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Homeowners face changes with Herring River restoration

There are 326 private properties in Wellfleet and Truro that would likely see changes in vegetation with a salt marsh restoration plan. Twenty-five of those properties may also have structural damage without some type of mitigation.

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Becky Rosenberg sits on the side steps of her family home on the Herring River in Wellfleet. The family may abandon the house because of a plan to restore 1,100 acres of salt marsh. Ron Schloerb/Cape Cod Times



By Mary Ann Bragg
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relaxation. But as a dike built in 1909 less than a mile downstream began to fail, the family's idyllic homestead began to seem less so.

"We try to keep up with it but it's constant," Rosenberg said of the problems with moisture and mold. The four-bedroom bungalow, bought in 1966, is snug on the first floor, with shelves of books, a whistling tea kettle and many family photos. The basement is unusable, though, and the sump pump there is often overwhelmed.

Now, the family may abandon the house altogether, given the government plan to restore 1,100 acres of salt marsh upstream of the old dike.

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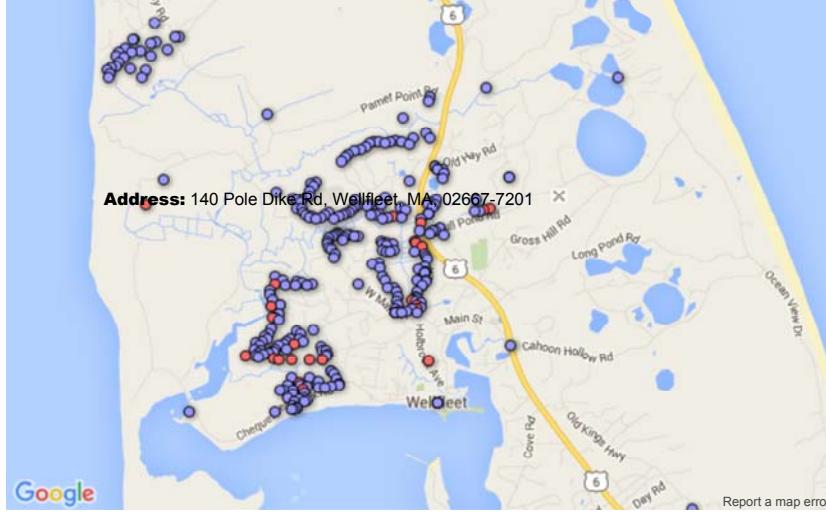
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The dike restricted normal tidal flow and over the years, and the lack of seawater changed the area from a saltwater marsh to a largely freshwater marsh. This project aims to restore tides to the estuary to revert the existing marsh to a saltwater environment.

There are 326 private properties in Wellfleet and Truro that would likely see changes in vegetation with the salt marsh restoration plan. Twenty-five of those properties, all in Wellfleet, may also have structural damage without some type of mitigation. Of those 25, the Rosenberg house and a neighboring two-bedroom home owned by Gerald and Hila Feil sit right on the river's floodplain, and are in the direct path of the salt marsh restoration project.

Private properties affected by restoration project. Red dot properties have structures:



Town of Wellfleet/Herring River Restoration Committee | Gregory Bryant/Cape Cod Times

The Rosenberg family is in negotiations with the National Park Service to take a government house in exchange for theirs, and discussions are ongoing with the Feil family, according to Cape Cod National Seashore Superintendent George Price.

Among all those 25 property owners, uncertainty abounds.

"I'm a pretty trusting fellow, but for me whatever they're promising I want it all to happen beforehand," Alfred Kraft said. Kraft owns a house at the end of Old Chequessett Neck, on Mill Creek, that he said will need to have its driveway raised, based on his conversation with project planners. Mill Creek is one of the tributaries to the Herring River.

Kraft said he has been promised that any dead freshwater trees would be removed. He also said he'll probably have a better view. "Overall, I think it's a good thing, environmentally," Kraft said, but he said his wife is worried about their water well and flood insurance.

Not all are happy with the project

Through a public records request to the town of Wellfleet, the Times obtained the list of the 25 private property addresses identified as of June 4 as having potential structural damage if the proposed flooding occurs, and a Times reporter spoke to 17 of the 25 property owners. The others did not respond to attempts to contact them.

Although the National Park Service has been considering the salt marsh restoration project to reverse the changes in the natural ecosystem caused by the dike for about 30 years, things got serious 10 years ago. First, there was the signing in 2005 of a memorandum of understanding between the Cape Cod National Seashore and the town of Wellfleet. The town of Truro joined in a second memorandum, signed in 2007, and a third memorandum that would guide the implementation of the project is under development.

