

Warren Is Pleased On Matilija Verdict

Donald R. Warren, designer construction supervisor on Matilija dam, today expressed pleasure for himself and the Ventura county—with Judge L. N. Turrentine Matilija dam case.

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Stocks in Moderate Rise

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VENTURA COUNTY
see PRESS

(Ventura), CALIF., WEDNESDAY, JUNE 8, 1949

N MATILIJIA SUIT

Special order sales. These are mail order deals covering items not carried in PX stock. Businessmen from cities near army or navy bases have testified

Ronner Film Donat

Wednesday, June 8, 1949

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 slimmness 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.

Bonner 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)

6-8-49

Dam Declared Safe; Engineers Given Fees of \$33,437

By MIDGE MOSSBERG

THE long battle over Matilija dam reached its climax today when Judge L. N. Turrentine of San Diego handed down a decision declaring unqualifiedly that the dam is safe and awarding the Donald R. Warren company, dam designers, a sum of \$33,437.33.

In a decision filed in Ventura county superior court at 10:05 a.m., Judge Turrentine ruled in favor of the Warren company on five contentions and in favor of the county flood control district on only one.

The county district had sought damages of \$1,250,000 and the Warren company had sought to collect \$178,000.

The judge, who took the case under submission on May 12 after 70 days in court, handed down a 48-page opinion and a 29-page finding of facts that resulted in what appeared to be a substantial victory for the Warren company, Los Angeles firm which designed the dam, supervised engineering on the project and prepared plans and specifications for the proposed Casitas dam and conduit system intended to link the two structures in Zone 1.

In the major points of his decision, Judge Turrentine ruled:

1. The Warren company was awarded \$112,158.29 and the county flood control district was awarded \$78,720.52, making a net to the Warren company of \$33,437.77.
2. The Matilija dams site is adequate and safe and the structure "will adequately serve its purpose."
3. The Warren company was awarded the costs of the suit. The amount was not known this morning.

The judge ruled that the district was entitled to collect from the Warren company for negligence in the handling of exploration and excavation at "M," "N" and "O" blocks of Matilija dam. He ruled the district had no other verified claims on any other of its charges.

WARREN AWARD

For the Warren company, the judge approved five contentions. He ruled the company was entitled to \$37,722.68 for services on Casitas dam, as based on estimated costs of January 1947, and for \$22,869.60 for plans and specifications of the conduits, figured on the same basis. He also determined the company was entitled to \$44,892.27 for final fees on Matilija dam and awarded \$4,153 for purchase of supplies and equipment. He gave the Warren company \$2,520.69 for services and work done on Matilija dam after it withdrew from the job on Feb. 6, 1948.

Judge Turrentine then subtracted what he awarded to the district from the Warren company awards, finding that the company was entitled to judgment of \$33,437.77.

In his findings, Judge Turrentine also said without hesitancy that he found the dams site to be adequate and safe and that he saw no need for further work to be done on the dam except for further grouting from time to time.

"I have no hesitancy in finding it to be a fact that the foundation is adequate when properly treated with grouting, as seems to be necessary under and in the foundations of all dams," he said. "It is always true where the foundation is a zone of crushed rock such as exists under Matilija dam."

6-8-49

SALT TEST CITED

The judge declared that, according to the salt test made by the district, grouting so far seems to be satisfactory in the matter of making the dam impervious and in substantially keeping water in the reservoir from percolating through the foundation of the dam. He said there undoubtedly would have to be more grouting but that that is a usual process of upkeep of dams.

"From the evidence presented," Judge Turrentine declared, "I do not believe that the dam will ever give way either at the abutments or under the foundation and that the structure will safely and adequately serve its purpose. This means, of course, I am finding the dam site upon which the dam has been constructed is not dubious or marginal or a dubious or marginal site for the construction of a concrete arch type dam but is safe and adequate in all particulars and can be kept safe and adequate with the usual and normal upkeep that can be expected in the case of all dams erected on like geologic structure."

Ruling on specific charges of the district, the judge gave nothing to the district on its complaint that the defendants did not conduct foundation explorations for determining the design of the most suitable and economic type of dam to meet requirements. He said that by far the greater number of witnesses seemed to be satisfied that the abutments are more than adequate to carry thrust of the arch against them. He said the evidence convinced him the Warren company acted honestly, carefully and in accordance with contract terms in choosing the type dam and abutments are adequate
(See WARREN Page 2)

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TO BE APPEALED**

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Any motion to appeal would have to be sponsored by the flood board of supervisors.

**Commencements Set
At 3 County Schools**

Graduation exercises for seniors of three high schools in Ventura county are scheduled for tomorrow night at 8 p.m., to be held at the individual schools.

