



# Lower Tule River

## Irrigation District

# LOWER TULE LEGEND

**SPECIAL EDITION**

Volume 5 Issue 14

October 2004

A Publication of the

Lower Tule River Irrigation District

1950-2004

### BOARD OF DIRECTORS

Ben Serafin

President

Division 2

Don MacMillan

Vice President

Division 3

Tony Simonich

Division 1

Gary Fernandes

Division 4

Robert Bowman

Division 5

Daniel G. Vink

General Manager

### INSIDE THIS ISSUE:

<i>President's Message</i>	2
<i>Success Reservoir</i>	3

# JUDGE SLAMS VALLEY FARMS!

## RULING THREATENS TO TAKE WATER FROM FARMS AND GIVE TO FISH

We've seen this before, watching from a distance: A power hungry, permanently appointed federal court judge arbitrarily deciding that fish take precedence over people. Only this time it is the farms, towns and businesses of the Valley that are impacted. This time the ruling has the potential to take away Friant water; your water.

In early September, U. S. District Court Judge Lawrence Karlton ruled that the operation of Fri-

ant Dam violates Section 5937 of the California Department of Fish and Game Code. In his ruling, the Judge said that the Bureau of Reclamation has the legal obligation to maintain the fishery below the dam in the same condition in which it existed prior to the construction of the dam. By all rational legal accounts this is a gross misrepresentation of Section 5937. However, if and until it is ever overturned, the Judge's ruling is now law.

The ruling is a result of a claim brought by the Natural Resources Defense Council, a well funded liberal environmental group who think nothing of filing claims from their high rise buildings in San Francisco against the hard working farmers and families of



Millerton Lake behind Friant Dam

the Central Valley. From their pious perch they clearly know best how to operate the water projects of the Valley (and it's not to benefit any farmers!)

Since 1988, the water districts of the valley have spent millions of dollars defending the case in an effort to protect the water that makes this desert bloom. For more than sixteen years, we have pursued every legal angle, spending four years in settlement discussions alone. It is expected that we will ultimately appeal the Judge's decision.

What happens next? While the Judge

*(Continued on page 4)*

# PRESIDENT'S MESSAGE

*EDITOR'S NOTE: GIVEN THE MAGNITUDE OF THE ISSUES FACING LOWER TULE, BOARD PRESIDENT BEN SERRAFIN HAS WRITTEN THIS PERSONAL MESSAGE TO THE DISTRICT'S LANDOWNERS.*

## District Fact:

**The cost to fight the NRDC lawsuit costs Lower Tule more than \$100,000 annually**

The issues facing the Lower Tule River Irrigation District are unprecedented in nature. Never in our fifty-three year history have we encountered two such significant threats to our water supply. I'm speaking, of course, about the recent court ruling on the San Joaquin River and the seismic problems at Success Reservoir. Taken individually, each has potentially devastating consequences for the landowners in our District. In combination, they represent the "perfect storm" of events which could lead to catastrophe for Lower Tule. The challenge now becomes managing the issues in such a way that they have minimal impact to our water supply and our way of life.

The court ruling will be dealt with primarily in the legal arena. We will engage in efforts to try to affect the outcome, through the legal remedies available to us, through public outreach and by bringing pressure on our elected officials. However, we must remember that ultimately the case will be decided in the courts and that is a crap-shoot at best. The judge in this case is biased against Friant farmers and has a long history of "being green." We will have the option of appealing any bad decisions but that will put us in the venue of the 9th Circuit Court of Appeals, one of the most liberal courts in the land. If

we are not successful there we can go to the United States Supreme Court. That again is a roll of the dice in terms of whether they will hear any case we present. We believe that we have strong legal arguments, but to date they have fallen on deaf ears.

As far as the problems at Success, those are physical in nature and can be fixed. The problem there lies with money and influence. We must succeed in getting the Corps to make the fix of the dam a priority and then must be successful in getting Congress to make available the almost 200 million dollars it will take for construction of the new dam. In this regard I am grateful that we have Congressman Nunes representing us. He has been a tireless advocate for the farmers in our District and can be counted on to push this issue with the Corps and with his colleagues in Congress. To that end he will need your support.

