

LOOK UPSTREAM

DECEMBER 2008

Look Upstream, a series of monthly articles about flooding in the Cypress Creek Watershed – information on what the community-based Cypress Creek Flood Control Coalition is learning has not been done, what is being done, and/or what should be done to reverse the direction of future storm water flood encroachment into our neighborhood communities and homes. Charged with reporting to the community residents, the Board of Directors chose “Look Upstream” for the newsletter name because it serves as a constant reminder that the watershed’s “upstream” location – from which the flood headwaters begin their downstream journey – is where we must establish the ultimate solutions. This vast area westward from the US 290 highway bridge crossing and continuing into Waller County has now become the most critical area where the efforts of a government and private sector partnership must be increased and concentrated if success in harnessing downstream flooding is going to be achieved.

As a preface to assist in understanding the significance of interrelated storm water/land development flooding issues, the following information is quoted from a professional education seminar given last year by national and local experts:

“Drainage of storm water runoff from the land is a natural occurrence, and depends on the natural topography. Interfering with the natural topography such as through land development alters the natural drainage and can result in damage to nearby properties. In general, the flooding of land is also a natural occurrence, being the result of an excessive amount of rainfall that produces more storm water runoff than can be handled by the receiving watercourse. However, such flooding can also be aggravated by land development activities. Liability for any resulting damages may and should lie with those responsible for the damaging alterations to the natural topography. Storm water regulations have been implemented at the state and local levels in an attempt to control and limit the potential for land development activities causing damage to the property of others. Both statutory and common laws also address the need to control land alterations so as not to harm others.”¹

The general law powers and duties of our local municipal utility districts as authorized by Texas state statutes include, among others, flood control and drainage. Unfortunately our MUDs do not have authority to exercise these powers over storm water flowing downhill into their communities from where it originates outside their district boundaries in the essentially agricultural area known as the “**Upper Cypress Frontier**”. And although the Harris County Flood Control District (HCFCD) acting through the Commissioners Court of Harris County has such county-wide power, it does not include that portion of the upper watershed contained in Waller County. These circumstances became a catalyst bringing the MUDs and others together (beginning in 1999) in an alliance known as the Cypress Creek Flood Control Coalition with the primary purpose of working with the HCFCD and Harris / Waller County officials in storm water flood investigation, research and regulatory undertakings affecting this, the largest and most complex watershed among the total 22 watersheds in Harris County.

An exciting project – using some of the latest technology in its field – was launched to predict and measure if and where flood locations and depths throughout the watershed’s communities would occur in the future under rapidly changing landscape conditions as a result of eventual upstream full urban development. The research quickly became a grueling series of challenging set-backs and successes extending over the next 4 years. The base flood elevations and floodplains as calculated by FEMA’s TSARP computer models which would serve as the baseline for modeling future conditions were discovered to be wrong and had to be corrected or the research would be worthless. The problem – which centered in the “upper” watershed area where base flood elevations were under calculated by as much as 4 feet – made the TSARP computer models and map calculations unacceptable for their intended purposes and opened the floodgates to a torrent of issues including:

- CCFCC filing an appeal seeking corrections which FEMA denied without merit and then proceeded to adopt the flawed floodplain calculations as official.
- Investigation by HCFCD concluding CCFCC’s appeal was well founded.
- FEMA reconsideration to accept map modifications if recalibration of the models which met CCFCC approval could be justified by Harris County.
- Seeking to salvage potential destruction of thousands of acres of protective wetlands which were at risk due to the errors, the Sierra Club filed a lawsuit against FEMA seeking to prevent adoption. (This is still pending in a federal court.)
- A 2-year investigation / recalibration by HCFCD / CCFCC which modified the computers such that the improved accuracy levels are now acceptable.
- A national giant in the master planned community industry filing to intercede in the lawsuit with intention of preventing FEMA’s adoption of the corrected base flood elevations / floodplains.
- The responsible federal court ruling this summer that FEMA (which claims it mail take a minimum 18 months to do their evaluation) must submit bi-monthly reports on their progress and eventual decisions.
- Harris County Commissioners Court adopting the proposed changes in August as “best available data” and requiring these be used for new land development regulatory purposes effective immediately.

Note: Funding the cost of CCFCC research carried out by professional engineering and academic experts depends almost entirely on voluntary donations from the CCFCC member water districts and home owner associations. All contributions are tax deductible.

Look Upstream articles are written and/or provided by the Cypress Creek Flood Control Coalition (CCFCC) as a public service. Visit website www.ccfcc.org for more information on needed flood protection, environmental preservation, flood insurance and membership. or e-mail to floodalliance@ccfcc.org.

¹ *Water Rights Sales and Transfers*, published by Lorman Education Services, Houston, Texas March 2, 2007, “DRAINAGE AND FLOOD LAW” presented by Lawrence G. Dunbar, Esq.

