

6-1-48?

Judge Named to Hear Dam Case

Superior Court Judge J. T. D. Warne of Tuolumne county has been assigned to hear the county's million dollar suit against the Donald R. Warren company, Phil J. Gibson, chief justice of the state supreme court announced today.

Judge Warne will sit in Ventura, and the hearing will be conducted without a jury.

WARREN DENIES CONTRACT BREACH

Blame Placed on Flood Board, Ryan

THE Donald R. Warren Engineering company flatly denied today that it had breached its contract with the Ventura county flood control district and then gave reasons to support its contentions.

In the long awaited answer to the flood control district's million dollar damage suit, the Warren company asserted that at no time, prior to February, when the company re-

signed as engineers on the Matilija dam project, did the flood control district supervisors indicate any breach of contract.

The company further pointed out that under the terms of the contract, the agreement could have been terminated by payments of all costs plus 15 percent for overhead.

The flood control district's assumption that the dam cost \$2,067,544 is incorrect, the answer charges. The company's claim is that the dam costs, as of Feb. 1948, were only \$787,599 above the low bid of the contractors.

BOARD BLAMED

Additional costs on the dam were laid at the doorstep of the supervisors by the company which alleges that: \$419,248 resulted from the failure of Robert Ryan, county surveyor, to excavate abutments and sink shafts for foundation tests as the company had suggested; that \$156,000 was for additional work ordered by the California State Bureau of Dams; that \$286,000 was for contingencies provided for in the contract.

As for work on the dam foundation, the company did not know where bedrock would be found and so informed the flood control district supervisors, the answer contends. Under these conditions the company could only assume the location of bedrock, and marked all of its plans "assumed" as far as the location of bedrock was concerned.

CHANGES APPROVED

The changes in the plans of the dam to make it conform to the geological formations of the land as developed during excavation were approved by the flood control supervisors, the answer charges. The company pointed to the suit of Contractor W. E. Kier against the district in which Judge Paula Valle said that the construction work of the dam was not different from the plans, but merely adapted to the geological formations of the land.

The company charges that the contract was "at all times subject to the direction of the board of supervisors: that the Warren company was an employe of the board and not an independent contractor who undertook to deliver to the district any given result, but were required to serve plaintiff as employes and to render their best skill, judgment and advice on the project."

LOCATION SET

The dam location and the type of dam to be constructed was set by the terms of the bond election which raised the money to finance the project, the company charged. Under the terms of this election, the company was bound to build a concrete-arch style dam, the answer continues.

Time and time again the company hammers home the point that it recommended the stripping of the abutments and sinking of shafts: that this work was authorized by the flood control board; and that it was not done satisfactorily.

The company's contention, as far as foundation work was concerned, it was required to do only two things: (1) make foundation investigations, (2) and field and construction surveys to determine adequacy of foundation strata.

PICKED SITES

John W. Buwalda, Cal Tech geologist, was selected to pick sites, make recommendations, the company contends. He selected spots for the dam and recommended abutment stripping and shaft sinking. As this work was not satisfactorily performed, the overburden of the foundations was not known, the company asserts.

Final plans for the dam were (See BOARD page 2)

Board, Ryan Get Blame In Dam Suit

(Continued from page 1)

made with the assumption of bedrock locations and that the supervisors knew this was the case, the answer contends. For this reason the construction work was let on a "unit price" basis, it continues.

On April 23, the company stated, it informed the supervisors that the final cost of the dam would be about one million dollars. This estimate was later raised to \$1,800,000 by the company and that this new figure was approved by the board, Ryan, and the zone one advisory committee. It was also stated, the company said, that the cost would hit two million if construction work dragged over to January, 1948, the answer avers. In the face of these figures, work proceeded.

ERROR FOUND

As for breach of contract, the company contends the agreement could have been terminated in October, 1946, when it was discovered that the company's estimate of bedrock level was in error, the answer stated.

The company also denied that it stated that the terms of the contract had been fully complied with or that all necessary exploration work had been done to provide the most suitable type of dam and most economical structure.

The flood control district's assertion that it had been damaged or that the plans the company submitted for the dam did not or do not meet the requirements of the state division of dams were categorically denied.

Over

June 10, 1948

Engineer Firm Seeks \$178,848 Damages

Files Counter Claim

IN answer to the Ventura county flood control district's action over Matilija dam, the Donald R. Warren company of Los Angeles today filed in superior court a cross-complaint, asking that the district pay the company and its owners \$178,848.50 plus interest instead of the company's paying the district \$1,236,000.