The ceremonies are planned for Simi Valley high school, Santa Paula high school and Fillmore high school. Officials of the schools said that the programs for the commencement exercises will be announced tomorrow.

The 28th annual commencement program at the Moorpark Memorial union high school is slated for a week from tomorrow, June 16, at 8 p.m. This program is to be announced at a later date.

WARREN WINS IN SUIT OVER MATILIJA DAM

(Continued from page 1)
and safe to support the dam in accordance with accepted engineering principles.

NOT NEGLIGENT

He also held the district had nothing coming on its charge the Warren company did not conduct foundation explorations to determine adequacy and character of the damsite.

He said he was inclined to feel the district had assumed the burden of either determining location of bedrock or consenting to go ahead with the dam on an assumed bedrock depth when it undertook to do stripping of the left abutment.

He said weight of the evidence showed district supervisors were aware that the project was going ahead on the basis of assumed rockline and with the knowledge that no test pit had been sunk to determine exact bedrock line.

The judge also held the Warren company had not been negligent or breached its contract in regard to design and construction of the dam's apron.

"I am of the opinion the apron as built is adequate and safe," he declared.

He also ruled the Warren company had no liability for not putting in a cutoff wall upstream of the dam and that in the face of the opinion of Wayne A. Perkins of the state dam department, who opposed such structure, had no alternative but to not put in such a wall.

The judge said the district had given no evidence that any type of dam at the same or other location could be built to the present capacity of Matilija and then raised any more efficiently or economically than the present structure. He said the Warren company in building the dam, and taking into consideration possible raising of it, had used its best engineering judgment. He also determined that the district had failed to establish by preponderance of evidence either guilt or fraud on the part of the Warren company in making preliminary estimates of cost which resulted in damage to the district.

SAFE NET YIELD

In the matter of safe net yield, the judge said he was unable to conclude the defendant had been guilty of fraud in making his Zone 1 report estimates. And, he declared, so far as the evidence goes, the 4,000 acre feet safe yield estimate made by the defendant can work out accurately.

Judge Turrentine found there was no reason why the district should have paid the Matilija dam contractors in settlement of claims nor why the district should attempt to collect \$86,000 of the sum paid to the contractors. The fact the district settled the claims places no liability on the Warren company, he said. It was his opinion, he said, that if the contractors had sued the district evidence would have been insufficient to give a judgment against the district.

DAM ADEQUATE

Judge Turrentine by his ruling indicated he felt the dam was adequate and safe without a low water outlet, which the district said was needed. He said the officials from the state division of dams had approved the present spillway as adequate and safe and that

even though there was conflict of expert opinion as to future fears it did not make him apprehensive or doubtful as to the opinion of the state engineer that it is adequate and safe.

He said in finding the damsite was not marginal nor dubious he gave more weight to persons who had actually seen the foundation then to those who had expressed opinion. Those who had seen it, including several state officials, thought it was adequate; the judge indicated he sided with them. He also ruled the district was not entitled to any money for alleged design of dam during construction. He found that changes had to be made and that the Warren company was entitled to be paid for its work in addition to its contract percentage fee.

Judge Turrentine also ruled that he found no fraud or attempt to cheat in the Warren company having formed a corporation from what had been a co-partnership after leaving the Matilija dam job.

Only at "M", "N" and "O" blocks did he find that good engineering practices had not been followed and that the district was put to additional expense of exploration and excavation because of the mining out of clay material. He said that the Warren company was responsible for this material being removed before pouring of block "N", whether or not there had been approval or disapproval from state men.

PLAN USABLE

In determining the Warren company should be paid fees, which it asked for on its cross-complaint, Judge Turrentine declared that both the district and Warren company were aware that the ultimate three-pronged project for Zone 1 was going to cost more than \$3,400,000 voted by bonds. He said the district was aware of this at least by June 20, 1946 and that the Matilija contract could have been stopped then.

The judge declared the district permitted the Warren company to proceed with completion of plans and specifications for Casitas dam and the conduits and that by tendering Casitas dam plans to the state and applying for road moneys it approved and accepted the plans.

He said the district still can use the plans and specifications by obtaining additional funds. There was no provision in the district-Warren contract that costs be limited to the amount of the bond issue and the district, by law, can spend more than the \$3,400,000 bond money, he said. Money can be raised by taxation, by another bond issue or by getting state or federal help, he declared. Judge Turrentine also contended that cost of building a dam is of necessity uncertain because unseen and unforeseen conditions nearly always are met.

