

# THE SESPE WILD

The Newsletter of the Keep the Sespe Wild Committee

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## JUDGE ORDERS UNITED BACK ON FISH PASSAGE TRACK

JUNE 2021

In a ruling issued on May 10, Judge David Carter told United Water, the owners and operators of the Freeman Diversion Dam on the Santa Clara River near Saticoy, to speed up their progress on designing and modeling a new fish passage structure there - one that will actually allow the passage of steelhead trout to their upstream spawning grounds.

Sespe Creek, which merges with the Santa Clara River in Fillmore, has historically provided prime spawning and rearing habitat for the southern steelhead, a federally-listed endangered species. Other headwaters of the Santa Clara River currently inaccessible to the steelhead include Santa Paula Creek, Piru Creek, and others.

Earlier this year, the Wishtoyo Foundation, who in 2016 brought this endangered species lawsuit against United Water for their refusal to provide functional fish passage at the Freeman Diversion Dam, had filed with the federal court in Los Angeles a motion of contempt against United Water.

United Water's game plan - for nearly three decades now - has been to do as little as possible to provide functional fish passage at this facility. Their tactics have invariably involved requesting time extensions, proposing alternative proposals to those recommended by the professional fish passage scientists, and doing nothing to improve the actual migration pathway required by the steelhead.

The National Marine Fisheries Service (NMFS) is the federal agency tasked with the southern steelhead's recovery from endangered status. Though they are not a party to the Wishtoyo lawsuit, they have been involved, at Judge Carter's request, in providing their professional expertise in evaluating the fish passage options at United Water's Freeman Diversion Dam.



*Water flows over the Freeman Diversion Dam in winter. The preferred fish passage design will be a gradual hardened ramp of large boulders placed below the middle of this dam, which will allow the migrating steelhead to ascend the elevation of the dam, to access their upstream spawning grounds in Sespe Creek and elsewhere.*

Along with Wishtoyo's motion of contempt, which could have resulted in court penalties for United's ongoing delaying tactics, the court had before it yet another request from United Water to slow down and extend the court's earlier strict timetable for the design and modeling of the fish passage options.

The fish passage option recommended by NMFS is the hardened rock ramp, to be built extending downstream from the dam, at a gradual angle, to allow the steelhead to climb up to the top of the dam and continue upstream to their spawning grounds.

United Water has continued to push for a second fish passage option, called the vertical slot, which is intended as another delay tactic and which has not been approved by NMFS' engineers. NMFS wrote a 78-page letter to the

court on April 02, in which they referenced United's ongoing delaying tactics and recommended that no further effort be expended on United Water's vertical slot option.

Judge Carter, by now well aware of United Water's incentive to do as little as possible towards providing functional fish passage, held their feet to the fire in his half-page May 10 court ruling.

United Water must complete the design and modeling of the hardened ramp fish passage option by September 10, 2021. United Water's request for further delays was denied.

And with respect to Wishtoyo's motion for contempt against United Water, Judge Carter denied the motion "without prejudice", which means that he has the option to bring that motion back at some future court date. Therefore potential court-imposed penalties for United Water's delaying tactics are still on the table.

## **THE ROSE VALLEY CREEK RESTORATION PROJECT**

This project is intended to restore Rose Valley Creek to its original course, and to remove the three dams that formed the lakes, to provide a water supply for the adjacent work camp, that has now been dismantled and removed.

The past stocking of these lakes by individuals seeking to broaden their fishing opportunities has led to numerous exotic aquatic species escaping from these lakes when they overflow in the rainy season. These include catfish, bullfrogs, bluegill, green sunfish and others.

From there these species have become established all along Sespe Creek, down to Los Padres Forest's boundary north of Fillmore. In a creek where originally the only large native fish were trout and steelhead, the recent competition for food and habitat has diminished the population of all the native aquatic species.

The Rose Valley Creek Restoration project may well be the largest such project in the watershed of Sespe Creek for decades.

One of the biggest construction elements will be the replacement of the current culvert under Rose Valley Road with a new two-lane bridge at that location. Another project component will be ongoing efforts to eradicate the invasive exotic aquatic species in Sespe Creek, in itself a longterm restoration project.

