

U.S. ARMY CORPS OF ENGINEERS' LEVEE VEGETATION REMOVAL POLICY



1100 K Street
Suite 101
Sacramento
California
95814

Telephone
916.327-7500
Facsimile
916.441.5507

REQUESTED ACTION: Support a delay in the implementation of U.S. Army Corps of Engineers' (Corps) policy on levee vegetation management. In addition, seek modifications to the policy that: (1) considers regional variation across the nation; (2) includes a variance and exemption provision where appropriate; (3) conforms to other federal and state laws and allows for risk-based and science-based management decisions; (4) includes local government in a transparent and collaborative process; and, (5) delegates limited authority to approve variances and exemptions to Corps Division commanders.

BACKGROUND: In the wake of extensive flooding in New Orleans from Hurricane Katrina, the Corps began reassessing its levee maintenance policies, and, shortly thereafter, started to enforce its vegetation policy more rigorously. In essence, the policy seeks to require the removal of all vegetation from levees in order to allow for easier inspections and to reduce any potential weakening of or damage to levees from root growth and overturned trees. Levees that the Corps deems to be out of compliance with its vegetation policy without an approved variance will be ineligible for federal disaster assistance. Although the Corps asserts that participating in its disaster assistance program is strictly voluntary, the Corps' action of deeming levees ineligible may have significant consequences to communities located behind those levees.

In February 2010, the Corps issued a draft variance procedure regarding trees, brush and other vegetation growing on levees to add some flexibility to the policy. The draft procedure did not address regional differences (as specified in the 1996 Water Resources Development Act, Sec. 202(g)) in climate, hydrology, and geology and proved to be unworkable. In February 2012, the Corps issued an updated draft variance procedure which introduced more flexibility for the Corps to consider regional characteristics. However, the timeline and costs associated with the revised variance process would still be a significant burden on local levee sponsors. Additionally, the procedure is just as costly and prolonged for well-maintained Corps-built levees that incorporated vegetation or landscaping into their original design.

It should also be noted that the Corps' policy is sometimes in direct conflict with some federal and/or state regulations that often prohibit the removal of trees and other plants on or next to the levees, especially when they provide habitat for endangered or threatened species. Additionally, the California Department of Water Resources (DWR) has not seen evidence that well-managed vegetation poses significant risk to levee integrity. In fact, in a preliminary review of levee performance records, DWR found that of 329 documented levee failures in the Central Valley, *none* could be attributed to vegetation. Furthermore, out of 5,089 levee performance incidents (that did not result in failure), only eight incidents could be associated with vegetation management issues. DWR expects to complete its engineering evaluation of Central Valley Flood Control System levees in December of 2012.

If the Corps' vegetation policy is not modified, it will drastically change the scope of flood protection projects that are maintained by local agencies (3,000 miles of levees in California are impacted by this policy). If implemented, the policy would force local agencies to make untenable choices. One choice is to forego eligibility for federal relief in post-disaster levee repairs, and thus undertake the entire repair burden at significant costs. The other choice is to strip valuable ecosystem habitat from levees, violate other federal and state environmental laws (if the Corps does not concur with the environmental necessity), and redesign projects, all of which result in higher costs to taxpayers. DWR estimates that the minimum cost of implementing the vegetation policy in California is roughly \$7 billion.

CSAC and other stakeholders strongly believe that it would be fiscally and environmentally irresponsible to expend such an enormous amount of public funds to remove vegetation features absent a commensurate, demonstrable increase in public safety.

Contacts: Joe Krahn / Hasan Sarsour, Waterman & Associates, (202) 898-1444
Karen Keene, CSAC, (916) 327-7500, ext. 511