FEES NOT ALLOWED

The judge did not hold, however, that Warren company was entitled to all its claims. He allowed no money for several special reports Warren made. He also held that Warren should not be reimbursed for expenses incurred for the work of William P. Creager, dam consultant, and Dr. John P. Buwalda, consulting geologist. He found that they were employed to assist Warren and were hired especially by him.

Judge Turrentine also held that since the district-Warren contract had been mutually rescinded as of Feb. 6, 1948, the Warren company was not entitled to final fees or profits it would have received if Casitas dam and the conduit system had been constructed.

The Warren company was represented by Attorneys Stanley Burrill and Charles Loring of Los Angeles and Walter J. Fourt of Ventura. Representing the district were S. V. O. Prichard of Los Angeles and District Attorney M. Arthur Waite.

Bonner Files Report On Matilija Dam ^{6/8/49}

(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.

THE WEATHER

Scattered cloudiness today, tonight and Thursday with night and morning coastal fog and low clouds. Slightly cooler west portion today. Locally windy mountain and northern interior regions. Ventura temperatures: high 69, low 56.

Star-Fre

SEVENTY-THIRD YEAR, No. 182

(20 PAGES TODAY)

VENTURA (Official Name San Buenaventura)

WARREN WINS

City Group Hits Parking District

A group of some 25 city Venturans last night took steps to form a citizens' organization to oppose the chamber of commerce-proposed parking district.

At a dinner meeting called by Clarence Mets, east end nurseryman, at Cleo's restaurant, the citizens voted to organize a permanent group to concern itself chiefly with the parking district and to work vigorously on future civic problems.

METS HEADS GROUP

The city Venturans named Mets as temporary chairman, Mrs. Mabel Owen as temporary secretary and Miss Mary Huning as temporary treasurer, calling a second meeting for June 15 at the Ventura junior college little theater.

Mets told the citizens opposing the proposed district, suggested by a chamber of commerce sub-committee on parking, that "during the last 24 years, since I have been in Ventura, one remark made by many people stays with me: Ventura will never amount to anything until it has 10 or 12 first-class funerals."

Mets declared that the remark he quoted had been prompted by the feeling of many people that 10 or 12 Venturans had used their position for selfish ends. He added, however, that the funerals would not solve the malady because some other "king-maker" always replaced the one who died.

PRAISES OLSON, COUNCIL

Praising the city manager and council as "the best Ventura has ever had," Mets urged citizens to become interested in city problems, stating that government will never be any better as long as

Oxnard Council Sets Zones For Parking Meters

Oxnard city council last night made progress toward acquiring more off-street parking, installing parking meters and getting its new city hall in shape for occupancy.

The council accepted recommendations of its parking meter committee on the sections of town to be metered, accepted low bids for the alterations and painting of Roosevelt school as a city hall, accepted the low bid for paving an off-street parking lot behind the school and moved to purchase an additional parking lot on C street near Fourth street.

SHANNON REPORTS

City Manager George Shannon, reporting on behalf of a committee consisting of City Engineer Earl O. Imus, Police Chief Bill Clark and two members of the citizens' committee on parking, suggested the following parking meter zones:

Questions Motives:

Lilienthal Strikes Back

WASHINGTON.—(U.P.)—David E. Lilienthal today accused Sen. Bourke B. Hickenlooper, R., Ia., of endangering "the entire atomic energy program" by innuendo.

"Whatever the motive, God only knows," the atomic energy commission chairman said.

Lilienthal voiced the charge as the house-senate atomic energy committee resumed hearings on charges of "incredible mismanagement" lodged against him by Hickenlooper.

The commission chairman accused Hickenlooper of spreading "fear and apprehension" by "innuendos" as to the loyalty of an atomic energy official. The official has been identified thus far only as "Case A" and as the author of the commission's quarterly reports.

Such action, Lilienthal said, "affects the integrity and continuity of this very important enterprise."

Hickenlooper first brought up "Case A" on Monday. He said "Case A" had been cleared for secret atomic work by a three-man board of commission officials despite a lengthy FBI report detailing derogatory information.

Lilienthal, who said he had "not the slightest doubt" of "Case A's" loyalty, charged that Hickenlooper had identified the official to his commission colleagues by saying he was the author in charge of

Convict Escapes In 'Dynamite' Car

BAKERSFIELD.—(U.P.)—Road blocks were thrown up today for a convicted robber who apparently fled in a stolen car, unknowing it was loaded with "enough dynamite to blow him sky-high."

Sheriff's deputies said the convict, Lavern Speer, 23, could touch off the 50 pounds of high explosive by jolting over a bumpy road. The dynamite also could go off if the car were hit by another auto or pierced by a bullet.

