

Matilija Stripping Argued

STRIPPING of Matilija damsite prior to construction of the dam was the chief topic in superior court this morning as hearing of the Ventura county flood control district's suit against the Donald R. Warren company continued.

Warren, designer of the dam over which he and the district are fighting, resumed the witness stand for the fourth straight day to undergo questioning by S. V. O. Prichard, the district's attorney.

Prichard sought information from Warren in regard to his connection with stripping activities at the damsite before the dam was built and over which huge controversy arose midway in the construction of the dam.

SUGGESTED STRIPPING

Warren testified his company is an engineering firm that does not do stripping work, but he said he suggested to district supervisor, prior to awarding of the contract for construction of the dam, that the damsite be stripped and a test pit be dug.

Some stripping was done by the district at his suggestion, Warren said. He added that he did not present to the supervisors a set of plans and specifications for the awarding of a stripping contract at any time.

Warren said he advised the board on March 12, 1946, that stripping should be done. He could not recall the exact date when he next spoke to supervisors about stripping, but he declared he did so within a week or two after the March 12 meeting because "nothing had been accomplished at the site."

RECALLS TRIP TO SITE

His best recollection was that he had gone to the damsite on March 12 with then-supervisor Russell C. Cook and District Engineer Robert L. Ryan and had pointed out the damsite area and talked to them about the nature of stripping to be done. Warren declared he told them that "we wanted to strip all the way down" to determine the underneath material. He testified also that he told Ryan he did not care what kind of pit was excavated so long as the depth of overburden would reveal the type of material the contractor would have to remove.

Warren's recollection was that Ryan nodded favorably and that Ryan then talked to Cook about equipment.

About two weeks after that time, Warren said, he telephoned either Cook or the late Supervisor Percy Dennis, complaining because the stripping project had not been started and saying that the information was necessary to have.

According to Warren, he then visited the supervisors meeting either in the latter part of March

Prichard Overruled in Court Procedure of Warren Trial

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or the first of April to discuss stripping again.

He said he was at the damsite when the district had a bulldozer on the job (for stripping). Asked if he gave instructions to the bulldozer operator, Warren replied that he never gives orders to anyone working for someone else. He did not recall talking to Jim Hager, district three road foreman who the district put on the stripping job, but declared Hager's name was familiar to him.

During yesterday's session, Prichard was overruled in method of court procedure while questioning Warren in regard to exploration work and safe yield studies for Matilija dam.

Judge L. N. Turrentine in effect told Prichard that he at this time could not question Warren about his qualifications and competency for determining such things as safe yield but only as to his correctness or incorrectness.

The judge said the district would have to establish opinion evidence by other witnesses before, if pertinent, cross-examining Warren on his qualifications.

Prichard questioned him about figures in his zone one report for Matilija and Casitas dams and the pipeline system, showing him that the figures totaled \$93,000 short of the \$3,400,000 proposed for the bond issue to finance the projects. Warren said the \$93,000 "may have been" for laterals but that it was a rounded out figure and it was "highly probable" it was put in as a safe margin figure for the whole project. He didn't recollect whether there were any cost studies by his company between issuance of the zone one report and a supplemental report on Aug. 31, 1945, but he "presumed" there was.

Warren told of drawing five damsites and seven dams for Matilija canyon after the awarding of the second contract and after a visit to the canyon with Dr. John Buwalda, his geologist. He said dam number five was chosen as the best one—a concrete arch type—by himself and Dr. Buwalda. He said he was not prepared to answer as to whether the site chosen was substantially the same one as outlined in a previous report by Taylor and Taylor, engineering firm that conducted an independent dam study some years ago.

He said the final damsite for Matilija was made in February, 1946, as a result of his and Dr. Buwalda's trip. Warren didn't recall whether he had presented his

drawing of seven dams and five sites to supervisors.

Warren said quantities for the dam, excavation and spillway were calculated after the final site was chosen. He reported there were revisions in the estimated cost of construction for the dam

between the time the site was chosen and plans and specifications were presented to the district on April 23, 1946.

In that interim, the Warren company drilled no core holes, did no stripping, dug no pits, the witness called by the district testified. He said, however, some stripping was done by the district at his suggestion. He also reported that he had hired no contractor to do such work.

Stripping Stories Differ

TESTIMONY contrary in part to that of Donald R. Warren was given in superior court yesterday when Robert L. Ryan, Ventura county flood control district engineer, was called to the witness stand by the district in its action against the Warren company over building of Matilija dam.

Ryan, appearing at the afternoon session, followed Warren to the stand. He was questioned about stripping at the damsite prior to the awarding of the construction contract, the same topic on which Warren was queried yesterday morning.

SUGGESTED STRIPPING

As Warren had testified, Ryan said Warren appeared before district supervisors March 12, 1946 and suggested stripping be done at the damsite. He declared, however, that Warren, who contended he asked that \$25,000 be set up to handle the work, had suggested a figure of \$15,000.

Warren then or at no other time suggested that the district award a contract for the work, Ryan said. He also indicated that Warren emphasized stripping of the left abutment of the dam and that nothing was said about the right abutment. Sinking of a pit was mentioned but no location other than that it was desirable to sink a pit in the riverbed to determine overburden was given, Ryan said. Warren said nothing about Dr. John Buwalda, geologist, recommending the work, according to Ryan.

TRIP TO DAMSITE

As Warren had done, Ryan related how a trip to the damsite was made March 12 by Warren, Ryan and Russell C. Cook, then supervisor, to look over the area for stripping. Ryan declared he at that time had told Warren that the district was not equipped to do the test pit work—that it didn't have men experienced in that type of work nor equipment. Warren's morning testimony had been that he believed Ryan had nodded favorably when the pit was mentioned. Ryan said that after that day he never had any other discussion with Warren in regard to digging the test pit.

Ryan testified Warren telephoned him from Los Angeles after March 12, saying he was anxious to get the left abutment stripped and that he asked the district engineer to go to the supervisors to get authority for the stripping. On April 2, supervisors ordered the stripping, Ryan said.

He declared that, as he had told Warren he would do, he put a bulldozer from district three's road department on the job. Immediately after the April 2 meeting he obtained verbal permission

Ryan Testifies On Stripping

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from property owners to enter upon land not yet purchased by the district to begin stripping.

Ryan said the bulldozer was on the job either on April 2 or 3. Warren was there at the time and had a conversation with Jim Hager, road district foreman, Ryan recalled. He said he asked Warren to explain to Hager what kind of stripping he wanted done and that, generally, Warren explained the way to expose rock outcropping by removing overburdening. Warren had testified that he did not recall talking to Hager and that so far as instructions were concerned "I never give orders to someone working for anyone else."

COUNTY EQUIPMENT USED

Ryan explained that the county equipment was used for a few days, but that a private company's bulldozer was substituted when county equipment broke down. He thought the job was finished about May 2 or 3.

According to Ryan, Warren did not mention stripping at subsequent district meetings, the April 23 meeting, for instance, when final plans and specifications for Matilija dam were presented and adopted by the district. Ryan said that to his best knowledge Warren never mentioned stripping again after the job had started. He answered that the first he knew that Warren was displeased with the stripping was early in May, 1947. At that time, he said, a copy of a Warren letter to the district decrying the stripping appeared in the local newspaper.

ONLY ASSUME LOCATION

The district's attorney S. V. O. Prichard also questioned Ryan about portions of the Warren company's answer to the district's action. In the answer, the Warren company charges that because the district did an unsatisfactory job of stripping the Warren company could only assume location of bedrock at the damsite. The supervisors were so informed, the answer charged. The Warren company also contended in its answer that because of the district's stripping final plans and specifications had to be made with assumption of bedrock locations and that this caused changes in costs over estimates.

