

**Flood Control
Advisory Board**

WELCOME

April 27, 2016



Agenda

- Call to Order
- Pledge of Allegiance
- Approval of the 3/23/16 Minutes
- Text Amendment to the BOHR Procedures
- Floodplain Management: Who Does What?
- McMicken Dam Rehabilitation Project
- Wickenburg Flood Prone Property Buyout Update
- Comments from the Chief Engineer and General Manager
- Summary of Recent Actions by the Board of Directors
- Other Business and Comments from the Public





Text Amendment to the Board of Hearing Review Procedures

EROP FCD2016-002

Resolution FCD2016R004

Public Hearing & Action Item

Conduct a public meeting and endorse the text amendment to the existing Board of Hearing Review procedures, and recommend that the text amendment to the existing Board of Hearing Review procedures be adopted by the Board of Directors.

Background

- State law and our Floodplain Regulations - require the Flood Control District to have an appeals process for floodplain violations and for damages to District facilities.
- This process includes an appeals board called the Board of Hearing Review (BOHR) – Members are the five Board appointees on the FCAB.
- BOHR - reviews decisions of hearing officers and final orders of the Chief Engineer regarding violations.

Purpose

To amend the text of the current BOHR procedures.

This text amendment will:

- Bring the Board of Hearing Review procedures into compliance with changed language in state law.
- Add additional detail to the procedures that will clarify burden of proof and order of argument before the Board.

Process

- State statutes outline the public process for adopting regulations and any amendments.
- BOHR procedures are required to go through the same process per statute.
- Maricopa County has an Enhanced Regulatory Outreach Process agencies follow for regulation changes.

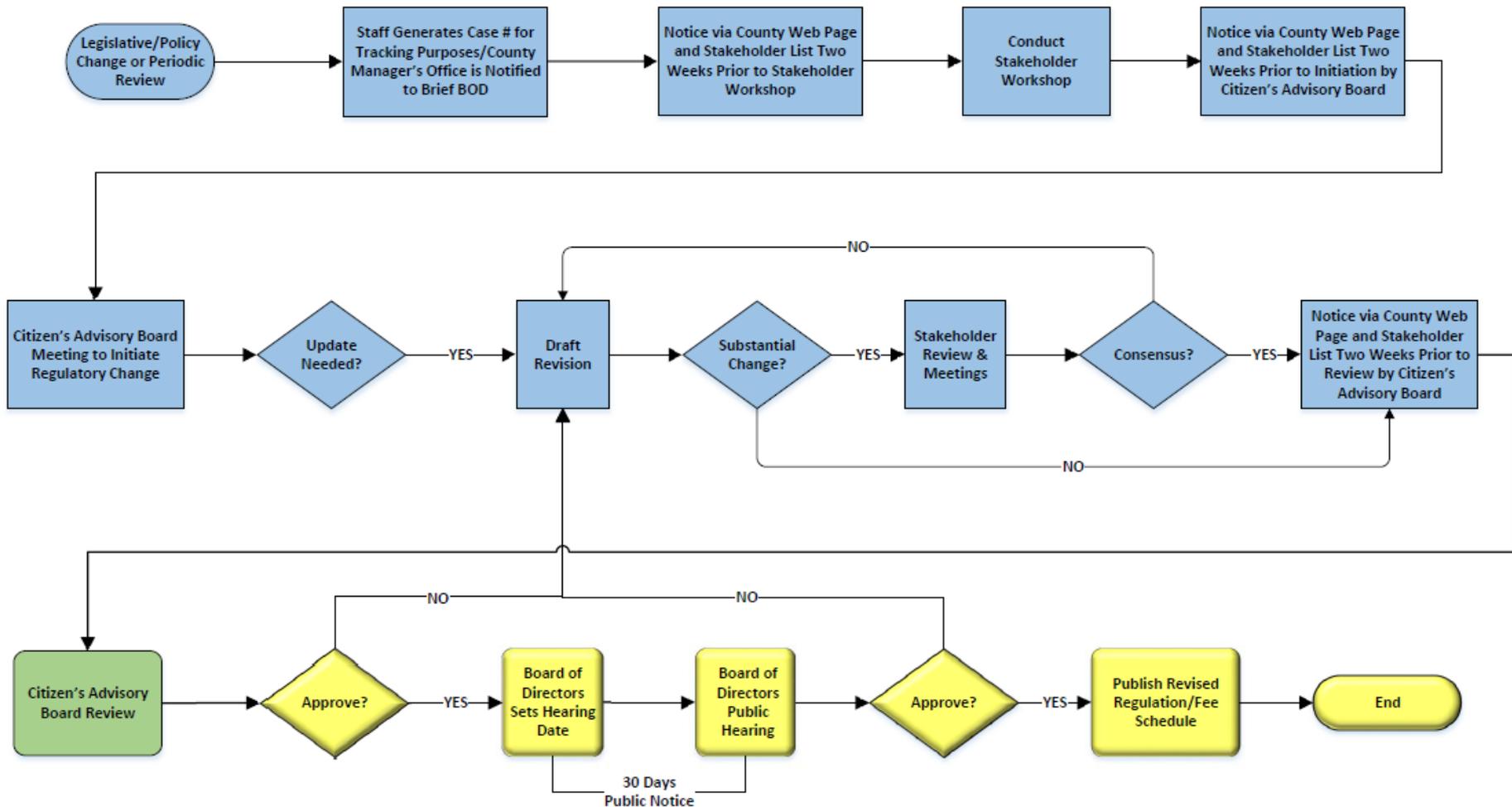
Enhanced Regulatory Outreach Program

<http://www.maricopa.gov/regulations/fc/>



Flood Control District

Fee Schedule/Regulation Modification Procedure



Stakeholder Workshop

- Per the EROP procedure, two stakeholder workshops were held on March 9 and April 12, and each were attended by 3 stakeholders.
- Some changes were made to the text amendment in response to verbal input received at the meetings.

Procedure Changes

Exhibit A

Board of Hearing Review Procedures

- A. The Board of Hearing Review ("Board") shall consider only ~~The review shall be limited to~~ the record of proceedings, ~~before the Hearing Officer and a~~ No new evidence shall be introduced. The record of proceedings shall include all pleadings and orders in the Hearing Officer's file, copies of all evidence submitted to the Hearing Officer at the hearing, a copy of the audiotape of the hearing, ~~and~~ a copy of the Chief Engineer's final decision and order, and any prior orders of the Board of Hearing Review or a reviewing court. If the Board ~~of Hearing Review~~ determines that a transcript of the audiotape is necessary, a transcript shall be prepared at the District's expense. A trial *de novo* is not permitted.
- B. The person ~~The written request for review by the Board of Hearing Review~~ of the Chief Engineer's final decision and order ~~by the Board of Hearing Review~~ shall ~~be delivered~~ a written request for review to the Clerk of the Board of Directors within ~~fifteen (15)~~ thirty (30) days after the date of the ~~final~~ Chief Engineer's final decision and order.
- C. Within ~~thirty (30)~~ thirty (30) calendar days ~~of~~ Upon receipt of the written request for review, the Chief Engineer shall, ~~within thirty (30) calendar days~~, prepare and transmit the complete record to the clerk of the Board of Hearing Review and schedule the request for review to be heard by the Board.

