

SMITH CANAL AREA ASSESSMENT DISTRICT NEWSLETTER

UPDATED MAY 2017

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WWW.SJAFCA.COM

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Project History

The San Joaquin Area Flood Control Agency (SJAFCA) partnered with Reclamation Districts 1614 and 828 to design, finance and construct a project to provide 100-year flood protection for approximately 8,000 properties protected by Smith Canal levees. Once completed, approximately 5,000 properties will be removed from the current Federal Emergency Management Agency (FEMA) Special Flood Hazard Area, ending mandatory flood insurance requirements (properties with mortgages) and building restrictions (all properties). The project history dates back to 2005.

2005

FEMA requires documentation from levee maintaining agencies that their levees meet federal accreditation requirements. Reclamation Districts 1614 and 828, the maintaining agencies for Smith Canal levees, determined that their levees did not meet FEMA requirements for 100-year flood protection.

2009

Because the Smith Canal levees did not meet federal requirements, FEMA issued new Flood Insurance Rate Maps (FIRMs). Approximately 5,000 properties protected by Smith Canal levees were placed into a Special Flood Hazard Area. FEMA also proposed to expand the Special Flood Hazard Area to include 3,000 additional parcels.

SJAFCA partnered with Reclamation Districts 1614 and 828 to evaluate options for certifying Smith Canal levees, thereby meeting FEMA requirements and removing the Special Flood Hazard Area designation.

2011

SJAFCA and Reclamation Districts 1614 and 828 met with FEMA to discuss potential options. FEMA agreed that a gate structure to prevent high water in Smith Canal would meet federal standards for providing at least 100-year flood protection. FEMA issued a Conditional Letter of Map Revision (CLOMR) to confirm its decision.

2012

The State authorized a \$2.4 million grant to pay 50 percent of the project design and environmental analysis.

2013

Based on the FEMA CLOMR and approval of State funding, SJAFCA, RD 1614, and RD 828 conducted an election to form an assessment district to finance the local share of project design, construction, and operations and maintenance costs. The assessment was approved by property owners with 59 percent of the weighted vote, and adopted in July by SJAFCA.

SJAFCA issued a request for Statements of Qualifications and proposals to 33 engineering firms for the design, environmental and public outreach. The request was also advertised on a web site reaching approximately 85 architectural/engineering firms.

Two firms, Green Mountain Engineering and Peterson Brustad, Inc., submitted Statements of Qualifications and proposals. In October, interviews were conducted by a selection panel consisting of the California Department of Water Resources, San Joaquin County and SJAFCA. The panel unanimously selected Peterson Brustad, Inc. **CONTINUED**

2015

In May, the California Department of Water Resources conditionally approved up to \$22.3 million in construction funding.

