

**SUPPLEMENTAL WATERSHED AND AGREEMENT PLAN NO. IV**

**FOR**

**CUMMINS CREEK WATERSHED**

**Austin, Colorado, Fayette,  
and Lee Counties, Texas**

**U.S. Department of Agriculture  
Soil Conservation Service  
Temple, Texas**

**October, 1994**

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## INTRODUCTION

The plan for watershed protection and flood prevention for the Cummins Creek Watershed became effective on June 12, 1956. The plan was prepared by the local sponsoring organizations with technical assistance from the Soil Conservation Service. Financial assistance for development of the plan was provided by the Texas State Soil and Water Conservation Board and the Soil Conservation Service.

Cummins Creek Watershed comprises an area of 204,896 acres (82,919 hectares). The watershed is approximately 40 miles (64.3 kilometers) long and averages 8 miles (12.9 kilometers) in width. It is located in Austin, Colorado, Fayette, and Lee Counties of Texas. In 1956, the main resource problems in the watershed were frequent floodwater, sediment, and scour damages on about 11,655 acres (4,717 hectares) of flood plain land.

The plan to address these problems was to install 31 floodwater retarding structures with emphasis placed on land treatment practices that would have a measurable effect on the reduction of floodwater and sediment damages.

The plan has been supplemented three times since 1956. The supplements addressed the following items:

Supplement I - amended cost-share provisions for structural measures in the plan to be 100 percent Federal cost share in Table 1.

Supplement II - Bastrop-Fayette Soil Conservation District transferred all of its liabilities and responsibilities to Fayette Soil and Water Conservation District. Bastrop-Fayette Soil Conservation District was dropped as a local sponsor of the project and Fayette Soil and Water Conservation District was added as a local sponsor.

Supplement III - The Cummins Creek Watershed Association was deleted as a member of the Sponsoring Local Organization and provisions were added for the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. (Public Law 191-646, 84th Stat. 1894)

Minor revisions by letter exchange have resulted in the renumbering of some structures due to minor engineering changes to structures. Actions to date include the installation of 20 floodwater retarding structures and the planned land treatment. Installation of these measures have reduced many of the resource problems in the watershed.

The purpose of this supplement is to further modify the plan at the request of the sponsoring local organizations. This supplement will delete 11 floodwater retarding structures from the planned works of improvements. This supplement will change the following items in the watershed plan:

1. Delete 11 floodwater retarding structures Nos. 3, 8A, 12, 13, 14, 16, 18A, 20, 27, 28, and 31 from the planned works of improvement.
2. Add required certifications on drug-free workplace, lobbying, and other matters.

The sponsors requested the deletion of the floodwater retarding structures because it was determined that landrights would be impossible to obtain. The sponsors are willing to accept the level of protection afforded by the 20 constructed floodwater retarding structures. The deletion of these structures will complete the project as planned and supplemented.

SUPPLEMENTAL WATERSHED AGREEMENT NO. IV

CUMMINS CREEK WATERSHED, TEXAS

Between the

Austin County Soil and Water Conservation District  
Local Organization

Burleson-Lee Soil and Water Conservation District  
Local Organization

Colorado Soil and Water Conservation District  
Local Organization

Fayette Soil and Water Conservation District  
Local Organization

Lee-Fayette Counties-Cummins Creek  
Water Control and Improvement District No. 1  
Local Organization

Fayette County Commissioners Court  
Local Organization

Lee County Commissioners Court  
Local Organization  
(Referred to herein as Sponsors)

State of Texas

and the

Soil Conservation Service  
United States Department of Agriculture  
(Referred to herein as SCS)

Whereas, the watershed plan for Cummins Creek Watershed, State of Texas, executed by the Sponsors named therein and the SCS, became effective on the 21st day of June 1956; and

Whereas, a Supplemental Watershed Plan Agreement No. I executed by the Sponsors named therein and the SCS, became effective on the 28th day of November 1956; and