- D. Not fewer than ~~ten (10)~~ working days prior to the date of the hearing, the ~~The~~ clerk of the Board of Hearing Review shall notify all parties of the date, time, and place of the ~~request for review~~ hearing by certified mail to the last known address of the parties. ~~at least ten (10) working days prior to the date of the hearing.~~
- E. The Chairperson of the Board ~~of Hearing Review, or designee,~~ shall preside at all ~~request for review~~ hearings and shall decide on all questions pertaining to procedure. When appropriate, the Chairperson may issue a prehearing order providing guidance to the parties on the conduct of the hearing.
- F. Each party shall have be allowed 10 ~~ten~~ five minutes to present oral arguments. The Chairperson or Board may extend this time. Time limits may be extended at the discretion of the Chairperson or Board.
- G. Each ~~All~~ members of the Board and Board counsel may question representatives of any ~~all~~ parties appearing before them as to the party's view of the law and record.

H. The findings of fact of the Hearing Officer and conclusions of law accepted by the Chief Engineer shall carry with them a rebuttable presumption of validity. The party requesting review before the Board of Hearing Review shall bear the burden of demonstrating by a preponderance of the evidence that either these findings of fact or conclusions of law are arbitrary, capricious, unreasonable or unsubstantiated by the record established before the Hearing Officer. As to any penalty imposed by the Chief Engineer, the Chief Engineer shall bear the burden of persuasion that the penalty is just and equitable under the circumstances. Once that initial burden is met, the party requesting review before the Board of Hearing Review shall bear the burden of demonstrating that the penalty imposed is unjust and/or inequitable under the circumstances or is inconsistent with the law.

~~H. Based on the record before the Board of Hearing Review, the Board of Hearing Review may deny, approve, modify or return to the Chief Engineer for further consideration, the order of the Chief Engineer's final decision or order or the order of the Hearing Officer. The Board of Hearing Review shall issue a written order of its decision including findings of fact and conclusions of law, and shall submit its final written order on the matter to the Chief Engineer within 30thirty days after completion of the hearing. The decision of the Board of Hearing Review shall be decided by a majority vote of the participating members. The clerk of the Board of Hearing Review Copies of the order shall be serve copies of the Board's order d on all parties to the hearing. The decision to uphold or deny the Chief Engineer's final decision and order shall be decided upon by motion and a majority vote of the members of the Board of Hearing Review.~~

J. The final decision of the Board of Hearing Review is subject to judicial review pursuant to A.R.S. Title 12, Chapter 7, Article 6.

Appendix Typical Order of Argument Before the Board

Except as otherwise provided by order of the Chairperson under Section E or by the Board, the order of argument before the Board ~~of Hearing Review shall~~ will generally be as follows:

Representatives of each party may submit a brief, not to exceed 10 pages in length, to the clerk of the Board of Hearing Review not less than five days before the hearing to assist the Board in understanding their arguments. The clerk will promptly distribute copies to the Board and Board counsel.

The representative of the party seeking review of the ~~decision and order of~~ the Chief Engineer's final decision and order ~~or Hearing Officer~~ shall speak first and present argument as to why the ~~decision and order of the~~ Chief Engineer's final decision and order ~~or Hearing Officer~~ is in error and should be denied or modified. The representative of the party requesting review may, with the approval of the Chairperson, reserve time for rebuttal. Board members or Board counsel may ask questions of the representative.

The representative of any other party properly admitted to the hearing shall speak next and present argument as to why the ~~decision and order of the~~ Chief Engineer's final decision and order ~~or Hearing Officer~~ should be approved, denied, or modified. If there are multiple such parties, they shall speak in an order determined by the Chairperson. Board members or Board counsel may ask questions of the representatives.

The representative of the Flood Control District shall speak after all other parties and present argument as to why the ~~decision and order of the~~ Chief Engineer's final decision and order ~~of~~ ~~Hearing Officer~~ should be approved. Board members or Board counsel may ask questions of the representative.

The representative of the party requesting review may, if time was reserved for rebuttal, present rebuttal solely to argument presented by another party. Board members or Board counsel may ask questions of the representative.

Following presentation of all argument, the Board Chairperson, or designee, will enquire of Board members and Board counsel whether there are any additional questions. When appropriate, representatives of all parties may be invited to provide responses to questions.

The Chairperson, or designee, will ask the Board members and Board counsel if executive session is needed. If so and otherwise allowed under law, the Board will go into executive session ~~retire to~~ hear advice of counsel. If needed, the Board may schedule an executive session in accordance with applicable law.

Following executive session, if any, the Board will deliberate in open session. The Board may make a decision, ask Board counsel to research and/or draft a decision, or take the matter under advisement or any combination of the above. Upon deciding what action it is taking, the Board will adjourn until it is ready to complete its deliberations and adopt an order. Notice will be provided of such time to the parties at least ~~ten~~10 days in advance, unless the parties agree on the record to a different schedule.

Next Steps

- FCAB endorse the text amendment to the existing Board of Hearing Review Procedures.
- After FCAB endorsement, this text amendment will have a 30 day public comment period and a public hearing will be held by the Board of Directors on June 22nd, where they may vote to approve the text amendment.

Call for Public Input

Call for public input and discussion
by the Advisory Board.

Requested Action

The Flood Control Advisory Board endorse the text amendment to the existing Board of Hearing Review Procedures, and recommend that the text amendment to the existing Board of Hearing Review procedures be adopted by the Board of Directors.



Questions?



Floodplain Management: Who Does What?

Kelli Sertich, AICP, CFM
Floodplain Mgmt/Svc Manager

Arizona Revised Statutes

Title 48

Each county required to organize a flood control district. Some of the Powers & Duties:

- **Capital Improvement Projects**
- Survey & Report of Flood Control Problems
- **Water Course Master Plans**
- Delineate & Regulate Floodplains
- **Adopt & Enforce Floodplain Regulations**
- Perform Floodplain Management for cities & towns in the county

Federal & State

- **Floodplain Regulations intended to carry out the requirements of the NFIP**
- Code of Federal Regulations (CFR) sets minimum standards for development in the floodplains – 44 CFR
- **State of Arizona through ADWR has a Floodplain Management Model Ordinance based on the CFR**
- Communities then adopt Floodplain Regulations based on the CFR and Model Ordinance

Floodplain Management?

- Title 48 ARS – floodplain management – focus is on regulating floodplains
- §48-3610 - City or Town can assume its own floodplain management – resolution adopted by council
- **10** cities/towns – perform own
- **14** cities/towns – District Dependent
- Unincorporated County - hybrid



District Dependent

- Buckeye
- Carefree
- Cave Creek
- Chandler
- El Mirage
- Gila Bend
- Guadalupe
- Litchfield Park
- Mesa
- Queen Creek
- Surprise
- Tolleson
- Wickenburg
- Youngtown