Queried about these contentions, Ryan replied that nothing was said about these matters by the Warren company April 23, when plans and specifications were approved, on April 30, when amended plans and specifications were approved, nor on May 28, when bids for construction of Matilija dam were opened.

1-14-49

Before Ryan took the stand, Prichard completed questioning of Warren about sequence of events at the dam. During questioning, Prichard asked Warren if after foundation material had been excavated and the foundation located the dam was redesigned in many parts.

No, Warren replied, it was adapted to fit the foundation. Adaptation occurred during the entire construction of the dam, he said, and was adapted as the abutments were exposed.

Court was recessed yesterday afternoon until Monday because Judge L. N. Turrentine of San Diego had to fill a prior commitment today.

Site Stripping Holds Spotlight In Matilija Suit

With District Engineer Robert L. Ryan undergoing cross examination, testimony in superior court this morning on the Ventura county flood control district's action against the Donald R. Warren company continued to center on stripping at the Matilija damsite.

Under cross examination by Charles Loring, attorney for the Warren company, Ryan, a fidgety witness, began repeating the testimony he had given Thursday about the district's work in stripping the damsite's left abutment prior to awarding of the contract for construction of the dam. He repeated that Warren first had brought up the matter of stripping at the district's supervisory meeting March 12, 1946.

A ripple of laughter swept the thinly populated courtroom at one point during Ryan's testimony when, after a question by Loring, an objection by Prichard, a discussion between attorneys and judge, and then another question by Judge Turrentine, Ryan threw up his hands and said, "I'm lost!"

A few minutes before noon, Loring entered the first exhibit for the defendant, a photograph of Matilija dam taken "apparently about March or April 1947."

RECOMMENDED \$15,000

Ryan contended that Warren in his appearance before the board meeting recommended the sum of \$15,000 for the work and not that of \$25,000, as Warren contends he did. Ryan said no inquiry was made as to whom the money would be paid. There was no mention Ryan declared, for having the work done by a contractor, as Warren contends.

Before undergoing cross examination, Ryan was paced through further questioning by S. V. O. Prichard, district's attorney, after court resumed following a recess since Thursday afternoon.

Ryan told of attending a supervisors-zone one advisory board meeting about June 18, 1946. Warren appeared at this meeting and there was a discussion of the financial picture of the zone one water project, he said. Ryan declared he questioned Warren about the costs being greater than estimates and about the contingency funds for the whole project (Matilija and Casitas dams and the conduit systems) being used completely.

'COSTS RISE'

Warren replied that labor and material costs had gone up, Ryan recalled, and that in addition the Matilija dam structure would be 25 percent larger than figured on originally. No reason was given for the increase of structure, he said. Nothing was said about the Warren company having to assume the rock line for the bid schedule nor that quantities might exceed the bid schedule.

According to Ryan, he told Warren at the June meeting he felt the estimates for Matilija dam rights of way were low, that the district was up against rather large expenditures. He said he questioned Warren about inclusion of Lyon Springs resort in the reservoir area and that Warren replied he was not aware that Lyon Springs was in the "taking area."

At the meeting, Warren was requested to bring in a more detailed estimate for the whole project. Ryan said.

Lefever On Stand In Trial

THE first county flood control district supervisor to appear on the witness stand, Robert Lefever today gave testimony in superior court in the district's action against the Donald R. Warren company over building of Matilija dam.

As other district witnesses have been asked to do, Lefever was requested to answer questions about the district's stripping of the damsite prior to the awarding of the construction contract. Lefever told how Warren appeared before the board meeting March 12, 1946, requesting that stripping be started to expose material for prospective contract bidders. Warren said it was necessary to have \$15,000 for that purpose, Lefever declared.

NO REQUEST

Lefever testified that Warren did not say anything about the need for geological formation to be exposed for his purposes in designing the dam. Warren did not present plans nor specifications for the stripping nor did he suggest that an independent contractor do the work, Lefever said.

The Moorpark-Camarillo supervisor also reported that Warren did not advise the supervisors that he had a geological report written March 5, 1946, by his own geologist, Dr. John Buwalda, about the need for exploratory work at the damsite prior to building. The supervisors were not advised of the report's existence during the spring of 1946 by Warren or any Warren company representative, according to Lefever's testimony.

STEPS TAKEN

Lefever recalled that steps were taken by supervisors on April 2, 1946 to have the stripping done by the district but he could not remember whether or not the matter of a test pit was mentioned. He said he recalled Warren complaining during the spring of 1946 about the test pit not being sunk but that not to his recollection was the matter mentioned at a board meeting. The conversation took place prior to letting of the construction contract; it might have come at a luncheon, a visit to the damsite or while playing golf, Lefever declared. Under questioning by the district's attorney, S. V. O. Prichard, Lefever said Warren did not at any time during the spring of 1946 complain about the district's stripping.

New district witnesses were brought to the stand yesterday.

(See DISTRICT, Page 2)

District Witnesses Tell Story of Dam

(Continued from Page 1)

day afternoon after District Engineer Robert L. Ryan had undergone direct and cross-examination.

James Hager, road district three foreman, told of taking a bulldozer to the damsite in the spring of 1946 for district stripping operations. He said he believed then-supervisor Russell Cook told him that Warren wanted the left abutment stripped to expose ledges and to knock off surplus dirt.

In about a minute's talk, Warren told him to follow down the abutment so that bidders could see what material there was to excavate, Hager testified. Warren previously had testified he did not recall talking to Hager at the damsite and said he did not give orders to someone working for somebody else.

ROBINSON TELLS STORY

Next to the stand came Antonio Robinson, county demolition man and bulldozer helper. Speaking briskly and directly into the courtroom's microphone, Robinson stated Warren told Hager, Ryan, Cook and himself that he wanted excess dirt and debris removed from the left abutment so that bidders could see what they were up against. Warren didn't say clean it down nor wash it down, Robinson firmly volunteered. He also reported he had heard Warren on one occasion say the county men were doing all right on the stripping.

When it came to cross-examination, Robinson brought laughter to the courtroom. While being peppered with questions by Loring, Robinson said he didn't want too many "cross-complaints" because he was telling the truth about Matilija; he was saying just what happened.

Loring elicited from Robinson information that the county worker had served with the wartime seabees in demolition work, had handled explosives from the time he was 14 and that he did dynamiting work for the county on road projects. Would Ryan know this, Loring asked? He should answer Robinson.

Previously, Ryan had testified that he had told Warren at the damsite that his department could not sink a test pit in the riverbed near the right abutment because the work was hazardous and he had not the men or equipment to handle the job.

Ryan said he did not recall discussing with the board of supervisors the test pit after March 12, 1946. He did not ask for authority to employ outside men or equipment after his meeting at the damsite with Warren March 12; he did not consider the test

pit after that date, Ryan testified. Warren did not, he declared, insist upon the test pit.

Loring showed Ryan a portion of Supervisor Robert Lefever's deposition made to the Warren company prior to the trial. In it, Lefever said he had discussed with Ryan the possibility of using a dragline and clam for the test pit work but later found out it would not work. Ryan again repeated that it was his recollection

he did not report back to the board about the test pit after his discussion at the damsite with Warren.

He reported that roughly between 25 percent and 50 percent of the sandstone ribs were exposed on the left abutment by the stripping and that he considered the job satisfactory. He said Warren had mentioned spending \$15,000, that approximately \$1,000 was spent. He did not advise Warren on the amount spent and he did not discuss with Warren whether the work was satisfactory, Ryan said.

