

Have a  
Wonderful  
Summer!



In this issue:



A Few  
Words from  
Kim



San Clemente  
Dam Removal?



The Struggle  
to Allow  
Retaining  
Walls within  
the "Riparian  
Corridor"

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## Summer Newsletter

July 2011

### A Few Words from Me: What's in this Newsletter and Why

Greetings,

My spring newsletter sent to you in April, included discussions on some state-of-the-art planning concepts: **Neighborhood LEED, Sustainable Sites and Regenerative Design**. I plan to discuss these topics individually in more detail, and other state-of-the-art concepts in future newsletters beginning in this autumn.

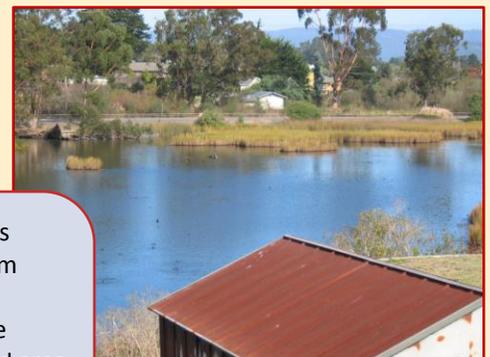
In an effort to also provide other ideas relevant to both you and my profession, I have included two articles that are very germane to land use planning and environmental planning. The first one is about a large-scale project that is one of the largest environmental planning projects ever attempted in California—the **removal of the San Clemente Dam** and an associated river restoration plan in Monterey County. The second article is very small-scale project, but one that received very close scrutiny from the Planning Department in Santa Cruz County—**220 lineal feet of retaining walls within the restricted buffer zone of sensitive habitat**. This second article should be of interest to property owners with similar issues.

In my view, the second article, is a project that aims to balance environmental protection with a property owner's non-conforming use rights. While the space limitation of this newsletter does not allow a full discourse on all the details on what became a contentious project, I think there is pages 4

In a major approval

the Coastal Commission. The article addresses the question in the text box above. Let me know what *you* think. I look forward to your comments.

The old shed and other improvements were located for years a few feet from the edge of the coastal lagoon. When new project improvements are planned within a previously developed area, but this is has now become a protected area, what is the correct balance between habitat needs and those of the land owner?



enough information on and 5 to be useful to you. turn of events, the project has now been appealed to

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## Monterey County's San Clemente Dam Removal - Largest Dam Removal Project in the State, but...



In January 2010, a formal agreement was reached to tear down the 106-foot San Clemente dam on the upper reach of the Carmel River. This agreement was obtained after several years of studies and contentious debate on what to do with the dam that was built in 1921 to provide drinking water for the Monterey Peninsula. California American Water Company (CalAm), owner of the dam, agreed to pay \$49 million for the dam removal and river restoration project. The State of California pledged \$20–\$27 million. *But, at least \$15 million more is still needed for the project to be implemented.* Local and State officials and several

non-governmental environmental organizations continue to lobby the federal government for a commitment of funds and an agreement for in-kind assistance under the Department of Defense Innovative Readiness Training (IRT) Program. Implementation of the program is contingent on both the additional \$15 million in federal funds and IRT assistance.

### Some History of the Dam

The original San Clemente Reservoir capacity of approximately 1,425 acre-feet was essential to meet the water supply needs of the 1930's and for several decades thereafter. But the Carmel River naturally brings sediment from the mountains to the beaches; sediment which over time collected behind the dam, slowly filling over 90 percent of the reservoir with debris and eroded soil! As a result, the San Clemente Reservoir no longer serves an important water supply function. The communities of the Monterey Peninsula now obtain their water from wells in Carmel Valley and Seaside.

### Challenges and the Remedy Options

Between 1980 and 1992, several studies were performed to determine the safety of the San Clemente Dam in the event of a major earthquake on the nearby Tularcitos fault, or a flood caused by a very large storm. Since the mid-1990's, additional multiple engineering and environmental studies have been prepared by CalAm and the State's Division of Safety of Dams (DSOD) to determine what should be done to improve the dam for seismic safety and environmental protection. In December 2007, DSOD certified a Final Environmental Impact Report (FEIR) which concluded that adding a steel-reinforced layer of concrete to the dam would minimize risk of dam failure in an earthquake or a flood, and that installing a state-of-the-art fish ladder would be an environmentally acceptable method to ensure survival of the Carmel River's threatened steelhead trout population. The total cost of this dam strengthening project was estimated at \$50 million.