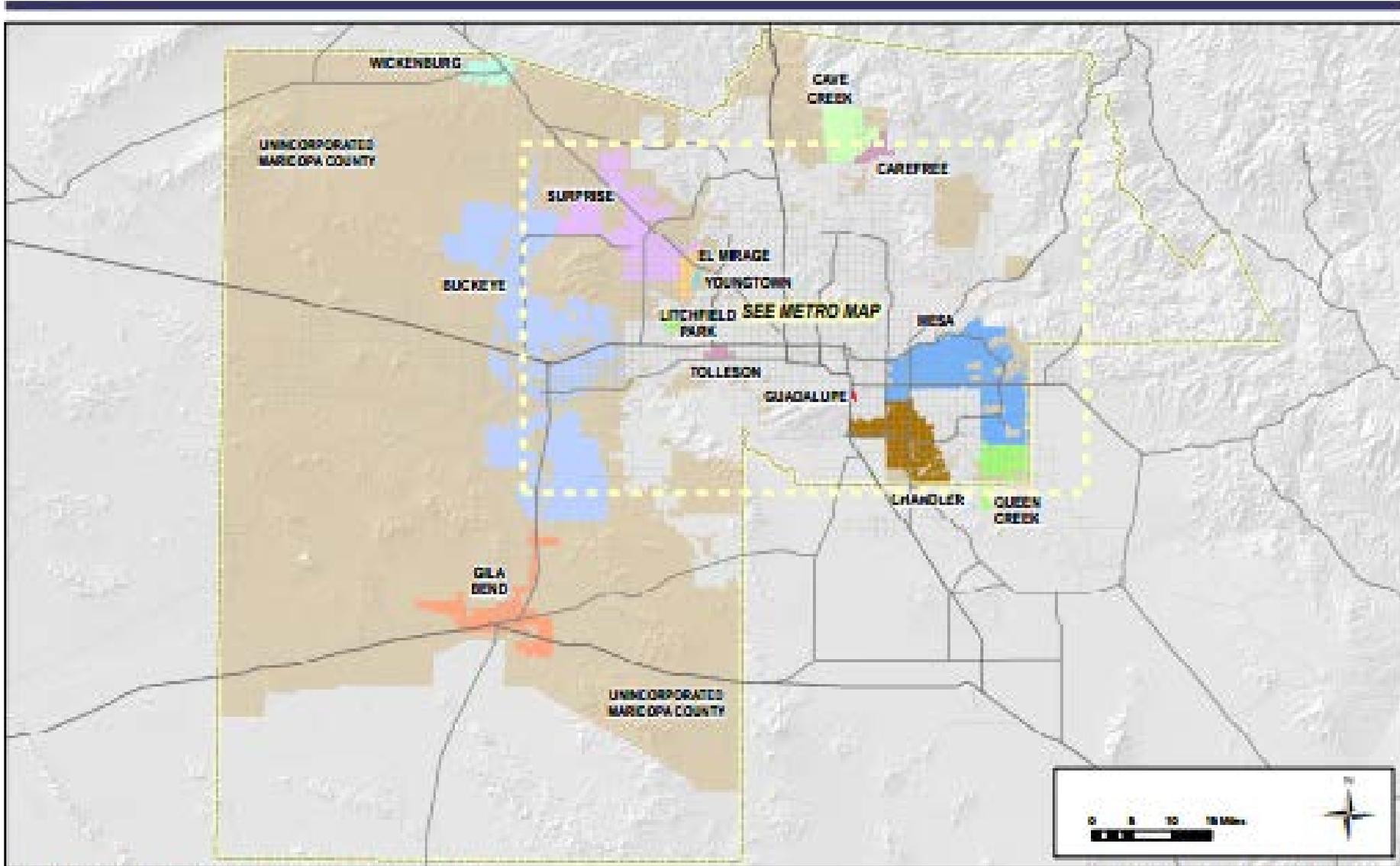
Own Management

- Avondale
- Fountain Hills
- Gilbert
- Glendale
- Goodyear
- Paradise Valley
- Peoria
- Phoenix
- Scottsdale
- Tempe





Communities Dependent on FCDMC to Perform Floodplain Management



Source: Public Works Management Department/Flood Control District of Maricopa County

Flood Control District of Maricopa County, 500 University, July 2017

Customer Inquiries FY 2015-16 (to date)

Calls on property of from people
all over county – provide general
floodplain information

JURISDICTION		ACTIVITIES
City of Avondale	040038	12
City of Buckeye	040039	36
City of Chandler	040040	187
City of El Mirage	040041	8
City of Glendale	040045	13
City of Goodyear	040046	22
City of Litchfield Park	040128	3
City of Mesa	040048	144
City of Peoria	040050	33
City of Phoenix	040051	350
City of Scottsdale	045012	115
City of Surprise	040053	143
City of Tempe	040054	8
City of Tolleson	040055	12
Other	N/A	103
Town of Carefree	040126	15
Town of Cave Creek	040129	37
Town of Fountain Hills	040135	10
Town of Gila Bend	040043	6
Town of Gilbert	040044	62
Town of Guadalupe	040111	2
Town of Paradise Valley	040049	7
Town of Queen Creek	040132	19
Town of Wickenburg	040056	81
Unincorporated Maricopa County	040037	1,289

FCD & Unincorporated County

- FCD – Floodplain Administrator for County and Map Repository
- FCD – Drainage Studies, Delineations, Regulations
- P&D – Technical review for Floodplain Use Permits and Drainage
- P&D – Inspections for Floodplain Use Permits
- FCD – Enforcement for violations
- FCD – NFIP & CRS documentation

District Dependent

Minimum by FCD:

- Meet with community to discuss responsibilities and expectations from FCD
- FCDMC Process Floodplain Use Permits for any development in the community's floodplains
- Maintain records of permit activity for NFIP
- Send copy of approved permit to city/town
- Assist with any additional technical support
- Participate in NFIP and CRS audits / cycle visits

District Dependent

Minimum by Community:

- Appoint a community Floodplain Administrator
- Assure that all development in the floodplains get permits
- Keep permit records and Elevation Certificates
- Keep and maintain copies of the Floodplain Regulations and FIRMs
- Complete Inspections as required by permit
- Have a written SOP for how they work with FCD on permitting for NFIP

Inspections & Enforcement

- **FCD** – enforcement for violation of permit or non-permitted in floodplain
- **FCD** – also investigate non-floodplain flooding issues after storm events
- **Dependent Communities** – will usually do inspections with building permit but FCD will assist if asked
- **Enforcement** – FCD practice of not enforcing in cities/towns unless requested by community.
- **FCD** – issue NOV, record notice on property, take to Hearing Officer

Variations & Appeals

- Variations for the Dependent Communities go through FCD – Administrative or Floodplain Review Board
- FCD will seek ok from community first – affects city/town NFIP standing
- Appeals regarding interpretation of Regulations go to FCD Floodplain Review Board



NFIP & CRS

FCD to Cities/Towns/County

- Consultant relationship/partnership

Relationship with FEMA

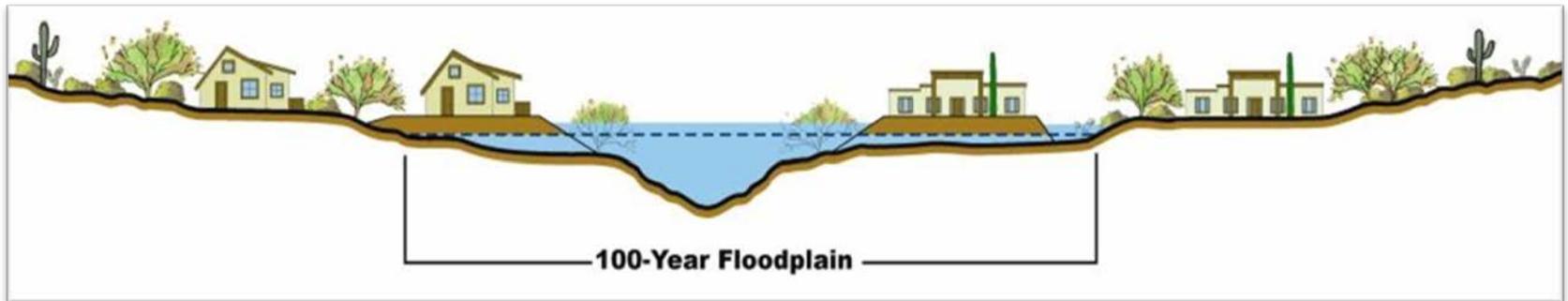
- The community is responsible for staying in good standing in the NFIP
- FCD and community will compare record keeping before audits.
- FCD will attend community's audit and assist with any issues
- Community provides documentation for CRS visits – FCD starting to be more involved

Summary

- Basic services for all
- Variable for each community depending on need
- Goal – keep process quick and seamless for applicant
- Keep communities in good standing with FEMA



Questions?