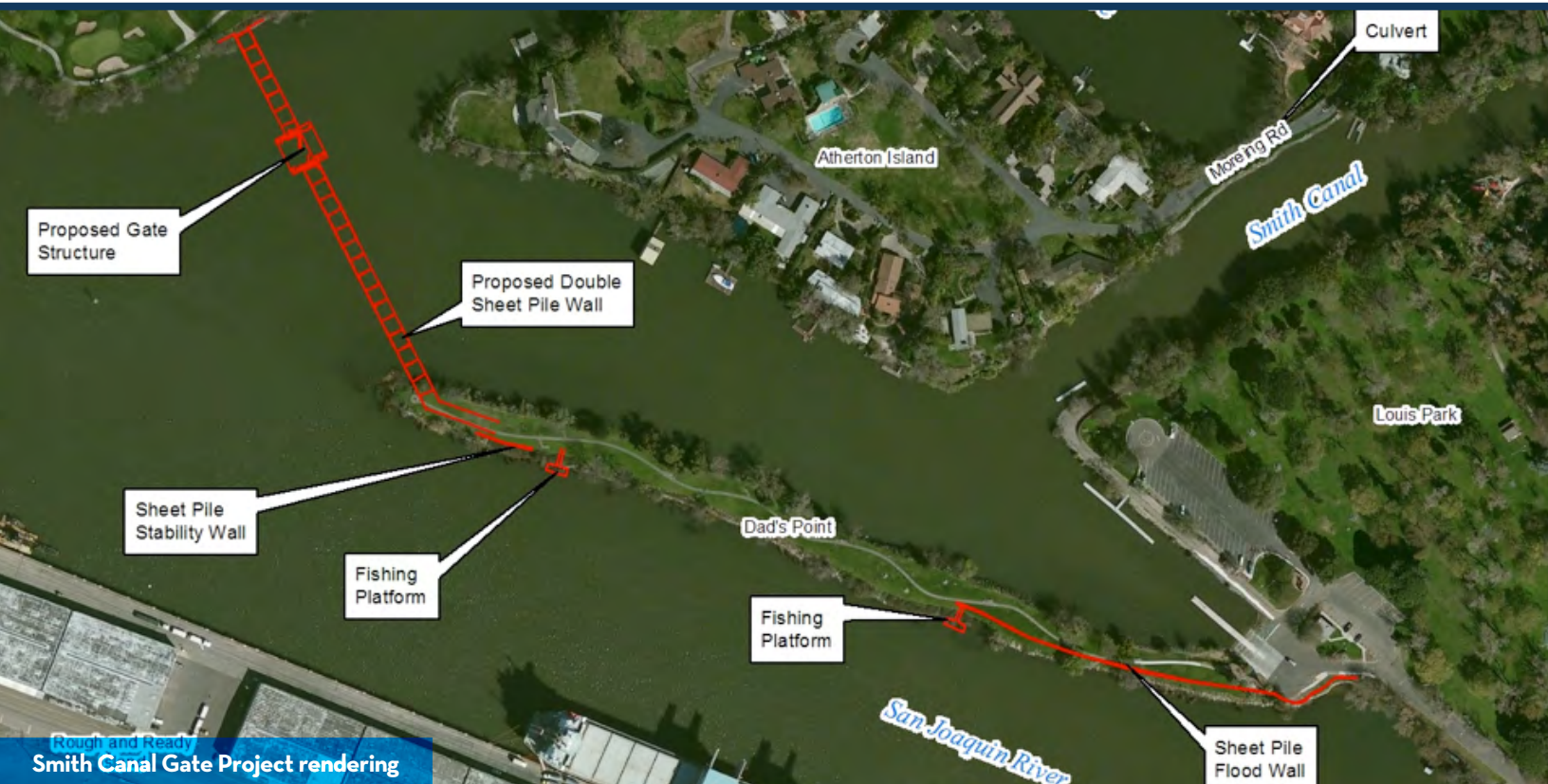
The project's Environmental Impact Report, a requirement of the California Environmental Quality Act, was approved by SJAFCA. A preferred project was also approved. Design work began.

2016

Project design is approximately 65 percent complete. Permitting and acquisition of easements will soon be underway. SJAFCA defends the project against two separate lawsuits.

2017

In February, the Board authorized the Executive Director to seek Statements of Qualifications (SOQs) and proposals from engineering firms to provide construction management and inspection services for the project. Four firms submitted SOQs: Consolidated CM, WSP Parsons Brinckerhoff, Green Mountain Engineering, and AECOM Technical Services, Inc. In April, interviews were conducted by a four-member selection panel comprised of representatives from San Joaquin County Flood Control and Water Conservation District, City of Stockton Public Works, California Department of Water Resources, and SJAFCA. The panel unanimously selects AECOM Technical Services, Inc. to provide construction management services.