At the request of DSOD, CalAm also commissioned engineering and environmental studies to evaluate the possibility of removing the dam, while retaining the accumulated silt on-site and rerouting a reach of the river around the huge silt accumulation. The estimated the cost of this alternative project is approximately \$85



million. This option received a great deal of support from State and federal resource protection agencies and environmental protection groups, such as the Carmel River Watershed Conservancy, Carmel River Steelhead Association and the California Planning and Conservation League. By removing the dam, steelhead will have unimpaired access to over 25 miles of natural spawning and rearing habitat.

### The Solution

The California Coastal Conservancy has taken the lead working with CalAm to investigate the potential for removing the dam and brokering a solution. As with all dam removal projects, sediment management is the primary technical hurdle. To stabilize the 2.5 million cubic yards of sediment in place, the river would be diverted around the current reservoir. The proposed project would blast a new channel through the ridge separating the river from San Clemente Creek, and divert the Carmel River into the creek approximately one-half mile upstream from the dam. The bypassed portion of the Carmel River would be used as a sediment disposal site for the sediment that has accumulated for years behind the dam. This ambitious project will have the following benefits:

- **Public Safety:** Resolve a threat to 1,500 structures in the downstream floodplain that are now threatened by dam collapse.
- **Watershed Conservation and Recreational Access:** CalAm will donate 928 acres of adjacent land to the Bureau of Land Management for permanent watershed conservation and compatible public access. In addition, the restored river channel will enable whitewater kayaking, a new regional recreational amenity.
- **Restore Habitat Connectivity and Threatened Species:** Dam removal will restore access to 25 miles of spawning and rearing habitat for the steelhead (See photo at right) for the first time in 90 years. Restoring the river's ecological connectivity will benefit other species such as the threatened California red-legged frog. Enabling sediment to seasonally move past the dam will help replenish sand supply to Carmel River beach and dunes, fortifying the beach and coastal area against sea level rise.
- **Coordinated River Restoration Program:** Removal of the dam is part of a larger coordinated effort to restore the Carmel River. This larger effort will restore the lagoon and floodplain, increase instream flows, and restore the river's riparian corridor.



This is one of the largest environmental planning projects ever considered in California. However, Monterey County residents and the rest of the State must now wait to see if the funds become available in this current climate of fiscal problems to allow this solution to be implemented.

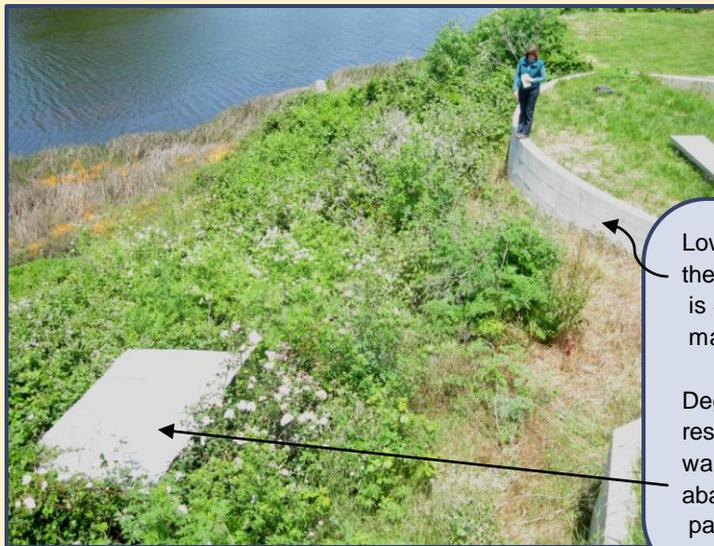
For more information on this project, you can contact the following people:

- Trish Chapman, California State Coastal Conservancy [tchapman@scc.ca.gov](mailto:tchapman@scc.ca.gov) (510) 286-0749
- Joyce Ambrosius, National Marine Fisheries Service [joyce.ambrosius@noaa.gov](mailto:joyce.ambrosius@noaa.gov) (707) 575-6064
- Jeff Szytel, California American Water (CalAm) [jszytel@wsc-inc.com](mailto:jszytel@wsc-inc.com) (619) 807-8398

## Cypress Environmental Helps Land Owner Build Closer to the Wetland Edge: Is this a Good Thing?

The County of Santa Cruz Code includes several regulations to protect the environment, including the Riparian Corridor and Wetlands Protection Ordinance. This Ordinance disallows any construction in stream channels and water bodies (lakes, lagoons) as well as within varying buffer areas measured from the edge of the stream bank or lakeshore, unless special findings can be made to allow a “Riparian Exception”. California Dept. of Fish and Game and many other local jurisdictions have similar protective measures, but the details of the regulations differ in each jurisdiction. *Santa Cruz County’s ordinance requires a 100-foot buffer setback from the high water mark of a standing water body.* Typically, special circumstances, such as a small lot where much of the property is within the buffer setback, justify approval of a Riparian Exception similar to how many zoning Variances are handled by local planning agencies.

