

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.

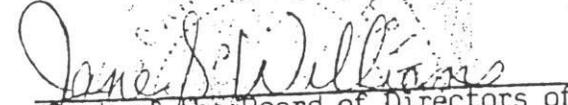
8. The aforesaid provisions, conditions, restrictions and covenants are impressed and imposed upon only that portion of the Property described on Attachment 1 which are a part of the floodplain, floodway and flood erosion zone of the Cienega Creek and Davidson Canyon as specified by the Floodplain Management 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  
LF

ATTACHMENT 1

Parcel 1 - All that part of the South Half of the South Half of Section 19, Township 16 South, Range 17 East, G. & S. R. B. & M., Pima County, Arizona, lying South of the Southern Pacific Railroad right-of-way, EXCEPT that part lying within the El Paso and Southwestern Railroad right-of-way.

Parcel 2 - All that part of the Northwest Quarter, the North Half of the Southwest Quarter, the Southeast Quarter of the Southwest Quarter, and the South Half of the Southeast Quarter of Section 28, Township 16 South, Range 17 East, G. & S. R. B. & M., Pima County, Arizona, lying Southerly of the Southern Pacific Railroad right-of-way.

Parcel 3 - All that part of the Northwest Quarter and of the South Half of the Northeast Quarter of Section 29, Township 16 South, Range 17 East, G. & S. R. B. & M., Pima County, Arizona, lying South of the Southern Pacific Railroad right-of-way.

Parcel 4 - The North Half of the Northeast Quarter; the Southwest Quarter of the Northeast Quarter; the West Half of the Southeast Quarter; the East Half of the Southwest Quarter; and the Southeast Quarter of the Northwest Quarter of Section 30, Township 16 South, Range 17 East, G. & S. R. B. & M., Pima County, Arizona EXCEPT any part thereof lying within the Southern Pacific Railroad right-of-way.

Parcel 5 - That part of the West Half of the East Half and the East Half of the West Half of Section 31, Township 16 South, Range 17 East, G. & S. G. B. & M., Pima County, Arizona, lying North of the Northerly line of the relocated Tucson-Benson Interstate Highway as said line is described in the final Order of Condemnation recorded in the office of the County Recorder of Pima County, Arizona, in Book 1775 of Dockets at Page 174 thereof.

Parcel 6 - The North Half of the Northeast Quarter of Section 33, Township 16 South, Range 17 East, G. & S. R. B. & M., Pima County, Arizona.

Parcel 7 - The North Half of the South Half, and all that part of the South Half of the Northeast Quarter and of the Northwest Quarter lying South of the Southern Pacific Railroad right-of-way in Section 34, Township 16 South, Range 17 East, G. & S. R. B. & M., Pima County, Arizona.

Cienega Creek  
Wheeler Trust  
LF:LC:agg

WP0472D

## EXHIBIT D

### MANAGEMENT GOALS AND STATEMENT OF POLICY

Pima County's management goals, simply stated, are to maintain the present natural characteristics of the Cienega Creek Natural Preserve, and if possible, to allow natural restoration of the climax vegetation. Cienega Creek today is not the same riparian zone it was 100 years ago. Historical accounts and geologic records suggest that the climax vegetation for much of the acquisition area may have been a cienega, or marshland. Additional marshlands appear to have existed downstream of the natural preserve, hence the name Pantano Wash, which in Spanish means marshland.

Restoration of the climax cienega vegetation would have significant flood control and groundwater recharge benefits. Cienegas act as natural water storage reservoirs, and flows downstream from cienegas are less variable and of greater permanence than flows from typical ephemeral streams. The increased storage capacity and slow release of flood waters provided by cienegas act to decrease flood peaks.

The following management policies support Pima County's desire to maintain our last remaining low-elevation perennial stream in as natural a condition as possible.

1. No business, trade or manufacturing of any nature or description shall be carried on or transacted on any portion of the Preserve. No uses other than public recreation to the extent allowed herein are permitted.
2. No motorized vehicles will be permitted on the Preserve except as required for emergency medical purposes or for maintenance or other uses approved in writing by Pima County or designee(s).
3. The use of and access to the Preserve will be restricted to such uses that will maintain and protect the quality of the riparian nature of the area. The Preserve shall be protected and maintained as a unique riparian ecosystem. Pima County shall prevent deterioration of the area by causing the Preserve to be patrolled by appropriate law enforcement personnel as is reasonably required.
4. Pima County shall not conduct, nor permit any other person to conduct mining, quarrying, sand hauling, fill hauling or timbering of any kind on the Preserve. Hunting or trapping of birds or animals, grazing of cattle, or the destruction or removal of plants, shrubs, trees, except with written permission of Pima County, is expressly prohibited. In the interest of resource protection, no discharge of waste or by-products or materials on land or into water channel that might result in harm to wildlife or human water supplies will be permitted.

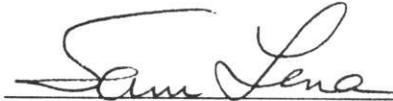
5. A permit system, restricting the number of persons entering the area, will be established and administered by Pima County Parks and Recreation in cooperation with the Flood Control District. The number of persons permitted access will be consistent with the goals of protection and maintenance of the riparian ecosystem of the area.

6. Granting and construction of perpendicular utility and sewer facilities crossing the preserve will be permitted on a case-by-case basis with written approval of Pima County. All parallel installations including 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 Preserve will be left in its natural state and will not be altered, disturbed or obstructed.

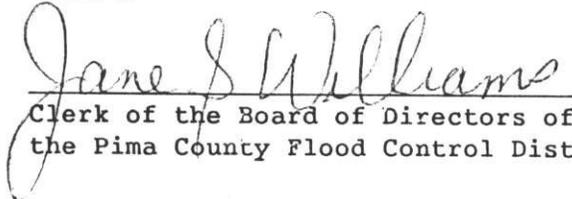
8. Scientific studies will be permitted as agreed upon by Pima County and State Parks.

IN WITNESS WHEREOF, the undersigned has executed these presents this day of MAR 03 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