the case get to the jury.

The jury came back after deliberating about a day with a unanimous verdict of \$750,000 compensatory damages for Widener and \$7 million in punitive damages. It was the biggest verdict ever for an individual plaintiff in the history of the common law, up to that time.

Lage: What did you ask for?

Pesonen: I asked for about that. I said a million in compensation for harm to Widener's professional reputation and \$7 million in punitive damages. They didn't give me quite the million. I hadn't put in much evidence on damages. I had Jack Lemmon testifying that Widener was one of the finest documentary producers he had ever seen and had a high reputation in the film community, all of which was pretty shaky. And I think the jury saw that Widener--. But they liked Widener, and they liked his wife, who sat in the courtroom throughout the proceedings and testified a little bit.

There was just a flurry of dismay in the room at the verdict. Arnold got up off the bench and walked out of the courtroom without saying a word to anybody after that verdict. I

don't think he even said, "Thank you" to the jury. He was plainly emotionally upset. And of course PG&E immediately brought a motion for a new trial and to overturn the verdict, and Arnold granted them all. He granted judgment for PG&E against Widener--they had a cross-complaint that he had maliciously prosecuted this case against Carroll and that he had libeled Carroll. It was a frivolous strategy. But PG&E went out of there after Arnold got through with it with a clean sweep. I took it up to the court of appeal and--

Lage: So you ended up having to appeal it when you had won?

Pesonen: I had to appeal. I had to appeal to get the right to try it again.

Lage: I don't understand how the jury can make a decision and then the judge can overturn it.

Pesonen: Under rare circumstances, if the judge thinks that jury has just run away and ignored the law, he can overturn their verdict. It is supposed to be a very narrow standard set up for the rare case when something goes awry, but it is very hard to control that if you've got a corrupt judge. And he hadn't followed the right standards, so when he granted judgment for PG&E, that was reversed, but the standard on a new trial is a broader standard; more flexible. And the court affirmed the new trial order so it was sent back for a new trial.

By this time, PG&E had wised up, and they hired a very good lawyer, Ed [Edwin] Heafey, Jr., who had written the book on trial practices for CEB [Continuing Education of the Bar]. We spent a lot of time trying to get that case to trial again. He took depositions all over Hollywood and all over Los Angeles, from anybody in the film community about Widener's reputation. He spotted the weakness in the case, which was Widener's damages. We finally got sent back to trial before Judge Eugene Lynch, who is now on the federal court, and Lynch said that we ought to try to settle this case. We spent about a week on various motions and settlement discussions and finally settled it for \$500,000, which was still a lot of money.

Lage: Yes. Not seven million, but--

Pesonen: But it is not seven million. But if I had tried that case before a different judge at that time, I would be a wealthy man today, because I had it on a 40 percent contingency.

Lage: Was the \$500,000 punitive damages?

Pesonen: No, we didn't characterize it one way or another. It was supposed to be confidential, more or less. Fifteen years ago, I don't think anybody cares now. So that is the end of the Widener saga. Well, not quite the end.

Lage: This must have endeared you even more to PG&E.

Pesonen: Yes. Well, Widener immediately went out and bought a new Lincoln Continental [laughter], and then he bought a big house up in Lake Arrowhead, and then he lost it all. I've lost touch with him; I've tried to track him down. I am told he is sort of living hand-to-mouth from one motel room to another, but he was always in Jack Lemmon's office all of the time. Jack Lemmon's secretary and I got to know each other, and she's lost track of him; she doesn't know where he is now.

Lage: He never got back into the documentary film business?

Pesonen: No. I don't know what he did after that. He didn't do much. I had dinner with him once at Lake Arrowhead about 1980 or so, but I understand he has lost all of that.

He did do me one favor. In 1983--I think it was the fall of 1983--when I was gearing up to run for reelection as a judge, Senator [John A.] Nejedly threw a big party for me at his hilltop place out in Walnut Creek, and Don Widener got Jack Lemmon to fly up and speak at it. That was pretty nice. I think I am not remembered for any judicial act I did in Contra Costa County in the two years that I was a judge out there as much as I am remembered as the guy that got Jack Lemmon to come to Contra Costa. [laughter]

Defense of Mount Sutro and the City of Davis

Lage: Any other cases we should talk about before we get into the nuclear safeguards initiative? We have the *Mount Sutro Defense Committee v. Regents of the University of California*.

Pesonen: Yes, that was a good case, and the City of Davis case was a pretty good case.

The Mount Sutro Defense Committee case came along right about the same time as the Widener case, and it involved the plans of the University's medical center to expand enormously in San Francisco: to add a whole new wing to the Moffitt Hospital, to build a whole new dental school. It is in a very compacted

area, near Golden Gate Park in the Haight-Ashbury part of San Francisco, and the community was up in arms about the impact of congestion.

I filed an action under the California Environmental Quality Act to enjoin the whole project because it was not consistent with the long range development plan of the University or CEQA. I tried that before Ira Brown. The University was represented by the general counsel for the regents and the firm of, it was then Howard, Prim, Rice & Nemerovski. Stewart Pollock handled the case; he is now a superior court judge in San Francisco. I tried it on a novel theory that I don't think Stewart figured out until we were near the end of trial. Lo and behold, a week after the Widener verdict, Judge Brown issues his decision granting the injunction and stopping the whole construction plan out there at the University. So within a week I had these two front-page stories of legal triumphs.

Well, the University appealed immediately and brought a special kind of petition, a petition of a writ of certiorari, I think, which is very odd, or a writ of quorum nobis. I don't remember what the writ was. It was an unusual writ, and they finally prevailed in the court of appeal, and by this time the University had modified its design plans and modified the design of the dental school so that it sloped into the hill and did some visual cosmetics on this thing. But I met a lot of people in that case, and I represented a lot of community organizations and had quite a following in San Francisco. That is why I was going to be a superior court judge in San Francisco, because I had political support.

Lage: Instead of Contra Costa?

Pesonen: That is a whole other story, how I ended up in Contra Costa County.

In a nutshell, that is what that case was about.

Lage: But there is something to the unusual approach you used? You said you had used a certain theory that the other lawyer didn't catch onto.

Pesonen: Yes, it was the theory that they had to do their environmental impact statement before they went to the legislature for their budget appropriation, and I persuaded Judge Brown that I was right. If I was right, it would have brought this state to a halt. [laughter]

Lage: I love your comments after the fact.

Pesonen: Knowing a little more about how government works now, it just would have been unworkable. The legislature would have amended the statute if the courts had interpreted it the way I thought it should be interpreted. But the language supported my interpretation, and the evidence, as it went in, was consistent with it.

The City of Davis case involved an overpass called the Kidwell Road overpass which was to connect two tomato fields on both sides of Interstate 80, when Interstate 80 was being completed from the Dixon Road turnoff into the city of Davis, where Highway 113 takes off and goes north, the major reconstruction of that highway. The Solano County development department had proposed to Caltrans that they build this overpass, and they had promoted it as an industrial site; that people could work at this industrial site and live in Davis, which had good schools, good libraries, and a fine ambiance. But all of the taxes would go to Solano County, and all of the burden would fall on the City of Davis and Yolo County. There is a county line running right down Putah Creek, just a couple of hundred yards beyond this overpass.

The Federal Highway Administration came in and opposed me, and Caltrans opposed me, and the contractor hired a big lawyer to oppose me, and I brought a suit in the federal court in Sacramento in front of Judge Wilkins. I tried it by myself and, to my surprise, Judge Wilkins issued an injunction, a temporary injunction. Construction was underway; they had piled the dirt up, and pile drivers were out there for the center piers. When the court issued that decision, I remember stopping by and talking with the project manager and I said, "Sorry, the court just told you you have got to quit." He wasn't too happy about it.

After six or eight months, they issued a revised environmental statement, and the judge dissolved the injunction, and so I brought a petition in the Ninth Circuit Court of Appeals to reinstate the injunction and immediately they did so. They issued an injunction, reinstated the order until further proceedings. Well, there were no further proceedings until a full environmental impact had been done. Well, they never did one.

Lage: Was that the grounds that you had? That the environmental impact had not been--?

Pesonen: There had to be a full environmental impact statement. I showed that their intention was to build this industrial facility and that has a major environmental impact, and they had ignored it in

their environmental statements. It was part of a scheme by the adjoining county to rip off the other county. That was why the City of Davis was my client. They saw what was happening: they were going to get a bigger demand on their public services and no way to pay for it.

I charged \$5,000 for that case; that is all I ever got. I think all I ever got was \$2,000 for the Mount Sutro case. I was a lousy businessman. [laughter]

Lage: So you charged just a flat fee on those?

Pesonen: I charged a flat fee.

Lage: How did the City of Davis happen to come to you?

Pesonen: A city councilman was somebody I had met through the antinuclear movement, Bob Black, who later went on to the board of supervisors in Yolo County. I guess I told him I could do a good job, and I did. But I didn't make any money on that case. I didn't make any money on any of these cases, just a little bit on the Widener case.

Only recently, only within the last couple of months, has something happened. I am not involved in it any more, but they have apparently satisfied the City of Davis or somebody that their environmental documents are okay, so after seventeen years, they are finally building the Kidwell Road interchange, which doesn't go to anyplace.

Lage: There will probably be a new factory outlet center or something.

Pesonen: There will probably be a new factory outlet there, sure.

Lage: What was "in the matter of PG&E" at Humboldt?

Pesonen: Well, starting in about 1975 or '76, there was a Forest Service geologist up in Eureka who discovered that there was some serious faulting in the vicinity of the Humboldt Bay nuclear power plant, which had always been erratic in its operation anyway.

Lage: And it was an early one?

Pesonen: It was the first real commercial sized plant--sixty megawatts, I think. It was not a very big plant, but it was an operating nuclear power plant, and it was very valuable public relations, and it did produce electricity. They probably never made any money on it. It was an old General Electric pressure-suppression safety device, a very primitive design from a safety point of

view. On the other hand, it wasn't very big, so it would be less likely to melt down. But it was a hazard, so we brought a petition before the Nuclear Regulatory Commission--I think that is what it was called then. That agency has gone through a couple of modifications; the AEC was abolished in '74-'75 and its regulatory role was split off from its promotional role, and then there was another change and I have sort of lost track of what they all were, but we brought the petition before whoever had the licensing authority over the operation--to shut it down, because of this newly discovered evidence of seismic hazards. That kicked around for quite a while and finally they shut them down in 1979.

Lage: So this wasn't a law case? I mean, in legal court. It was an administrative?

Pesonen: It was an administrative petition. I didn't see that quite to the end because I got appointed director of forestry before it was over. It was over in late '79, and I got appointed in April of '79 to the Department of Forestry.

The Disturbing Saga of Charles Garry and the People's Temple

Lage: Before we go on to the Department of Forestry and the Board of Forestry, let's talk a little more about the Garry firm and the People's Temple connection.

Pesonen: Well, as the years went by, Charlie Garry--from his celebrity around his involvement with the Panthers and his successful defense of Huey Newton on the retrial after the court of appeals reversed the first conviction--became, I thought, pretty much enamored of his public image. Hungry for publicity, his judgment began to deteriorate, in my opinion.

Lage: How old was he by this time?

Pesonen: Oh, he was in his sixties. He wasn't bringing in much business. I was trying to bring in some business and pay my way and help pay the overhead; I was never a big rainmaker with big money-making cases. Al Brotsky was the real businessman in the office, and Barney, because of his reputation, brought in a lot of business, and Frank McTernan had a steady clientele, but Charlie began to be kind of a drag. He would get some criminal case from a drug dealer, who would give him five thousand in cash and he'd come down to us and say, "Here, I got this money." You could

tell he was feeling a little defensive about it himself. He'd have rolls of bills stashed in the light fixtures.

I began to get pretty troubled about it. But I didn't do anything about it. I had been with the firm eight or nine years, and it wasn't that bad.

Lage: Are you pretty independent in a situation like that?

Pesonen: Yes, we all had kind of our own individual practices. It was not a cohesive business. We managed all our business together, but we didn't make decisions collectively very much; we had our own sets of clients and our own kinds of cases that we handled, and we would refer cases back and forth among ourselves in the firm depending on the expertise of the various lawyers.

It began to really trouble me when Charlie represented some guy who was involved in drugs and couldn't pay his fees, so he gave Charlie his Jaguar as the fee. Charlie just took the Jaguar. It was an asset that he just took for himself; we didn't collectively get the benefit of it. And he started to do things like that. It's not good business and not fair to the rest of us, we felt--I felt that probably more strongly than anybody else because I could see that I was never going to make very much money in that firm, and I was getting old enough that I was beginning to worry that I had kids now who might one day go to college--

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Pesonen: I was not making a lot of money, and I never expected to make a lot of money when I started there, but you change as you get older and you get responsibilities. So I just didn't see that there was any future for me there, but I didn't know what else to do. So the thought kind of nagged at me, and I put it out of my mind.

First Suspicion of Evil in the Temple

Pesonen: I knew Charlie was involved with the People's Temple. The People's Temple was politically very celebrated in the city. This guy Jim Jones could turn out precinct workers by the hundreds for any local candidate for the board of supervisors.

Lage: He was really relied on by a lot of the establishment.

Pesonen: He was relied on by the liberal establishment. He had a lot of charisma, and he had a loyal following, and it seemed as though he was doing good things. He was a minister who talked the right line. And, of course, Charlie got involved with him immediately, because Jim Jones was always in the newspapers, and Charlie wanted to be in the newspapers. But I really didn't have much to do with it.

So one day Charlie came to me and said that he would like me to handle some libel cases involving the People's Temple because I was the libel expert, from the Widener case. They were cases involving the parents of children who were--by this time the temple had moved to Guyana. Jim Jones had gone to Guyana, and there had been some articles appearing that things were not what they appeared with Jim Jones, that he coerced and sexually abused his followers. But it was all kind of hazy and full of unsubstantiated charges. It didn't look good, but there wasn't any proof. I discounted a lot of that; I figured it was just reactionary press going after somebody that was a progressive. But there was this sort of nagging question unresolved.

When Charlie brought these four or five libel suits for me to handle, to defend the temple--

Lage: They charged the parents with being--?

Pesonen: The parents had accused Jones of abusing their children and holding their children against their will. These were parents who had joined the temple when it was here, and when the temple picked up over night and moved everything to Guyana, some of these kids--some of them were little, they were ten, seven years old, little kids. The parents, by this time, had become disenchanted with the temple and had not gone, and they as much as accused Jones of kidnaping their children. Or they were people who had gone down to Guyana, to the encampment there, and then become disenchanted and left and were not sure, or came back for personal reasons and left their children there because they still believed in it. There were a lot of different reasons why the parents were separated from the children, and the parents were implicated in those decisions. It wasn't as though the kids were kidnaped and spirited away in the middle of the night.

But the disenchantment had grown, and the parents had then accused Jones of holding the children against their will and against the parents' will and cutting them off from access; they couldn't get into this remote encampment back in the jungle. You needed a little airstrip to get there and then you had to ride through the jungle in one of the temple's vehicles. If you didn't have those arrangements, you just couldn't get in; you had

to have permission. Jones would get on his shortwave radio and accuse the parents of having molested the children and that was why the children wanted to stay. They didn't want to go back to these abusive parents. It was a real mess.

So the parents had brought libel suits against Jones for accusing them of this horrendous behavior toward their children by shortwave radio, and Jones, in turn, cross-complained (or Charlie wanted us to cross-complain) against the parents. One of these cases was filed in Los Angeles, and I went down to defend some motion on it. I took all of these papers and read all of these complaints and many of them were done *in propria persona*--the parents didn't have lawyers--and so they weren't very artfully drawn. Good pleading pleads what are called ultimate facts. Sloppy pleading pleads a lot of facts which are not necessary in the pleading. They may be necessary in the evidence at trial, but not in the pleadings. And there were affidavits attached to the complaints. They were very factual and very troubling. I didn't know where the truth was. People always exaggerate in pleadings to some extent. Until they are tested by a trial, you don't know what the truth is.

I came back and I went in to see Charlie, and I said, "Charlie, there is an awful lot of stuff in here that really troubles me, and it can't all be fabricated, and I don't want to work on these cases; I don't think we ought to be involved in them. There is too much smoke here; there is something very evil going on down there. I feel it is very possible that there is something very evil about this place. No matter what the ideology, I don't think we should have anything to do with it." Charlie just exploded at me. He said, "It's paradise, I tell you. It's paradise. I've been down there. They sing and they dance and they have gardens. It is a pure socialist world. It is the dream we've all had. Everybody shares. They all live in barracks. They love each other; they sing and dance a lot."

Lage: He was really taken in by it?

Pesonen: He was completely taken in. I said, "Well, Charlie, I don't know. I have not been there, but I have read all of this stuff, and I do not want to work on it. Get somebody else." So that was the beginning of the real falling out between Charlie and me. He felt that I was turning conservative; he began to get kind of paranoid about me. The tension wasn't always there; we continued to work together and talk and have regular office meetings and things, but this was in the background. I wasn't completely to be trusted, and I didn't trust his judgment.

Lage: Did Mark Lane get in on some of this? I saw his name in connection with this.

Pesonen: Charlie was worried about Mark Lane. Mark Lane was a lot like Charlie. He was crazy too, in my opinion. Here was a great left-wing cause for him to identify with, and Charlie was afraid that Mark Lane was trying to steal the client away from him. A client that never paid any money. Their rewards were psychic, they were not financial.

Lage: They didn't get paid?

Pesonen: I don't think they got paid anything.

Garry's Trip to Guyana, November 1978

Pesonen: So Congressman Ryan finally--you know, there were congressional investigations talked about--and Congressman Ryan finally said that he was going to go down there and see for himself with his aide Jackie Speier, who is now a member of the assembly. Mark Lane was going to go down with them, and Charlie said he had to go, too. And there were a couple of reporters from the *Examiner* --one of them was killed. It was in November of 1978.

Lage: And Garry went on that trip also?

Pesonen: Garry went on that trip, too. About a year before that, Charlie's girlfriend who worked in the office, Pat Richards, called me in desperation and said Charlie was in Chicago, and she couldn't find him. She had gotten a message by shortwave from Guyana that they were all going to kill themselves, and could I do anything?

Lage: A year before?

Pesonen: I said, "Aw come on, they are not going to do that. Wait until Charlie gets back, he'll handle it." I had forgotten about that.

So Julie and I and some friends were at a little resort up on the Klamath River on a fishing trip. It was right before Thanksgiving, I think, the weekend before Thanksgiving, and we were listening to the news at night on a little radio that didn't work very well, and these reports started coming in of some great massacre in Guyana. The radio would fade out and then come back. Three people killed, fifteen, the numbers kept growing. I didn't know what had happened to Charlie or anybody. Then the report

came through that Congressman Ryan had been killed, and the reporter for the *Examiner* had been killed, and Jackie Speier had been badly wounded.

So I got back to the office, and we still didn't know where Charlie was. Nobody had heard from within. Then, about a day or two later, we heard that he had escaped, and he was coming home. He arranged, somehow, for a press conference the minute he got into town. He set it up over at what was then the Franciscan Hotel at 8th and Market, which was across the street from our office. He got off the plane, got a cab, and came straight to the office. He was a ruined man. He had been through something so horrible, you could tell it. His face was changed, he looked ten years older. He was a mess, physically.

And he told us what had happened. They had gotten there with Ryan, and everything was nice for a while, and then it turned sinister. Some member of the group had pulled a knife on Ryan, and Charlie and Lane had disarmed this person. There was a lot of tension. They had agreed to stay as kind of hostages if Ryan could be allowed to leave. So that was the deal that was struck, and Ryan and Speier and the reporters and the rest of their entourage headed for the airport. Unknown to Charlie--I'm sure it was not known to Charlie; I'm sure he had nothing to do with it, or Mark Lane--there was this other plan to assassinate Ryan when he got to the airstrip. So they put Charlie and Mark Lane under guard in a couple of little cabins off to the edge of the compound, and then the killing started. And it wasn't very far away, and they could hear it.

Lage: Where was Jim Jones during all of this?

Pesonen: He was overseeing this mass suicide.

Lage: Did he talk to Garry?

Pesonen: I don't recall what Charlie said about that. It was as though Jones had completely gone crazy, and there was no real communication there.

Lage: So Garry could hear?

Pesonen: He could hear mothers giving cyanide to their kids, and Jones exhorting them over the loudspeaker.

Well, they figured out what was happening. You didn't need to be a rocket scientist to do that. And the guard knew what was happening. They had a young man with a gun who was watching over them. And Lane, according to Charlie, persuaded this young guard

that this was a great historic event and that somebody should be allowed to go back to the outside world and tell them what a great historic event it was, and that Charlie and Lane should be picked as these emissaries. So the guard pointed them out to a hole in the fence, and they escaped into the jungle and went as far as they could go. It was apparently a pretty dense tropical jungle. Then it started to rain and got dark. They spent the night huddled under a tree.

It had some amusing moments. It is hard to think that it could, but Lane offered to carry one of Charlie's bags, which had nothing in it but a hair dryer, and Charlie doesn't even have any hair. [laughter] He had a toupee. But he carried a hair dryer for his toupee. And Mark Lane sat in the rain all night in the rain being eaten alive by insects, chiggers that dug into the skin, guarding this useless hair dryer.

Well, when it got light, they found their way to a road, and by this time the authorities were coming in and picked them up and took them to the airstrip, and they finally got out of there. When Charlie got to the office, I remember, he pulled his shirt up and he was just covered with big red welts all over his body. His stomach was just full of these things. The biting insects had just eaten them alive that night, and he still had the welts all over him. And then he went across the street to this press conference.

Well, everybody in the world was there. I had never seen such a big press conference. There must have been a pincushion of a hundred microphones on the podium. I was so dazed by this whole event, the magnitude, the enormity, the awfulness of it was so profound, I don't remember a word Charlie said at that press conference.

Lage: It is interesting that he had that need, immediately.

A Difficult Decision to Leave the Garry Firm

Pesonen: I went over and just watched in amazement that he would hold a press conference. I had tried to advise against it when we had this little office meeting. I said, "Charlie, this is not the sort of thing you want any publicity on. You don't want to increase the public identification of you with this horrible thing that has happened."

Well, he had to do it, and he wouldn't listen to anything like that. A couple of days later, he and I had a talk, and I said, "Charlie, you need to--." I mean, my economic destiny was still tied to this firm, and I saw it just destroyed there. That was when I decided that I was going to get out. I was going to find a way to get out without embarrassing him or making a public rift out of it or anything else. I was just going to distance myself from this hopeless situation.

I said, "Charlie, you need a public relations man. You need someone to advise you on when to say something and when not to say something. Sometimes the best thing to do is to not say anything." To my surprise, he agreed that he wouldn't say anything unless I cleared it first.

Lage: I bet that didn't last long.

Pesonen: That didn't last very long. He and Mark Lane began accusing each other.

Lage: After what they had been through together?

Pesonen: After what they had been through together. Each was blaming the other for not having seen it coming. I said, "Charlie, don't even get in a pissing match with a skunk."

So a couple of weeks later, here he is back in the papers, and he has been over to City Hall, and he hasn't talked with reporters for a couple of weeks, and Connie Chang, who was the *Examiner* stringer at City Hall, caught him in the hall and wanted to get a quote from him about Mark Lane's latest charge. He says, "I can't talk to you, Connie. My partner tells me don't ever get in a pissing match with Mark Lane!" [laughter] He always got it wrong.

Lage: Was he very shaken by this experience?

Pesonen: He was very shaken.

Lage: I would think, psychologically, the faith he had put in this group, and then to go through that experience--

Pesonen: He had put his whole--he was a true-believer personality. That is his personality profile. When he got into something, he was into it with his whole being. And he was a true believer in this dream he had of Guyana being the perfect socialist experiment. So he felt just mortally betrayed and humiliated. And Charlie didn't take humiliation very well. He had enough of it as a kid when he was an Armenian child, badly treated so I'm told, enough

so that he changed his name even. He was very complicated. He had a complex psychology, but I'm no psychologist. He had great moments of generosity and great moments of wisdom and insight, but when he got involved in things like this, the Panthers or Jim Jones and the Temple, he lost all that, and he knew it. He knew it, and he was humiliated, and he wouldn't admit it. He couldn't acknowledge his humiliation. I don't know whether that was a defense mechanism that went back to his childhood or not.

So I began to look around for office space, talk to people about who I might form a new firm with, and one day Huey Johnson called up and said, "How would you like to be director of the Department of Forestry?" It was the perfect way out. It didn't imply that--. I had been recruited and invited to take this responsible position in the government of a progressive governor, who was of interest to everybody. We were all fascinated with Jerry Brown. And it didn't imply any rejection or disapproval of Charlie or Barney or Frank or anybody else. I had approached Al Brotsky to see if he wouldn't work with me to reign Charlie in some way, and he agreed with me that it was an unviable situation, but the bonds among those men went a long ways back, and I was still an upstart, in a way. I was the youngest partner and not part of that old left world.

Lage: A different generation?

Pesonen: A different generation. Al was a much smarter businessman than the rest of them. Frank McTernan wouldn't hear of it. He was very offended that I would even suggest some disloyalty to Charlie. I saw that was hopeless, hopeless to work something out within the firm. It was only after I had tried to work something out within the firm, to get some limit, some reins on Charlie that I elected to leave.

Lage: You showed a lot of loyalty yourself, it seems to me.

Pesonen: Well, I had learned a lot from him, and he had been good to me. And he was a decent man. His bad judgment didn't mean he was evil, even though he got swept up in that terribly evil thing that happened down there. I wasn't judgmental about him that way. Life isn't black and white like that. And he was a good person, and he had tried to do a lot of good things, and his heart was in the right place, but his judgment was tragic. It was just a tragic fatal flaw he had.

Lage: Although he probably, I would guess, didn't have anything to do with the course of events down there.

Pesonen: No, I don't think he had anything to do with the course of events down there, except maybe that his prominent support for the temple had allowed Jones to accumulate enough power and hold on to enough people that he could inflict such a disaster on so many people. I suppose if Charlie had questioned them sooner, his paranoia might have exploded sooner. Who knows? I don't know what history would have done some other way. But Charlie was a person I worked with for ten years. I saw no point in increasing his anguish or humiliation. If I had said anything publicly, it might have been a one-day story, and it would have gone away, and then the people who knew me and knew him would remember an act of disloyalty, and an unnecessary one.

VI INITIATIVE CAMPAIGN FOR THE NUCLEAR SAFEGUARDS ACT, 1973-1976

[Interview 5: March 12, 1992] ##

Presumed Dead

Pesonen: I went to Washington, D.C., on the fifth of March, 1992, for a meeting on a topic completely unrelated to anything we are talking about, and beforehand I called J. Samuel Walker, who is not only the historian of the Nuclear Regulatory Commission, he is a teacher at Georgetown University of diplomatic history. He is an historian. I think I recall he is from Harvard [University]. That is where he got his education. He is a very nice guy, and he was delighted to hear from me because he had sent some of his graduate students out to do some of the research for that article that he wrote, and the report came back that I was dead. [Laughter]

Lage: Somebody didn't want to get in touch with you, it sounds like.

Pesonen: I said, "Well, maybe that is somebody full of wishful thinking at PG&E [Pacific Gas and Electric Company]." It might have been that they made those inquiries while I was really sick in 1984 or 1983. It was December of '83 when I got really sick. The reports were that I might not live, and maybe somebody figured that they didn't hear anymore so I didn't make it. [Laughter]

So we had a nice visit. That article is part of a book which is coming out. UC [University of California] Press is publishing it and it will be out this summer. He was not really aware of the Point Arena struggle for some reason, so I gave him a copy of--

Lage: That's interesting--that he wouldn't have followed through to the Point Arena--

Pesonen: Well, he had other things to do, I guess. Anyway, I gave him a copy of the pamphlet that I wrote for the Sierra Club on the Point Arena nuclear plant, and he is going to look into possibly following up and doing something more on that history.

Lage: It makes a nice comparison.

Pesonen: Well, it makes a nice comparison, but it also is part of the historic curve.

Genesis of the Idea for Initiative Effort in California

A National Antinuclear-Power Network

Lage: We are going to talk about the Nuclear Safeguards Initiative today.

Pesonen: That's a good story. That's a good long story.

Lage: When did you get involved with it?

Pesonen: I think I was in on the beginnings of it. The notion started kicking around among the people who were in the network of the antinuclear movement.

Lage: Now tell me about the network a little bit. You haven't really talked about your relationship with other aspects of the movement in other parts of the country.

Pesonen: Well, the network just grew informally. The Bodega Bay campaign was the beginning of it, but the nuclear industry was really starting to take off. Orders were coming in; it was very fashionable for utilities across the country to propose nuclear power plants. Bodega had kind of opened people's eyes--it had gotten a lot of national publicity--to the fact that there were problems, some kind of a problem. So I got lots of inquiries from little citizen groups around the country: in New Jersey on the Oyster Point plant, I think it was called; plants in Michigan; and of course there were a couple of other plants proposed in California. There began to be a little body of literature in popular media. I just had a little address book with names and phone numbers of people who had called me.

The first coalescing, I guess, of any kind of organization was the Union of Concerned Scientists, which was formed by Henry

Kendall at MIT [Massachusetts Institute of Technology] and a fellow named Dan Ford and probably some other people that I didn't know. They began to issue papers on various issues and testify in congressional hearings and in licensing hearings or public meetings of various kinds. It wasn't so much an antinuclear movement as it was very concerned about the safety of large nuclear power plants that were water-moderated, based on that Weinberg early design: pressurized or boiling water reactors, which were the two basic types of light water-moderated reactors. When they got big, up around a thousand, two thousand megawatts, there were serious untested safety measures that couldn't be tested. They were just too massive and too problematic.

So the idea got developed, and I don't remember who originated it, for a meeting at Henry Kendall's house that would plan the future strategy of the antinuclear movement. I think that meeting took place in 1972 or '73. I didn't start my diary until after that, so I can't remember exactly when that was. But it was in the early seventies, and I went and Richard Spohn went. Richard Spohn was with CalPIRG, the California Public Interest Research Group, now called California Citizens Action, I think.

Lage: CalPIRG was in existence already?

Pesonen: I think it was. No, Spohn was with the [Ralph] Nader organization.

Lage: Oh, the Nader organization. It probably grew into CalPIRG.

Pesonen: He was a southern California stringer for the Nader organization. Joan McIntyre and maybe Dorothy Green were there. There were probably ten or twelve, maybe fifteen people there. It was a two-day meeting at Henry's house in Boston. What emerged from that was a plan to use California as the first place for a really well-organized campaign that was generic and not specific to individual plants.

Lage: Using the initiative process?

Pesonen: Well, that was the backup. We thought the first thing we would do was try to see if we could get legislation. The initiative process is very risky, very expensive.

Lage: It wasn't as frequently used then.

Pesonen: It wasn't as frequently used then, that's true. We knew about it, and it had been used before.

Lage: The Coastal Zone Conservation Act was November 1972.¹

Pesonen: And that was an initiative.

Lage: Right. And then Proposition 9 was in June 1972. It was defeated. The Clean Environment Act. It was very broad.

Pesonen: That was the [Edward] Koupal measure. It had some antinuclear components to it, but it also attempted to ban all compounds containing DDT, chlorofluorocarbons; it was very foresighted in that respect. But it was a catchall. That was put together by Ed Koupal.

Ed Koupal and the Art of Signature-Gathering

Lage: Was Koupal at this meeting at Kendall's house?

Pesonen: I don't think Koupal was there, but somebody from Koupal's organization was there. Koupal was a very interesting fellow. He had been a car salesman up in Roseville, and he somehow got sore at Governor [Ronald] Reagan and decided to try to recall him. He launched the first recall campaign against Reagan as governor, and it failed. But he developed techniques for getting signatures for initiatives, referendums, recalls. You have to get a lot of signatures, and he was organized about it.

His theory, as I heard him say it many times, was based on how he sold cars. Two yeses and you get a sale. So he developed a very simple technique of setting up a table at a place of high pedestrian traffic and having one person behind the table, have the petition pasted down on the table facing toward the traffic, and have a shill or a barker out standing on the sidewalk and asking passersby two simple questions: one, do you want nuclear power to be safe? (This is by example.) He would say, "Do you want good government"--something you couldn't say "no" to--and "Are you a registered voter?" You've got these two yeses, and by that time you are leading the person over to the table and handing them a pen. It worked very well.

So Koupal was clearly the master of how to get a lot of signatures, and I think somebody from Koupal's organization was there. Koupal had decided that the next issue he was going to take on was nuclear power. It had a certain sex appeal to a lot

¹ Proposition 20 (November 1972)

of people. Politicians and people in public office were uneasy about it, but they saw something growing. They felt that there was something happening here that they had better know something about. Some of the more courageous ones, or foolish ones, depending on your point of view, took positions against nuclear power.

Assemblyman Charles Warren's Encouragement

Pesonen: Anyway, this meeting ended up with a plan that Richard Spohn and I, I think, would go and see [Assemblyman Charles] Charlie Warren. We went to see Charlie and we spent a couple of hours with him. That must have been in early '73, and Charlie said, "There is just no way I'm going to get any kind of legislation through this legislature in this current climate." The labor unions were very much pronuclear, led by the construction unions. There just wasn't enough of a political base to make anybody in Sacramento courageous enough to take that on. Charlie would have done it if it had a chance, but he thought it was hopeless.

Lage: Had he made up his mind about nuclear power at that point?

Pesonen: Oh yes. Charlie, by that time, was pretty clear that nuclear power was too big a problem. He had been involved in some of the early protests on San Onofre, and he had read up about it. He was foresighted enough to see that there was something happening here and that there were a lot of problems with nuclear power. But he was a member of the assembly; he was elected out of a district somewhere down in Los Angeles, and he didn't have a groundswell in his district either. But he was an environmentalist, and he was in touch with the environmental community. Dorothy Green, active in both the women's and the environmental movement in Los Angeles, was very active I know, and I think she had his ear.

He said, "I won't be able to get anything through this legislature until you bring an initiative." We had already thought that maybe an initiative was the fall-back position, so we went back and we started talking about how to put together an initiative campaign. I had never done one, Koupal had. And Alvin Duskin, who was an acquaintance of Kendall's--I think Duskin was at that meeting, too--Duskin and Koupal teamed up to put the initiative together.

Early Efforts by Koupal, Duskin, and the People's Lobby

Lage: And Duskin was the clothing manufacturer in San Francisco?

Pesonen: He was the clothing manufacturer, but he had run an initiative in San Francisco against high-rise buildings in the early seventies. It failed, but he became quite well known as an activist on environmental causes.

So I kind of was left out of this process. I would talk to Duskin now and then, he would call me for my advice on something, but for some reason he didn't want me involved. I felt I was being excluded from the process, partly because I didn't have the kind of time he did and Koupal did, but also they got some money. I think they got some money from Kendall. I think they might have gotten twenty-five thousand dollars to get it started, which was a lot of money in those days. They put the campaign together and they got a crew of volunteers, and I kind of watched it from the sidelines. That had to have been before '73 because I was still in my office at 345 Market Street.

Lage: So this was early on?

Pesonen: This was very early on.

I kind of resented this. I thought, you know, I am the father of this thing and I ought to have more involvement, and as I watched it, I thought they were making some mistakes. I had some part in the drafting; I saw it as a draft. Duskin would send me drafts of the measure, and then it would go through three or four iterations, and I would see another draft, and I wouldn't know what had gone on.

Lage: Who was drafting it? Did they have legal input?

Pesonen: Duskin and Koupal and some other people that they were involved with, whom I don't remember.

Anyway, they started their signature gathering, and I think in those days you had to get something around 300,000 statewide to qualify the measure. And there is a time line; there is a statutory period within which you can get those signatures after the secretary of state gives title and summary and you get them printed up in the proper form. Occasionally, I would get reports on how the numbers were going, and they were disappointing. So at some point--.

In the interval, we moved our office up to 1256 Market, and I distinctly remember getting a call from the local signature-gathering group in San Francisco. It was run by a woman whose name I don't remember, but she had been kind of delegated the San Francisco area or the Bay Area. A group of maybe eight or nine of the people who had been involved in the signature gathering came to my office and said that they were convinced that they were not going to make the deadline; the campaign was not well organized, the morale was low. Something had to be done, and would I step in and fix it and help them decide what to do?

I saw immediately this was a prescription for friction between me and Duskin and Koupal. [Laughter] So I called Duskin and--Koupal was a very difficult person to deal with. He had a huge ego and was very manipulative. He and his wife, Joyce, they were a team. They were street fighters.

Lage: And their group was People's Lobby?

Pesonen: It was People's Lobby. They had then started forming an organization called People for Proof, which would be the spinoff organization to handle the nuclear initiative. They said, "Oh, it's fine. We're going to make it. We'll get another infusion of money." And I didn't believe them, nor did their troops, who had come to me. I had not gone out and rounded this up, I just was watching at this point, but I was invited to come in by this dissident group of signature gatherers. A lot of street people and counter-culture types: long hair and beads and bangles and marijuana smoke in the air.

Lage: These were the ones who were gathering the signatures?

Pesonen: Yes. [Laughter] So we had a series of meetings around town. I remember one was in North Beach at some restaurant in the back room, and all of the people who had been involved in this effort would come to these meetings and the idea was to get some grassroots sense of how the campaign should be organized, and make the decision, which was a very critical strategic decision, whether to go all the way and not get enough signatures and start over, or whether to gracefully announce that we were suspending the campaign to take another look at it and start over. That was the strategy I wanted to follow.

I said, "If you go right up to the statutory deadline and the secretary of state announces that you failed to get enough signatures, your credibility is in bad shape. It would be very hard to qualify another one because you go in as a failure. Whereas if you announce early on that you have taken another look at your effort, and you want to do some fine tuning on it and

start over, and it has been a good training to get started on this one, you sound like you are in charge of what you are doing." [Laughter] So my view prevailed finally. There was a lot of debate about it.

Pesonen's Emergence as Leader of a New Campaign, 1975

Lage: Now, were you talking with Koupal and Duskin also? Or with your signature gatherers?

Pesonen: I guess I was talking to them occasionally, but I had started to emerge as the new leader, and this dissident group grew to involve most of the people who had been working on the campaign.

Well, I didn't know where it was headed and I wasn't getting paid for all of this, but it was important to me. So we finally made that decision. We issued a press release and held a press conference and said, "This has been a very instructive effort and we are going to make some changes in the measure and start over." So that's what we did. The drafting was done very collectively in these meetings.

Lage: The drafting of the initiative?

Pesonen: The drafting of the new initiative. But the basic form was the original. I can't take credit for completely rewriting it. But we cleaned it up some. The basic themes remained the same: the safe disposal of the spent fuel, the emergency cooling systems, and the Price-Anderson Act¹ insurance umbrella. Those all had to be changed, and those were the three main themes of the first measure, too.

So we redrafted it, we submitted it to the secretary of state, we got a new petition, and I thought we would start with the same old group of people, but better organized. We got a new budget; Henry Kendall sent me five thousand dollars, and I set it up virtually on a card table in the basement of my law office. I hired a young man, Dwight Cocke, to kind of keep track of it and organize it. He worked down in the basement of the law office; that was our first official space. Dwight had been involved in the first effort, and he was a level-headed young man and understood Koupal's technique.

¹Atomic Energy Damages Act of 1954, 71 Stat. 576 (1954) is popularly called the Price-Anderson Act.

Lage: What role did Koupal take in this second effort?

Pesonen: There was a big struggle at that point, a big power struggle over who was going to take charge of this new campaign. [State Board of Equalization Member William] Bill Bennett, I believe, saw it as a chance to resurrect his own political fortunes by being chairman with Koupal really running the show. Koupal and a woman named [Susan] Sue Steigerwalt and Richard Spohn were the people on the other side.

I have started reading my diary on it, which is very piecemeal, but I do remember that there was a tremendous amount of intrigue and Machiavellian stuff going on, all of which frustrated me. But I knew that I did not want Koupal in charge of this campaign and that Koupal didn't want me in charge of this campaign. [Laughter] It seems too silly in retrospect because there was absolutely no money in it, and I wasn't doing it for any glory. I was doing it purely out of belief in what it stood for, but I suspected Koupal's motives, and I suspected Bennett's motives, and I wasn't too sure about Spohn's motives.

Lage: Now, what did you suspect their motives might be?

Pesonen: Well, it was just aggrandizement for Koupal. For Bennett, I believed he had been looking since the Bodega days for some striking environmental issue on which he could ride to the governor's office. It was a quixotic view of the world. I think Bennett's always had a somewhat quixotic view of the political world. You know, he is still on the State Board of Equalization, and he was on the PUC [Public Utilities Commission] at the time of the second part of Bodega. And he was a very fine lawyer, too. He won a great case when he was at the PUC. He actually was on the commission and a lawyer for the commission, I think, before the U.S. Supreme Court on allocation of natural gas. It was a great consumer victory. He was a fine lawyer, but he is a big, volatile, energetic Irishman with a huge ego, and his judgment isn't always the best.