Loring queried Ryan about Warren's plans and specifications, approved April 23, 1946 by the supervisors. Ryan said he looked them over but did not ascertain the amount of the quantities because "that was not our job."

Before Ryan finished, he was questioned by Prichard about a July meeting on zone one finances at the courthouse. He said Warren did not say stripping had been unsatisfactory nor did he report his plans were computed on assumed rock line. He also reported on a June 1947 telephone conversation with Warren.

Before he wound up, Ryan, weary from testifying, gave court personnel a couple of laughs. He brought laughter when he groaned because the district's attorney was to ask him more questions after cross-examination. Then laughter broke out again when he got an affirmative answer that he could leave the witness stand.

Letter Rocks Court

A documentary bombshell was tossed into the superior court Matilija dam suit that brought plaintiff's attorneys to their feet and brought forth a promise that more would be heard about it later in the trial.

Charles Loring, attorney for the Donald W. Warren company, produced a letter that showed Warren had estimated the Matilija dam cost at one million dollars as early as May 1, 1946. It was attached to a Warren company claim dated Aug. 14, 1946. Loring showed it to Supervisor Robert Lefever on the stand. Lefever said he had never heard the letter read at a board meeting.

LEFEVER SAYS \$800,000

Lefever, as well as District Engineer Robert Ryan, had previously testified that prior to the awarding of the construction contract, Warren had never told the board that the dam would cost more than had been anticipated at the time the dam construction contract was awarded. Lefever said it was his recollection that the estimate was \$800,000.

The letter bearing the date May 1, 1946, set the preliminary estimate at one million. On the letter was the notation "8-6-46-P" and "Aug. 16, 1946, — d. a. approve on preliminary estimate today verbally. R." The initials "P" and "R" were accepted to stand for James Pool, clerk of the board, and for Ryan.

Loring asked Lefever if he meant to testify that Ryan had never showed the letter to the board. Lefever said he had not heard the letter.

WILL EXPLAIN LETTER

District Attorney M. Arthur Waite stated following the court session that he could and would explain the letter in court.

Temperatures jumped in the courtroom when Waite and Attorney S. V. O. Prichard objected to the letter submitted by Loring on grounds it was a copy and not an original. It was suggested the original be obtained from Ryan's office.

Loring suggested it be obtained immediately "and not next week."

Prichard snapped back that if Loring were suggesting anyone might set up a phoney file he had best withdraw his remark.

The original was obtained, without further fireworks and was found to be the same as the copy.

Today, Loring returned to questioning Lefever about the May 1, 1946 letter. He wanted to know if Warren had not made a statement to the board of supervisors in April or May, 1946 that he estimated the dam would cost one million dollars.

Lefever replied no. He then was shown the transcript of the contractor's declaratory relief suit against the flood control district in which was contained a quotation that Waite told the court Warren had made oral statements to the board and himself on the day the dam bids were let that the dam cost was estimated on one million dollars and that Warren was paid on that estimate.

Lefever explained that by saying Warren and Waite were sitting in the supervisors' room together on the day the dam bids were open. Waite a week or two after the bid was awarded told Lefever about the conversation between himself and Warren. Waite said that Warren had estimated the dam job on that date, May 28, 1946, at one million dollars, Lefever declared.

Warren did not make a written estimate to the supervisors at that time on what the cost would be, Lefever declared. Warren at that time did not tell the board what the bids would be.

Lefever, only witness on the stand yesterday, also was queried

about numerous other matters. He said under cross examination that Warren had complained to him but not to the board that he, Warren, was "unhappy" at the way District Engineer Robert L. Ryan had stripped the damsite abutment prior to the awarding of the construction contract. He was told by Loring to answer questions directly when he then informed the attorney that Warren was not insistent about the stripping of the left abutment or the sinking of a test pit and if Warren had told the board such was very essential it would have been done.

1ST STRIPPING COMPLAINT

Under direct examination, Lefever said the first time he learned that Warren had some complaint about the adequacy and character of stripping down at the damsite by Ryan was on receipt of a May 7, 1947 dated letter by the board from Warren.

After the letter was received, there was a supervisors' discussion with Warren. The general conversation was to the effect Warren was trying to shift the blame for excessive dam bid and costs on the district for not making proper exploration, Lefever declared.

There was also comment, he said, about the fact Warren had communicated his displeasure over stripping by means of a newspaper article before communicating with the board. The general thought at the discussion meeting was that Warren should have communicated with the supervisors before putting the article in the press, Lefever said. He added that Warren contended he had not had the full cooperation of the district engineering office.

Lefever also reported that the first time supervisors had knowledge that Dr. John Buwalda, Warren's geologist, had written a March 3, 1946 report about the need to strip the damsite was in April 1947.

CONTINUE TESTIMONY

Warren did not present preliminary plans for Matilija dam to supervisors prior to April 23, 1946, when plans and specifications were approved, nor did he advise the board he had made computations on five damsites, Lefever testified. He could not recall that Warren had explained to the board his plans and specifications called for construction on an assumed rock line, that they were based on mere guesses and not engineering data.

He said the board relied on Warren's engineering advice, supplied him with all he asked for and that no request was refused the designer of Matilija dam. As for plans for a rockfill dam, Lefever recalled there was a discussion that a rockfill dam plan might get bidders on a concrete dam to make a better bid.

Lefever told of an executive session being held with Warren on May 28, 1946, the day bids for construction of a concrete arch type dam for Matilija were opened. At the session, supervisors advised Warren they thought the bids were high, Lefever declared. He reported Warren recommended acceptance of the lowest bid and led supervisors to understand that

Butts Takes Stand

EX-SUPERVISOR Sanford Butts underwent stiff cross-examination by Attorney Charles Loring in today's session of the Ventura county flood control district action against the Donald R. Warren company over building of Matilija dam.

A smile came to Butts' face when at the start of cross-examination by Warren's attorney, the ex-supervisor was asked if he had been handed a set of typewritten questions before entering court as a district witness. "No sir," Butts staunchly replied.

QUESTIONED ON FUNDS

Loring tossed a batch of financial statistics at Butts in questioning him about his understanding of funds on hand at the time the Matilija dam construction contract was opened May 28, 1946. After being shown the figures, Butts maintained that the supervisors had gone ahead and awarded the contract because Warren had assured them he had provided sufficient funds for the project even though the lowest bid was higher than the amount estimated for the cost of Matilija.

Butts said he recalled stepping up to Warren after the June 18, 1946 meeting and suggesting to him that further studies be made before any publicity was given out about the project. He told Warren, he said, he thought the public was being misled.

Butts acknowledged that supervisors did give considerable thought between the June 18, 1946 meeting and December meetings to the matter of calling an additional bond issue. Butts said he recognized during that time that additional finances would be needed.

FOLLOWED LEFEVER

Butts came on the stand after Supervisor Robert Lefever. Before Lefever finished he was asked by the district's attorney S. V. O. Prichard to give some additional information because his "testimony was confusing."

Lefever then was asked questions about the district's stripping of the damsite before construction contracts were let. Lefever said Warren complained to him as an individual but not to the board that a test pit had been sunk by District Engineer Robert L. Ryan. He also declared Warren complained about the equipment used for stripping, that new equipment was substituted and that Warren thereafter never complained about the manner nor nature of stripping until April, 1947.

Lefever testified he had relied "one hundred percent on the Donald Warren company" for information and advice on engineering aspects until July, 1946. During that period, supervisors did not refer any part of the design nor location of Matilija dam or engineering computations and costs to Ryan for interpretation and approval, Lefever testified.

Butts came to the witness stand yesterday afternoon after Sunday (See BUTTS page 2)

Supervisor Robert Lefever finished.

