

THE SESPE WILD

The Newsletter of the Keep the Sespe Wild Committee

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UNITED WATER DOES NOTHING for STEELHEAD - YET AGAIN

March 2020

The United Water Conservation District (United), a public water agency on the Oxnard Plain, operates the Vern Freeman Diversion and its fishladder and fish screen, which sit astride the Santa Clara River near Saticoy.

They have been under a federal court order for some time now, to fully redesign and test (with a half-scale model) both fishladder design options identified by NMFS (the National Marine Fisheries Service). The directors of United came up with a third alternative - their own idea - a traditional fishladder design with no proven record in southern California. Without getting technical, United's design would cut a vertical slot near the original and completely non-functional 25-year-old fishladder.

The most effective fish passage option identified by NMFS' fish passage and water flow scientists is a Hardened Ramp of boulders, built with pools which steelhead can ascend on their way upstream to their millennia-old spawning grounds along the upper Santa Clara River and its tributaries. These include, Santa Paula Creek, Sespe Creek and Piru Creek (and a few minor tributaries).

Here's a list of United's court-ordered early 2020 deadlines from Judge David Carter and the Los Angeles federal court -

- (1) January 31st. 2020 - complete engineering construction designs for the two fish passage options approved by NMFS the Hardened Ramp and the Notch.
- (2) April 30th. 2020 - after scale modeling of both options, select which of the two to build.
- (3) June 30th. 2020 - submit for approval completed applications to the state and federal agencies responsible for the Santa Clara River.

United hasn't yet completed the first on the list, and they have taken only few steps in that direction. They did no scale modeling, nor did they reserve any scarce warehouse space where those kind of models would be built and tested.

In late February United was also handed down a unanimous decision by the federal Ninth Circuit Court of Appeals in Los Angeles, whose three judges rejected all United's appeal arguments in the same court case.

Their next hurdles may prove more difficult for them to surmount. On April 20th. the Wish-toyo Foundation, who brought the lawsuit against United on behalf of the federally-endangered southern steelhead trout, must appear again, along with United, before the judge, David Carter.



The Vern Freeman Diversion Dam on the Santa Clara River upstream of the Highway 118 bridge in Saticoy, The NMFS-recommended Hardened Ramp fish passage structure would gradually descend downstream from the center of the diversion dam you see here, in this May 05 2003 photo.

The judge will decide whether to allow United's decision to modify their current court order, in order to allow United to proceed with only their vertical slot fish passage option.

Only one week later, on April 27th., both parties will return to the court, where the judge will consider the Wishtoyo Foundation's motion to hold United in contempt of court for violating the court's earlier judgment, through their continued lack of progress on designing and testing effective fish passage options.

NMFS responded on March 6th. to United's decision to build their Vertical Slot fish passage, in a letter which concluded that "we recommend that United develop the Hardened Ramp design with the same level of vigor that United has given to the Vertical Slot design."

NMFS requires United to carry two fish passage design options to modeling, so that they can have two options to compare and consider for their effectiveness.

United has been at this now for well over 20 years. Moving slowly, if at all. Constantly switching tactics and therefore always spinning things out, all the while costing ratepayers enormous amounts of money to pay for attorneys' fees. And delaying implementation of new, effective fish protective measures at their Vern Freeman Diversion structure.



Fisheries biologist Robert Palmer with a 27-inch southern steelhead on lower Sespe Creek in April 1983, before the construction of the current Vern Freeman Diversion dam. Back then, United's diversion dam was simply bulldozed sand and gravel that washed away, allowing steelhead passage, and was rebuilt annually.

IN THIS TIME OF LOCAL, NATIONWIDE AND WORLDWIDE EMERGENCY, WE URGE YOU TO SEND A DONATION TO THE CHARITY OF YOUR CHOICE WHICH IS HELPING PEOPLE SURVIVE COVID-19 SOMEWHERE.

ALTERNATIVELY, THERE ARE MANY LOCAL ENVIRONMENTAL ORGANIZATIONS THAT ARE EXPERIENCING FINANCIAL HARDSHIP UNDER COVID-19, AND ARE DESERVING OF YOUR SUPPORT.

THANK YOU.

KSWC will manage fine without your kind donations at this point!

THE FUTURE PLANS FOR THE OJAI DISTRICT RANGER'S OFFICE

Los Padres National Forest administrators are proceeding with plans to downsize forest administration by consolidating the forest's five ranger districts into four. Similar consolidation has already taken place across California's other national forests.

While a year ago the plans were that the Ojai Ranger District office on east Ojai Avenue would close altogether, a new and slightly better proposal is now moving forward.