Koupal's judgment--Koupal didn't believe in anything except he loved the business of collecting signatures.

Lage: That's interesting. So it wasn't so much the nuclear power issue?

Pesonen: No, I don't think it was that. He just loved to kick ass and cause trouble, and he knew how to do it.

Lage: A lot more fun than selling cars.

Pesonen: Yes, a lot more fun than selling cars. And also, he always picked issues that were in the public interest. I'm sure his heart was in the right place, in some way. But his judgment about the long-term solid nailing down of sound policy I didn't have much respect for.

So this struggle went on for five or six months, and I was very clear on what I wanted, and I finally prevailed. I prevailed at a big meeting. I think it was in early '75 held at the Sierra Club office, I think. I just wore them down.

Lage: Was this over the question of leadership?

Pesonen: It was a question of leadership, and it came to a vote as to whether Bennett would be the chairman or I would be the chairman.

Lage: I see.

Pesonen: And I won that vote. Bennett was the only one who voted against me. [Laughter] Koupal was not present. I had engineered the agenda for the meeting and the constituency who was there. It was not democratic.

Lage: So you had gotten your people there?

Pesonen: I had gotten my people there. Part of the problem grew out of a split between the north and the south. The real organizing strength was in the Bay Area, mostly in San Francisco. There was a lot of trouble getting some coherent organization going in southern California. Koupal was, by this time, living in southern California, and nobody could seem to pull anything together down there, but they had an organization, with a name and getting press attention, called People for Proof. That's what we had called ourselves, too--People for Proof. We couldn't have two Peoples for Proofs. It wasn't a very good name anyway, but the confusion of two of them without a single voice speaking was a prescription for disaster. So I became the chair of People for Proof, and then we decided to change the name to Californians for Nuclear Safeguards, and then there was no more People for Proof. We sort of gobbled up the southern California People for Proof and then put the name on ice.

Well, once that decision had been made, that I was clearly the chosen leader, then we could start putting our energies into a strategy, budget, fund raising, organizing, getting the people.

The Role of Creative Initiative in Qualifying the Ballot Measure

Pesonen: It was about this time that we heard about Project Survival, or it was called then--what was it called?

Lage: Was that Creative Initiative?

Pesonen: Creative Initiative. Dwight Cocke was contacted by them, I think in December of '74. They were interested in the nuclear initiative question, and they wanted me to come and speak to them. I knew nothing about them. I just knew there was this big organization down the Peninsula [south of San Francisco] that seemed mysterious and powerful. I didn't understand it.

First Meeting with an Extraordinary Organization: Funds and Personal Resources

Pesonen: So we made arrangements for me to go and speak to Creative Initiative in January of '75, I think. It was at Gunn High School in Palo Alto at the auditorium. I went down there by myself. I met Dwight and his wife or girlfriend there, Lori--I don't remember her last name--there were five or six of us from the organization Californians for Nuclear Safeguards. Dwight was kind of in charge of the signature-gathering organization. I've forgotten who was in charge of raising money. I walked into this place, and here were probably five hundred people, all sitting quietly in their seats. All couples, all middle class or better, all professionals, well dressed, coats and ties, and I just didn't know what I was getting into.

Lage: You weren't used to this? [Laughter]

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Pesonen: Most of our volunteers were, you know, refugees from the Haight-Ashbury of the sixties, all kinds of counter-culture people, mostly. And this was something entirely different.

Lage: Had you gone down in suit and tie?

Pesonen: Yes, I was dressed up.

Well, I didn't know quite what I was going to say. I didn't have a prepared address. It was very clear that they had strong leadership. There was a fellow named [James] Jim Burch who was

very much in charge and Amelia Rathbun, a big, powerful-voiced, red-haired woman.

Lage: Rathbun?

Pesonen: Her husband [Harry J.] was a law professor at Stanford [University] and had written the book on Creative Initiative. [*Creative Initiative: Guide to Fulfillment*, Palo Alto, CA: Creative Initiative Foundation, 1976].

But I really knew nothing about the organization except little snippets and bits and pieces of things which didn't make any sense to me. So I just started to tell them kind of my life story of my involvement with the nuclear power movement, starting with Bodega and then I opened it up to questions. And somebody asked me the question, somebody from the audience--maybe it was Amelia herself who asked the question--"What kept you going in light of all of these obstacles and setbacks?" I said, "Because I knew I was right," and the audience burst into applause.

Lage: You gave the right answer!

Pesonen: I gave the right answer. So they took a break for lunch--this whole process took all morning--and Jim Burch got up and laid out the agenda. He said, "Now we are all going to go outside and have lunch." It was a January day, but it was one of these wonderful January days we get occasionally, when it turns lovely and warm, and the trees start to show they are going to turn to blossoms, and you can sit out on the lawn and take your jacket off. It was just an absolutely beautiful January day, maybe seventy-five degrees, eighty degrees. It was just beautiful.

The leadership of the group grabbed onto me, and we went with our bag lunches out onto the lawn. Here were all of the rest of these people scattered all over the place. Burch announced, he said, "You have heard David speak and you know that he needs help, and so now is the time to choose." And I could hear these code words, you know, these code phrases or code--. There was a common understanding about the meaning of these things he was saying.

Lage: Like "time to choose?"

Pesonen: Like "time to choose." As though they had prepared themselves for this. He said, "And those of you who have chosen, come back after lunch into this room," which was the main auditorium, "and those of you who are unsure go into the other room," which was a little tiny room, a little side auditorium. [Laughter]

So I started questioning them at lunch. I said, "Well, you know, what are the origins of this group? Who are you?" They were very forthcoming, it seemed like, but I still didn't understand it. This was a sociological phenomenon of some kind that had coalesced, and I was trying to figure it out. What they told me was, in essence, that these were people who were dissatisfied with the direction of the world and felt that their lives were not being fulfilled by their work alone, and that they had an obligation to use their enormous energy and education. They were all engineers, lawyers, doctors, professional people of all kinds, people who owned their own successful businesses, pretty much centered in the Peninsula and pretty much very upper middle class, and people who had come from educated families.

And they or many of them had found problems in their marriages. This was very strongly oriented towards married couples, and they had very clear ideas about the proper role of women and the proper role of men. They had this book that Rathbun had written that there were innate qualities that were male qualities and innate qualities that were female qualities, and that both sexes possessed both qualities but in different proportions and that they could be most effective in the world if they understood their proper distribution of these male/female qualities. It was very much oriented towards their spirituality around their sexuality. Not sexuality, but their gender.

Bits and pieces of that started to come out, but the gist of it was that as they grew, and they grew by word of mouth and meetings in people's living rooms and so on, that when they got to a thousand couples, they would reach their critical mass and it was time "to go out," as they said--this was their term--and choose an issue in the outside world and concentrate all of this organized energy they had been able to figure out and put together by sorting out their various positions in the world, and direct all of that energy towards changing the world. They had watched a number of different issues develop, and they had chosen the Nuclear Safeguards Initiative as the issue that they would use to turn out and come out of their living rooms and go public.

Lage: All of this unbeknownst to the people with the Nuclear Safeguards Initiative?

Pesonen: Absolutely unbeknownst to me. They had made this decision on their own without talking to us. But they weren't sure about it until they talked to the leader of what they perceived as the antinuclear or nuclear safety measure. When I had said, "Because I knew I was right," that somehow carried the message to them that I was the right person they were willing to work with. I had the integrity they were looking for. They were very

suspicious of politics. They were very suspicious of the political process generally. They thought it was corrupt and full of compromise, and here was somebody they perceived as not like that.

So we went back into this auditorium, and I sat down in the front row with Jim Burch. The program then was for our crew, Dwight Cocke and the other people who were with him, to demonstrate how you get signatures. They put on kind of a mock street scene on the stage. Somebody would walk by and we showed them Koupal's technique for getting signatures. And virtually everybody came back into the main auditorium. Only a few people didn't. But before this demonstration began, Burch got up and said, "Now, you heard David say they needed some money." And from nowhere it seemed, these attractive women, beautifully dressed, carrying big boxes, emerged from the back of the auditorium, came down the aisles passing these--it was like church--passing these boxes up and down the aisles. Money was pouring into them. Checks and cash and--

Lage: You must have been in seventh heaven!

Pesonen: I couldn't believe it. We were broke. Californians for Nuclear Safeguards was broke. I figured this campaign has failed also, like the previous Duskin/Koupal campaign. We were out of money. We needed money to pay the expenses of the people who were out gathering the signatures. We were running it on a shoestring, but it still costs money to run a campaign like that and we just didn't have it. It pretty well had dried up. And I'm no fundraiser. I don't like fundraising; I don't know how to do it. I'm sort of the big idea, strategy, leader-type person, but I don't know how to do a lot of these things, and I couldn't find anybody who did, either, or could do it well enough for us to pull through.

So Creative Initiative came along at just the most critical moment. I'm convinced that that campaign never would have made it without Creative Initiative. They energized that campaign.

Lage: So they gave you money.

Pesonen: Well, so the boxes were then taken off into some remote place, I don't know, to count all of the money, and we started this demonstration on the stage on how to gather signatures, and maybe an hour went by. Suddenly somebody came over and whispered in Jim Burch's ear, and he walked up to the stage and took the microphone. He interrupted the show that was going on, that we were putting on. He asked me to come up on the stage. There was a long silence, everybody had shut up; they knew exactly what he

was going to say. He said, "Twenty thousand dollars." [pause] That's all he said. I mean, he didn't say, "We've counted the money and--" he just uttered the words, "Twenty thousand dollars," and the whole audience burst into applause.

Well, I was overwhelmed. I was bowled over. A thousand dollars was a big chunk of cash for us. So we walked down off the stage, and he just handed this money to me.

Lage: This cash?

Pesonen: Most of it was checks. He just handed me a big fistful of checks. He said the cash was maybe three or four thousand dollars, and they were going to keep that to pay for this organization and to pay for their own organizing effort, and they were going to give all of the checks to me. I could have just walked out with all of that money. The checks were all made out to Californians for Nuclear Safeguards.

Lage: I wonder how much background they had on you?

Pesonen: They had done some background on me.

Lage: They must have.

Pesonen: Yes, they had done quite a bit of background, but I don't know how efficient they were about it. And I really don't know what they ever found out. I guess what they found out was that everything I told them in my speech was true. I suspect that's as far as it went.

Well, I said, "Jim, we can't do this." I said, "First of all, we've got to comply with the California Fair Political Practices Act.¹ We have to know the employers of all these people; we have to report all of this money." This was '74. We were the first statewide initiative to have to comply with the Fair Political Practices Act.

Of course, they didn't have all of their rules or regulations in order; they didn't have their forms completely settled. The FPPC [Fair Political Practices Commission] didn't quite know what it was doing either, but we knew that we were a controversial campaign, that we would be under a microscope, that any mistake we made could be very damaging to the campaign. So we had to be like Caesar's wife as the first measure to go

¹Political Reform Act of 1974 came into being in Proposition 9 (June 1974).

through under this complex set of regulations. So we had some people helping us on this, but I didn't really know what we had to do, and I didn't want to screw up.

So I said, "We have got to be very careful how we handle this money." I could have run off and gone to Mexico with it, you know. I said, "Furthermore, all of the names are going to be a public record, and I know you've got people here who work for GE [General Electric] or Westinghouse or are in some other way involved in the nuclear industry, and they may get retaliation from their employers." Well, they hadn't thought of any of this. They were really innocent in a lot of ways.

So Burch went back and announced that we would have to publicly report any donation; that it could come to the attention of the employer, and if anybody wanted to reconsider their contribution, we would understand. He said, "Write a note and send us up your name." So they collected maybe ten or fifteen names, and Jim and I sat out in the sun on a garden railing and went through every check and found these fifteen names and pulled those checks out. They took those back. Then, a couple of days later, I gave the checks to the volunteer outfit that was handling our accounting.

When our demonstration was over, Jim said, "Okay, now we are going to organize our resources." You know, we didn't have a lawyer; we didn't have a professional public relations person. There were lots of resources that a big campaign would have at its fingertips today, and we were doing it ourselves, a lot of that. I was doing some of the lawyering.

We were unhappy with the secretary of state's title and summary and the estimate of the impact on tax revenues. We thought it was a biased summary of the measure. That had to be printed in bold type at the top of the petition, and it would be printed in bold type in the voter pamphlet. So I brought a suit in the Sacramento Superior Court to reform the measure. I sued the secretary of state, the attorney general's office, and I think it was the legislative counsel.

Lage: Was that unusual?

Pesonen: That was very unusual. It's almost never done. And we had a trial in Sacramento. I tried the case.

Lage: And what was the outcome?

Pesonen: We lost it. [Laughter] We got some publicity out of it. The state hired an outside lawyer, who is now on the federal court of

appeals, on the Ninth Circuit Court of Appeals, who was very good, and he was a good liberal. A well-known lawyer in southern California, Stephen Reinhardt. He's a very good lawyer. But it is a very uphill battle. Here you are trying to ask a judge to rewrite a summary of a confusing statute--the initiative measure --with no standards and up against three arms of government who are in business to write this kind of stuff. We took a petition to the California Supreme Court right after that, and that didn't work either, but it was worth doing.

Well, so anyway that is a demonstration: I was managing the campaign and I was doing the lawyering for it, and we didn't have any money. So Burch gets up and he says, "All right. In classroom 3B all the lawyers go, and in classroom x all of the people who are in the business of public relations, and the people who are accountants go in this room." But that was all of the men. The women were to go into another auditorium and learn more about signature gathering and organize their signature gathering.

Lage: The women had an innate ability in that direction?

Pesonen: Women supposedly have this innate ability, and the men were the professional doers, in their view.

So we broke up and we spread out into these various centers to get better organized, and I went into the room with the lawyers. There were thirty lawyers in there. All with private practices, some with government. Paul Valentine, who has a firm in Palo Alto, a very nice man, took the lead. Valentine said, "All right, the first thing we are all going to do is hold hands," and all thirty lawyers held hands in a circle. [Laughter] He said, "And now we are going to tell why we are here, why we have chosen." Every person in the room gave a testimonial to this great moment in his life when he had decided that he was not going to be selfish anymore; he wasn't going to be turned inward just to making money; he was going to give himself up to this movement.

Well, I was just completely bowled over. I was swept away by this power that was at my disposal all of a sudden. It was such an overwhelming change from this shoestring operation that we had. Thirty lawyers from none. And I knew that going on in these other rooms were all of these accountants and public relations people, and we had some of our staff in those rooms. And then a room with two hundred women ready to hit the streets, dressed in their Saks Fifth Avenue finest. Well coiffed and well made-up. And they all were very pretty; they all were in their thirties and early forties; they were professional women; they

all had college degrees; they were married to professional people. They just wanted to hit the streets. I couldn't believe it.

Lage: It must have been like a dream!

Pesonen: It was like a dream. I couldn't get it. I went home and told Julie about it; I couldn't absorb it all. I had a stack of checks on the seat in the car when I drove home by myself. It was six inches high with just a big rubber band around it.

Lage: That's a great picture.

Pesonen: Well, I was so overwhelmed by this and inspired. I was inspired that we had what I thought we needed now to get the campaign qualified--get the measure qualified. All of my depression and fear that we were failing just was gone. This was a huge engine at our disposal. I thought it was naïve; I thought it was likely to be disappointed in the long run, but I didn't care. I was going to use that resource.

Lage: After the lawyers gave their testimonials, then what? What do you do with thirty lawyers?

Pesonen: That's right. We had an abundance of riches and resources we didn't really need for lawyering. But we knew that there would be legal issues come up. Maybe on the campaign reform act, compliance with that. We just brainstormed for a little while, and then I left. I left early. I said, "You guys run it; we'll be in touch."

A Sense of Uneasiness

Pesonen: There was a part of me that was uneasy with this.

Lage: You kind of took on a responsibility to them, in a sense?

Pesonen: Yes.

Lage: To provide a vehicle.

Pesonen: That was part of it; it was just suddenly a huge responsibility on me. I couldn't duck out of this quietly anymore if I got worn out or was broke--you know, I wasn't in a lucrative law firm. I still had to make a living. And I was stealing a lot of time

from the office for this, and they all knew it, and they supported me, but I was not earning my keep.

But there was something else that I was uneasy about. I'm uneasy about any mass movement. There is a submergence of the individual in those things, and they can be very dangerous. There was a little tickle of uneasiness about that. Not very much, but I had some distance on it.

Well, then the question was how do we really turn this resource to use. I didn't get involved in the day-to-day business of that, I delegated that to Dwight and to a guy named Richard Grossman, who did a lot of writing for us. There were some other people. It is all a big blur as I look back on it, and I can't remember who they all were. I'm sure if I met them now and they reminded me it would all come back, but--.

Organizing in Southern California

Lage: What did you do for southern California? Creative Initiative didn't have people down there, did they?

Pesonen: Creative Initiative didn't have many people in southern California. It had some, and I'm glad you reminded me. That was one of the tasks we gave to them, to help build a southern California organization. Just go down there and do it. Some of them were in television advertising, so they had ins. They knew how to open doors, and they set up a southern California organization.

Lage: So you could turn things over to them?

Pesonen: I could turn a lot over to them, and I could trust them to do it. They had some screwy ideas. They had kind of a pyramid scheme notion about how the world would work: if you got ten people to sign up, and they got ten people to sign up, you know, you would multiply this so fast pretty soon you had signed up the whole state. I can remember going to one meeting with them where they firmly believed that we would have, within three weeks, all of the signatures we needed because of this multiplying effect. I knew that was going to run into a rocky future pretty quick, and it did. The first group of ten they contacted, of course, were people like themselves. Those people then began to contact people who weren't like themselves and so on.

But we got the signatures, and we got them fast. They set up tables everywhere. They were in every mall, they were on every major street corner, they were in southern California. And these were people who had personal money. These were people who made salaries of seventy-five, one hundred, one hundred fifty, two hundred thousand dollars a year. They were doctors--

Lage: But also must have had a lot of commitments at home, to jobs, family?

Pesonen: They had made personal decisions that for the next year everything--many of them quit their business--we had four or five doctors who simply suspended their medical practices for a year, lawyers who suspended their law practices for a year. They just put everything they had into this. And they paid their own way; we didn't have to reimburse them. So they'd fly back and forth to southern California all of the time. I kept seeing them on planes when I went down there to appear on television programs. There was never an expense voucher from them for this. Maybe we should have reported it to the FPPC [Fair Political Practices Commission], you know, as a contribution, but I don't think we did. I don't really remember what happened on that.

The "Defection" of Three General Electric Nuclear Engineers

Pesonen: It scared the hell out of the nuclear industry. The word got out pretty fast. There were three nuclear engineers who worked for GE, who were involved with Creative Initiative. The three engineers, Dick Hubbard, Dale Minor and Bridenbaugh, I think his name was--MHB. They were nuclear engineers building nuclear power plants.

Lage: Had they been the ones that interested the group in this issue, do you think?

Pesonen: No, no. They were drawn into it later. But they were troubled by what they were doing. They were all engineers with General Electric. General Electric in San Jose had its nuclear engineering center. In fact, that's the place where Governor [Edmund G.] Pat Brown [Sr.] had announced in 1958 that the state would become a center of nuclear development, and where he had promised to appoint [Retired Colonel] Alexander Grendon to this

new position in his administration.¹ The reason he made that announcement in San Jose was that that was the center of nuclear engineering for General Electric.

These young men worked for GE. They had been educated as nuclear engineers or chemical engineers. They all had a nuclear engineering background, and they had worked at the Hanford works. I remember I think it was Dale Hubbard's wife telling me about when they were a young couple, and this was his first job out of college, working for the AEC [Atomic Energy Commission] at the Hanford nuclear works. The first morning they saw what looked like a milk truck pull up. They thought, "Well, how nice of the government to deliver milk." They had a baby. But what they delivered was empty bottles, because everybody in the town had to give a urine sample, which was picked up every day. The truck would come back at night to pick up the bottles to test for plutonium, cesium, strontium-90.

Lage: They were guinea pigs?

Pesonen: They were guinea pigs. That had planted some seeds of worry early on. So they went public. We had a long agonizing meeting. I remember we spent one whole day and an evening in a kind of a counseling session with them about what this would mean if they went public and they held a press conference about their opposition to nuclear power and their support for the nuclear initiative, given their background.

Well, it was an explosive press conference. It just shook the whole industry. This was another public relations coup that Pesonen had pulled off; I'm sure that's how they saw it. But it was written up all over the place: "Nuclear Engineers Defect in Favor of the Nuclear Initiative." It went into the highest boardrooms, I'm sure. Westinghouse, Babcock-Wilcox, GE, PG&E, Southern California Edison, and all of the other peripheral industries that were connected with the nuclear industry. This really made an impact; it was a *Time* magazine story, all kinds of stuff.

¹The position was coordinator of Atomic Energy Development and Radiation Protection.

Leadership and Nature of Creative Initiative

Pesonen: That was an outgrowth of this Project Survival. They spun off this separate legal entity, Project Survival, but it was all made up of the Creative Initiative people.

Lage: The Creative Initiative continued as a name and a group, and this was their nuclear fighting arm?

Pesonen: Yes.

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Pesonen: It was very well organized. I mean, you would go to a meeting with them, and there would be thirty people in the room. If you go to a usual meeting that is called together by some neighborhood organization, the subject just sort of flows all over the place, and it never gets focused, and there are egos going on and all kinds of static. There was none of that, absolutely none of that when you went to one of their meetings. Everybody who said something said something on the point, they didn't say anything superfluous. You couldn't hear their ego echoing in it, you couldn't hear any other distractions going on. Their minds were clear and they were goal oriented.

Lage: Was this the type of people that they drew, or do you think it was the training?

Pesonen: I think it was the training. They were probably that kind of people anyway, but they had that training. And they were all nice people; I liked them, but I never felt completely comfortable, and I don't know whether they sensed that or not. I never joined. They tried to recruit Julie and me as members of Creative Initiative.

The central leadership was a group of people who lived quasi-communally in Portola Valley in a place called the Hub. Jim Burch was quite well-off for example. He had been a very successful advertising executive for Batten, Barton, Durstine, & Osborn, I think, BBDO; he had the Standard Oil account, and he had made a lot of money somehow. He was a very fine person; I liked all of the people.

But this dinner--I kept getting insights into them. Nobody ever sat down and told me the real story, I would just pick up clues. But they invited Julie and me to dinner at the Hub, the Rathbuns' house, maybe a month or two after the speech at Gunn High School. Their living arrangement was individual houses--

beautiful, big houses--in a circle at the end of a street with open space behind them and a communal building in the center for meetings, laundry facilities, a big cooking area if they wanted to get together and eat together. But they all had their separate dwellings, so they kind of never quite made up their minds whether they were going to be communal or individual. [Laughter] But the architecture and the whole design of this development was a reflection of their philosophy, and it had been built for the leadership of this organization to live there: the Rathbuns lived there, the Burches lived there, the Valentines lived there, Walt Hayes and his wife lived there--Walt was a lawyer from San Jose. There were six or seven families, but those are the ones I remember most vividly right now.

Lage: Did you pick up a religious component of this group?

Pesonen: Yes. In fact they were explicit about that. They were eclectic. They picked a little bit from Buddhism, a little bit from Catholicism; from Christian religions, Moslem religions, Eastern religions, they picked little bits and pieces and fitted it all together. I think that's what Rathbun's book is about. I never could get through it. You know, the Rainbow women were part of that, remember?

Lage: Not [Reverend] Jesse Jackson?

Pesonen: Not Jesse Jackson. It was before Jesse Jackson. They sang rainbow songs, and they went to Sacramento, and the women all wore colorful garb and marched around the capitol on the nuclear issue, by the hundreds. And they were all there on time. It was too disciplined for my taste. But I had to admire the way they mustered their energy and their focus, and when they said they'd do something, they did it, and they did it right, and they were professional.

So I was telling the story about this dinner. Julie and I went to dinner down there, and we all sat in a circle with TV trays. It was buffet style, and then we all sat down. Amelia, who was a very strong personality, said, "Now, tell us about yourselves." Now, this is supposed to be a dinner party. I thought we would get to know each other a little better and have some chit-chat and tell some stories and see if people like to go fishing or what they like to do. No, they were going to get right to the point: how is your marriage? [Laughter] What is your theory about raising your children? How do you resolve conflict in your marriage?

I felt like a bug on the end of a pin. So did Julie. Julie was very uncomfortable; she didn't like it at all. She liked it

even less than I did. And it wasn't impolite; it was as though by being invited into this very sanctified circle of the top leadership of this organization, they assumed that we would want to just succumb and be part of the world they lived in--their mental and spiritual world--and that we could all be quite frank with each other. I think I shot back with some kind of a question about them. I didn't really answer their questions. I think Julie and I were having a little problem with our marriage already by then, unacknowledged but enough so that we didn't want to talk about it.

Lage: You feel pretty threatened when--

Pesonen: Well, I didn't feel threatened. I think Julie felt threatened. I just was surprised and a little shocked at the directness of it. And then I wasn't shocked. This was the way they are; this was how they had trained themselves to deal with the world, and it has given them this power to be direct and uncluttered in their approach to things and in the way they thought, and it was the power that was helping us get our initiative qualified. [Laughter] It was a big, beautiful contrast to the intrigue and small-mindedness of the Koupals, of the world that I had been dealing with. And with most people you deal with, you run into a lot of static.

So I admired that quality of theirs, I just didn't understand its origins, and I was skeptical of its origins. But I've stayed intrigued by them. I've kind of lost touch with some of them although I still run into people twenty years later, on the street, in meetings. It must happen once a month, I'll run into somebody who was in Gunn High School on that day, and I won't remember who they were, and they will introduce themselves. I've had people come up in restaurants and introduce themselves and say, "I was there on that day in Gunn High School."

Lage: So that was a big moment for them?

Pesonen: It was a big moment for me, too.

Lage: And they went on to do Beyond War, I remember.

Pesonen: They went on to do Beyond War. I sensed, and I think some of them kind of conceded later, that they were very naïve about the political process, and they were somewhat disappointed about the kinds of compromises we had to make in the campaign. There was a period when we believed we could pass the initiative, which was naïve and unrealistic. I never really thought we would pass that measure, but after this Creative Initiative group came along, I

thought, "Well, maybe we have a possibility." We knew it was a very long shot and we--

Lage: Did you get it qualified right away after they--?

Pesonen: Oh, we got it qualified, yes. I think within a month after that.

[tape interruption]

Pesonen: Well, I don't know that my theories are--

Lage: Well, put it on tape, and we can take it out if, when you read it, you think it isn't valid.

Pesonen: Well, they struck me as people who had bought completely into the American Dream early. They went to college; they got married out of college; they got a suburban home, and they were happy larks. They had a couple of kids; they had a station wagon in the driveway, and the wife was busy running kids back and forth to Little League and school, and shopping, and her coffee klatches and her minor community activity, and PTA [Parent Teacher Association]. But something was missing; they felt something was missing. This wasn't what they thought life was going to be like after they got their career started. And they began to search for some answers. Out of that process, somewhere the germ was planted, and this organization started. There have been other movements responding to the same uneasiness and dissatisfaction. It is very idealistic; somehow their idealism was out of phase with the reality they faced.

Lage: It also was a time in the seventies of encounter groups and counter-culture things, and this is kind of a respectable middle-class group that couldn't quite fit in to that counter-culture.

Pesonen: I think that's true also.

Lage: But they took on some of its attributes.

Pesonen: I think a lot of people felt they were better off from it even when they left it. They got some clarity about who they were.

The world really is a messy place, and it is always going to be a messy place. [laughter] You are always going to be disappointed if you've got very high ideals about it. I think a lot of them got wiser, came out of it wiser and better able to deal with it.

An Intense Political Campaign to Pass Proposition 15¹

Lage: So you got the initiative qualified.

Pesonen: We got it qualified. Then we had to launch a political campaign. That was a whole different kettle of fish, and that's where, I think, the disenchantment started to set in with Creative Initiative, because the political campaign was a very intense political campaign. The industry put more money into opposing that measure than had been put into any measure in the history of the initiative process in California. I think the realistic figure--the reported figure was something like five million dollars and I believe it was really around seven. I don't remember how I came up with that number, but I was pretty confident of it at the time.

Lage: They spent more than they reported?

Pesonen: We all probably spent more than we reported. That was the first campaign under the new measure [the fair campaign practices measure]. But it was a lot of money. And it was a media saturation campaign, and we tried to counter that. We ran a real campaign.

Lage: Did you hire a media firm?

Pesonen: One of the Creative Initiative group gave us a lot of help on that. I kept quite a bit of control over that, but we had lots of television. We always searched for the free publicity: the press conference with some new announcement, or a talk show, or a debate on public television. I was in I don't know how many of those things. It seemed like every week I was going off to L.A. [Los Angeles] to tape some television program or some television debate or give a speech someplace or speak to a medical group. I was always giving speeches. And other people were, too. A lot of these Creative Initiative people were.

Lage: So you felt comfortable turning them loose in that--?

Pesonen: Oh yes. The doctors would talk to doctors' groups, the lawyers would talk to lawyers' groups, the engineers would talk to engineers' groups. Everybody talked.

Lage: That's very effective.

¹Proposition 15 (June 1976).

Pesonen: Yes. But the campaign lasted about eight months, I guess, and it got very intense in the last four or five months before the election in June of '76. It got very intense at that stage. And money started to come in. We started really raising money.

Lage: From small donors?

Pesonen: From small donors, yes, big donors. Mostly small donors. Lots and lots. We had a whole direct mail campaign going, and it was working. We were solvent.

Safe Nuclear Power or No Nuclear Power?

Lage: You said you even began to believe that you might win.

Pesonen: We began to believe that we might win. There were always problems that arise. I know that [environmentalist David] Dave Brower, who had founded the Friends of the Earth by then, was unhappy that we weren't--.

We had compromised our position. The industry took the strategy to force us to say we were against nuclear power in any form. They knew that the public still pretty much supported nuclear power. I think the polls showed that about 60 to 65 percent of the people thought that nuclear power was a very important source of energy and useful and valuable. If they could force us to the position of saying that this really was an antinuclear movement, that we would be on the defensive. We sensed that, too, so we took the position that all we really wanted was to make it safe.

Lage: That's the way it was written, after all.

Pesonen: That's the way it was written. Well, you know that's really duplicitous. In fact, I told an *L.A. Times* reporter--I've forgotten his name now, but he was a good reporter who covered the campaign very well. We had a kind of a post mortem after it was over, and I said, "Yes, it really was kind of duplicitous." And that may have been our problem. People sensed that we were really against nuclear power, or most of the movement was. Most of the people involved were fervently against nuclear power. They were people who liked clear-cut positions, and they believed it.

Lage: And did Dave Brower not want--?

Pesonen: Dave Brower did not want us to just say we were for safe nuclear power; he wanted us to say that we were for no nuclear power. And so we had to sort that out with him.

Lage: Did you work closely with the Sierra Club at all?

Pesonen: The Sierra Club was very much involved, yes. Sierra Club chapters helped circulate petitions and pass resolutions. A lot of organizations--

Lage: Did you have a steering committee?

Pesonen: We had a steering committee that was very informally set up. I headed it. I think Jim Burch from Project Survival was on it, Walt Hayes from Project Survival. By this time we had been joined by a very effective person, John Geeseman, who is now a lawyer practicing in San Francisco and was active in the [Governor Edmund G.] Jerry Brown [Jr.] campaign later. We sort of picked people based on their ability; I picked people very much based on their ability.

Lage: But you didn't have a representative from the Sierra Club, a representative from Friends of the Earth, that kind of thing?

Pesonen: Off and on. The steering committee was not ever formally designated, I think.

Lage: What happened to the Nader group?

Pesonen: Well, the Nader group was led by Richard Spohn, and Spohn had wanted to be head of the organization, and I had told him he couldn't. [Laughter] I didn't trust his judgment. He had done some really dumb things early on. But he did come around. He aligned himself with Koupal in that first struggle and then later we straightened that out. He just lives around the corner here, and we are good acquaintances now, but it was a little tense there twenty years ago.

You know, I wish I had a better memory for this kind of detail. I just don't. I see the big, sweeping panorama of these events.

Effect of the Warren Legislation on the Campaign

Pesonen: In any event, in the latter days of the campaign, the last two or three months, this notion that the measure was too radical

started to emerge, and Charlie Warren and Jerry Brown raised the idea of some more responsible legislation. The idea of a statutory response by the legislature didn't emerge until a few months before the election.

Lage: Warren was having these extensive hearings, though?

Pesonen: That's right. I forgot about those hearings. Warren had these big hearings, which were a valuable platform. I don't remember when he had those hearings.

Lage: I can check the dates but I think they went on in 1975.

Pesonen: Well, that fits now that I think back on it.

Lage: Did they communicate with you?

Pesonen: Oh yes.

Lage: Was there coordination there?

Pesonen: We were in contact with Charlie, and he and I would talk on the phone all of the time. We presented testimony at the hearings, and I followed those pretty closely. I had forgotten about that. I don't know how I would forget about that.

That wasn't the central focus of my energy, but they were an important aspect of the whole collection of things that were going on. And they were very valuable hearings. He had a staff person, [Emilio E., III] Gene Varanini, who later went on to be on the energy commission [Energy Resources Conservation and Development Commission], I think, who wrote the report, wrote a very good report.¹ And there were reports coming out. Some group down at Stanford put out a report analyzing the measure and its economic effect, and we had to respond to these. There was just a lot of activity. That happens in any initiative; academic groups put out reports that purport to say what the real meaning of the measure is in terms of its impact on the economy or the resource or anything else.

So then the debate emerged in our informal steering committee of how we should respond to the statutes. There were three bills that came out of the Warren committee hearings. I think that was the Assembly Natural Resources Committee

¹Reassessment of Nuclear Energy in California: A Policy Analysis of Proposition 15 and Its Alternatives. California State Assembly, Committee on Resources, Land Use, and Energy, 1976.

[Committee on Resources, Land Use, and Energy]. Should we support them, or should we oppose them? They were pretty good bills, and they were patterned after many of the issues that we had raised in the nuclear initiative: no new plants until there was a certified solution to the spent fuel disposal problem, and it did address the insurance issue a little differently--I don't remember exactly how. They addressed most of the issues.

Lage: I think one of the differences was they didn't deal with existing plants.

Pesonen: Right, they just dealt with future plants.

Lage: Whereas yours was going to cut back existing plants.

Pesonen: No, ours was prospective only, too, I think.

Lage: No, I think if it wasn't certified safe, then the level of production of existing plants was to be cut back.

Pesonen: Oh, that's right. They had to phase back their power levels.

Lage: Yes.

Pesonen: Yes, that's right. The legislation didn't touch existing plants.

Lage: No. And I think they didn't deal with the Price-Anderson Act quite so directly because they felt the state couldn't--

Pesonen: It would probably be preempted. But they did address a lot of the issues we had raised and that were at the center of the debate over the nuclear safeguards measure. So we had to decide what's our strategy when it comes to the bills? Do we support them? Do we support their being introduced? If they are introduced what is our position on them?

I took the position that they were a big step forward, that there was a great risk we weren't going to pass the initiative and that we should support them, and that in any event it was a political matter. We had to support them because we had already elected our strategy: that we were going to be for safe nuclear power. If we had elected a strategy up front to be against any nuclear power, we could have taken the position with integrity that the bills were weak compromises and didn't go far enough and were misleading. But we couldn't take that position because of the strategy we had elected for our own measure, which was the same strategy, watered down in the legislation. It was just a difference in details.

So we did announce that we would support the legislation, and they passed very quickly.¹

Lage: Do you think the legislation passed because of the fear of the initiative?

Pesonen: I am convinced that they wouldn't even have been introduced but for the initiative, and that's what Charlie told us three years earlier when we had gone to see him and asked him if he would introduce legislation. He had said, "I can't do anything without the initiative." Well, with the initiative bubbling as the central environmental question in the state at that time, he could hold hearings, and they would draw a lot of attention, and they would catch the attention of his fellow members of the legislature, and it would create the momentum for their passage.

Jerry Brown was scared to death of the initiative. I think he was sympathetic to it, and he followed it all the time. He called me once a week, "How are you doing? What do your polls tell you?" He was very interested in it. But he saw a safe way out by this more responsible response, so he pushed it also. He and Warren, together, so you had the executive branch and the leadership of the key committee in the legislature, and all over the front pages of the newspapers every day was something going on about nuclear power and an agitated public and constituency in all of these legislators' districts. So it was easy to get the three bills through as the responsible alternative. Then immediately the governor took the position that it was not necessary to pass the initiative because the legislature had finally done the responsible thing.

Lage: And what did that do to your campaign?

Pesonen: I don't think it made any difference in the campaign. The people in the campaign felt that it undercut our support. I doubt it. I think most of the people who voted for it, for Proposition 15 or against it, were unaware of those bills. I don't think they made up their minds based on that kind of analysis, not a significant number of voters did. We would have lost anyway; I am convinced of that. There is no question. What did we get, 40 percent of the vote?

¹A.B. 2820, 1975-1976 Reg. Sess., Cal. Stat., ch. 194 (1976)
A.B. 2821, 1975-1976 Reg. Sess., Cal. Stat., ch. 195 (1976)
A.B. 2822, 1975-1976 Reg. Sess., Cal. Stat., ch. 196 (1976).

- Lage: I think it was about that. [The vote was 32.5 percent in favor of Proposition 15.] Were people disillusioned, your Project Survival people?
- Pesonen: They were disillusioned.
- Lage: Because of the failure of the initiative?
- Pesonen: Yes. I think they believed it could win. But I don't think they were ever realistic about it.
- Lage: They didn't take satisfaction in seeing that the pressure probably led to some fairly decent legislation?
- Pesonen: I think some of the more wise ones did. But a lot of people just saw life in "you win or you lose" terms. I didn't. I was exhausted. I was glad it was over. [laughter] But I don't think there is any question that the bills did not affect the outcome of the measure, but that the bills wouldn't have existed but for the measure. So, when you go back and look back at the strategy we devised in Henry Kendall's living room four years before, it worked. And it worked just fine. I mean, our plan to a tee. It was just a very wasteful way to do it, but there was no other way to do it. At least, I didn't know of any other way to do it. We got what we wanted, or we got a lot of what we wanted. And it did stop any further nuclear development in California. There hasn't been any since.

Inspiring and Assisting Efforts in Other States

- Pesonen: Now, in the meantime, this Proposition 15 had inspired other measures, similar measures in other states. In Oregon, Montana. Missouri; there were five or six states that had measures. We were on in June, and they were on in November.
- Lage: Did you get a lot of calls from those states?
- Pesonen: We got a lot of calls. More than that, we got requests for money because a very interesting thing happened: the curve of contributions to the Proposition 15 campaign just kept on rising as people began to hear and understand the issue and get our message. So the biggest day of funds we received, the most amount of money per day, came in the day of the election. [laughter] We ended up with a surplus of about one hundred thousand dollars.

Lage: That's really unheard of.

Pesonen: We paid all of our bills, and then we had all of this money. There weren't any restrictions, except that we couldn't use it for personal gain or anything like that; we had to use it in ways that were consistent with what it had been raised for. You couldn't give it back, you didn't know where all of the people were, and the money all got commingled. So we decided to give it to these other measures, and we had this continued steering committee. It was Californians for Nuclear Safeguards.

By this time it had taken on a more formal structure. It had a representative from CalPIRG, from the Nader organization, from the Sierra Club, from the Friends of the Earth, from ten or fifteen organizations, and some of the people who had been active in the Proposition 15 campaign: Roy Alper from CalPIRG, Dwight Cocke was there. And we would have meetings pretty frequently right after the election to decide how to spend this money. I think we funded a little research job. And of course once the word got out that we had some money, everybody came around looking for a piece of it, so we got rid of it pretty quick. [laughter] I didn't want to be in charge of piecing money out to too many worthy causes. We gave almost all of it to Oregon, Montana and Missouri.

Jerry Brown and a Debate on Nuclear Power in San Francisco, 1976

##

Lage: Julie told me about a debate that you had at the Zen Center [in San Francisco] to inform Jerry Brown about nuclear power.

Pesonen: Well, that was before the measure.

Lage: Oh, before the measure even came?

Pesonen: That was--or very early on in the measure. I know it was before '75. I'm almost positive it was before '75. I may have to go back and look at that diary, which started in '75.