Whereas, a Supplemental Watershed Plan Agreement No. II executed by the Sponsors named therein and the SCS, became effective on the 3rd day of July 1958; and

Whereas, a Supplemental Watershed Plan Agreement No. III executed by the Sponsors named therein and the SCS, became effective on the 2nd day of February 1972; and

Whereas, in order to carry out the watershed plan for said watershed, it has become necessary to modify said watershed agreement as supplemented; and

Whereas, the responsibility for administration of the Watershed Protection and Flood Prevention Act, as amended, has been assigned by the Secretary of Agriculture to the Soil Conservation Service (SCS); and

Whereas, a Supplemental Watershed Plan No. IV which modifies the watershed plan dated June 12, 1956 for said watershed has been developed through the cooperative efforts of the Sponsors and the SCS;

Now, therefore, the Secretary of Agriculture through the SCS and the Sponsors hereby agree upon the following modifications of the terms, conditions, and stipulations of said watershed agreement, as supplemented;

(1) Floodwater retarding structures Nos. 3, 8A, 12, 13, 14, 16, 18A, 20, 27, 28, and 31 are hereby deleted from the planned works of improvements.

(2) A paragraph is added to read as follows:

Except as herein provided, the Sponsoring Local Organization will acquire without cost to the federal government such landrights as will be needed in connection with the works of improvement. (Estimated cost \$520,000). The percentage of this cost to be borne by the Sponsoring Local Organization and the Service are as follows:

<u>Works of Improvement</u>	<u>Sponsoring Local Organization</u> (percent)	<u>Service</u> (percent)	<u>Estimated Land Rights Cost</u> (dollars)
20 Floodwater Retarding Structures	100.0	0.0	520,000

(3) An additional paragraph is added to read as follows:

The percentages of construction cost of the structural works of improvement to be paid by the Sponsors and by the SCS are as follows:

<u>Works of Improvement</u>	<u>Sponsors</u> (percent)	<u>SCS</u> (percent)	<u>Estimated Construction Cost</u> (dollars)
20 Floodwater Retarding Structures	0.0	100.0	1,021,570

(4) An additional paragraph is added to read:

The percentages of the cost for engineering and project administration to be borne by the Sponsors and by the SCS are as follows:

<u>Works of Improvement</u>	<u>Sponsors</u> (percent)	<u>SCS</u> (percent)	<u>Estimated Engineering and Project Adm. Cost.</u> (dollars)
20 Floodwater Retarding Structures	0.0	100.0	567,918

(5). An additional paragraph is added to the plan agreement in accordance with the certification regarding drug-free workplace requirements (7CFR 3017, Subpart F) as follows:

By signing this watershed agreement, the sponsors are providing the certification set out below. If it is later determined that the sponsors knowingly rendered a false certification, or otherwise violated the requirements of the Drug-Free Workplace Act, the SCS, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.

*Controlled substance* means a controlled substance in Schedules I through V of the Controlled Substances Act (21 U.S.C. 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15);

*Conviction* means a finding of (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

*Criminal drug statute* means a Federal or non-Federal criminal statute involving the manufacturing, distribution, dispensing, use, or possession of any controlled substance;

*Employee* means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) all direct charge employees; (ii) all indirect charge employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantees' payroll; or employees of subrecipients or subcontractors in covered workplaces).

Certification:

A. The sponsors certify that they will or will continue to provide a drug-free workplace by:

(1) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(2) Establishing an ongoing drug-free awareness program to inform employees about--

(a) The danger of drug abuse in the workplace;

(b) The grantee's policy of maintaining a drug-free workplace;

(c) Any available drug counseling, rehabilitation, and employee assistance programs; and

(d) the penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

(3) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (1);

(4) Notifying the employee in the statement required by paragraph (1) that, as a condition of employment under the grant, the employee will--

(a) Abide by the terms of the statement; and

(b) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(5) Notifying the SCS in writing, within ten calendar days after receiving notice under paragraph (4)(b) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(6) Taking one of the following actions, within 30 calendar days of receiving notice under paragraph (4)(b), with respect to any employee who is so convicted--

(a) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(b) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.

