

Re: H.R. 2535, the Tule River Tribe Water Development Act
Testimony of PHILIP G. LARSON, President
SOUTH TULE INDEPENDENT DITCH COMPANY
Porterville, California
September 25, 2007

Good Morning.

My name is Phil Larson. I am a third generation citrus grower in Success Valley, an area downstream from the Tule River Indian Reservation near the city of Porterville, California. I am also President of South Tule Independent Ditch Company, a mutual water company which supplies water to approximately 50 shareholders in Success Valley by means of a 10-mile long irrigation ditch. I am here today to speak in support of H.R. 2535 and to inform the Subcommittee on Water and Power as to progress of nearly 10 years of water rights negotiations with the Tule River Tribe.

South Tule Independent Ditch Company diverts its water from the South Fork of the Tule River approximately a half mile outside the Reservation's western boundary. The ditch company claims rights to water from this fork of the river dating to 1854. These water rights were adjudicated and fixed by a judgment of the Superior Court of Tulare County in the case of Poplar Irrigation Company vs. A.A. Howard, et al., in 1916. Said right was established as 10 cubic feet per second under most circumstances. However, during the typical irrigation season, the South Fork's total flow is often much less. The Tribe was not a party to this 1916 case.

In 1922, the Secretary of the Interior of the United States, representing the Tribe, and South Tule Independent Ditch Company entered into an agreement which was intended to definitely fix for all times the respective water rights of the Tribe and the ditch company. This agreement established a proportional sharing of the available water between these two entities. It did not quantify the federally reserved water right of the Reservation, nor address the Tribe's right to water storage. It did recognize that South Tule Independent Ditch Company's water rights were initiated at various times between the years 1854 and 1872.

I have found no evidence that the United States considered the water rights of the Reservation at the time of its establishment in 1873. The Government also apparently failed to consider or evaluate the pre-1873 priority claims of other water users which would be superior to the federally reserved water rights of the Reservation.

It is with this history, along with the limited and seasonal flows of the South Fork Tule River, that prompted the Tribe to request formal water rights negotiations with the downstream water users in an effort to quantify their water rights for the current and future needs of the Tribe.

Since March 1998, representatives of the Tribe, South Tule Independent Ditch Company, the Tule River Association, riparian users, and various governmental stake holders, have been meeting to negotiate an amicable solution to the multiple demands for the limited waters of the South Fork Tule River.

An agreement-in-principle has been reached among the primary water users. It is the intent of the parties that the water allocation agreements memorialized in the 1922 Agreement continue to be fulfilled. This would be accomplished through the construction of a water storage facility and distribution system on the Reservation which would, in simple terms, capture winter and spring high water flows for use by the Tribe and require the flow-through of the lesser summer and fall river flows.

I and the Board of Directors of South Tule Independent Ditch Company have concluded that the agreement-in-principle and the Tribe's proposed water storage facility is the only practicable solution which will provide the Tribe with a sustainable supply of water. We therefore encourage your support and favorable vote for H.R. 2535, to provide funding for the feasibility study for the Tribe's water storage and distribution system.

Thank you.