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# DEID

**May-July, 2003**

**Issue III**

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## NRDC Attacks District Water Contract

*Just a month after walking away from settlement negotiations, the Natural Resources Defense Council (NRDC) launched an attack at the heart of the Delano-Earlimart Irrigation District and its water users: its Friant long-term water service contract.*

The move, while not totally unexpected, was surprising as to the clarity of the intentions of NRDC and the environmental coalition that it represents, that being either do things their way or the attacks will continue.

**Action to be Filed in Federal District Court**

On May 15, 2003, NRDC filed a 60-day notice of its intent to sue the U.S. Bureau of Reclamation (USBR) and other agencies with the purpose of invalidating the 25-year term contracts of Friant districts. These contracts were enacted on January 20, 2001.

The notice means that Friant Division districts must now gear up for not only the resumption of litigation dealing with San Joaquin River issues from an earlier lawsuit brought by NRDC, but must also make plans to defend its long-term water service contracts.

**ESA Violations Claimed**

Attorneys for NRDC said that the new lawsuit would be “based on violations of the Endangered Species Act and

implementing violations”. They urged the Bureau to immediately rescind all Friant district water service contracts.

The violations alleged by NRDC include:

- Failure of the USBR to consult with the U.S. Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service (USFWS) on the entire action authorized by the USBR.
- Failure of the USBR to ensure that no endangered species or critical habitat would be jeopardized.
- Insufficient biological assessments by the USBR, NMFS and USFWS.
- Assertion that the USBR violated the Endangered Species Act.
- A lack of reinitiating of consultation between the USBR, NMFS, and USFWS.
- Other alleged operational effects and technical issues dealing with the operations of the Friant project.

Delano-Earlimart Irrigation District has joined with the balance of water and irrigation districts within the Friant service area to mount its defense to the NRDC’s latest attack. Efforts that were previously spent on settlement discussions with NRDC must now be turned toward what will surely be a long, and expensive, period of litigation.

**Settlement Efforts**

*(Continued on page 4: LAWSUIT)*

# Irrigation Season in Full Swing

*Full water supplies to meet demands for both eligible and excess lands have been obtained by the District for the 2003 water year.*

Following a rather unsure time earlier in the water year, growers in the Delano-Earlimart Irrigation District (DEID) are enjoying a full water supply. All grower demands for irrigation water are being met from District deliveries.

Over 15,000 acre-feet was delivered to DEID growers in May, and another 24,500 in June. In total, over 51,000 acre-feet have been used by DEID growers in the 2003 water year, and they are expected to use another 75,000 by the end of February, 2004.

## Eligible and Excess Lands

As a Contractor for water from the Friant Division of the federal Central Valley Project (CVP), DEID can normally deliver water to only those lands that have been deemed "eligible". Eligibility is based on a complex list of rules adopted by Congress and administered by the U.S. Bureau of Reclamation. These rules are commonly referred to as "Reclamation Law".

About 9 percent of the land in DEID is considered ineligible to receive District water under Reclamation Law. The primary factor in determining eligibility to receive water from a federal water project is total land owned. Those with more than the allowable amount, (960 acres west-wide), are determined to be in "excess". Hence, land that is not eligible to receive water from a federal project is known as "excess land".

## New Agreement Brings Water Supply for Excess Lands

In all of the past 5 years, DEID has been able to obtain non-CVP water that has been delivered to excess lands. The 2003 water year is no different.

A 5-year agreement was signed between DEID and the Lower Tule River Irrigation District (LTRID) that provides for up to 15,000 acre-feet of non-CVP water to be delivered annually to DEID. The exchange provides for the non-CVP water coming from LTRID to be replaced with CVP water from DEID. Other conditions of the agreement also control the yearly amounts of water that may be exchanged between the two districts, primarily annual



hydrology.

## Water Supply Spills at Millerton

Even though DEID is enjoying a 2003 water supply that is adequate to meet grower demands, the Friant Unit as a whole is still experiencing a below-normal water year. And despite this below-normal condition, late season rain and snowfall that coupled with above normal temperatures in May and June resulted in some water lost to spill down the San Joaquin River. Approximately 8,300 acre-feet went over the Friant Dam spillway in June, resulting in a minor loss of Class 2 water for the current water year. However minor it was, losing water in a below-normal water year always hurts.



## Secretary Norton Announces New Initiative

Chronic water supply problems in the West are one of the greatest challenges facing the nation in the coming decades, Secretary of the Interior Gail Norton said recently in announcing her proposal to help communities predicted to experience conflicts over water during the next 25 years even in the absence of drought.