Asked about early phases of the zone one dam-building program, Butts said Warren discussed Matilija dam costs at approximately \$680,000.

Like Lefever, Butts denied Warren exhibited in January, 1946, a drawing of seven dams and five damsites of the Matilija area or gave cost calculations on the seven dams. He declared, too, that Warren had not informed supervisors in February, 1946, that the fifth design was to be the one chosen for Matilija and that its estimated cost was \$1,128,000.

EAGER FOR STRIPPING

Butts recalled that Warren said on March 12, 1946 he was eager to have the damsite abutments stripped so that bidders would get a better view of the site, but Butts remembered no conversation about a test pit. He recalled supervisors ordering the stripping work to be done by District Engineer Robert L. Ryan in cooperation with Warren. Warren did not—between the March 12 date and the time the construction contract bids were awarded May 28, 1946—complain that the stripping work was not satisfactory, Butts said.

Butts, like other district witnesses, said he did not learn Warren was displeased with the manner in which the stripping had been done until he read about it in a newspaper article in May 1947.

Butts also said Warren did not—prior to letting of the construction contract—tell supervisors that stripping or test pit was necessary for him to design the dam properly.

Butts said he never heard of the report of Mar. 5, 1946 by Dr. John Buwalda, Warren's geologist, on stripping needs until it was called to supervisors' attention in April 1947 by the Matilija dam contractors.

Under cross-examination, Butts told Loring he believed Warren had told the supervisors in the spring of 1946 Dr. Buwalda had been employed. Asked if Warren also said that Dr. Buwalda recommended stripping, Butts answered that it was "possible."

\$1,000,000 DISPUTED

Butts' best recollection in regard to estimates made by Warren on Matilija dam was that Warren had not told supervisors prior to opening of contract bids that he estimated the dam job at one million dollars. He, like Lefever, said he believed the cost was going to be around \$800,000.

Loring, as he had done with Lefever, showed Butts a Warren company letter bearing the date of May 1, 1946 and giving Warren's estimate on the dam costs at approximately one million. Butts testified he did not recall seeing the letter. He, as Lefever had done, said he first learned from District Attorney M. Arthur Waite that Warren placed estimate of the dam cost at one million.

Butts declared Waite had told him of a conversation with Warren when construction bids were opened during which Warren told Waite he estimated the cost would

be about one million. Butts said he learned of the conversation sometime after the date that bids were opened.

Lefever earlier told Loring that when Warren's plans and specifications for Casitas dam were presented they were referred to Ryan because the board had lost confidence in Warren by that time—September, 1946. He also told Loring that Warren, not Ryan, was the board's engineer.

Lefever testified that supervisors did not protest proceeding with the project when they learned about the million dollar cost. He was asked if the supervisors decided to go ahead in view of the critical water condition, regardless of cost. Lefever answered that "no matter what the cost"—the phrase—wasn't right but that the board did decide to go ahead.

Waite to Take Witness Stand

District Attorney M. Arthur Waite was due to be called as a district witness today in the Ventura county flood control district's action in superior court against the Donald R. Warren company over Matilija dam.

Waite was to follow Supervisor Lester Price to the stand. Before Price got through testifying this morning he rocked the generally staid courtroom with laughter.

DURING CROSS EXAMINATION

The outburst occurred during cross-examination by Charles Loring, Warren's attorney, about testimony now as compared with his written statement made to the Warren company prior to the trial. Sanford Butts, ex-supervisor who preceded Price, had been similarly questioned. Butts particularly was queried about pencil markings and erasures he had made on the signed statement. He could give no rhyme nor reason for most of them.

When it came Price's turn to answer questions about his own deposition he turned to Loring and laconically said, "There's no pencil marks on that one." Old-timers in the sparsely occupied courtroom howled with laughter.

NEWS CLIPPINGS SHOWN

Time and again, Loring showed Price newspaper clippings as he tried to draw from Price recollections about financing of the dam project between June and December, 1946. Price said he had no independent recollection of the conversation at the sessions with the zone one advisory board.

He was questioned also about the dam contractors asking for changes in the contract. Price said he recalled the contractors asked for extension of time in June 1946 in signing the contract but he could not recall for what reason.

A new twist in cross-examination (See NEW TWIST, Page 3)

New Twist Sprung In Questioning Price

(Continued from page 1)
tion was sprung by Loring yesterday afternoon while questioning Supervisor Lester Price.

or not Warren had advised the board in the spring of 1946 that Dr. Buwalda had recommended stripping of the damsite.

Loring tried to obtain answers from Price that would indicate then-supervisor Russell Cook had been authorized to represent the flood board in working out certain details with Warren for stripping of the damsite. Price denied that such was the case.

After Price had testified that the dam was located within the supervisorial district of Cook he denied that the flood board had sent Cook and District Engineer Robert Ryan to the damsite to obtain information in stripping.

NO REPORT

In answer to Loring's questioning, Price said neither Cook nor Ryan reported back to the board on stripping of the damsite prior to awarding of the contract for construction. He answered also, that no word had been passed on to the board to the effect that Ryan had agreed to sink a test pit.

Loring's questioning also brought from Price the statement that Warren had not at that time protested the manner of preliminary stripping nor had he complained of the lack of a test pit. Price recalled that Warren's first complaint appeared in a newspaper article in May, 1947.

TOP ESTIMATE

Price said he recalled Warren's top estimate on the cost of Matilija dam was \$680,000 prior to awarding of a contract. He added that Warren didn't in January, 1946, advise the board he had conducted an investigation of various dams and sites nor that he had estimated cost of a concrete arch-type dam at \$1,128,000.

Not before June 18, 1946, did Warren ever advise the board he had changed the safe yield calculations, that there wasn't enough money to complete the zone one project nor that quantities for Matilija dam were only mere assumptions and not engineering estimates, Price testified.

RELIED ON COMPANY

He said he had relied upon the Donald R. Warren company for the design of the dam, determination of site and type of dam, adequacy of foundation materials and for the supervision of construction of the dam.

Price followed ex-Supervisor Sanford Butts to the stand. Butts left the stand after giving conflicting testimony as to whether

Waite Explains Letter on Estimate of Dam

1/22/49

His explanation of how a May 1946 dated letter from the Donald R. Warren company estimating the cost of Matilija dam was given in a superior court yesterday by District Attorney M. Arthur Waite. He was called as a district witness in the district action over the building of Matilija dam. Waite said that in August 1946 he discussed with Warren a claim for engineering services on preliminary dam plans. The claim set Warren's fee at 30 percent of the dam construction bid of \$1,279,000. Waite said he told Warren at that time that Warren's fees could not be based on that amount.

NO RECOLLECTION
Waite testified he told Warren that he had no recollection of Warren's ever presenting any preliminary plans but that he would allow payment of fees on a one million dollar estimate. Warren then was paid on this basis, Waite declared.

He said he told Warren in August 1946 he would allow the fee payment on one million dollars because Warren on May 28, 1946, the day the dam contract was awarded, had orally told him in the board of supervisors room that the bids would come in around one million dollars.

Waite told the court he had no recollection of the May 1, 1946 letter being presented to supervisors prior to the opening of bids or that it ever had been officially filed with the board.

SAW LETTER IN 1947
He said he saw the letter for the first time in July, 1947, during the trial of the Atkinson company against the flood control district. Waite said that after he had stated to the judge in that case that Warren had filed no preliminary estimate but was paid fees on an oral million dollar estimate of the cost of the dam, Warren obtained a copy of the May 1, 1946 letter from the office of District Engineer Robert L. Ryan.