Anyway, I got the word that the governor--let's see. When was he elected? He was elected in '74, wasn't he?

Lage: Right. At the same time that the Fair Political Practices Act was passed.

Pesonen: Well, Jerry wanted to know more about the nuclear power issue. We got the word that the governor wanted a real presentation. It

wasn't at the Zen Center, it was held over at the UC [University of California, Berkeley] Extension on Laguna Street in San Francisco. He contacted the organization which was very active in opposing the measure--it must have been after the measure was qualified--called, what was it called?

Lage: Californians for Economic Balance?

Pesonen: [Californians for] Environmental and Economic Balance. Yes. And there was a fellow who was very active in that, Michael Peevey. Anyway, he told them he wanted them to bring some people who were pronuclear who were good spokespeople, and he told me to round up two or three very knowledgeable people on the antinuclear side. So I got Henry Kendall--Henry agreed to come--who else did we have? Henry Kendall was our principle spokesperson, and on the other side was a fellow named Bob Budnitz, who was a nuclear engineer who works out at the Lawrence Livermore Laboratory.

It went on pretty much all day. It was set up in this room with a long table. The governor was there with his entourage: [Special Assistant to the Governor] Jacques Barzaghi and I think even [Chief of Staff] Gray Davis was there.

Lage: Had you met the governor before?

Pesonen: I think I had. I hadn't really spent any time with him. I know how I heard about it. He contacted me through Richard Baker, who was the roshi of the Zen Center. Richard was a personal acquaintance, not from Zen particularly, but his wife and Julie had gone to high school together in Minneapolis, and he had come to see me about the Bodega campaign when he was working for UC Extension before he even went into Zen. He was very interested in the counter-culture movements, and he had contacted me in the early sixties, and we had remained acquaintances because he was married to this friend of Julie's. He is a very interesting person, very charismatic kind of personality.

The governor had gravitated to him, and he was at that time very close to the governor, supposedly. The governor had this entourage of people like [informal advisor to Governor Brown] Stewart Brand, Dick Baker; far out thinkers of one kind or another. I never was part of that world. I like to go fishing, and I'm too much of a country boy, I guess. I don't know. I never thought that way, and I don't think it has to do with self-image; I just don't think that way. [laughter]

So at the end of this meeting, Henry Kendall gave the most-- I wish I had a tape of it--the most eloquent summing up, a powerfully persuasive statement. He is a very fine speaker, and he is a man of great integrity, and he looks like a New England physicist. He has this craggy New England face; he is very handsome, very well spoken, and he is very knowledgeable. Knowledgeable enough that he got the Nobel Prize last year with two other people for some obscure corner of physics. At the end, Baker sidled up to me and said, "The governor would like you and Henry to join us for dinner over at my house," and that was just right across the street I think. He lived in a spacious flat over the Zen Center.

So there were maybe eight or ten people there, sitting around on the floor. The governor, Henry Kendall, me, the Bakers, Julie was with us--I think Julie came over by then--and three or four other people. And we just sat and talked into the evening. The governor didn't say very much. Kendall did a lot of talking. The governor was just curious.

Lage: This was after the debate?

Pesonen: This was after the debate had gone on. I knew we won the debate.

Lage: The other side didn't look too good?

Pesonen: No, they were agitated, they weren't very organized, I didn't find them persuasive--of course, I wouldn't necessarily. But they weren't invited to dinner. [laughter] And we were.

Lage: So the talk went on about nuclear power?

Pesonen: The talk went on about a lot of other things, too. It became more of a social evening.

Lage: Did anyone ask about your marriage? [laughter]

Pesonen: No, it was just the opposite of Creative Initiative. That's, I think, the beginning of my relationship with the governor.

Lage: But he didn't talk much?

Pesonen: He didn't talk very much, no. He asked a few questions. He mostly listened. There was a lot of wine, everybody got happy, and it was a party. A party of people who were on an emotional high from this day. It had been a very significant day. I mean, you don't get your hands on a governor all day very often, particularly one who's kind of interesting like Jerry, and win him over to your position. So this was a victory that was

pregnant with future possibility. And I didn't miss that part. I was not just in a state of elation over the success of that day; I saw this as an investment in access to power we needed for what we wanted to do in the future. I never thought it would lead to [the Department of] Forestry, but I'm sure that it did. But he liked me. I think he respected the way that I thought and talked. He never says those things to people, you know. You have to draw your inferences, and I may be flattering myself, but I apparently made a significant enough impression on him that day, partly because of the people I was associated with, that it led to other things in his administration later on.

Lage: But I gather from what you said that he didn't make a commitment to sign on to Proposition 15, or an antinuclear stance.

Pesonen: He didn't expressly, but his conduct constituted a commitment.

Lage: But there was no policy discussion or--?

Pesonen: No, no. He didn't have to.

Lage: That's interesting. It's true you don't often get a day with the governor to talk about a broad issue like that.

Pesonen: He was having fun, too. You could tell he was enjoying himself. He had this strange entourage, you know. That's when I first met Barzaghi, this Svengali that still hangs around with him.

Lage: What's he like?

Pesonen: Very cynical. I don't really know Barzaghi. He's mysterious. He's got this sexy French accent, this very lean, wolflike quality about him. He appears to be a deep thinker, and every motion, gesture, touch, turn of his clothes looks as though it is constructed to project the image of a deep thinker. He utters--I can't think of the words I want. His utterances all have a sense of mystery about them. They are ambiguous. It is not clear what the profundity is.

Lage: The implied profundity.

Pesonen: Yes. I'll think of the word after you leave, I'm sure. Cryptic is close. He will come up later, I'm sure.

Lage: I think we have pretty well covered the Proposition 15 campaign.

Pesonen: I think so.

Lage: We'll go to forestry next time?

VII MANAGING CALIFORNIA'S FORESTS IN THE JERRY BROWN
ADMINISTRATION

[Interview 6: April 2, 1992] ##

Serving on the State Board of Forestry, 1977-1979

Lage: We want to get into your career in forestry, the California State Board of Forestry and the Department of Forestry. Let's start with the state board. No, let's start before the state board. Had you been involved in any forestry issues before you were appointed to the board?

Pesonen: Not very much. I was involved with the state Board of Forestry back in the early sixties when I worked for [Executive Director David R.] Dave Brower at the Sierra Club. That was part of my unshaped responsibility that he gave me. My title was conservation editor, but I did all kinds of things, and one part of the job was to represent the club before the state Board of Forestry in the very early years--in my early years, anyway. And then after I went into law practice in 1969 I kind of kept an eye on it. I was asked by Henry Vaux to serve on a study committee of the American Association for the Advancement of Science [AAAS] on forest practices. That was probably around 1975 and we did a little report for AAAS. I had kept in touch with [Chairman of Board of Forestry Henry] Vaux, Hank Vaux,¹ and [Dean of School of Forestry] John Zivnuska over the years, but I wouldn't appear or sue the board or have any litigation involving the board.

¹See Henry J. Vaux, "Forestry in the Public Interest: Education, Economics, State Policy, 1933-1983," an oral history conducted in 1986 by Ann Lage, Regional Oral History Office, The Bancroft Library, University of California, Berkeley, 1987.

- Lage: You didn't have anything to do with the new legislation on forest practices in the seventies--the Z'Berg-Nejedly Act [California Forest Practice Act of 1973]?¹
- Pesonen: No. I might have been consulted on the phone about something, but I wasn't an active participant.
- Lage: How did the appointment come about to the state board?
- Pesonen: Well, Hank Vaux was chairman by then, and I guess he consulted with [Secretary for Resources] Huey [Johnson]. There was an opening for a public member who would be acceptable to the environmental community. They knew who I was and--whether Vaux planted the idea with Huey or whether Huey came up with it himself I don't know.
- Lage: Did you know Huey?
- Pesonen: I knew Huey from his Trust for Public Land days. I just got offered the position. It was part time, and it sounded like something interesting. There were a lot of forestry issues involving the Redwood National Park that were in the press a lot. So I thought it would be kind of fun and a change of pace.
- Lage: Is that a paid appointment?
- Pesonen: I think you get \$50 a day for attending one of those all-day meetings.
- Lage: You must have had additional work aside from your all-day meetings.
- Pesonen: There was a per-diem kind of thing. It didn't amount to a hill of beans. It was not a perquisite. I didn't take it for the perks. I lost money on the whole time away from my practice to come to these meetings. So I don't think there was any significant amount of money involved.
- Lage: I just wondered what kind of monetary arrangement they made.

¹A.B. 227, 1973-1974 Reg. Sess., Cal. Stat., ch. 880 (1973).

The Redwood Park Issue

Lage: Well, when you came on the board, your first meeting was highly focused on the redwood park issue [May 1977]. Do you remember much about that?

Pesonen: I remember that meeting, but I don't remember in particular that it was the first meeting. It was close to the first meeting. It was very early on, but I think I had been to one or two meetings before that.

Well, the redwood park was the forestry environmental issue at that time. Congress had passed the Redwood [National] Park bill in 1968 but it was not an adequate park. The park covered Redwood Creek, but it only covered the narrow strip up the creek called the worm. On a map it just looked like a worm meandering up the creek. The surrounding watershed was vulnerable to continued logging. It was just plain that that park wouldn't amount to anything if the entire watershed didn't have some protection, whether incorporation in the park or limitations on logging different from the regular forest practice rules, which was under consideration by the Board of Forestry when I first got there. And there was a bill in Congress to extend the park substantially. [Senator Alan] Al Cranston--I think it was Cranston--and [Representative Phillip] Phil Burton were carrying that bill. There was a lot of interest in it, but it hadn't passed yet.

In the meantime, Louisiana Pacific and Simpson [lumber companies]--I think those were the two principal companies, maybe Georgia Pacific, too--had filed with the department very large timber harvest plans to log in that watershed. It was very clear that their strategy was to get as much timber out of there as they could before we got it condemned by the federal government for addition to the park. So the problem was to figure out a legally sound theory for holding up those timber harvest plans until Congress could act on the expansion of the park and fund it. It wasn't very clear in the law how we could do that.

Lage: You had to go by the prescribed forest practice law?

[tape interruption]

Pesonen: Well, it wasn't very clear how the board had authority to deny a plan. I think the director [of the Department of Forestry] had denied the plans, the companies had appealed to the board--

Lage: Because you only considered these issues on appeals from the decisions of the director, as I understand it?

Pesonen: Yes. The question was whether we could deny the companies' timber harvest plans. I think [Board of Forestry member Phillip S.] Phil Berry and I spun out a theory that was not complete hokum to deny the plans for some interim period because there had been actual action by Congress. The bill had passed one house; it just hadn't passed the other house, and that was enough, we thought, to fit into certain language in the rules that gave the board authority.

That was a big hearing; there were a lot of people there. I thought it was a lot of fun. It gave me an opportunity to explain what we were doing, explain the limitations on what our power was. And I took that seriously. It wasn't just fun. But it was very clear that the administration and a majority of the board wanted to protect that watershed because we were quite sure that Congress was going to pass the measure pretty quickly and fund it. You know, you got the usual arguments from the industry that tens of thousands of jobs would be lost forever. You hear that all of the time from the industry.

Lage: You are still hearing it.

Pesonen: You still hear it in the ancient forests controversy. I think their economics is shaky, but even if they are not shaky, the jobs are temporary and the park is permanent. I was an acknowledged environmentalist, and I was put on the board with that in mind. I was a public member; I wouldn't say I had a constituency, but I certainly had a sympathy for what the Sierra Club and Save the Redwoods League and other people wanted to do. So if, legally, we could do what we wanted to do, we would. If we couldn't do it legally, we wouldn't.

Lage: You said there were a lot of people at the hearing. Were they on both sides?

Pesonen: Both sides. It was a big hearing.

Lage: Was it pretty intense?

Pesonen: It was lively. It wasn't angry.

Lage: Somehow I would envision a lot of anger at that point.

Pesonen: I don't remember it as being an angry meeting.

Chairman Henry Vaux and Board Members

- Lage: How about on other issues among the board members? Was the cooperation among the board members good? It seems like there was a balance of people.
- Pesonen: Well, it was, by the time I got on the board, dominated by Jerry Brown appointees, and I think the cooperation on the board was very good. I attribute that to Hank Vaux's style. Hank Vaux was a wonderful chairman, and he had a great skill at finding consensus among board members. He had a good, crafty sense of pace of how things were to be done, and of process. And he is a wise, thoughtful person and a very good leader. He was hard-working, and I respected his abilities. I didn't always agree with him, but I never felt that he was unfair.
- Lage: He devoted a great deal of time to that, it seems.
- Pesonen: Oh, he devoted an enormous amount of time to it. It was almost a full-time job for him.
- Lage: I interviewed him on the Board of Forestry so we talked about it quite a bit. He seemed very process-oriented, to be sure that process was just correct so it wouldn't be challenged later in courts and--was that something you discussed with him?
- Pesonen: That's the way a lawyer thinks, too. But it's also the way a very skilled administrator thinks, and Hank was a skilled administrator. It's also the fairest way to do things. Process is an established set of agreements among people about how things ought to be done to assure that when the result is reached, that everybody who has participated in it feels that the result was fairly reached even if they don't agree with the result. That's one of the problems we are seeing now in the resource agencies under [Governor George] Deukmejian on a state level and under [President Ronald] Reagan and [President George] Bush on the federal level. To the extent that they can get away with it, they have very little respect for process. That's why you find in the [United States] Forest Service now, for example, rebellion among resource staff people because they think the process is being distorted.
- Lage: So was Vaux able to bring along those members of the board who were industry representatives?
- Pesonen: Yes. It was a very fine board. The leading industry representative was [Henry] Hank Trobitz who, for a long time, had been a principal of the Simpson Timber Company in Eureka.

Trobitz was just a gentleman of the old-school. He didn't like a lot of things that were happening, but he didn't personalize things. He knew he was in the minority. [laughter]

Lage: That's right. That would give you a certain position.

Pesonen: He knew he was in a minority so he made his points and he made them well, and sometimes he prevailed if it wasn't a matter of fundamental policy. He was a decent guy. I liked him. I had a lot of respect for him.

Lage: Any other on the board that were--

Pesonen: Well, there was Virginia Harwood, who was a Democrat. She and her husband. She was married to Bud Harwood of the Harwood Lumber Company up in Branscomb. Virginia was a smart lady, and she was put on there because she was one of the few Democrats, I think, in the redwood region.

Lage: And she was a Brown appointee?

Pesonen: She was a Brown appointee. She ended up with Trobitz more often than not, but she also was a nice person and didn't personalize her political disagreements and her policy disagreements with the other members of the board. And the other members of the board were pretty congenial. There was Phil Berry; there was myself; there was [University of California professor of Geology] Clyde Wahrhaftig, who's just a sweet old man and a wonderful guy. And he's a very sound scientist and teacher. Then there was a woman who was active in the Sierra Club from southern California, Cecile Rosenthal. Let's see, who else was on there? Richard Wilson, who is now the director of the department.

Lage: Was he a Brown appointee? He was a Republican.

Pesonen: He was a Republican, but he was a Brown appointee, I think.

Lage: What did you think of him?

Pesonen: I liked him. He's very independent minded. He didn't fit as well into any of the two camps, if you can say there were two camps on that board although that's an exaggeration. I don't think he spent a lot of time on the board. He had things going on in his personal life. He had his ranch up there in Covelo, and there were certain issues where he cared a lot and certain issues where he just didn't care at all.

Lage: What is his position now?

Pesonen: He is director of the department.

Lage: Of forestry?

Pesonen: Yes. It's now called [the Department of] Forestry and Fire. He was just appointed a couple of months ago by [Governor Pete] Wilson.

Lage: So I hope he's interested in forestry now.

Pesonen: Well, he is. Very much. He got appointed during a turbulent time when the Grand Accord [legislation governing timber practices on old-growth forests on private lands] had been through the legislature and then was vetoed by the governor. It caused a great turmoil and in the wake of Proposition 130 and 138 [both bond acts dealing with forest protection and forest harvesting] in 1990,¹ there was another initiative being circulated, that legislation is still held up in the legislature right now by [Speaker of the Assembly] Willie Brown, probably for reasons completely extraneous to the merits of the legislation. And it's divided the environmental community because of the way it was put together. It's a mess. And poor Richard Wilson is right in the middle of it. He walked into a hurricane.

Lage: It's a wonderful title, Grand Accord, but it doesn't seem quite appropriate right now.

Pesonen: Well, it's a grand mess right now. I don't remember who else was on the board, but they were a congenial board. Clearly it was the length and shadow of Hank Vaux's style.

Regulating Non-Point Sources of Pollution

Lage: Now, you worked on the best management practices for the non-point sources of pollution? What was that?

Pesonen: Well, shortly after I got on the board, Hank asked me if I would handle a subcommittee, a citizens advisory committee under Section 208 of the Federal Water Pollution Control Act.²

¹Propositions 130 and 138 (November 1990)

²90 Stat. 377 (1976).

The Federal Water Pollution Control Act addresses essentially two kinds of pollution: point sources and non-point sources. Point sources are pipes that dump things into streams and water courses. Non-point sources are more diffuse: runoff from streets in cities, runoff from wildlands irrigation and other things. Under the act the development of rules for control of non-point sources to meet the goals of the act was delegated to the states in the first place. And in California, that would be the Water Resources Control Board. The Water Resources Control Board broke that subject up based on the source of the non-point pollution. Timber harvesting was one major source that they identified and then they delegated to the Board of Forestry, or they contracted with the Board of Forestry, the job of developing those rules which ultimately would have to be approved by the Water Resources Control Board, but they didn't have the staff or expertise, so they thought, to do the work. That was delegated to the Board of Forestry and I was appointed to be in charge of that process.

We set up a committee called the BMPSAC--Best Management Practices Advisory Committee--and it had all kinds of people on it, people who came from the timber industry, came from professional licensed foresters, the environmental community, people with interests from the North Coast Regional Water Quality Control Board. It was a committee of fifteen or twenty people, and we started developing the rules.

Lage: Now, how did this relate to the subcommittee? You had a citizens advisory committee and then also the--

Pesonen: Well, the citizen's advisory committee was advisory to this subcommittee of the board. Of course, the idea was to get as much buy-in on whatever rules we come up with ultimately, so that they could then be adopted by the Board of Forestry and transmitted with their recommendation to the Water Resources Control Board for adoption in compliance with the act.

Lage: Am I right in remembering that you were making the forest practice rules sort of take in this--

Pesonen: Yes. The notion was that once best management practices were adopted to comply with section 208, they would be folded in, by amendment, to the forest practice rules so that the forest practice rules would incorporate these best management practices.

Lage: So you'd just have one set of rules?

Pesonen: You would have one set of rules.

Well, that never got completed while I was on the board. It was a much more lengthy and controversial topic than we thought. And it is. It's a very difficult subject to get your hands on, at least under the Z'berg-Nejedly Act as it then existed and the forest practice rules as they then were in place. And, of course, I sensed that there was a lot of obstructionism on the part of the industry. Industry representatives didn't want any changes.

Lage: Was that evident on your advisory committee?

Pesonen: On the advisory committee. Any change in those rules would be more restrictive. There was just no way out of it, and they knew that.

Lage: And yet you were under federal mandate?

Pesonen: Well, yes, but there wasn't much of a timetable on it. And I didn't understand the process well enough at the beginning, and I had an educational learning curve to go through myself. I had two learning curves. One was managing an administrative committee like that, which I had never had much experience with, and the other was understanding the rules in that level of detail and being able to justify that whatever amendments we were to propose had some sound analytical basis. That was just a lot of work. There were staff of the department who were stretched thin doing other things, so there wasn't a lot of urgency about it, or at least it didn't seem to move in much more than a glacial pace, and that may have been my fault. I was busy running a law practice and trying to do this--

Lage: My immediate reaction is that it's a tremendous thing to undertake as a private citizen--

Pesonen: It was.

Lage: --more or less volunteering, doing your civic duties.

Pesonen: It was a lot more than I thought it would be when I accepted Hank Vaux's flattering offer. [laughter]

Lage: Were the other portions of this section 208 examination also done by citizen committees, do you think?

Pesonen: I think it depended on the nature of the source that was being addressed. I don't know who was responsible for developing the rules for agriculture, for example, if anybody. I doubt it would be the Department of Agriculture. It might have been the Department of Water Resources.

- Lage: Did running that advisory committee help prepare you for your work in the department?
- Pesonen: Oh yes. All of that. Everything you do--everything I do--it seems to me, feeds into the next step. I never stop learning. I've learned from mistakes more often than anything else. And I've made some big ones. Sure it was a learning experience. It was an exposure to so-called participatory democracy, a formalized form of participatory democracy, and it's a process that's used all of the time in government.
- Lage: More recently. More in the last twenty years.
- Pesonen: I think that's probably true. I'm not a student of that history, of that process, but it can be used as a way of seeing that nothing gets done as much as it can be a device to see that things get done that will get institutionalized and stay.
- Lage: That people will buy into it?
- Pesonen: People will buy into it. And it's just as effective for one as for the other depending on what the committee really wants to do. What I wanted was for our rules to be adopted, but I didn't have enough time to complete the process.
- Lage: Anything else we should mention on this? Who took it over after you left?
- Pesonen: I don't know.
- Lage: It did get done?
- Pesonen: Yes, I guess it did get done.
- Lage: At some point.
- Pesonen: At some point it got done. I think it's still kicking around. I think there are still problems getting it incorporated into the forest practice bills. But I didn't pay a lot of attention to it after I became director of the department.
- Lage: So it was more a responsibility of the board, rather than the department?
- Pesonen: Well, the department had some staff support for the BMPSAC and to the board, but I just had so many other things to do. I figured it was in good hands, and there was nothing to be added by my sticking my finger into it. I had bigger fish to fry.

Lage: Is that relationship between the board and the department an easy one? I mean, here you have seen both sides of it.

Pesonen: It depends on who the director is and who the members of the board are.

Lage: Was [Lewis] Moran the director when you were on the board?

Pesonen: I replaced Moran. He retired. I think his relations with the board were--I wouldn't say strained because he was--he was an old-time bureaucrat. I mean, he was a survivor. He was like [Charles] Charlie Fullerton at [the Department of] Fish and Game. They were real survivors. They didn't want to see too much change. They were too much a part of the organization; they had come up from the ranks. They were susceptible to what happens to anybody who is around too long in any organization: they had too many connections, too many friends, too many debts, too many skeletons in their closets, I suspect. And they get tired. Pretty soon they'd get their eyes set on retirement, and they just want to get there. As little trouble as possible is the best way to get there. So Moran didn't do very much. I think that that is what I was told, and that's what it appeared to me when I got there. On the other hand, he didn't actively obstruct what the administration wanted to do and the board wanted to do. He did his job, but he didn't have any great agenda for change.

Lage: Before we get into the department, do you have any other--I think we have covered most of the thoughts I had on the board, but is there anything that you want to add or particular meetings that you remember or issues that--I mean, we haven't, by any means, addressed the full range of issues that you were involved with.

Pesonen: Oh, no. There were lots of other issues, but the Redwood National Park thing was certainly the highlight, and that came right at the beginning, and then there was the 208 committee. There were lots of things going on all the time, but--

Lage: Well, the complete review of the forest practice rules sounded like that was a major undertaking, from my interview with Henry Vaux.

Pesonen: We had a few appeals that were controversial. The rules were under review in a number of respects. There was a major set of amendments to the rules for the Coastal Protection Act.¹ I have forgotten the exact title of those rules, but they were

¹S.B. 1277, California Coastal Act of 1976, 1975-1976 Reg. Sess., Cal. Stat., ch. 1330 (1976).

amendments, major amendments, to the rules within the coastal zone and that happened while I was on the board and that took a lot of time and study.

But I have to say that I probably wasn't as conscientious a board member, except on the 208 issue, as I might have been, as some other board members were. It really was an intrusion on my law practice. The kind of law practice I had was not one where I was a major partner in a good firm and had lots of time to be a figurehead. I had to work. I had to try cases. And I felt the board was an intrusion on that, and I continued to do it out of a sense of public responsibility. But I wouldn't look back on it and say that I was as conscientious a board member as some others might be. I mean, I picked up the agenda on the bus riding up there and I read it on the ride. I didn't spend much time in between times except on the 208 stuff.

Lage: I'll bet any number of board members had to do that unless they were in a senior position, or retired.

Pesonen: I think that's true of a lot of citizen boards. I have certainly found it to be true when I was manager of the East Bay Regional Parks District. The board members didn't pay much attention until they got to a board meeting unless they had a particular issue that they had been stirred up about by some constituents.

Lage: So you had Henry Vaux, who put a tremendous amount of time into it, and he was able to get staff for the Board of Forestry for the first time.

Pesonen: Yes, and I trusted Vaux to keep things going on the right track. I had a lot of confidence in him.

Appointment as Director of the Department of Forestry, 1979

Lage: Let's leave the board and go to the department. Now how did that appointment come about? Are you aware of how your name came up?

Pesonen: I don't know how that came about. I know that I had been thought of as director sometime earlier when Claire Dedrick was secretary for resources before Huey. Moran was thinking of retiring, or maybe Dedrick was thinking of replacing Moran. This was probably two years earlier. I think it was right about the time I got on the board. It might even have been before I got on the board.

Lage: Were you aware of it at the time, that you were being considered?

Pesonen: Well, she called me up one day. I knew her. She had been with the Sierra Club Loma Prieta Chapter, and I had known her from the antinuclear days.

Lage: Had she been involved in that antinuclear movement?

Pesonen: Somewhat. She and her husband.

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Pesonen: Let's see. When did Jerry Brown come into office?

Lage: January of '75.

Pesonen: Well, this was about--

Lage: And Claire Dedrick was hung in effigy by the lumber people soon after she came in.

Pesonen: Yes, but she was his first secretary for resources. Initially, I think she wanted a younger, more active person as forestry department director. Moran was playing out his last days with the department before retirement. He knew that. So I spent an afternoon, and then we went to dinner with her, and then I didn't hear anything more from her. I guess she decided she would stick with Moran.

Lage: As she stuck with Charlie Fullerton?

Pesonen: As she stuck with Charlie Fullerton. And I didn't pursue it.

[tape interruption]

Pesonen: Well, how did it happen? Huey called me in, I guess it was March of 1979, and just flat out--you know, he doesn't mince any words --just wanted to know if I'd like to be director of the department, and could I come right away? And it might have even been February when he called. I said, "Well, I have some things to wind down in my law practice." He wasn't happy about that. I didn't hesitate.

Lage: You immediately--well, you said earlier you were kind of ready to get out.

Pesonen: I was looking for a big change, for a lot of reasons I have already discussed. So I told my partners about it, and they were not happy about it. I said I would have to wind down what I had. Huey was unhappy about that, but he was willing to wait. I am sure he had talked to the governor about it. He wouldn't have

done such a thing without talking to the governor, and it might even have been partly the governor's idea for all I know.

Lage: Because you'd had that meeting with the governor on the nuclear issue earlier?

Pesonen: I knew the governor from that, and the governor had stayed in touch with me. There had been a campaign against some nuclear power plants in Kern County, the Wasco plant which was a huge, absolutely huge, nuclear facility proposed by the Los Angeles Department of Water and Power [LADWP], to be built near the town of Wasco outside Bakersfield. There was a citizen's initiative to stop it, cut off its water supply. Without water it couldn't have any cooling towers, and it wouldn't be possible. They were afraid the water would be diverted from agriculture.

Larry Levine was managing the campaign against that plant. I forgot to mention Larry in our last session about the nuclear initiative, and I should have because he was the hired strategist, the hired campaign manager, he and a guy named [Robert] Bob Jeans. Larry was the press manager. And he is a campaign consultant in southern California. He handles school board candidates and local congressional and supervisor candidates. He makes his living doing that. And he's a wonderful guy. We just really got to know each other and liked each other a lot in the Proposition 15 [Nuclear Safeguards Act, June 1976] campaign. And he was managing the campaign for the farmers in Kern County, and he was keeping me posted every day about how things were going.

Lage: Interesting that you had the farmers organized against nuclear power.

Pesonen: Well, the farmers whose water would be lost. And Larry could tell that story better than I could. It was a very interesting campaign. The governor watched it very closely, almost daily. He was calling me every other day, I think, to see how the vote was going to go because he had already positioned himself as an antinuclear candidate, and it was very important to him that that initiative succeed in Kern County. It would buttress his position. It would justify it. I can't think of quite the right word I want, but if it lost, he would see it as a blow to his own position. And it won.

So I had been in touch with the governor as sort of an information source about the Wasco plant campaign through '75, I think, or through '76 or '77. So we knew each other. It was a first-name basis, and I knew Huey. And it just happened. I mean, I didn't go through a long interview process, I didn't file

an application, I didn't send in a résumé, I didn't do anything, it was just my reputation.

Lage: Did you have a meeting with the governor and Huey to talk about--

Pesonen: It was just a done deal. When I said "yes" on the phone, it was a done deal.

Lage: But before you got into the job, was there any discussion of where the department should go or--

Pesonen: No. I don't recall meeting with the governor before that at all.

Lage: So it was just up to you?

Secretary for Resources Huey Johnson

Pesonen: It was just up to me. Well, no. Where the department was going to go was a matter of great interest to Huey, but I never discussed it with the governor before my appointment.

That was April 1979, so it was just thirteen years ago. Well, anybody who goes into a position like that has to sort of get the lay of the land, you know? Who your staff is, what the history of things is, what are the underlying issues, how is the place organized, what's its real mission and what does it perceive its mission to be? I set out to just kind of keep my ear to the ground and go around and talk to a lot of people. I called a staff meeting right away, and I recall that staff meeting.

The top level of staff was called the executive advisory group or something, EAC. In other words, anybody who was a ranger IV and above, a regional chief and above. And I held up a blank piece of paper and I said, "This is my agenda right now. I want to find out from you what this department does, how it does it."

Huey left me alone at the beginning. He didn't come right in and say, "Here's what I want you to do with the department." He had his weekly staff meetings, and they were very episodic. It was very hard to figure out what Huey's plan was.

Lage: Did you know that he had a plan?

Pesonen: I wasn't sure he had one. [laughter] The staff meetings were amusing.

Lage: This was with all of the departments within the Resources Agency?

Pesonen: This was all of the Resources Agency heads: conservation, fish and game, water resources--

Lage: Parks?

Pesonen: --parks, State Lands Commission, Water Resources Control Board, and then there were a couple of little bodies of one kind or another, but they were all part of the Resources Agency. And there were maybe twelve to fifteen people in Huey's Monday morning staff meetings. There was never a written agenda. There was usually some issue in the legislature, something the governor had said. It was political, it was policies. Sometimes it was just Huey holding forth about the world in his swinging chair, and the rest of us sitting in these creaky chairs that he brought up from Mexico.

Lage: Was this his chair that hangs from the ceiling?

Pesonen: He had two swinging basket chairs from the ceiling, and if you met with him one-on-one, you each sat in the swinging chairs swinging back and forth. [Chuckles] Huey loved those chairs. But during the staff meetings, he'd take one of them down, or sometimes he'd leave it up, and nobody wanted to sit in it, but if there weren't any other chairs, if you were late, you ended up in the other swinging chair.

And he had these other chairs which were real handmade creaky things from Mexico that were leather and strips of mesquite, I think. And they had worms in them. They were very uncomfortable, and they would creak and they'd squeak.

Lage: So if people were restless--

Pesonen: If people were restless, there would be squeaking going on among all of these chairs all over the place and when you'd come in on Monday morning, there would be these little tiny heaps of sawdust around these chairs where these worms had eaten at them over the weekend. [Laughter] Every once in a while, one would collapse.

You just never knew what Huey's agenda was going to be. He was kept on an even keel more or less by [Harold] Hal Warass, who was one of his deputies and who had been a deputy for resource secretaries for a long time for administration personnel dealing with the Department of Finance. And Hal Warass was a consummate

bureaucrat. He was a wonderful guy. I mean, bureaucrat is not a pejorative term in my lexicon. There are people who have to make government work and understand how to do it and are very successful at it. Hal Warass is one of those people. He stayed on with the agency after Huey left; he'd been with Claire before Huey; I think he had been with whoever was resources secretary before her.

Lage: I haven't heard anybody mention his name. I've interviewed [former Secretary of Resources Norman B.] Livermore [Jr.] and Dedrick and--

Pesonen: Well, he was a Svengali of the Resources Agency. He was very careful not to take a policy position. He made the engine run.

Lage: So did he keep Huey on track?

Pesonen: He tried. I had a lot of respect for Hal in the challenge he faced.

Anyway, so you try to glean what Huey wanted from these staff meetings. Sometimes he'd give you a direct order, but not very often. You were supposed to pick up the vibrations of what he wanted.

Lage: Or maybe he just wanted you to go your own way?

Pesonen: No, he didn't want you to go your own way. I think he was trying to figure out what he wanted to do for a while that I was there. He finally came up with a plan, and then we had to buy into that plan, and it was a good plan. It was the idea behind his Renewable Resources Institute [where Johnson is now director], which focussed on Huey's central theme, which is still his central theme, and I think it always has been since he left Trust for Public Lands--maybe it was even before that--that a society that is dependent on nonrenewable resources is doomed and that now, while we've still got time and nonrenewable resources to use, we should build a system that depends on renewable resources: wood, water, sunlight, wind. And certainly wood was a large part of that, for energy and building materials. So forestry was very important to him as part of this renewable resource notion; a society that recycled things, used things that grew again, planted for the future. Wood energy was a big deal with him.

Part of that program was the chaparral management program which the Department of Forestry presented to him as a renewable resource program that we could manage for millions of acres of brushland in California, increasing water yield, wildlife yield.

Lage: But not increasing wood supply, am I right?

Pesonen: We wanted to try to make wood energy out of it: chopping it up and bundling it up. There was a little pilot program down in San Diego County to try that. It just wasn't economical. But using logging slash and other more concentrated forms of wood did have some possibilities, or appeared to. And I put that whole program in charge of a deputy for resource programs, Loyd Forrest.

Lage: Forrest?

Pesonen: F-O-R-R-E-S-T.

[tape interruption]

Restructuring the Department's Staff and Management Systems

Pesonen: Where was I? Trying to figure out what Huey wanted.

I had one agenda for myself, and then I, of course, was going to carry out whatever program Huey had. First I had to put together my staff. And it took me a while to find out what kind of people I had inherited as deputies.

Lage: Are the deputies ones that you can appoint on your own?

Pesonen: Yes, they are called CEA positions, career executive appointments. They don't have any civil service security in a particular position. They have some civil service rights to return to a civil service position of some kind, but they are very high level. And they get paid well. I had three CEA deputies. I have forgotten exactly how Moran had that organized, but it didn't make any sense to me, anyway. He had one very close deputy. In fact, he had the office rebuilt so that you could close the doors of his office and this other deputy's office, and there was a door between the two of them. I'm told there was a very secretive little world in there.

He had a secretary whose name was Josephine Guillino who had been there a long time, and I immediately developed a respect for her. She was a very tough, strong woman, knew where all kinds of skeletons were buried. She was very loyal, and she started helping me out. She liked me. She figured I was honest, and she said once she thought that was refreshing. [Laughter] I didn't have any hidden personal agendas; I just wanted to do a good job.

So I ultimately restructured the top management, and that always sends reverberations of anxiety throughout an organization. And I let some of those people go. I brought in Loyd Forrest, I brought in [Robert] Bob Connelly as the chief deputy director.

Lage: Where did you get these people?

Pesonen: Bob Connelly had been in the legislature, working in the legislature a long time. He'd been at the legislative analyst's office, and he had worked on the staff of most of the important people in the legislature, Senator [Alfred E.] Alquist. Let's see, who else did he work for? He was an insider in the legislature. He also was a very close personal friend. He and I had gone to high school together, and he was probably my closest personal friend as well. He still is. And he's very bright and he's very knowledgeable. He's got good political sense. And he was sort of bored with what he was doing over in the legislature, so he came in as chief deputy. Then there was Loyd Forrest on resource programs, [Robert] Bob Paulus who initially impressed me, in charge of fire programs, and then there was an administrative person.

Lage: But this was a reorganization?

Pesonen: This was a reorganization.

Lage: Moran hadn't divided it into fire and resources?

Pesonen: It wasn't quite that clear a division. Some of the fire responsibilities were under the resource person.

And that caused a bit of a stir, that reorganization. But I felt that it had to be done, and Hal Warass helped me carry out so it went smoothly: got it through the Department of Finance and got the positions authorized by the State Personnel Board. There's a lot you have to do with what are called control agencies in state government before you can do anything. It took me a while to get over my impatience with that process. Once I realized its purpose, then I figured out how to use it, and I didn't resent it anymore.

Women and Minorities in the Department

Pesonen: There was another problem: the department was under some sanctions or impending sanctions order from the personnel board

for failure to appoint minorities and women in the fire side of the organization--well, in the whole organization, but the fire side was 80 percent of it and that's where most of the problems were. Coming out of a civil rights liberal law firm, there was a lot of anxiety that I was going to start changing that, and we were under pressure from the personnel board. They were going to sanction the department and take over.

Lage: Didn't they eventually do that?

Pesonen: I think maybe they did, but I don't think they sanctioned them while I was there. I kept fending off the sanctions because what the sanction would mean was that they would take over personnel administration for the department. Then you lose your freedom and your flexibility in appointing people you think ought to be in certain positions, and I wanted that authority. I didn't want to lose it to the personnel board. So I had to promise to try to get serious about it and put a lot of pressure on the department about it. Well, I got a lot of heat for that.

The first big executive meeting I had was at Lake Arrowhead and that was all the rangers, all the regional chiefs, all the top staff in Sacramento. There were thirty-five or forty people. I have a photograph of it, a big picture taken, and everyone's a white male and they are all in uniform. It looks like the military from the First World War or something. Here we all are with our stars on our collars and khaki uniforms and they are all pressed and shiny shoes, and there isn't a black face or a woman or a Hispanic there. And that had to change. It had to change all the way down the line.

Lage: Was that addressed at the meeting?

Pesonen: Yes. And you got the usual rationalizations, "They aren't interested; they don't want the jobs; we've tried; we can't find them; we've done everything we can; it's hopeless." And I didn't accept that, and I think they knew I didn't accept that.

For example, I went down the hall to the supply room in headquarters. There was a supply room on that floor--we were, I think, on the ninth floor of the resources building--and it was a big room where everybody in the office had to go to get all kinds of supplies, and it was run by two or three guys who didn't have a lot to do. It was full of pinups and naked girls and the kind of calendars you'd see in a little auto repair shop. And I said, "Take that stuff down." And there was an uproar.

Lage: So it was really entrenched?

Pesonen: I said, "Every woman in this office has to come in here and pick up materials for their department, and they've got to be exposed to that stuff. I didn't think of the term "sexual harassment," but now people would call it sexual harassment. It was just inappropriate. And they didn't like that at all. There was grumbling and growling all around the building: "Can't have any fun any more around here." [laughter]

Lage: What about hiring? Were you able to turn that around?

Pesonen: It was hard. It was hard because we met resistance all the way down the line. And the director doesn't do the hiring; you don't interview everybody for every fire fighter job. And you can't set quotas. Legally you can't set quotas. You just have to put the pressure on. There were systems for giving credit for minority or woman status on exam results. You could add a certain number of points, but the interview was, of course, a large part of each one of these assignments, and that's where the existing institutional mindset exerted its influence.

Lage: But could you give points to your supervisors for having success at hiring minorities?

Pesonen: I think now, today, knowing what I know now, having worked in a civil rights law firm, I would have done things somewhat differently; I would have hired some more help. I didn't get as much help from the personnel board on how to do this as I thought I would. The personnel board sort of told you what to do, but they didn't tell you how very well. That's my recollection, anyway. I don't want to be unfair to them, but that's the way it seemed to me. It seemed that I was kind of on my own. Now, I know that there are people who are really skilled in how to carry out affirmative action programs and who have developed a lot of techniques for making it work, including techniques for rewarding and evaluating and appointing authorities down the line. And I just didn't understand that well enough and I didn't get much help on it, as I recall.

There's been a lot of improvement since then. I don't think that the department's under a sanctions order any longer, but that's been thirteen years. I know my son, for the last three years, has been a summer fire fighter, a seasonal fire fighter, and there are women in every station now, and Afro-Americans. So it is highly integrated now, at the lowest levels. It is still not higher up. And the budget crises over the last number of years have pretty much cut off much promotional opportunity, so I think it's probably at the upper level still pretty much the kind of organization that I saw.

I did create one high level position to which I appointed a woman, Suzie Lange, who now works for the Department of Education.

Lage: What was that?

Pesonen: That was press, publicity, special programs [assistant to the director, policy analysis, information, and legislation]; kind of a collection of things. But she was part of the executive level group. Otherwise, I didn't do very well.

