

Marin Suit Against Carter Dismissed; Dam Is Judged Safe

Marin County's lawsuit to abate the alleged nuisance of Carter's Dam in Sleepy Hollow was dismissed today on motion of Dist. Atty. W. O. Weissich, after four engineers testified the dam does not now constitute a hazard to life or property.

The dam is a private structure on property of Jesse W. Carter, associate justice of the state Supreme Court. The suit was filed last March after the

dam gave way and spilled tons of water and mud onto residential properties downhill.

Testifying in today's brief trial were engineers Stanley F. Gizienski of Oakland, hired by Carter; Robert Lawson of San Francisco, retained by the county; County Public Works Director Marvin W. Brigham, and Charles Lee of San Francisco, appointed by Judge Thomas Coakley of Mariposa County, who heard the case in Marin Superior Court.

Focal point of the testimony was Gizienski's report, which noted the repairs and strengthening which he had recommended for the dam, and reported the work has been done.

The other engineers testified that after inspection of the dam since the work was done, they share the opinion of Gizienski there is no hazard to life or property from the dam and its reservoir.

3 QUALIFICATIONS

Lee entered three slight qualifications: There is a possibility (not to the extent of probability) that earth from the uphill side of the reservoir may slip into the water and create a wave that would splash over the dam; there is also a possibility that uncompacted earth below the dam may erode and cause inconvenience (but not danger) downhill, and a pipe which drains a gravel area under the dam may be clogged under certain conditions.

None of these constitutes a serious hazard, the experts agreed.

The agreement was on the basis that Carter will follow his engineer's recommendations to maintain the level of the reservoir no higher than 14 feet, which would be 4.6 feet below the top of the dam, except for temporarily allowing it to reach 16 feet in the late stages of each rainy season.

COMMENDS EVERYONE

The controversy which has flared hotly between Judge Carter and county officials over the dam thus ended in an atmosphere of sweetness and light, with Judge Coakley commending all parties for the amicable manner in which they reached agreement.

No formal statement was made as what the dam reconstruction has cost Carter, but

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one engineer estimated "at least \$10,000." The work was done by contractor Tom McCaffrey of Sonoma, Carter said.

The county has spent in excess of \$2,000 in hiring experts and other costs of the proceedings. At the end of today's hearings, the county and Carter agreed each will pay half of Lee's fee, reportedly \$400.

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