Project Design Update

The \$37 million project meets State and Federal standards for reducing flood risk by isolating Smith Canal from the San Joaquin River during high water events. Three gate structure alternatives were analyzed in the development of the required Environmental Impact Report. The preferred alternative, adopted by the SJAFCA Board in November 2015, includes a floodwall along the San Joaquin River between Dad's Point and the eastern boundary of the Stockton Golf & Country Club, tying into the existing FEMA-accredited levee. The floodwall will feature a 50-foot wide gate for boat access

to Atherton Cove and Smith Canal. Dad's Point would be raised to allow certification as a levee. Design is approximately 65 percent complete. The project team will soon begin applying for and acquiring permits and easements. The project must receive permits from at least eight different state and federal agencies before construction can begin.

The Project Design Team includes highly-qualified experts from local, state and nationally-renowned firms:

- Project Design: HDR Engineering; Peterson Brustad, Inc.
- Survey and Right-of-Way: Kjeldsen, Sinnock and Neudeck, Inc.

- Interwest Group
- Geotechnical: Kleinfelder
- Environmental: ICF International
- Public Outreach: KF Communications

A highly-qualified and independent panel of engineering experts, approved by the California Department of Water Resources and the US Army Corps of Engineers, is providing technical expertise and oversight for project design. Panel experts include: Joe Domenichelli, Domenichelli & Associates; Ed Hultgren, Hultgren-Tillis Engineers; and Yusof Ghanaat, Quest Structures.



Why is this Project Important?

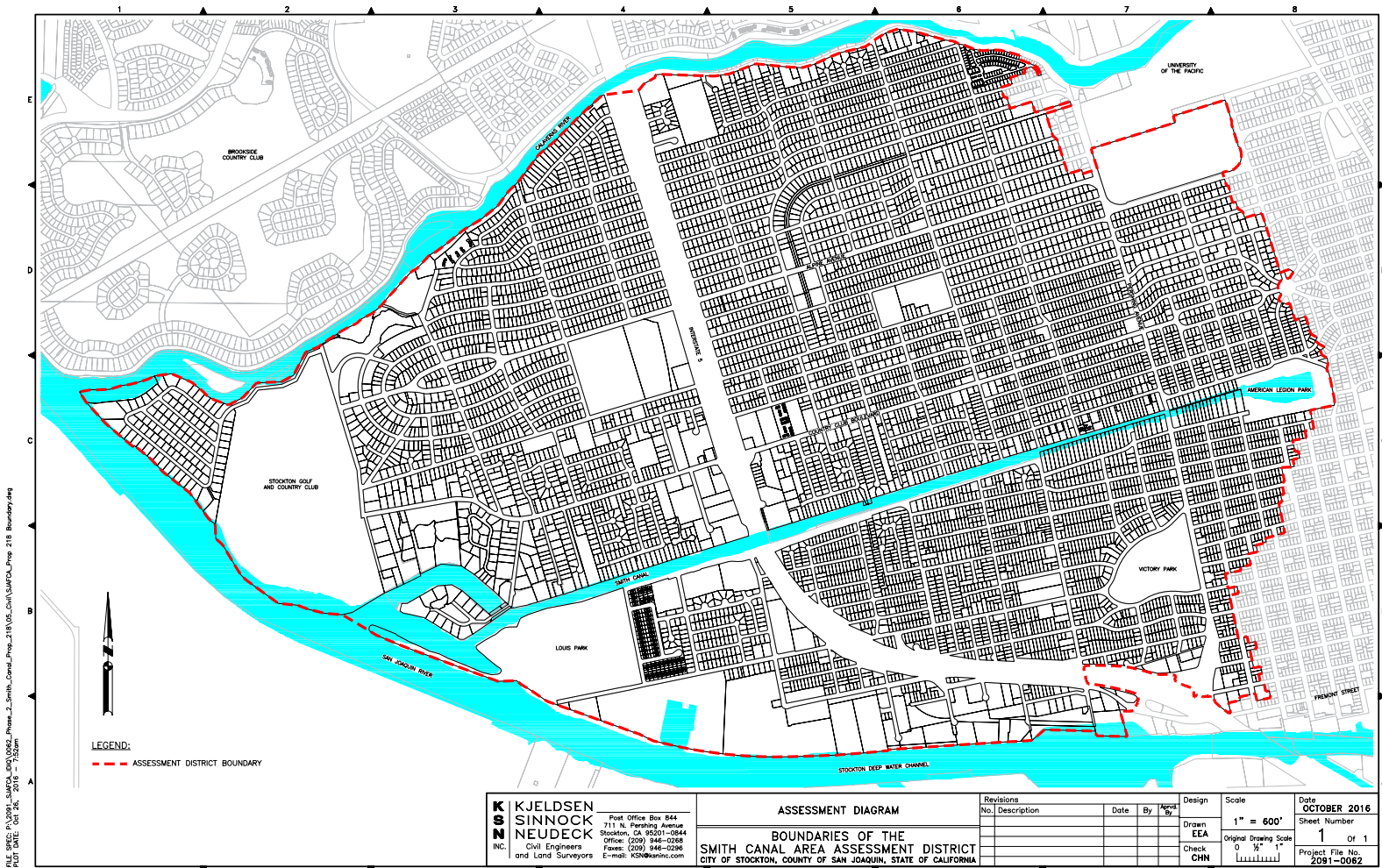
The project is designed to reduce flood risk and remove properties from a FEMA Special Flood Hazard Area, or prevent them from being placed into one. This will end requirements for mandatory, high-cost flood insurance and floodplain building restrictions. It will also provide homeowners with the ability to voluntarily purchase flood insurance at the lowest cost.

