

LOWER TULE LEGEND

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The Board of Directors meets on the second Tuesday of every month at 9:00 a.m. at the District office in Woodville. The public is invited to attend.

CONTRACT RENEWAL COMPLETE

DISTRICT NEGOTIATES 25-YEAR WATER SUPPLY CONTRACTS WITH THE U.S GOVERNMENT

In the early morning hours of Saturday, January 20th, Lower Tule officials met with representatives of the United States Government to sign a 25-year contract for water supply from the Friant-Kern Division of the Central Valley Project.

As reported in previous editions of the *Legend* Lower Tule, along with more than 100 other CVP contractors, had been spending the better part of the last 2 years in negotiations with the Bureau of Reclamation in an effort to secure long term water supply contracts. Lower Tule, and others in Friant Division, have been operating under interim contracts since 1998. The District's previous long-term contract was voided as a result of a lawsuit filed by the Natural Resources Defense Council (NRDC) in 1988. The lawsuit charged that the Friant contractors and the Federal Government violated numerous laws and procedures when they signed 40-year water supply contracts. Following the NRDC lawsuit, Congress passed the Central Valley Project Improvement Act (CVPIA) which specified provisions that were to be included in any future long-term contracts. From 1988 through the passage of CVPIA in 1992, the Friant Contractors fought the NRDC litigation and at the same time worked the Bureau to prepare the environmental documentation that CVPIA required. When the environmental documentation was completed in the summer of 2000, the District intensified the negotiation of long term water supply contracts with the Bureau of Reclamation.

Many times during the negotiation process, it appeared that both sides were so far apart on key issues that the likelihood of executing long-term contracts before the expiration of the interim contracts (March 2001) was remote at

timing was the change in presidential administrations. It was widely assumed that any contracts negotiated, but not executed, under the Clinton Administration could be put on a shelf by the Bush Administration for further review. Under that scenario, the contractors would have to restart the lengthy and costly negotiating process over and once again defer long term water supply assurance. It was the end of the Clinton Administration and their desire to finish a process they had started, along with the arm twisting of key people in the right places, that ultimately got both sides to a center point in the negotiating table. After a series marathon negotiations in early November, the Bureau and the Friant Contractors finally agreed to contract language that was then put out for a 60-day public review and

comment period. At the same time, the balance of the CVP contractors dug in their heels and decided to take a pass on long term contracts for the time being.

Through the public comment process, NRDC sent a strong message to the Bureau and the Friant Contractors that the contract as proposed would not be acceptable to the environmental community. It became further evident that the District, along with the other Friant Contractors and the Bureau, would be sued by NRDC if they proceeded with executing the proposed long term

contracts. At that point the Contractors and NRDC began a high stakes game of chicken. NRDC assured the Contractors that they would sue over the long term contracts while the Contractors assured NRDC that they would not include terms in the contract that were demanded by NRDC. The stalemate continued until the 11th hour when both sides agreed to leave the contract essentially unchanged in exchange for certain mutual assurances. Those assurances included commitments to NRDC regarding the San Joaquin River restoration that has been previously

"Our long history in the water business has taught us that these water contracts never get any better, regardless of who lives in the White House. The contract we have now is a good one.....it's time to move forward."

Bob Bowman
President
Lower Tule River Irrigation District

WATER SUPPLY UPDATE



Factoid:

Over the last ten years the cost of Class 1 water has gone from \$3.50 per acre-foot to more than \$40.00 per acre-foot.

*Lower Tule River I.D.
SPP Net Revenue
1995-2000*

- 1995: \$171,000
- 1996: \$185,250
- 1997: \$205,200
- 1998: \$304,785
- 1999: \$142,500
- 2000: \$65,550

Total: \$1,074,285

As was the case last year, the 2001 water supply is proving to be better late than never. While precipitation and water content data is still below normal for year-to-date, the outlook is much brighter now than it was a month ago. Lower Tule receives contract water supply from both the Tule and San Joaquin River. The Tule River water supply makes up about 25% of the Districts annual water supply

Tule River watershed data indicates precipitation to date at approximately 20 inches which is just below average. Average annual total precipitation on the Tule River watershed is 32 inches. Storage at Success Reservoir as of the end of February was 20,000 acre-feet which is consistent with what is allowed for under the flood control guidelines.

The story on the **San Joaquin River** is similar. Total storage on the system is about 50% of capacity with precipitation to date being about 20% below normal. At the last water supply meeting the Bureau of Reclamation made a preliminary water supply declaration of 75% of the total Class 1 supply. For Lower Tule that equates to about 45,000 acre-feet of Friant-Kern water supply. Lower Tule has a contract supply from the Friant of 61,200 acre-feet Class 1 and 238,000 acre-feet of Class 2. On average, the Friant declaration has been 100% Class 1 and 40% Class 2. The recent storm pattern that has blan-

keted the Central Valley would suggest that the Class 1 declaration should be increased to 100% Class 1. That declaration will be made during the second week of March.