The Warren company, which withdrew from zone one's dam building project Feb. 6, 1948, at the request of county flood control district supervisors, names the district as cross-defendant in its cross-complaint action and seeks the funds under terms of the contract signed between the supervisors and the company on Dec. 26, 1945. The cross-complaint is filed in the name of the Warren company and its three partners—Donald R. Warren, his son, Donald F. Warren, and Carl E. Nelson.

The company alleges it should receive \$116,787.03 for final plans and specifications for Casitas dam and the Matilija-Casitas conduits, \$51,186.91 for final fees on the estimated or construction costs of Matilija dam, \$8,353 for purchase of equipment and supplies, for special reports and services of consultants and \$2,520 for use of employes by the district after the Warren company contract was terminated. It also asks that seven percent interest be added in each amount from April onward.

LEGAL BATTERY

Represented by a battery of attorneys—Walter J. Fourt of Ventura, Wright and Millikan and Hill, Morgan and Farrer of Los Angeles—the cross complaints hold the district supervisors accepted and approved final plans of the earth-fill Casitas dam and the conduit system but have refused to pay for the work.

A total of \$77,561.50 is due, the Warren company says, for the plans and specifications on estimated costs of the projects. In an attempt to substantiate their demands, the cross complainants assert the final plans were submitted to the county flood control engineer for verification and report, were approved by the supervisors and then were submitted to the state engineer, division of water resources for approval.

The Warren company also charges that the district, having use and benefits of the plans, also purchased land for the Casitas dam and conduit projects.

ADDITIONAL \$21,411.53

The cross-complainants further contend that \$21,411.53 is due for the final ten percent of the fees on Casitas and the conduit system since the district "without cause, justification or excuse" requested the cross-complainants to resign and thus terminated the contract before it was finished. The company also charges that, as a result, the company lost out on its promised 15 percent of the profit for consultant and supervisory services. Therefore, the cross-complainants say, the company is entitled to what would have been profits of \$17,814.

According to the cross-complaint, the district assertedly is obligated also to pay the Warren company \$51,186.91 more for the last 10 percent of fees for the construction of Matilija dam.

RENTAL FEE ASKED

A total of \$8,353.87 is asked for the Warren company's asserted rental of surveying and engineering equipment to carry on work (\$3,365.20), for \$1,000 for answering the report of Harold Burket on aggregate quantities used in Matilija dam, for \$1,000 for replying to the report of E. E. Everett on hydraulics in the apron area, for \$1,345.87 for consulting services of Dr. John P. Buwalda, for \$1,308.13 for consulting services of Consultant William P. Creager and \$344.67 for expenses in bringing Creager from Buffalo to Ventura.

The final \$2,520.69 is sought for asserted use of Warren company employes by the district after the district - company contract had been terminated.

McBride Awaits Unity

THE board of supervisors, the 1949 grand jury, the city of Ventura and other interested parties should get together within the next four or five days and work out an agreement if they want a bill on Ventura county flood control to be passed during the current session of the state legislature, Sen. James J. McBride said in a telephone conversation from Sacramento today.

The state senator from Ventura said he had so informed the interested parties and also told them that he would not support the present amendments as long as a controversy exists.

SPONSORS BILL

McBride has introduced a bill amending the flood control act by taking the power of flood district administration away from the board of supervisors and placing it in the hands of the county's four flood zones.

Since McBride's bill has been explained in the last few days the Ventura county farm bureau and the Santa Clara water conservation district have taken a stand endorsing it. The 1948 grand jury recommended such action as did a recent citizens committee. On record against amending the flood control act are the board of supervisors and Ventura City Manager Lawrence Olson.

McBride said today it is necessary to have quick action if the bill is to be passed in this session. He said the water resources committee of the state senate will not consider a bill of local character unless it is non-controversial.

DELAY LOOMS

The state senator said that if the bill is not passed in this session it is not likely that any flood control legislation could be passed until 1951, as the 1950 session of the state legislature is a budget session.

McBride also explained that he introduced a skeleton flood control bill in January. He said it was designed as a "carrier bill" in order to leave the way open in the current legislation for any amendments that may be desired.

He said he added the most recent amendments to get something started on the bill. McBride returned yesterday from Washington where he attended a meeting of highway safety called by President Truman.

Meanwhile, Assemblyman J. B. Cooke informed Western News service officials in Sacramento that he would not support McBride's bill in its present form.

Safety Report On Matilija Dam Is Given Board

An extension of the apron on the downstream toe of Matilija dam or the construction of an independent spillway is necessary before Matilija dam can store water to the full height of the dam, according to a report filed yesterday with the flood board of supervisors by Frank E. Bonner, consulting engineer from San Francisco.

Bonner was employed last August by the flood district consulting board to study the safety of the Matilija structure. Bonner, in his report, confined himself to two features of the dam: The adequacy of the arch structure to withstand the water load that will be imposed upon it; and the sufficiency of provisions for passing large flood flows over the dam with safety.

