

***SENT VIA ELECTRONIC MAIL***

April 15, 2011

Ms. Carla Danforth  
Pima County Regional Flood Control District  
Water Services Division  
97 E. Congress  
Tucson, AZ 85701

Re: Proposed Onsite Riparian Habitat Mitigation Guidelines and Proposed Offsite  
Riparian Habitat Mitigation Guidelines

Dear Carla:

Metropolitan Pima Alliance (MPA) and the Southern Arizona Homebuilders Association (SAHBA) are pleased to be participating in the continuing stakeholder discussions with Pima County Regional Flood Control District (PCRFD) on issues relating to Regulated Riparian Habitat and Onsite and Offsite Mitigation Guidelines. We also appreciate the opportunity to submit our comments and concerns prior to the next stakeholder meeting and release of the next draft of the Offsite Mitigation Guidelines. MPA and SAHBA have worked separately in determining each of our organizations issues. This letter is the result of our internal meetings and reflect not only our issues and concerns but also reasonable and sound recommendations. These comments reflect the professional input of both residential and commercial industry professionals.

We appreciate the continued dialogue with PCRFD officials and look forward to finalizing the guidelines in a way that protects our regions riparian habitat while ensuring a regulatory environment that fosters economic growth and development.

In Lieu Fees

Based on the input from industry experts, including landscape architects, we feel the methodology and formula used for calculating the proposed In Lieu Fees is flawed and must be modified. Specifically, we request the five-year maintenance and monitoring cost be removed. There has been insufficient scientific justification provided to validate their inclusion. For both

METROPOLITAN PIMA ALLIANCE  
P.O. BOX 2790  
TUCSON, AZ 85702  
(520) 878-8811

SAHBA  
2840 N. COUNTRY CLUB  
TUCSON, AZ 85716  
(520) 795-5114

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onsite and offsite mitigation, MPA and SAHBA propose the ILF be based on a flat fee, using a land acquisition cost with a multiplier for monitory and maintenance. This recommendation will be outlined in more detail later in this letter.

### **Riparian Habitat Onsite Mitigation Guidelines**

Below you will find specific input on the Onsite Mitigation Guidelines. While several of these issues have been brought up previously, it is important to continue the discussion on each in order to reach a mutually acceptable solution.

- In the current draft all Riparian Habitat disturbed must be mitigated for. This requirement does not take into consideration disturbances that are required by Pima County or any other government entities in association with the proposed development. While there should be an appropriate level of mitigation for the new development project, mitigating for disturbances due to a jurisdictional mandate, practice, condition of entitlement or development approval (such as roads, drainage, trails) should not be included in the calculation.
- The current draft of the guidelines requires all disturbances of riparian habitat have multiplication factor for the associated mitigation. Other than IRA and Class H Riparian Habitat, the multiplier should be removed.
- The emphasis of protecting our riparian areas should be placed on riparian types with the highest biological values. Provided that these areas are protected development should be encouraged in other areas. Requiring mitigation and mitigation planning for upland Xeroriparian D habitat presents a significant regulatory and cost impediment for new development without an associated biological benefit. We request Xeroriparian Class D habitat should be eliminated from the riparian habitat classification list for purposes of the onsite and offsite mitigation guidelines.
- Instead of a five year maintenance and monitoring requirement – which is very expensive - we propose a two (2) year time period. Based on professional input we have received, this is more than a sufficient time period to determine viability of the restored area.
- The minimum one-third (1/3) acreage disturbance threshold for planned development with a comprehensive program which delineates the relationship between preserved

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natural open space and developed acreage should be removed. This extremely low threshold is significantly challenging for new projects. We recommend a sliding scale methodology that is based on the total acreage of the site, total acreage of regulated riparian habitat by classification, and the percentage of development disturbance, exclusive of disturbance necessary for public purpose infrastructure.