Lower Tule Water Run

While it is still to early to speculate, the recent storms makes this summer's water supply more encouraging than it was a few weeks ago. During the summer months (May-August) the District uses about 1,500 acre-feet per day. The combination of a 100% Class 1 supply and our Tule River water will mean 68 weeks worth of water during the summer. The duration and timing of this year's water run will be determined by the Board of Directors in consultation with management staff. The water run will be designed to maximize the use of the water supply made available, i.e., on/off runs if necessary.

Water Rate

The current water rate of \$35 per acre-foot remains in place until further notice. The Board reviews the water rate regularly making changes as necessary for marketing and cost recovery purposes. More information regarding the water supply and rate will be sent out as it becomes available. Please contact the District office if you have any questions.

SUCCESS POWER PROJECT AND THE CALIFORNIA POWER CRISIS

For over 10 years, the District has been the owner of record and a revenue sharing partner in the Success Power Project (SPP) on the Tule River. SPP is a 1.4 megawatt hydro-electric plant at the base of the dam at Success Reservoir. The plant, which started operation in 1989, is fully automated and is operated and maintained by Lower Tule staff. Originally designed, built and financed by a French Company, their interest in the project was sold to a Vermont utility company in 1994. In 1995 the District, in conjunction with the Tule River Association, purchased 50% interest in SPP (Lower Tule, through TRA, owns roughly 30% of the total interest in SPP) . A Standard Offer Four contract was also entered into with Southern California Edison that provided a schedule of rates that the partners could expect during the first 20 years of the project.

When SPP first came online, revenue derived from generation was shared with the French company on a varying percentage basis to cover annual operation costs and to repay the development costs of the project. After the partnership and revenue sharing change in 1995, the project generated enough reve-

nue for the District and TRA to recover their capital investment within the next few years of operation. Since the buyout in 1994/95 SPP has generated millions of dollars in gross revenue for the TRA group and the Vermont interests. The money is used to pay the expense of the operating the project, build a reserve fund to cover plant failures and then disperse revenue to the partners. SPP has operated wonderfully since its inception with no major problems to date. An equipment fire in 1998 resulted in an outage for more than 60 days during the peak generation period. Fortunately insurance covered both loss of revenue and damage done to the plant.

The contract with SCE provided for escalating rates during the first 10 years of the contract with "avoided cost" rates from 2000 through 2010. Avoided cost rates are determined using a combination of factors including the Power Exchange rates and the cost of natural gas. It was assumed that the avoided cost rates would mean a significant reduction in revenue, but that has not actually been the case. In 2000, the first year of avoided cost rates, the average kilowatt hour price paid by SCE exceeded 10 cents. While that is almost half of what the revenues had been, it was still high enough to cover all expenses and net more than \$200,000 for the year. The money Lower Tule receives from SPP goes into the general fund and is used to offset water and operations expenses. *(Continued on page 4)*

(Contracts Continued from page 1)

included in the settlement talks relative to the 1988 litigation. NRDC in turn assured the Contractors that they would not sue over the new long-term contracts so long as the settlement talks continued. Verbal agreement to that effect was reached late Friday night, January 19th, which brings the saga back to the morning of the 20th of January. At around the same time that President Bush was taking the oath of office in Washington, District officials were executing a 25-year water supply contract in Visalia. During the next weeks the agreement between the Friant Contractors and NRDC was finalized and the District ensured that it would be able to provide a viable water supply to its landowners for the next 25 years. Key provisions of the contract include:

Term and Renewal: CVPIA limited the term of any new contracts to no more than 25 years. In addition it gave discretion to the Secretary of the Interior for the renewal of the contract at the end of the 25 years. One of the significant "wins" in the negotiations was getting the Bureau to commit to renew the now-executed contract for an additional 25 years, for a total of 50 years. The renewal of the contract is dependent upon the District meeting terms in the contract which in our view are very attainable.

Water Rights and Project Ownership: Even an effective 50-year contract was not satisfactory as far as the contractors were concerned. To try and ensure an indefinite water supply the contractors negotiated language in the contract that referenced the District's right to use of the water under State Water Law. In addition, the contracts will eventually be converted to a 9d repayment contract. The 9d language of the contract provides for eventual ownership of the water project by the contractors. It is estimated that payment of the project will be completed by 2030 at which time the District would no longer be subject to Reclamation Law. The combination of project ownership and right to the water gave the District the comfort level necessary to execute a contract that we felt provided us with a viable long-term water supply.