Lage: But you kept the personnel board off your back? I thought I read something about a 1980 sanction.

Pesonen: Well, there was a sanction proceeding, but I think they softened it to give me a chance. I mean, I was new, and they knew I was new, and they were going to give me a honeymoon period on this. And we were successful in getting that.

Management by Objectives

Lage: You mention the bureaucracy, or the term "bureaucrat." Did you get a sense of what the civil service appointees were like in the department? Did you come to respect them or did you find them--

Pesonen: I respected a lot of them. I mean, it's a good department. It has a very clear mission. I didn't think it was very well managed in the sense that it was difficult in the budget section to really get a handle on how many positions and how much equipment we needed. It was all very subjective. That I found really frustrating.

Lage: Is this mainly fire we are talking about?

Pesonen: Mainly fire. In terms of organization reform, the fire side of the organization was so big, such a huge consumer of its budget, that's where I spent a lot of my time. And I started looking around for systems, management systems, that could be implemented where I could get a handle on what the department did down to the lowest level, where at every level they would have a plan for what they did, where they would have a way of justifying their budget. And I read a book called *Management by Objectives and*

Results in the Public Sector.¹ I was intrigued by that book and I went over and talked to the commissioner of the [California] Highway Patrol, who had implemented such a system in the Highway Patrol. I then brought in some consultants and had all the top staff come, and we spent a couple of days going through a training session on this management-by-objectives. Well, it takes a long time to implement such a system, and it wasn't completely implemented by the time I left. In fact, I'm told that it was abandoned as soon as I left. [laughter]

Lage: Was it resisted by the people in charge?

Pesonen: Yes, they didn't like it because it took away their--look at it from two sides: from my point of view, they could never tell me why they needed a certain lookout, or why they needed a certain number of engines, or why they needed a certain station, or why they needed fifteen bulldozer operators in this ranger unit and two bulldozer operators in that. There was just no way I could get a handle on justifying the budget.

Lage: They just felt they needed it.

Pesonen: They felt they needed it, and of course they think in terms of their worst-case catastrophes and very large fires. And that's understandable because they are on the line. But I had to respond to the legislature and the Department of Finance and the Governor's Office and justify what I was asking for. We had to make cuts, the cuts had to be where they would do the least damage to the department's ability to do its mission. There was just no objective way to classify need to do that.

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Pesonen: So I started to concentrate on implementing this management-by-objectives system. I was able to get authority to hire some people: a guy named Bill who was skilled in computerizing this kind of information. Suzie Lange [assistant to the director, policy analysis, information, and legislation] was in charge of the whole planning process. And it was glacial. I mean, I'd push it, and I'd push it, and we would develop these plans at descending levels in the organization and massage them and roll up into the department plans. It was never sufficiently finished, but it could be used for the budget process.

¹George L. Morrissey (Reading, Massachusetts: Addison-Wesley Publications Company, 1976).

Lage: In a nutshell, could you describe what management by objectives is?

Pesonen: Well, it's a way of--it's an intellectual process of setting out--at increasing levels of detail and descending levels in a line and staff organization--of articulating what your job is and articulating it in terms of measurable units. At the top level, you define a mission for the whole organization and that's a narrative statement: what are you about, why do you exist, why are you necessary? And then at the next level you break that down into sub-missions and finally you get down to what are called tasks or activities which can be very specific. You are going to inspect 150 houses in the first three months of the year for fire hazards in wildland areas. That's the lowest kind of definition. And if you don't inspect 150 houses, you explain why; why you only did 140 or maybe you would do 200, and you would revise it each year.

At the top level you say the mission of the department is to efficiently, economically, and swiftly reduce to the feasible minimum the number of acres burned each year. The level of detail and the level of precision in measurement increases as you go further down in the organization. And you can structure all of this and lay it out graphically and revise it. If it is in place and it's used and people buy into it and understand it, I'm told it works in some organizations. It has its faults.

Lage: Did it work in the Highway Patrol?

Pesonen: The Highway Patrol seemed pleased with it. That has a reputation as a very well-run organization. There are surely other reasons for it being a well-run organization than simply the use of this management system.

Renewable Resource Programs

Pesonen: So a lot of my attention went into that. But then Huey came along with, of course, his program. Huey didn't care what management system I used. Huey had his own theories about management, which were very one-on-one, and he didn't have the patience to even listen to it. As long as it was my idea and he had confidence in me, I had his support.

There were a couple of things that Huey got us involved in. One was the wild and scenic rivers designation for quite a number

of rivers in California, which was a federal program. He wanted everybody in his department to throw their resources into that.

Lage: Into designating the rivers as wild and scenic?

Pesonen: Yes. Designating the Smith River, the Klamath, the American, parts of the Eel I think--I don't remember what all of the rivers were--parts of the Stanislaus, the Kern, parts of the Feather. But there were still administration regulations in the Department of the Interior to designate these rivers, and that was a very important program for him. Regardless of what department you were in, you were expected to help the state lobby for that legislation.

Then there was--in each department you were to come up with a number of programs which would further this renewable resource idea. My department came up with--I don't remember them all--but chaparral management was one, wood energy was one; those were sort of the high visibility ones.

Another major program that was under way and was a product of legislation that had been passed before I got there, which was really Vaux's baby, was the FRAP program, Forest Resources Assessment Program, and the first report of that. That was all done by the staff of the department. That was also under Loyd Forrest's responsibility.

Lage: Now what did that involve?

Pesonen: That involved a very comprehensive assessment of all of the resources in the state. All of the wildland resources.

Lage: That must have been a major undertaking.

Pesonen: That was a major project, and it was very well done, too. We had some really good people on that.

Lage: Did this include private lands as well as public?

Pesonen: Everything. It was a whole economic analysis of timber, brushland, water, wildlife resources, timberland, private and public, large and small, and how it would meet the needs of the future. The first report came out while I was director, and the second report just came out two years ago. It's a very valuable document. Nobody really knew what the forest resources were in California so you didn't know how much you could cut. You didn't know if you were overcutting or undercutting. You didn't know if you were growing enough to replace what you were cutting; you

didn't know anything, including policies to increase sound management such as tax and regulatory policies.

Lage: So you completed an evaluation of the entire thing?

Pesonen: The first evaluation. I didn't do it; the staff did it. There was a very professional staff, but it was done while I was there.

Lage: Did it get reflected in policy?

Pesonen: Well, not a whole lot at that point. I think people were sort of getting used to using it and understanding it. The second one was prominently relied upon in the debates over the Grand Accord last year and two propositions which were on the ballot in 1990. Yes, it was the centerpiece of the debate in those campaigns. It came up with some very startling results.

But that process was underway. It was long term. It needed to be nurtured and supported; when there were budget tradeoffs, I wanted to protect that program.

Lage: Where did Loyd Forrest come from?

Pesonen: Loyd had been in the department, and he'd also been in the Department of Finance. He was a career government employee. He had a forestry degree from [California State University at] Humboldt. He also was a very good administrator, a very well-organized administrator, and I had a lot of respect for him. Most of Huey's programs ended up under Loyd's portion of my top staff. And Loyd was a little secretive about it. I'd get reports from him about how they were doing by and large, but I didn't look over his shoulder a whole lot unless Huey wanted me to.

Lage: And that worked?

Pesonen: I told Loyd what needed to be done, and he just got busy and did it. And if he needed resources or help--he was somewhat resented in the organization, I think. He didn't come out of the fire organization although he had some experience in it. But he was a calculating, hard-driving manager.

The Fire Fighting Organization: Acquiring Air Force Helicopters

Lage: Did most people in the top levels come out of the fire organization?

Pesonen: Yes.

Lage: Was there tension between the two parts?

Pesonen: There was some distance there, which was another thing I had to deal with.

Our biggest coup was to get all of these helicopters from the air force. It was one that Huey bought into reluctantly, and Bob Connelly was the one who pulled that off. As a state agency, the department was entitled to receive surplus military equipment for nothing. We learned that the U.S. Air Force had twelve huge "Huey" helicopters. They are the kind that can carry twelve people. It's the air force version of the main troop carrying helicopter that was used in Vietnam: a very fast, very maneuverable, large, reliable helicopter. We wanted to use it for the Chaparral Management Program with what's called a helitorch, where you dribble jellied gasoline around a big patch of brush and burn it off from the helicopter instead of having to build roads and manage the fire by hand. The idea was that you take a huge piece of territory that had a lot of brush on it and you would burn a mosaic in it each year on a plan so that ultimately, over a ten-year period it will all be burned.

Lage: To keep down the fire hazard?

Pesonen: To keep down the fire hazard, increase the water yield, increase wildlife habitat.

Lage: Was this all scientifically accepted?

Pesonen: Pretty much, yes. There was a professor at Berkeley, Harold Heady, who had been promoting it for decades. It was hard to do because there were occasions when fires got away from you, you know, if the wind conditions and fuel moisture were not right. So you had to have a lot of study to pick exactly the right conditions and a lot of training of the field people who supervised it.

But you needed the helicopters, and we didn't have any helicopters. We had some helicopters that were on contract only during the fire season for dropping water, but we wanted our own helicopters, so Bob went to Washington a couple of times and pulled off this deal where the air force just gave us twelve of these big helicopters, which are enormously expensive machines.

Anyway, of course, I had to budget for maintenance. We put, I think, six of them into operation the first year.

Lage: And pilots. Did you have pilots?

Pesonen: We had to get pilots for them. They were not free, really.

Lage: Why did Huey have to be persuaded?

Pesonen: Because Huey didn't think much of helicopters. He didn't have any interest in the fire side of the organization. That was just a bunch of paramilitary/military types. It didn't interest him. It had no resource magic about it. It was just a job the department did. He wasn't unsupportive; he was just bored with it.

I was kind of intrigued with it, actually. I kind of enjoyed getting out in the field, and I loved the idea of having all these helicopters. [laughter] But, of course, our hidden agenda was to also use them for fire fighting because they could carry crews quickly, and they could carry a much larger bucket for a water drop. You know, they can fly over a lake and pick up the water and go drop it on a fire right away. How effective they are, I really don't know; nobody knows, I think. It's just too hard to measure that, but there was a firm belief that they were.

[tape interruption]

Pesonen: So we got the helicopters. We were afraid somebody would find out that we got these twelve helicopters before we got them and stop it. I thought Huey might try to stop it. I sort of kept him informed, but I didn't go out of my way to demonstrate my enthusiasm for them. And of course the air program staff was delighted because this increased their domain enormously. They got all these toys to play with. So we had to work out a plan for these big flatbed trucks to go down to Davis-Monthan Air Force Base in Arizona and pick them up, and instead of having a caravan of twelve helicopters coming up the highway, some of them came up Highway 99, some of them came up Highway 1, some of them came up Highway 5--

Lage: This was to keep it a little--

Pesonen: --keep them all spread out so nobody noticed. [laughter]

Lage: Someone would think there is this attack on Sacramento.

Pesonen: We put them in a hangar down in Hayward until we could get them assembled and checked out and a couple of them in the air. That was a lot of fun, pulling that one off.

I probably, if I look back on it, was not as dedicated a soldier in Huey's army of the future as he wanted.

Lage: Was this partly because the nature of your department was so heavily related to fire fighting?

Pesonen: It was partly that, and it was partly that Huey just troubled me. I never really quite knew what he wanted. And I'm not sure he was quite clear. He may have had a big bubble of an idea in his head, but he was not very good at articulating it. And some of it was just impractical.

Lage: Any examples?

Pesonen: No, I don't want to do that. I liked him, and he amused me, but sometimes I just thought he was frustrating and silly and unrealistic.

Lage: Could you tell him?

Pesonen: No. Sometimes you'd give him gentle advice, and sometimes he'd listen. Sometimes he'd get mad.

Lage: Maybe I've misunderstood what you've said, but I have the idea that he wasn't a good manager, but he seemed to feel his authority.

Pesonen: He had authority and ideas. He was not much of a manager. Huey was impatient with institutions, and my sense of it was that if any program was going to stick and stay after we left--because we were political appointees and I knew our tenure was limited--that anything we were going to do that was going to last had to be institutionalized. You had to get the people in the organization to buy into it. It had to be lawful; it had to make sense; it had to have some payoff for the organization, and public support. You couldn't just take a bright idea and throw it down and say, "This is the way things are going to be," because it would evaporate as soon as you weren't there to continue the pressure.

Lage: And you really didn't have a lot of time. I mean, you knew you were going to be out by '82 and you went in in '79. So that's just three years.

Pesonen: Closer to four years. But the first year is start-up and figuring out where you are and getting the lay of the land in a big organization, and that was a big organization. It was the biggest organization within the Resources Agency by far. And it was very spread out. It had 500 separate field facilities. I never did get to see it all, I never got to see 10 percent of it.

Lage: The number of personnel must have fluctuated a great deal in the summer, in the fire season?

Pesonen: Well, you had seasonal fire fighters and certain seasonal positions, but the base staff didn't fluctuate very much. It started to get cut back because Governor Jerry Brown was very penurious about our department. That was one of the principal topics of Huey's Monday morning staff meetings: fighting with the Department of Finance for money for his resource renewal programs.

Lage: He preferred those, so was he less generous with funding the fire protection?

Pesonen: He wouldn't go out of his way to support that side of the program.

Dismantling the State Fire Fighting Program in Orange County

Pesonen: And then along came the Orange County struggle, which was in the wind when I got there. It was very clear that Jerry Brown wanted to go out of office saying that he had limited the growth of state government. He was going to be a no-growth governor. This was his post-Proposition 13¹ public position, that he was going to cut the size of government. Orange County was by far the largest ranger unit in the department.

When the department was set up, Orange County was a rural county, and as it exploded in growth--there was a program called the "Schedule A" program. It was authorized by statute, and it permitted the department to contract with local governments to be the local government fire service, and it would be reimbursed by the local government. There were parts of it that I think probably never really were reimbursed at the administrative level, but it was close to a bargain for a long time.

Lage: For the county?

Pesonen: For the county. The accounting was very complicated, but, on balance, it was a good deal for a lot of counties for parts of their fire service needs for small communities here and there. It wouldn't cover a whole county in most cases; it would cover a fire district or some small town or--

¹Proposition 13 (June 1978).



David Pesonen, director, accepting the Smoky Bear Award for the California Department of Forestry from Max Peterson, chief, United States Forest Service.

Lage: In the wildland setting?

Pesonen: In counties which had a large wildland area. So it was very much used down the coast, in Monterey, in San Bernardino, in San Luis Obispo, and along the foothills, and in southern California.

Well, there had been a ranger down there who had been the ranger in charge in Orange County throughout the entire period that Orange County was going through its explosive growth, starting in the fifties and on up into the seventies. When it was no longer a bunch of orange groves, the Irvine Company had come in, and there was Newport Beach and there was a lot of things. It's a big population center. It swings elections in the state now.

This ranger, his name was Carl (I can't remember his last name now, sorry) was politically very astute and cultivated the board of supervisors and was very effective in building this fire organization until it had 500 employees. It was a big fire department. You would fly into the John Wayne Airport down there (or you did when I was director), and it's a major airport. The fire department for the airport was the Department of Forestry. All of these big trucks that run out and put foam on the runway when an airplane is in trouble and are trained in crash rescue and aircraft disasters, those were all Department of Forestry.

Lage: And was that true of all of the fire fighting within the county?

Pesonen: Except some cities had their own fire departments. But throughout most of the county, which was largely unincorporated and there were a lot of little communities which had just bought into this Schedule A system; it was just huge. There were a lot of employees, and if you could turn those over to the county so they were no longer on a state payroll, it would look like you had cut the state payroll by 500 positions. The public payroll wouldn't be cut at all if you counted the counties because the county would have to take those people on.

Well, the Department of Forestry employees were unionized by this time, and there was a lot of opposition. There was a fear that Orange County was just the beginning of dismantling the Schedule A program which probably accounted for half the jobs in the department, or at least a third of the jobs. It was a big part of the organization. If you cut out all of the Schedule A contracts, the opportunity for promotion within the department would be much less for most people. So Orange County was a way station for rising in the organization; there were a lot of jobs there. But it was very clear that Jerry Brown wanted that contract cut loose.

Lage: Wasn't there some pressure from the local fire fighting union?

Pesonen: Yes, well there was a dispute. That complicated it. That was one of the reasons for Jerry Brown's position. The Federated Fire Fighters wanted to unionize as many people as possible, like all unions, and they couldn't get their hands on Orange County. Here was a big plum. If there was a county fire department, it could be unionized by Federated Fire Fighters and taken out of local CDFEA, California Department of Forestry Employees Association, which was the union I had to deal with. It was a union of state employees like CSEA [California State Education Association].

There was a lot of heat about this. There was a lot of antagonism between the two union organizations. It was really a reflection of turf battles between the leadership. To the rank-and-file, I don't think it made a lot of difference, but union bosses had been there forever, and this was how they got paid: with the dues from these people. I was pretty cynical about that. But it was very clear that because of union pressures from the Federated Fire Fighters and because of this agenda to cut the state service, Orange County was going to go.

And there was a widespread belief in the department that the reason I was appointed as the director was to carry out this anti-CDFEA, anti-state employee agenda. Well, I didn't even know about the issue when I got appointed. People started talking about Orange County, and I didn't really understand what was going on. So I finally decided I had better figure it out in a hurry. If there is that much talk about it, I'd better understand it.

Lage: Did you get it from Huey?

Pesonen: I got it from within the department, and I got it from the union representative for the Federated Fire Fighters who came to see me, possibly at the governor's suggestion. It became very clear that I had to see that it happened. And I had to see to it that it happened pretty soon.

Lage: Did you get direction from above? Do you remember?

Pesonen: [Pause] Yes. But it was as though they expected me to understand that Orange County was going to be turned over to Orange County and taken out of the department. I don't remember ever receiving a memo that so much as said so, but it was not necessary. I was visited by a lot of people, some that opposed it and some who favored it, but it was very clear that this was going to happen. Some things had gone on about it before I got

appointed director. Maybe the governor had made some public pronouncements. There just wasn't any question it was going to happen.

Well, it wasn't as simple as just saying, "OK, the contract is over." There was all of this equipment, hundreds of pieces of equipment in fire stations where nobody had paid any attention to the title, or half the building would be owned by the state and half would be owned by the county, or the county would own the grounds and the state would own the building, or the county had bought the fire engine and then it had partly depreciated but it wasn't totally depreciated. There were benefits that many of the employees had accumulated over the years, vacation, sick leave, retirement, and those all had to be transferred without their losing anything.

So it took three or four pieces of legislation to amend the Public Employees Retirement Act--there were four or five bills, three or four bills anyway, that had to be shepherded through the legislature, and every time there was a hearing on them, the Department of Forestry employees would show up en masse and oppose them. [Laughter] And here was their director taking one position and the rank-and-file taking another, and I didn't have any choice; I had my marching orders.

Lage: But you were the one who had to--

Pesonen: I was the one that had to take the heat from within the department, so it caused a lot of moral problems and a lot of tension between me and the field organization. They thought I was the governor's cat's paw, and I was. I had to be. I was carrying out the governor's dirty work as far as they were concerned. I just didn't have any choice. And it made sense to me, too. I saw the department as a wildlands fire department, and in Orange County it clearly was no longer a wildlands fire department; they had high-rise ladders, they protected the airport. They were a municipal fire department.

Lage: It does make sense, looking back on it.

Pesonen: Looking back on it, but from the point of view of these employees who were looking for job security, it was not good.

So eventually it happened, and after it happened, there was a vote of no-confidence by the employees against me as the director. And I attributed a lot of it to the Orange County situation. And probably a lot of it to the fact that they realized that deep in my heart I was not a fireman. I was

interested in the resource side of the organization. I didn't come across as a good old fireman. Never will.

Lage: Even though you got them the helicopters?

Pesonen: Yes, but that was just for part of the staff. The ground forces never cared that much about the helicopters anyway. In fact, there was tension between the air and ground forces. This goes on in any emergency response organization.

Lage: Now, Vaux mentioned, in talking about that Orange County situation, that some people were worried about diminishing the fire response abilities because you had these 500 people that could be transferred, when needed, throughout the state.

Pesonen: That was one of the arguments that was made within the organization: that since the Orange County organization, even though it was paid for by the county, the contract provided that it remained under the Department of Forestry's command structure, and all of those resources were available to be called on without going through an intermediate command structure, a separate command structure, to be called in and managed on large catastrophes.

There may have been some diminishment of that, but there are mutual aid agreements all of the time among the various fire departments. If it doesn't work, you have things like what happened with this Oakland Hills fire, where the Berkeley fire station right behind my house here didn't know for two hours that it was supposed to go to the fire which you could see out the window here. There was a bad command structure: bad mutual aid and bad joint response system.

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Pesonen: But the department had developed a very fine integrated command structure called Instant Command System, which is in place now and was in place pretty much then. So I don't think there has been very much diminishment, at least nobody says anything more about it. The transition went smoothly, and the employees that ended up in Orange County get paid more than they were paid by the department and were unionized immediately by the Federated Fire Fighters. And then the Department of Forestry employees ultimately joined the Federated Fire Fighters after I left, so there is no tension between the two unions anymore because they are all one union.

Sources of Tension Between the Director and Department Employees

Lage: Well, what did this vote of no confidence mean to you or mean to the department?

Pesonen: Well, I wasn't happy about it.

Lage: Was that voted by the union organization?

Pesonen: It was by the union organization, pretty much.

Lage: Were there other labor negotiations problems?

Pesonen: No. Well, we fought them on the budget every year, Bob Connelly and I, but that's management's responsibility. You are not going to give away the store. We had a budget constraint. The more money they got for salaries, the less we had for all of the other things we had to do. We were just in a management frame of mind; that was my job.

I think part of it was the Orange County thing; part of it was their sense that I was what they perceived as a bit of an elitist. I was the first director who hadn't come up through the ranks. Moran had come up through the ranks; everybody who had ever been director had come up through the organization, and I was this outsider thrust upon them, and I brought in a chief deputy who was an outsider. It's a very insular organization. And I wouldn't be surprised if my touch was not gentle all of the time either.

Lage: Do you think the affirmative action measures were a source of tension?

Pesonen: Affirmative action had something to do with it. There were a lot of changes that were under way that were--

Lage: The management-by-objectives?

Pesonen: I don't know how much that had to do with it because I don't think that ever got down to the rank-and-file. It was a bit more in terms of talk. The system never got developed enough to get down to the station level.

Lage: What about fire prevention programs? Was that a concern?

Pesonen: It was a concern, but I don't think it was a big policy issue. It was just something we did.

Lage: I suppose the chaparral management must have been--

Pesonen: The chaparral management was justified partly in terms of not so much fire prevention as fuel reduction.

Relations with Timber Companies and the Legislature

Lage: How about approving timber harvest plans? Was that controversial?

Pesonen: That was an ongoing issue.

Lage: Were most of them just routine?

Pesonen: Most of them were pretty routine. Occasionally some would come along where they were very controversial, mostly where they were close to communities and affected water supplies. The degree to which timber harvest plans are controversial is a reflection of the local population. When I was director, the north coast was just beginning to be invaded--that's the wrong word, but some people would use it--by counter-culture people and retirees and other people who had come from urban areas looking for solace in the wilderness, or what they think of as a wilderness in Mendocino and Humboldt counties, southern Humboldt, anyway, who weren't tied at all to the timber industry and who weren't afraid of being political activists. So more and more there was opposition to timber harvest plans around the coast, in southern Humboldt and certainly in Mendocino.

Lage: Now, were those plans that were developed by the companies and then approved by the department or denied?

Pesonen: The timber harvest plans are always developed by the company forester who certifies that it meets the rules. Then it is inspected, submitted to the department and the department has a very short period of time to evaluate it, get comments from [the Department of] Fish and Game or the Regional Water Quality Control Board if necessary. And some of them were controversial. And I sometimes denied them, and the companies would appeal them to the board.

One of the ones that stands out was in Mendocino County. It was in the headwaters of the water supply for a little community on the coast, and I think I turned that one down and it got appealed. I don't know what happened to it.

- Lage: There was one that I found a press release for having to do with the bald eagle near Round Valley. You denied the timber harvest plan.
- Pesonen: Yes, but I think that kind of got worked out on that one. It got revised and then finally got approved.
- Lage: OK.
- Pesonen: You know, it is funny that even though that was my main interest, there isn't anything there much that stands out in my memory from my term as director around timber harvest plans as much as around the fire organization.
- Lage: Because that side of the organization dominated?
- Pesonen: Yes.
- Lage: That's too bad that that was your interest but you weren't able to pursue it that much.
- Pesonen: Well, I always harbored the hopes that I would get it under control and then I could go really pay more attention to the resource section. It never happened.
- Lage: Did you get an impression of the private companies and how responsible they were and--
- Pesonen: Well, yes. Every company has a personality, you know? Some are easier to get along with than others. Some have a very antagonistic view toward any regulations. There were some changes that went on while I was there. Hank Trobitz retired from Simpson [Lumber Company], and they brought in a new manager who was very much a supply-side economist and very much a believer in no regulations and he fought us hard.
- I did a lot of just sort of learning, too. I went out on a lot of tours and inspection tours.
- Lage: Earlier there had been--I can't quite remember the details of it --but there had been the controversy about making the timber harvest plans substitute for the CEQA [California Environmental Quality Act]¹ requirements?
- Pesonen: That was pretty well resolved before I got there.

¹A.B. 2045, California Environmental Quality Act of 1970, 1970 Reg. Sess., Cal. Stat., ch. 1433 (1970).

Lage: Was that taken care of?

Pesonen: Yes, it had been determined, legislatively, by the time I was appointed that timber harvest plans were the functional equivalents of CEQA's environmental impact statements.

Lage: Did you work closely at all with different legislators?

Pesonen: Well, I worked with those whose committees affected my budget and had jurisdiction over my budget or over policy legislation affecting the department.

Lage: Did you have to go to testify frequently?

Pesonen: I testified, and I would testify on the budget all of the time with staff assistance.

Lage: Any legislators that were particularly helpful or understanding?

Pesonen: Well, Senator [Alfred] Alquist was helpful, and a lot of that was because of Bob Connelly's skill and familiarity with him. [Assemblyman Meldon E.] Mel Levine, who is now a congressman running for U.S. Senate now, was helpful. [Assemblyman] Byron Sher was very helpful. He took a great interest in forestry matters. [Assemblyman Thomas M.] Tom Hannigan from Sonoma County. [Assemblyman Douglas H.] Doug Bosco, who then went on to Congress and then got defeated. I noticed he was one of those who bounced a lot of checks [in the current scandal involving the House of Representatives bank]. [Senator] Barry Keene in the senate and Alquist in the senate. Certainly Senator Robert Presley from Riverside County was very helpful.

Lage: In what respect?

Pesonen: Well, if there was bad legislation, he [Presley] was a good person to talk to to stop it. He was very well respected in the senate. He was a real statesman.

I'm sorry, Ann. You know, I just don't have a distinct recollection of any large pieces of legislation that came out. There was always something happening.

Lage: I can imagine.

Pesonen: I mean, I was over in the legislature once a week it seemed like. It was very frustrating because I--

Lage: Was it putting out fires?

- Pesonen: Putting out fires. Just responding to inquiries or attending interim hearings or--there's an awful lot that goes on that doesn't have any product anticipated at the end of it. It is just somebody wants to do something, or they want to know something, or they want to talk with somebody.
- Lage: And you were the one? You couldn't send Bob Connelly?
- Pesonen: Sometimes they wanted the director. If they were on your budget committee or your policy committee, the director had better respond.
- Lage: But some of that, you felt, wasn't that useful?
- Pesonen: Well, it wasn't whether it was useful or not, that's politics. Politics is people rubbing up against issues and each other. It was exploratory, or it was an excuse for them to get their per diem by holding a hearing.
- Lage: Did you really feel that frequently?
- Pesonen: Yes, sometimes.
- Lage: That's kind of discouraging if you feel you have a job to do and--
- Pesonen: Well, yes. I mean, the budget is not something that just happens when you go to a hearing. There is a lot of internal work developing it, and there was a lot of time spent on that process, internally.
- Lage: Especially with the size of your department.
- Pesonen: With the size of the department, there was just a lot of time spent on that. You are in the budget process year round. You get one budget passed, and you are already building the budget for the next round. The budget passes in the summer; the Department of Finance wants your budget by the end of November for the next year so it can be submitted to the legislature in January so they can flyspeck it before they put it in the final budget, which the legislative analyst is constantly critiquing.

Money is the mother's milk of a lot of things, but it certainly is what runs government and you spend, as a top administrator, an enormous amount of your time on it. At least I did. Maybe I shouldn't have spent so much time on it. Maybe I should have left a lot of that to staff people. But I took an interest in it.

- Lage: Did this type of job fit your--did you find that you liked it?
- Pesonen: Yes, I liked it. I like winning things. I liked making things happen. I found parts of it frustrating. It was very slow to make things happen and to institutionalize them. And I had a learning curve of how to administer a big organization.
- Lage: It was quite different from what you had done.
- Pesonen: Big difference. You know, you have to develop a style you are comfortable with that works. It was not an organization of the kind of people that I find myself congenial with. It was not an intellectual organization; it is a get-out-and-do, good-old-boy network, kind of organization. And there was a side of me that liked that.
- Lage: You like to go fishing.
- Pesonen: Yes, but that's a solitary pursuit.
- It intrigued and interested me. But I always felt the outsider. I never felt I was folded into the organization at some emotional level that some people reached. And I never particularly pursued that.
- Lage: You probably didn't work there long enough for that to happen.
- Pesonen: I don't think it ever would have happened.
- Lage: If you had the eight years of the Brown administration to be in charge, do you think--
- Pesonen: I might have gotten more comfortable, but I was never one of the boys, and I never really tried to be one of the boys. I may have worn a uniform and some of the other trappings, but down deep that wasn't the kind of person I was.
- Lage: The director wore a uniform also?
- Pesonen: Oh yes. Not every day, but when I went to some of our functions and ceremonial things, I had a uniform. I had a uniform allowance.
- Lage: You mentioned--maybe it was in your résumé--that one of the things you did was getting industry acceptance of the Z'Berg-Nejedly Act.
- Pesonen: Yes, I worked hard to--I should have said that earlier. One of my agendas was to reduce the level of adversarial feeling towards

the Z'Berg-Nejedly Act, and I think I had some success at that. It was never complete.

Lage: Where did the adversarial relationships come in?

Pesonen: If a timber harvest plan which had some opposition to it still met the law, I approved it. I was very careful to know that the industry knew that I was going to follow the law and I didn't have an environmentalist agenda. I was happy to see the law changed, and I would work to change the law, but if I couldn't change it, I was going to follow it. I also spent a lot of time, like anybody would, like a lobbyist, in effect. There was an open-door policy. The timber industry representatives could go in and make their pitch anytime they wanted, and I didn't treat them like enemies.

Lage: Was that a difficult transition for you? I mean you kind of came from being seen as an activist, whether you saw yourself that way or not, to becoming an administrator.

Pesonen: That was not hard for me at all. I think that is the kind of person I am. I mean, there were times in my career in the past when there was no choice but to be a hard-charging activist to get the job done. But that was to get the job done, that's not because I'm inherently one who likes to fight.

Lage: Well, Claire Dedrick, coming out of the environmentalist community had a really hard time, partly because she was so criticized by environmentalists when she tried to--

Pesonen: She was very insecure, I think. And she had a hard time. She really had a hard time. She was a woman--the first woman to head a resource agency which was a very white-male-dominated set of institutions. Fish and Game is terrible that way; Forestry is terrible that way. Jan Denton tells stories of when she went in as director of conservation over at the Division of Mines and Geology and a couple of other divisions there that were mostly institutionalized male organizations. They were having a terrible time. [Secretary of Agriculture and Services Agency] Rose Bird had a terrible time at--where was it--Agriculture. I didn't have that problem.

Lage: You didn't feel that you were expected to behave in a certain way by the environmental community?

Pesonen: Well, my reputation was pretty solid, number one. Number two, in those days the Department of Forestry was not the focus of a lot of the environmental controversies.

The Z'Berg-Nejedly Act wasn't very old. We were still maturing. And I was determined to see that that process continued. Where there was going to be some serious resource damage and the timber harvest plan had a flaw in it, I'd turn it down.

Lage: Did you feel like you made progress getting the timber industries to buy into it a little more?

Pesonen: I don't know. I really don't know. [Laughter] I know they'd rather not have the Z'Berg-Nejedly Forest Practices Act, and that's never going to change. They are in it for business, and it constrains their business. They are never going to get used to that.

Inspecting Fire Services at Diablo Canyon Nuclear Power Plant

Lage: One thing to mention--this is skipping around a little bit--but I think you said earlier, "Bring up Diablo Canyon when we talk about the Department of Forestry."

Pesonen: That is a wonderful story. The Diablo Canyon plant, which was the most controversial nuclear power plant in the country by then--there had been terrible mistakes by PG&E [Pacific Gas and Electric Company]: they had reversed plans; there was the suggestion that they had known of the Hosgre fault and covered it up; and there were demonstrations going on all of the time. Mothers for Peace down there had organized that community.

Jerry Brown, consistent with his early position on nuclear power, had his administration, through counsel hired in Washington, D.C., intervene in the licensing proceedings. Now, at that stage, the issue in the licensing proceedings was the adequacy of the emergency response plans. Part of an emergency response plan, of course, is a fire plan.

I was not involved in that process at all. It wasn't part of my job and I just didn't get involved in it, but one day I got a call from the governor's office. They were furious because PG&E had filed a pleading in the proceedings in Washington to show that their emergency response plan was adequate and part of their emergency response plan was the Department of Forestry as the fire department. I knew absolutely nothing. I had not known anything about this.

So I started calling. I called first--I went through the chain of command--and I called John Hastings, who was the regional chief in Monterey, and he didn't know anything about it. The ranger in charge of San Luis Obispo County was a guy named Tom Wadell, and I had never liked Wadell. He was a very reactionary, right-wing type, and he was always kind of sour in our meetings. I don't think he was very well liked in the organization at all. And he was very friendly with the manager of the PG&E plant--of the project manager for the Diablo Canyon plant--and he had entered into an agreement with them that the Department of Forestry would respond to fire emergencies in Diablo. It was just a letter agreement.

Lage: Without clearing it?

Pesonen: He never cleared it. He never went up through the chain of command. He figured San Luis Obispo County was his bailiwick; he was the ranger in charge there, and he could do this if he felt like it. And a lot of those agreements were made with local communities or little institutions or hospitals or things like that. He just saw this as another one of these little side deals. There was no budget for it; there was no money involved.

Lage: You'd expect maybe even a little special training on how to deal with a fire at a nuclear power plant.

Pesonen: One would expect so.

So I said, "Well, we are going to go down there and do an inspection." So I put my uniform on, and I made arrangements to pick up John Hastings at the Monterey airport, and one or two other staff people on the fire side of the organization. We flew down to San Luis Obispo in the department's twin-engine Beechcraft Baron and we all landed at the San Luis Obispo airport, and there was Wadell and his entourage to take the director and the regional chief around. I insisted that I wanted to go inside the plant and meet the plant manager and discuss this contract and discuss what the emergency response plans were.

Well, the word was out, and I had heard back already. This was my antinuclear agenda. Well, it had nothing to do with my antinuclear agenda. It had to do with the fact that the governor was on my back for having had my department undercut his lawsuit in Washington.

So the first place we went was the little fire station at the airport. The Department of Forestry had a contract to protect the airport, and only one fire captain was there. We went in the kitchen and had a cup of coffee and ate some cookies,

and I asked him if he knew about this. Well, he had heard something about it, but he didn't know what he was supposed to do. I said, "What happens if you get a call that there's a fire in the nuclear power plant over there? What are you going to do?" He said, "Well, I don't know. I guess I'll go over there."

Lage: And see what's happening?

Pesonen: See what's happening. A large part of the fire response organization in San Luis Obispo County was a volunteer organization: a local druggist, a gas station operator. You blow a whistle, and everybody would throw on their turn-out gear and jump on the truck, or they would go to the site in their personal car.

So we went to one or two other stations, and there was clearly a lot of just bewilderment at the field staff level. They had had no training. They had been in the plant once or twice, or they had been around the grounds, but no significant training, no implementation of this agreement.

Then we went out to the plant, and you had to go through a very elaborate security system to get into that plant. You had to park a couple of miles away and go through a metal detector. I had five silver stars on each collar of my uniform that sent the metal detectors crazy. Then we got into vans and drove out to the coast, and that is one awesome facility. When you come around a corner and see it, you get the same feeling you got when you first saw *2001: A Space Odyssey* twenty-five years ago. You expect Strauss's *Thus Spake Zarathustra* to come blasting out of the heavens. It was the mind-boggling, awesome, inhuman size of the facility. Then we had to go through another security system to get inside the plant grounds, and everybody was very nervous. The plant manager, it turned out, had been a witness for PG&E in the Widener case, and I had cross-examined him when I was a private lawyer.

Lage: Did you remember him?

Pesonen: Oh yes, and he remembered me, too. So here we were in entirely different roles.

The plant had been tremendously controversial. The company was under a lot of bad press for it. Everybody was paranoid as hell about anybody looking over their shoulder. And they had made some terrible mistakes which had been very embarrassing. But they had to go through with this, and I was now in this official position.

So we went through the plant, and they had an emergency plan for the plant. I had been given a copy of it before, which I had read before I went down there and had along with me. The first thing I remember is going inside that place and thinking, "How is anybody ever going to find their way around in here?" There were pipes and huge five-foot-thick steel doors that would slam shut in emergencies, and the place was as big as several football fields, it seemed like, inside. I wanted to go up to the control room, which I had seen lots of pictures of--I had seen lots of pictures of nuclear power plant control rooms with these acres of dials and buttons and switches and people sitting around at counters and command centers and lights and buzzers and--

Lage: Another movie scene.

Pesonen: Another movie set, and I wanted to go up there. Well, we got in the elevator, and the elevator had about six buttons on it, and each one had an odd number. It was like twenty-five, forty-six, one hundred and thirty-three, two hundred and ten, and I said, "What are those numbers that are on those buttons?" He said, "That's the elevation above sea level of the place where the elevator stops." I said, "Well, how is any fireman going to know that? It doesn't say 'control room', it doesn't say anything. Even if you are going to use the elevator. Say you have an emergency at 213, how is he going to know what that is?" "Well, I don't know." Nobody had a very good answer for that.

So there were lots and lots of things that a person who was responding to a fire there would have to know, would have to be trained in, for which there had been no training at all and no thought put into. And I kept asking these questions as we went around, and the plant manager was getting more and more embarrassed, it was very clear.

So we spent a couple of hours in there, and I was fascinated. I had never been in a nuclear power plant, and while I was there I wanted to see as much as I could, just out of long-suppressed curiosity. I said, "Well, let's assemble in this little conference room," which was out by the gate, as we were leaving, and I started peppering this plant manager and his staff with questions. I remember I said--they didn't even know it was a volunteer fire department--I said, "I noticed the security we went through to get here. You had to know the license number of every vehicle that is going to arrive, you had to put us through an elaborate check process, we had to get badges, you had a character with an automatic weapon watching us while we went through the gate."

Lage: This is all worrying about terrorism, do you think?

Pesonen: Oh, yes, they were very worried about terrorism or sabotage. That was the purpose of it, and it was heightened by the demonstrations and people who climbed the fence and sneaked into the grounds.

Lage: I see. So they were worried about the antinuclear activists rather than--

Pesonen: Yes, but the purpose of all of this security was to protect against sabotage, but their sensitivity to it was heightened by these assaults from these demonstrators who were climbing the fences all of the time.

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Pesonen: "Let's say you have a fire here, and your own in-house brigade can't handle it, and you call on the Department of Forestry to respond and assist you. What do you think is going to happen?"

He said, "Your fire engines with their crews will show up." I said, "No, that's not what's going to happen. What's going to happen is four or five pickup trucks and small cars with little 'volunteer fire department' stickers on the bumpers are going to show up, and these guys are going to be in street clothes, and they are going to jump out and open the trunk of their car and start putting on their gear. And you're not going to know who they are. In the meantime your emergency is growing inside the plant. And what are your security people going to do? Are they going to let all of these people through without knowing who they are or where they come from? They are going to come out of the local gas station and the local drugstore and a shoe store. Who knows where they are going to come from. And there may be a terrorist among them. Are you going to let them all in here and open all of the doors?"

Well, they hadn't thought about that. They didn't know it was a volunteer fire department. They didn't know that the CDF [California Department of Forestry] professional staff, like the captain I had met at the station by the airport, had no training and no plans. They just didn't have a plan.

