

DECLARATION OF RESTRICTIONS, COVENANTS AND CONDITIONS
FOR THE CIENEGA CREEK NATURAL PRESERVE

Know all by these presents:

That Pima County Flood Control District, a Body Politic, (the "Declarant") being the Owner of all the following described real property,

SEE ATTACHMENT "1" (the "Property" herein)

does hereby certify and declare that for the purposes of preservation and the protection of the natural and scenic resources of the Property subject hereto, for the benefit and protection of the County, its resources, residents and visitors, it has established, and does hereby establish, all of the following conditions, restrictions and covenants which shall pertain only to those portions of the Property which contain the floodplain, floodway or flood erosion zone of the Cienega Creek and Davidson Canyon, as specified by the Floodplain Management Ordinance 1985-FCl. Said lands shall be used in accordance with the following provisions:

1. No building shall be erected, placed or permitted to remain on the Property. No business, trade or manufacturing of any nature or description shall be carried on or transacted on any portion of the Property. No uses other than public recreation to the extent allowed herein and those uses permitted in the Cooperative Management Agreement dated March 3rd, 1987, among Pima County Flood Control District, Walter Armer as Co-Trustee of the Winston Wheeler and Ruth Wheeler Separate Trusts, and the University of Arizona, a copy of which is attached hereto as Attachment 2 and made a part hereof by this reference, are permitted.
2. No motorized vehicles will be permitted on the Property except as required for emergency medical purposes or for maintenance or other uses approved in writing by Declarant or its designee(s).
3. The use of and access to the Property will be restricted to such uses that will maintain and protect the quality of the riparian nature of the area. The Property shall be protected and maintained as a unique riparian ecosystem. The Declarant shall prevent deterioration of the area by causing the Property to be patrolled by appropriate law enforcement personnel as is reasonably required.
4. The Declarant shall not conduct, nor permit any other person or entity to conduct mining, quarrying, sand hauling, fill hauling or timbering of any kind on the Property. Hunting or trapping of birds or animals, or the destruction or removal of plants, shrubs, trees, except with written permission of the Declarant in accordance with paragraph 5 below, is expressly prohibited. In the interest of resource protection, no discharge of waste or by-products or materials on land or into the water channel that might result in harm to wildlife or human water supplies will be permitted.
5. A permit system, restricting the number of persons entering the area, will be established and administered by Pima County Parks and Recreation, or its successor, in cooperation with the Flood Control District, or its successor. The number of persons permitted access will be consistent with the goals of protection and maintenance of the riparian ecosystem of the area.

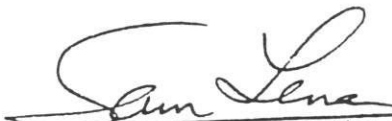
6. Granting and construction of perpendicular utility and sewer facilities crossing the Property will be permitted on a case-by-case basis with written approval of the Declarant. Any such easement, permit or license shall require that construction, installation and maintenance shall be undertaken without damage to the habitat and that any disturbance thereof shall be properly mitigated. All parallel installations including without limitation sewers, are prohibited. Proper care must be taken during construction of the facility to assure no damage will occur to the habitat and that any disturbance is properly mitigated.

7. All drainage across the Property will be left in its natural state and will not be altered, disturbed or obstructed.

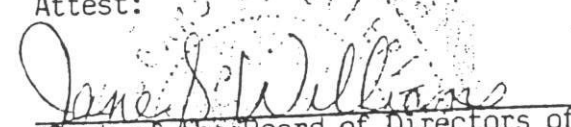
8. The aforesaid provisions, conditions, restrictions and covenants are impressed and imposed upon only that portion of the Property described on Attachment 1 which are a part of the floodplain, floodway and flood erosion zone of the Cienega Creek and Davidson Canyon as specified by the Floodplain Management Ordinance 1985-FCL. Said provisions, conditions, restrictions and covenants are not personal and shall run with the land.

9. The Declarant and its successors shall enforce these Conditions, Restrictions and Covenants to the fullest extent allowed by law to recover damages and/or to obtain equitable relief.

IN WITNESS WHEREOF, the undersigned has executed these presents this ___ day of MAR 3 1987, 1987.


Sam Lena, Chairman of the Board of Directors of the Pima County Flood Control District

Attest:


Clerk of the Board of Directors of the Pima County Flood Control District

WPO506D

RE: Cienega Creek Natural Preserve
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