The Ojai Ranger District itself is still slated to disappear. Its segments west of Hwy. 33 (including the Matilija Wilderness) will merge with the Santa Barbara Ranger District, administered from that district's office on Paradise Road, near the Cachuma Pass northwest of Santa Barbara.

The Ojai Ranger District segments east of Hwy.33, and north of Ojai, will merge with the Mt. Pinos Ranger District, based in Lockwood Valley. This includes all of the Sespe Wilderness and the front country north of the Ojai Valley.

The good news is that the Ojai Ranger District office will not close down. The front desk will remain, with a very small staff, to provide forest information and permits to the local public, five days a week.

The rest of the office space is to be leased by the U.S. Fish & Wildlife Service's Condor Recovery program, whose current office and headquarters are in Ventura.

WATERSHED ADJUDICATION COMES TO THE VENTURA RIVER BASIN

In early 2020 about 10,000 residents of the Ventura River watershed basin received letters from the City of Ventura (the City), informing them that they were being sued by the City, if they got their water directly or indirectly from that underground water basin.

The City has long claimed pueblo water rights, though the City has no connection to any early pueblos. Most of their use of Ventura River water takes place at or near their diversion dam adjacent to Foster Park on Hwy. 33.

Casitas Municipal Water District (CMWD), the second biggest water distributor in the basin after the City, tried to work out a deal with the City on dividing up the flows of the Ventura River back in 1976. After the deal was challenged by the Friends of the Ventura River, it fell apart in 1984 after a ruling from the California Supreme Court.

Santa Barbara Channelkeeper, a local non-profit watershed advocacy group active along our coast, has since 2001 monitored the effects of the City's water diversions from the Ventura River on the river's ecosystems downstream from Foster Park.

In 2003 the National Marine Fisheries Service (NMFS), who are responsible for the recovery of the endangered southern steelhead, wrote the City that the City's water diversions near Foster Park were detrimental to the steelhead's survival, because they eliminated the Ventura River's flow in most summers,

This situation led to a draft jeopardy Biological Opinion from NMFS, requiring the City to adopt the reasonable and prudent measures outlined in that Biological Opinion, to divert less water from the river, and thereby cease dewatering the riverbed in summertime.

Channelkeeper filed a lawsuit against the City and the State Water Resources Control Board in 2014, asking that NMFS' recommended summer river flows be maintained. These should have been in place since closer to 2003.

Instead the City's council all voted to hire one of the state's top water adjudication firms, Best, Best & Krieger, committing multiple millions of dollars to begin a full watershed adjudication on the Ventura River basin, which stretches all the way to Matilija Canyon.

This adjudication requires anyone who uses water from the basin to defend their water rights before the courts. The process often takes decades and would establish new, mandatory limitations on all water users.

Those with a water well whose annual use is minimal (3-5 acre feet a year) are unlikely to be adversely affected. Those with a water service will generally be represented by their purveyor.



The Ventura River estuary in early 2020.

Channelkeeper did not initiate this adjudication process. Their interest is limited to keeping summer water in the river below Foster Park for the steelhead and other riparian species.

California passed the Sustainable Groundwater Management Act (SGMA) requiring new watershed plans by 2022 that will prevent over-use of water basins across the state.

There are also two new state laws (SB 226 & AB 1390), which require adjudications and SGMA to be consistent. This adjudication will be a test case of how this happens. In short, the adjudication's outcome is unpredictable.

To avoid the worst effects of a lengthy adjudication process, the City and CMWD, Ventura River Water District and Meiners Oaks Water District pledged that a settlement was in preparation, to wrap the whole matter up in a few months, when agreed to and signed by these and a few other major basin water users.

In March 2020 however, CMWD pulled out of these settlement talks. It is unclear if there can be an effective settlement without the participation of the basin's second biggest water user.

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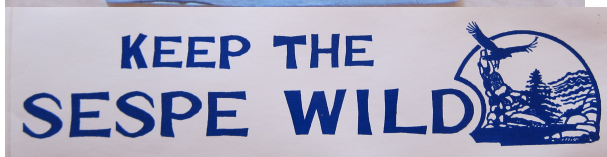
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A photo of the makeshift sauna shack at the Sespe Hotspring in the 1970's.

This was located very close to to the primary source of these hotsprings, where the water in the creek is far too hot to put your toe in. The water where it emerges from the cliff face near the top left of this picture is reported to be 130 degrees or more. The water flow comes from deep in the earth, and does not vary year to year according to the seasonal rainfall at the surface.