You can be confident that both these issues will be priorities number one for your Board of Directors, but we cannot do it alone. Throughout this process we will be looking to you for assistance, feedback and financial support. Please be ready to help in any way you can. Our homes, ranches and livelihoods are at stake in these fights. I assure you that we will come out swinging.

**Ben Serafin**

# ARMY CORPS: SUCCESS DAM MUST BE RECONSTRUCTED

## OPERATION WILL HAVE SIGNIFICANT IMPACT ON LOWER TULE WATER SUPPLY

After years of study including review by a team of world renown experts, the Army Corps of Engineers has definitively determined the dam at Success Reservoir does not meet national standards for seismic safety. The problem is complicated, but essentially involves soil stability in an area below the dam. It is projected that, in the event of a major earthquake, under full reservoir conditions, the dam could "slump" which might cause a larger failure in the main core of the dam. It must be emphasized that the statistical probability of a dam failure is very remote, but none-the-less represents a liability for the Corps.

### Solution

To fix, or remediate the problem, the Corps is evaluating the feasibility of building a new dam immediately downstream of the existing earthen dam. Once completed, the new dam would take the place of the existing dam. Construction of the new dam is dependent upon suitable bedrock conditions, approval by Corps Headquarters in Washington D.C. and appropriation of money by Congress.

The cost of a new dam is expected to be almost \$200 million dollars. While the project will receive priority through the Safety of Dams program, funding in an expedited manner is no guarantee. In addition, the local

districts will pay 1.4 percent of the cost of the completed project. The repayment period will be stretched out over a 30-year span. The timeline for the project is currently estimated at 5-7 years depending largely upon funding from Congress.

### Water Supply Impacts

Until the new dam is built, the Corps has determined that the old reservoir must be kept drawn down to eliminate the chance of a dam failure related to the seismic problem. So, for the immediate future, the total amount of water in the reservoir will not be allowed to exceed 29,000 acre-feet (the reservoir capacity is 82,000). Any inflow that puts the storage above 29,000 will be released regardless of the time of the year. The Corps has committed to allowing storage above the 29,000 in the event of rain flood provided that releases begin immediately to bring the level back down below the 29,000.

The temporary loss of storage space will have **dire consequences** for Lower Tule. In short, it will cut the summer irrigation water we now get from the Tule River by as much as 50,000 acre-feet on an average annual basis.

*(Continued on page 4)*

*"Till taught by  
pain, men  
know not of  
water's worth"*

*-Lord Byron*

**Lower Tule River  
Irrigation District**

357 E. Olive Ave.  
Tipton, California  
93272

Phone: 559-686-4716  
Fax: 559-686-0151  
Email: ltrid@ltrid.org

Web site: www.ltrid.org

Address

*Working together to meet your water needs now and into our future*

*Read the Judge's  
Ruling and  
Track Other  
District  
Information*



*(Continued from page 1)*

ruled that the operation of Friant Dam broke the law, he stopped short of offering a “remedy,” or solution. That will be the next phase of the trial. It is anticipated that both sides will call numerous witnesses to testify, providing the court with reams of data in an attempt to make their case. The remedy phase could also be sent to the State Water Resources Control Board who would then stage a hearing process, gathering information in the same manner as the court would. Regardless of the process, it will likely take several years to complete and cost both sides millions more in legal fees. In the interim, the Judge may order some water released into the river. An order from the court to that effect may come this fall.

Regardless of the final ruling, this is an important fight with an outcome that will have significant ramifications for the future of the Central Valley. Stripping even some portion of the water from this area

will have economic impacts that will ripple throughout the community.

There will be opportunities for you to get engaged in the process either through town hall meetings, supporting our legislative representatives who are fighting for our cause or helping to stage rallies in support of your water. We are engaged in a fight for our future, one we cannot afford to lose.

A handwritten signature in dark ink, appearing to be 'DJR'.

*(Continued from page 3)*

It will also impact the cost of water to District users. The Tule water is very cheap compared to the Friant Water we receive. Without the ability to blend the supplies in the summer months, the water rate will need to be higher in order to collect enough money to pay for the Friant water. In short, it will mean less summer water and higher costs. Look for more information as it becomes available.

The *Legend* is published by the Lower Tule River Irrigation District. Questions about articles and items appearing in The *Legend* are encouraged. Readers are welcome to submit information they feel should be included. Both may be submitted to Lower Tule River Irrigation District. 559-686-4716