



**PIMA COUNTY
REGIONAL FLOOD CONTROL DISTRICT**
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August 30, 2011

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Subject: Proposed Onsite and Offsite Riparian Mitigation Guidelines

Dear Mr. Godlewski and Ms. Hoskin:

Thank you for your comments in your August 26, 2011 letter concerning the proposed guidance for riparian habitat mitigation. We will discuss these concerns in detail at our August 31st meeting; however, I did want to address some of the concerns that you raised in your letter.

First, I want to make sure that we are clear that our riparian habitat regulations differ from those of the U.S. Army Corps of Engineers (Corps). I am afraid that when consultants and developers hear mitigation, they are assuming the same standards and that is not the case.

- The disturbed area under our local regulations only includes new areas that will be disturbed after 1998 or 2005, depending on when the Riparian Classification Maps became effective for that particular project area. So if you are improving a roadway, the existing road and graded shoulders are considered pre-existing disturbance and is not part of the calculation of disturbed area.
- Local monitoring requirements are limited to photographic documentation and replacing dead plants. This is far less than the Corps' monitoring requirements.
- Areas mitigated per Corps requirements can be subtracted from the total acreage of regulated riparian habitat disturbed. Additionally, sandy bottom wash areas devoid of vegetation, given that the area would be restored to a sandy bottom wash post-construction, are considered temporary impacts that do not require mitigation. Such temporary impacts, such as what occurs when trenching for utilities or constructing an arched culvert, are not treated locally as a loss or disturbance.

Title 16 Floodplain and Erosion Hazard Management Ordinance (Ordinance)

Requirements for five years of maintenance and monitoring are clarified in the new onsite guidance in Appendix C. The time of significant maintenance and monitoring is listed as within the first two

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years to establish the plants. After that maintenance and monitoring is reduced annually as the plants are weaned back to natural conditions. On larger projects, aerial pictometry is available to provide verification and monitoring of the viability of restored areas. Each project and planting scheme is different and the maintenance and monitoring plan can be adjusted accordingly.

Recognizing larger projects may need to be treated differently; we developed the Conservation Plan concept so that preserved areas could be substituted for disturbance of mapped regulated riparian habitat. In that manner, the disturbance threshold is not a strict one-third acre, but provides flexibility for better site planning and protection of riparian resources.

Xeroriparian Class D (XD) habitat makes up a very limited acreage of the total regulated riparian habitat. Under the 2005 Riparian Classification Maps, 2,795 acres out of a total of 87,273 acres are classified as XD.

As the Chief Engineer, I do have some discretion in interpreting Ordinance requirements including interpreting the maps for individual projects or parcels. The proposed onsite guidance clarifies those areas where interpretation is needed (see Technical Policy 116). However, the Chief Engineer cannot revise or amend the Riparian Classification Maps in their entirety such as removing XD habitat, since that would require public hearings and action by the flood Control Board of Directors.

Riparian Habitat Onsite Mitigation Guidelines

Pima County and other government entities are required to mitigate for disturbance of riparian habitat as dictated by the Ordinance; therefore, public improvements required for development such as roads also require mitigation. But as noted previously, the mitigation requirement is only for new disturbances. Further, the U.S. Fish and Wildlife Service will allow us to count any 404 mitigation toward their habitat mitigation requirements. Disturbance required by other departments (such as DOT or Wastewater) that fall outside the actual project boundaries, such as infrastructure supporting the development, can be treated as a separate project with riparian disturbance calculated separately rather than cumulatively.

Mitigation ratios of 1 to 1.5 only apply to Important Riparian Areas and Class H habitat. Mitigation ratios of 1 to 1 apply to Xeroriparian habitat. Meeting these mitigation ratios is considered on a case by case basis taking into consideration existing onsite vegetation, proposed plantings and other alternative methods to meet the mitigation ratios. Discretion is applied based onsite conditions as well as a proposed planting plan, options to control invasive species or an in-lieu fee to reduce the amount of mitigation plantings are allowed.

Riparian Habitat Offsite Mitigation Guidelines (Guidelines)

The key is to assure that avoidance and minimization of disturbance of regulated riparian habitat are considered during site design. Determining the feasibility of using onsite mitigation is more subjective. All projects, whether using onsite or offsite mitigation, are subject to avoidance and minimizing disturbance. Staff has the discretion to allow alternative mitigation options other than onsite mitigation, when appropriate. Language will be modified to remove demonstrating the feasibility of onsite mitigation.

The current draft of the Guidelines only applies a multiplication factor ("surcharge") where disturbances are greater than 20%. Further, the multiplier is only for Important Riparian Areas,

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Class H habitat and Xeroriparian Classes A and B. No multiplier is indicated for Xeroriparian Classes C and D. Some consideration of total area also needs to be given. Further discussions on this topic are needed.

ILF Calculation and Fee Collection

As stated in the Guidelines, any applicant may hire a qualified professional to estimate the in-lieu fee rather than use the cost per acre listed. The cost per acre provided in Table 1 are reasonable cost estimates for planting, irrigation, maintenance and monitoring and are comparable to cost estimates received from past in-lieu fee proposals. Comparing the in-lieu fee to the purchase price per acre of open space is not looking at all of the costs associated with the open space program. Further, reference to the high cost of over \$50,000 is referring to the cost for disturbing 60% of Important Riparian Areas or Class H habitat, considered high value riparian habitat.

IFL Land Purchase

The Guidelines provide options for a property owner to mitigate an offsite parcel, purchase acreage with high biological value, or acquire water rights, or other options that support the Conservation Lands System. See Section 4 of the Guidelines to view alternative mitigation options including the land transfer option.

I look forward to discussing these items with you on Wednesday.

Sincerely,



Suzanne Shields, P.E.
Director and Chief Engineer

SS/tj

c: Bill Zimmerman, Deputy Director – Regional Flood Control District
Eric Shepp, Division Manager – Floodplain Management Division
Carla Danforth, Environmental Planning Manager – Water Resources Division
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