(7) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (1), (2), (3), (4), (5), and (6)

B. The sponsors may provide a list of the site(s) for the performance of work done in connection with a specific project or other agreement.

C. Agencies shall keep the original of all disclosure reports in the official files of the agency.

(6). An additional paragraph is added to the plan agreement in accordance with the certification regarding lobbying (7 CFR 3018) as follows:

(1) The sponsors certify to the best of their knowledge and belief, that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the sponsors, to any person for influencing or attempting to influence an officer or employee of an agency, member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any Federal contract, the making of any

Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(c) The sponsors shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

(2) This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

(7). An additional paragraph is added to the plan agreement in accordance with the certification regarding debarment, suspension, and other responsibility matters - primary covered transactions (7 CFR 3017) as follows:

(1) The sponsors certify to the best of their knowledge and belief, that they and their principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

(2) Where the primary sponsors are unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this agreement.

The Sponsors and SCS further agree to all other terms, conditions, and stipulations of said watershed agreement not modified herein.

Austin County Soil and Water Conservation District  
Local Organization

By Alton Hillhaldt

Title CHAIRMAN AUSTIN CO. SWCD

12-6-94  
Date

The signing of this agreement was authorized by a resolution of the governing body of the Austin County Soil and Water Conservation District adopted at a meeting held on 12-6-1994

Alvin R. Schuch  
(Secretary, Local Organization)

Burleson-Lee Soil and Water Conservation District  
Local Organization

By Johanne Styka  
Title Chairman  
Nov 3, 1994  
Date

The signing of this agreement was authorized by a resolution of the governing body of the Burleson-Lee Soil and Water Conservation District adopted at a meeting held on November 3, 1994

W L Sumner  
(Secretary, Local Organization)

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Colorado Soil and Water Conservation District  
Local Organization

By Melvin H. Allright  
Title Ch.  
12-15-94  
Date

The signing of this agreement was authorized by a resolution of the governing body of the Colorado Soil and Water Conservation District adopted at a meeting held on 12-15-94.

Theodore Schultz  
(Secretary, Local Organization)

Lee-Fayette Counties-Cummins Creek Water  
Control and Improvement District No. 1  
Local Organization

By *[Signature]*  
Title *President*  
*11/07/94*  
Date

The signing of this agreement was authorized by a resolution of the governing body of the Lee-Fayette Counties-Cummins Creek Water Control and Improvement District No. 1 adopted at a meeting held on *August 22, 1994*.

*Jean A. Coates*  
(Secretary, Local Organization)

Fayette County Commissioners Court  
Local Organization

By *[Signature]*  
*Edward F. Janocka*  
Title *Fayette County Judge*  
*November 14, 1994*  
Date

The signing of this agreement was authorized by a resolution of the governing body of the Fayette County Commissioners Court adopted at a meeting held on *NOVEMBER 14, 1994*.

*Irene Pratkanis, County Clerk*  
~~Secretary, Local Organization~~  
*By Laris Jaster, Deputy*

Lee County Commissioners Court  
Local Organization

By E. W. Kraus  
Title County Judge  
12-12-94  
Date

The signing of this agreement was authorized by a resolution of the governing body of the Lee County Commissioners Court adopted at a meeting held on 12-12-94.

Carol Dismukes  
(Secretary, Local Organization)  
**Carol Dismukes, Lee County Clerk**

Fayette Soil and Water conservation District  
Local Organization

By Yvonne Friedrich  
Title Chairman  
Nov. 16, 1994  
Date

The signing of this agreement was authorized by a resolution of the governing body of the Fayette Soil and Water Conservation District adopted at a meeting held on Nov. 16, 1994.