Speer and his brother Gerald, 28, escaped Monday morning after overpowering two deputies taking them to San Quentin to serve sentences for holding up a Bakersfield hotel. Gerald was recaptured yesterday.

The younger brother, an ex-convict with a long escape record, vowed he would never be taken alive on making his escape, and threatened "to get the people who railroaded us."

Vandenberg Hits ECA Fund Cut

WASHINGTON.—(U.P.)—Sen. Arthur H. Vandenberg, R., Mich., today came out against any attempt to make the European recovery program "bear the brunt" of the GOP-led senate economy drive.

He told newsmen he is definitely opposed to the plan of some senators to trim the president's budget by compelling the economic cooperation administration to take a huge cut in funds for foreign aid.

The attitude of Vandenberg,

COUNTY The Press

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N MATILIJA SUIT

Flood Control Bill:

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.

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

McBride also explained that he introduced a skeleton flood control bill in January. He said it was designed as a "carrier" in order to leave the way open for the current legislation for 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. Cooke informed Western National service officials in Sacramento that he would not support McBride's bill in its present form.

Plunge From Ladder Kills Aged Man, 92

Robert Primas, 92, was found dead this morning in a well pump house on the Pete Doran ranch when he apparently slipped and fell from a ladder, plunging eight feet, Deputy Coroner J. Bragg reported.

Kenneth W. Bahns, an employee of the state department of agriculture, found the body at Primas was formerly a resident of the old men's home at Ventura county hospital.

Bragg estimated that the man, who suffered from contusions on the head, had been dead about five days. He left the county hospital May 27. The contusions plus shock contributed by Mr. Primas' advanced age was listed as cause of death by the deputy coroner.

Major Part in Saving

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.

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board of supervisors, the grand jury, the city of Santa Clara and other interested parties should get together within the next four or five days and work out an agreement if they can pass 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.

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

McBride's bill has been introduced in the last few days, and the Ventura county farm bureau and Santa Clara water control district have taken a strong position against it. The 1948 grand jury recommended such action as a recent citizens committee report against amending the flood control act are the board of supervisors and Ventura City Engineer Lawrence Olson.

McBride said today it is necessary to have quick action if the

WARREN WINS IN

Wednesday, June

MATILILJA SUIT

WARREN AWARD

For the Warren company, the judge approved five contentions. He ruled the company was entitled to \$37,722.68 for services on Casitas dam, as based on estimated costs of January 1947, and for \$22,869.60 for plans and specifications of the conduits, figured on the same basis. He also determined the company was entitled to \$44,892.27 for final fees on Matilija dam and awarded \$4,153 for purchase of supplies and equipment. He gave the Warren company \$2,520.69 for services and work done on Matilija dam after it withdrew from the job on Feb. 6, 1948.

Judge Turrentine then subtracted what he awarded to the district from the Warren company awards, finding that the company was entitled to judgment of \$33,437.77.

In his findings, Judge Turrentine also said without hesitancy that he found the damsite to be adequate and safe and that he saw no need for further work to be done on the dam except for further grouting from time to time.

"I have no hesitancy in finding it to be a fact that the foundation is adequate when properly treated with grouting, as seems to be necessary under and in the foundations of all dams," he said. "It is always true where the foundation is a zone of crushed rock such as exists under Matilija dam."

SALT TEST CITED

The judge declared that, according to the salt test made by the district, grouting so far seems to be satisfactory in the matter of making the dam impervious and in substantially keeping water in the reservoir from percolating through the foundation of the dam. He said there undoubtedly would have to be more grouting but that that is a usual process of upkeep of dams.

"From the evidence presented," Judge Turrentine declared, "I do not believe that the dam will ever give way either at the abutments or under the foundation and that the structure will safely and adequately serve its purpose. This means, of course, I am finding the dam site upon which the dam has been constructed is not dubious or marginal or a dubious or marginal site for the construction of a concrete arch type dam but is safe and adequate in all particulars and can be kept safe and adequate with the usual and normal upkeep that can be expected in the case of all dams erected on like geologic structure."

Ruling on specific charges of the district, the judge gave nothing to the district on its complaint that the defendants did not conduct foundation explorations for determining the design of the most suitable and economic type of dam to meet requirements. He said that by far the greater number of witnesses seemed to be satisfied that the abutments are more than adequate to carry thrust of the arch against them. He said the evidence convinced him the Warren company acted honestly, carefully and in accordance with contract terms in choosing the type dam and abutments are adequate

(See WARREN Page 2)

Dam Declared Safe; Engineers Given Fees of \$33,437

By MIDGE MOSSBERG

THE long battle over Matilija dam reached its climax today when Judge L. N. Turrentine of San Diego handed down a decision declaring unqualifiedly that the dam is safe and awarding the Donald R. Warren company, dam designers, a sum of \$33,437.33.