The letter was produced, Waite said, and it was stapled to an invoice bearing the date August, 1946. It bore across it, said Waite, the notation "Aug. 16, 1946—d.a. approved on preliminary estimate today verbally. R."

Charles Loring, Warren's attorney, read part of the Atkinson-flood control district trial transcript to Waite with reference to the letter of May 1, 1946. He wanted to know if Waite had heard Warren testify in that case that he had submitted a one million dollar estimate on the dam cost in about April 1946.

Waite pointed out to Loring (See WAITE Page 2)

District Attorney On Witness Stand

Continued from page 1)
that Warren's answer was given under cross-examination by Atkinson's attorney and not while Warren was testifying as Waite's witness. The district attorney also referred Loring to references in the transcript which showed Waite had told the judge in the Atkinson-flood control district trial that no preliminary written estimate from Warren was received by the board of supervisors and that Warren had made only an oral estimate.

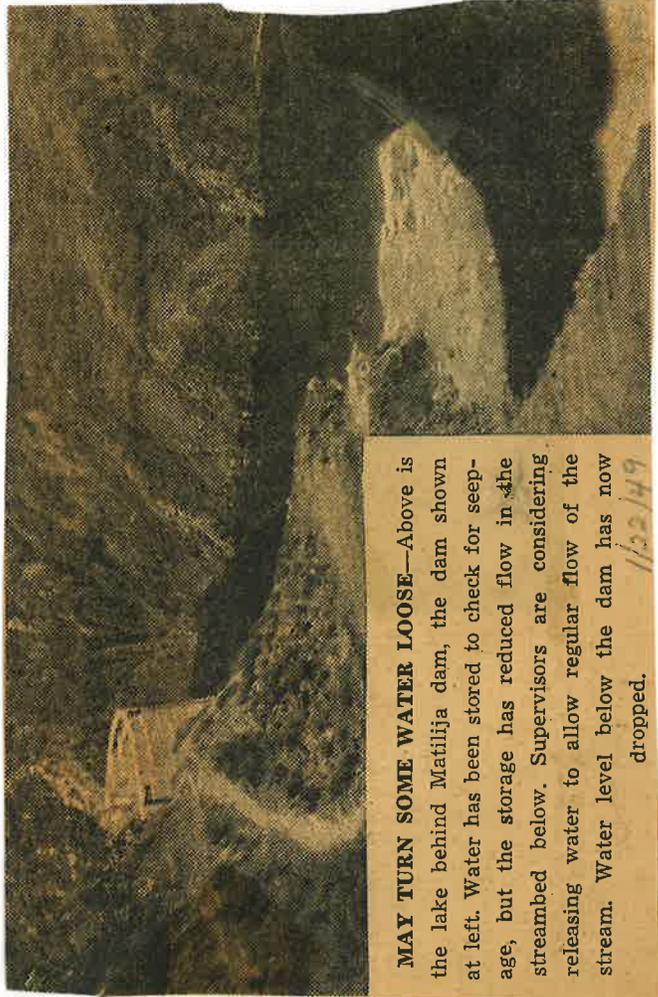
LETTER DISPUTED
The May 1, 1946 letter from the Warren company was brought into the Warren-flood control district trial during cross-examination of supervisors. Supervisors denied they had seen or heard the letter read. District Engineer Robert L. Ryan, who preceded supervisors on the witness stand, was not queried about the letter.

Waite also told about a rock fill dam plan Warren presented at a board meeting prior to awarding of the dam construction contract. Waite said he asked Warren if he were submitting plans because of changed conditions at Matilija damsite that would make an arch-type dam economically unsound.

DISCUSS PLANS
The district attorney said Warren answered that there were no changes but he thought the plans might help bring in a better bid on an arch-type dam. Waite said he told Warren the plans could not be changed then because the bond issue had been submitted to the public on the basis of concrete arch type dam being built.

Waite said Warren did not tell the board of a March 5, 1946 report from Dr. John Bulwalda recommending extensive stripping at the damsite. The report, Waite said, never was brought to the attention of supervisors until April 1947 and it was done so then by the dam contractors.

Waite contended Warren had told supervisors that there were ample funds for the dam project. Warren never advised supervisors prior to signing of construction contract that there would be a shortage of funds. Nor that he had made a cost calculation of \$1,128,000 on a concrete arch type dam in January, 1946, Waite contended.



MAY TURN SOME WATER LOOSE—Above is the lake behind Matilija dam, the dam shown at left. Water has been stored to check for seepage, but the storage has reduced flow in the streambed below. Supervisors are considering releasing water to allow regular flow of the stream. Water level below the dam has now dropped.

1-24-49

Legal Acrobatics Mark Warren Trial

Superior court was the scene of legal acrobatics this morning as the Ventura county flood control district's action against the Donald R. Warren company over building of Matilija dam resumed after the weekend recess.

As hearing on the third week of the trial started, the district called witnesses to testify regarding charges against the Warren company about extra expenses at the dam due to assertedly faulty assumptions of the position of the bedrock line.

The district had just begun to call witnesses from Atkinson Kier Bressi and Bevanda, the contracting firm that built the dam, when Superior Judge L. N. Turrentine of San Diego stated such background was unnecessary. He asked both sides to stipulate about the matter and a huddle was called, but no agreement could be reached.

Attorney S. V. O. Prichard, the district attorney, told the court he was unable to get a stipulation. The judge then allowed the district to start over again.

The district then called Peter E. Noble and Paul T. Pulley of the dam-building contractors' firm to begin testimony on methods of keeping cost accounts and arriving at figures for making extra claims on the county.

Noble was on the stand at the noon recess.

For the first time, Leonard Janofsky, associate attorney with Prichard, appeared in court. It was he who was handling questioning of the witnesses from the contractors' firm.

1-25-49

Court Listens To 200 Pages Of Deposition

Today's activity in the superior court case of Ventura county versus Donald R. Warren consisted of the reading of a 200-page deposition.

The deposition was taken from John S. Southworth who was previously employed by Warren at the dam. Southworth, according to the statements being entered on the court records, made a geological map as the formations were uncovered at the site. The map was made from field sketches as the area was uncovered during excavation. Sketches of the left abutment were done by cross-sections.

The reading of the statement into the record was being done at the court's request. Southworth is believed to be in Arizona. He was unable to make a personal appearance.

Stanley Burrill, one of Warren's attorneys, came to bat for the first time yesterday afternoon as cross-examiner.

He questioned three witnesses who had served with the contracting firm of Atkinson Kier Bressi and Bevanda during building of Matilija dam. They appeared as district witnesses.

Peter E. Noble described the contractors' procedure of keeping payroll, equipment rental and extra work accounts. Paul T. Pulley and Lowell Wright told how office records were used to compile claims made to county flood control district supervisors for work and materials over and above the contract.

The reports showed claims for extra excavation and concrete, labor, for extension of the water diversion pipe, for higher costs of concrete that had to be purchased because of the enlarged job and other items.

1-25-49

Matilija Dam Trial Costs County Venturans \$500 Daily

Dams are fairly expensive items to build, as Ventura county can well attest.

And now the county is finding out that it is also expensive to conduct law suits after construction of a dam!

Rough estimates — rough particularly on the pocketbooks of taxpayers who already have had to dig down for the money to finance the construction of Matilija dam — show that the daily cost of conducting the county's suit against the Donald R. Warren company engineers is running about \$500. Estimated daily cost of building the dam in the first place was about \$7,000, figuring one year of construction costing \$2,600,000.

To begin with, each day that Attorney S. V. O. Prichard walks into superior court to appear before Judge J. L. Turrentine, the county pays him \$200. On days he is retained by the county but does not appear in court, it costs the taxpayers \$150.

There are other costs, too, according to the district attorney's office and the personnel office.