Lage: Was that usual, to use these volunteer--

Pesonen: Oh, that was very common. We had a lot of volunteerism and they are integrated into the command and communications system of the department.

Well, it was very clear that that plan was dead at the end of that meeting. So I went back to Sacramento, and I just wrote

Wadell and I said, "Cancel that letter." He immediately went to the press, the San Luis Obispo newspaper, saying that this was Jerry Brown illegitimately using his administration to undercut PG&E's position in the NRC [Nuclear Regulatory Commission] proceedings, that it was a left-wing plot. There were headlines and editorials--

Lage: He didn't follow the chain of command too well.

Pesonen: He never had.

Lage: But PG&E seem to have seen the wisdom of your view.

Pesonen: He was the only person I fired.

Lage: Oh, you did?

Pesonen: I fired him for incompetence. Of course, he grieved it.

Lage: Now, when did you fire him in relation to this incident?

Pesonen: Fairly near the end of my term. It was about six or eight months after that. I brought a disciplinary proceeding against him, and we settled it by his agreeing to retire. Although Wadell was part of management, he hired a lawyer who represented the union, [Ronald] Ron Yank, who is a labor lawyer in San Francisco.

Lage: He lives right near here, doesn't he?

Pesonen: Yes, he lives right in my neighborhood, and he's a friend of mine.

Lage: Was there another incident that caused you to institute disciplinary proceedings?

Pesonen: I told him to implement another plan, to put a real plan into action. I said, "I don't mind the department being in support of PG&E if they have an emergency out there, but you've got to have a plan that will work," and he dragged his heels on that, and he was insubordinate. So I decided to--that was the only head that rolled in my whole time I was there. I'm sure he believes to this day that I was carrying out my antinuclear agenda, which simply wasn't the case.

Lage: It sounds as if PG&E could realize that it wouldn't work, that the plan was--

Pesonen: Well, I think without the lawyers in Washington when they filed this plan, they never would have known about it. I never would

have known about it if it hadn't shown up in legal circles in Washington.

Lage: That's a good story. Was there any other fallout on that?

Pesonen: I don't think so. I don't remember any fallout. I think that was very close to the time I wasn't there any longer.

Lage: OK. Any other thoughts about that time, or do you want to mull it over before our next interview?

Pesonen: Well, let me mull it over. Julie suggested we talk about it because she remembers some of those things better than I do. We just haven't had a chance to do that.

Lage: OK, we'll do that, and if you come up with some other incidents or--

Pesonen: But that's the grand sweep of it, anyway.

Lage: Yes, I think we've covered the overall general topics unless something else comes up like that Diablo that you can remember.

VIII SUPERIOR COURT JUDGE, CONTRA COSTA COUNTY, 1983-1984

[Interview 7: May 14, 1992] ##

Midnight Appointment by Jerry Brown, to the Wrong Court

Lage: Here we are, May 14, 1992, continuing our interview with David Pesonen. We decided that we had pretty well completed our discussion of the Department of Forestry, and we want to go on to the next stage, which was your midnight appointment to the court. All of those judicial appointments that Jerry Brown made at the very last minute got a lot of play in the newspapers. How did that come about for you?

Pesonen: Well, I made application to be a judge. There is a process, and it's a lengthy one. It hadn't occurred to me to seek judicial appointment, but I was having lunch with Coleman Blease one day, who was on the State Court of Appeal in Sacramento and an old friend. And I had met Cole in the Bodega campaign. He was with the American Civil Liberties Union at that time--he was the lobbyist for the American Civil Liberties Union at one point--and he had been appointed to the court of appeal by Jerry Brown early in Jerry's term. He was a very fine lawyer. He had a practice--a private practice--in Sacramento. His other partner is a federal district judge in Sacramento.

In fact, during the Prop. 15 campaign I think I described earlier in this interview that we brought a petition against the secretary of state and the Attorney General's Office and the legislative counsel to reform the ballot summary statement of Proposition 15 as it would appear on the ballot and the petition. I used Coleman's office as a base when we tried that case in Sacramento. So we went way back.

So he had suggested it, and the idea kind of cooked for a while, and then I decided I would apply. I applied for the court

of appeal and was approved by the Commission on Judicial Nominees Evaluation, I think it's called, and that's a commission that investigates all applications for judicial appointments. And I received a high rating from them; they do a background check. But then it sat. That was in the late summer/early fall of 1982.

The problem with that appointment was that it was to have been a newly-created position on the court of appeal; there was legislation newly through the legislature to authorize more positions because the case load had increased and so forth. And it became very partisan over whether those positions would be approved or not--

Lage: Before the change in governorship?

Pesonen: --before the change in governorship. And I don't remember all of the details of that because it got very intricate and there were some trade-offs. I think Republicans wanted some of the appointments in exchange for their votes, and I wasn't privy to those negotiations. Then, once the legislation was approved, there was a lawsuit brought by a prominent Republican attorney in San Francisco, alleging that the legislation had been improperly adopted, and the strategy was simply to hold it up until Jerry Brown went out of office and had no power to fill the positions. So in exchange for some tradeoffs that I don't know the background on, Jerry made a couple of appointments to the court of appeal to the positions that I might have gotten appointed to.

It was very hectic then.

Lage: He made appointments that were agreeable to others, you mean?

Pesonen: They were agreeable to others, or they were politically more palatable to Jerry for some reason.

Lage: Did you discuss this with Brown or others?

Pesonen: He was not very accessible on this issue. His appointments secretary, Byron Georgiou [legal affairs secretary], was the one I talked to mostly. And then there was a kind of a rumor mill about it around the capitol. Tony Kline was one of the people I talked to, J. Anthony Kline, and he's on the court of appeal now. And [William A.] Bill Newsom [Jr.], who was close to the governor and is also a court of appeal justice.

Lage: Were they all appointed then?

Pesonen: They were all appointed by Jerry earlier, but they were in touch with the process and they were acquaintances of mine.

Well, it became clear that the court of appeal was not a possibility, and I think Byron Georgiou suggested--or maybe Coleman Blease suggested--that I resubmit the application for the superior court in San Francisco because one of the appointments to the court of appeal, one or two, would have been from the San Francisco superior court, so there would be openings behind those positions.

One of those appointments that was made before the midnight appointments was [Donald] Don King, whom I also knew, having tried a case before him when I was in practice, and we'd known each other by reputation and a little bit socially. I got a call one day, probably in November of '82 from Don King who said that he understood I was going to be appointed to the superior court in San Francisco--it might have been early December, but it was near the end of Jerry's term--and that I was going to be appointed to Don King's position and that he would like me to come down to San Francisco and meet his court reporter and his clerk because those are positions that are at the discretion of the judge, and he wanted to take care of his staff and see that they had jobs after he went to the court of appeal. For some civil service reason, they couldn't go to the court of appeal with him. Also, appellate court justices don't have court clerks to keep their minutes and manage the courtroom.

So I went down and I had a very nice visit with them, and I thought they looked like competent people, and I would get along fine. I gave them as much assurance as I could that if I got the appointment they would be my staff. I also visited the presiding judge, who was Ira Brown at that time--he's now retired--and whom I knew very well from having tried a couple of cases before him and a lot of motion work when he was the law and motion judge for many years. He was a very fine judge.

The word was out around city hall that I was to be appointed to Don King's seat. I walked in on Brown in his chambers, and he said, "Welcome to our court." He knew about it already. It just looked like a done deal. And then Jerry didn't make the appointment. He didn't make any of these appointments. And he procrastinated or vacillated or had some intriguing schemes to balance all of these appointments off, which of course are political plums.

The days went by and there was no word. And there were a lot of people waiting. And the days continued to go by and there was no word. So finally, I thought it just wasn't going to happen. And at that time, Julie and I had a practice of every year, between Christmas and New Year's going up to Sea Ranch with the children, and we were going to do that that year. Instead of

waiting around for this appointment, I decided we were going to go to Sea Ranch anyway, and I left word at the governor's office where I could be reached.

There's a Department of Forestry fire station at Sea Ranch, one of these Schedule A stations, under contract, and I would leave word at the fire station where I could be found if we were out fishing or something, and they could get in touch with them. In fact, I think I had a little two-way radio. I really was very anxious about this because I didn't have a job, and I didn't know what I was going to do after Brown's term ended.

I think it was about 3:00 A.M., it was a Thursday night. His term went to the third or fourth of January because of the way the clock runs in the constitution. It's the first Monday after the first Sunday or something like that. And so he had a few more days into the year of 1983 to make appointments than would ordinarily be the case. His term just didn't end at midnight, December thirty-first. I think it was January first or second at about 3:00 A.M. the phone rang, and Julie and I were asleep, and it was the governor on the phone.

It was him personally, and he said, "I've been thinking about the San Francisco appointment," and he said, "I'm getting jammed in San Francisco." Those were his words, and he didn't explain what they meant. He said, "I've got a new appointment in Contra Costa County. You'd love it out there, the schools are great, housing's nice, the weather's wonderful. How would you like to be appointed in Contra Costa County?"

I said, "I don't know anything about Contra Costa County. I don't have any political base out there; I don't know any of the people." The only person I really knew was one of the judges, [Richard L.] Dick Patsey, who was an old acquaintance and a good friend. I said, "When would I have to stand for election?"

He said, "You have to stand within two years, because in a new seat you have to stand for the first general election that comes along, and that would be June of '84."

So I would be in office and running for office immediately, which was not to my liking particularly. And in a politically unknown landscape for me. So I called Dick Patsey and rolled him out of bed around three-thirty, and I told the governor I was calling him. I said, "I don't know whether I'd like that idea, but I'll call up my friend Dick Patsey and see what he says."

Dick said, "Call him back right now." He said, "You are not going to get reelected out here. It is a very reactionary

county; you'll be perceived as a carpetbagger. The local newspaper is run by a flaming reactionary who will dredge up all your background with the Garry [Charles Garry, of Garry, Dreyfus, McTernan, and Brotsky] firm, and you're going to be in real trouble."

So I called--and the governor had said call him right back. He gave me a direct number, and I called, and he picked up the phone himself. You could hear murmuring sleepy voices in the background. [Laughter]

Lage: Was his a murmuring sleepy voice?

Pesonen: No, he loves this. You could tell. The governor loves this high-adrenaline, emergency way of doing things.

Lage: Maybe that's why he put off the appointments?

Pesonen: It could be; maybe he gets a high out of it. [Laughter]

So I said, "It's not going to work, Jerry. I'm not going to get reelected, according to Dick Patsey, and I'm concerned about that."

He said, "Well, I've already signed the commission so there isn't anything to be done but make the best of it."

Swearing-In Ceremonies, Sacramento and Martinez

Pesonen: We cut short our trip at Sea Ranch and fled back to Berkeley and--

Lage: Started your election campaign.

Pesonen: Well, no. I had to get sworn in before the deadline. So he made a lot--I don't know how many, but lots and lots--of these last-minute appointments all about the same time, and so we were being sworn in *en masse* in Sacramento. Cruz Reynoso, who was on the state supreme court at that time and who later lost reelection himself, with [Chief Justice of the State Supreme Court] Rose Bird, and who was also an acquaintance of mine, was swearing in all of the new judges. We didn't even have an extra car at that point, so I took the Greyhound bus to Sacramento. It was cold and rainy and dismal, and I walked over to the capitol. I figured that there were so many judges getting appointed there

was going to be a couple from San Francisco, and I'll find a ride home with someone.

We were scheduled in fifteen-minute intervals, like getting your physical when you're drafted. Reynoso would administer the oath, and then he'd say, "Would you like to say a few words?" and there would be a small gathering of the bedraggled family and friends in the antechamber of the governor's office. I think there's a big conference room right after you go into the governor's suite. I said something milquetoasty about how pleased I was with the honor and so forth. Then I went and waited and watched who was being sworn in and from where, to go and nab somebody for a ride home. [laughter]

The next batch included a municipal court judge in San Francisco. His name was [Joseph] Joe Desmond. Desmond took the oath and then was asked whether he wanted to say a few remarks, and he got up and said, "Yes, I'm just goddamned glad Jerry got around to it!" [laughter] I said, "That's my man," and I went up and told him who I was and told him my circumstances and he said, "Sure, come on. We'll go home."

Well, his wife waited in the car, outside--

Lage: While he ran in and--

Pesonen: --while he ran in. He was a sole practitioner who had been around the criminal courts for a long time and was part of that old Irish mafia in San Francisco. The car was beat up, the windshield wipers didn't work, and the upholstery was coming out of it, and the windows were all foggy, and we headed out toward the [San Francisco] Bay Area on Interstate 80. I was sitting in the back, and he threw me an old, dirty towel and asked me to wipe the fog off the rear window. His wife had a big, grand, bouffant hairdo, and he had cigarette ashes all down his tie. They were something else, and he was a funny guy.

We got about as far as Davis, and he turned around and he said, "What did you say your name was again?" and I told him. He said, "I heard of you. You're that anti-nuke guy." He said, "I was just talking to," and he mentioned the governor's brother-in-law who's married to Kathleen Brown and they'd had dinner--I can't remember his first name, Kelly is his last name, I think--and he was an attorney for PG&E. He said, "I was talking to him the other day and he said, 'Hell, Jerry's got to appoint Pesonen to keep him out of our fucking hair!'" [Laughter]

Lage: That's a good story.

Pesonen: Well, we had a nice visit in the car, and he dropped me off in Berkeley. Then I made arrangements for the following work day to go out and meet the presiding judge in Martinez, where the court is. I called Dick Patsey and got directions. I think I had been to that court once, years before, on some little divorce case that I did when I was in the Garry offices, but I couldn't remember how to get there.

Of course, it was all over the papers. It was in sort of a mass of Jerry Brown's last-minute appointments, packing the courts with his liberal cronies. That was the tone of it.

Lage: Even though, as you tell it, it was more a question of delay rather than getting things together at the last minute.

Pesonen: Right. But that's the way the story played, as I recall it, in the Contra Costa press and in the rest of the Bay Area press.

Well, the presiding judge was William Channell, who was a very nice man and a real gentleman. He welcomed me to the court, and he was cordial and helpful and gave me a lot of tips on how to get started. He seemed to have all of the time in the world to spend with me, not the reception I feared at all. I'm not sure I was as cordially received by some of the other judges as I was by Channell, but nobody was hostile.

There was another appointment out there at the same time. There were two of us appointed at the same time, [Theodore] Ted Merrill. He had been a criminal defense lawyer out there at--I think the firm was Thiessen, Gagen, McCoy and Merrill in Danville. We were sworn in at the same time in a big ceremony in the supervisor's chambers, and I asked [Senator] John Nejedly to speak for me and Jesse Choper, who was then the dean of the Boalt Hall School of Law. And Rose Bird called up and wanted to come because I knew Rose, too.

Lage: Was this sort of routine, that you have people there to--

Pesonen: You have people there to say a few remarks. It's a ceremony more than anything else. A lot of people show up.

Well, the first crisis was whether Rose Bird should show up, because she was not popular in Contra Costa County. I asked Dick Patsey and he said, "If you can keep Rose from coming, you ought to do it." I said, "Well, I can't do that. She wants to come and she is paying her respects to me--"

Lage: She wasn't sensitive to the political implications?

Pesonen: I don't think she cared. So I declined to suggest that Rose not, and she did show up and it caused a bit of a stir in the audience. Rose Bird was there, and it wasn't missed by anybody either.

Lage: Was it commented on in the papers?

Pesonen: I don't remember whether it was or not.

Preparing for the Bench, Hearing Cases

Pesonen: The ceremony went fine, and we took pictures and, you know, what they do in those things. Then I decided I was going to go to work--

Lage: And be a judge--

Pesonen: --and be a judge.

Lage: --which you hadn't been before.

Pesonen: Which I hadn't been before. There is a school for judges, run by the state. But you don't go to it for like six months. I don't think I attended it until summer.

Lage: Is that routine, to attend it?

Pesonen: It's mandatory. But you get a lot of experience before you go to the school. I hadn't practiced law for four years, I hadn't read the evidence code for four years. I just took Jefferson's Evidence bench book, which was two big volumes of examples of evidence problems. The things that judges have to know most are the rules of order and the rules of procedure. They don't have to know the substantive law too much. It helps if they do, but the lawyer's responsibility is to bring the substantive law to the judge's attention. In trials, the judge has to be able to rule correctly on admission of evidence and process on the spot. So I just every night stayed up until two or three in the morning, reading Jefferson's Evidence bench book, and it was a wonderful experience. I mean, I learned a lot of law that I had never known before. I learned to figure out the hearsay rule, which had always confused me a little bit.

I picked as my mentor--it's a custom that a new judge can select an older judge to be an advisor on the spot. In the middle of the trial, if some difficult question comes up,

including a question about your political career, how things are going to look or what's ethical or what's the appropriate procedure for a judge, you can recess, call your mentor and he'll drop what he's doing, even if he's in the middle of a jury trial, and help you out.

Lage: So that's an official kind of mentorship?

Pesonen: It's a custom in the court. I don't know whether all courts do it, but the Contra Costa court does it and I think it's a--it's not mandated by law, legislated, it's an outgrowth of history and experience.

I had--I picked as my mentor Coleman Fannin, who had been on that court a long time and was a quite colorful character. He came from west county and supposedly had good political sense. He had been a Reagan appointee to the court. He was a very close friend of Dick Patsey's, and Patsey recommended him, and I liked him. He was very helpful to me. He's a wonderful man.

Lage: How large a court is it? How many judges?

Pesonen: There were fifteen. I was the fifteenth judge. It was a new seat created. Up until that time, there were fourteen. I think it's up to eighteen now.

I began to recognize that there were cliques within the court as there are with any institutions. There were people with lesser or greater competence, some people didn't like each other. There were cliques and alliances, probably not unique to that court and I'm sure at every other court.

Lage: I had the impression that you were working sort of as an individual.

Pesonen: Well, yes, but there's a lot of business of the court that's done by the judges as a committee. The presiding judge presides over those meetings, too. We had regular meetings. Channell presided over the assignment of cases, assignment of staff, the budget--there was a courthouse budget, and we had to get it through both the Board of Supervisors--part of it through the Board of Supervisors. You know, your space allocations, what courtrooms you have. There is a lot of just housekeeping that affects the quality of life of the judges.

Then the courts had local rules governing filing dates, assignment of cases for law and motion work, allocation of criminal cases, who gets what kind of jury cases; all kinds of

things. I attended those meetings, and I was bewildered at how much business there is that is behind those closed doors.

I began to feel that while our people were superficially friendly, there was always some trouble out there.

Lage: Even among all of the judges?

Pesonen: No. They didn't go out of their way to cause me any trouble, but they also didn't go out of their way to help me, because within weeks of my appointment, a colorful lawyer out there, who was well known, had filed a lawsuit to throw me out of office on the grounds that I had not been a resident of the county and that the constitution required that I be a resident of the county at the time of the appointment, and it was an illegal appointment. That got a lot of publicity.

Lage: Now, did you move out there?

Pesonen: I moved immediately. Julie and I separated right at that time, and I moved to Point Richmond, which was in the county.

So I had this; my marriage torn apart, and I had the kids on weekends, and I was trying to be a new judge, and I got sued. It was called a *quo warranto* action, I think, a Latin term for suing on behalf of the public.

Lage: And you, yourself, were sued?

Pesonen: I was named and the governor was named, but I was the object of it, obviously. Maurice Moyal was that lawyer's name, M-O-Y-A-L. Maurice had a thick French accent; he had come from Nigeria or someplace. He had a divorce practice, mainly, and he was a flamboyant, colorful character. Not a very good lawyer in my opinion. I think he was outraged that Governor Brown had appointed somebody from outside the county. He didn't really care that it was Brown and my liberal background, it was just he wanted it kept in the community, in the neighborhood.

So I didn't know what to do.

Lage: Did you think the suit had grounds?

Pesonen: No, I didn't think so, but I had to have a lawyer. I met a wonderful man, named David Levy, who had been in the county a long time and was respected by everybody as a thorough-going, gentle, intelligent kind of a person, and also a very good lawyer. He represented a lot of cities. That was one of his specialties. He was also a survivor of the Bataan Death March.

He had a wonderful sense of humor. He was just the ideal picture of a patrician, gentle lawyer in the last century; an Abe Lincoln type. He volunteered to represent me for nothing.

Lage: That was a show of support.

Pesonen: It was a strong show of support. There was another judge who was sued at the same time. He was a municipal court judge in Danville, who also had--he lived in the county, but not in the municipal court's district. That was an even weaker case. So he sued us both and it was all over the Leshar papers.

Lage: Now the Leshar papers are what?

Pesonen: The *Contra Costa Times*.

Lage: And Dean Leshar is the publisher? [Leshar died in spring 1993.]

Pesonen: Dean Leshar is the publisher and the ruling patriarch. He owns the whole thing, and it reflects his views. He's a very aggressive businessman, and it's been a very successful newspaper. But he's also an enormous reactionary. [Pause]

So Levy and I decided that we would talk to Moyal first. And Moyal really just needed somebody to pay attention to him. Levy and I took him to lunch one day in an attorney's restaurant there in Martinez. He talked about his kids, and he'd had a lot of trouble with his kids; they had gotten in a lot of trouble with the law. We showed a lot of sympathy to him, and he dropped the suit. [laughter]

Lage: As simple as that?

Pesonen: Yes. It was about as simple as that.

Lage: He decided you were an OK guy.

Pesonen: He decided I was OK, and he dropped it. He didn't drop it against the other judge, because he didn't like him, but he liked Levy, and he turned out liking me. So we squirreled it away. The case went away, but the melody lingered on.

Lage: It remained in the paper?

Pesonen: That's right. So here I had come into office with a lot of adverse publicity, and Moyal's lawsuit kept it alive. So I was wearing this cloak of this controversial post from the day I went to the court.

Well, I started being a judge. I started hearing cases. Civil cases and a lot of criminal cases. My sense is that the word started getting around that I was a pretty good judge and that I was fair. I wasn't a liberal wild-eyed crazy out there. I began to feel a lot of support coming from the bar. I was a judge they could count on to give them a fair shake.

Two Politically Crucial Sentencing Decisions ##

Lage: You were seeing a lot of criminal cases?

Pesonen: None of them were real high-profile murder cases or anything, but some armed robberies and drug cases.

Lage: Now, you said that's not often done with a new judge?

Pesonen: I don't know whether it's done in other courts or not. If the establishment of the court wants to protect the new judge, they will keep him away from criminal cases because those are the ones that can blow up in your face, politically. You can make a mistake in sentencing, and the person goes out and commits another crime, and it's all over the papers that this judge turned this criminal loose on the community. They are politically risky. But that's what I got. I didn't get big, high-visibility, politically risky cases, but all criminal cases, to some extent, for a judge in these times when people are much less reticent about running against incumbent judges, are risky.

I didn't feel that I wanted to be a law and order judge just to protect my job. I was going to continue to call them as I saw them. I called two cases against the advice of Richard Arnason, who was the dean of the criminal court out there. He felt very possessive about the criminal cases, and I would sometimes ask him for advice. The sentencing law is very complicated. The legislature had passed the determinate sentencing act¹ maybe seven or eight years earlier. It was a very complicated program and most of the judges didn't really understand it. Arnason understood it.

Lage: It restricted your ability to--

¹Uniform Determinate Sentencing Act, S.B. 42, 1975-1976 Reg. Sess., Cal. Stat., ch. 1139 (1976).

Pesonen: It restricted your discretion in sentencing severely, but it also imposed mandatory obligations in sentencing with formulas for calculating the amount of time in prison based on prior offenses and the nature of the offense, whether a weapon was involved or a police officer was involved. There were a lot of factors, and they all worked different ways, and you had to study big manuals to figure out how to properly and legally impose a sentence. You had some discretion but not a whole lot. It was just complicated. And it was just another big area of the law to learn, and there weren't any computer programs. Now they have computer programs; you plug in all the records, and they tell you what the sentence is supposed to be. [laughter] They didn't have that then.

Lage: You had a clerk. Was he helpful?

Pesonen: The clerk didn't know.

Lage: The clerk didn't do things like that?

Pesonen: The clerk didn't know those things. A clerk wouldn't be expected to.

Lage: But to research it?

Pesonen: I had to research it.

Lage: You had to do this yourself?

Pesonen: Yes. But sometimes I really didn't know the answer, and I had to go to Arnason. Some were simple.

As I look back on it, I made two sentencing decisions which were terrible mistakes. I probably would have done them the same way over again, but they did turn out to be political handicaps. One involved an elderly Hispanic man who shot up a Mexican artifact store and all of the pottery because he got into a struggle with the shop owner with whom he had a dispute, because the shop owner's son was harassing the assailant's daughter. It wasn't a robbery, and no one was hurt, fortunately. The whole community turned out for this old man to keep him out of state prison, including the bishop of the church. I got letters from all over the place about that he was a sweet, simple man who had never been in trouble. Thirty years before he had had a hand in a burglary or something, but it was when he was a young man and he now had his own children. This was one of these emotional, interfamily disputes, and nobody got hurt, fortunately; some merchandise got busted up. So I didn't send him to prison; I put him on probation.

Lage: Now, was that within your determinate sentencing options?

Pesonen: I sentenced him to community service, lots of community service.

Well, that hit the papers: "Gunman Sent for Community Service" was the way the story went. In fact, later on, when I was still a judge, I was assigned to the Richmond court which handled non-jury cases, and there were a lot of domestic disputes out there. He showed up in my court representing one of these disputants and helping them mediate a domestic dispute, and he was really very good as a mediator. So in substance that was a success; politically it was a mistake. And I would do that again the same way.

There was another one where there was a fellow who was involved with drugs, selling amphetamines, who had a record as a juvenile and now he was close to thirty years old and appeared to be finally getting his life in order. He had been back to school and straightened himself out. I gave him the benefit of the doubt, and he was back in jail within a few months on another drug charge.

Well, here I had turned a chronic drug manufacturer loose on the community again, and I obviously didn't know what I was doing because he didn't make it.

Those two cases were very frequently in the paper as examples of the kind of crazy, criminal-oriented judge that Jerry had appointed out there. So from the day I started, I knew I was running a political campaign, and I started putting one together.

Lage: Two years in advance?

Pesonen: Two years--a year and a half in advance. I was going to every [Contra Costa County] bar gathering, every political gathering, and of course my base would be in the Democratic party. So I was cultivating everybody. [laughter]

Lage: You must have been pretty busy with all of this.

Pesonen: I was pretty busy.

Lage: You must have been pretty busy trying to learn to be a judge and run your campaign at the same time.

Pesonen: I was pretty busy. I didn't have a very satisfactory living arrangement. I was trying to find a decent apartment in Point Richmond, and that was hard. I didn't have much money--I didn't have any money--a beat-up old car, a Peugeot diesel that rattled

in the parking lot and made a lot of smoke. That was a strange time. And I had to be there on time; I had jury cases every day. I had a wonderful staff whom I still get together with every year. I really liked that staff, and they were very helpful to me.

I was put into an old courtroom. It wasn't really a courtroom; it was the basement of a veterans hall, and it was just an auditorium, where the veterans group would come and have card games on Monday night, so Tuesday morning we would come in and the place would be full of stale cigar smoke and beer. [laughter] It had bare wooden floors, and people would come down the stairs, and the place would rattle and echo. It had no air conditioning, and it was hot out there so we'd throw the windows open. The jury sat in hard-backed chairs--

Lage: This was your courtroom?

Pesonen: This was my courtroom.

Lage: You didn't get moved around?

Pesonen: No, I was in that courtroom as long as I was in Martinez. Unless some other judge went on vacation, and I got to go use a decent courtroom. But the basement of the veteran's building was my courtroom, Department 15.

So it wasn't limousine treatment exactly.

Lage: Did you like the work? Being a judge?

Pesonen: I loved juries. I found it interesting, and it was challenging. It was not a simple job. It is confining. Your time is not your own. People think judges goof off a lot; judges work very hard, and to keep up with the case load you are spending a lot of time in the evening.

Putting Together a Political Campaign

Pesonen: And then I had the political campaign to put together on top of that. I got a lot of help from people. [William] Bill Gagen, who was a well-known lawyer out there, offered to help on my campaign.

I think I made one very serious political mistake, and I might still be a judge if I hadn't done that. Contra Costa

County had gone through, since the Second World War, enormous changes. It used to be the rust belt--the industrial belt--of the Bay Area. The whole shoreline from the Chevron refinery in Richmond all the way around to Antioch were steel mills and pulp mills, and there was a strong union base, strong Democratic base. But over the years, of course, those demographics had declined and the so-called Lamorinda area--Lafayette, Moraga, Orinda--Walnut Creek, Concord, and even starting out into the Delta and down the San Ramon Valley--had developed and that was where the population shift had come, and it was much more conservative.

So I picked Bert Coffey as my campaign manager. Coffey was an old-line Democrat. He was really out of touch with the rest of the county. His power--he was kind of a legendary figure in running campaigns in west county, which was not where the population base was anymore.

Lage: And you were running countywide?

Pesonen: I had to run countywide. My finance chairman was a Republican lawyer in Richmond who represented the Mechanics Bank, Fran Watson. His firm had been the prominent firm in the west county for a long time, but it was in something of a decline. Watson didn't want to do it, I think. I think he did it mainly on Coleman Fannin's urging. So I focussed my campaign on people in west county, when the votes were not all in west county. But I didn't know enough about Contra Costa County to know that that was a mistake until I look back on it now. I think if I hadn't been something of a person who they wanted to keep a little distance from out there--.

And I think the other judges felt I was vulnerable and didn't want to get too close. Judges like to keep their jobs. But politically I stood for a new, foreign substance thrust into their presence. It hadn't happened before like that. And being vulnerable, it just made them uncomfortable and in a way that I'm not sure they were even alert to. They didn't know why they were uncomfortable, or if they did they didn't articulate it to me, anyway.

But I certainly sensed it, and I knew the reasons for it and I appreciated what the reasons were. I didn't resent them. I suppose if I had been a long-time judge who wanted to keep my job long enough to retire, I'd be a little uneasy, too, about this youngster carrying all of this baggage.

[Senator John] Nejedly was a strong source of support. I had known him in the legislature, and he knew of my forestry background, and we just liked each other. So a campaign

committee started coming together. The rumor was that somebody out of the district attorney's office was being groomed to run against me and that he would have a lot of support from the right-wing money in this state. H. L. Richardson had left the senate by that time and I think he was running an organization in southern California whose job was to get rid of liberal judges and give their opponents money.

Well, I was successful enough with this big party at Nejedly's--

Lage: Is that the one that Jack Lemmon came to?

Pesonen: No, Jack Lemmon came to the second one. The first one was in the summer of '83, and it was a big party with lots of people. It was cheap to get in. The point was to get a lot of people there. Everybody likes to be at Nejedly's place; it sits on the top of a hill overlooking the whole Walnut Creek/San Ramon Valley; it has a big swimming pool.

It was a nice party. Quite a few people showed up, and it was well catered, and I made a good appearance. Julie came, the kids came, and so I didn't look like such a crazy. I began to look successful. I mean, I had money. I had put money in the bank for this campaign.

Lage: Money that you raised?

Pesonen: Raised through some direct-mail, some one-on-one solicitations, which is always delicate for a judge, because most of the money comes from lawyers.

Lage: That would be delicate.

Pesonen: It's always a problem.

Lage: Lawyers who are going to appear in front of you?

Pesonen: That's right. That's always a problem for judges, but I didn't see any alternative, and I figured that I could take money from somebody and still rule against them. Like [Speaker of the Assembly] Jesse Unruh said, "You drink their whiskey, take their money, screw their women, and vote against them." [Laughter] So I didn't feel compromised, but that's me. Maybe I was compromised. Certainly the appearance is always there.

Lage: But you are not the only one who does it, are you?

Pesonen: No.

Lage: It's a standard procedure?

Pesonen: Sure. [Superior Court Judge Demetrios P.] Agretelis is running for reelection in Alameda County right now and all of his money comes from lawyers.

Lage: And then do lawyers feel that if they ask they pretty well have to--

Pesonen: There is some of that pressure, yes. I'm sure there is. I feel it now, now that I am on the other side. But it's a fact of life that I didn't know any alternative to. I certainly had no personal money of my own.

The word began to get out that I had put together a successful enough list of endorsements and that my reputation at the bar was good, that I was a good judge, that they decided not --this person was not going to run against me. By December, that was the way it looked: that I was going to have an uncontested election in June of '84.

Serious Illness, Poor Press, Election Loss

Pesonen: Then I got sick, and I ended up in the hospital for several months, and it looked like I was going to die. I was unable to function. I couldn't walk. That revived interest that maybe I was vulnerable after all. [laughs]

Lage: The vultures started to circle.

Pesonen: The vultures started to circle. So I lay in the hospital bed and read the papers, and there wasn't anything I could do about it. The filing date came and I had an opponent, [Richard] Rick Flier, who was a young attorney in the district attorney's office.

Lage: Not the same one who had been going to run?

Pesonen: Well, I wasn't sure who was going to run. His name had been rumored as one of the possibilities.

There wasn't anything I could do. I couldn't get out of bed. My foot was in terrible shape and--

Lage: This was an infection?

Pesonen: I had an infection that I let go too long. I was trying a very difficult case out in Richmond, and I wanted it over with, and I felt just terrible. I didn't go to the doctor; I would just collapse after a day in court and then go back the next day and feel pretty good in the morning and then collapse at the end of the day. By that weekend, at the end of that week, I woke up with excruciating pain in this foot. I was living alone in a little shack out there in Point Richmond that I had rented temporarily, didn't have a phone--the phone hadn't been installed yet--and it was out in the park, there were no people around, so there wasn't any way to get help. It was so painful, I couldn't walk. I had to crawl to the car and work the clutch with a broom handle.

I stopped at one of these roadside phones and called Julie and told her what was going on and said I wanted some crutches so I could get to the hospital. She took me down to Kaiser, and they looked me over and decided it was gout. I was totally incapacitated by the pain, so I went back and stayed at Julie's house, and I kept going back each day and it got worse. They said, "Well, we'll give you another gout medicine, and then it'll work." The fourth day--the fourth or fifth day--I woke up and I had big red streaks up my leg and down my arms and I had a raging blood poisoning that had metastasized into my heart, and I just went into a coma.

I was out for I don't know how long, and once I was an emergency case for Kaiser, they took very good care of me.

Lage: But they weren't too swift on the original diagnosis.

Pesonen: They weren't too swift on the original diagnosis. So I had to have a lot of blood transfusions and major surgery on this foot to cut this infection out and then a lot of skin grafting. I had to grow my foot back. They were about to amputate it; they were real close to amputating it, and I said I didn't want to lose that foot. I couldn't go fishing anymore if I lost my foot.

So they held on to it, and I finally got well. But I was campaigning in a wheelchair for a couple of weeks and rolling up and down the streets of Martinez in a wheelchair. It was just awful with an election impending.

I raised a lot of money by just calling people and writing personal notes from my hospital bed. I think the sympathy factor must have helped. And from people you wouldn't expect. [Charles] Charlie Kennedy, who is a famous lawyer, well-known lawyer in San Francisco, for example, who had represented Carroll in the PG&E/Widener case, the second time around, sent me five

hundred bucks and wrote me a note. There were a lot of people that had been opponents in my prior cases. And a lot of people in the bar. I wasn't getting rich by any means, but I was making some money. Then we had the Jack Lemmon party. But by then it was too late.

Somebody told me, I don't remember who, that Richard Arnason had something to do with it. In any event, Bill Gagen took me to see Dean Leshner to see if I could, if not get the *Contra Costa Times'* endorsement, at least neutralize it. Leshner ushered us into his office, which is surrounded with art of old West, bucking broncos and buffaloes; it looked like Ross Perot's office, Remington paintings and--he's a very wealthy man, and he buys all of this junk. We finally were ushered into his office and he's a huge, obese man. He's not in very good health, I think, and he's sitting behind a huge desk.

Gagen had been his lawyer in a dispute over some properties, and Gagen's a very engaging, very bright lawyer; he's a very fine lawyer. He's also a very engaging, likeable person. He's the MC [master of ceremonies] at most of these dinners, and he's sought after for that kind of thing. He's funny, and he knows everybody. He knows what's going on, and he's widely respected in the county and deservedly so.

So he was my entrée to Leshner. I just sat down, and Leshner looked at me for a minute, and he said, "I understand you're a carpetbagger." The first words out of his mouth.

Lage: This was after your illness or during it?

Pesonen: No, this was after the illness. It might have been before. Things blur a little bit when you go through something like that. I remember I was in good health when I went in there, so it must have been shortly before. It was early work. It had to be before.

Well, the conversation kind of went downhill from there. Leshner didn't let on what he was going to do.

Lage: Did you come right out and ask him to be neutral or was this just--

Pesonen: No. Gagen made his speech, and he said, "You know why we're here. Dave's going to have, probably, opposition next year, and we'd like you to know him so that if you feel inclined to do some editorial work on this you'll know what you're talking about. I think you'll find he's a good judge."

Well, Leshar was totally noncommittal. He wasn't openly hostile. I mean, he laughed when he said this carpetbagger remark. So the election was Tuesday, I think it was June 7, of '84, and on Sunday preceding the election there was this huge editorial in Leshar's paper about the two cases where I'd made what he characterized as mistakes in sentencing, turned criminals loose on the community, that I had represented the Black Panthers who were advocates of violence and overthrow of our government and our way of life. It was a real hit piece. I thought, "I'm going to be real lucky if I get through this election."

And I didn't. It was close, but it wasn't close enough. I think I got 49 percent. No cigar. Flier got 51 percent. So then I had to figure out what I was going to do.

Lage: We keep referring to this Jack Lemmon thing but we haven't really said what it is.

Pesonen: Well, we threw another party at Nejedly's house.

Lage: Later on?

Pesonen: Later on. For big money. I think it was \$250 or something to get in and in those days that was big money. I contacted Don Widener, who was still in touch with Jack Lemmon, and he asked Jack if Jack would fly up there and appear at this gathering at Nejedly's, and Jack said sure, he'd be happy to. And he did. He made a wonderful little speech about the Widener case and what a great lawyer I was. He remembered I'd go to trial against this battery of lawyers from big corporations with my little paper bag lunch on the table. [laughter]

It was very complimentary. Everybody wanted to go to that. It was the first time anybody in an election campaign in Contra Costa County had a celebrity like Jack Lemmon appear for him. It was very well attended. It paid for all of the literature and the advertising and the signs and all of the things you do in a campaign like that.

But I was not optimistic. It was a high; it was a wonderful day, a beautiful, sunny, afternoon and Jack was in great form. Julie picked him up at the airport, and Widener and his wife came and that was it.

Lage: Did you make enough so that you didn't end up with a debt?

Pesonen: I didn't end up with a debt. I wasn't going to go in debt, either. I figured there was a good chance I was going to lose and I didn't have much money, but I was going to spend it all on

the campaign and nothing more than that. I had enough to get through a decent campaign.

Of course, we had to file reports with the Fair Political Practices Commission; there was a lot of administration of the campaign. Watson's office was very helpful on that. He had a staff person who was just marvelous. She kept charge of all of the money and all of the reports and I never had any problems with that.

Lage: That's good, because that can be a bother.

Pesonen: That was a volunteer effort. [Pause]

Lage: So there you are, out of a job. How much time left?

Pesonen: You have a lot of time.

Lage: Six months?

Pesonen: Six months. You have until the end of the year. So I had June until the first part of January to figure out what I was going to do.

Well, the first thing I decided to do was take some time off. I was just very stressed out from all of this and depressed at the results. I didn't know what the future held. I got into a quarrel with the presiding judge at that point. He said I had to stay on and work just like nothing had happened and I told him I wasn't going to do it and there wasn't anything he could do about it. [laughter]

So I patched that up, and I took some time off, and I took the kids and went on a pack trip in the mountains with Gagen and some other friends for a week.

Lage: So you recovered pretty well from your leg.

Pesonen: It was a horseback trip. I could walk around. I could hike. It still hurt; I was not fully recovered. It's still recovering. Seven years later, it's still getting better.

So I started sending résumés out just like any other job hunter, without much success because just about everybody thinks that a judge wants too much money because you're coming in laterally at a partnership level or something, and most firms cultivate their youngsters or young associates for their partnership positions. It's very rare--it happens now and then--but it was almost unheard of at that time that somebody would

come in at a partnership level. So I didn't get too many favorable responses. I had a few interviews. In the meantime, I kept on kicking around and running my court.

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Pesonen: I finally got a favorable response from two firms, one in Contra Costa County from people who wanted to bring me in as a partner and it was a good firm. It was in Concord and it was a growing firm and it would have been a nice, stable position.

