

PIMA COUNTY FLOOD CONTROL DISTRICT REVISION OF RIPARIAN HABITAT MITIGATION MEASURES

Mitigation Working Group Meeting Meeting No. 3

November 14, 2007, 3:00 pm

Location: Flood Control District Office, Pima County Building, Tucson

Attending:

Annie Wallace	MWG – RINCON	Suzanne Shields	Pima County FCD
Robert Tucker	MWG - Diamond Ventures	Carla Danforth	Pima County FCD
Kathleen Kennedy	MWG – Coalition for SDP	Marisa Rice	Pima County FCD
Alex Jacome	MWG - SAHBA	James Feldmann	SWCA
Terry Klipp	Terramar Properties	Eleanor Gladding	SWCA
Joseph Linville	City of Tucson	Scott Peters	EPG
Dan Signor	Pima County DSD	Lori Tuchman	EPG

The focus of this meeting was to provide an overview of the Mitigation Banking Study, conducted by SWCA, and to review revisions made to the Regulated Riparian Habitat Mitigation Standards and Implementation Guidelines (Guidelines).

Item 1: Introductions

Item 2: Mitigation Banking Presentation

Carla Danforth and Suzanne Shields of the FCD explained to the group that the amount of riparian habitat area being mitigated (off-site) is very small, and that only a handful of projects have used in-lieu fees, approximately 40 acres total. One of the issues encountered by the County is that in-lieu fees are collected during the platting process and placed within an account to purchase property for off-setting impacts caused by development. The fees accumulate until there is enough to purchase land. Unfortunately, fees collected are not sufficient enough to purchase land needed for mitigating impacts to riparian habitat. This means that riparian habitat areas are being disturbed without mitigation taking place concurrent with disturbance.

Off-site mitigation is a complicated issue, and one that the County is continuing to work on with SWCA and other government agencies, such as the U.S. Fish and Wildlife Services (FWS). The County is meeting with the FWS this week to discuss banking options. The County suggested that while they are working through some of the mitigation banking issues, the MWG's time will be better spent focusing on the on-site mitigation portions of the Guidelines. Once the Mitigation Banking Study is complete, the County will work to incorporate the information into the Guidelines and distribute both the study and revised Guidelines to the MWG. The County anticipates having the study and the off-site mitigation section of the Guidelines completed prior to the 4th MWG meeting. The group will have the opportunity to submit comments to the County prior to submittal of the revised Guidelines and Mitigation Banking Study to the Pima County Board of Supervisors (Board). The County anticipates going to the Board with the revised Guidelines by the end of February, 2008.

SWCA gave a brief overview of the Mitigation Banking concept and some of the issues they have encountered. The following is a summary of items discussed:

- There are two methods for implementing off-site mitigation. The first is through the use of an in-lieu fee, which is a monetary contribution that can be used to offset habitat disturbance. The FCD currently uses an in-lieu fee program in which the fee is based on the cost of on-site mitigation. This includes the cost of plant materials, irrigation and maintenance for five years, had the mitigation plan been implemented. This is a fee paid by the developer to the County. The County uses the fee to purchase lands with riparian habitat that can be preserved or enhanced. One of the issues the County is facing with the use of in-lieu fees is that the fees are based on cost of mitigation and not on the cost of land. Therefore, the County has to collect a large amount in fees before they are able to purchase land.

The second method for providing off-site mitigation is through the use of a mitigation bank. This form of mitigation requires that a “bank” is established, either through the purchase of property for preservation or through restoration of an existing property, prior to impacts to riparian habitat caused by development. The “bank” establishes credits that can be bought by a developer to mitigate for impacts to riparian habitat. This form of mitigation would only be used if regulated riparian habitat disturbance cannot be avoided or mitigated on-site.

The first objective of developing an off-site mitigation program for the FCD is to meet the requirements of the Pima County Floodplain and Erosion Hazard Management Ordinance No. 2005-FC2 (Ordinance). The second objective is to comply with the Habitat Conservation Plan (HCP) required by Section 10(a) of the Endangered Species Act.

- Issues associated with off-site mitigation being considered by the County and SWCA include:
 1. *Timing:* a) With in-lieu fees, it could take years before land is mitigated because the fees are paid as each project is permitted and the fund needs to grow until it is large enough to acquire appropriate property. Since the FCD began collecting in-lieu fees, they have been unable to purchase land due to current land costs. b) Mitigation banking ensures that land will be preserved and/or restored prior to impacting riparian habitat. With mitigation banking, mitigation is concurrent with development.
 2. *Valuation:* As stated previously, in-lieu fees are currently based on the cost of plant materials, irrigation, and maintenance for five years, which is insufficient for purchase of lands for mitigation. In-lieu fee rates must first be adjusted to more accurately account for the assessed value of land, since purchase of land for mitigation will include not only riparian habitat, but upland areas. The question then becomes how to value riparian habitat?
 3. *Location and Type of Land:* Currently, in-lieu fees can be used to purchase high value land anywhere within the County. It has been recommended that mitigation bank locations be addressed by watershed, whereby, mitigation must occur in the same watershed where impacts occurred. In addition to the question of location of the mitigation banks, the issue of who will administer the bank arose.
 4. *Trigger:* There were several comments concerning modifying the trigger for mitigation. This concern cannot be addressed through the Guidelines revision because the 1/3 acre requirement can only be amended through an Ordinance revision
 5. *Evaluation/Re-assessment:* The County is looking at how to make off-site mitigation simple and effective. In-lieu fees are easy to implement since they are simply a fee in

