



**PIMA COUNTY
REGIONAL FLOOD CONTROL DISTRICT**
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October 18, 2011

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**Subject: Proposed Onsite and Offsite Riparian Mitigation Guidelines – Response to
Comments Received on September 30, 2011**

Dear Mr. Godlewski and Ms. Hoskin:

Thank you for your September 30, 2011 comments regarding the proposed Onsite and Offsite Riparian Habitat Mitigation Guidelines (Guidelines). The Regional Flood Control District (District) appreciates your input which will help ensure that these Guidelines, once adopted, can be implemented effectively and efficiently. After reviewing your comments, I believe that the District has been able to address many of your concerns within the constraints of the Ordinance.

Please review the following responses to each of your specific substantive comments.

OFFSITE MITIGATION GUIDELINES

In-Lieu Fee (ILF) Cost and Methodology

The District has modified Section 2.1 of the Offsite Mitigation Guidelines in response to this comment. The use of a surcharge to encourage additional avoidance has been removed. In addition, the ILF calculation spreadsheet has been revised to reflect other changes made to the Guidelines, including reducing the number of monitoring reports required for xeroriparian habitat from five to three reports over the five-year maintenance period. These modifications will reduce the overall ILF cost per acre of disturbance. The resulting ILF costs for an acre of disturbance of each riparian habitat classification are shown below:

ILF Cost per Acre for Regulated Riparian Habitat Disturbance

	XA	XB	XC	XD	IRA/H, H	IRA/XA	IRA/XB	IRA/XC	IRA/XD
Cost per Acre	\$17,000	\$16,000	\$14,000	\$12,000	\$40,000	\$30,000	\$28,000	\$25,000	\$22,000

In-Lieu Fee Collection Procedure

The payment timing of the in-lieu fee has been modified to be upon the written approval of the grading or paving plan; however, receipt of payment shall be a condition for the issuance of the grading or paving permit (i.e., signed plans).

Mitigation of an Offsite Parcel of Land – Section 4.1.1 Basic Requirements

The District has modified Section 4.1.1 of the Offsite Mitigation Guidelines in response to this comment. Section 4.1.1 is intended to apply only to those projects that propose to implement the onsite mitigation guidelines on an offsite parcel of land. In order for this type of mitigation to be successful in the long term, there must be a sustainable water source for the mitigation plantings. The modification is intended to emphasize this applicability. When more flexibility is desired, larger projects can utilize the Riparian Habitat Preservation Plan approach; the offsite version of the Conservation Plan.

ONSITE MITIGATION GUIDELINES

Alteration of RRH – Fire Safety and Prevention

The District has modified the Onsite Mitigation Guidelines as a result of the comment. As you are aware, Page 15 of the Onsite Mitigation Guidelines provides property owners guidance on how to protect their homes from wildland fires when proposing structures within riparian areas. The requirement for creating a defensible space around structures was developed by Firewise Communities, an organization that has researched the effects of fire in the Wildland Urban Interface (WUI). They promote development that reduces the risk of wildfires in the WUI by addressing factors such as landscaping adjacent to structures, building materials, and development patterns and researching which modifications to homes and property are most effective in increasing survivability of structures during a wildfire. Generally, the local fire district's policy on defensible space around buildings uses the Firewise recommendation of 30 feet around structures. The requirements for allowed clearing requirements found in the Onsite Guidelines are based on this policy. Since many homes already exist in the WUI, the creation of a defensible space is allowable as long as it meets the Firewise criteria.

Project Definition and Cumulative Impacts of Disturbance

Clarification has been added to define "project" and when cumulative disturbance is a factor. A project is defined as: 1) a single residential lot, or 2) subdivision plat, including lots, or development plan, or 3) public infrastructure improvement plan for roadways, sewer, etc. Specific plans, block plats and other planning areas that require additional plat and/or plan submittal in order to secure construction permits are not considered a single project. To prevent a property owner from impacting regulated habitat in a piecemeal manner, all disturbance within the boundaries of the project (i.e., lot, subdivision plat, development plan or improvement plans) will be counted towards the 1/3 acre mitigation trigger.

Demonstrating Avoidance of Regulated Riparian Habitat (RRH)

The District has not modified the Onsite Mitigation Guidelines as a result of the comment. The District understands the ambiguity of this requirement and is currently drafting a technical policy that will address how to demonstrate avoidance within RRH. The District will appreciate your feedback on this policy as it is being developed.

Board Review and Approval

The District has not modified the Onsite Mitigation Guidelines as a result of the comment. The Board is interested in reviewing and approving Riparian Habitat Mitigation Plans (RHMP), including alternative mitigation proposals, and they have established a requirement for their involvement in the Ordinance. Your concern can be addressed without modification of the Ordinance. Although Board review is a requirement, the timing of their review and approval is more flexible. When Riparian Habitat Preservation Plans, Conservation Plans, Land Transfers or similar alternative mitigation is proposed, the applicant can submit the proposal during the rezoning or specific plan processes, which are subject to Board review and approval. Approval of the offsite mitigation proposal can be made a condition of the rezoning or specific plan, eliminating the need for approval during the development review process.