In a decision filed in Ventura county superior court at 10:05 a.m., Judge Turrentine ruled in favor of the Warren company on five contentions and in favor of the county flood control district on only one.

The county district had sought damages of \$1,250,000 and the Warren company had sought to collect \$178,000.

The judge, who took the case under submission on May 12 after 70 days in court, handed down a 48-page opinion and a 29-page finding of facts that resulted in what appeared to be a substantial victory for the Warren company, Los Angeles firm which designed the dam, supervised engineering on the project and prepared plans and specifications for the proposed Casitas dam and conduit system intended to link the two structures in Zone 1.

In the major points of his decision, Judge Turrentine ruled:

1. The Warren company was awarded \$112,158.29 and the county flood control district was awarded \$78,720.52, making a net to the Warren company of \$33,437.77.

2. The Matilija damsite is adequate and safe and the structure "will adequately serve its purpose."

3. The Warren company was awarded the costs of the suit. The amount was not known this morning.

The judge ruled that the district was entitled to collect from the Warren company for negligence in the handling of exploration and excavation at "M," "N" and "O" blocks of Matilija dam. He ruled the district had no other verified claims on any other of its charges.

WARREN WINS IN SUIT OVER MATILIJA DAM

WEDNESDAY, JUNE 8, 1949

(Continued from page 1)
and safe to support the dam in accordance with accepted engineering principles.

NOT NEGLIGENT

He also held the district had nothing coming on its charge the Warren company did not conduct foundation explorations to determine adequacy and character of the damsite.

He said he was inclined to feel the district had assumed the burden of either determining location of bedrock or consenting to going ahead with the dam on an assumed bedrock depth when it undertook to do stripping of the left abutment.

He said weight of the evidence showed district supervisors were aware that the project was going ahead on the basis of assumed rockline and with the knowledge that no test pit had been sunk to determine exact bedrock line.

The judge also held the Warren company had not been negligent or breached its contract in regard to design and construction of the dam's apron.

"I am of the opinion the apron as built is adequate and safe," he declared.

He also ruled the Warren company had no liability for not putting in a cutoff wall upstream of the dam and that in the face of the opinion of Wayne A. Perkins of the state dam department, who opposed such structure, had no alternative but to not put in such a wall.

The judge said the district had given no evidence that any type of dam at the same or other location could be built to the present capacity of Matilija and then raised any more efficiently or economically than the present structure. He said the Warren company in building the dam, and taking into consideration possible raising of it, had used its best engineering judgment. He also determined that the district had failed to establish by preponderance of evidence either guilt or fraud on the part of the Warren company in making preliminary estimates of cost which resulted in damage to the district.

SAFE NET YIELD

In the matter of safe net yield, the judge said he was unable to conclude the defendant had been guilty of fraud in making his Zone 1 report estimates. And, he declared, so far as the evidence goes, the 4,000 acre feet safe yield estimate made by the defendant can work out accurately.

Judge Turrentine found there was no reason why the district should have paid the Matilija dam contractors in settlement of claims nor why the district should attempt to collect \$26,000 of the sum paid to the contractors. The fact the district settled the claims places no liability on the Warren company, he said. It was his opinion, he said, that if the contractors had sued the district evidence would have been insufficient to give a judgment against the district.

DAM ADEQUATE

Judge Turrentine by his ruling indicated he felt the dam was adequate and safe without a low water outlet, which the district said was needed. He said the officials from the state division of dams had approved the present spillway as adequate and safe and that

even though there was conflict of expert opinion as to future fears it did not make him apprehensive or doubtful as to the opinion of the state engineer that it is adequate and safe.

He said in finding the damsite was not marginal nor dubious he gave more weight to persons who had actually seen the foundation than to those who had expressed opinions. Those who had seen it, including several state officials, thought it was adequate; the judge indicated he sided with them. He also ruled the district was not entitled to any money for alleged design of dam during construction. He found that changes had to be made and that the Warren company was entitled to be paid for its work in addition to its contract percentage fee.

Judge Turrentine also ruled that he found no fraud or attempt to cheat in the Warren company having formed a corporation from what had been a co-partnership after leaving the Matilija dam job.

Only at "M", "N" and "O" blocks did he find that good engineering practices had not been followed and that the district was put to additional expense of exploration and excavation because of the mining out of clay material. He said that the Warren company was responsible for this material being removed before pouring of block "N", whether or not there had been approval or disapproval from state men.