The other was from Jerry Sterns in San Francisco. Sterns wanted to bring me in as managing attorney--a managing partner--because his office wasn't very well managed, he felt, and he wanted somebody to get it organized. It was a firm that had grown very fast; handled a lot of mass cases, a lot of asbestos work. The firm's specialty was aircraft litigation--aircraft crash litigation on the plaintiff's side--and he was very well known for that. He was a splendid lawyer.

So I started there in January. Bought a house in Berkeley and got my life back in order.

IX EAST BAY REGIONAL PARKS DISTRICT GENERAL MANAGER, 1985-1988:
THE ORGANIZATION AND ITS POLITICS

An Interim Position in Sterns Law Firm

Lage: So we have you back in private life and working at Sterns, Smith, Walker, Pesonen, and Grell in 1985.

Pesonen: Yes. Stern's office was not well managed. It needed a lot of work.

Lage: Now, where was the office?

Pesonen: In San Francisco. It was not easy to figure out where all of the money was. It was a little frustrating, but I took hold and started getting it organized and getting some systems in place.

Lage: Did this make relationships difficult?

Pesonen: No.

Lage: You didn't have to stir things up?

Pesonen: I wasn't there to stir things up. I was there to--. Sterns wasn't around much. There wasn't anybody in place to give guidance to running the firm. He was out trying cases off in London and around the world. He had an office in Hawaii; he liked it over there so he was not very accessible sometimes, and people felt a bit adrift.

It had possibilities. He had one mass case which had languished. It hadn't really had the attention it deserved. It involved over a hundred families down in San Mateo County whose property values had been badly eroded from huge landslides in those '81 and '82 floods. Some people had been killed, hills had come down and wiped their houses out. He had gone down and

rounded up a lot of clients down there, and the case just wasn't going anywhere. It was against everybody in the world. It was against the developer, the geologist, even the Archdiocese of San Francisco which owned part of one of the hills. They were claiming this was an act of God. [laughter]

There were about fifteen defendants who had been involved in one way or another in the development of this housing tract. It was a very interesting case. It was interesting geology and hydrology. But mainly what it needed was getting it all together and moving it. So I got appointed lead counsel for the plaintiffs by the superior court in San Mateo County, and I pulled it together and got it ready to be settled. It settled right about the time I left, it turned out, in the summer of '85.

Hired by the Park District; Reorganizing the Staff

Pesonen: I hadn't been there very long before Harlan Kessel of the board of the [East Bay Regional] Park District called me up one day and said that the general manager, [Richard C.] Dick Trudeau was retiring, and would I be interested in applying for the position of general manager of the park district. That was just wonderful. So I did fill in an application, and I rounded up some letters of recommendation and I had some credentials that looked pretty good in comparison to some of the other candidates, I guess.

Lage: Was this a nationwide search?

Pesonen: It was a nationwide search. They had a search firm, one of these outfits that does executive searches. I went through a number of interviews. It was a partly political appointment, too. The board is all elected.

Finally, I got appointed. The appointment was announced in July, and it took me some time to wind down what I was handling at Sterns' office, including the mass landslide case down in San Mateo County. So I don't think I started at the park district until the end of August.

Lage: Now, in the course of all of this interviewing, what was your sense of what they were looking for and--?

Pesonen: They were looking for somebody who could completely reform the organization. Trudeau had quite a different management style, from what I understand. Trudeau was at odds with the board. I

think he was not happy about his retirement; it wasn't entirely voluntary.

Lage: He'd been there a while.

Pesonen: He'd been there about twenty years. Seventeen years.

Lage: And then, before that, he was assistant for public relations under [William Penn] Mott.

Pesonen: Yes, he had headed public relations under Mott. But he was not a Mott. In fact, I spoke at the Rotary Club in Richmond one time while I was general manager, and they still thought that Mott had preceded me. For seventeen years they didn't know who Dick Trudeau was.

Lage: Even though his background was in public relations?

Pesonen: Yes, but his style was entirely different.

Lage: Different from Mott's or different from yours?

Pesonen: Different from both. [laughter] He liked to work behind the scenes, and the board and he were not comfortable with each other anymore. Trudeau was no help to me. He didn't want me to be appointed; he had his own candidate. I had some reason to believe and some evidence that he tried to stop it. But he was not successful in that. His influence with the board was pretty eroded by then.

Lage: Was the board clear in what it wanted from you?

Pesonen: No, it wasn't clear what it wanted. There was no job description, they didn't offer me a contract. It was just sort of serve at their pleasure and fix the place. Fix it.

Lage: Just very vague.

Pesonen: Yes.

So it was a wide-open charter that I was handed. I didn't realize--. When I look back over my life, whatever mistakes I've made have usually been out of ignorance or naivete, more naivete than ignorance, but both, and I was not aware of how deep the divisions were in that board.

The first thing I was expected to do was a major reorganization, which I undertook. I reoriented the lines of authority with a strong emphasis on natural resource protection

and created a new section called land stewardship, which pulled together scattered functions that were at all different levels: some with the union, some in management, some out in the field, some in the office--all having to do with geology, hydrology, fisheries, water quality, forestry. I put them all under one head and called it land stewardship. I brought in a new person, Kevin Shea, who had a natural resource background and a writing background and some administrative ability to head that up. He headed it up until he retired just last year.

Lage: Did you get a sense that things were in sort of disarray?

Pesonen: Oh yes. The organizational structure didn't make any sense. It looked like a history of patchwork cronyism. There were some people who were not very competent, who were just not doing anything. The head of public relations, as far as I could tell, hadn't done anything for years.

My approach was to interview everybody and have a long interview, and the question was, "What do you do, how have you done it, and what have you done that is lasting?" I got good answers from some people and not from others.

Whenever you move into a position like that, you seek out people you can trust, whose judgment you can trust, who have an institutional history. You get your education that way.

Lage: Who did you find?

Pesonen: Jerry Kent, who had been there forever. He was forthcoming if you knew what to ask him.

Lage: He was assistant manager under Trudeau--

Pesonen: Under Trudeau.

Lage: --under you, and is still assistant manager?

Pesonen: Still assistant general manager. He handles all of the field operations. He has an immensely detailed memory of everything that's ever happened since Mott's day.

Bob Owen was another person. And I brought in Bob Connelly, briefly--I created a position for him as a chief deputy general manager.

Lage: Now, he had been a deputy in--

Pesonen: He had been chief deputy director in the Department of Forestry. The district's relations with Sacramento were not very good. The district gets a lot of its money from grants and so on, and there's always legislation that affects the district. I thought Bob could handle that. Bob also had a lot of administrative skills, and the police department of the parks district was in disarray. It was just out of control. The chief was not doing anything. Overtime was enormous. It seemed to be erratic; whenever an officer needed to make a boat payment he'd run up some overtime. Its budget was out of control.

Lage: But you could see these problems rather quickly.

Pesonen: Yes. It took me five or six months to get some priorities on them. But I wasn't watching my backside with the board.

Political Controversies and the Politics on the EBRPD Board

Pesonen: There were some political controversies going on, the Berkeley Shakespeare Festival, for example, which wanted to move into Tilden Park. Mary Jefferds, who was on the board, would never make it clear whether she wanted the Shakespeare Festival there or not. She wanted to play both sides, and I made the mistake of talking to one of the participants against her directions not to talk to one of the people who was an activist in that campaign. She found out about it, and that was enough for her.

Something came up where they decided that they wanted to have a vote of confidence. This was after I had been there about a year, and I didn't anticipate much problem, and to my astonishment, Mary Jefferds voted to get rid of me. By this time, I had offended Harlan Kessel enormously, which ain't hard to do.

Lage: What--

Pesonen: Well, Harlan had an agenda. Much of this is such recent history I am a little uneasy talking about it, but--

Lage: Well, if they are things that are important that you don't want made public at this time, we can seal a portion.

Pesonen: Well, there was an employee who was a black man, an elderly black man, who absolutely did nothing and was protected by Harlan and had been for many years. He was an embarrassment within the

organization. You would give him a task, and he'd disappear for days.

Lage: He was in the office, not out in the field?

Pesonen: Well, it was sort of vague where his office was.

And he wanted more money. He was also the chairman of the Hayward NAACP, and every year that Harlan came up for election--every time Harlan came up for election--he'd get the endorsement of the Hayward NAACP, which consists of about six people, I think. Harlan began to put a lot of pressure on me to see that person was elevated to a much higher position in management. I kept resisting and delaying and stalling and finding ways not to do it. I knew that it would just infuriate the rest of the staff because they knew he didn't do anything, and he couldn't do anything. But Harlan kept saying how competent and wonderful he was and what a great job he did. He never did anything.

Lage: Did you confront Harlan directly on this?

Pesonen: Obliquely, I would. I wanted to hold on to Harlan's support. But Harlan began to see that I was never going to do what he wanted me to do for this person. He wanted the guy to get a salary close to the general manager's salary. It was ridiculous.

I think there were some other problems. I got crosswise with a woman who was very active in the park advisory committee. Afton Crooks her name was. She was with the University.

Lage: Now, what was the park advisory committee?

Pesonen: The park advisory committee is the group that--. It's really a device that the park board members have of putting people in a place where they feel they have some influence over the park district. The park advisory committee looks at the general plans; they hold meetings once a month in which they discuss various issues in the park and pass resolutions. Sometimes the board pays attention to them, sometimes it doesn't.

But Afton was chair of the park advisory committee, and an issue at that time was the issue of mitigation in development projects. Apparently Trudeau had offended the park district, or offended its political constituency, the activist constituency, the Afton Crooks of the world. There was a small group of people who watched that park district like a hawk. Trudeau had made deals with developers down in the expanding south Alameda County area around Pleasanton, in which the park district would politically support, or not oppose, various kinds of developments

in exchange for mitigation given to the park district: land, money, other kinds of things that were useful.

Lage: Is some of this around the Sunol Regional Park?

Pesonen: Yes, the Sunol park area is part of it. Trudeau, over the years, had cultivated and become quite close to some very prominent, wealthy developer people, or bankers or lawyers down in southern Alameda County. Some of these had backfired. The project was so offensive to the environmental constituency that watched the park district that there was no mitigation that was acceptable to them, so they saw this as a sellout by the management of the park district.

One involved a huge gravel mining pit that still hasn't been started, in which the developer, De Silva, agreed to transplant tule elk in Sunol and give royalties off of his gravel to the park district for many years. That was a very controversial project.

Lage: Were you put in the middle of these decisions, or were they done deals?

Pesonen: They were done deals, but the park advisory committee had proposed a resolution, a board resolution which would govern the conduct of the administration of the park district, that no more mitigation could happen unless it went through an elaborate process, which was so elaborate you never could get it through.

Well, I didn't know enough about it to know whether this was a good policy or not, so I suggested it be put off for a year. And a lot of mitigation made sense. There were a lot of projects which the park district couldn't influence--its political influence would be insignificant--where the park district could get something from mitigation.

So I didn't think that the suggested process was very helpful. In fact, the Ferry Point acquisition was, in effect, mitigation. Nobody's ever called it that. Everybody liked the project so much they didn't realize it was mitigation so the procedure was never applied to it.

Lage: Yes, a blanket prohibition of mitigation seems a little--

Pesonen: It didn't go that far, but it made it almost impossible to approve a mitigation.

Well, I got crosswise with Afton when I opposed early adoption of that policy because Afton was the real author and

proponent, and she was very aggressive about it. She just didn't like what I did on that.

There were a number of other things. Part of it was my style, too. I was not suited for that position. Mott had been able to get away with running the district when the board was window-dressing, but those times--.

Lage: Was that the times, or was that Mott?

Pesonen: I think it was both. I think part of it was Mott's style. Mott had political ability, sensitivity about dealing with elected boards, which I didn't have. You know, I thought I had been given a job to run the place. I didn't realize how much intrigue there was politically on the board.

Lage: It sounds as if the board was closely involved with matters large and small.

Pesonen: It was matters large and small, but I was not good at cultivating the board. I didn't spend a lot of time holding their hand, calling them up and schmoozing them; I was busy running the district. I spent a lot of time out in the field, I paid a lot of attention to field morale and what was going on in the field and--.

Lage: But the changes you were making in the organization must have had quite an effect on morale, I would think.

Pesonen: Well, most of it was positive after it was over. There were some people at the top who shouldn't have been there any more, who left, but in the field, I strengthened the field organization, and lines of authority in headquarters were much clearer. I was accessible in a way that Trudeau had never been, and I treated people nicely.

Lage: So often, when you do a reorganization like this, people are so insecure about their jobs or--

Pesonen: Well, there is always a period of insecurity until it settles down. It settled down, I think, fairly well. Other people may have a different perspective on that, but I firmly believe that.

And there were some people who got hurt in it and never forgot it.

Lage: Who stayed with the district?

Pesonen: Some who stayed with the district and some who didn't.

Well, but I didn't cultivate the board in the way that I should have if job security was foremost in my mind. While job security was certainly important to me, doing a good job was just as important, as I saw it, and maybe doing a good job involves schmoozing the board more than I did. I probably wasn't temperamentally, at that time, anyway, the right person.

And then I made a terrible mistake which was what they were looking for. I had some enemies on the board after this beginning, but I still had four or five votes.

Elected Board Members: Intrigue and Interference

Lage: How many people on the board?

Pesonen: Seven.

Lage: Seven. And Harlan Kessel, who had been a supporter--

Pesonen: --became an enemy.

Lage: And then Mary Jefferds?

Pesonen: Then Mary Jefferds.

Lage: Was she really lost just over that issue of talking to--?

Pesonen: She never said. That's my speculation. Mary was very difficult to read.

Lage: Had you known her before?

Pesonen: I had known her before.

Lage: She has a reputation for being a good environmentalist.

Pesonen: She had good environmentalist credentials, but by that time she had been on the board for fifteen or twenty years, a long time, and she was tired and sick, and she was mean-spirited. She and Harlan were just cruel to the staff. Every board meeting was an ordeal.

Lage: You mean, not just you, but they would attack lower staff members?

Pesonen: Yes, they would attack anybody. Anybody who ever stood up before them and said something they didn't like, they would accuse them of being incompetent, of cheating, of lying. Every board meeting was a horrible ordeal of pointlessness and unpleasantness. They were a very unpleasant bunch of people.

Not all of them. Ted Radke, who was president during part of the time I was there, was not that way, but he wasn't a very strong personality, and he couldn't control them. Jim Duncan, who was from Alameda, was a decent man. He was new to the board. In fact, I think he was elected about the time I came in, and he didn't have the political base to control them.

Then they had another crazy, Lynn Bowers, who was really a nut, from Pleasanton.

Lage: A man or a woman?

Pesonen: A man. He's from Sunol, actually. Bowers was a developer, but his baby was Pleasanton Ridge, which had been messed-up politically, and I wanted to get that back on the right track.

Lage: Was this Apperson Ridge, or are they two different places?

Pesonen: Pleasanton. No, Apperson Ridge was the gravel quarry. Pleasanton Ridge is the big ridge that runs from Hayward down to Pleasanton. A beautiful area. Big. There was a lot of controversy because the ranchers up there wanted to develop it.

Lage: And was Bowers on the side of developing it, or--?

Pesonen: No, Bowers was on the side of making it a park, but he was developing around the edges of it. His scheme, I think, was it would make his other developments more attractive if he had a big park right next to them.

Lage: But he seemed personally interested?

Pesonen: I thought he was personally interested. He was a very strange guy, and he insisted on meeting with me once a week down in Pleasanton. We would go out and have breakfast and he'd have an agenda of things to talk about, some of them very detailed internal administration. I didn't trust Bowers, but Bowers and Kessel hated each other; so as long as Kessel wanted to vote against me, Bowers was going to vote for me.

Lage: Tremendous intrigue!

Pesonen: Yes.

Lage: It doesn't seem like the way these elected boards should work.

Pesonen: There is enormous intrigue in those things. The trading off of small ego strokes.

Lage: I keep interrupting you.

Pesonen: Oh, that's fine.

It was very difficult--it became a very difficult job. And I began to feel insecure that I didn't have a unanimous board, and I couldn't figure out how to satisfy them. They just seemed to want to be unhappy. They're still unhappy. I'm told that poor Pat O'Brian who came after me is in the same situation, except he was able, in the wake of my resignation, to negotiate a contract which costs them an arm and a leg if they fire him. It would cost them a lot of money to fire him, and that's a deterrent. I didn't have a contract. They had said, "Oh, you don't need a contract." I'll know better next time.

So there was this problem with Karen Frick. We needed a staff person who could--Bob Connelly left. Bob Connelly saw, sooner than I did, that this was a hopeless situation. He went right back to the legislature. His words were, "It's a lot easier to work with eighty crazies than seven."

Lage: So he saw what you were up against?

Pesonen: He saw what I was up against, and he saw no future for himself there. He got offered a very good position by Willie Brown, as staff to the Assembly Rules Committee; it was a very good position and he was very good at it. And still he's essentially running the Rules Committee for the assembly, trying to keep Willie Brown out of trouble. Willie's a challenge, too.
[laughter]

But Bob saw that there wasn't any way he could keep me out of trouble. Knowing me as well as he does, I think, he realized that I was doomed, and he would go down with me. I think he made a smart choice, a wise decision.

A Fatal Mistake and More Intrigue

Pesonen: Anyway, in the wake of Bob's not being there, we needed somebody to handle this legislative program in Sacramento. Janet Cobb, whom I had hired to run public relations and who's still there

and who is just a dynamite woman, had a friend whom she had worked with before, Karen Frick, who had been on the staff at Senator Montoya's office and had done some political consulting around the Bay Area. She seemed to have the right credentials. We interviewed three or four people, but we hired her. Her office was right next to mine in this little executive suite up on the hill.

Well, that was in the fall of '85, I guess, around December. I started taking Karen to some of these gatherings that I go to, the Association of Bay Area Governments, and other things, to introduce her to people. One night we were at a Christmas party, it got a little romantic. I thought she was interested, and I was interested, and we dated for a while. The dating didn't go very far.

That was a fatal mistake, to even get involved at all, because it turned out that Karen was also dating Lynn Bowers. I began to hear rumors of that, and I thought, "This was a very stupid thing to do." So I broke it off, probably in January. There was never any sex in it. I told my friend Paul Halvonik about it one time, and he said, "You went through all this trouble and you never got laid?" [laughter] We may cut that one out of the transcript. It just didn't go very far, but it was public. We showed up with each other at these gatherings.

Lage: Was the Lynn Bowers thing public, too?

Pesonen: That became public, shortly afterwards. Bowers was married, and he was showing up at social gatherings with Karen Frick on his arm.

Well, what happened then was the staff, who feared Bowers-- Bowers was one of the most brutal to staff of anybody on that board, and he could be really vicious, and he could also be devious in trying to get what he wanted through manipulation of staff. Nobody trusted Bowers. Here was my right-hand staff person showing up at closed staff meetings where we talked about how we were going to present something to the board, and suddenly nobody would talk because they began to feel that it was getting back to Bowers through pillow talk through Karen. It became an almost impossible situation. It was very hard to function around there when you had what everybody perceived as a spy right in the general manager's office; a spy to the most hated and despised and feared member of the board.

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Lage: - That would seem to be a conflict of interest on her part.

Pesonen: Well, it's not a legal conflict of interest. You know, government can't say what people's personal lives are supposed to be like, as long as they are not in violation of some law, and there was no law that governed this.

And Karen started to kind of flout her connection with Bowers. I just didn't know what to do. I mean, there wasn't anything I could do. I was unable to do my job; it was eroding my fragile support on the board already. Finally, Janet and I talked about it. Janet was very close to Karen. Janet thought it was a crazy situation and impossible and we had to find some way out of it. Janet took Karen aside--this was four or five months after we had been dating--and persuaded her that it wasn't in her interests to stay on in this circumstance and that she should resign. She agreed. Janet called me full of exuberance and excitement at home that night, "Karen has agreed to leave."

Well, I felt this huge load off my shoulders. At 5:30 the next morning, I get a call from Lynn Bowers. He said, "I want to see you this morning, right now," and he named a place down in Hayward, some little restaurant. I showed up there and Bowers walked in. He walked over and sat down at the table and he said, "I'm going to get you." He said, "Karen can't leave." He confirmed that he needed Karen to stay in that position of information--

Lage: Oh, I see. He confirmed that he saw her as a source of information.

Pesonen: Oh, absolutely. And he was furious that Janet, working on my behalf, had persuaded Karen to resign. And so she had reversed her position. He told me, "She's not going to resign." Well, she hadn't told us that, but she must have told him that that night. He said, "You've just lost your fourth vote." He was going to join with Kessel and Kay Peterson and Mary Jefferds.

I said, "Let's go for a walk." We went over to Lake Chabot Park and walked around. It was a beautiful sunny morning, and people were out fishing and riding their bikes and I said, "This is what I'm here for. I don't know what you're here for, but it appears that you've got some other interests, and I'll fight you. I may lose it, but I'm not going to go back and embrace Karen as part of the staff. It would be impossible to do the job."

So I went back to the office, and there was no Karen Frick around. Of course, I told Janet and a couple of other confidants what had happened and Karen showed up about one o'clock in the afternoon, drunk. Not drunk, but she had been drinking, I could tell; you could smell it. And distraught. So I called her in

the office, and I said, "This is totally untenable. It's not going to work. You're fired." This was against the advice of Ellen Maldonado, who was our legal staff, and I should have listened to her, but I was so upset at what Bowers had said that morning. He had sort of thrown this gauntlet down, and my reaction was not thought out.

Lage: Now, why was it against the advice of your legal--?

Pesonen: Well, she said, "You've got a basis to fire her, but you've got to make a record." I hadn't made a record that would stand up. This had all been talk and the grist of water cooler breaks. I hadn't sat down and formally, the way you have to do, and--

Lage: Provide warnings?

Pesonen: Provide warnings, opportunities for correction. Nothing that I had told her either had to do with her performance. Her performance was falling off, and it could have been documented, but it wasn't documented. So--. Well, the reason I fired her was that I knew she wasn't doing her job; she was an embarrassment to me and my emotional reaction was: Bowers can't do this to me.

About a month or two later, Ellen Maldonado walked into my office with bad news. Karen had gotten a lawyer, a very good lawyer in San Francisco, who had written a letter, a confidential letter, threatening to bring charges before the State Fair Employment Practices Commission alleging that she had been wrongfully fired in retaliation for spurning my sexual advances and that he would keep it confidential and he wouldn't file suit if we reached a quick settlement.

Lage: Sounds suspiciously like blackmail.

Pesonen: Yes. Well, but it's legal. So I immediately called the board, or notified the board, anyway, and got a lawyer for the board. I went and told the lawyer the whole story with Ellen along.

Lage: What a difficult situation, with a board member involved.

Pesonen: Bowers was still sleeping with Karen. Everybody knew it by this time. He practically admitted it. I think he was about ready to say he was going to move out of his house and leave his wife behind and go someplace with Karen. Or maybe by this time they had gotten an apartment. I don't remember. It was notorious, anyway.

I told the whole story to this lawyer, who was a very good lawyer who Guy Saperstein referred me to. And he said, "What a mess." [laughter] "What a mess." And it certainly was. I can't claim that I'm not responsible for it having been such a mess.

Well, the matter dragged out and the negotiations dragged out on the settlement, and at first this guy demanded half a million dollars to keep her mouth shut and go away. She wasn't interested in reinstatement. She just wanted money. They finally settled, I think, for a very nominal sum--thirty thousand dollars, I think, which is nothing in these days--but the political ramifications were enormous. The board was very uneasy, very nervous, as this story emerged.

Well, somebody tipped off a reporter on the *Tribune* and on the *Hayward Daily Review* and they started calling and saying "What's going on?" "Well, it's all confidential," we'd say. Well, nothing hooks the appetite of a reporter more than to say that there's a scandal brewing someplace and it's confidential. So this reporter, Julie--I've forgotten her last name now--on the *Hayward Daily Review*, she was a good investigative reporter. She began to sniff out bits and pieces here and there, and the story began to leak, as it inevitably would.

I remember one meeting before the board when the board was to approve the settlement, and it was a closed session, and Bowers was there. The lawyer we'd hired from Crosby, Heafey, Roach, and May was also there, and Bowers stood up and said, "I object to this meeting proceeding while we have this sex maniac present." I said, "Well, he's my lawyer, too, but I'll tell you what. If it makes your job easier, I'll go out and walk around the block while you discuss your options with our lawyer, and I'll come back."

I did, and Bowers by that time, was quiet, and the board accepted the proposal that had been negotiated by our lawyer which was forty thousand dollars and total confidentiality and a provision that we would not say anything derogatory about Karen if we got a call from a future employer reference.

That was satisfactory, but they didn't stay quiet and more and more inquiries came along. Finally, the *Hayward Daily Review* sued or threatened to sue, to open up the file. Ellen thought they might very well win because the park district was a public agency, so we decided to just open up the whole file. We did so at an open board meeting, and I made a little speech about how it's all behind us, and I made some mistakes, but let's get on

with running the park district, and Bowers resigned. Bowers resigned right after that meeting, I think.

Lage: Did that come out in the *Hayward Daily Review*?

Pesonen: The newspapers had hinted at the relationship between Karen Frick and Lynn Bowers. I don't think they ever came out completely and said it. But they hinted that they were close acquaintances, it was--what is the word I'm thinking of, "close friends."

Lage: Discreet language?

Pesonen: Euphemism. These were some standard euphemisms for relationships, it seems. They're married now, Bowers and Karen Frick. So I am told, anyway. I don't have a lot to do with them.

Lage: So he resigned?

Pesonen: He resigned. He said he'd accomplished everything he wanted to accomplish. There was no reason for him to stay on the board any longer. Which nobody believed; at least I didn't believe it. So it was a very unpleasant time, but I thought, "Well, now we've got it behind us, we've sort of cleared the air. Let's get on with it."

Leaving the Park District Position

Pesonen: Right at that time, Guy Saperstein called up and said, "I've got this big sex-discrimination lawsuit that I need somebody to manage; would you be interested?" [laughter] It turned out to be the biggest sex-discrimination case in the history of the Civil Rights Act. I thought, "My reputation is really in trouble, and it's in trouble partly from my own doing. I'm not free of responsibility for that. I think I got trapped by some other people, but I walked into the trap. This is a great opportunity; it's a lot more money, it's an opportunity to--at least superficially--redress the sense that I'm kind of a sex ogre, and I'm free of this board."

Lage: Do you think they would have put it behind them if you hadn't left at that time?

Pesonen: I don't know if they would have or not. There was talk that maybe I should resign. It hadn't come to anything, but it was--

Lage: Now there were only six members on the board.

Pesonen: But there was an appointment made by the board to fill Bowers' seat. That was Joycelyn Combs from Pleasanton. I talked to Joycelyn, and she knew what had happened, and she knew about the Bowers/Frick thing. She would have been a support vote. But the taint was there, and the echo was there; the history was there.

Lage: And you had the other problems that preceded it.

Pesonen: And I had the other problems. I wasn't happy at the park district. I had never been happy after about the first year. I always felt that I was being dangled a little bit by that board and being deliberately kept insecure so that I would respond to their personal needs. They all had little political agendas, where they wanted the staff to do something special for a constituent that would take away from some other program. I was trying to balance these needs among these board members.

Lage: So it wasn't the setup that an outsider might envision, where the board sets policy and oversees the general manager, who then has control over the organization.

Pesonen: It is nothing like that. It still isn't like that.

Lage: So each one has their own little agenda and interferes at various levels?

Pesonen: Have you ever been to one of those board meetings?

Lage: No.

Pesonen: Go to one of the board meetings sometime. It is an embarrassment. It is an embarrassment the way they talk to each other; it is an embarrassment the way they insult each other, the way they insult their staff--

Lage: Did that include you, the insulting?

Pesonen: It included everybody. Jerry Kent was the only one who had a way somehow of smoothing things over.

Lage: Did he make special approaches to the board?

Pesonen: Oh yes. He is capable of doing that, but he does it without leaving too many fingerprints. He's very skilled at that. He should be the general manager.

Lage: Why has he not been general manager?

Pesonen: He didn't want it. He was invited to apply when I got appointed. He knew what it was like. He knows he's insulated in the assistant general manager position from absorbing all of the abuse. He's cushioned from it. A smart decision on his part. Not a high visibility position, he's not the point person on whom the board focuses their dismay.

So I started negotiating an agreement with Guy to come over to his firm and manage the *Kraszewski v. State Farm* case, which was only a gleam in everybody's eye at that time. It was a big consent decree approved by the district court. It didn't even have an office, it didn't have a staff, it didn't have a budget, it didn't have anything. And we were going after a couple of hundred million dollars from State Farm.

Lage: Before we get into that, it seems to me there's more on the East Bay parks besides your relationship with the board. I mean, some of the things that happened in the parks.

Pesonen: Yes, well, there were some good things that happened.

Lage: Can we go a little bit more into that?

Pesonen: Substantively? Yes. I think the district got much more professional in the way it managed its land and dealt with the grazing issue, with the water quality issue, with--. And the district continued to be aggressive with land acquisition, and it made, I think, by and large, wise choices.

Conflicting Views of the District's Mission

Lage: Was there a tension between whether to spend the money on acquisition or on management?

Pesonen: Yes, very much so.

Lage: Was that something the board was divided on?

Pesonen: That was one of the big fights on the board all of the time. My overall slant, in thirty words or less, is that that board is not subject to very much public attention. It holds its meetings at remote locations in the middle of the day, so the only people who really see what goes on in those board meetings--and even the press doesn't show up most of the time--is a very small clique of extreme open space environmentalists. Afton Crooks is one of those, and there are a number of other people, and they all know

each other. They don't want any money spent on anything but land acquisition.

There are parks which get a lot of public use. Tilden is an exception to the park district. Tilden is what a lot of Berkeley people think of as the East Bay Regional Park District, but it's an aberration.

Lage: In the amount of use it gets and the amount of development it has?

Pesonen: It was Mott's idea, and it's very highly developed. From the beginning, even before Mott, with a golf course and a merry-go-round and the swimming lakes and--. Tilden is where all of the high-visibility activity, where you take children and families go to picnic, is focused. Most of the park district is open space. Developers are buying up open space and building houses, and it's a race between the park district and the developers for the park district to get out in front and buy it while it's cheap.

Hulet Hornbeck, who ran the land department for years and years under Trudeau, was the architect of a lot of that acquisition.

Lage: And that was the thrust--acquisition?

Pesonen: He left at the same time Trudeau did; he retired. He was replaced by his young assistant, Bob Doyle, who attempted to carry on Hulet's approach. Doyle was very popular with the board; his land acquisition was popular. But, you know, you had playgrounds falling apart and trails to build. So I was looking for a different balance, with some development in parks.

There were a couple of board members, Kay Peterson having been probably the most vocal, against any tot lots, for example, a place where mothers could go and sit and read and knit, or fathers, for that matter, and have their kids play on a little play structure. They hated little play structures. They didn't want them any place. So if we put them in the budget, they'd take them out or there was a move to take them out.

Lage: So they would review a plan that you might have for an individual park and object to certain--

Pesonen: They would object to those kinds of things; they'd object to--. Each budget cycle we'd go through this. I just didn't think that was a good balance. We had a lot of people coming to parks with no place go: there were no picnic tables.

I think there was a certain amount of racism in it, too, or cultural bias, anyway. Because, you go to parks like Garin [Regional] Park down near Hayward on a sunny Sunday afternoon, and the place would be jammed with low-income people, a lot of Hispanics, a lot of black people, and no place to have a picnic. You knew these people lived in daily living circumstances which probably weren't very comfortable--little apartments with no open space, nothing outdoors except a concrete ramp where you park the cars and the kids play stick ball.

My philosophy was that the more you could get people into parks--whether it's true or not there's no way to prove it--the more you could get people released to get out into open space, into parks, and have enough room, they'd be better citizens. That's an old notion in the United States. It goes back to Jefferson. Nobody knows whether it's true or not, but I believed it anyway.

So I wanted facilities. These were not people who put on an Audubon Society backpack and went off into the remote parts of the park; it just wasn't their lifestyle. It would be nice if they did, but they weren't going to do it. They were tied down with industrial, blue-collar jobs all week and three or four kids running around, and they just wanted to get out and away and play their radios and drink some beer and cook some hot dogs and ribs or--

Lage: And have their tot structures?

Pesonen: --and have their tot structure and just get some release. The board was very much opposed to that. So I thought it was a kind of elitist position on the part of the board members.

On the other hand, you did need to buy land while it was cheap, so I wasn't opposed to land acquisition, I was all for it, focused on various parks. But what often happened is that somebody who was close to one of the board members, who already lived in a nice place on the edge of a piece of open space, found out that they were going to lose their free open space and would put pressure on the board to buy that land when it wasn't part of any plan for development of the park. In effect, they were protecting some already privileged person or group of people.

Those things would come along, and you never knew when one of those requests would walk in the door and be turned into a political push by the board, with accusations that we were trying to sell out to the developers by not buying it immediately. They were always accusing the staff of bad faith. It was just a constant problem.

Harlan was one of the worst. He had some friends up in the hills who wanted the horse ranch up there near the entrance where you go over the hill on Redwood Road, a very expensive piece of property. It didn't really fit in the park at all. Harlan would come up with these notions that this was the gateway to the park lands, and we should buy it. He had a friend who had a building up there; he wanted the park district to buy the building and find some use for it.

Lage: And these didn't fit logically geographically with the park?

Pesonen: Many of them were isolated from the park. But they were doing a favor for somebody. They were very expensive. So some of the land acquisition was not wise. Some of it was good, very sound. And land is expensive, and I was all for acquiring as much land as possible in Pleasanton Ridge, for example, or along the shoreline, or wetlands.

The park district had a general plan for that, a master plan. Many of these acquisitions were outside the master plan. The board would go through elaborate public hearings, adopt a master plan, and then just completely ignore it.

Lage: Completely ignore it and pick up little pieces of property?

Pesonen: Pick up little bits and pieces here and there.

Lage: You would almost have to go out and develop your own constituency, it seems, to challenge them.

Pesonen: Well, that was the problem. It was a very elitist, small constituency that was, in effect, running the political agenda for the board. It offended me; it offended my sense of what the park district was all about. You can't have a general manager who is offended by the policies of his board. I suppose I could have gone out and tried, *sub rosa* to generate some constituency, and that's what Mott was good at.

Lage: I can't imagine his putting up with that from his board too well. But maybe it didn't happen when--

Pesonen: No. But times were different, too. You know, Mott's board were businessmen who--. You know, like [Paul] Harberts, who ran the sporting goods store in Berkeley and people like that that come to a board meeting, and they nod their heads. Like corporate boards. Corporate boards don't tell management what to do; they collect their stipend, and they go back and run their own businesses.

But Harlan didn't have a job; Mary Jefferds didn't have a job; Kay Peterson didn't have a job; Lynn Bowers didn't have a job that anybody could figure out--he had some kind of a business. So you had four board members who essentially spent full time messing around with the district. The more tractable members of the board, like Jim Duncan and Ted Radke, did have full-time jobs, and they couldn't spend the time that Harlan and Mary and Kay Peterson, for example, could do.

Those people were in that building all of the time, sneaking up and down the hall, visiting with some top staff person, shutting the door, telling them what to do. Then the staff would come back and report to me and say, "What do I do? I've got directions from you to do one thing, and now they are telling me that I should do something else." It would be one board member, one out of seven, but it would be a board member who could maybe swing a couple more votes at the next board meeting.

Lage: Very untenable.

Negotiating the Acquisition of Ferry Point in Martinez

Lage: What about the Ferry Point acquisition? That's mentioned as one of your accomplishments.

Pesonen: Well, Ferry Point I look upon as one of my triumphs. The park district and the city of Martinez jointly operate a park in Martinez, which is on the other side of the Southern Pacific Railroad tracks from the main town. It's a very nice park with a marina and lots of open space, and it's very popular.

But the Southern Pacific trains stop right at the Martinez station, and they block the street that gets to the park. There's a switching yard down the line a little ways towards Crockett, and a lot of switching goes back and forth with cars that are serving those refineries around the bay. So it has been a constant irritant to Martinez that the railroad was cutting it off from its waterfront.

In 1983 or '84, the two railroads, Southern Pacific and Santa Fe Railway were purchased by one company. It became the Santa Fe Pacific Railway. The plan in that merger was that the two railroads would merge their operations. Well, both lines run through Martinez: the Santa Fe line inland along Highway 4, the Southern Pacific lines historically right along the bay. The plan further called for consolidating all rail traffic on the

Southern Pacific line and abandoning the Santa Fe line. The inference which you expect from that is there would be a lot more traffic along the bay--rail traffic--less access to the bay, and more interference with Martinez's use of the park.

So the park district joined with Martinez in intervening in the Interstate Commerce Commission proceedings which were required to approve the merger, and that kind of languished. We got a lawyer in Washington who didn't do much. So I started looking at this case--something about it came across my desk--and I thought, "You know, there's some leverage here to get something out of these railways." So I got the park district and Martinez to join together and hire a firm in San Francisco to file a petition with the ICC asserting that the environmental review of this merger was inadequate under federal law.

That started to work, started to get their attention. And I pushed that, I got personally involved in that to some extent. I realized that it had to be, to some extent, a political campaign. I organized all of the mayors of the cities along the bay from Richmond all the way around to Martinez--I didn't have to work on Martinez because their city manager was with us, a very effective city manager, Jack Garner. We started getting some press attention, that there was going to be a Berlin Wall of freight cars cutting people off from the bay and slogans like that, and getting lots of coverage and then collecting the clippings and sending them off to the ICC. And getting the budget to pay these lawyers to file a very serious petition that the environmental review was inadequate.

I went back to Washington and met with the environmental staff for the ICC. They were very helpful to us because, under the Reagan administration, their budget had been cut and they felt cast adrift and abandoned and unlistened-to by the commission itself. So they were happy to help us because it enhanced their own role within the agency. We had a very fine lobbyist in Washington named Dave Wyman who helped me with this.

I think I made at least two trips to Washington, one with Peter Langley--he's running for mayor of Martinez now--he and I went together.

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Pesonen: I took a personal interest in this because I saw that there was a chance to get, in effect, mitigation--an enormous mitigation--for access to the bay.

We finally put together meetings with the top management of Santa Fe and Southern Pacific, and we made an agreement that in exchange for the park district withdrawing its opposition in the ICC, the railroad would grant seven easements for pedestrian bridges across the rail line to the bay, would sell Ferry Point to the park district at fair market value and would give it an option, and would make concessions in their operations in Martinez that were very favorable to the city, including transferring some property to the city. It was a good deal.

Lage: You didn't get them to move into the inland tracks?

Pesonen: Practically, that didn't make sense. There was a tunnel on that that wouldn't accommodate the double-decker container trains that they planned to use the line for. There were some practical reasons why the inland track was the one that should be abandoned. We didn't have the leverage to force that anyway; we couldn't have persuaded the commission to compel that.

But we could, possibly, persuade the commission to give us some environmental mitigation, and we always had the threat of going to federal court and holding the whole thing up, which was our real leverage because this was a junk-bond-financed transaction where there were enormous interest, carrying charges, going on all the time, and if we hold the thing up for a month it costs them fifty million bucks in interest. They were willing to buy you off early for a lot. It was a very useful device. It can be used for bad purposes, and it can be used for good ones. We happened to be using it for good ones, in my opinion.

That deal was conditioned on the ICC approving the merger, and to everybody's shock and astonishment, the commission turned down the petition to merge, and so we were back to square one. The commission further ordered Santa Fe Pacific to sell one of the railroads to somebody else. That went on for about a year and Santa Fe finally decided to sell the Southern Pacific Railway to Denver and Rio Grande, which is about one-tenth the size, and SP is now owned by multi-billionaire Phillip Anschutz in Denver, who owned the Denver and Rio Grande.

So we went to Anschutz and went back to Washington and talked to his lawyer and talked with the Santa Fe Pacific people in Chicago, and we put together another deal.

Lage: But you didn't have the leverage of holding--?

Pesonen: We had the same leverage because the purchasing railroad was outside the company we had been dealing with, but Santa Fe still needed ICC approval for this sale. So we resurrected our threat,

and this time the connection was a little more remote. Denver and Rio Grande and Southern Pacific had to persuade Atchison, Topeka, and Santa Fe Railway to sell us Ferry Point because that was owned by the Santa Fe Railway. And Santa Fe wasn't being sold, and it wasn't merging, but it was part of the larger company that had a financial interest in getting rid of Southern Pacific.

So, in the interest of furthering their need to divest Southern Pacific at a favorable price, we were able to put pressure on Santa Fe to give us a good deal on Ferry Point.