Costing even more than the county's legal consultant are the court reporters. The court has ordered daily transcript on the process of the trial. The court reporters, paid on a per diem plus folio (amount transcribed) cost about \$1,200 to \$1,500 per week or roughly \$250 per day.

District Attorney M. Arthur Waite's \$8,155 yearly salary breaks down to about \$22 per day in court.

The judge's \$12,000 per year salary breaks down to about \$35 per day. The clerk draws about \$12 per day and the bailiff about \$13.

Witnesses draw mileage and ex-

penses, as do Prichard and the judge. Experts, if any are called as witnesses, draw their pay according to the degree of their expertness.

Of course, the salaries of most of the county officials would go on whether or not there was a trial in progress. And as for the judge, he draws expenses for traveling to Ventura from San Diego and the counties figure that the exchange of judges over the years just about equalizes itself. For example, Judge Louis C. Drapeau is in San Diego sitting in for Turrentine this week.

Cost to the defense is not readily available.

MATILIIA TRIAL JUDGE RELAXES WITH HOBBY

By JOE PAUL, JR.

Judge L. N. Turrentine is a man who says a hobby you really enjoy should never make any demands on you.

"I like a hobby that you can enjoy when you want to," he says. "One that you can walk off and leave and come back to when you feel like it."

A HANDYMAN

The judge, sitting on the Ventura county flood control district versus the Donald R. Warren company engineers case, said he thinks a few wood-working tools, a hammer and a saw and a number of household repair jobs is hobby enough for any one.

"I'm the handy man about the house. That's my hobby. I like to patch up a little upholstery here, an old chair there, tack this up and make a new one of those. I like to fool with electrical gadgets—I was a radio electrician for the army during World war I," he said.

Son of a Methodist minister who came to San Diego in the 1880's, the 56-year-old judge is a native of that southern California town. For 17 years after his graduation from the University of Southern California law school in 1913, young Turrentine was a practicing attorney in San Diego. Eighteen years ago, at the age of 38, he became a superior court judge there. He now is San Diego's senior judge.

He makes his home in National City.

USED TO COMPLICATIONS

The Matilija dam case is complicated. But it is nothing new in complicated cases for the judge. He heard the now famous Huntington Beach case which settled the ownership of oil rights of angle-drilling wells. The case covered oil properties valued in excess of \$150,000,000 and involved



JUDGE L. N. TURRENTINE Handyman About the House

more than 800 property owners and interested parties. Judge Turrentine called it the most "comprehensive" case he ever took under submission.

He is a past president of the California Conference of Judges. He is married and has two sons, one a dentist and the other a student at the University of California at Los Angeles. So far as he knows, he is the only judge in the Turrentine family, but has a cousin, Lowell Turrentine, who is instructor of law at Leland Stanford university.

Deposition Still Being Read

The court hearing the Matilija dam suit this morning had listened to 193 pages of a 209-page deposition at 11:15 a.m. and, it was expected, the reading would be finished by noon today.

Attorney Walter J. Fout took over the lengthy task of reading this morning after an all-day performance in superior court yesterday by Attorney Stanley Burrill, another member of Warren's counsel.

Possibility of a fault zone in the Matilija damsite area entered the picture in the flood control district action against the Donald R. Warren company, designer of the dam, as the deposition was read yesterday.

PONDER FAULT ZONE

John S. Southworth said in the deposition that he felt there was a fault zone in the damsite area. He based this information on his work with the Warren company and his hobby "of trying to work out the geology of the area."

Southworth worked for the Warren company at the dam from summer of 1946 until summer of 1947 and in the early stages made a geological map of formations uncovered in excavation and cross-section work. He said there was no extensive hand operation of the left abutment at first and that a power shovel was used against the abutment during early work on the dam.

TOP STRATA SHEARED

At first the left abutment appeared to be a continuous formation, he said, but later work showed the top strata had been sheared and there was evidence of earth movement. There was a definite break through the formation, he contended.

Southworth detailed the earth formations at the dam as he saw them, describing how part of the material excavated deteriorated in water. He told also of talking to Dr. Charles P. Berkey, the county's consultant, and of showing the geologist his field sketches.

Most of the cross-examination—and it filled more than half the report—was devoted to a detailed questioning of Southworth about his independent geological study of earth conditions in the Matilija area and about how he reached his conclusions that there had been earth movement and break in the strata across the damsite.

All Above 1,025-Foot Level: 11/29/49

MATILIJA DAM WATER RELEASE APPROVED

All water stored in Matilija dam above the 1,025-foot elevation will be released to water users below the dam, flood control district supervisors decided yesterday.

The board's action came after a report by County Hydraulic Engineer Richard Jamison that

nine wells below the dam are dry and eight wells are drawing from less than eight and one-half feet depth.

SUPPLY DROPPING

The board, which has acknowledged the water is being held illegally behind the dam, heard from John Newman, a land owner below the dam, who informed supervisors that some property owners below the dam, face the loss of their crops if the water is not released.

Newman told the board his well has dropped from a normal flow of 540 gallons-per-minute to less than 30. He said some of his neighbors have been hauling water from his depleted well for domestic uses. He also reminded the board that he and others affected by the water shortage have consulted a lawyer and feel they can—if they must—get an injunction against the storage of other than storm waters behind the dam. Newman said it was a direct violation of the riparian rights of those on the stream banks below the dam.

Newman said his information was not a threat in any sense. He said he understood the district's actions in storing the water but had taken the move to protect himself and his neighbors.

The district has been storing water in the dam since December 17 in order to test the seepage from the dam.

FLOWING TOO SLOWLY

However, Jamison admitted yesterday to Supervisor R. E. Barrett that no useful information can be obtained by keeping the gates closed and building up the lake behind the dam at the rate it is filling up now.

The engineer said the reservoir is filling at the rate of nine acre feet per day and it would take 65 more days to raise the lake level to the point where it would be of real benefit for tests.

There are about 424 acre feet stored behind the dam now, Jamison said.

Supervisors took action which will authorize the county engineer's office to open the gates at the 1,025-foot elevation, releasing the water—raised to a point about seven feet above the gates—at a rate to be determined by the engineers.

The water will be allowed to flow at least to Foster Park, supervisors decreed.

Conduit System Delay Approved 11/29/49

The county flood control board voted this morning to delay any action on the Matilija conduit system until a master plan of the entire distribution system can be prepared by Consultant Harold Conkling.

The board met with Conkling today and, in a two-hour session, went over all the possibilities of the distribution system. Conkling is expected to have his report ready in about a month.

1-27-49

Conkling to Make Survey:

Matilija Conduit System Awaits Plans

1/27/49

Start of the Matilija dam conduit system will be delayed until a master plan of the system — including size, location and cost— has been prepared by Consultant Harold Conkling.

The board held a two-hour session at the court house yesterday morning while Conkling, his assistant, Harvey Banks, District Engineer Robert L. Ryan, Zone One Manager Neil Stiver, and Charles Mangold of the county engineer's office "let their hair down" on the details of the long-awaited Matilija dam distribution system.

Two weeks ago supervisors received bids on the main pipeline from the dam to the proposed fork at Meiners Oaks. The low bid was received from the Southern Pipe and Casing company in the amount of \$162,465 for the 18,000 feet of 26-inch pipe. At that time Supervisor Robert Lefever wanted to go ahead with the purchase to "get the dam on the payroll."

PIERCE TAKES LEAD

Other members of the board, however, held back— indicating they wanted a more complete picture of the entire system which is proposed to branch at Meiners Oaks, run into the Ojai valley in one direction and down Ventura river in the other.