The \$40 million proposed restoration is the largest from Maine to New York, and is meant to improve water quality, encourage shellfish and fish populations and protect the coastline from storm surge and sea level rise. The project, as proposed, will need to obtain an order of conditions under the state Wetlands Protection Act as well as a license under the state's Chapter 91 law and a certification and permit under the federal Clean Water Act, according to state Department of Environmental Protection Wetlands Program Manager Lealdon Langley.



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1:30 pm

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Orleans Senior Center

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More specifically for the 326 private properties, a Chapter 91 license would allow flooding of private or public land in the river's 1,100 acre floodplain up to the historic mean high water mark, measured before the 1909 dike, as a way to protect public uses on the waterfront such as fishing, fowling, navigation and strolling, Langley said.

"We want to protect any existing structures that might be affected by tidal flow, but there's no reason why you shouldn't be able to restore the natural tidal flow to land that is a historic wetland," restoration project coordinator Margo Fenn said.

The restoration committee, made up of town, state and federal representatives, is exploring and evaluating questions of private property mitigation and compensation. Mitigation could include raising driveways, moving drinking water wells and other fixes such as the proposed house swap for the Rosenberg family. The restoration committee also is considering financial compensation to replace nonstructural property improvements such as ornamental trees, gardens and lawns that would be affected by the flooding, Fenn said. The committee is not considering compensation for changes in natural vegetation, she said.

Download a spreadsheet of affected Herring River properties

"We are on a private well here, and the well is very, very shallow and rides right above the salt water lens," Briar Lane property owner Steven Phillips said of the possible introduction of salt water into Upper Pole Dike Creek, another tributary to the river.

Phillips said he believes the basement and backyard in the commercial building he co-owns would be affected. The project will likely require that the building transfer to town water, but Phillips questioned whether there would be access to town water, and who would pay for that transition. "It doesn't look terribly encouraging right now, whether the town will pick up that type of expense or not," he said.

Overall, Phillips says he supports the restoration of the salt marsh. "I feel sorry for a lot of the people that have been living with the freshwater marsh and the uplands for the last 100 some years, and the loss of their property rights," he said. "It's a big question."

The project, with more than \$3 million in hand from state and federal grants so far, will move forward even if all 25 private property owners don't agree upfront, according to Fenn. All the properties will be behind the new dike at the mouth of the river and two new smaller tide gates upstream, and all the gates will be opened slowly over time through an incremental, managed process, Fenn said. The transition could take 10 to 15 years, Wellfleet Town Administrator Harry Terkanian said.

Most of the 25 private properties have assessed values in the range of \$300,000 to \$1.25 million, town records indicated.

"I don't get it," Mill Creek Lane property co-owner Tia Schabot said. Her family owns a four-bedroom house on a hill above Mill Creek that's been in the family since 1969.

In the family's meadow near the creek bed there is a water well, a septic tank and a three-car garage that would be at risk for flooding. "I don't think it should be done," Schabot said of the project overall. "They've already played God by altering the ecosystem (by building the dike in 1909)." A long time ago, salt marshes were filled to create Manhattan, Boston and Logan Airport, she said. "Are we going to reverse all that?"

Of the handful of upstream basins that contribute to the river, Mill Creek and Upper Pole Dike Creek have the largest number of private properties that could experience structural damage. In the Mill Creek basin, there are nine properties and in Upper Pole Dike Creek there are 11, one in the Duck Harbor basin and four including the Rosenberg and Feil houses in the Lower Herring River basin.

The 164-acre Lower Herring River basin, in particular, is considered impaired under 2012 federal Environmental Protection Agency standards for fish and shellfish harvesting, because of issues such as blocked fish passage, flow alterations and bacteria.

"When I first moved in, you could actually take a kayak out to Great Island from here," Judy Ellis said. Ellis owns a two-bedroom house that is a stone's throw from the Rosenberg house but up off the flood plain. Ellis said she has been told by project planners that her drinking water well will need to be moved with the restoration of the salt marshes.

These days, Ellis said, taking a kayak down the river is "completely impossible."

"It's all grown up and really thick. It's sad to see that and I'm glad they doing the project," she said. "I'm imagining it's going to be years and years before you'll even notice anything, and all this

vegetation is going to have to go down. Boy, that's going to be a mess. I imagine it's going to be buggy." Ellis said generally she understood that she would not be paying to have the well moved.

Homeowners threaten legal challenges

Although the list of 25 properties remains in flux as project engineers learn more about each site, some owners on the list expressed certainty about what structures would need to be fixed while others were caught off-guard.