When I left the park district, I had a fairly sizeable severance package, and one of the things I insisted on was that I stay on as a consultant to the park district and get paid for it, to complete the deal at Ferry Point. I worked on that for the last four years.

Lage: Oh, it's still ongoing?

Pesonen: We closed the deal in December of 1991. The park district now owns that Ferry Point land.

Lage: And did you get the other mitigations, the access?

Pesonen: We got the other mitigations, too, including in the city of Martinez and the railroad crossings. They didn't build the bridges, but we have the easements.

Lage: So the park district has to build the bridges.

Pesonen: The park district has to build the bridges if they ever want it. So far the economy has been so bad there hasn't been any increase in rail traffic on that line.

Lage: But that's a good story. Now, was that one that was universally accepted?

Pesonen: That was universally accepted. I went up to the park district back in December when the board approved the purchase, and everybody was laudatory. I was asked to give a little talk to the board; we all went out and had our picture taken together. Mary Jefferds is gone by now, Kay Peterson is gone, Lynn Bowers is gone, but Harlan was still there. Harlan and I were in the same photograph that was published in the Log, the park district monthly newsletter. Harlan was very complimentary.

Lage: Well, that's nice, to have some good feeling after a few years. Let's stop here.

X LAND ACQUISITION AND PARK PLANNING AND MANAGEMENT AT EBRPD

[Interview 8: May 28, 1992] ##

Financing Acquisitions with State Grants and Revenue Bonds

Lage: We had a few more topics to cover on the East Bay Regional Parks.

Pesonen: Yes, there were a number of issues we didn't talk about last time.

The issue of budget and finance that comes with all public agencies is always foremost. I mean, when I was at the Department of Forestry, we were in the budget cycle year-round. To some extent, the East Bay Regional Parks District was the same way. The park district had an annual budget approved each December for the next fiscal year (which was the calendar year). The district was fairly well endowed and it had--it was a beneficiary of some property tax legislation that had been passed right after Prop. 13, and I confess I don't remember the details of it, but I remember that the district was fairly well-off financially.

Lage: After Prop. 13 they made some kind of corrective legislation that allowed them to tax--?

Pesonen: Yes. But given the appetite of the board for land acquisition and the pressures on land in the East Bay, that wasn't enough. The district was very successful at acquiring land with grants from the Department of Parks and Recreation out of state park bond money. Most of the state park bond issues which had passed in prior years authorized a portion of those bond proceeds--in fact mandated that a portion of those bond proceeds--be used for regional and local parks. So they were earmarked for that.

Lage: Was there a lot of competition, then, for that money?

Pesonen: There was some competition, but the East Bay Regional Parks District was the most aggressive, the most well organized, the most politically-connected in Sacramento, and it got the lion's share of those monies. Probably its biggest competitor was the Santa Monica Mountains Trust, because the people who ran that organization also had a lot of political influence. It was not a regional park district, but it was an open space organization.

Lage: Was this related at all to Republican/Democrat party politics and influence?

Pesonen: No, it was regional. It crossed party lines, pretty much. Even a very, very dyed-in-the-wool reactionary conservative like Bill Baker from Danville, who was far to the right on every issue, was helpful to the park district. And then the park district had in its area a lot of people who had been in the legislature. There was [Assemblyman John] Jack Knox, who had been speaker at one point, lived in Point Richmond, very helpful to the park district even after he left the legislature. Senator Nejedly, John Nejedly, was always willing to help. The district had a lobbyist.

Lage: Was this done through the legislature or through the parks department?

Pesonen: Sometimes it took legislation to get some of this bond money transferred over to the park district, sometimes it was earmarked from the terms of the state park bond measures. There were various ways to do it, and there was a long history of experience with that. The district had a full-time development officer whose job, in part, was keeping track of all of those bond monies.

Well, it still wasn't enough. So the result was that much of the tension on the board that I confronted was what you'd expect in any public agency where the elected officials have to fight over a dwindling pie with increasing demands. They were constantly jockeying back and forth. It was very hard to plan acquisitions in an orderly way. Even though the district was well endowed, was well-off financially compared to other park agencies, it wasn't well-off compared to its own appetite, the appetite of its own board.

Lynn Bowers, who was probably the most vocal voice on the board for the Pleasanton Ridge acquisition, which would be very expensive, kept talking about a districtwide bond issue. I was skeptical that we could get the two-thirds vote in Contra Costa County. It had to be across the board in both counties, and you needed 66 2/3 percent, and that was very hard to get.

Lage: Did you need that in each county or--?

Pesonen: No, in the district--within the district--which encompassed virtually all of both counties except a couple of eastern parts of Contra Costa and one school district out there and a school district in southeastern Alameda County, none of which were heavily populated. So basically the whole population of both counties was in the district.

So I called a big meeting, I think it was in the spring of 1987, and brought in some experts: a lawyer, Steve Meyer, from the firm Howard, Rice, Nemerovski, Canady, Robertson, and Falk in San Francisco, who was an expert on local government financing. It was an all-day session with the board. We made presentations on ways in which the district could raise more money.

The district had never, to my knowledge, since its founding in 1936, I think, issued any revenue bonds. There was discussion of use of these various devices that local governments frequently use: Mello-Roos bonds; certificates of participation, which is a way of selling buildings and leasing them back--

Lage: Like Oakland has done with the Oakland Museum?

Pesonen: Yes, Oakland has done a lot of that. It didn't work very well in Oakland's case. [laughter] You have to have a revenue-producing structure to make it work, and a public building like a city hall is a revenue-producing structure in a way, in that the city pays its rent.

I began to favor revenue bonds, and we put together a bond issue which, I think, was \$16 million, which was a lot of money. I mean, you could buy quite a bit of land. And it made up the deficit between the appetite of the board for immediate acquisition and what was available, at least in the short run.

Lage: Now, can this be done without an election, these revenue bonds?

Pesonen: Yes. Revenue bonds can be issued without an election. That's why we went that route.

Lage: Now, the revenue bond, then, is paid off on what basis?

Pesonen: It's paid off from the district's regular tax revenue, but it doesn't increase the tax base of the taxpayers.

Lage: But doesn't it obligate the taxpayers down the line?

Pesonen: Yes, it obligates them down the line, but it doesn't increase their taxes. The district had a sufficient cash flow and a sufficiently sound tax base that the underwriters and the bond rating companies gave it a really high rating.

The idea was to buy the land early, when the price was still lower, and save the district money in the long run by not having to buy more expensive land when development pressures would push the price up. It seemed like a modest amount. It was still an enormous struggle to get it through the board. There was a lot of history in the district of not going into debt for land acquisition; a pay-as-you-go history.

Dick Trudeau had very much favored the pay-as-you-go history and he had successfully squirrelled away, I suppose, a reserve fund, a very large reserve fund. The district was totally solvent.

Lage: So you had a good financial basis.

Pesonen: But that fund was being depleted pretty fast by the land acquisition needs that the board saw.

Lage: Did Trudeau keep a ceiling on those land acquisition needs? Was he able to keep the board in hand better? Keep their desires in leash?

Pesonen: I wasn't there then. I'm not a firsthand observer of that. I heard later that part of the reason he left (I'm told it was not entirely voluntarily although he was retirement age) was that he wasn't aggressive enough about land acquisition. But he left the district, when I took over, in very sound financial condition with a substantial reserve. What Trudeau had seen happen and was in fact what was happening while I was there was that reserve, if we responded to the board's demands, wasn't going to last very long.

The board was getting divided by its geographic ambitions. Harlan Kessel would say, "We've got to spend more money in my ward," and Ted Radke would say, "Well, we spent enough in your ward. We ought to spend some in mine," and that sort of thing was going on. There wasn't enough to spend, enough to satisfy them in both their wards--or in all seven wards that made up the board.

So we did get the bonds issued, and that was a breather; it was only a breather.

Lage: — And what was purchased with those?

Pesonen: Well, you know I don't remember specifically, but that went into a fund and then each year the board would have a land session in which there was this huge laundry list of potential purchases, and the board would set priorities with some criteria. The staff would make recommendations and by and large the board went along with them because it was our job to know roughly where the board would end up. They tinkered with it--with the priorities--to some extent, but by and large it came out the way the staff recommended it.

It was a big event each year, the land session. Since it was concerned with purchasing property, under the Brown Act it could be a closed session, so the public was not invited to those; they were not permitted into those meetings.

Lage: So the public didn't know the priorities?

Pesonen: Yes. And there were some good reasons for it. If a developer out there knew that the board had put a very high priority on purchasing his property, it would give him leverage in negotiations over the price.

That land session was one of the big events with the board each year, and the board came to it like jackals coming to the kill. This was what they really loved, was buying land, and they loved that session. It was a real high for them. It gave reality to these acquisitions.

Lage: Since it was a closed session, it sounds as if the public pressure aspect is removed a bit. Or did that come in in some other way?

Pesonen: Public pressure on that board never depended on attendance at these board meetings. That was outside the formal proceedings in which business was conducted. So those board members came into those land sessions knowing what their constituents wanted, and what they wanted, and what they wanted to be able to tell their constituents they'd gotten. It didn't matter whether it was a closed session or not, the pressures were still there.

That was the first major bond issuance by the district since it had been founded, and it was a lot of work getting it approved; getting the board persuaded to do it and then developing the kind of information that the bond rating agencies wanted.

The Regional Park District and the Oakland Zoo

Pesonen: Part of the pressure that was on the district was from the Oakland Zoo. The Oakland Zoo had fallen into poor condition. In fact, it had been decertified--I don't know the exact terminology, but the American Zoological Society or whatever organization it is that reviews zoos and certifies them as good or bad, had threatened to remove the approval of the Oakland Zoo because the cages or the animal compounds were in poor condition, they were old-fashioned, they were unhealthy. The zoo society had hired Joel Parrott when the former chief director had retired. Parrott had been the veterinarian there. He was a very dynamic person. He loved the animals, and he was very aggressive about going out and raising money for the zoo, to rebuild it. He's come a long way. He's done a fine job with that zoo.

Well, Kathy Neal, who was Elihu Harris's wife, was on the Oakland Zoo board. I'm not sure that's the exact title of the organization, but it's a quasi-public body.

Lage: Now, Mott was connected with that, too, wasn't he? Or had he resigned by this time?

Pesonen: He had resigned by this time. The zoo had fallen into poor shape under Mott's tenure, but I don't know what the reasons were. He may not have had much choice given the finances that he faced.

So [Assemblyman, now Oakland Mayor] Elihu Harris began to look at the bounty enjoyed by the park district as a place to subsidize the zoo. That caused consternation on the board.

Lage: Was all of the board opposed to that?

Pesonen: Pretty much. Mary Jefferds was probably the most strongly opposed to it. Harlan Kessel had problems with it because it was Oakland, and that's in his ward. He counted on Elihu Harris for support, and so he was ambivalent. He was looking for some way out, to compromise his way out of that.

That threat was renewed each year. Finally, I don't remember all of the details, but we peeled some money off--not a whole lot--for the zoo one year, I think in '86. But the problem didn't go away. It was going to come back the next budget year and the next budget year. So that was a constant bur under my saddle; it was an irritant. I wasn't particularly sympathetic to the zoo, either. I didn't think that it was appropriate for the park district money to go to that when the demands for open space were so great. But I could have been wrong.

Lage: Was that something you had to take an active role in, working with--?

Pesonen: I had to mediate between the board. I had to find some politically acceptable way to solve that problem that the board would accept. That was always my goal in that area. I didn't see my goal as helping the zoo out any more than necessary. While I had great admiration for Joel Parrott and what he was doing, my perception of what parks were about didn't include the zoo. But my value judgments were not that important. It was the politics that were more important, and maybe my value judgments weren't thought through very well.

I believed in open space. I wanted to get people into open space, not into zoos; not to see caged animals in an artificial environment. There is certainly a value to that, but it just wasn't what I thought parks were about. I'm sure there are many views on that that can be well supported by good arguments, but that was my bias, anyway.

Ardenwood Regional Park

Lage: What was your involvement with Ardenwood Park in Fremont?

Pesonen: The Ardenwood acquisition and development had happened before I came to the park district, and there was an Ardenwood advisory committee set up, I think as part of a compromise out of some controversy growing out of the establishment of Ardenwood [encompassing an historic house and small working historic farm].¹

Lage: Is that unusual, for the particular park to have an advisory committee?

Pesonen: That was unusual. I think Ardenwood was the only one that did. Ardenwood was resented, to some extent, because it was very expensive. It was expensive to operate. It was an attempt to recreate an old farm. You needed all of the machinery, and you had aesthetics to maintain; there were problems with the eucalyptus trees getting too old and the deer population over-

¹For further information on the history of Ardenwood Regional Park, see *Patterson Family and Ranch: Southern Alameda County in Transition*, an oral history project of the Regional Oral History Office, 1988.

populating. It didn't grow vegetables very well; the water was contaminated.

It was a lovely place, but--

Lage: And it's expensive to maintain those old houses.

Pesonen: And it took a lot of staff, and that was expensive. So there was some resentment of Ardenwood because it was sucking more than its share of district funds.

Lage: Was this resentment from the board or the staff?

Pesonen: On the board. Harlan didn't particularly like Ardenwood, but he didn't dare say so. And I don't think Mary Jefferds liked Ardenwood very well either.

Lage: Well, it wasn't an open space kind of thing either.

Pesonen: No, it wasn't. And that was the other reason they didn't particularly like it. But the political pressure, apparently, had been very great. There had been a threat from the Fremont area to pull out of the park district altogether.

Lage: They have Coyote Hills, near Ardenwood.

Pesonen: They have Coyote Hills. Coyote Hills is a very interesting place for wildlife and for the study of wildlife and wetlands, but it doesn't get a lot of use. It doesn't have the political support that an Ardenwood does. Ardenwoods are like the T.V. world. It's a fantastical Victorian house. People hold weddings there. It's got a lot of middle class appeal, and it was about to be turned into a housing development if the park district didn't buy it. So I understand, at any rate. That was before I had gotten there, and I hadn't known much about Ardenwood before I became general manager. I sure had to learn about it when I was.

So Ardenwood was not liked by some of the board members, but there wasn't anything they could do about it. The circumstances of its origin and creation were too scary to try to take on Ardenwood. Every once in a while, Harlan would say something about, "We ought to get rid of Ardenwood," and then he'd back off from it.

We had a lot of these little brush fires going all of the time that never went away.

Lage: Were you asked to keep the budget down on Ardenwood?

Pesonen: No. The budget on Ardenwood was set; it's fixed. I mean, it has a little annual increase, but it was already expensive when I got there. It was an operating budget.

Lage: I did an oral history project on Ardenwood. Not just on Ardenwood, but the whole development down there--the Patterson properties. I have a recollection of something about the manager of Ardenwood; some controversy of his being transferred.

Pesonen: Yes, it was Dave Luten. He has since had a very serious accident and sustained some brain damage. He lived up on Mission Peak; he had a house up on Mission Peak. His wife and he had two kids. He didn't come out of a traditional park background. He was a high-energy organizer and a fixer-upper, and he was a person who didn't have a lot of patience with going through the normal procedures. He would barter with somebody for fenceposts or feed for the animals, completely outside the budget; completely outside normal procedures.

Lage: Sounds kind of refreshing.

Pesonen: It was kind of refreshing. But every once in a while he went a little far. He also had the skill of maintaining his political connections. He had his own political base, and people liked him and they liked his iconoclastic freshness and his can-do way of operating the park.

He thought there was a scandal involving the park down there. He became convinced that there was some illegality going on. I should remember, but I remember the chronic struggle with him over that issue because I couldn't find any evidence of what he was talking about. He thought that Lynn Bowers was on the take from some developer down there, and he was calling the newspapers about it. The evidence didn't seem to materialize. The accusations got out there, but then the evidence didn't seem to materialize.

I wouldn't put it past Bowers. I didn't have a lot of respect for Bowers' integrity, but I didn't see any evidence that Luten had anything but plain old suspicions about it. He later was transferred to another job in the park district, finally and--

Lage: Was he transferred as a result of this?

Pesonen: It was an outgrowth of a number of things. He offended some people over time, and he had some staff problems. I'm sorry, I just don't remember the details.

Then, sometime after that, he was in a very serious bicycle accident. He was hit on his bicycle riding down the hill from Mission Peak by a passing car. I don't know what's happened to him since. He's still alive, but I think he's just permanently very seriously disabled.

Relations with Park Field Staff and Unions

Lage: Now, would you get out to the parks on a regular basis?

Pesonen: I tried to go out to the parks a lot. I made a special point of going to field staff meetings. They had a regular meeting once a month or once every two months, and I would always go. Trudeau had never gone to those meetings, and many of the park district staff said they had never met Trudeau; they'd never seen him in the park.

Lage: Field staff meetings were all in the parks?

Pesonen: In all of the parks. He did not go out into the parks. I loved to go out into the parks; I got out as much as I could. There were meetings in the park, field staff gatherings of one kind or another.

Lage: Did that make a difference, do you think?

Pesonen: I think it made a difference in field staff morale. There's always a dichotomy between the field staff and headquarters staff. Headquarters is management. I mean, it's never going to go away. No matter how much time you spend in the parks, how much time management goes out with a hands-on approach, that dichotomy is never going to go away.

And then the field staff were unionized and their contract came up every year or two years, and we always had a struggle, and they always had a demonstration outside the board meeting when they didn't think they got a good enough offer from management.

There had been a strike under Trudeau's tenure, a very bitter strike, and there were still little echoes of that when I got there.

Lage: Did you have to negotiate that personally, or did you have--?

Pesonen: Bob Owen did most of the negotiating. We'd lay out what our position was going to be, and he did the hands-on negotiation, along with our attorney whose name was Joe Wiley. Wiley had a firm down in Emeryville, a big management-oriented employment law firm.

Wiley was good, and Owen was good.

Lage: Did the board get involved in that heavily?

Pesonen: The board would only get involved at the end when it came time for ratification of the contract and the union was holding out for more. There would be a big meeting, a board meeting, and the union would pack the board meeting. The board would throw them a carrot of some kind, and we would get a contract and get on with business. There were no strikes while I was there. But that pattern repeated itself, and everybody knew the dance.
[laughter]

Lage: The union and you?

Pesonen: Yes, the union song was the same pretty much. It was a regular ritual.

There were two unions. There was the union of the police officers and the union of the rest of the field staff. Their contracts came up at different times, and they tended to play one off against the other sometimes, on various kinds of benefits.

Lage: You mean they didn't work together?

Pesonen: No, they didn't openly work together. Each would leverage its position off what the other had obtained the year before. I think they came up in alternate years. And the length of the contract was sometimes an issue. There was an effort by the board, I think, to have the contract talks renew at the same time. The unions didn't like that. I think they saw it as diminishing their bargaining leverage.

Quiet Victories in Chabot and Sunol Parks

Pesonen: There were a couple of things that I did which were not initiated by the board but which were supported by the board, that I take as my quiet little victories. One was getting the motorcycles out of Chabot park. For years and years I had seen those off-road motorcycles just tearing that hillside up, and I was told

that it was impossible to stop that; that the motorcycle lobby would pack the board room and cause a lot of trouble and the board would back down. Apparently that had happened in the past.

So I set out on a strategy to get the motorcycles out of there, and it took about a year and a half.

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Pesonen: The motorcycling site was along Redwood Road in Chabot Park, overlooking Upper San Leandro Reservoir. The riding had started spontaneously twenty-five or thirty years ago, and by the time I got in as general manager, there was a lot of activity. Every weekend there would be motorcycles all over there.

Lage: That must have been deafening.

Pesonen: The roar and buzz and whine of those things--

Lage: The neighbors must have objected.

Pesonen: Well, there weren't any neighbors. It's out in the middle of the park, and it's on the top of the ridge looking down over the reservoir. So I involved Jerry Gilbert, who was the general manager of the East Bay Municipal Utilities District. In fact, I drafted the letter which he then sent to me formally telling me that we ought to get the motorcycles out of there because it was causing erosion which was polluting the water supply.

Lage: Had he noticed that before you drafted--

Pesonen: He noticed, but he hadn't really done anything about it. But he was perfectly happy to help me. He didn't like the motorcycles up there either. So I drafted this very strong letter from the water district to the park district saying, "Get the motorcycles out of your park because it's hurting our water system," and he was glad to put it on his letterhead and send it to me. Then I could wave it around at the board and wave it at the motorcycle people.

And I did some other things. We got some vague promises that there was an alternative site that had already been chewed up by quarrying out in eastern Contra Costa County, that might be suitable and the park district would--. We had a grant--we had some money from some kind of a grant out of one of these park bond measures--to develop an alternative site. We never did find an alternative site. I don't think the money ever got spent, actually.

Lage: How did you control the motorcyclists?

Pesonen: Well, we used--

Lage: You almost have to get their agreement.

Pesonen: Well, there is a motorcycle park way out there someplace, but this was close in. It was just around the corner from Oakland, and it was a lovely site, and it was scenic.

So we finally got them out of there. Then there was a major rehabilitation effort: hydroseeding, laying mesh over the hillside, which was terribly scarred and still looks scarred if you go up there. As a matter of fact I was up there last weekend. It looks a lot better than it did five or six years ago, and it's coming back slowly.

Lage: Did you have to fence it or did you get the motorcyclists to agree to this?

Pesonen: No, it had to be fenced. We got some money from that source of funds. I just don't remember the details of that. I never was very good at figuring out those things. I left that up to Owen and other people.

Lage: You mean the grant money?

Pesonen: The grant money that was spent on that project and which financed some of the rehabilitation. It's a good job. It's coming back, and it's quiet up there. It's like a park now. And it's not silting up the reservoir, which is still not open to the public.

Lage: That's one of the few that's not open to the public?

Pesonen: That's one of the few. Boy, I'd love to get into that, because that's got big rainbow trout in it.

The other little triumph was the opening up of Sunol Park.

Lage: That had not been opened up?

Pesonen: It had been opened once some time ago, and then the San Francisco Water Department hated the idea of the public running around on its land, and the park district and the San Francisco Water Department land intermingled out there. The main road that goes up Alameda Creek and goes way back to Ohlone wilderness, cuts across San Francisco Water Department land, then into park district land, then into water department land, then into private

ranch, then back into park district land. There is the Grimmer ranch back there.

For many years, since the Hetch Hetchy system was built, San Francisco had kept the public out of that land. The only people that were let in were the people that had in-holding ranches back there who used that road. If you go back there now, there are seven or eight locks on the gate. So if you went about a quarter of a mile from the bridge out of Sunol Park, you came up against a big fence which said "San Francisco Water Department--Keep Out." It was horrible. Here you were in a big meadow with a creek running right down alongside of you and this huge cyclone fence telling the public to stay out of what looked like complete wilderness, looked like an extension of the park. In order to get into that country, you had to veer way up the hillside.

Lage: And you had to know that there was a way around?

Pesonen: You had to know that there was a way around, and it essentially kept families, children, and a lot of people out of a very beautiful part of the country. There is a little place up there called "Little Yosemite," which has huge boulders and rocks strewn down into the creek bed.

But the San Francisco Water Department was adamant that if you let any people in there, they would go up the little road that went to the southwest up out of the Alameda Creek Canyon to Calaveras Reservoir, which is a major part of the San Francisco Hetch Hetchy distribution system. It's been a kind of a private little jewel for staff and guests of the San Francisco Water Department for a long time. I've heard rumors of huge rainbow trout in that lake, and nobody goes in there without permission. It's heavily patrolled.

So there was a fear on the part of the San Francisco Water Department old-time staff that somebody would come up and damage or sabotage their filtration system--they had a chlorine treatment plant up there--that they would blow up the chlorine treatment plant and a cloud of green gas would come down the hillside and kill all of the people in the park. They had all kinds of horror stories that would happen if we let anybody in there.

Well, Rudy Nothenberg, who was the financial officer for the mayor, or for the city, had been a good friend of Bob Connelly's in Sacramento when they both worked in the legislature. So Bob and I put it together. We brought Rudy and some of the water department staff out there in the park district helicopter and put on a nice little picnic thing with lunch out at Ohlone Park

and showed them this excrescence of a fence on our landscape and got a promise that they really would use their influence to try to get it solved.

Lage: Which city was Rudy with?

Pesonen: San Francisco. You know, out in Sunol there's the water temple, and that whole area is--

Lage: Yes, it's incongruous when you see all that San Francisco stuff out there.

Pesonen: Well, it was where they brought water down from Hetch Hetchy and then shipped it under the bay over to Crystal Springs and that reservoir system into the city.

Lage: And they keep Crystal Springs pretty well sealed off, too.

Pesonen: Yes. There's a lot of pressure to open that up, too.

So we promised that we would undertake the expense of a new fencing system to discourage people from going up to Calaveras Reservoir if we could open this property up. It wasn't until late 1987, I think, that we did finally get this. It took two years of steady effort, but the fence is down now and you can walk all the way back into Sunol and Ohlone Parks.

Lage: I think Sunol is a great park.

Pesonen: Oh, it's a wonderful park. You still can't drive back there, which is appropriate, but now you can go back there on weekends and there's people pushing strollers and bicycles and there's all kinds of people back there. That was--. Lynn Bowers, of course, took credit for that. We had a celebration out there, and Lynn gave a speech. That was fine, but I did that. I was real clear that I was going to open that up.

What it did was to make an enormous amount of open space available to people without any more significant expenditure except the cost of this expensive fencing. It was a pretty elaborate fence: it had to go up the hillside and over the rocks and all. The city threw up every roadblock. They didn't like the fence; complained it wasn't secure enough. By the city I mean the real old guard in the city's Public Utilities Commission and the water department.

Lage: When East Bay MUD has opened up so many of their reservoirs, how does San Francisco continue these arguments?

Pesonen: Well, it embarrasses San Francisco.

Lage: Right across the bay they have Lafayette Reservoir and San Pablo Reservoir open.

Pesonen: Exactly. It's a different political world. East Bay MUD has an elected board; San Francisco Water Department has an appointed Public Utilities Commission, appointed by the mayor. It's insulated. And the Public Utilities Commission has the MUNI, has the water system, two or three other activities. The water department was a closed little world, and they were very skilled at coming up with all kinds of arguments for why nothing should change.

Lage: Well, that was a good accomplishment. Can you tell me anything about Somerville, the old coal mining area that was part of one of the parks?

Pesonen: That's in Black Diamond Mines Regional Park.

Lage: Yes, Black Diamond. Didn't the park have some connection with Somerville?

Pesonen: Yes, there was an abandoned Welsh mining town out there called Somerville right in the park. I didn't have too much to do with that. It seemed to be run well, and it had a manager of the mine part who was very effective at getting money, and he was very skilled at mine history and mine design; he understood all of that, mine safety. That part ran itself well.

For the money, the attempt to reconstruct a little makeshift replica of a village there at the park entrance never really got very far as long as I was general manager, but that was because of money. It was a catch-as-catch-can project, collecting old buildings out of Antioch and Pittsburg that had been historic buildings that were going to be torn down and get them moved up there. It wasn't very well planned but that's just because it was the nature of the resources that were available.

I don't remember any particular issues about Black Diamond Mines.

Lage: Did these parks have any separate financial help from local citizens?

Pesonen: Some of them did. Black Diamond Mines had some local support. It was a historic mine, so you could get money from the federal government for historic projects that you couldn't get for other things. Sometimes you need a little citizens' advisory committee

to kind of oversee that or meet some qualification in the federal application process.

Reorganizing the Interpretive Program

Lage: I had a note here to ask you about interpretive programs. Was that an area where you made any changes?

Pesonen: In the reorganization, the interpretive programs were brought under the management of the interpretive parks. I think I mentioned this in our last interview--the major part of the reorganization that I undertook was to change the reporting structure for all of the field parks. Before that it had been on a geographic basis. You had southern Alameda; you had Contra Costa, shoreline and inland Contra Costa; it was broken up geographically.

I thought it made more sense and would be more efficient and lead to better interpretive programs if the parks were classified by the nature of the park. Shorelines and lakes, which had water issues and water contact questions, fishing, used different kinds of equipment and called for different expertise on the part of the staff. The open space parks, which had in common grazing issues, for example, management of their grazing program. And the interpretive parks. I reorganized the system along those lines. One of the purposes was to increase the emphasis on professionalism in the interpretive programs, which were kind of scattered and unconnected. The interpretive staff talked to each other and had a manager, but they also had another manager, who was their geographic manager. So I tried to consolidate that, giving more coherence to their direction and planning. To some extent that happened. It didn't happen overnight.

Lage: Were you happy with the interpretive efforts?

Pesonen: Well, some of it is personal. I thought the interpretive efforts were not very aggressively promoted. They tended to involve the same people over and over again.

Lage: You mean the same clientele?

Pesonen: Yes. The same clientele was part of it, and part of it was--I can't think of the word I want to say is keetchy. [laughter]

Lage: How do you spell that?

Pesonen: I don't know how to spell it. It was just a little bit too cute.

Lage: Puppet shows?

Pesonen: Yes, that kind of thing. I didn't sense a lot of depth in the interpretive program. That may be unfair. I don't want to be unfair to that staff. Certainly Ron Russo, who took over in charge of the interpretive program, was very knowledgeable about interpretive programs generally, and he had some staff who were.

Lage: Was he somebody you got from outside?

Pesonen: No, he was there already, and he had been high up in the interpretive program. He just took on a different title in the reorganization, somewhat more administrative responsibility. I thought the interpretive program was central to what the parks were about. It never seemed to get anywhere. I think part of that was the nature of those parks. It's amazing how few people in the East Bay still really understand that park system. It's not aggressively promoted in the way the one around Minneapolis is. It's out back there some place. There's Tilden Park for people who live in Berkeley, which is a unique park all to itself.

Lage: It has everything.

Pesonen: Yes, it has everything. That was the original park.

That park system is a huge patchwork of wonderful stuff and if there is a coherent idea about it, I never figured out what it was. It's a lot of things to a lot of different people. It's a place for picnics on weekends for a lot of people in southern Alameda. Garin Park is like that, although there is a lot more of Garin Park that I think people don't know about.

Lage: Is there a historical element there in Garin Park?

Pesonen: Yes, there's an old ranch. Garin's interpretive claim to fame is its apple orchard. There are a lot of different varieties of apples that were planted historically, some of them by the original homesteader out there.

I'm puzzled about that park district. I never got a coherent idea of what it was about. It was heavily used parks in some places; it was an attempt to fend off development of wetlands in other places; it was a trail system in other places; it was an open space wilderness system in other places; it was historic museums in other ways. It was a lot of different

things, and getting a coherent definition of it in my own mind never worked. I don't know. Maybe it's not possible. Maybe it's just the nature of the beast.

Lack of Support from the Board for Promoting the Parks

Lage: Did the parks newsletter start under your tenure?

Pesonen: The *Log*?

Lage: The *Log*.

Pesonen: Well, the *Log* was a colorless little publication, and all of the brochures for all of the parks were out of date or smudgy little xerox foldover things. There was abysmal promotion of the park district. I concluded that that's the way a lot of the board members wanted it. I thought there was a certain amount of elitism there. They didn't want a lot of people in the park.

Lage: Did you conclude that by things that they said?

Pesonen: I concluded it by the policies they favored. They didn't want money spent on promotion. I had to fight for the money to promote the parks. I hired Janet Cobb as the assistant general manager for development and public relations, and she was dynamite. She came with a graphics design background, and she agreed with me that the promotional materials for the park district were abysmal.

Lage: They were years behind the times.

Pesonen: Yes, so she set out to change that. And the board fought the budget for that and complained bitterly about it. They never said anything nice about it, never complemented her staff on their wonderful job of completely changing the publications program of the parks. They were much more useful to people. She started bringing in groups of disabled children for fishing derbies at Temescal; all kinds of things she started to do to get people into the parks. Every one of them was met with a sour response by the board. I thought there was a certain amount of misanthropism on the part of that board. They wanted open space for themselves and their friends, to say it most bluntly. That's the way I often felt that board used the parks.

Lage: So they weren't keen on the interpretive programs and the promotional efforts?

Pesonen: No. They couldn't come out and be against them; they are too much a part of what parks are supposed to be about. It was just easier not to give them any help.

Lage: But also your political support depends, in part, on people knowing about the parks and your effort to pass a bond issue and all of that.

Pesonen: I don't think that park district really is very politically visible. There's almost never been a contested election for board seats. That's starting to happen now. Kay Peterson was defeated three years ago or four years ago, maybe. Maybe it was just two years ago. That was the first time a sitting board member, an incumbent, has been defeated, I think, in living memory.

Lage: Was there some issue there?

Pesonen: Well, that was after I left as general manager. I'm not sure what the issue was. I know the union supported her opponent. The union hated her. She was a stupid little--. She epitomized what I didn't like most about a lot of the supporters of the board members. The board members had a very small constituency that they listened to.

Lage: Where was she from?

Pesonen: She was from Lafayette.

They listened to a handful of people who were white, middle class hikers, Sierra Club types who had no other social conscience as far as I could tell, who I thought had a good deal. They had, in effect, a huge backyard to play in and didn't want any other people playing in it. I saw parks as a social device for taking some of the tensions out of poor people's lives and out of urban stresses. I didn't get the feeling that the board had any sympathy for that by-and-large, or any sympathy for that idea at all.

Lage: Yours seems to be more in line with Mott's ideas about parks.

Pesonen: Yes, and that's why Tilden is what it is. You could never build a Tilden Park within the East Bay Regional Parks District now. The merry-go-round would have been opposed; the pony rides would have been opposed; the swimming at Lake Anza would have been opposed; the golf course, of course, would have been anathema. Maybe it is anathema, but nevertheless a lot of people use the golf course. It gets a lot of use, and that's what parks should get.

Lage: And who's to make judgments on other people's pleasures?

Pesonen: I'm not sure I want the rest of the park district to be like Tilden, but I think the park district can use a park like Tilden and maybe an Ardenwood too, for that matter. But the dominant theme on that board was, in my view, to buy as much land for a kind of private open space and promote it as little as possible and not encourage public use, or if you are going to have any public use, concentrate it in a few little places.

Lage: Did they talk in terms of a "land bank" idea for the future?

Pesonen: No, every park had to be open, had to be accessible. The board certainly didn't oppose that, but they weren't in favor of going out and bringing people into the parks and promoting their use.

That was certainly true of the promotions, and Janet Cobb and I had a constant uphill fight. Mary Jefferds would try to take money out of Janet's budget; she didn't want any money for publications. She would never explain it as I'm speculating what her motives were, nor did Harlan explain it as I am speculating, but I drew the conclusions.

Lage: Then how did they explain it?

Pesonen: Well, you'd have a budget hearing, and they'd chop the budget.

Lage: Without too much explanation of it?

Pesonen: Without much explanation, and then we'd have to fight for it. Or they'd find some excuse that the money was being misused or something which had no evidence to support it. Harlan didn't like Janet, and Janet was a dynamite woman. She has gone out and built her own political constituency. They can't get rid of her.

Lage: She's still there?

Pesonen: She's still there. [laughs]

Lage: Now what local constituency would she draw on? How do you build one as a member of a staff like that?

Pesonen: She has taken the leadership in other organizations which have an interest in the park district like the California Oaks Foundation. She's on the board of the Planning and Conservation League. She has really taken off, and she just has a wide circle of friends and maintains a wide circle of acquaintances. She's on the board of what used to be called Amendment 27, which was a proposal for a federal constitutional amendment to protect the

environment--it's going to have to change its number now because of the one the Congress just certified, the one about pay raises, which we didn't even know about when we started the environmental one.

Lage: Is that the environmental bill of rights?

Pesonen: I think that's it. We were calling it Amendment 27.

Anyway, she's very effective and very well respected and she's the one who got Proposition AA put together. She put that together almost single-handedly. That was a \$125 million bond issue for the park district. It was after I left. I was opposed to it when I was general manager. She kept saying, "Let's go for some real big money on a general obligation bond issue and get a two-thirds vote." I said, "You'll never do it," and she proved me wrong. In fact, I resisted it when I was general manager.

Once I was gone, the main barrier as far as Janet was concerned was out of the way, and she put it together. She rounded up the support. She was opposed by Harlan all the way. She set up the citizen's advisory committee to get it done, and it went. It got 68 percent of the vote, I think. The park district's rich now. It's got a lot of money. It's still issuing these bonds under that authorization. It was a complete triumph for Janet Cobb, and nobody else can take anywhere near the credit that she did. She organized it. She's just an enormous high-energy, well-organized person. She has very good political sense and absolute stubborn determination, and when she's going to do something, she's going to find a way to make it happen. She certainly proved me wrong on a big general obligation bond election. I have great admiration for her.

Lage: She should go to work for the school districts. [laughs]

Pesonen: Well, she may take that on next.

Working with City Officials and Environmental Organizations

Lage: Is there something else we should talk about here? We've talked a little bit about East Bay MUD, state grants, which speaks to the topic of relationships with other public agencies. What about relationships with cities in the park district and with organizations such as the Sierra Club?

Pesonen: Well, there was a certain tension between the park district and some of the communities. A part of it just reflected Trudeau's style, and part of it reflected some history, historic developments where there had been some disagreements over policy. The city of Richmond and the park district were not on good terms when I got there. I set about to try and mend that because I had lived in Richmond and been a judge out in that county, and I knew a lot of the local public officials. I made an effort to try to respond to Richmond's concerns.

Lage: Did they feel neglected in Richmond?

Pesonen: They felt neglected.

Lage: There was Point Pinole. Is that in Richmond?

Pesonen: That's in Richmond, but the difficulties had to do with Alvarado Park, which is up there towards the north end of Wildcat Canyon Regional Park. I don't remember what it was that had set off the tensions there. Also the trail along the bay conflicted with some of Richmond's shoreline development plans.

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Pesonen: I set up a committee involving the city managers of Fremont, Newark, and Union City and the Southern Alameda Water District, which was involved with Alameda Creek. Alameda Creek was used to recharge the ground water system down there, which affects Ardenwood. Also we had a plan for the development of a wonderful park in the quarries there in Fremont, [which are part of the Alameda Water District], and that was slow-going. I think it's finally getting off the ground. There was just a need for a lot of coordination there, and I spearheaded that. That mended a lot of relations.

Things were somewhat distant between the city of Fremont and the park district. A lot of that I just noticed after I got there, that people seemed a little chilly when I'd meet them at social gatherings and things. I figured there was something that happened while Trudeau was there that offended somebody, and I was a new face, and I was going to go out and start over. I did a lot of that. The park district rubs up against a lot of different public agencies. I think I counted them once, sixty-seven or seventy different public agencies: fire districts, water districts, cities, counties, transportation systems, all of the different governments.

Lage: Is that an argument for regional government?

Pesonen: I think it could be an argument for regional government, yes. I think it is an argument for regional government. There's a lot of overlapping and lack of coordination.

My relations with the Sierra Club were pretty good. There were some club members who were active in local environmental matters that I got crosswise with. One was Alan La Pointe over in Richmond.

Lage: Over what kind of issue?

Pesonen: It was over the development of the cleanup and fixing of Alvarado Park and Wildcat Creek. There was a little bridge that was going to be widened by the city right there near Alvarado Park to improve local traffic conditions. La Pointe was leading a group that was opposed to it; they wanted to keep it kind of rustic and small. I didn't think it made that much difference. I said something once that La Pointe took as suggesting that his only reason was that he wanted to protect his own little property values up in the canyon there.

Lage: He lived up there?

Pesonen: He lived up there.

So he was a bitter enemy ever after that and I happen to think that I was--what he concluded, I thought, he concluded correctly. [laughter]

Lage: So you did think that he was concerned with protecting his property values?

Pesonen: Yes.

Lage: He may not have misinterpreted your remark?

Pesonen: He didn't misinterpret it.

Parks for the People or "Nimby" Preserves

Lage: When you referred to Sierra Club "types" earlier as being some of the ones that wanted to try to preserve--

Pesonen: I want to correct that. There is no such thing as a Sierra Club "type" but there is a suburban middle class nimby, and I met some who were probably some of the most active constituents of the

board members of the park district. It's a very small group of people. They do reflect the values of a lot of people, and the park district is very popular in the East Bay or it wouldn't have passed Measure AA with a more than two-thirds vote. The parks are a symbol of serenity and grace, and they are fairly well managed. When people do come in contact with the parks, the staff is friendly and helpful.

At bottom, my concern and frustration was that I wanted more people to get into the parks and I didn't--. I was the wrong person for that job because the people who seemed to have the most influence with the board members were people who in my estimation didn't want people in the parks.

Lage: So that would be a kind of a mission which should be stated by the board in some way?

Pesonen: Right. Well, the board had a master plan--adopted their new master plan while I was there--but the master plan was really nothing but a set of maps about acquisitions. They had some policies, but nobody paid any attention to the policies and guidelines. They would look at the maps and the acquisition plan. That's what it was really about.