Cypress Environmental has of land use protections loss of riparian and wetland has sustained over its also necessary to allow rule” in some instances. A recent project involved applying for a Riparian Exception for property owner, Michael Pitt, to allow the construction of a series of concrete retaining walls within Mr. Pitt’s rear yard, but within the 100-foot setback from a coastal lagoon. Cypress Environmental advocated the project for Mr. Pitt. County Planning staff recommended denial of the entire project. The hearing officer, decided against the staff recommendation and approved the project. What happened?



supported these types because of the drastic resources California history. However, it’s “variances to the

Lower retaining wall system of the project. The curved section is 44 feet from the high water mark edge of the lagoon.

Degraded habitat to be restored is downslope of the wall. Removal of the old abandoned pump house is part of the restoration plan.

### Project Construction Began before Permit Approval – This can be a Problem!

The project area of the owner’s rear yard had been developed since the mid-1960’s with a series of concrete block retaining walls and graded terraces. The natural slope had been converted to a several level terraces where storage sheds and a large vegetable garden were located. When Mr. Pitt purchased the property in 2006, the block walls were failing and gravity-induced erosion was occurring down the slope towards the lagoon. To remedy this problem, the owner decided to replace the failing walls with more substantial monolithic poured concrete walls. However, construction commenced without the benefit of any required permits. Of course, this made the project more complicated, when it came time to make a permit application and journey through the permit process. After the project was “red tagged”, Planning staff said all the walls should be removed and a large portion of the slope graded back to its natural (pre-1960’s) condition.

## My Advocacy of the Project was Based on the Following Factors:

- *About 56% of the parcel is within the 100-foot riparian setback.* Land outside the setback included the dwelling, the driveway and the front yard. Therefore, there was limited area on the property outside of the setback zone for new improvements.
- *Better walls were needed* to stabilize the sloping portion of property and prevent erosion problems in the direction of the lagoon. Keeping the walls in place was less environmentally damaging than the staff recommended alternative of removing the walls and grading the slope back to a reduced gradient. The staff alternative would have involved heavy construction equipment and the movement of several cubic yards of earth adjoining riparian habitat.
- *The walls were within the exact area* as old concrete block retaining walls installed since the 1960's to develop this portion of the lot as a large garden and area for storage sheds. *In other words, No riparian habitat would be removed or encroached upon and the area had been developed for outdoor human use years before the Riparian Ordinance was adopted in 1977.*
- I could (and did) modify the project to *address visual and habitat issues*:
  - The riparian habitat between the lagoon edge and the proposed retaining walls was severely degraded, with the majority of the vegetation being invasive non-native plant species. I revised the project to include a habitat restoration plan to remove the non-natives and to plant a diverse array of natives suited to near-shore environments of Central California coastal lagoons.
  - The property owner agreed to modify the project to remove the portion of the wall system (119 lineal feet) most visibly noticeable from the opposite side of the lagoon; and to colorize the grey concrete of the remaining walls with permanent brown stain to camouflage their appearance. In addition, I ensured the restoration plan was designed so the new plantings would visually screen the walls.

## It's Not Over Until It's Over - Coastal Commission Takes Jurisdiction!

The June 17 County approval of the project was followed by a 10-working day appeal period. No appeals ensued. Because the project is located adjacent to a wetland habitat area within the Coastal Zone, State law requires a second consecutive 10-day appeal period to allow appeals to the 12-member California Coastal Commission. Unlike appeal processes for cities and counties, *staff members* of the Coastal Commissions can appeal local approvals of projects if they can convince two Coastal Commisisoners to sign on to the appeal.

On the last day of this second appeal period, Coastal Commission staff decided to appeal the project approval to their 12-member Commission. Agency staff informed me of this two days after their appeal period closed on July 22. Staff said their appeal was based on effects to sensitive habitat and visual impacts. *However, staff admitted they had never been to the project site, nor viewed the property from any nearby locations to visually assess the project!* Mr. Pitt will most likely have to wait until the Commission's December 2011 hearing to know the fate of his project. Future newsletters will continue to report on this story as the saga continues.