Onsite Mitigation Basic Requirements

The District has not modified the Onsite Mitigation Guidelines as a result of the comment. The Basic Onsite Mitigation requirements apply to development of an RHMP and is written as a “how to” guide for applicants that don’t want to hire a professional to help them survey vegetation and customize their mitigation proposal. The Conservation Plan is an alternative to the RHMP and allows greater flexibility when designing onsite mitigation. In short, this section does not apply to Conservation Plans.

Revising Plant Size Requirement

The District has modified the Onsite Mitigation Guidelines as a result of the comment. Your recommendation to include tall pots will be incorporated as an option in Section 2 of the Guidelines. We will also allow for 50% of the shrubs to be one (1) gallon in size with the remaining 50% at 5 gallon in size. This version of the Guidelines already includes reduced plant size requirements for trees based on feedback from our stakeholders. Previously, larger plant sizes were required for onsite mitigation increasing the cost for property owners and developers.

Revise Timing of Maintenance and Monitoring

The District has modified the Onsite Mitigation Guidelines as a result of the comment. The District has reduced the number of monitoring reports required in xeroriparian habitat in order to reduce the overall cost of mitigation. The new requirement is for submittal of three monitoring reports over the five-year maintenance period within xeroriparian habitat. The monitoring requirement for Class H and IRA remains at five monitoring reports over the five-year

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maintenance period.

Please note that there is no modification of the five-year, 80% survival rate standard. Sufficient maintenance needs to be performed over this time span to ensure 80% survival. It is the burden of monitoring the mitigation area annually that has been reduced for disturbance and mitigation occurring within xeroriparian habitat.

FLOODPLAIN AND EROSION HAZARD MANAGEMENT ORDINANCE

In addition to your thoughtful comments regarding the Guidelines, you made recommendations regarding revisions to the Ordinance. The language in Chapter 16.30 was the result of significant discussion and compromise with some of the language substance being inserted by the Board. I am confident that many of the changes made to the Guidelines also assist in addressing your concerns regarding the Ordinance. My perspective to your concerns about the Ordinance is as follows:

One-third Acre Mitigation Threshold

As discussed previously, this threshold is applied to construction permits and reviewed on a project by project basis. In addition, at the planning level, in order to address riparian habitat on a larger scale, the District has developed Conservation and Riparian Habitat Preservation Plans, which add increased flexibility and opportunity for innovative solutions that meet the spirit of the regulation.

Elimination of Xeroriparian Class D Habitat

This issue is not as large as it seems. First, there are few areas where xeroriparian Class D Habitat (XD) exists in any sizable amount outside of IRA. Areas include the Brawley Wash where large-scale development is not occurring and the Lee Moore Wash watershed. Within the Lee Moore Wash, the District's Basin Management Plan has identified flow corridors to allow for planning of development that provides a continuous unimpeded area for the conveyance of flow along larger watercourses. The set aside of these areas, in concert with Conservation and Riparian Habitat Preservation Plans, will reduce the perceived obstacle that XD represents. Finally, property owners always have the option to inventory plants to document existing conditions. Mitigation will be based upon the documented plant inventory, not the formula for XD.

Reduced Maintenance and Monitoring

The purpose of the riparian habitat mitigation program is to restore riparian habitat that has been disturbed by development. A mechanism to ensure that the restoration is effective is essential and the 5-year threshold was debated and selected, and shall remain. However, while the timeframe and survival criteria have not changed, the amount of reporting has been reduced in order to reduce overall costs.

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District Director Discretion

Submittal of RHMPs and alternative mitigation strategies to the Board allows the Board to be aware of the implementation of these provisions. This process is essentially a perfunctory exercise as the Board seldom, if ever, discusses or alters plans. Additionally, with the creation of the Conservation and Riparian Habitat Preservation Plans, the Board will be able to review and approve plans as part of a rezoning or Specific Plan. This allows them to be aware of the program's effectiveness without additional administrative steps.

Again, I appreciate the dialogue regarding the adoption of an effective and efficient set of mitigation guidelines. I believe your comments have certainly enhanced the final product. I plan on placing these Guidelines on the November 8, 2011 Board of Directors for the Flood Control District (Board) agenda. Subsequently, I look forward to your input on the technical policy regarding criteria to demonstrate that avoidance of riparian habitat is not possible.

If would like to discuss further or schedule a meeting, please contact me at 243-1880.

Sincerely,



Suzanne Shields, P.E.
Director and Chief Engineer

SS/tj

c: C.H. Huckelberry, County Administrator
John Bernal, Deputy County Administrator – Public Works
Chris Cawein, Deputy Director – Regional Flood Control District
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