The proposal--*Water 2025: Preventing Crises and Conflict in the West*--calls for concentrating existing federal financial and technical resources in key western watersheds and in critical research and development, such as water conservation and desalinization, that will help to predict, prevent, and alleviate water supply conflicts. The President's FY 2004 budget calls for an initial investment of \$11 million.

"Crisis management is not an effective solution for addressing long-term, systematic water supply problems," said Norton.

Welcome to California, Ms. Norton.



# House Water Committee Meets In Tulare

*House of Representative's Subcommittee on Water and Power conduct an official field hearing in Tulare on water supply.*

Water storage needs in Central California were aired June 28 during a House Water and Power Subcommittee hearing in Tulare.

Over 300 people attended the Saturday morning hearing at the Heritage Center on the grounds of the International Ag Expo.

### Temperance Flat Touted

The hearing primarily focused on the possible development of Temperance Flat Dam on the San Joaquin River northeast of Fresno.

Temperance Flat is viewed as a means of providing a water supply for San Joaquin River restoration without harming water users in the Central Valley Project's Friant Division who use much of the river's water. Flood control and irrigation storage are other potential benefits. Predictably, the environmental community opposes the plan, regardless of the potential benefit that increased water supply could have for area environmental enhancement.

### Nunes Calls for Hearing

Congressman Devin Nunes (R-Tulare), who campaigned on the need for new water storage, requested and received the local hearing. House Resources Committee Chairman Richard Pombo (R- Tracy) and Water and Power Subcommittee Chairman Ken Calvert (R- Corona) also took part. Other Committee persons also in

attendance included George Radanovich (R-Mariposa), Dennis Cardoza (D- Modesto) and Grace Napoliano (D-Los Angeles).

### Most of Panel Supports New Storage

The Subcommittee members heard from a

General Manager of the Kern County Water Agency, and Gloria Morales, businesswoman and farmer.

### Study Authorized

Earlier this year, Nunes introduced legislation seeking authorization to conduct a feasibility study on creating

more water storage on the upper San Joaquin River above Millerton Lake. The Temperance Flat dam site is within this area.

Nunes' request was adopted and passed as part of Congress' spending bill earlier this year. Nunes has announced that he will now seek federal funding to pay for the study.

*Publications of the Friant Water Users Authority and the Family Farm Alliance contributed to this story.*

**Does California Need New Water Projects?**

- The Friant Division of the Central Valley Project was built in the 1940's;
- The State Water Project was constructed in the 1960's, the last major water project that has been built;
- In the 1960's, the State's population was approximately 17 million people;
- By 2003, the State's population had doubled to 34 million people;
- By 2020, the State's population is expected to skyrocket to 50 million people.
- Where will the water come from to meet the current and projected demand for our citizens?

Approximately 20,000,000 acre-feet of unused water currently flows through the Sacramento-San Joaquin Delta in an average year.

Source :California Farm Water Coalition

seven-member panel of witnesses, all but one of whom represented water interests. A representative from a statewide environmental group called "Friends of the River" spoke against Temperance Flats and any other new surface storage projects.

Other panel members that spoke in favor of new storage for the Central Valley, and specifically for Temperance Flats, included Kole Upton, Chairman of the Friant Water Users Authority, Tom Clark,



**DEID PIPELINE**

PROVIDING INFORMATION ON ISSUES OF INTEREST TO WATER USERS AND GROWERS IN THE DELANO-EARLIMART IRRIGATION DISTRICT

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**Water Fact:**

**Over 97 percent of the earth's water is in the oceans. Inland lakes represent only 0.018 percent of the earth's water.**

*(LAWSUIT: Continued from page 1)*

NRDC originally brought action against Friant districts in 1988 and were successful in having long-term water service contracts renewals voided by a federal Court judge at that time. However, some issues concerning flows downstream of Friant Dam on the San Joaquin River were left unresolved.

Four years ago, both NRDC and representatives from the Friant districts began good-faith settlement discussions that were aimed at resolving the remaining legal issues.

On April 17, in a news release that caught Friant officials completely by surprise, NRDC announced that the settlement process had failed.



was still interested in unilateral response from

Friant responded that it further negotiations. The NRDC was a resounding no.

*Thank you the FRANT WATERLINE, which contributed to this story.*

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Quote of the Month-

This quote was taken from testimony given at a Congressional Hearing of the Water and Power Subcommittee held in Tulare on June 28, 2003:

*“In order to create long-term sustainability, tough decisions will need to be made, some will be asked to sacrifice, so that society may benefit.”*

*Marc Christopher  
FWUA Policy Advocate  
Friends of the River*

Any guesses as to who he thinks should “sacrifice”?

(see related article on page 3)