Bonner's study, according to his report, shows that the excellent concrete construction of the dam archway compensates for the slimness of the cross section. Even with silt accumulation, Bonner states in his report, the structure is safe against compression failure.

Bonner pointed out that the safety of the arch depends, however, upon whether the abutments and the foundation of the dam, as now fortified by grouting, prove to be tight and unyielding.

Boner said loads up to 1,100 pounds per square inch can be expected on the archway.

Regarding the spillway facilities of Matilija, Bonner explained that the Matilija plan contemplates passage of floods up to a maximum of 60,000 second-feet over the crest of the dam. "Admittedly," Bonner states, "a flood of such size would be very rare and of short duration."

He explained that a study of the last 20 years' runoff of Matilija creek shows an average of 26,500 acre-feet a year. A flood peak of 15,000 second-feet may be expected with an average frequency of once in every 10 years, the consulting engineer's report shows.

"The main question," Bonner says in his report, "is whether (See Bonner, Page 2)"

Both articles
same ~~day~~ page in
1949 BINDER

Bonner Files Report On Matilija Dam

(Continued from page 1)
the stilling pool at the downstream base of the dam provides adequate protection against undermining of the dam structure at the downstream toe."

If it doesn't, Bonner suggests extending the apron and thickly paving the stream channel downstream far enough to effect a cut-off wall connection to sound rock formation. The cost of such a project, Bonner states, would be substantial.

The other alternative, according to the report, is the construction of an independent spillway. Bonner suggests a tunnel around the right abutment, starting with three bays 45 feet wide with tunnels 10 feet in diameter, converging into a single concrete-lined tunnel, 16 and one-half feet in diameter extending about 650 feet to a junction with Matilija creek above Matilija hot springs.

The project which would discharge about 16,000 second-feet, would cost about \$670,000, Bonner estimates. He points out that it would reduce the capacity of the dam 1,200 acre feet. The installation of crest gates, to preserve the full capacity of the dam would cost an additional \$60,000.

The board accepted the report without comment.



A BIG ONE—State fish and game warden John Spicer exhibits one of 2,000 trout planted in Matilija creek yesterday. The fish averaged two pounds each, T. A. Clanton, assistant supervisor of southern California fish hatcheries, who witnessed the planting, stated, with some of the beauties weighing as much as four pounds.

6/8/49

June 23, 1948

Warren Asks For Full Dam Storage

THE Donald R. Warren company, ousted Matilija dam engineers with whom the county flood control district now is in litigation, has asked district supervisors to apply for approval of the dam and full storage behind the dam under provisions of the state water code.

The petition stating the request has been filed in superior court after being served yesterday on the supervisors.

The Warren company declares that the district's application to the state bureau of dams for acceptance of the dam and full storage and the submission of the question of the dam's safety are needed and that "an early official decision on such questions is an interest to all parties."

STORAGE OKEHED

It is contended by the Warren company that nothing precludes the bureau's certifying the dam's safety and acceptance and authorization to store water except for the district's application. It says no storage above elevation 1050 has been granted because the district has made no application for storage beyond that elevation.

According to the Warren company, if the district fails to submit the question to the dam bureau the district during trial over the dam and its construction "must assume full responsibility for the failure of the bureau to officially certify to the safety and the acceptance of the dam."

The papers served on the supervisors further assert that unless the district meets the Warren company request the company will urge the court to bar any question by the district on the dam's safety or that the dam as planned and constructed was not done so in the manner and as required by the bureau.