Pricing and Cost: In addition to eventual ownership of the project, the contract provides language that helps to insulate the District from the punitive aspects of the tiered pricing that is required by CVPIA. Had the Bureau been successful in achieving their initial position, the average annual water cost to Lower Tule would have increased by as much as 50%. The language that was agreed to allows the District to manage its water supplies in such a way

that tiered pricing can be essentially avoided.

Water Supply: Consistent with the original water supply contract signed in 1951, Lower Tule retained the right to 61,200 acre-feet of Class 1 and 238,000 acre-feet of Class 2 water from the Friant Division. In addition, for the first time, the Friant Contractors have priority to access surplus water from the Friant Division. That surplus water is made available to the District in the form of Section 215 water that the District often uses to meet early season irrigation demand and for groundwater recharge purposes. As an example, during the 2000 water year the District took more than 90,000 acre-feet of "surplus water" from the Friant-Kern Canal. That amount represents almost 50% of the water used by the District during 2000. While surplus water has always been offered to the District when it was available, this is the first time the Friant contractors have a priority to the use of that water. In the past, the priority to any surplus water was shared with other non CVP agencies in the valley.



District Representatives Meet in Visalia to Sign Water Contracts

Of the 112 Central Valley Project Contractors who started the race more than two years ago, only 28 from within the Friant Division were able to complete negotiations and execute contracts prior to end of the Clinton Administration. The rest of the contractors have now begun dusting of the negotiating machine and will be spending the next several years and countless dollars on deja-vu all over again. For anyone who went through the process it was enough.

Cross Valley Contracts

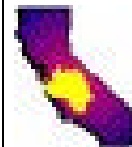
While the Friant contract is now complete, the District's contract for 31,102 acre-feet of Cross Valley water remains unsigned. The Cross Valley water is delivered through the Delta and is considered a separate division of the CVP. The portion of the contract that is subject to Bureau negotiations has been completed and has finished the 60-day public review period. The District is now negotiating the wheeling provisions of the contract with the Department of Water Resources. It is expected that the CVC contract will be completed in 2001. CVC water service will continue through a one-year interim contract.

Lower Tule Precipitation and Irrigation Data Now Available!

-through the-

California Irrigation Management Information System

The data link and weather station is sponsored and maintained by the Lower Tule River Irrigation District and the Deer Creek and Tule River Authority



For More Information Visit the CIMIS Website at

www.dpla.water.ca.gov/cgi-bin/cimis/main.

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

**Questions or
Concerns about
Agricultural Issues?**

Contact Congressman
Cal Dooley through
his Website.



[http://www.house.gov/
dooley/](http://www.house.gov/dooley/)

Address

POWER PROBLEM ALERT!

THE POTENTIAL FOR ROLLING BLACKOUTS OR DISRUPTED POWER SERVICE THIS SUMMER POSES A SERIOUS THREAT TO WATER SUPPLY MANAGEMENT. THE DISTRICT IS WORKING WITH LOCAL AGENCIES TO TRY AND DETERMINE WHAT AREAS MIGHT BE EFFECTED BY ROLLING BLACKOUTS. LOOK FOR MORE INFORMATION AS IT BECOMES AVAILABLE.

DISTRICT NOTES

Engineer Hired

The District has hired a Water Resources Engineer to fill the Districts engineering needs and oversee water operations. Kevin Fellows begins work in March having moved here from Pomona in southern California. Look for a profile on Kevin in a future edition of the *Legend*.

General Manger Appointed to Flood Control Commission

Lower Tule General Manager Dan Vink was appointed by the Tulare County Board of Supervisors to serve on the County Flood Control Commission. Vink takes the spot vacated last fall by retired Lower Tule Engineer-Manager Roger W. Robb.

Controller Sought

The District is accepting application for the position of Controller. Information can be obtained though the District office.

(SPP Continued from page 2)

The omnipresent energy crisis in California has also enveloped SPP. While the demand for power means that rates should continue at a profitable margin, SPP has received notice from SCE that, effective January of 2001, SCE will no longer pay its debt obligation for power generation from SPP. What that means for SPP

and Lower Tule is uncertain. SCE representatives have assured the District that SCE will pay for the power generated this year, they just can't commit to when. The SPP partners and the Lower Tule Board will monitor the issue and work to continue the viability of the success Power Project.

In Memoriam

In December of 2000, long time Lower Tule Board member Leland Vossler passed away. Leland served on the Board from 1982-1997, serving as Vice-President from 1988-1997. Leland's time on the Board of Directors and his service to the District was marked with wisdom and dignity. The Board of Directors and staff of the Lower Tule River Irrigation District express their condolences to the Vossler family and honor the service Leland gave to the Lower Tule River Irrigation District

IMPORTANT DATES TO REMEMBER

- March 13—Lower Tule Board Meeting
- June 20—Second Installment of 2001 Assessment Due

The *Legend* is published quarterly 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