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## Cloudy with a chance of urbanization and flooding

By Muriel Zeller, Guest Columnist

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My last opinion piece cited the institutionalized short-sighted unsustainable land use planning done by Calaveras County over the last 30 years as the cause of the repeated flooding of homes and businesses along Cosgrove Creek. My opinion has not changed. Nevertheless, it is only fair to share the perspective of O'Connell and Dempsey, LLC, lobbyists hired by our supervisors for federal advocacy services.

According to the Calaveras County Federal Legislative Platform 2022-23 prepared by O'Connell and Dempsey and adopted by the Board of Supervisors on September 20, 2022, "It is also possible that the Corps of Engineers' operations of New Hogan Reservoir upstream especially during heavy storm events are having an impact on the flooding of Cosgrove Creek. The flooding that takes place causes stream bank erosion leading to excessive sedimentation, threatening the riparian corridor, and causing flooding to the adjacent communities."

Our supervisors have adopted the position that the U.S. Army Corps of Engineers (USACE) lets too much water out of Hogan during significant storms which increases flooding, and flooding erodes the stream bank which increases sedimentation, and sedimentation reduces stream capacity which increases flooding. Wow.

As far as I know, there is no evidence of a connection between USACE releases from New Hogan Reservoir and the flooding of Cosgrove Creek. During the heavy storm on December 31, 2022, when there was horrendous flooding in Valley Springs, the water being released from Hogan was basically a trickle, i.e. 29 cubic feet per second (CFS). Releases didn't increase significantly until January 9, 2023, when outflows increased to over 3,000 CFS. New Hogan Lake outflow data is available on the California Data Exchange Center website.

The Legislative Platform didn't really contain any discussion of the impact of county decisions on the flooding. In fact, legislative priority number three in the platform, "Flood Protection-Cosgrove Creek," reads like ongoing development in the floodplain is akin to the weather, "Valley Springs,

Rancho Calaveras, and La Contenta are undergoing urbanization and the trend is expected to continue into the future, as is the flooding from heavy rainfall or rapid snowmelt.” You know, the future looks cloudy with a chance of urbanization and flooding.

But fear not. “The County staff, Supervisor Tofanelli and the consultant are currently engaged with the Corps on a number of fronts with regard to reducing the impacts of flooding along Cosgrove Creek and will continue to pursue these efforts.” There’s nothing more reassuring than “a number of fronts.” Furthermore, county officials have been “engaged” with the USACE since before the 2005 Recon Report on Cosgrove Creek which led to the ill-fated Continuing Authorities Program Section 205 project which was intended to study the feasibility of Cosgrove Creek flood damage mitigation. According to the USACE, that project was terminated in 2016. Let’s just say the engagement hasn’t led to a productive marriage.

Not surprisingly, “...the Corps has now asked the County to provide details on the timing of the flooding and dates of these events in order to review the historical record to determine if the releases by the Corps at the dam correlated with the impacts of flooding downstream from New Hogan.” In other words, the USACE wants the county to provide some proof before they shoulder the blame. In the meantime, “The Corps is developing a hydrologic and hydraulic model to look at impacts and will provide an opportunity for the County and others to comment.”

Reviewing historical records and making models sounds like more of the cruel lethargy inherent in our bureaucratic institutions. In early January, the Valley Springs community faced the most devastating flooding to date of homes and businesses in the Cosgrove Creek floodplain after at least 20 years of failed grant applications, meaningless reports, half-finished feasibility studies, fatuous study sessions, excuses, and half-truths. By all means let’s review records and make a model to find out what we already know.

What is most distressing in the September 22 legislative priorities document is the following, “In addition, the County, at the request of the Corps, is putting together details on a project to remove sediment from Cosgrove Creek in order to provide additional capacity to the Creek to reduce flooding. The Corps will make a determination if the work rises to the level of requiring a Corps’ permit. If a permit is required, the consultant will work to secure the Corps’ assistance in getting a permit for this work.” Someone should let the lobbyist know that this permit determination has been made, and, yes, a permit is required.

It is beginning to appear as if Calaveras County has never submitted a complete application, with

all required studies, to the USACE for sediment removal from Cosgrove Creek. If that is true, it makes this statement attributed to Supervisor Gary Tofanelli on January 24 in the Calaveras Enterprise suspect, “Any sediment removal has to come through a 404 permit from the Corps of Engineers, and they have not budged an inch on allowing us to do anything.” It would be difficult to budge on a permit application that has never been completed. This is simply another attempt to blame the USACE for the flooding. You know the excuse, “Oh, I’ve tried, but all the state and federal regulations have tied my hands.”

An application for sediment removal was submitted to the USACE by former Public Works Director Rob Houghton in 2006 likely subsequent to the supervisors’ study session led by Public Works titled, “County Government’s Role in Flood Control.” Regarding the sediment removal permit application, a Public Works press release on January 23, 2007 said, “Compliance with the established field survey protocols dictates that the project area must be surveyed over a minimum six-week period beginning no earlier than April 15 and extending through the breeding season. Should this requirement hold, we will be unable to obtain the necessary federal permits to clear the channel anytime [sic] this winter.”

However, the field surveys could have been done the following year, and the application completed. On February 13, 2007, the USACE wrote to Director Houghton and said, “As requested in your February 9, 2007 submittal, your initial application request for sediment removal shall remain active... until the necessary biological surveys have been completed,” but the application was eventually closed due to lack of response from Calaveras County. The same letter noted that a permit for vegetation and debris removal was not required as long as hand tools, which include chainsaws and weed-eaters, were used. Director Houghton resigned on October 1, 2007. There has been no further effort to obtain a permit from the USACE for the removal of sediment from Cosgrove Creek.

There has been some speculation in the press that Cosgrove Creek maintenance “technically does not fall under the jurisdiction of Public Works.” Perhaps it is under the jurisdiction of our Flood Control Officer, identified in the General Plan Safety Element as the Planning Director. Nevertheless, it was the Public Works Department which applied for and received the current California Department of Fish & Wildlife Streambed Alteration Permit which allows vegetation removal from Cosgrove Creek 100 yards upstream of the St. Andrews Bridge to 100 yards downstream of the Silver Rapids Bridge. The permit expires in October 2026.

In addition, the Public Works Department unsuccessfully applied in November 2003 for \$600,000

in Flood Protection Corridor Funds to address Cosgrove Creek flooding, and don't forget their 2006 presentation to the board of supervisors, "County Government's Role in Flood Control." Public Works also collaborated with the U.S. Army Corps of Engineers from 2008 to 2016 on the ill-fated flood mitigation feasibility study. Public Works is responsible for the county's Storm Water Management Plan and for implementing three of the five measures in the Calaveras County General Plan Safety Element that address flood hazards. That sounds like a whole lot of jurisdiction.

Finally, one of the recommendations of the aforementioned 2006 study session was for the board of supervisors to consider formation of a Flood Control District to "establish policies for channel maintenance; secure appropriate rights of way for existing drainages; update floodplain maps; coordinate implementation of grading ordinance and Phase II NPDES [National Pollutant Discharge Elimination System] for water quality protection; regulate small dams; design, permit and construct detention basin(s); and secure funding through grants, benefit assessments, and development impact mitigation fees." It was a good idea in 2006, and it's still a good idea. However, creating a Flood Control District would require our supervisors to take responsibility and, perhaps most challenging of all, it would require them to take action.

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