

# Wildcat–San Pablo Creeks Watershed Council

Since 1985

## Participating Organizations

Balance Hydrologics, Inc.  
CHDC of North Richmond  
City of Richmond  
City of San Pablo  
Color Spot Nurseries, Inc.  
Community Health Initiative,  
North Richmond  
Community Youth Council for Leadership and Education  
Contra Costa County Board of Supervisors District 1  
Contra Costa County Dept. of Conservation Development  
Contra Costa County Flood Control & Water Conservation District  
Contra Costa County Public Works Department  
East Bay Regional Park District  
EcoVillage Farm Center  
Friends of the San Francisco Estuary  
Grizzly Peak Flyfishers  
Natural Heritage Institute  
North Richmond Shoreline Open Space Alliance  
Representative George Miller's Office  
Restoration Design Group  
Richmond Unified School District  
San Francisco Bay Joint Venture  
Save San Francisco Bay Association  
Sierra Club  
SPAWNERS  
State Assembly 14<sup>th</sup> District  
State of California, Department of Fish and Game  
State Regional Water Quality Control Board  
The Watershed Project  
Trails for Richmond Action Committee  
UC Berkeley  
Urban Creeks Council  
U.S. Army Corps of Engineers  
Watershed Sciences  
West Contra Costa Transportation Advisory Committee

April 22, 2010

U.S. Army Corps of Engineers  
441 G Street, NW  
Washington, D.C. 20314-1000  
**Attn:** CECW-CE, Douglas Wade

**RE:** Docket Number COE-2010-0007 — Process for Requesting a Variance from Vegetation Standards for Levees and Floodwalls

Dear Mr. Wade:

The Wildcat–San Pablo Creeks Watershed Council (Council) sees serious flaws in the US Army Corps of Engineers "Process for Requesting a Variance from Vegetation Standards for Levees and Floodwalls" (Variance) published in the Federal Register. We have been working with the Corps of Engineers and many local, state, and federal agencies since 1985 to ensure that new projects and policies encourage habitat values in our community. Due to those efforts, the Wildcat and San Pablo Creeks Federal Flood Control Project has become a national model for flood protection projects. We are very concerned that the Variance will cause significant loss of habitat value for our community and undo our 25 years of effort.

In recent years, we have noticed the progress the Corps has made defining their national ecosystem restoration mission and appreciated the opportunity to contribute to their Chief of Engineers Environmental Advisory Board. We are aware of several agencies, including the Corps, currently studying the causes of levee and floodwall failure, without conclusion that vegetation is the primary cause. Thus, the Corps current vegetation policy and the Variance are a disappointing step backwards in Corps handling of ecosystem issues.

The Wildcat and San Pablo Creeks Federal Flood Control Project was designed and constructed by the Corps to include a significant amount of riparian vegetation, and turned over to the local agency in 1992 prior to the Corps original vegetation variance policy issued in 1997. The federal project installed vegetation not only as mitigation for the project impacts, but as an essential component for natural sustainability. Our monitoring indicates that habitat values have only recently begun to achieve those existing prior to the federal project. The cooperative investment in this project by various federal, state, and local entities should not be eliminated by this new Variance. One potential solution is for the Corps to allow this project and other similar projects to be exempt from the current vegetation policy or be granted a Variance administratively.

The Variance places undue burden on the local agency, juxtaposing access to US Army Corp's assistance programs vs. destruction of significant habitat. We do not anticipate that federal and state environmental protection agencies will agree to the required removal of habitat. This sets up a situation where the local communities become burdened with sorting out the conflicting requirements of various federal and state agencies. The US Army Corps of Engineers should resolve the legal conflicts and resolve how the necessary mitigation will be handled due to implementing the Variance prior to its implementation.

Since the implementation of this new requirement will cause significant environmental impacts, we must disagree with the notice in the Federal Register stating that the Finding of No Significant Impact (FONSI) document is sufficient for this proposed action. Therefore, we request that the Corps of Engineers prepare a full Environmental Impact Statement and work cooperatively with the agencies and communities involved to adequately establish, and mitigate for, the impacts created by the Variance.

The Watershed Council represents 25 years of collaborative, consensus-based planning with participation of citizens, local nonprofits, various resource and regulatory agency personnel, and municipal public agency and special district management staffs to protect and enhance habitat values in the community. The Watershed Council is recognized by the County Board of Supervisors as the coordinating body for local watershed issues, such as flood control, stormwater management, land development and transportation issues, endangered species protection, fisheries restoration, youth education and training, and riparian restoration.

The Watershed Council does not support implementation of the Variance as written and requests that more leadership be provided by the Corps to develop policies that preserve habitat values and lessen the burden on local communities. If you need further information, feel free to contact me at (925) 313-2390 or tjens@pw.cccounty.us.

Sincerely,



Tim Jensen  
Coordinator  
Wildcat-San Pablo Creeks Watershed Council

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- c: The Honorable Nancy Pelosi  
The Honorable Dianne Feinstein  
The Honorable Barbara Boxer  
The Honorable George Miller  
The Honorable John Garamendi  
Members, Wildcat-San Pablo Creeks Watershed Council  
Gary Stern, NOAA National Marine Fisheries Service  
777 Sonoma Avenue, Room 325  
Santa Rosa, CA 95404  
Ryan Olah, US Fish and Wildlife Service  
2800 Cottage Way, Suite W-2605  
Sacramento, CA 95825-1846