**Proposed Alternative Conservation Targets:**

- Important Riparian Area = 95% conservation
  - Hydroriparian and Mesoriparian Habitat (inside and outside of an IRA) = 100% conservation
  - Xeroriparian Class A and B = 95% conservation
  - Xeroriparian Class C = 75% conservation
  - Xeroriparian Class D = 70% conservation
- The total volume of plants and shrubs required for on-site mitigation planting is excessive particularly when combined with the 80% survivability and when the cost of landscape material, installation and monitoring is used to calculate the in lieu fees.
  - While plant survivability is key to riparian restoration success, the 80% success threshold for new plantings, combined with mitigation ratios greater than 1:1 should not be required. We request additional discussion on this point.
  - A land owner/developer should have the option to submit its own worksheet from a landscape contractor to determine the restoration and maintenance costs.

**Riparian Habitat Offsite Mitigation Guidelines**

- Using the offsite mitigation option should be available for any riparian class. Given the total amount of public land, and the amount of preserved land, the determination of possible avoidance is very subjective and the fiscal impact of vegetative disturbance should be balanced for economic and environmental sustainability. Additional and unreasonable costs, associated with on-site mitigation may not be viable for a proposed community to bear or be as beneficial as use of the off-site mitigation option. (Section 1.0)

- The increased cost to mitigate based on the riparian classification and percentage of habitat disturbance should be eliminated. There is sufficient disincentive for disturbance imbedded in each element of the calculation, before adding this additional penalty. An applicant is already paying a higher cost for Important Riparian Areas and Class H Habitat restoration costs and this is enough of an incentive for avoidance (Section 2.3.1).
- Maintenance and monitoring requirements for a five (5) year period is excessive, costly and an unnecessary expense. A two year time period for maintenance and monitoring is a sufficient time period. (Section 2.3.1)
- The Xeroriparian Class D habitat should be eliminated from the riparian habitat classification list for purposes of the onsite and offsite mitigation guidelines.
- The current proposal bases the ILF on restoration and costs for an extended time period for oversight and reporting. The current language indicates “standard costs determined by the District”. This needs to be further defined.

### **ILF Calculation and Fee Collection**

Through its 1997 and 2004 Conservation Acquisition Bond Programs, Pima County has purchased a comprehensive inventory of real estate, qualified by its biological resource value and its overall contribution to the integrity of the Sonoran Desert Conservation Plan. The listing of the 1997 and 2004 conservation properties acquired serves as the basis for our recommendation for an in lieu fee. Extracting the County Bond land acquisitions that were purchased since January 1, 2009 and identifying the likely properties that are IRA Habitat of those acquisitions, we have arrived at a per acre cost of \$4,700 per acre. **Our recommendation for an in lieu fee per acre for all classifications of Regulated Riparian Habitat is \$15,000 per acre, more than 3 times the per acre average price for conservation land with IRA habitat.**

This fee structure has the benefit of simplicity and integrates the real estate value, the biological value of the land as well as a multiplier for continued monitoring and maintenance. This in lieu fee should make a significant contribution toward the County's overall riparian protection and environmental preservation goals, including contributing toward restoration, monitoring and management activities.

Lastly, payment of any ILF should be due and payable at the time a grading permit is issued for the property. Without planned disturbance, there is no trigger for required mitigation, making any transfer of funds from property owner to the County premature and unwarranted.

### **ILF Land Purchase**

A property owner should have the option of providing biologically rich resource value acreage in lieu of on-site mitigation, when avoidance is not practical and payment of an in lieu fee is not selected. Although Pima County has acquired substantial lands, there remains identified land that is desirable for acquisition under the Pima County Conversation Lands System. Land adjacent to land already under County control, identified lands, or others which possess specific environmental resource attributes should serve as potential off-site mitigation parcels.

We respectfully request that the Board of Supervisors be given an opportunity to review our concerns and consider minor modifications to the landscape portion of Title 16 and these changes prior to finalizing the Onsite Mitigation Guidelines and Offsite Mitigation Guidelines and In Lieu Fee. We look forward to bringing these issues to a resolution that is beneficial to the parties involved in the process.

Sincerely,



Lisa Hoskin  
Government Relations Director, MPA



David Godlewski,  
Interim President, SAHBA