Yesterday Supervisor Edward Pierce took the lead in urging a delay. He urged holding off until Conkling could give the board the cost of entire distribution system. Pierce said he thought the price of steel might come down.

Supervisor Lester Price suggested the board is going to look silly if the reservoir behind the dam fills up this year and there is no system to distribute the water. He finally decided, though, to wait for a more complete report.

R. E. (Sam) Barrett, who heads the flood control board as chairman, sided in with Pierce. Barrett said the main line from the dam to Meiners Oaks will not take care of the people who need water most—those on Ventura river below Meiners Oaks. He suggested that Meiners Oaks could be served with or without a pipeline.

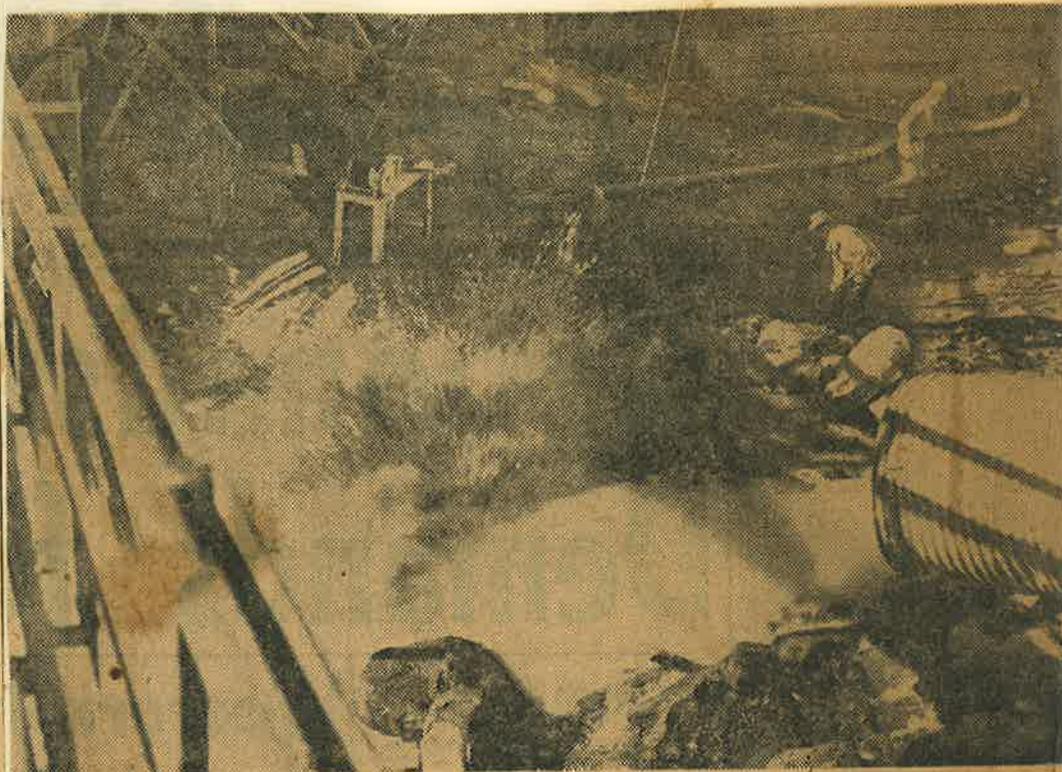
Lefever asked Deputy District Attorney Don Roff if the district could sell water flowing down the river that had been released from the dam. Roff said, in his opinion, the district certainly could. He explained that after the riparian rights are taken care of, the district could charge for water used by private users.

the district's bond issue money and a total of \$914,427.44, including tax money, left in the district's coffers. On the basis of the low bid for the main line from the dam to the Oaks there would be

only \$23,000 left in the bond money after that portion of the conduit system had been installed.

Conkling will try to figure the cost estimate of the line as far as Oak View Gardens and a possible lateral line into the Ojai valley.

The board will then be in a position to determine what the district can afford. Price suggested the district will stop the line when "we run out of money."



WATER FROM MATILJA—There was a monumental-size squirt out of Matilija dam yesterday morning when Walt Loban of the county surveyor's office, right, threw the switches controlling the dam's valves. The initial burst of water, above, is on its way downstream to its owners, the riparian-right-holders. It had been impounded by the county to test dam seepage. The figure undignifiedly scooting across the background is Supervisor R. E. (Sam) Barrett, of Ojai.



Matilija Dam Tender May Get New House

Matilija Dam Tender William Mulvaney may soon have a place to live on the damsite, the flood control board of supervisors decided yesterday.

At the request of Zone One Manager Neil Stiver, the board is considering the construction of a house for Mulvaney at the dam. Stiver said the building of a house for Mulvaney on the dam-site will save the district some \$2,400 a year. At the present time, Stiver said, a night watchman is employed to relieve Mulvaney at a cost of about \$180 a month.

If Mulvaney had a place to live at the dam the district would not need a nightwatchman, Stiver told the board. He said he thought a 700-square foot house could be built for about \$5,000.

Supervisors asked Stiver to bring in some plans and a more definite figure for the house.

1/28/49

Conkling T 15

Matilija Dam Trial Questioning Touches on Technical Points

(Continued from page 1)

life span of the dam on a 50-year basis, the safe yield of the Matilija reservoir would at the end of a 10-year period be reduced to 1,480 acre feet. The dam would be completely occupied by sedimentation by the end of 39 years, he said.

The questions were so technical that at one time all parties to the case seemed confused. S. V. O. Prichard, the district's attorney, asked a question that not even Conkling could untangle. Conkling asked if he could reframe the question and the court laughingly allowed him to do so.

Conkling came to the stand at 11:45 a.m. yesterday after the two day reading of John S. Southworth's deposition ended.

rights were not taken into consideration. When water rights and were considered, safe yield would be approximately 1,800 acre feet during a four-year drought, he said.

He told the court that, judging (See MATILJA, Page 2)

Some of the cross-examination questions in the deposition seemed to indicate that the defense would try to break down Southworth's geological conception of the Matilija dam area. He was asked questions about a conversation he had had with Howard Taylor, Warren's resident engineer on Matilija dam. The questions pertained to a comparison of earth formations at Santa Barbara's Gibraltar dam and Matilija dam.

The defense wanted to know if Southworth had said he must "be all wet" in his conclusions about Matilija dam's earth foundations. Southworth didn't remember the conversation in that fashion. He said he had told Taylor that if a dam could be built at Gibraltar with correct engineering it probably could be done at Matilija.

Questioning of Southworth by defense attorneys showed he had changed jobs a number of times and had not worked on a dam prior to Matilija.

duced to acre feet

1-28-49

Matilija Figures Debated

A SAFE-YIELD of 4,000 acre-feet a year during a dry period could not be realized from Matilija dam, Richard H. Jamison, county hydraulic engineer, said in superior court testimony yesterday.

Jamison's statement thus conflicted with the estimate made by the Donald R. Warren company, designers of the dam.

Jamison became a witness for the flood control district yesterday and remained on the stand this morning, in the action of the county against the Warren concern, to explain how studies were started in 1947 to determine the amount of draft that could be used from the dam when the district took over its operation.

QUESTIONED AMOUNTS

There was a question in his mind, he said, of how much water could be obtained from the dam for sale. He started his studies and had partially completed them when Hydrologist Harold Conkling was assigned by the district to make a safe yield study, he reported.

The former state division of water resources employe said he discarded the 4,000-acre-foot figure when his calculations showed him the reservoir would have emptied during an assumed dry period.

Jamison then used other calculations, coming up with the statistics that the safe yield would be between 2,800 and 3,000 acre feet during a four-year dry period if the dam's reservoir were full at the start. If the reservoir were empty at the start, the yield would be about 2,100 acre feet, he said.