exchange for disturbance to riparian habitat. However, an in-lieu fee is not as effective at mitigating for impacts to riparian habitat, since the timing of the impacts and mitigation does not always coincide. For both methods of off-site mitigation under consideration, the County must evaluate whether or not the compensatory mitigation being proposed is sufficient in achieving the goals outlined by the Sonoran Desert Conservation Plan (SDCP).

Item 3: Review/Discussion of Revised Mitigation Guidelines

The MWG reviewed the proposed revised Guidelines and discussed each of the changes that were made to the document. It was explained that the County and project team reviewed the comments received by MWG members and expressed during previous MWG meetings, and worked to address those issues in the revised Guidelines. It was noted that there were a number of comments and recommendations made that would require changes to the Ordinance or other County codes. Although these are important comments, it was explained that they are outside of the scope of the revisions to the mitigation Guidelines. The following is a summary of items and issues discussed:

- It was explained that when developing the Ordinance, a great deal of discussion went into determining the 1/3-acre trigger for mitigation. One factor was consistency with other County Codes.
- Regulated riparian habitat and Important Riparian Areas (IRAs) are delineated by adopted classification maps indicating the general location of the existing riparian habitat. These maps are available through the County website. Because these maps give the general location of riparian habitat, the FCD will accept plant inventories and field verification in order to adjust the habitat delineation on an applicant's property.
- Suzanne Shields explained to the group, that while the Ordinance covers both small and large developments, the format of the Guidelines are geared more towards assisting small/single lot developments with the mitigation process. The guidelines are not a "one size fits all" document, but are written in such a way as to make it easy to follow for those who are unfamiliar with the development process and procedures. The FCD recognizes that each site is different and they are willing to work with small and large developments on issues or concerns they have while developing their mitigation plans.
- The County is currently implementing covenants that inform new or potential owners of a mitigation riparian area located on the property, and that they are responsible for monitoring the mitigated riparian area. The covenant requires the signature of the current property owner.
- The County stated that they see approximately 2-3 on-site mitigation plans per month.
- It was recommended that photographs of each class of Xeroriparian area be added to page 23.
- Group members asked how the County came up with the plant quantities required for mitigation of Class H and Xeroriparian areas indicated on pages 19, 24, and 25 of the Guidelines. It was explained that the County assessed vegetative volume across a sampling of the riparian habitat classifications throughout the county. The average value for vegetative volume in each classification was then used as the basis for the requirements in the Guidelines.

- There was a brief discussion on the use of trees and shrubs that have been transplanted versus that which comes from nursery stock. It was explained that vegetation that has been transplanted may need to be irrigated for the rest of its life because so much of the root zone is removed during the transplant. There also tends to be a higher mortality rate with vegetation that has been transplanted due to shock from root disturbance.
- In Section 3: *Frequently Asked Questions*, on page 26, there was a question regarding how the NPPO and the Ordinance relate to each other. It was suggested that more details be included in the answer on how exactly these two plans could work together for a property owner. The FCD stated that plants required by the NPPO can be used toward the riparian habitat mitigation requirement if they are on the approved plant list as outlined in the Guidelines. The FCD is currently working with DSD on ways to make the two Ordinances work together and will revise the Guidelines accordingly.
- The FCD is working on revising the approved plant list. They are tailoring the plant list to the different watersheds within the County to help ensure that vegetation is planted in appropriate areas. The plant list will also include information on altitude sensitive species.
- A representative of the Coalition for Sonoran Desert Protection asked if the FCD had considered their comment on issuing Assurance Bonds. Carla Danforth explained that the County attorney directed them to not include assurance bonds under this section of the Ordinance. It was mentioned that a new state statute (ARS 48-3615), now provides a mechanism for the County to impose civil penalties on those not in compliance with the Ordinance. This enforcement capability will be incorporated into the next Ordinance revision.
- Hydro-Mesoriparian areas are now referred to throughout the guideline document as Class H.
- The FCD website will be updated throughout the Guideline document.
- Class H and IRAs will be added on page 7, under “Board of Supervisors approval of mitigation plans are required for:”
- Regarding the Mitigation Irrigation Plan on page 12, the FCD is developing a brochure on how to set up irrigation for establishing native plants for on-site mitigation. Group members asked where the five-year timeframe came from that is noted in this section. During the initial development of the ordinance in the early 1990’s, teams of biologists and botanists suggested maintenance and monitoring for 10 years. At the BOS hearing for adoption of 1994-FC2, the BOS decreased it to 5 years.

MWG meeting #4 is tentatively scheduled for the beginning of January.

END NOTES