Project Timeline

Project design, permitting and easement acquisitions will be completed by the end of 2017. Construction is expected to start in mid-2018 and be completed by the end of 2019, if not delayed by the lawsuits (see related article), or other unforeseen circumstances. Once construction is complete, SJAFCA will work with FEMA to update floodplain maps and remove mandatory flood insurance requirements and building restrictions.

Flood Insurance Update

SJAFCA continues to work on behalf of property owners to minimize the cost of flood insurance. This includes working with FEMA to reaffirm its Conditional Letter of Map Revision (CLOMR) that “green lighted” the project as a way to provide 100-year flood protection for properties protected by Smith Canal levees. FEMA’s requirements have changed since it first issued that letter, so SJAFCA has provided additional documentation as required to confirm the project. Until the gate is constructed, properties in a Special Flood Hazard Area will remain subject to mandatory flood insurance (properties with federally-backed mortgages) and building restrictions (all properties). If you have flood insurance, please check with your insurance provider on costs for policy renewals.





State Supports Project with Major Funding

SJAFCA received a \$2.4 million State grant to pay 50 percent of project design and environmental work (\$4.8 million total cost). The remaining half is being funded with assessment revenues. SJAFCA's proposal to the State for an Urban Flood Risk Reduction grant for up to \$22.3 million to cover the remaining permitting and construction costs was conditionally approved by the State. SJAFCA is now negotiating a funding agreement. In order to receive funding under the new agreement, SJAFCA has until December 2018 to demonstrate a strategy for the project to be added to the State Plan of Flood Control. One option is to obtain federal authorization for the project. Toward that end, SJAFCA has worked with the US Army Corps of Engineers to include the project in the Corps' Lower San Joaquin River Feasibility Study.

Lawsuits Could Delay Construction

- In December 2015, two lawsuits were filed against SJAFCA challenging approval of the Smith Canal Gate Project ("Project"). The lawsuits were filed by different parties for different reasons and are moving forward separately. These lawsuits are important because:
- they could delay project construction. Until the project is constructed, properties in the Special Flood Hazard Area will remain subject to mandatory flood insurance (properties with federally-backed mortgages) and building restrictions (all properties). And, FEMA could place the other properties that are within the Assessment District boundaries in the Special Flood Hazard Area, which is more likely if the project is not moving forward.
- the State has indicated that significant project delays may jeopardize its ability to provide grant funds for construction. Funds could be then directed to other communities with projects entering construction.
- defense against the lawsuits has, to date, cost approximately \$780,000.