Jamison said his studies had not progressed to the point where he had taken into consideration pumping right users, as Conkling did. Neither did he take siltation computations into consideration for the first assumed period of operation for the district. Siltation would not have entered the picture for the first period, he declared.

RECOMMENDED STUDIES

Jamison said he recommended at the time he made his partial report that further studies be made in order to determine pumping rights. These rights would decrease the safe yield, he declared.

The hydraulic engineer said that he came to the conclusion that 3,000 acre feet was too high a figure for rate of yearly draft from the dam during the dry period because there would be insufficient water

followed the four-year dry period. During a five-year period, there would have been a time when the water was below outlet level if the 3,000 acre foot draft was used, Jamison declared.

Jamison reported that the Warren company personnel visited his office during the spring of 1945, prior to the dam bond election, and that all office data were available to them. Water rights data were not in the office at the time, he said.

Jamison came to the witness stand (See DEFENCE page 2)

Defense Questions Conkling on Computing Of Matilija Dam Safe Yield Factors

(Continued from Page 1)
stand after lengthy questioning of Hydrology Consultant Harold Conkling, who estimated safe yield of Matilija dam at 1,800 acre feet a year over a four-year drought period.

The defense questioned Conkling in detail about the factors he took into consideration in computing safe yield and about his suggestion to flood control district supervisors that water that would otherwise flow over the crest of Matilija dam be diverted to Ojai spreading grounds.

He said he did not take bank storage nor return flow into consideration in his calculations because he did not consider them to be material. At one point, Conkling was asked what would be the safe yield of Matilija dam if the city of Ventura and pumping rights could be satisfied from Casitas. He answered about 3,600 or 3,700 acre feet. He then was shown a newspaper clipping that said he had told supervisors 4,000 acre feet could be the yield of Matilija if water rights were satisfied from Casitas.

EARLIER REPORT PRODUCED

Conkling said he did not know whether or not he had so stated the matter to supervisors but he knew that the yield would be about 3,600 or 3,700 acre feet and not 4,000.

The defense questioned Conkling about a state bulletin compiled in 1932 under his direction while he was with the division of water resources. He was asked if there were statements in the report to the effect that there was no major fault closer than two miles from the Matilija dam site and if the report indicated only about 23 feet of earth and gravel would have to be removed for an adequate dam foundation.

Conkling said there were. Under redirect examination, he testified that this material was an abstract from a report by Hyde Forbes, geologist, and that he had not made the investigation. Conkling thought the Forbes report had been made for a private group, but the defense offered proof that showed it had been made for the state.

He also was asked if he had taken an earlier dam report into consideration in his studies. Conkling laughed and said he did not know and wasn't going to say one way or the other.

FLOOD WATER FIGURED

Under redirect examination by the district, Conkling explained that the report for the state contained calculations for a rock fill dam and for no other kind of dam. The cost of the dam (figured in 1932 at \$2,330,000 for a 170 foot rock fill dam) included a land

acquisition figure of \$45,000, he said.

Conkling said his Matilija dam safe-yield study for the Ventura county flood control district took into consideration only the impounding of flood waters.

Before Conkling finished, the judge asked the hydrologist a number of questions and Conkling asked the judge a number in return. The judge wanted to know whether Conkling in making safe yield computations started with the assumption the reservoir was full. Conkling answered yes. The judge also wanted to know whether, with all records available, safe yield could be computed by an accepted formula.

Conkling said that the most deficient years of rainfall are used in the accepted formula. In his studies for Matilija dam he used San Gabriel and Santa Barbara figures, as well, because of the lack of local records and because the areas are comparable, Conkling reported.

1-29-49

Safe-Yield Explained:

Matilija Trial Recesses

A week's recess has been called in the Ventura county flood control district's superior court action against Donald R. Warren company, Matilija dam designers.

Court was recessed yesterday afternoon until 10 a.m. Monday, Feb. 7 because Judge L. N. Turrentine has a prior commitment to fulfill.

Recess was called following long cross-examination of Richard H. Jamison, county hydraulic engineer, who took the witness stand to explain how he had made a safe yield study for the Matilija dam and how he had obtained figures lower than Warren's 4,000 acre foot safe-yield.

TWO METHODS USED

Under questioning by Defense Attorney Stanley Burrill, Jamison said there were two methods of arriving at a safe yield figure. One method would be used in establishing the fact that a dam could be built with expectations of beneficial use and the other would be used in establishing the amount of water that could be used after the dam was built without emptying the reservoir.

Burrill's questioning led Jamison to say that, in the computation of his safe-yield figure of 2,800 acre feet, he had not used actual rainfall and runoff figures for December 1931 because that year "was a wet one" and not considered normal. He said he had not accounted for bank storage water because he considered its return to the lake too meager. Jamison said he did not figure the additional water made available by removal of vegetation from the reservoir area.

Jamison said he made his studies after receiving instructions from District Engineer Robert L. Ryan.

WATER RIGHTS DISCUSSED

In these studies, Jamison reported, he figured how much water had been used over a period of years by riparian users. Jamison told Burrill he didn't believe the water right users were taking more water than they could put to beneficial use. He was asked whether, if water users took only the amount they could put to beneficial use, as stated in Conkling's report, there would be a yield of more than 4,000 acre feet from the dam.

"I wouldn't say there would," Jamison answered.

Burrill attempted to draw Jamison (See SAFE-YIELD Page 2)

(Continued From Page 1.)

son into comparing his figures with those used in Hydrologist Harold Conkling's report of a safe yield of 1,800 acre feet for Matilija dam. Again and again this angle was approached and reports of both Conkling and Jamison were exhibited.

Jamison repeatedly insisted that he was not familiar with all of Conkling's report, that he had supplied Conkling with acreage figures but that he had not done enough work on the report to interpret some of the figures. He also told Burrill he would not guess at Conkling's interpretations and that he did not believe Burrill was correctly interpreting Conkling's tables. He also pointed out he had not assumed any figure for beneficial use of water in his report, as Conkling did.

Through much of this procedure, Burrill and the district's attorney, S. V. O. Prichard, wrangled. Procedure at the trial brought forth peals of laughter when Prichard and District Attorney M. Arthur Waite objected to the line of questioning employed by Burrill. Prichard said it was argumentative and unfair. The objection was overruled and Jamison was asked to answer the question.

ASKED ABOUT SURVEY

Jamison turned slowly to Burrill and asked: "Now, what was it you wanted me to say?"

During the questioning, Jamison told Burrill he had assumed Warren had taken into consideration in his safe-yield study the upper gravity right users. Jamison said there was a sentence in Warren's zone one report that led him to believe Warren had taken into consideration water rights in his safe-yield study.

Burrill then showed him a statement in the zone one report to the effect that zone one should make a survey of claimed water rights. "Did Warren do it?" Jamison asked the attorney. Burrill answered that the report suggested zone one do the survey. Usually calm, Jamison repeated the question: "Yes, but did Warren do it?"

Burrill then questioned Jamison about data available in his office when Warren was compiling his report. He was asked and re-asked if he had seen the zone one report in manuscript form. He consistently answered he had never seen the manuscript but only the bound volume of the report.

Under re-direct examination Jamison said there was sufficient data on hand in his office at the time the zone one report was prepared for developing curves on water use.

Roy Pinkerton, editor of The Star-Free Press, was called to the stand yesterday afternoon by the district but was dismissed without questioning after he testified he had had no conversation with Warren at the time the Matilija construction contract was let. He said he had talked to Warren about sufficiency of money prior to the bond election but not at the time of the contract.