Lage: Anything else you want to comment on before we leave the subject of the East Bay Regional Park District?

[tape interruption]

Pesonen: I'll sum up my view of the park district and why I probably was always out of phase with the board--not always, but enough so that I didn't enjoy it there and I think we parted company knowing that I wasn't the right person for a long-term cordial relationship with the board. I had the strong feeling after I had been there a while that the most vocal voices on the board were influenced by a small group of essentially misanthropic people. They were perfectly entitled to be misanthropic, but I thought that this was a public agency, that everybody in the East Bay paid for those parks, and everybody in the East Bay ought to be able to use them. So it was a good-government view on my part, as well as a philosophy about parks which was out of phase, I felt, with what the emphasis that the dominant board members had, and that tension never went away.

Lage: Some of those board members had been your original supporters when you took the job?

Pesonen: Correct, because they didn't, I think, understand how strongly I felt about that.

Lage: It sounds like they wanted a little wilderness system on park lands.

Pesonen: Very much so.

XI RECENT WORK AS A PRIVATE ATTORNEY

Mediating the Dispute between the Sierra Club and the Sierra Club Legal Defense Fund

Lage: Shall we go on to the work you did to mediate the dispute between the Sierra Club and the Sierra Club Legal Defense Fund?

Pesonen: That's been fairly recent.

Lage: I know. Is it too recent to talk about?

Pesonen: I think we can talk about it.

Starting in 1989, I think, a crisis point was reached in which the Sierra Club and the Sierra Club Legal Defense Fund found themselves on opposite sides of a political issue. It grew out of litigation launched by the legal defense fund to stop forest management plans in the Northwest which threatened the habitat of the native spotted owl. That was a hot controversy, as it still is, and one of the legal defense fund's staff lawyers had openly criticized the club while the club was one of its clients.

Lage: Was the club a client on this litigation?

Pesonen: Yes, but the club--so I understand--didn't want to be quite as aggressive as some of the other clients, the Oregon Audubon Society and some of the others in the Northwest. The real purpose of that litigation was to prevent logging of the last of the old-growth forests in the Cascades. I think it was Senator [Robert] Packwood who got a rider on the appropriations bill that took jurisdiction away from the federal courts to hear such suits, temporarily at least. The club lobbyist in Washington had supported that amendment in exchange for a vote on something that the club thought was more important to them in Alaska. The legal

defense fund's lobbyist took the opposite position on the amendment and claimed betrayal by the club.

A falling out had developed, and the club's board threatened to revoke what they maintained was the license to the Sierra Club Legal Defense Fund to use the name Sierra Club. Over the years, the name Sierra Club Legal Defense Fund had acquired its own value in fundraising and identity with the courts and the public; it's like a trademark. That threat to revoke the Sierra Club name really threatened the Sierra Club Legal Defense Fund.

Lage: Was it something the club could do?

Pesonen: Well, it's not clear. It wasn't clear to me. It wasn't clear to the club; it probably wasn't clear to the legal defense fund. But they were on the threshold of going to court, and I thought that would be an enormous disaster for both organizations. It would deprive them both of a very high level of public confidence that they had enjoyed for a long time. It would be an unseemly struggle, it would certainly be public, and it would, I think, permanently damage both organizations. But it seemed intractable for a while.

The president of the legal defense fund, Rick Sutherland, was a very strong-willed person. The legal defense fund over the years had grown into a substantial organization in its own right with its own board.

Lage: It was, essentially, a separate organization?

Pesonen: It was a separate organization, but its origins were very innocent and very casual. It was 1971 when the legal defense fund was set up. I read all of the original papers, and there was no written license. There was a proposal from Larry Moss, a former board member, that there should be a written license, but it just never seemed to happen, or if it did happen then it has gotten lost.

Lage: I just recently interviewed Larry Moss. He was on the Sierra Club board in the seventies and president for a year. He recalled that when the defense fund was founded, he had insisted that the Sierra Club retain the right to revoke the use of its name. He says there was a resolution passed that the club could revoke the name. Was there a board resolution?

Pesonen: There's a reference in the minutes to the need for a written license, but there's no record of its ever having been executed. The club president at the time I started looking into the problem was Sue Merrow from Connecticut.

Lage: How did you get called to look into it?

Pesonen: Well, I kind of made it known that I would like to work on resolving that dispute. I made it known to the principals. I went around and talked to some people who were involved and got a pretty good idea of what it was about and very much wanted to help resolve it. I knew they were at each other's throats. It was just very bitter. The correspondence back and forth was most unpleasant, and it had gotten somewhat personal, and the Sierra Club board had its back up. They felt that their hundred-year ownership of the name was challenged. They were the preeminent environmental organization in the country, and they perceived there was confusion developing because the Sierra Club and the Sierra Club Legal Defense Fund would take different positions in professional lobbying, such as the example on the appropriations rider affecting the court's jurisdiction.

But there were deeper institutional reasons I began to understand. The legal defense fund depended on the club for part of its fundraising. The club was also its principal client. At the staff level things ran quite well, but at the top policy-making level, there was a sense--as I characterized it anyway--on the legal defense fund's part that they were not being treated with the dignity that they deserved. They had seven or eight regional offices around the country, and Rick Sutherland had built it up into a huge and very successful environmental litigation organization, but they were still a kind of a little brother to the club.

So I set about to see if I could mediate that controversy, and I got myself appointed by both of them, accepted by both as the mediator. They both had counsel, and counsel were hedging their bets, getting ready to end up in court over trademark and trade name interests. So at the beginning it was--. I was working with both of the lawyers and representatives appointed by each organization's board to negotiate--Rick Sutherland principally on the legal defense fund's side, and Phil Berry and Sue Merrow on the club side. Phil had been on the Sierra Club board when the legal defense fund was first set up.

Lage: And he had been instrumental in establishing it, as I remember.

Pesonen: He had been instrumental. And on the other side there was Fred Fisher who was with the Lillick law office in San Francisco, which for many years had been on a small retainer to handle the club's litigation. Fred Fisher and Don Harris, who had also been with the Lillick firm, put together the papers to create the legal defense fund as a 501(c)(3) organization, and it was all very congenial and cordial and casual when it first happened. It

was a small operation with one staff person who transferred over from the club staff to the legal defense fund staff. Through the three executive director/presidents and particularly through Rick Sutherland, the legal defense fund grew into a completely separate entity.

Lage: It had other clients and--?

Pesonen: It had other clients and had plans to go international, and the club felt a little threatened by some of that. They didn't know where it was headed. The Sierra Club name would then appear in France and Canada and Brazil without the club having anything to do with it. The club had its own long-range ambitions for more international activity.

I started meeting with both sides, and it took a long time for a level of trust to develop so that we could start to make some progress. I really got involved in it in early 1991 and worked on it all through the year 1991. In the spring of 1991 we had a meeting in which it became clear to me that it was going to be very difficult to come to a workable agreement that covered all aspects of their relationship. I suggested that the legal defense fund may wish to consider changing its name so that it wouldn't be beholden to the Sierra Club anymore. That got some initial favorable response. I went and spoke to the Sierra Club board at a retreat they had out at Audubon Canyon Ranch and said that this looked like the way this mediation was going to go. I suggested that they get Walter Landor and Associates who were very good at name changes. They had changed the name of Datsun to Nissan successfully.

Lage: You mean in terms of public relations?

Pesonen: In terms of public relations, everything that goes with corporate or institutional identity in the public. They have a fine reputation, they are very successful, and I had worked with them on some other things. But they also had represented the club, so the legal defense fund was suspicious of that and wouldn't use Landor.

Lage: Was this retreat a defense fund retreat?

Pesonen: No, it was the Sierra Club board. The reaction of the Sierra Club board was rather lukewarm. There was an ambivalence.

Lage: They like having the connection?

Pesonen: They liked having the captive law firm. That sounds too cynical. There was a symbiotic relationship there. They had a long

history, and it had worked very well. The idea of severing it, even an amicable severance, was an uneasy notion for a lot of people. But the club recognized what had happened over the intervening twenty years, and I got a letter from Sue Merrow saying, "We are not particularly enthusiastic about it, but if that's the direction the legal defense fund wants to go, why we will, of course, give them our blessing."

Then the legal defense fund took a look at the problem and at that issue, and they were uneasy about it, too. Then we got back into trying to negotiate an agreement to cover all of the relationships. The more we dug into it, the more issues came up that had to be dealt with in any final contract or charter. There was no written agreement ever between those two organizations. There was a series of--

Lage: If there had been, it probably would not have been complicated enough to handle everything.

Pesonen: Well, if there had been, maybe this controversy never would have arisen. But there were lots of misunderstandings. There had been changes of staff on both sides, and much of the history was a kind of a common law of handshakes and agreements between the executive director of the club and the executive director/president of the legal defense fund. And just working habits. A lot of it had to do with money; how the club raised money for the legal defense fund, how the legal defense fund raised money from many of the same sources as the club raised money from. Money had a lot to do with it.

Lage: The club's development office also raises money for the legal defense fund?

Pesonen: It's called a check-off. When you get your Sierra Club dues notice, there is a place to check off and add some money for the legal defense fund which cements in the donor's mind the cohesiveness and connection of the activity of the two organizations. There had been some experimentation with dropping the check-off, but the check-off was a substantial source of funds for the legal defense fund.

So there were all kinds of things. Limitations on lobbying, what they could say--

Lage: The legal defense fund lobbies also?

Pesonen: The legal defense fund lobbies also, yes. They both have lobbies, and they both have regional spokespeople.

Lage: And legal defense fund actions affect proposed congressional legislation.

Pesonen: Exactly. So the effort to work this out ended up in something like a twenty-five or thirty-page agreement which covered fundraising; it covered lobbying and public statements; it covered public relations generally; it covered use of publications; it covered the timing of fund appeals. I've forgotten all of the topics--I'd have to dig the documents out--but it was very elaborate.

Late last year or early this year--I guess it was early this year [1992]--I again appeared before both boards within several weeks to present this agreement which had been hammered out over many sessions, where we'd get one step forward, two steps back, two steps forward, one step back. We'd get where it would look like an agreement, and then they'd go back and think about it, and they didn't like it. I finally presented this agreement to the legal defense fund board and argued that it should be adopted, that it was pretty much at the end of the line. There wasn't much else that we could do, and the club had set a deadline of the end of February this year for an agreement or they'd go to court. The antagonism hadn't completely disappeared.

Now, some of the delay and some of the difficulty in getting agreement was because of some terrible things that happened during the process. Rick Sutherland was killed last July, I think, on the Sunday after I had met with him on Friday and gotten his agreement to virtually everything that was left at loose ends. I had persuaded him that in the long-range interest of the legal defense fund he should be a little more flexible in some areas.

One of the reasons I was chosen was that I knew all of those people, and they all trusted me, and they trusted me not to take sides. They knew that my main concern was to keep them both from going to court and doing great damage to what they stood for. I am a very good friend of Phil Berry, and I was a very good friend of Rick Sutherland, and they were on opposite sides of this. Mike Traynor, who succeeded Rick Sutherland, was a good friend going way back to Bodega days. So I was personally acquainted and, I think, respected by all of them.

Lage: Did Mike Traynor come out of the legal defense fund organization?

Pesonen: No, he was a private lawyer, but he was the president of the board or had been for a long time. When they had to pick a successor for Rick, he had reached a point in his career where he

wanted to do something different and they selected him as the president and he left his law firm. He is still of counsel, Cooley, Godward, Castro, Huddleson, and Tatum, I think was the name of the firm, a very big, well-established, San Francisco law firm.

Then, of course, Phil Berry had his terrible accident when he was badly burned, and I was practically on scene for that. Mary Jane and I had been camping with him that weekend, and he was behind us on the road, and we lost sight of him, and then his truck caught fire. He was very badly burned and in the hospital for a long time. That came during all of this process, so that held things up until he got healed. After he got healed then Rick got killed. Each time one of these things happened, we were close, I thought, to an agreement. Then the person who had to make the agreement, that was in charge, was gone.

Lage: Were Fred Fisher and Don Harris involved?

Pesonen: No. They stayed out of it. They were on the board of the legal defense fund, but they had stayed out of these negotiations.

Well, to my great surprise, after I met with the legal defense fund board in early February or late January of this year, I left the meeting feeling that they would swallow their pride a little bit and sign this agreement which we had hammered out over the previous year. To my astonishment, I learned a few days later that they had voted to change their name. [laughs]

Lage: And is that the way it ended?

Pesonen: That's the way it is right now.

Lage: Oh goodness. Last time I talked to you it was probably before you learned that because last time we discussed this you said it was just on the verge of being signed.

Pesonen: Well, it was. Then they decided that the constraints--

Lage: What kind of constraints?

Pesonen: Oh, there were lots of limitations on what they could say publicly, and the club had to be their primary client, had first choice of being their client. It was an entanglement, a lot of entanglement. I began to understand that they felt like Gulliver tied down by a bunch of Lilliputians in this agreement, and that it was time to recognize history and go their own way, and do it in an orderly, planned way. They have hired a consultant--I don't know his identity; it may be confidential still--who has

laid out plans for them for some years to make a gradual change. I am informed informally that there is an interim very modest agreement for a working arrangement during this transition.

But once they made that decision, they also decided they really didn't need a mediator any longer. But they are not going to court, which is what I wanted to have happen, and they are working together as the legal defense fund goes its merry way to become a different organization--the same organization with a different name. Maybe the John Muir Legal Defense Fund or something else. Maybe they don't know what they are going to call themselves ultimately, but it worked. And I charged them for it; I got paid for it. I charged them \$250 an hour and told them, "I'm not going to do this for free because then you won't take it seriously." They split it between the two organizations.

I think both organizations are going through terrible budget problems because of the recession. Eleemosynary giving has fallen off very sharply, and the idea of no longer paying somebody to do something that they now are in a position to do themselves makes sense.

So I think it was successful. The resolution was different from what I thought would happen, but I had intuitively seen that this was the way they were going to go a year ago and proposed the name change. They weren't ready at that time. But as the reality of thirty-five pages of entangling limitations on their freedom began to sink in, they went along with what my intuition had been a year before.

Lage: Did you sense that this was a philosophical difference, the defense fund maybe being more bold than the club?

Pesonen: Well, sure they have different missions, and there have been different ways of operating. The legal defense fund is a staff-driven organization with a professional staff, mainly lawyers. The Sierra Club is a much more political organization with an elected board from across the country. They are contested elections; they have a far wider agenda; and like any organization of 600,000 members with as big an agenda as the environment, is more cautious and less focused in its operations.

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Lage: I know that the spotted owl-ancient forests issue has created a certain controversy within the club also. I haven't gotten the full story on that one. [See oral history interviews with Sierra Club leaders Phillip S. Berry, Michael L. Fischer, and Edgar

Wayburn, in process, for more information on the ancient forests issue and the conflict with the Sierra Club Legal Defense Fund.]

Pesonen: I don't have a full story on how much that's a controversy within the club either. But each institution has its own identity, which is an outgrowth of its history and accidents of who was there to shape it. Emerson said, I think, "An institution is the lengthened shadow of one man." He said it before modern times when women led organizations as well. There is some truth to that. The legal defense fund was the lengthened shadow of Rick Sutherland, who had a particular world view.

Lage: How would you characterize his world view? Was it distinctive?

Pesonen: Irreverent towards big business and government, gutsy, courageous and shrewd, not very compromising, not willing to compromise unless he didn't have much choice--

Lage: That probably wouldn't work well within the Sierra Club organization itself.

Pesonen: No, they both have their strengths. I think the club wouldn't be as strong and effective an organization if it were an Earth First! militant, no-compromise--. As a matter of fact, it would lose a lot of its members and a lot of its support and a lot of its power. There's nothing invidious in that comparison. They were just different kinds of institutions, and once the legal defense fund was large enough to have a sense of its own self and its destiny and institutional integrity, it was inevitable that there would be some discordance. I think some of it might have had to do with personalities. Rick could be abrasive.

Lage: Was Rick also a friend of Phil Berry?

Pesonen: Oh yes. Old friend. Although there were strains developed out of this. And Mike Fischer, who was the executive director of the club, he and Rick didn't get along together at all, so that may have exacerbated it. But it probably would have happened anyway. It just made my job a little harder.

Lage: Was Mike Fischer involved in these negotiations?

Pesonen: Very much so.

Lage: How did you feel he worked? Did you have a chance to evaluate him as a--?

Pesonen: I think he's an effective administrator. That's a very difficult job. I think working for the park district board was a piece of

cake probably compared to working for the Sierra Club board. [laughs] There's nothing like working for volunteers because volunteers' only reward is their psychic reward, their ego reward. That's sometimes a lot harder to satisfy than a good straightforward financial reward. They are also more erratic and difficult to read.

Lage: What was Sue Merrow's role? I'm going to be interviewing her for the Sierra Club series.¹

Pesonen: She's now the mayor, or first selectwoman of a little town in Connecticut.

She very much wanted the dispute to be resolved, and she worked very hard to see that that happened. She had hoped it would happen while she was president. Phil had hoped it would happen while he was president, the following year. It's a measure of how intractable the problem was that it didn't happen during either of their presidencies, although neither did they end up in court suing each other during either of their presidencies. And I don't think they are going to end up in court now.

The State Farm Sex-Discrimination-in-Hiring Case: Managing the Remedy Phase

Lage: Let's turn to your role in the State Farm case now, if we haven't carried on too long for your attention and patience?

[tape interruption]

Pesonen: I think as I mentioned at the last interview, in the fall of 1987 I was pretty sure that I didn't want to stay at the park district, and I got a call from Guy Saperstein--his firm then was named Farnsworth, Saperstein, and Seligman--asking me if I would be interested in leaving the park district to manage the *Kraszewski v. State Farm* case, about which I knew very little. I read a little bit in the papers over the years, and I was acquainted with Guy Saperstein and had followed his career. He suggested some things I could go and read to find out more about it, including the decision in 1985 by District Judge Thelton Henderson finding State Farm liable for sex discrimination in

¹Susan D. Merrow, "Sierra Club President and Council Chair: Effective Volunteer Leadership, 1980s-1990s," 1994.

recruitment and hiring of its sales force. It's a very long decision, and I read the decision, and it was fascinating. It was a very thoroughly tried case and a very thoroughly decided case.

So I told Guy I would be interested.

Lage: The decision was made and you were going to manage--?

Pesonen: The remedy phase. In the fall of 1987, Guy was quite sure that by early 1988 the court would approve a consent decree defining the system and the procedures and the standards for selecting class members who would be compensated. The original trial had been brought by only three women, but on behalf of thousands who had suffered discrimination in seeking the State Farm agent positions with the company. So I told him I would be interested. I didn't tell the park district board that. I did tell Jim Duncan, who was president of the board, that I was looking into this possibility, but that I didn't know if anything would come of it.

So over several months Guy and I started negotiating an employment agreement for me to be managing attorney of the claims procedure. Then at one point when I was fairly confident that Guy and I would be able to work something out--and the prospect looked fascinating; it was a fascinating management problem--I told the board that I was considering leaving, and I wanted to negotiate a severance package. I negotiated both agreements simultaneously with a target date of March 15 [1988] to leave the park district, which was the day that Judge Henderson approved the consent decree. That slipped a little bit, and I think it was April 1 when I left the park district and I started with Guy.

When I started, we were at 505 14th Street, and I didn't even have an office. The firm had leased a floor in the building, or most of the floor in the building, which hadn't been built out. So it was being built out when I got there. My office was a table in the library on the eleventh floor, and the whole Kraszewski case was going to be managed on the eighth floor. The computers all had to be hooked up, and the phones, and the staff had to be hired. The first thing to do was to go out and hire a bunch of people, paralegals and lawyers.

Lage: Did this make the firm a lot bigger?

Pesonen: It immediately doubled the size of the firm. It ultimately tripled and quadrupled the size of the firm. Ultimately, there were at least thirty lawyers working on this project alone, and then, of course, there was a lot more support staff and a lot

more paralegals. But when I started out I had the consent decree, I had space that was being filled up, 103 bankers' boxes of documents pertaining to male State Farm agents, not organized or anything, and the prospect that a year and a half or two years later we would start litigated hearings for each one of the approximately 1,000 women that we selected as final claimants and clients.

The whole thing was laid out in the consent decree, and it wouldn't be fruitful for me to simply describe each detail. But it was a very comprehensive private legal system--the judges were called special masters appointed by name. The elements of proof that each woman had to establish for her entitlement, the formula for what damages she would recover in back pay and front pay--

Lage: That was all set out?

Pesonen: It was all set out. The first thing that happened was that notices were sent out to 70,000 women that they had an opportunity to be considered in this process. Out of that, about 6,500 responded in a timely way and filed a little form.

Lage: Who were the 70,000 women?

Pesonen: They were all women who had any kind of employment contact with State Farm since 1974.

Lage: You got records of people who had come in for interviews?

Pesonen: Yes, State Farm had to mail this notice out.

Then, out of that 6,500 we would select up to 1,193, I think, which was the number of male agents appointed during the period covered by this case going back to 1974. The theory of the consent decree was that we would challenge each male appointed with a woman, on the theory that a woman should have been appointed. We knew that we wouldn't prevail on all of those, but that was the maximum number, because the pleading, the document which finally established the final claimants' right to go to a hearing, was a claim form which named a male agent, the date of his appointment, who he was. We had his file, and we would then go to a hearing and establish that the woman was qualified and would have been appointed in the absence of State Farm's discriminatory policies.

Lage: Did you have to pick a woman who applied about that time?

Pesonen: Yes, it had to be a woman who applied within that time period or had been deterred from applying in that general time period.

That time period was very specifically laid out in the consent decree also.

Well, I developed a plan, hired the staff, did the training, set up some systems for numerically ranking the strengths of each one of these people. There were some tests that they had to take. We had to organize all of that all over the country.

Lage: You ran a kind of an employment bureau.

Pesonen: It had some qualities of that. These tests were given in high school auditoriums so we could monitor them. State Farm administered the tests and the state Department of Insurance administered some of them, and we would be there to answer questions from the women and had the staff all over the country going to these meetings. There would be a whole auditorium full of 100 to 200 women taking this exam to get into this process.

We boiled that down to about 1,400 from the 6,500 who had responded to the mailing. Then we interviewed every one of them in a lengthy, structured interview, made a report, developed a numerical ranking system, established their time periods, then filed final claims for them and started into the trial process.

Lage: Now, was there a precedent for this way of handling a case?

Pesonen: Not on this scale. It had never been done before, and I suspect it will never be done again. [laughter] Because it got very expensive, and it was very stressful. It was just as stressful for State Farm as it was for us; maybe more. It was certainly more expensive for them. We had heard that it was costing them about \$30 million a year just to defend against what we had set up.

Lage: They already lost on the consent decree?

Pesonen: They had lost on liability; it was established that they had discriminated against women as a matter of law.

Lage: But then they were fighting the amounts?

Pesonen: We had to find out which women. Each one of these women who went to hearing to prove the specific elements had to show that she was an actual victim of the discrimination, not just somebody who walked in off the street and filed a piece of paper. Those were very intensely litigated hearings. State Farm's attorneys, Morrison & Foerster in San Francisco, threw everything at it. It was a scorched earth defense as Guy Saperstein describes it.

Lage: Did you argue those cases or did you manage everybody else?

Pesonen: I argued some. They were tried, we called witnesses, had depositions, put in exhibits, wrote briefs and got decisions. I ended up trying nine out of about seventy that went to hearing. I won five, I lost two, and two are still awaiting decision; I don't know how they are going to come out.

Lage: And how about the other sixty-one?

Pesonen: We were winning about 45 percent of those that were tried; they were settling half, and of the half that went to hearing, we were winning about a little less than half of those. If we won at each one, it was roughly \$700,000 to the claimant and another couple of hundred thousand dollars of attorney's fees on top of that for all of the work we put in. Over time, it became apparent to State Farm that this process would go on until maybe 1998 and the value of each claim was increasing with time because of an accumulated back-pay formula with interest so that the claims that would go to hearing in the late 1990s would be worth over a million dollars a piece, and we had 800 of those left, roughly. So an overture to try to settle all of this was made last fall.

Lage: By State Farm?

Pesonen: By State Farm. And in about September of '91 through January of this year [1992] we negotiated a very comprehensive settlement program which gave each woman less than she would get if we went to trial and won, but with the certainty that she'd get it. The condition was that 87.5 percent of about 821 cases remaining had to accept it or it was voidable. It ended up that 89 percent accepted the offer.

Lage: So they preferred the certainty?

Pesonen: Well, it was a healthy chunk of cash. No woman got less than \$135,000, and most of them got up in the range of between \$150,000 and \$200,000. Some over \$200,000, depending on the year of the challenged appointment. So the total was \$157 million and 814 out of 821 accepted that. The other seven felt that they had such good cases they would go for the full value, and State Farm immediately settled two of those for full value, which was a lot of money. The others are settled, all but one, which is going to go to trial in July of this year. Then there are ten or twelve that were tried before the settlement that are awaiting decision from the special masters. So it is just about wrapped up. It will be wrapped up by this fall. Now the total amount recovered for the women is going to be over \$200 million.

Lage: How about the total amount recovered for the law firm?

Pesonen: Well, that I'm not at liberty to say, but it's a lot.

Lage: There is always the popular perception that the lawyers are the ones who win in these cases. Do you think that's justified?

Pesonen: The lawyers did very well. The lawyers are not complaining. But when you consider that Guy Saperstein started this case sixteen years ago and had to take the risk of all of the overhead, hiring all of the people and building a new office, taking on the enormous liability of possible malpractice if anything were mishandled in this claim procedure, he's not been overcompensated in my opinion. He's a wealthy man after this case, and he should be.

Lage: Does he have to adjudicate his own compensation?

Pesonen: No, that's part of the deal. But I don't know any lawyer who would take that kind of risk for that long. There were periods when he had three mortgages on his house to finance this case, to keep it going, and long periods of time when he was deeply in debt and didn't get paid at all. And I'm sure he went through a lot. It's the American way. I mean, it's a gamble.

Lage: Was the law firm always in the field of sex discrimination?

Pesonen: Civil rights, which includes sex discrimination; it includes race discrimination, and the firm now does nothing but a lot of class actions against large employers. Several cases going against large grocery chains for sex discrimination in the promotion and hire of their clerical or management staff. We have one huge case going in the South against a restaurant chain for race discrimination. We are starting to move more--we are hoping at least--to move into large environmental cases.

Lage: And these will also be large class actions?

Pesonen: Well, not necessarily class actions, but large cases involving lots of money and lots of--. Well, they won't be just your little not-in-my-back-yard garbage dump cases. We don't know exactly what they are going to be yet, but they could be large toxics cases, toxic contamination, air pollution, water pollution.

Lage: Is that what you are going to go into?

Pesonen: That's what I'm supposed to go into. I'm just starting to work on it.

Lage: What will that involve?

Pesonen: Well, it's never been done before on this scale. Most of these large class actions settle with a formula. The defendant puts up a chunk of cash, which could be a lot of money. Then people come in and file a form and get a little piece of it. They usually get ten cents on the dollar. In the State Farm case these women were close to being fully compensated, but they had to go through this ordeal to reach that level of compensation. It is certainly the largest amount of money ever recovered.

Lage: Was this Guy Saperstein's idea that it would be done on such an individual basis?

Pesonen: Yes. Well--

Lage: He put it across to the judge?

Pesonen: There's a U.S. Supreme Court precedent. The case involved a teacher's union versus the United States in 1977, I think, which reasoned that when the injury is as personal as sex discrimination and as individual to the victim, that an individually tailored remedy for each member of the class was preferred to a formula distribution. A formula distribution is favored in cases where the amount of recovery is small and the injury is fairly economic, such as antitrust violations, for example, where you are overcharged \$1.50 for a pair of Levi's or your bank overcharges you \$1.50 for each bounced check, that sort of thing.

It doesn't make sense to go through this kind of process for that kind of case, but where you are deprived of a career path that could be very lucrative--you know these State Farm agents make a lot of money--and shunted off into a clerical position or some other career path, it is really a distortion of what your life would be but for this illegal conduct. We are talking about something a lot more personal and a lot more freighted with emotional and identity issues, and a lot of money. That's the only place you make your money, is your work.

Lage: And, on the other hand, each woman had to show that she was a potential hiree?

Pesonen: That's right, and that she had the qualifications and the interest.

Lage: It sounds very interesting. Did you enjoy working on it? It must have been a great management problem.

Pesonen: It was, but I loved it. I love big management problems. I love new challenges. This was an unprecedented challenge.

Lage: How did it compare with managing the Department of Forestry or the regional parks in terms of just the management?

Pesonen: Well, those were public agencies. They are subject to a lot of rules and constraints. The Department of Forestry, managing it is 80 percent people and motivating, training, selecting, and guiding. The rest of it is inspiration and leadership. The mission here was very clear, simple, and straightforward. The mission of a public agency often is very diffuse. They have many missions--

Lage: And many more complications?

Pesonen: --and many more complications, but in the personnel area there are many more constraints, too. You can't just go out and hire people who you think would do a good job, you have to go through the civil service system, deal with unions; in the state you are completely stuck with the civil service system except in very rare instances. Here we could just put ads in the legal newspapers that said we want lawyers with certain minimum qualifications, and then we interviewed hundreds to select the correct staff. So at least the recruitment and hire part is far different from public agencies. The personnel management, a lot of it is the same. It is just common sense. You treat people fairly, compensate them fairly, give them some sense of self-worth about what they are doing, some clarity about what is expected of them, and they do a good job. They really did a good job on this case.

Lage: That's a good place to end. Shall we cut off now or do you have anything else you want to say?

Pesonen: No, I don't think so. I'll probably think of something when I look at the transcript.

Lage: You can add it then.

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LETTERS TO THE EDITOR

Atom vs. Nature at Bodega

Editor — Harold Gilliam's article "Atom vs. Nature at Bodega" (This World, February 11), described how one of the few harbors on our almost harborless Northern California coast is going to be hacked and filled and finally disfigured by an atomic power plant. How a great, brooding California headland, sea-girt and of ancient granite, will be given a profile like neighbor Richmond and its gas tank. How a large State park at Bodega has been killed, and a county park will be made to engorge steel towers and the familiar droop of transmission wires.

Nearly a quarter century ago, I fished for some days running outside the Tomales Bay bar. Bodega Head lay to the north, enveloped in moods and mists like a cape thrust into the Irish Sea. I never closed with this headland and indeed remoteness seems much of its character. Even today no highway has ever been scratched in angular survey down its soft contour. And a bay filled with fishing boats intervenes between it and the nearest gathering point of the automobile.

Conservationists from the State Park Commission and the National Park Service came in the last decade to walk among the lupine and decide that this should be a public preserve.

But about the same time came men of a different type. They too walked out on the point and gave it the triumphant glance of demigods.

I am reconstructing. These men are engineers from a public utility, and as a member of the public it is my privilege and duty to speculate. The scene shifts to the home office:

"Our engineering boys think we ought to grab Bodega Head."

"They do? (low whistle) That might be a little rough."

"Why? Why more than Moss Landing or Humboldt Bay?"

"Well, it's more scenic. There will be more protest. The State park people and the national park people are already on record for public acquisition."

"Our engineers say we need it.

We'll just buy, fast. Get in ahead of them. It's legal."

"Well . . ."

"What we can't buy we'll condemn."

"What about public protest. This one could get a little noisy."

"Keep it at the county level. Or try to. Every service club in every town has got our people in it rubbing shoulders. In the country, opinion is made at the weekly luncheon . . ."

"How about the newspapers?"

"It's the local businessmen who buy the space. Oh, I don't say we haven't got some work to do. But these guys have got other things on their minds — they're scratching out a living."

"Have you got an angle? I mean apart from the fact that we want it."

"Oh, sure. We'll get out some releases and speeches on how the county tax base will be improved. We might even try calling it a tourist attraction."

"And the county officials?"

"They're o.k. We'll set the tone up there and they'll respond to it. Just as elected representatives should. Oh, you might get some idealist . . ."

What is the matter? Why do these things come to pass?

The answer is simple. Our engineer demigods are obsolete.

The idea of shaking their pedestals to see if they will topple over has only lately come upon us. (A covey bit the dust lately when the Tiburon Bridge was canceled.)

The engineers of this public utility may find that their callousness has crested at Bodega Head. Just as the Toll Bridge Authority engineers crested with the bridge that sags frugally from Richmond to San Rafael. Or the highway engineers with the two-deck freeway that spoils the Embarcadero.

An atomic plant doesn't have to be built at Bodega Head. Without any expertise whatsoever, I can make that statement categorically. It is just a matter of whose engineers you listen to.

Engineers have amazing re-

sources. They have been able to prove that it is mechanically impossible for a bee to fly . . .

"You can't lick the biggest 'city hall' of them all . . ." wrote Ed Mannion in his column in the Petaluma Argus-Courier on February 17, pointing out that two friends, one a member of the county grand jury and the other a prominent newspaper reporter, had urged him to give up the fight.

Well, Ed, you can lick them. If everyone reading this would take five minutes to write a letter they would be licked. But a licking is not what to ask for; regulation is sufficient — regulation in the full breadth of the public interest. We have a Public Utilities Commission charged with doing just that.

KARL KORTUM.

San Francisco.

FEPC Progress

Editor—To correct the impression readers may get from your report of results obtained by the California Fair Employment Practice Commission ("Progress Report by State FEPC", March 8) may I explain that the agency has reached a determination in more than 1000 cases as to whether the evidence indicates discrimination in employment on account of race, religious creed or ancestry.

In 36.6 per cent of those cases such evidence was established and corrective action taken. In the remaining cases, there was insufficient or no evidence and the cases were dismissed.

FRED GUNSKY.

Information Officer, FEPC.

San Francisco.

'Living Future'

Editor — The resumption of atmospheric tests is merely a symptom of our failure to reduce world tensions. It is unrealistic to blame each new step in the arms race on the malevolence of the Russian leaders . . .

Negotiating means give and take, and this process might force us to give on some positions, but the result could be a better world because we could reasonably expect a living future.

MIRIAM M. HAWLEY.

Berkeley.

By David E. Pesonen

The Battle of Bodega Bay

BODEGA's headland is a bold arm of granite curving into the Pacific Ocean about fifty miles north of San Francisco. It curls around Bodega Harbor and protects the fishing village of Bodega Bay and the fleet in the harbor from the heavy wind and surf that beat against California's northern coast. Since the main north-south highways run far inland at this point, the Bodega area was, until recently, relatively little known among scenic attractions of the Pacific shoreline. But never again will it be a sleepy, remote, wildly beautiful place off in a far corner.

On March 7, the state Public Utilities Commission opened hearings on an application by the Pacific Gas and Electric Company for a "certificate of public convenience and necessity" to construct a \$64 million nuclear fueled electric generator at Bodega Head.

The hearings took eight days, spread over a four-month period, during which the utility argued that Bodega Head is an attractive site for a nuclear reactor for a number of reasons—some ostensibly technical, but at the root mostly economic. The headland's close proximity to the growing San Francisco Bay Area would assure low power transmission costs. Harbor facilities for transporting fission products are ideal. And since present reactors gulp great volumes of cooling water, Bodega Head, the Company asserted, is about the only site in the region where cheap intake and outlet structures are feasible. If built, the Bodega Bay plant would be a "breakthrough" for private capital. It would, according to Mr. N. R. Sutherland, the Company's president, "produce electricity . . . as economically and as reliably as available conventional fuels."

Opposition to the plant was vigorous, widespread, and at times acrimonious. Bodega Head is a seismic stepchild of the San Andreas Fault. It is a block of granite separated from the mainland by this greatest of the Earth's rifts, and it appears to have arrived where it is through movement along this fault. Understandably, residents of the town of Bodega Bay are uncomfortable at the thought of a nuclear reactor virtually in their front yard, on the skirts of the same fault which heaved in the 1906 San Francisco earthquake. Further, the excavated granite would be used as fill for a heavy duty road to the plant along the Harbor's tideland, obliterating the rich clamming grounds and endangering the fishing fleet during heavy weather. Powerlines from the plant are mapped to stream across the harbor mouth, down the length of the county's Doran Park, a sandspit which defines the southern border of the harbor.

The University of California, which is

now in litigation to condemn a strip of property next to the P.G.&E. holdings for a marine research station, took a neutral stand at the hearings. Despite a parade of marine biologists who testified that the temperature and radiological effects of the plant would certainly affect local marine life (to an unknown degree), the Chancellor's representative at the hearings told the Commission that the University "neither supports nor opposes" the power installation. He added that the plant would not "render the [marine] site unusable." But he declined to state whether the marine station would be a better research facility without the reactor next door.

Although the State Division of Beaches and Parks had planned in 1955 to acquire all of Bodega Head for addition to the state park system, all interest was withdrawn in 1958 for lack of county enthusiasm and because the area had been "spoken for." The Division's representative at the P.U.C. hearings took a position similar to the University's. Although he testified that the State's interest was lukewarm because enough of the Bodega-type shoreline was already in state ownership, under cross-examination he could cite no comparable area.

The Sierra Club's opposition to the plant was based on two principles: (1) The alternative uses of Bodega Head are of higher value than the proposed plant and would by their nature preclude its construction, and (2) The cost of power is an inadequate measure for determining "public convenience and necessity" at Bodega Head. The Company already runs three plants along the coast; the Bodega plant would be the fourth. "The future demands for energy are going to be too great for the public to wish a series of precedents that would result in the systematic picking off of irreplaceable scenic and recreational sites for power genera-

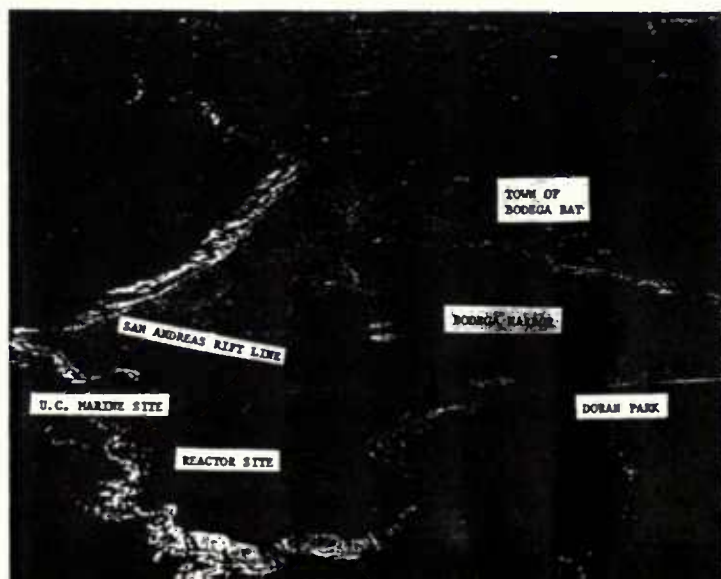
tion," the club's statement said. "One kilowatt hour looks just like every other kilowatt hour, and this energy should come from the transformation of common resources, not from the transformation of unique sites."

The statement of the Sierra Club argued that "it is not really a 'breakthrough' at Bodega Head if no other site is competitive. This would merely demonstrate the peninsula's uniqueness. It is of questionable economic value, in the advancing technology of nuclear electric generation, to demonstrate that only with the most fortuitous proximity of bay, ocean, and peninsula can the nuclear process be competitive. A comparable situation would be to have the utility allege that only by using Yosemite Falls could it build a competitive hydroelectric plant, and then claim a 'breakthrough' by building a plant that would require using up this unique resource. Engineers can surely do better than this. They must."

Unless startling new evidence is uncovered, no further hearings will be held by the Public Utilities Commission. The final decision is not expected until late in the summer, after the Company provides some additional seismic data requested by the Commission's staff, and after the Commission members convene formally to assess the eight-volume record of testimony at the hearings. A great many complex technical questions remain to be answered before a final decision is rendered.

The club's statement concluded: "The public is entitled to know how much more an individual's monthly electric bill will be increased—or decreased—by using alternatives. . . . If there were [no alternatives], the public might very well be willing to buy a little less electricity each month in preference to destroying a scenic resource that is the last of its kind on a coast that belongs to the world."

Bodega Bay
looking north.
John LeBaron
photograph



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ANN LAGE

B.A., and M.A., in History, University of California, Berkeley.

Postgraduate studies, University of California, Berkeley, American history and education.

Chairman, Sierra Club History Committee, 1978-1986; oral history coordinator, 1974-present; Chairman, Sierra Club Library Committee, 1993-present.

Interviewer/Editor, Regional Oral History Office, in the fields of natural resources and the environment, university history, California political history, 1976-present.

Principal Editor, assistant office head, Regional Oral History Office, 1994-present.

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