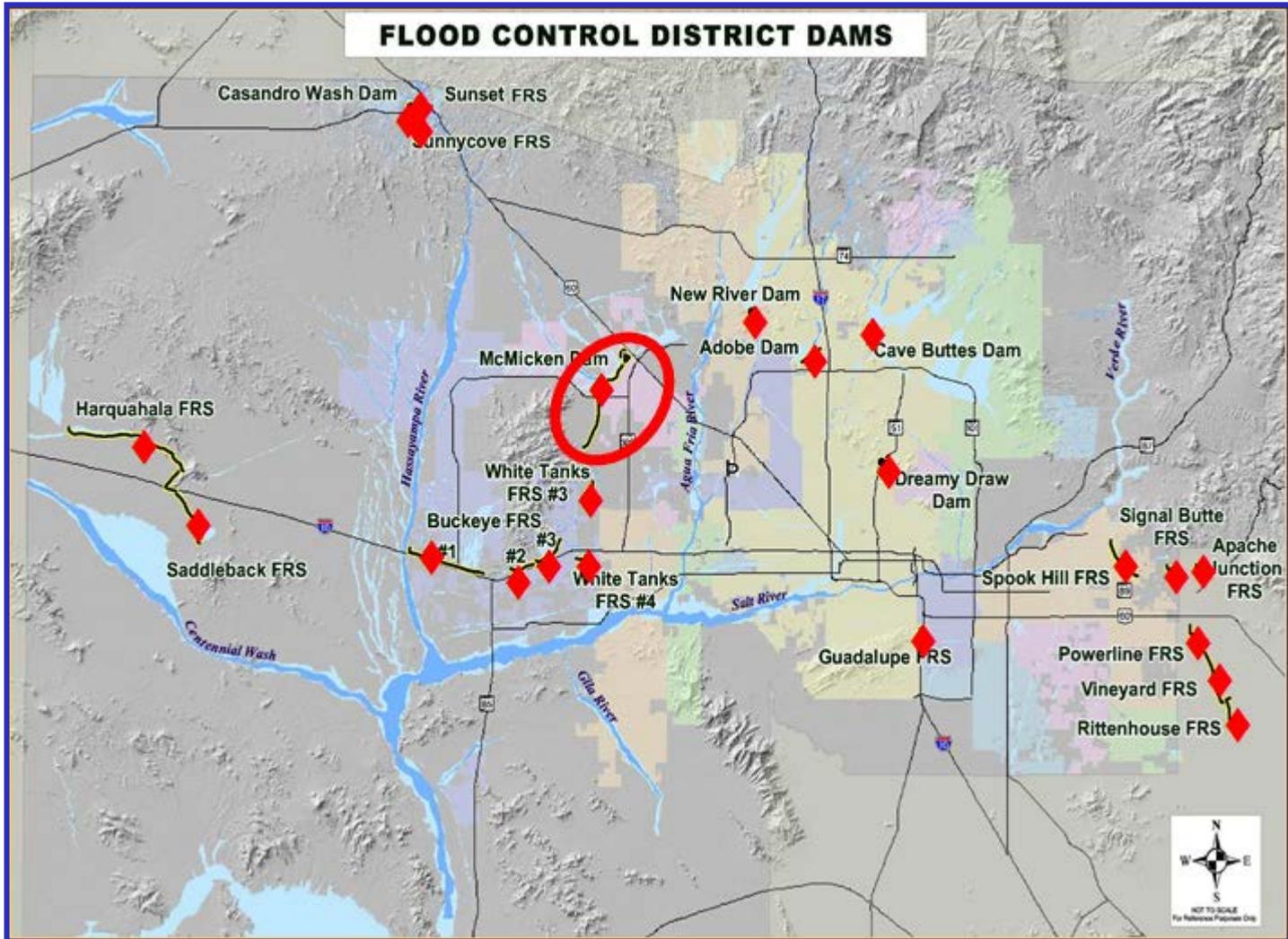




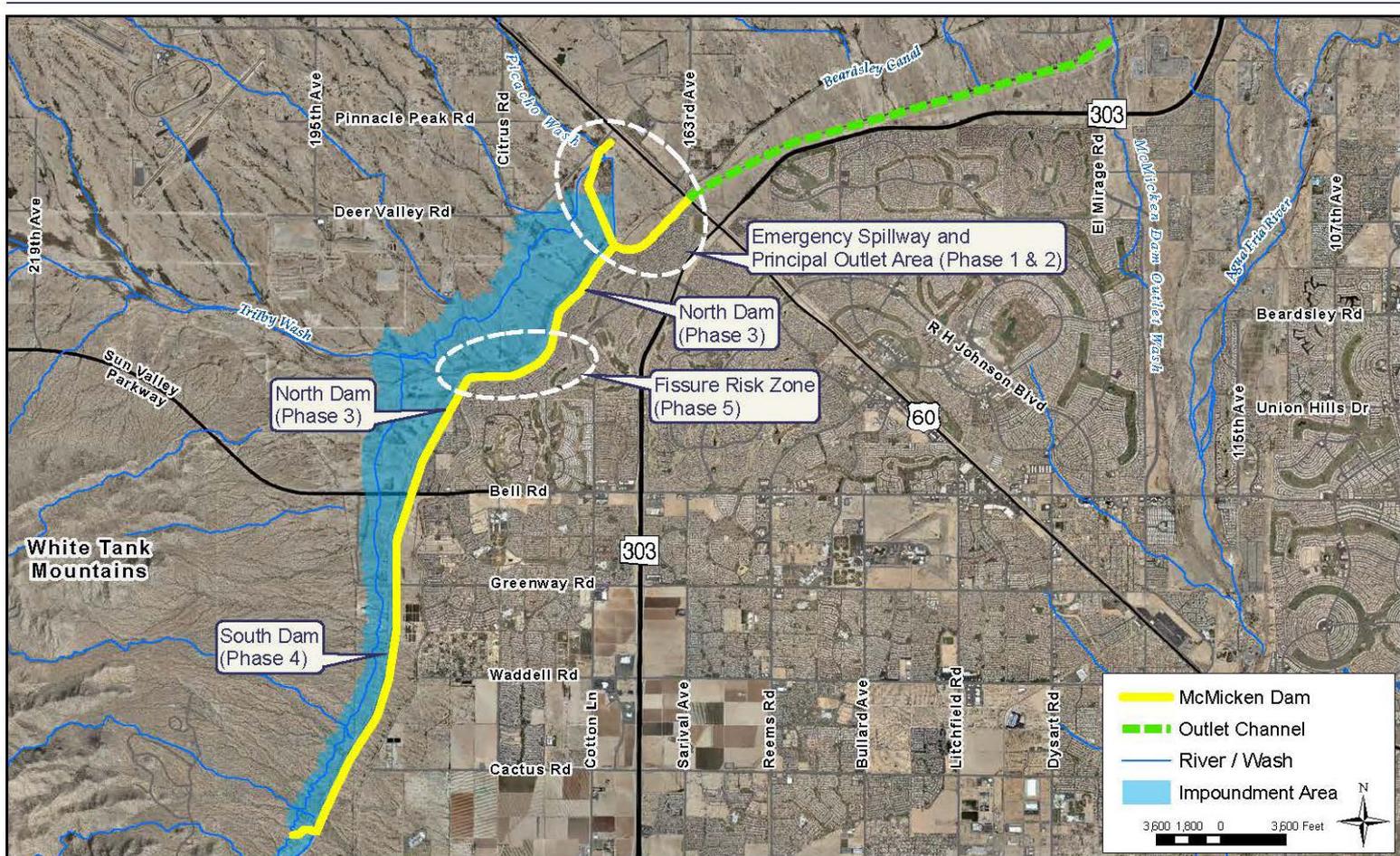
McMicken Dam Rehabilitation Project

Patrick Schafer, P.E.
Project Manager

Project Location



Project Location - Continued



Background

- Constructed by Corps in 1955-56
- Original function was to protect Luke AFB & agricultural lands
- Provides 100-year flood protection
- Crest Length is approximately 9 miles
- Structural height is 34 feet
- Total watershed area 250 square miles
- ADWR is jurisdictional agency
- Operated and maintained by District
- Dam classification: High Hazard/intermediate with Safety Deficiencies (not classified as unsafe)