Wellfleet Selectman Dennis Murphy said on his Mill Creek property there is a driveway that will need to be raised. Murphy represents the selectmen in some aspects of the restoration project. He also said he won't be paying for the work. "Oh, I can assure you that I'm not," he said. "That's all I really know. I will not be paying for it. The town will not be paying for it."

Susan Anthony, co-owner of a 25-acre farm on Mill Creek, near the Murphy property, also said a driveway will need to be elevated, based on her conversations with project representatives. Anthony allowed project engineers to conduct a survey of her land and she met with them this summer to understand the level of risk. She said she supports the restoration project for its environmental benefits.

Across town on Gull Pond Road, Daniel Boyko said he had stopped paying close attention to the restoration project when it seemed as if his property wouldn't be affected. Boyko's two-bedroom house shares a driveway under which an outlying tributary of the Herring River runs. There has been no information, Boyko said. "I didn't know I was on a list."

Likewise, Jerry Bessette on a hill above High Toss Road didn't know his three-bedroom house was on the list, and wasn't sure what part of his property could be affected. His house overlooks the flood plain on which the Rosenberg and Feil houses sit. "My driveway was in the water at some point because it is loaded with oyster shells," Bessette said. "We had to dig down a foot and a half, and we came up with nothing but oyster shells. Nothing." Bessette supports the project overall, but predicts lawsuits by private property owners who he said may end up with unbuildable lots. "They think they've got it worked out," he said. "I believe a lot of people are going to end up suing them."

In response to a question from the Times about whether the project partners could be sued over the government plan to change private property from freshwater to saltwater environments, Fenn said that "anybody can sue anybody." "Whether they would prevail in a case like that I think is unlikely," she said.

In a legal frame of mind as well, retired attorney Bruce MacGibbon walked his overgrown land on Old Chequessett Neck, pointing to fruit trees, a flattened chicken coop, three water wells and a boathouse, all steps from a dry creek bed in the Mill Creek basin. MacGibbon said he has experience with wetlands litigation before the state Supreme Judicial Court. He said he wants a flapper valve installed on a culvert just downstream of his property to stop any flooding of his land.

As planned, a new dike and bridge will be constructed to replace the 1909 dike, along with six larger culverts upstream, new tide control gates at Mill Creek and Pole Dike Creek, about 1.5 miles of raised public roads and a redesign of a dirt lane used for recreation. The construction is set for 2018 to 2020.

The project partners issued a draft environmental impact statement in 2012 recommending the highest level of flooding throughout the 1,100 acres, and a final environmental impact statement is expected later this year.

Some neighbors say their input is ignored

Two neighbors, both on Upper Pole Dike Creek, have and continue to question the need for restoring the entire 1,100 acres to salt marsh, and they both question whether public feedback is being heard by restoration committee members.

"It always seems to revert back to what they want to do for the fullest restoration," Laura Runkel said. Her three-bedroom house is at the level of what is now a freshwater marsh, off Route 6. "It seems the public input is not actually factored in." Runkel said she plans to meet in mid-September with project representatives, after allowing an engineering survey of her land, to learn the level of risk to her house. "What is the public input being used for?" she said.

Next door to Runkel, Michael Parlante walked deep into the back of his property, pointing to oak trees, frogs, dragonflies and what he said is an historic pond. Here and there were blue ribbons tied to bushes by project surveyors. "They should be concentrating on the Herring River itself," Parlante, a former selectman, said. "The river. I'm definitely in favor of doing the Herring River itself, not Wellfleet, not all of Wellfleet."

Vegetation in the freshwater marsh on his property does more for removing nitrates from water than a salt marsh can, Parlante said. He said his oak trees provide a wind buffer for his house, and that he'll have to pay more to heat his house when those trees die off. The salt water will damage the small freshwater lenses on the islands in the area, and the "millions" of freshwater animals are undocumented and have no say in the project, Parlante said.

"They're trying to make this a feel-good project," he said. "Well, you know what? Open your eyes and see the rest of the world. Let me tell you, a gallon of fresh water is worth a hell of a lot more than a gallon of salt water."

Further into town from Parlante's house, and also on the Upper Pole Dike Creek basin, Nancy Civetta on West Main Street said that she met with the town conservation agent about two years ago, and had come from that meeting thinking that neither her septic tank, driveway or any structures would be affected. "I remember walking away feeling fine about it," Civetta said. She added, though, that she hadn't thought about her drinking water well and therefore wasn't sure about that.

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