PLAN USABLE

In determining the Warren company should be paid fees, which it asked for on its cross-complaint, Judge Turrentine declared that both the district and Warren company were aware that the ultimate three-pronged project for Zone 1 was going to cost more than \$3,400,000 voted by bonds. He said the district was aware of this at least by June 20, 1946 and that the Matilija contract could have been stopped then.

The judge declared the district permitted the Warren company to proceed with completion of plans and specifications for Casitas dam and the conduits and that by tendering Casitas dam plans to the state and applying for road moneys it approved and accepted the plans.

He said the district still can use the plans and specifications by obtaining additional funds. There was no provision in the district-Warren contract that costs be limited to the amount of the bond issue and the district, by law, can spend more than the \$3,400,000 bond money, he said. Money can be raised by taxation, by another bond issue or by getting state or federal help, he declared. Judge Turrentine also contended that cost of building a dam is of necessity uncertain because unseen and unforeseen conditions nearly always are met.

FEES NOT ALLOWED

The judge did not hold, however, that Warren company was entitled to all its claims. He allowed no money for several special reports Warren made. He also held that Warren should not be reimbursed for expenses incurred for the work of William P. Creager, dam consultant, and Dr. John P. Buwalda, consulting geologist. He found that they were employed to assist Warren and were hired especially by him.

Judge Turrentine also held that since the district-Warren contract had been mutually rescinded as of Feb. 6, 1948, the Warren company was not entitled to final fees or profits it would have received if Casitas dam and the conduit system had been constructed.

The Warren company was represented by Attorneys Stanley Burrill and Charles Loring of Los Angeles and Walter J. Fourn of Ventura. Representing the district were S. V. O. Prichard of Los Angeles and District Attorney M. Arthur Watté.

WEDNESDAY, JUNE 8, 1949



JUDGE L. N. TURRENTINE
Makes Matilija Decision

Warren Is Pleased On Matilija Verdict

Donald R. Warren, designer and construction supervisor on Matilija dam, today expressed pleasure—for himself and the people of Ventura county—with the decision handed down by Superior Judge L. N. Turrentine in the Matilija dam case.

Warren said he was happy that the Matilija dam issue had been determined by the court and that the verdict assured the people of the county they have an adequate and safe dam constructed with proper engineering.

The sole reason he took the matter of Matilija dam to court, he said, was to reassure the people of Zone 1 that they had been provided with the best of service the engineering field could provide.

Warren said he was happy Judge Turrentine had gone to such an extent in giving his stamp of approval to the dam.

Warren learned over the phone of his substantial victory. He said the news came just before he took off for Washington, D. C. in regard to two major water projects that were many times larger than that of Matilija.

WAITE UNCERTAIN WHETHER VERDICT TO BE APPEALED

District Attorney M. Arthur Waite said today it is too early to tell whether the Ventura county flood control district will appeal the decision of Judge L. N. Turrentine in the Matilija dam court action.

Waite said he has not had time to read the voluminous decision yet. He said he will have to confer with Special Counsel S. V. O. Pritchard, who was hired by the district to represent the district in the court action.

Any motion to appeal would have to be sponsored by the flood board of supervisors.

6/10/45

Matilija Appeal Seen as Unlikely

It appeared today that there will be no appeal of the Matilija dam action decision by the Ventura county flood control district.

Two district supervisors today went on record saying they were against an appeal of the decision handed down this week by Superior Judge L. N. Turrentine of San Diego. Supervisors Edward Pierce of Ventura and Robert Lefever of Camarillo-Moorpark said they favored looking toward the future in development of a water program and not back at the past.

Supervisor R. E. (Sam) Barrett of Ojai said he had no comment to make until talking over the matter with other supervisors. Richard Bard of Oxnard-Port Hueneme was not available for comment, nor was Lester Price of Fillmore-Santa Paula, who is on an eastern trip.

Matilija Dam Issue:

County Ponders New Trial

THE motion for a new trial by the Ventura county flood control district against Donald R. Warren, Matilija dam engineer, may depend upon whether Warren will furnish the district with certified "as built" drawings of the Matilija structure, the flood board of supervisors indicated yesterday.

The district has until Monday, 10 days from the time the judgment of the district-Warren court trial was filed June 10, to file a motion for a new trial.

Yesterday's meeting was the first official get-together for the supervisors since San Diego Superior Judge L. N. Turrentine filed his judgment of the flood district-Warren \$1,250,000 court action late last week. The San Diego judge rendered a decision in which the Warren company came out \$33,431 to the good.

VOTE TO FILE IF . . .