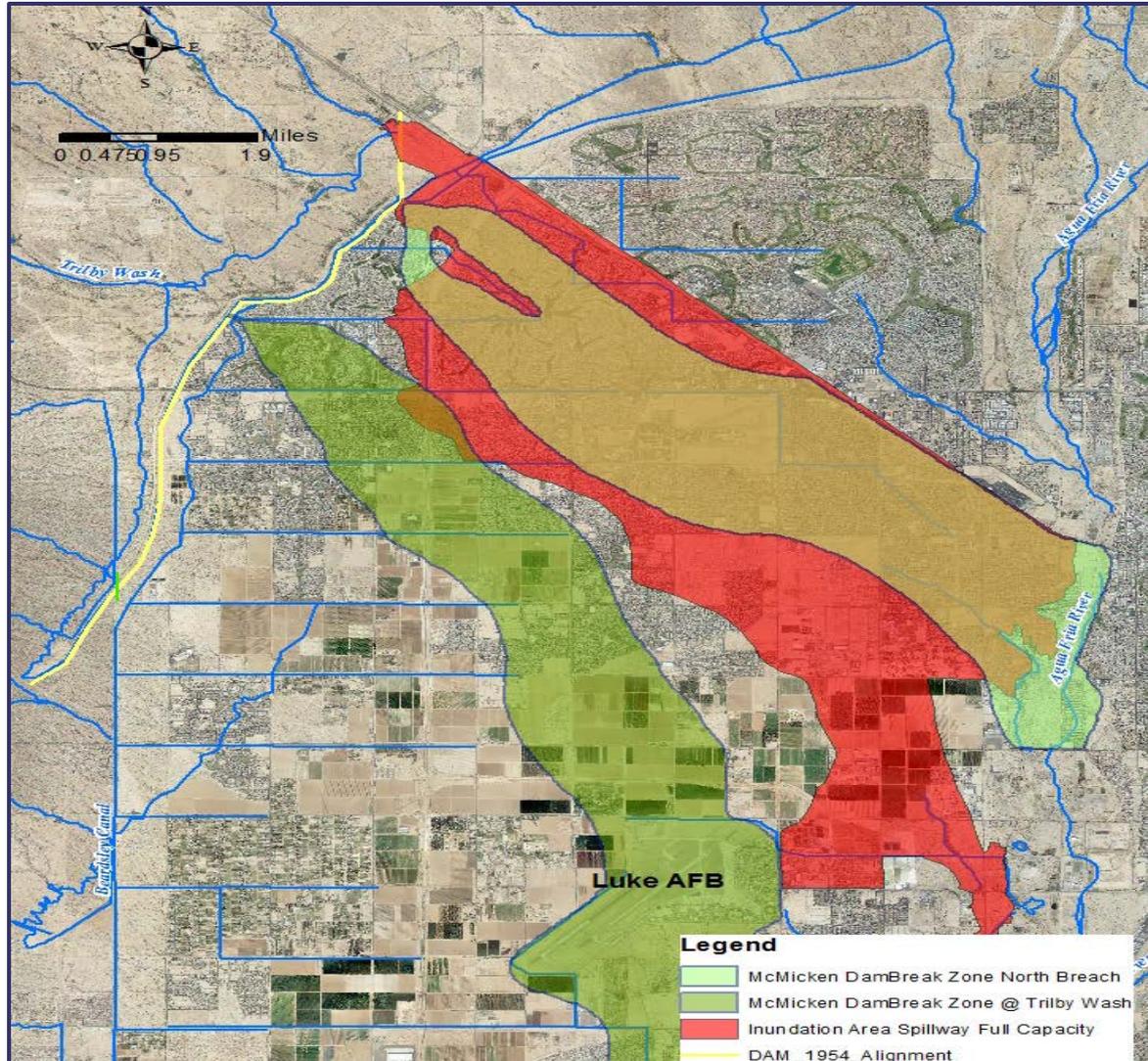
1951 Luke AFB Flooding



Downstream Development

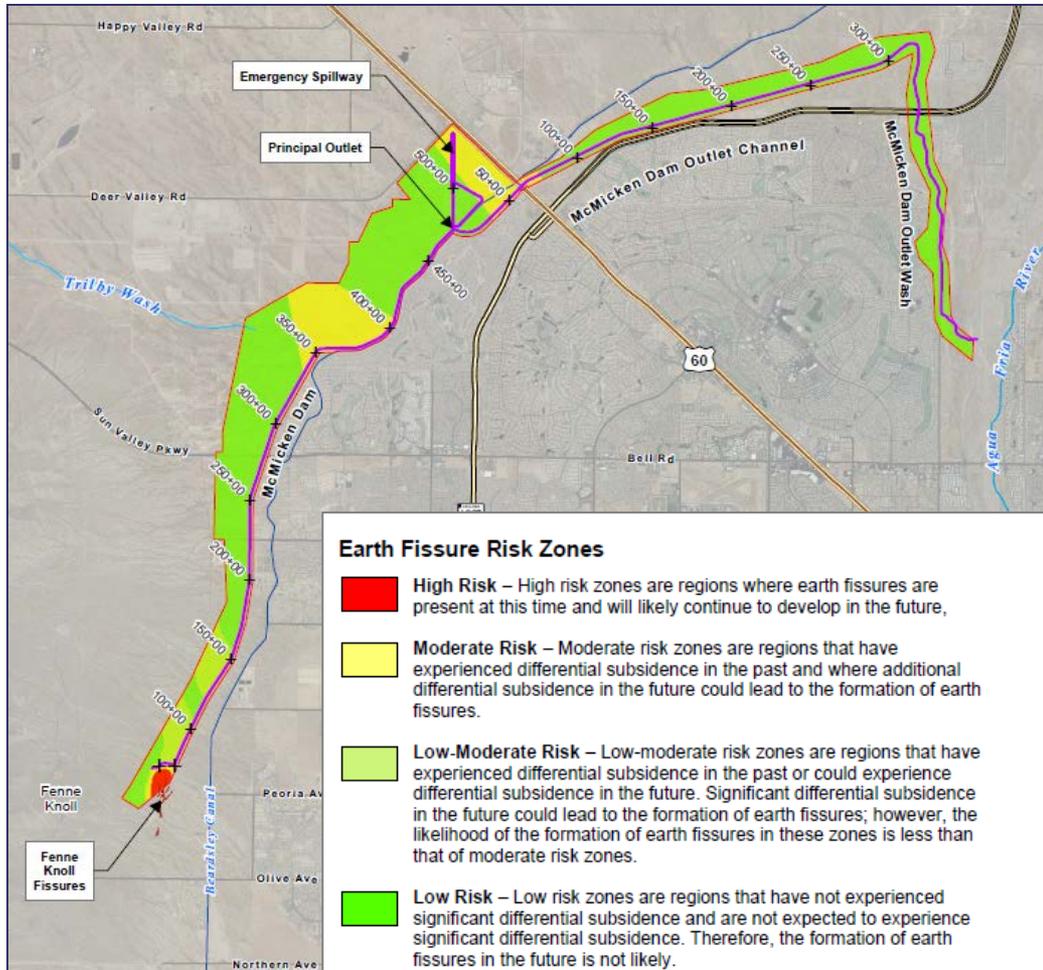


Overall Benefited Area



Dam Safety Issues

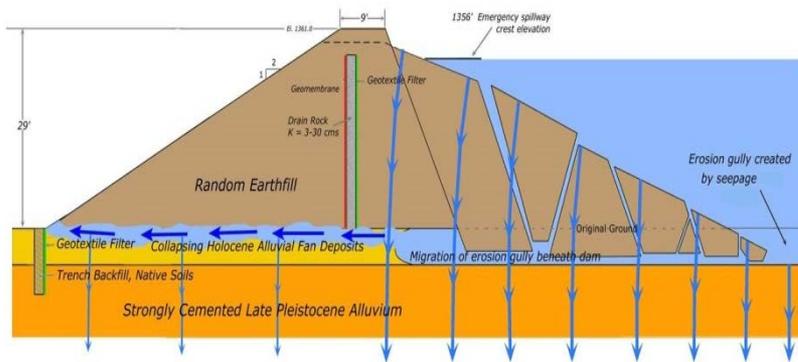
Earth Fissure Risk



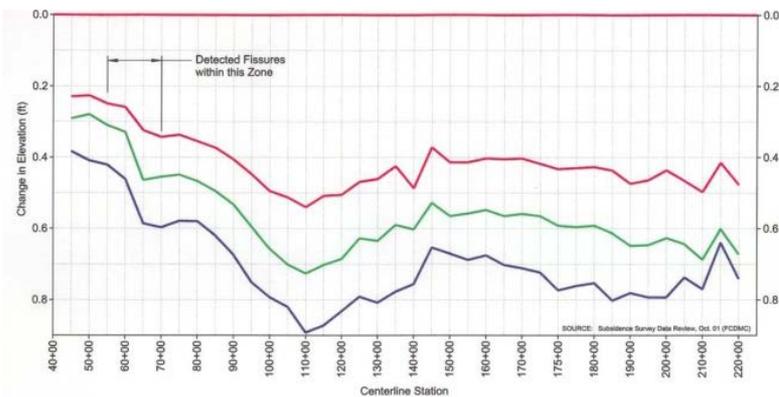
Embankment Cracking

Dam Safety Issues – Continued

Collapsible Foundation



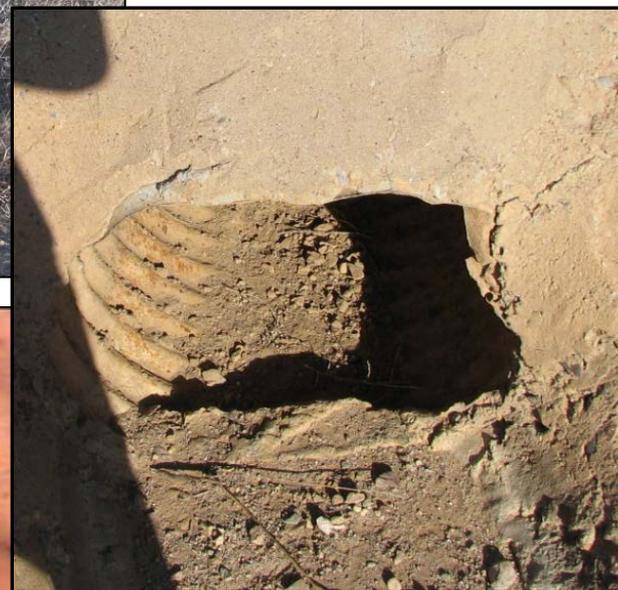
Inadequate Emergency Spillway



Historic Subsidence

Dam Safety Issues - Continued

Irrigation Pipe Deterioration



Rehabilitation

- Eliminates or mitigates all dam safety deficiencies.
- Meets current ADWR and FCD criteria for high hazard dams.
- Maintains at least 500-year flood protection for residents downstream of structure for the next 100 years:
 - *High benefit-to-cost ratio*
 - *Downstream population 80,000+*
 - *Property Improvements and Infrastructure \$6+ billion*
- No adverse changes to downstream conditions.
- Provides maximized opportunities for multi-use, landscaping and aesthetics.

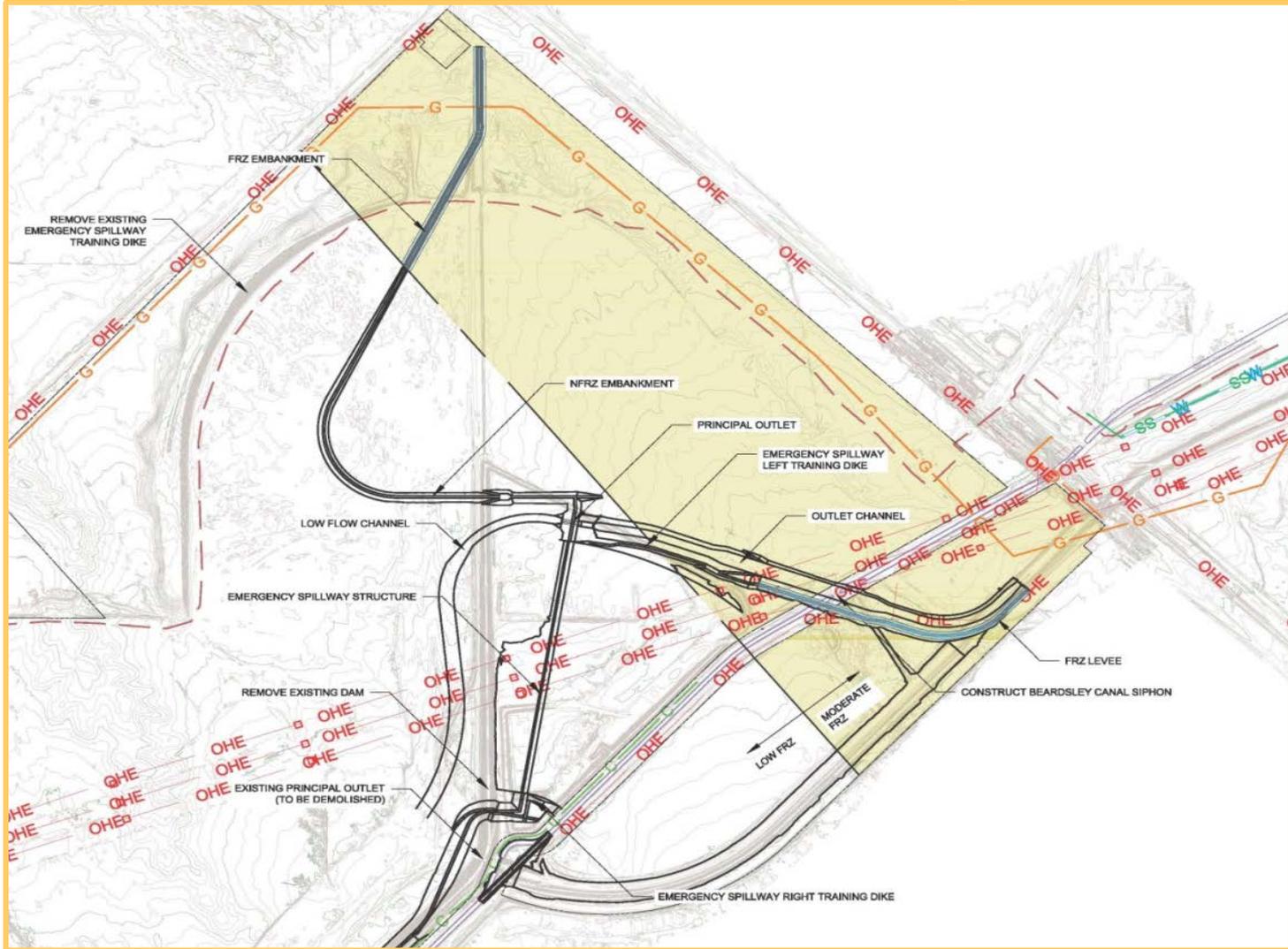
Phases 1 & 2 Project Elements

- New emergency spillway located east of existing dam
 - *1,900 LF, 16 ½ foot tall weir structure with a capacity of 80,000 cfs*
- New principal outlet located north of new emergency spillway
 - *Triple 9' x 7' CBC with a PMF capacity of 5,000 cfs*
- Relocation of the outlet channel
- An extended dam embankment section for Pichacho Wash. Captures PMF flows