[Signature]  
(Secretary, Local Organization)

Soil Conservation Service  
United States Department of Agriculture

Approved By Harry W. Oneth  
Harry W. Oneth  
State Conservationist

Date JAN 3 1995

## SUPPLEMENTAL WATERSHED PLAN NO. IV

### CUMMINS CREEK WATERSHED, TEXAS

#### Need For Supplement

Since the original Watershed Agreement became effective on the 12th day of June 1956, it has become necessary to modify that agreement in order to facilitate the completion of the project. The sponsors have requested the following changes in the original plan as supplemented:

(1) Floodwater retarding structure Nos. 3, 8A, 12, 13, 14, 16, 18A, 20, 27, 28, and 31 will be deleted from the planned works of improvements.

(2) Add required certifications on drug-free workplace, lobbying, and other matters.

#### Effects Of The Proposed Changes

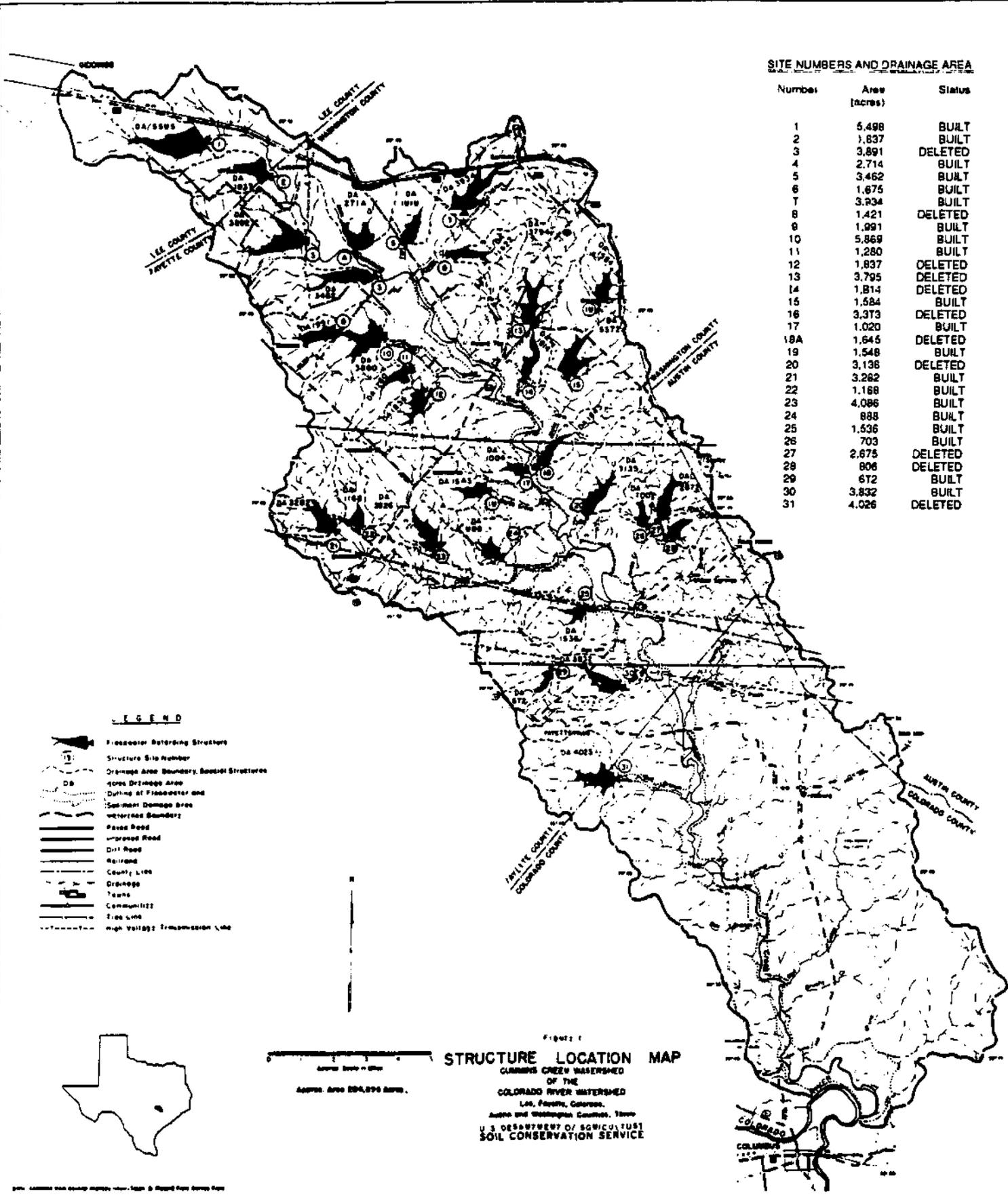
The flood protection provided by the planned works of improvement to be deleted at the request of the sponsors will be foregone. Twenty of the originally planned 31 floodwater retarding structures have been installed and are providing flood protection to floodplain lands below the structures. Deleting floodwater retarding structure Nos. 3, 8A, 12, 13, 14, 16, 18A, 20, 27, 28, and 31 from the planned works of improvements will result in a change of Floodwater damage reduction from 76 percent to 50 percent.

