



Contra
Costa
County

To: Flood Control District Board of Supv
From: Transportation, Water and Infrastructure Committee
Date: June 25, 2013

Subject: Authorize Flood Control District to remove lowest 4 miles of Army Corps of Engineers' "Walnut Creek Project" from Corps oversight. Project 7520-6F8280

RECOMMENDATION(S):

APPROVE removal of Lower Walnut Creek and Pacheco Creek from US Army Corps of Engineers (Corps) oversight, ACKNOWLEDGE removal of these portions of the creeks from the Corps' disaster relief program, and AUTHORIZE the Chief Engineer, Contra Costa County Flood Control & Water Conservation District (Flood Control District), or designee, to work with US congressional representatives to effect this change, Martinez area. (100% Flood Control Zone 3B funds)

FISCAL IMPACT:

The cost of this effort is estimated to be \$150,000 and will be funded by Flood Control Zone 3B.

BACKGROUND:

INTRODUCTION

On December 6, 2012, this issue was considered by the Transportation, Water and Infrastructure Committee and by the full Board of Supervisors on January 15, 2013. The direction at that time was to explore options for removing the lower portion of Lower Walnut Creek from Corps oversight, thus keeping the remainder of the system in the Corps' PL 84-99 disaster relief program, and to

APPROVE

OTHER

RECOMMENDATION OF CNTY
ADMINISTRATOR

RECOMMENDATION OF BOARD
COMMITTEE

Action of Board On: **06/25/2013** APPROVED AS RECOMMENDED OTHER

Clerks Notes:

VOTE OF SUPERVISORS

AYE: Candace Andersen, District II
Supervisor
Karen Mitchoff, District IV
Supervisor
Federal D. Glover, District V
Supervisor

I hereby certify that this is a true and correct copy of an action taken and entered on the minutes of the Board of Supervisors on the date shown.

ATTESTED: June 25, 2013

David J. Twa, County Administrator and Clerk of the Board of Supervisors

ABSENT: John Gioia, District I Supervisor
Mary N. Piepho, District III
Supervisor

By: Stacey M. Boyd, Deputy

Contact: Paul Detjens (925)
313-2394

BACKGROUND: (CONT'D)

report back in six months. This report is the requested status update.

UPDATE ON SOLUTIONS

The January 15, 2013, Board Order presented an analysis of a number of solutions. Further research by staff has confirmed that Selective Deauthorization remains the preferred solution. As a matter of review, Selective Deauthorization (SD) is a congressional action that removes a portion of a previously built federal project from further federal oversight and management. The Corps has 22 miles of federal facilities in the Walnut Creek Project. An SD would effectively remove from the federal system the 2.5-mile portion of the Walnut Creek channel from the mouth to the BNSF Railroad and the lowest 1.5-mile portion of the Pacheco Creek channel, leaving the status of the remaining 18 miles of the system unchanged. The primary benefit of SD is that it allows the remaining 18 miles of the system to remain in the PL 84-99 program and to be managed differently than the lower 4 miles. The portion being considered for deauthorization is the same section that was temporarily excluded from Federal oversight in the 2007 Interim Protection Measures project.

Selective Deauthorizations are typically instigated with the local Corps' office and ultimately result in congressional approval. Often times, the direction to the Corps comes directly from Congress, using language similar to:

“Walnut Creek, California. — Beginning on the date of enactment of this Act, the Secretary is no longer authorized to carry out the portion of the project for flood protection on Walnut Creek, California, constructed in accordance with the plan authorized by section 203 of the Flood Control Act of 1960 (Public Law 86-645; 74 Stat. 488) that consists of most downstream reaches of Walnut and Pacheco Creeks constructed by the department of the Army between 1963 and 1969 that extends from Sta 0+00 to 1+42 (Walnut) and 0+00 to 0+72.50 (Pacheco).”

A commonly used bill for this purpose is the biennial Water Resources Development Act (WRDA), but the direction can be in any bill.

Preliminary discussions with the Corps on this matter have been encouraging and supportive. Corps' staff has indicated that while this is an infrequently used option in the Bay Area, it has been successfully used in other Corps' districts.

The primary advantage of SD is that the management of the facility is 100% locally controlled, and the Flood Control District, as directed by the Board of Supervisors, can balance the provided level of flood protection with environmental considerations. Such balanced, sustainable solutions may take the form of purchasing flowage easements over areas (such as marshlands owned by others) that would not be damaged from flooding. Another part of this solution may be to lower or partially remove some of the levees to encourage higher flows to periodically inundate adjacent marshlands, providing both flood storage capacity and environmental enhancement. The cost to implement such a solution is significantly less than the estimated \$35–45 million to implement a Corps General Reevaluation plan. Another big advantage to SD is that it allows the remainder of the 18 miles of the federal project to remain in good standing in the PL 84-99 program.

The primary disadvantage of SD is that the portion removed from the federal project would no longer be eligible for PL 84-99 disaster assistance in the event of storm damage in the lowest channel section. Because the stream in this lowest section is flat and slow moving, the risk of storm damage to the channel itself is expected to be low.

CURRENT STATUS

Staff has completed detailed hydraulic modeling of the current flood-carrying capacity of the creek. Staff has also met with representatives with both Congressman Mike Thompson and Congressman George Miller to confirm interest in inserting deauthorization language in upcoming legislation. The area in question is in Thompson's district but is directly adjacent to Miller's district. Pending Board approval, staff would work with congressional staff to request that language, similar to that quoted above, be added into legislation such as WRDA.

EAST BAY REGIONAL PARK DISTRICT AND OTHER STAKEHOLDERS

Another driver for developing a long-term solution for Lower Walnut Creek is the desire of the East Bay Regional Park District (Park District) to extend the Ironhorse Trail northerly along this section of Lower Walnut Creek. Currently, the trail stops at Marsh Drive and cannot be extended until a permanent plan is implemented for the lower channel section. The Park District wisely does not wish to invest in a permanent trail on a levee that may be relocated or otherwise may have to be reworked with a future Corps' project.

Having already patiently waited a decade, the Park District may be unwilling to wait another decade or two until the Corps' project is ready to be implemented. The Park District is not currently a partner with the Corps on the project. In the abstract, the Corps acknowledges the benefits of providing recreation with a future project, but the Corps' planning process lacks the flexibility to bring on the Park District as a project partner.

The local control provided by the Selective Deauthorization would provide the flexibility for the Flood Control District to manage portions of the creeks in a more sustainable manner that better reflects the values and needs of local stakeholders, such as the Park District and others.

Once these creeks are removed from the Corps' system, the Flood Control District can then begin a community-wide planning process for the ultimate, local management of these creeks. This effort will include significant outreach to the Walnut Creek Watershed Council, as well as other local stakeholders, to better understand the community's needs and wants for the creek.

CONSEQUENCE OF NEGATIVE ACTION:

Failure to remove the channel from the Corps' system would result in the lowest portion of the Walnut Creek Channel and Pacheco Creek receiving an Unacceptable rating from the Corps and jeopardizing future federal assistance for the remaining 18 miles of channel in the watershed.

CHILDREN'S IMPACT STATEMENT:

Not applicable.