Phases 1 & 2 Project Elements

- Potential excess land for resale: 173 acres
- Enhancement of the Maricopa Trail
- New MWD Beardsley Canal Siphon
- No impacts to high voltage SRP/WAPA towers
- Phases 1 & 2 estimated construction cost: \$36.7M

Phases 1 & 2 Plan Layout



Project Status & Schedule

- In-progress with Final Design of Phases I & II.
- Geotechnical Investigations to start in May 2016.
- Public Meeting in the fall of 2016.
- Phase I Construction (Bid Build): Fiscal Years 2018, 2019.
- Phase II Construction (Bid Build or CMAR): Fiscal Years 2020, 2021.
- Final design of other 3 phases will commence during construction of Phases I and II.

Questions



1970 – First significant filling (within 15 feet of dam crest)

Support Slides

- 1 
- 2 
- 3 
- 4 
- 5 
- 6 
- 7 

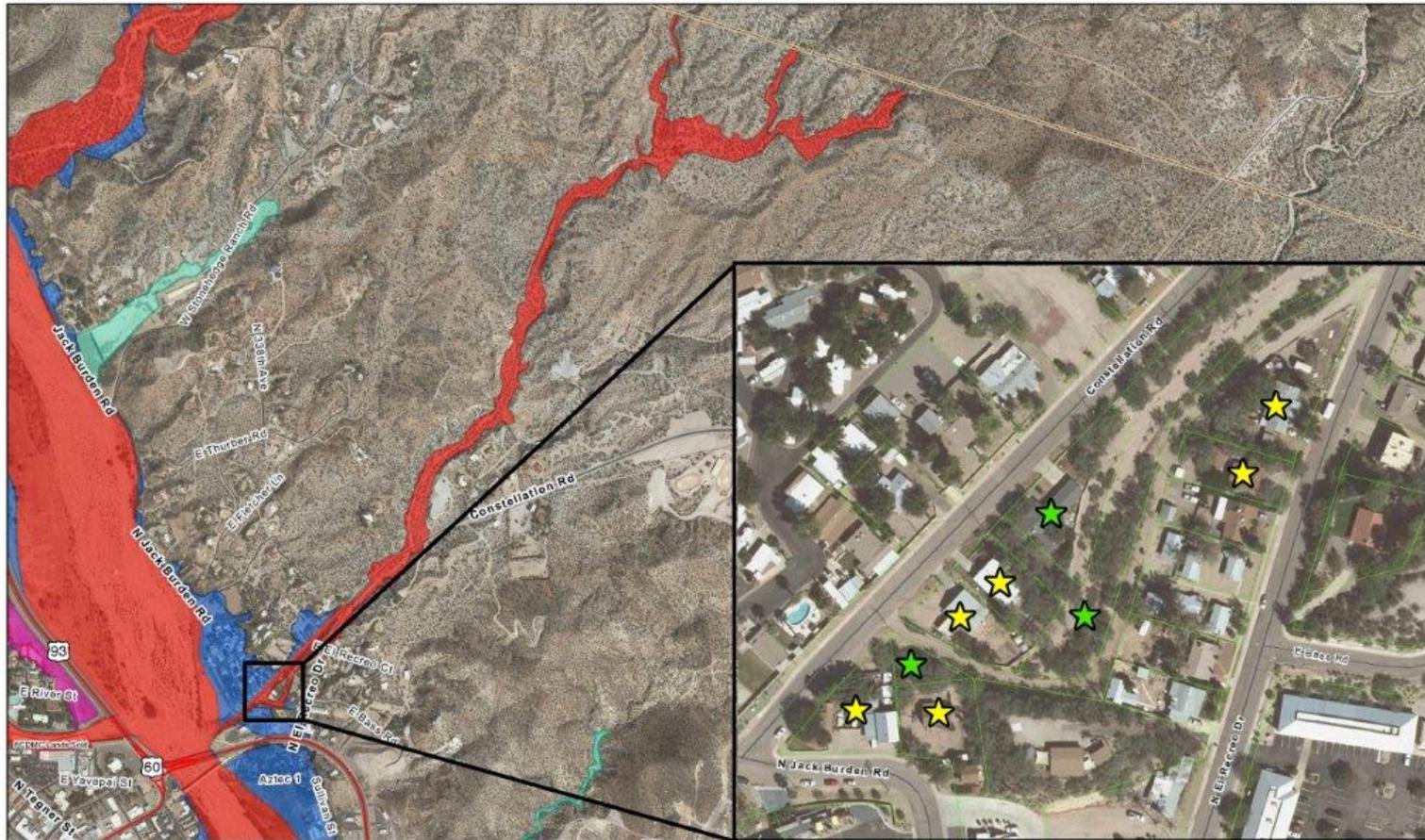




WICKENBURG FLOOD PRONE PROPERTY BUYOUT UPDATE

**April 27, 2016
John Hathaway, P.E.**

Project Location



Date: 9/11/2015 Time: 12:39:23 PM
 The Flood Control District of Maricopa County (FCDMC) - Unofficial Document
 This document cannot be used for floodplain determinations. Current studies, erosion setbacks and other factors may also affect the floodplain status of the property.
 The information shown for pending floodplains are the best technical information available at this time to determine the one percent chance flood and are subject to change.

Current FEMA Flood Zones
 1% Annual Chance Flood
 1% Recurrence Interval Flood
 100-year Flood

