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Groups sue Army Corps of Engineers over levee tree-removal policy

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A controversial federal policy that could require millions of trees to be cut down on Central Valley levees is the target of a lawsuit.

Three environmental groups filed suit against the U.S. Army Corps of Engineers on Monday in federal court in Sacramento.

The Army Corps sets national standards for levee safety. In 2007 it unveiled a revised maintenance policy that forbids trees or shrubs on levees. Instead, only short grass is allowed on levees and within 15 feet on either side.

The policy raises significant concerns in California, where levee vegetation composes much of the remaining 5 percent of the Central Valley's historic riparian forest. As such, it is crucial shade and habitat for migrating endangered fish, as well as nesting habitat for many endangered birds.

"This would be the most massive intentional infliction of environmental damage on our rivers that we've seen in modern times," said Bob Wright, senior counsel at Friends of the River in Sacramento. "It's mind-boggling."

Other plaintiffs are Defenders of Wildlife and the Center for Biological Diversity.

The plaintiffs allege the Army Corps policy violates the Endangered Species Act, because the agency did not consult with federal wildlife agencies; and the National Environmental Policy Act, because it didn't prepare an environmental study. Army Corps spokesman Pete Pierce declined to comment on the lawsuit.

The policy has not yet been carried out in the Central Valley. State and local agencies struck a deal with the Army Corps to delay it until next year while they work out a compromise.

The Corps also created a process for local agencies to obtain exemptions so trees can remain. However, this may require costly levee redesigns.

The potential removal of thousands of trees in the Sacramento area alarms many residents who value their shade and scenery, particularly along the American River Parkway.

That concern was heightened last week when residents began noticing many trees on the parkway marked with orange paint and small aluminum tags.

Those markers, however, don't mean the trees will be cut. The Army Corps has marked them as part of an evaluation of the flood capacity of the levee system, a prerequisite to

seeking more federal money for levee improvement. It requires a survey of obstructions, such as trees, fences and outbuildings.

Corps officials said the survey is 15 percent complete.

"I asked them to stop marking the trees with paint," said Tim Kerr, general manager of the American River Flood Control District, which maintains the levees. "It's a water-based paint, and it's going to come off. But it's kind of startling."

The Corps has historically supported local policies that allowed trees on levees. Its own projects in the region have included planting thousands of trees.

But after Hurricane Katrina, which destroyed numerous levees in New Orleans in 2005, the Corps decided to impose uniform standards nationwide. Failure to comply would make local agencies ineligible for federal funds to recover from flood damage.

The Corps argues that trees can blow over in storms, potentially ripping out levee sections. It also says roots provide a path for water to seep through levees.

But it offers little scientific evidence for those conclusions.

A 2007 symposium hosted by the Sacramento Area Flood Control Agency offered evidence for the opposing view: Tree roots may, in fact, strengthen levees by binding soils together.

The California Department of Water Resources, which oversees flood protection in the state, opposes the policy. It estimates removing trees on 1,600 miles of Central Valley levees could cost \$7.5 billion, and said that money would be better spent making levees stronger.

"What the environmental laws require is to think first, then act," said Wright. "What we have here is a classic situation where a government agency acts first and then thinks. And that's unlawful."

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