Rose Valley Creek is fed from the Rose Valley Falls, and joins Howard Creek before Howard Creek flows into Sespe Creek, about two miles below the lower lake. Segments of these two creeks maintain summer creek flows, which provide vital refugia habitat for trout in dry years.

June 30 was the deadline for initial comments to Los Padres Forest staff on what the restoration project should include. Concerns raised by KSWC in our comments include:

- (1) provisions for the protection of all endangered species in the restoration area.
- (2) evaluation of and remediation of potential toxic elements such as lead, in runoff from the Ojai Valley Gun Club target shooting property adjacent to both the lower lake and Rose Valley Creek.
- (3) a robust public relations component in order to increase public awareness of the project's ecological benefits. There should also be an effort to address any concerns about the removal of the lakes that may in the past have been used to help to put out fires nearby. Current fire fighting techniques call for the use of helicopters to drop fire retardants on fires, rather than water.



*Rose Valley Creek is dewatered below the dam and spillway at the lower Rose Valley Lake.*



## HIKING THE SESPE GORGE AND PULLING TAMARISK

KSWC leads a hike down the lower Sespe Gorge each summer, during which our team of volunteers pull or dig up any tamarisk plants we see. This is a project we have been engaged in for three decades now, since 1991.

Tamarisk, introduced to the western US in the mid 1800's for erosion control, has naturalized and completely taken over native riparian vegetation all across the west. The Colorado River, Lake Havasu, and Canyonlands National Park are among the locations where tamarisk has grown into full-sized trees that cannot be removed with the hand tools that KSWC uses.

This year saw a bumper increase in young tamarisk seedlings all the way from Alder Creek and past Los Padres Forest's boundary north of Fillmore. We estimate that this was due to the low rainfall winter. Higher storm flows would likely have washed most seeds all the way down to the Santa Clara River or the ocean. The young plants, up to a few feet tall, had not yet produced their own seeds, and almost all were growing in the wet sand adjacent to the creek, making it very easy to pull them up.



*Some of the tamarisk pulled up from just one sandy beach amidst the Sespe Gorge in late June. Thanks to our dedicated team of tamarisk eradication volunteers! We pulled up multiple thousands like these, or smaller.*

The lower Sespe Gorge flows between cliffs many hundreds of feet tall for many miles. There is no trail, so the hike requires rock hopping across rugged terrain and sometimes over boulders of purple Sespe sandstone that are as

big as houses. The pools and rock formations are stunningly beautiful.



*Giant boulders of purple Sespe sandstone in the lower Sespe Gorge, smoothed by millennia of storm flows.*

### PLEASE SEND US A DONATION!

Your donations cover our newsletter and operating expenses. Please continue to send us a donation - not tax-deductible - in the enclosed remit envelope. Or mail it to us at -

KSWC, PO Box 715, Ojai CA. 93024.

Our thanks, as ever, to all those who support our efforts. We could not do our work for the Sespe watershed without you!

**KEEP SESPE WILD COMMITTEE  
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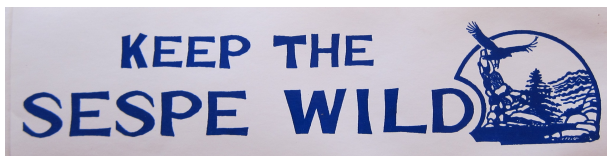
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### **REYES PEAK DECISION SOON**

Los Padres Forest staff will release their plan for further action on their proposal to log thousands of old-growth conifer trees near Reyes Peak, by Sept. 30.

### **WILDERNESS BILL IN U.S. SENATE**

Senators Alex Padilla and Dianne Feinstein have introduced in the Senate legislation to protect over one million acres of California's public lands, including the 250,000 acres from Rep. Carbajal's bill, HR 973, that has already been passed by the House in D.C.

### **PARADISE ROAD ACCESS KIOSK**

We continue to monitor the actions of Los Padres Forest concessionaires, the Parks Management Company, for their staff's illegal collection of access fees (\$10 a day) at their kiosk. The concessionaire's permit expires this fall, and we are urging Los Padres administrators to make sure their new permit requires full compliance with the federal FLREA law, which clearly states that access fees ONLY be levied for developed recreation sites, and NOT for access to undeveloped areas such as roadsides, creek areas and trails. Let us know if you are charged for basic forest access at the kiosk this summer. Thanks!