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## Lawsuit Challenges Army Corps' Program to Cut Trees From Levees

### ***Misguided California Policy Would Damage Endangered Species Habitats, Reduce Levee Safety***

SACRAMENTO— Friends of the River, the Center for Biological Diversity and Defenders of Wildlife filed a lawsuit in federal court today challenging the implementation of a U.S. Army Corps of Engineers program in California requiring removal of all trees and shrubs from levees despite clear evidence that this vegetation provides important habitat for endangered fish, birds and other species, and its removal may actually reduce levee safety.

"This misguided program would further fragment remnants of Central Valley riparian forest that are essential habitat for endangered species and also provide scenic beauty and recreational enjoyment of the rivers," said Bob Wright, senior counsel for Friends of the River. "The Corps must abide by environmental laws and make environmentally informed decisions. We will pursue this case vigorously and as rapidly as the court allows."

After Hurricane Katrina, the Corps made major changes to its nationwide levee program, including new standards in 2009 banning vegetation within 15 feet of levees, without consideration for regional differences. Although many levees were designed to include streamside vegetation to enhance the habitat lost by the re-engineering of rivers and streams, the Corps took steps to cancel all exceptions to the requirement that all levees be cleared, without evaluating the impacts on endangered species or their habitats in California.

"The Corps adopted a new standard requiring removal of all vegetation from levees without environmental review, consideration of regional differences or scientific support," said Jeff Miller with the Center for Biological Diversity. "Not only is there little proof trees or well-managed vegetation threaten levees in California, the Corps' own research shows trees stabilize and strengthen levees. The Corps must incorporate ongoing scientific research before proceeding."

The changes could significantly affect endangered species in the Central Valley and Southern California that rely on vegetation along levees for habitat, such as chinook salmon, steelhead trout, green sturgeon, giant garter snake, least Bell's vireo, riparian brush rabbit, southwestern willow flycatcher and valley elderberry longhorn beetle. In many Southern California coastal streams, least vireos and flycatchers nest in riparian vegetation; longhorn beetles inhabit elderberry trees, and protected fish swim in rivers along Central Valley levees. Riparian vegetation reduces sedimentation harmful to anadromous fish and provides important shade that reduces water temperatures, which is critical for salmonids and other aquatic species.

The Corps ignored its legal obligation to analyze the impacts of this new program under the National Environmental Policy Act by failing to prepare an environmental impact statement before adopting the decision. It also ignored its requirement, under the Endangered Species Act, to consult with federal wildlife agencies for the impacts on threatened and endangered species.

"Levee safety can be achieved without clearcutting some of the surviving riparian forests in the Central Valley and destroying habitat for struggling species like salmon, steelhead trout and willow flycatchers," said Kelly Catlett, a California representative of Defenders of Wildlife.

#### **Background**

The Corps for decades allowed retention and encouraged planting of trees and shrubs on Central Valley levees in cooperation with federal and state agencies because little other riverbank or riparian habitat remains for endangered species and other wildlife. The Corps acknowledges vegetation removal may harm endangered species habitats, but instead of undertaking necessary consultation with wildlife agencies has tried to shift the burden of implementation and environmental compliance to local agencies and flood-control districts.

The major flood-control associations in the Central Valley and Bay Area, where most of the state's levees are located (as well as a dozen flood-control agencies, many state resource agencies, and federal and state lawmakers in California), have objected to or formally expressed concerns about the program. Among the concerns are that compliance and subsequent environmental mitigation would be extremely costly; diverting limited funding to clear levees will prevent or hinder projects to fix structural or seepage problems; existing vegetation provides erosion control and removing it could increase risk of scouring and slope failure and compromise levee integrity. The state Department of Water Resources estimates compliance cost at \$7.8 billion.

The California Department of Water Resources and Department of Fish and Game have [stated](#) that implementation would "reduce public safety in California, result in extensive and unnecessary environmental damage, and remove the Corps' responsibility to assist state and local maintaining agencies in ensuring the integrity of California's levee system." The agencies object to "attempting to address complex technical, financial, legal and institutional problems with a highly prescriptive, one-size-fits-all approach to vegetation management."

*Friends of the River* is a nonprofit based in Sacramento with more than 5,000 members, dedicated to protection, preservation and restoration of California's rivers, streams, watersheds and aquatic ecosystems. FOR has worked to protect and restore the Sacramento and San Joaquin Rivers and their tributaries for more than 30 years.

The [Center for Biological Diversity](#) is a national, nonprofit conservation organization with more than 320,000 members and online activists dedicated to the protection of endangered species and wild places.

[Defenders of Wildlife](#) is dedicated to the protection of all native animals and plants in their natural communities. With more than 1 million members and activists, Defenders is a leading advocate for innovative solutions to safeguard our wildlife heritage for generations to come.

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[Go back](#)