

It's Not the Frog's Fault: Flooding is a Result of Poor Planning

by Muriel Zeller

January 30, 2023

It's time to take a hard look at the repeated flooding of Cosgrove Creek, particularly in the La Contenta subdivision. The flooding isn't because of potential red-legged frog habitat, 100-year rains or even because the creek isn't properly maintained. These are after-the-fact issues. The repeated flooding of homes and businesses along Cosgrove Creek is the result of poor land use planning and the subsequent development approved in a known floodplain by the Calaveras County Board of Supervisors.

At the time of the April 2006 flood, the late Betty Snyder of Snyder Ranch was 81 years old. As reported in the *Record*, Betty said she had been watching Cosgrove Creek flood for 63 years. Indeed, county officials have always been aware of the potential for the creek to overflow its banks, but, in spite of this, they permitted development in the Cosgrove Creek floodplain without proper mitigation for the adverse impacts.

My late mother-in-law lost tens of thousands of dollars when her condo in La Contenta flooded in 2006. She was a widow on a fixed income with modest savings. The young couple with a baby who lived next door was so proud of buying their first home. They lost that home because they had no flood insurance, and they had exhausted their savings on the down payment. Now, once again in 2023, residents of La Contenta have been devastated. Nearly 50 homes in La Contenta flooded in January, and some of them have been rendered uninhabitable.

In the 1990's, Calaveras County allowed parts of La Contenta to be built in the floodplain and then in the early aughts, allowed parts of Gold Creek Estates to be built upstream and adjacent to La Contenta in the same floodplain. In other words, county officials approved the two subdivisions and issued permits for homes to be built in La Contenta that they knew were destined to flood. But there's a little twist to this story.

The construction of Gold Creek made the flooding in La Contenta worse, because the Gold Creek developer, Ryan Voorhees, had no problem violating environmental and water quality laws to ensure his development didn't flood. He was fined by the Environmental Protection Agency for using "heavy equipment for grading, compaction and filling activities to fill areas in the creek and adjacent wetlands." During construction, he was fined by the California Regional Water Quality Control Board for "inadequate storm water BMPs [best management practices] and the discharge of sediment and other pollutants into the storm drain system and Cosgrove Creek."

To clarify, Voorhees backfilled the flood plain, raised homes, and narrowed Cosgrove Creek with berms and riprap, thereby increasing flood flows and velocity into La Contenta. And remember, those storm drains in Gold Creek Estates are still sending storm water into the creek. As the U. S. Geological survey reminds us, “Impervious surfaces, such as parking lots, roads, and developments, act as a ‘fast lane’ for rainfall - right into storm drains that drain directly into streams. Flooding becomes more prevalent as the area of impervious surfaces increase.”

In addition, rain and irrigation runoff from lawns, gardens, and La Contenta Golf Course increases the flow of so-called nutrients, namely fertilizers, into the creek which results in denser vegetation which restricts water movement. Hence, we have the hue and cry to “clean out the creek,” but thinning the vegetation will not solve the overall problem. Flooding also promotes more flooding, as it causes streambank erosion resulting in excessive sedimentation downstream which makes the creek shallower. The removal of any sediment, whether it is from erosion or storm drains, would require a Section 404 permit from the U S. Army Corps of Engineers, which has not been approved.

The Board of Supervisors has previously acknowledged the history of poor planning along the creek and, as was reported on January 9, 2006, in the *Calaveras Enterprise*, supported proceeding with a Cosgrove Creek feasibility study of flood damage mitigation conducted in partnership with the Army Corps of Engineers and the Calaveras County Water District.

Reportedly, Supervisor Tom Tryon “was disappointed the county and developers allowed so much development in a recognized flood plain.” Supervisor Steve Wilensky “added it’s come about because the county failed to adequately plan in the first place.” Tryon suggested a study session to determine “how the heck we got here.” It’s not as if the county’s culpability was or is a secret.

Eventually, in August 2008, supervisors did enter into a contract with the Army Corps of Engineers to study the feasibility of flood damage mitigation, and the agreement was amended in July 2011 due to increased costs. At that time, according to the board’s agenda packet, the feasibility study was over 50% complete. “The Agreement as amended limits the total study costs to \$1.2 million of which the County's share of cost is estimated to be \$600,000,” which was to be met with in-kind contributions of staff time and materials.

According to a recent email from Tyler Stalker, a spokesperson for the U. S. Army Corps of Engineers, “In September 2016, Calaveras County requested that USACE terminate the Continuing Authorities Program (CAP) Section 205 project we were partnering on to identify potential actions to reduce the flood risk from Cosgrove Creek. Prior to the closeout of the project, USACE notified the County that there may not be Federal interest in a project due to the high cost of our alternatives compared to the economic benefits we would see after any projects were constructed.” In other words, if the USACE spends \$10 million on a flood damage

mitigation project they want to see \$10 million in economic benefits reflected in, for example, the value of homes and businesses saved or even the value of ecosystem services preserved.

Stalker didn't provide much hope for any additional help, "The USACE Sacramento District continues to work with the County to see what support we may be able to provide through our technical services authorities or through a new CAP project. We have informed the County that we are concerned that we may arrive at the same conclusion, so we are also working with the County to identify other Federal programs that may be a better solution." In a subsequent phone conversation, Stalker promised to provide me with additional information, which I suspect will simply confirm that help isn't forthcoming. To recap, it took from 2008 to 2016 to determine a CAP Section 205 project wasn't feasible, and the USACE been working with the County since 2016 on "a better solution." That's a total of 15 years.

It seems painfully obvious at this point that in the wake of each increasingly devastating Cosgrove Creek flood there is a lot of bureaucratic bluster, buck-passing, dissembling, and hollow rhetoric intended to mollify the people until the flood drama fades and something else dominates the news. Maybe it's time for Calaveras County to be honest about its poor land use decisions and its failure to require mitigation measures for the impacts of flooding. Maybe it's time for our supervisors to tell the people mistakes were made. Homes and businesses were built in the floodplain, and there is essentially nothing the County can do to stop them from flooding. Then tell us that this kind of greedy and unsustainable land use planning that threatens to rob people of their homes and hard-earned possessions and, potentially, their lives will stop. And mean it.

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