The board unanimously voted to file a motion for a new trial unless Warren agrees to send certified "as built" drawings of Matilija dam to the district, the drawings being necessary before the district can apply to the state for unrestricted use of the dam structure.

District Attorney M. Arthur Waite hinted broadly to the supervisors yesterday that he and S.V.O. Prichard, special counsel who carried the ball for the district throughout the 70-day court proceedings, might file, anyway, to "correct certain items of judgment." Waite was asked by Supervisor Robert Lefever to enumerate some of the items he had in mind, but Waite replied that he didn't "care to make them public at this time."

Waite and the board went into an executive session a few minutes later.

HIGHLIGHTS SESSION

The board's discussion of the Warren judgment highlighted yesterday afternoon's flood control session which didn't wind up until almost 6 o'clock. The flood control discussion started with a review of Consulting Engineer Frank Bonner's recent safety report on Matilija dam and gradually worked its way through the steps required to obtain an "unrestricted" permit to store water behind the dam.

Supervisors Ponder Motion For New Matilija Dam Trial

6-15-49

One of the steps required to get the permit, according to District Engineer Robert L. Ryan, is the submission of certified "as built" drawings of the structure. That brought the board to Donald R. Warren, according to Ryan, the only man who can certify as to the structure since he was the designer, and whether Judge Turrentine's decision included an order that Warren furnish such drawings to the district.

Prichard was conveniently in the courthouse on his way to the (See SUPERVISORS, page 8)

northern part of the state and informed the board that the Warren judgment did not include any order for Warren to furnish the district anything. He did, however, inform the supervisors that the court transcript includes an offer by the Warren company to deliver the drawings to the district upon payment of \$2500. Even that does not bind Warren to deliver, Prichard told the supervisors.

Lefever made a motion to ask Warren for the badly-needed drawings, which was later amended to include the threat of filing for a new trial if he didn't deliver.

Supervisor Edward Pierce said he thought all the legal procedure could be by-passed. He offered to go to Los Angeles today, contact Warren then very simply ask him for the drawings.

"I'll bet a \$4 bill I can get them," he said.

"KEEP DOOR OPEN"

Although Lefever offered to go with him, the other two members of the board (Lester Price is on vacation) thought they should "keep the door open" if Warren didn't deliver before the Monday deadline for filing for a new trial had passed.

Lefever made no bones about his stand that he "was against any further litigation" despite warnings from the district attorney that if Monday passes and the district has not filed the Warren suit "will get cold."

"Good," Lefever remarked. "Let it get cold. And the quicker the better."

"We don't need any more lawyers," interposed Pierce. "We never should have been in the legal business, anyway."

"Well, we've been in the legal business whether we belonged in it or not," said Supervisor Richard Bard. "It seems to me we would be foolish to get out of it now if, by staying in it a little longer, we could gain a point."

DAM SAFETY

As to the safety of the Matilija structure, Ryan admitted yesterday "we don't know where we stand." He said the district has had varied opinions of experts. Ryan said the present permit of the state authorizes storage of water to the full capacity of the dam—but slowly and by observation.

"We don't know how fast it would fill if we got a heavy rain next winter," Ryan stated, "or

what the result would be."

Bard pointed out that Turrentine, in his decision, gave a very optimistic report of the dam's safety. Board Chairman R. E. Barrett reminded the supervisors that the district has a permit to store water that "we couldn't possibly live up to if we have a flood in Matilija canyon."

That prompted the board's discussion of the possibility of an unlimited permit.

Barrett said he wanted to keep the Matilija suit "alive" lest Warren fails to deliver the drawings and the district is left with absolutely no recourse.

County, Warren Sign Agreement Ending Dam Suit

A compromise was signed officially by the Ventura county flood district board of supervisors yesterday which halts any further litigation against Donald R. Warren over the construction of Matilija dam.

The compromise, in the form of a resolution, requires Warren to furnish any drawing in reference to Matilija dam which might

The court action between the Ventura county flood control district and the Donald R. Warren company, Matilija dam engineer, cost Zone 1 taxpayers \$121,594.06, according to a statement of cost submitted to the flood board of supervisors yesterday by Neil J. Stiver, Zone 1 manager.

The cost statement shows that attorney's fees totaled \$35,248.68. Consulting hydrologists were paid \$2,205.63, consulting engineers, \$28,730.29 and consulting geologists, \$3,934.32, according to the statement.

Court reporting and transcribing fees amounted to \$14,345.80. Labor totaled \$982.03 and miscellaneous items added up to \$704.81, the statement shows.

The judge's decision ordered that the district pay Warren \$33,437.77, plus court costs of \$2,004.73.