Final Table 1, Estimated Installation Cost  
 Cummins Creek Watershed, Texas  
 (Dollars) 1/

Installation cost item	Unit	Number		Estimated Cost						Total													
		Federal land	Non-federal land	Public Law 566 funds		Federal land	Non-Federal land	Total	Federal land		Non-Federal land	Total											
				Federal land	Non-Federal land																		
<b>Land treatment</b>																							
Cropland	Acre		36,130																			687,960	
Grassland	Acre		83,170																			1,679,620	
Technical Assistance Accelerated																						0	
<b>Subtotal</b>			119,300																			2,367,580	
<b>Structural measures</b>																							
Floodwater Retarding Structures	No.																						
Multiple-Purpose Structure	No.		20																				0
Municipal Outlet Structure	No.																						
Basic Recreational Facilities	No.																						
<b>Subtotal</b>																							1,021,570
<b>Installation services</b>																							
SCS engineering services																							
Other																							
<b>Subtotal</b>																							510,800
<b>Other costs</b>																							
Land, easements, and rights of way																							
<b>Subtotal</b>																							520,000
<b>Total Structural measures</b>																							520,000
<b>Work Plan preparation</b>																							0
<b>Total Project</b>																							2,887,560

1/ Price Base: Actual Cost

September 1994



**SITE NUMBERS AND DRAINAGE AREA**

Number	Area (acres)	Status
1	5,498	BUILT
2	1,837	BUILT
3	3,891	DELETED
4	2,714	BUILT
5	3,462	BUILT
6	1,675	BUILT
7	3,934	BUILT
8	1,421	DELETED
9	1,991	BUILT
10	5,869	BUILT
11	1,280	BUILT
12	1,837	DELETED
13	3,795	DELETED
14	1,814	DELETED
15	1,584	BUILT
16	3,373	DELETED
17	1,020	BUILT
18A	1,645	DELETED
19	1,548	BUILT
20	3,138	DELETED
21	3,282	BUILT
22	1,168	BUILT
23	4,086	BUILT
24	888	BUILT
25	1,536	BUILT
26	703	BUILT
27	2,675	DELETED
28	806	DELETED
29	672	BUILT
30	3,832	BUILT
31	4,026	DELETED

**LEGEND**

- Freewater Retarding Structure
- Structure Site Number
- Drainage Area Boundary, Basinal Structures, and Drainage Area
- Delineation of Freewater and Seepage Damage Area
- Watershed Boundary
- Paved Road
- Unpaved Road
- Dirt Road
- Railroad
- County Line
- Drainage
- Trunk
- Community
- Fire Line
- High Voltage Transmission Line

**STRUCTURE LOCATION MAP**

CURRAN CREEK WATERSHED  
OF THE  
COLORADO RIVER WATERSHED  
Lee, Fayette, Colorado,  
Austin and Washington Counties, Texas  
U.S. DEPARTMENT OF AGRICULTURE  
SOIL CONSERVATION SERVICE