CASE #1: Filed by the **Atherton Cove Property Owners Association (APCOA)**. This case originally made claims under the California Environmental Quality Act (CEQA), the public trust doctrine, and real estate common law. SJAFCA successfully filed a motion to dismiss the public trust and real estate claims. By law, APCOA's claim that the project does not comply with CEQA must be decided on by the Court. A hearing was held on May 15, 2017 and a ruling is expected during the summer of 2017.

Cost of defending against this lawsuit to date: \$300,000.

CASE #2: Filed by **Dominick Gulli**. Mr. Gulli, owner of Green Mountain Engineering, previously submitted a proposal to SJAFCA for the design of the Smith Canal project. However, a selection panel comprised of representatives from the California Department of Water Resources, San Joaquin County and SJAFCA unanimously selected a more qualified proposal presented by Peterson Brustad, Inc.

His petition originally included claims under CEQA, Proposition 218, and laws related to public contracting. Mr. Gulli has amended his petition twice, each time adding new non-CEQA claims. SJAFCA has filed, and the Court has granted, two consecutive motions to dismiss all of Mr. Gulli's non-CEQA claims. Therefore, currently, there is only a CEQA claim remaining. Mr. Gulli recently filed a motion to request permission to add two additional claims, one against SJAFCA under the Public Contract Code, and one unfair competition claim against SJAFCA's executive director, individually. SJAFCA is opposing that request and will challenge any claims the Court allows Mr. Gulli to add. A hearing on the matter is scheduled for June 2. Once the scope of his case is settled, the CEQA claim must be decided on by the Court. **Cost of defending against this lawsuit to date: \$480,000.**

If the Court rules against SJAFCA on CEQA claims in either of the cases, SJAFCA would be required to rescind approval of the Project and revise the Environmental Impact Report before reconsidering the Project. Costs for that process are not known. The presiding judge in both cases is Judge Elizabeth Humphreys.



SJAFCA and Reclamation Districts 1614 & 828

The San Joaquin Area Flood Control Agency (SJAFCA) is a Joint Powers Authority created in May 1995 by the City of Stockton, San Joaquin County and the San Joaquin County Flood Control and Water Conservation District. SJAFCA's mission is to reduce flood risk for the City of Stockton and some adjacent unincorporated County areas. Reclamation Districts 1614 and 828 are responsible for operations and maintenance of levees, pump stations and other flood control facilities in the Smith Canal area.

Reclamation District 1614 has the Wisconsin Pumping Plant in the same benefit area as the Smith Canal Gate and passed an assessment to improve the pumping plant. Questions related to the Wisconsin Pumping Plant should be directed to Reclamation District 1614 at (209) 948-8200.

SJAFCA Board

San Joaquin County Supervisor Katherine Miller, Chair
Stockton City Councilmember, Jesús Andrade, Vice Chair
San Joaquin County Supervisor Tom Patti, Director
Stockton City Councilmember Elbert Holman, Director

Reclamation District 828 Board

Bill Mendelsen, President
Robert G. Merdinger, Trustee
Deby Provost, Trustee

Reclamation District 1614 Board

Kevin Kauffman, President
Ben Koch, Trustee
Bill Dunning, Trustee



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Visit SJAFCA's website at www.sjafca.com for the latest news, project updates and meeting announcements. Questions? Call the project hotline at **209-487-1387**.

Assessment Update

SJAFCA assessments for the Smith Canal first appeared on property tax bills in fall 2014. Currently, assessment revenues are being used to pay the local cost share for design and environmental work, and defend against legal actions. Assessment revenues will also be used to pay the local cost share for construction, and ongoing operations and maintenance of the project once completed.



San Joaquin Area Flood Control Agency
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SEE INSIDE FOR INFORMATION ON:

Project Design Update
FEMA Update
Status of Project-Related
Lawsuits