The board indicated yesterday that most of the big bills are paid, but that there may be some outstanding bills of minor amounts.

be requested — at the district's expense — in consideration that the district forego any plans it might have to appeal the judgment of the recent court action.

The compromise was drafted at a meeting between members of the board and Warren Monday. Warren agreed, at that time, to furnish the district at no cost two sets of "as built" drawing of the dam which the district needs to apply to the state for an unlimited capacity permit from the state.

In a letter acknowledged by three board members Monday, Warren pointed out that, while Judge L. N. Turrentine in his recent judgment did not specify that Warren was to furnish the district with the "as built" drawings without charge, there might be a question of Turrentine's intention to do so.

No Retrial?

Matilija Deadline Passes

THE court action brought by the Ventura county flood control district against Donald R. Warren, Matilija dam engineer, is apparently finished. The 5 p.m. Monday deadline for filing a motion for a new trial passed without a motion filed.

It was learned from reliable sources late yesterday afternoon that the board of supervisors and Warren had signed an agreement that the district would not file for a new trial.

SPECIAL MEETING

The action came after a special meeting of the board, Warren, Warren's attorneys and District Attorney M. Arthur Waite yesterday afternoon.

A week ago the board gave Waite authority to file for a new trial if Warren did not deliver "as built" drawings of Matilija dam, which the district must have in order to file with the state for an unrestricted permit to store water behind the dam.

DRAWINGS DELIVERED

The drawings were delivered to the district last week. It is believed the agreement hinged on the willingness of Warren to keep the district supplied with drawings of the dam which the district might require.

Supervisors Robert Lefever, Edward Pierce and R. E. Barrett were the only supervisors at yesterday's meeting. Lester Price is still in the east and Richard Bard was unable to attend. Attorneys Charles Loring and Walter Fourt represented Warren.

control district two properly executed duplicated cloth tracings of all drawings as prepared by the Warren company on the Matilija dam "as built" that may be required by the state dam department in order to complete the files of said department without cost to the county, in consideration that the flood control district does not make a motion for a new trial or appeal from the judgment—

—and upon the further consideration that the county of Ventura make an order on June 21, 1949, directing that a warrant be drawn in favor of the Warren company for the amount of the judgment—

"The payment of such sum shall be in full satisfaction of all claims on the part of the Warren company against the district and of all claims that the district may have against the Warren company.

"The Warren company further agrees that it will furnish to the flood control district as many additional cloth tracings or of any drawings in reference to the Matilija dam as the district may require, the district to pay for the cost of reproducing such cloth tracings."

The letter was signed by Warren and approved by his legal advisors Walter Fourt and Charles Loring.

Yesterday the board incorporated that letter into resolution form and closed the book on the Matilija dam trial. A warrant in the amount of \$35,442.50 was signed and made out to the Warren company. That included judgment of \$33,437.77 and court costs of \$2,004.73.

Supervisor Edward Pierce made the motion to pass the resolution on condition that litigation over the Matilija structure would be terminated. Supervisor Robert Lefever seconded the motion.

Hinges on Parley:

Matilija Retrial Debated

6/20/49

and District Attorney M. Arthur THE FLOOD district board of Supervisors, Donald R. Warren Waite were to meet at 1 o'clock this afternoon to decide whether the district will file a motion for a new trial against Warren, Matilija dam engineer.

A week ago the board decided a motion for a new trial would depend upon Warren's willingness to present the district with "as built" drawings of the dam so the district can apply to the state for an unrestricted permit to store water behind the structure.

The deadline for filing was 5 p.m. today.

DRAWINGS PRESENTED

Supervisor Edward Pierce said today Warren had presented the district with the drawings along with a letter promising full cooperation with the district on any problem that may arise.

In his letter, a copy of which has been filed with County Clerk L. E. Hollowell, Warren states: "You will recall that even after Feb. 6, 1948, we extended the flood control district and the people of Ventura county any and all of the records of this office that would be beneficial to them in the operation of the project. That offer will always continue for we have faith in the project and we are proud of it. It bears our name — and yours — on it as a stamp of approval."

Pierce said he and Supervisor Robert Lefever went to Warren's office last week, asked for and received the drawings with politeness and dispatch.

'NOTHING TO GAIN'

"As far as I am concerned," Pierce said, "that ends the matter as far as litigation goes. We have the man's written word that he will cooperate. I can't see where further court action would gain anything."

Waite said this morning it is "doubtful" that the district will file a motion for a new trial. He said he would not know until after the meeting this afternoon.

The judgment of the district-Warren action was primarily that the district pay Warren \$33,437. The district had filed suit against Warren for \$1,250,000, with Warren counter-suing for \$178,000.