REFERRED TO WAITE

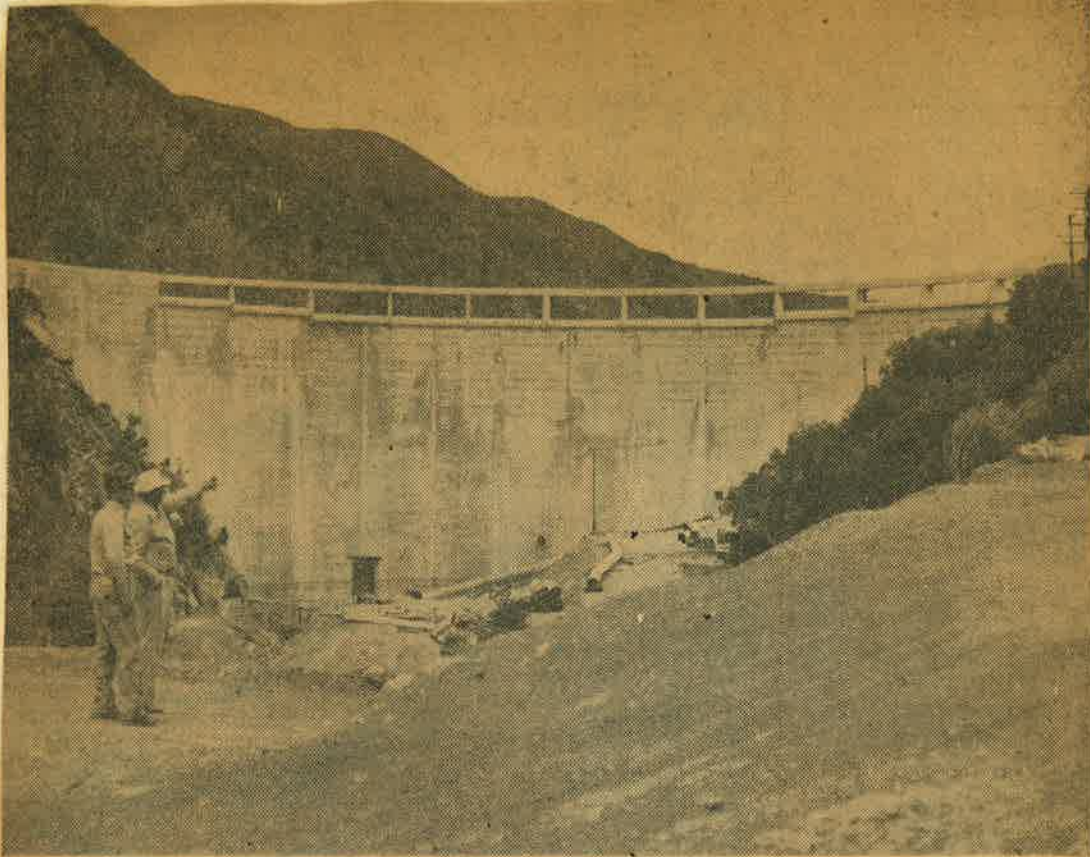
Supervisors referred the Warren company request to the district attorney and to Special Counsel S. V. O. Prichard for report and recommendation.

Before adjourning, supervisors made plans to hold a 2 p.m. Friday meeting with Consultants Harold Conkling and Dr. G. D. Louderback. They will discuss Matilija dam pipeline and water diversion plans and problems with Conkling and Casitas dam with both of the experts.

County Flood Control Engineer Robert L. Ryan told supervisors that surveys so far indicate it would be cheaper to divert water to Casitas dam from the Ventura river rather than from Matilija dam.

Supervisors gave Neil Stiver, zone one manager, permission to hire a dam tender and a night watchman for Matilija dam. Stiver told the board such a plan would be more feasible than to put on a day and a night watchman, as had been authorized by the board.

June 24, 1948
Thursday



Times photo

NEW PROJECT—Matilija Dam, Ventura County's first water conservation structure, is seen by officials as enhancing rather than diminishing recreational facilities of the area.

Matilija Dam Declared Benefit to Resort Area

VENTURA, June 24 ¹⁹⁴⁸ Construction of controversial Matilija Dam, Ventura County's first major water conservation project, has enhanced rather than damaged recreational facilities of the area, which include one of the oldest of the county's resorts, officials announced today.

Matilija Hot Springs has been leased for continued operation, officials explained. Its sulphur baths and plunge, plus its rustic beauty lying between rugged mountains, have made it a vacation spot for old-timers and newcomers alike.

The dam itself was built almost on top of the famous hanging rock of Matilija Canyon about which poets have written and upon which the traditional family snapshot was taken every year. An early county history refers to the hanging rock as a favorite trysting place for many horse-and-buggy couples.

Fish Ladder Built

The resort will have the added attraction of the trout-planted lake behind the dam. A fish ladder was constructed on the face of the dam to allow the fish to make their annual trek upstream.

While county officials seek the correct formula to take best advantage of the dam, the huge concrete structure continues to be of top interest to sight-seers and to water users who some day may share in its benefits.

The dam, 185 feet high and reaching from wall to wall of narrow Matilija Canyon above the picturesque city of Ojai, was undertaken by the county under a flood control district plan. The first estimates indicated the dam would cost less than \$1,000,000 to build. It was part of a two-dam project with connecting conduits and a bond issue for more than \$3,000,000 was approved by the taxpayers.

Lake Forming

However, Matilija Dam cost more than \$3,000,000 by itself and the second dam, Casitas, has not been started as yet.

On top of this, hydrologists now contend that the dam will hold only about one-third of the water originally expected of it.

A lake is forming behind the dam and the State has approved storage of water to slightly be-

low the halfway mark. However, the stream runoff is low because of the extreme drought conditions in the county and extensive storage is not believed to be possible for some time.