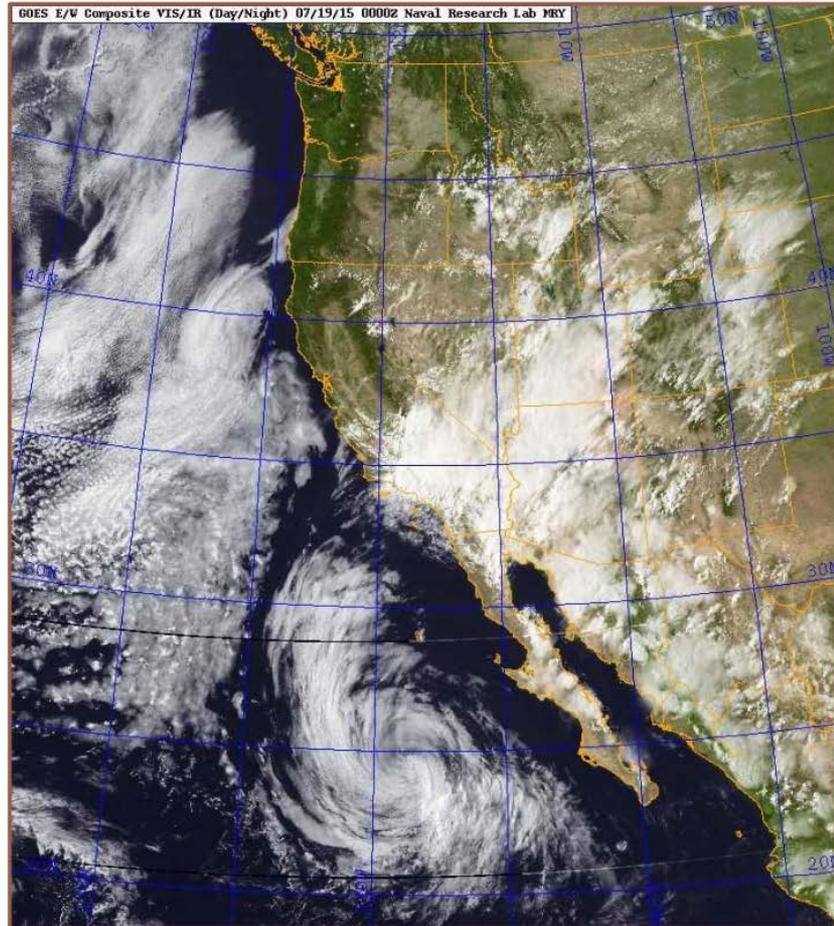
★ Occupied structure, possible District acquisition
 ★ Un-occupied structure/vacant land, possible Town acquisition

Floodplain Management & Services
 2851 West Glendale Street
 Phoenix, Arizona 85029
 Phone: (602) 305-2410
 Fax: (602) 373-4252
<http://www.fcd.maricopa.gov/Floodplain/floodplain.aspx>

Hurricane Delores

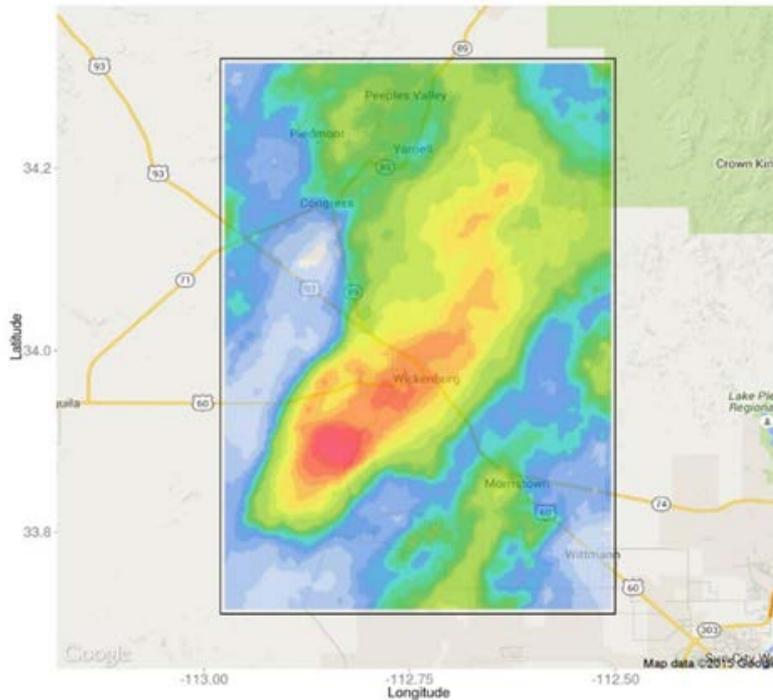
FIGURE 2

True-color visible satellite photo of the eastern Pacific from GOES West - 5PM MST on July 18th. Note position and influence of Hurricane Delores.

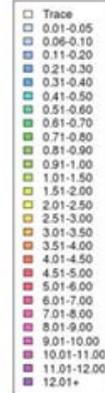


Storm of July 18, 2015

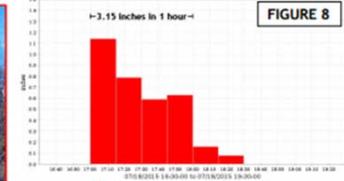
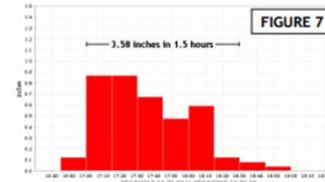
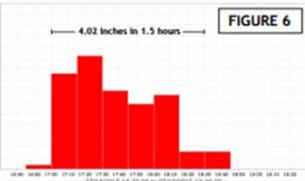
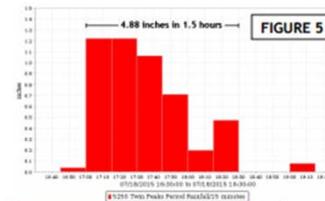
Final 12-hour Storm Total Precipitation
 July 18 (2200 UTC), 2015 to July 19 (0900 UTC), 2015
 Domain: 34.32 N - 112.95 W 33.71 S - 112.5 E (Maricopa County)
 Maximum Precipitation = 5.31 inches



Created by MetStorm on 2015-08-13



15-minute time distributions for selected rain gages are shown in Figures 5-8 below:



Constellation Road



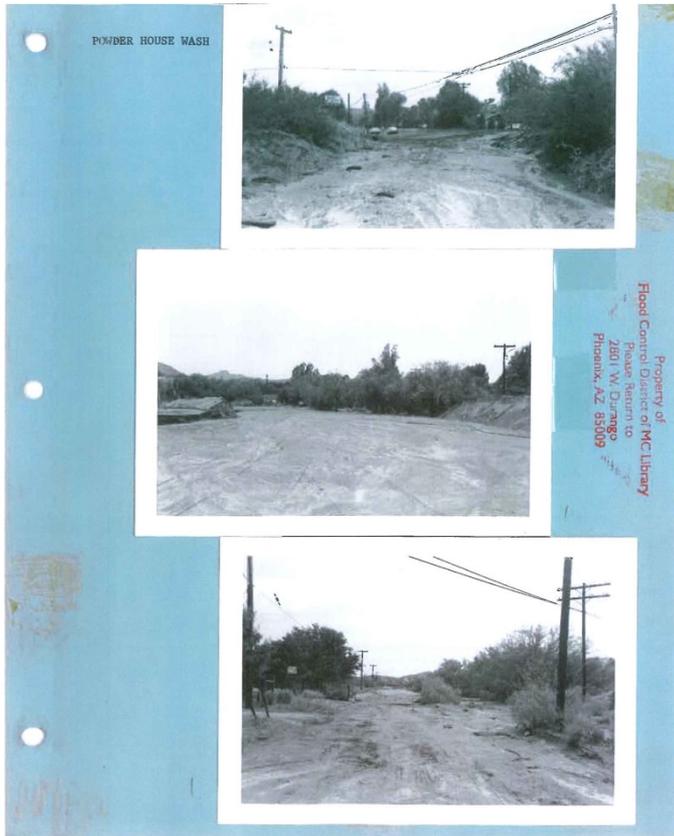
The "Pink House"



August 26, 2014



Oh, no! Not again!



How does this happen?

Pueblo Del Vista 1946



4

Lot split c.1992



★ = occupied structure; possible District acquisition

★ = unoccupied structure/vacant land; possible Town acquisition

District Response



Thursday, July 23, 2015 – FCD staff and other agencies working the one-stop-shop at the Wickenburg Community Center providing information to residents after the flooding.

Authorizing a Solution

- Resolution FCD 2015R008
 - Wickenburg Flooded Properties Acquisition Project
 - Companion Budget Adjustment
 - Floodprone Properties Assistance Program Model
- IGA FCD 2015A013
 - Partnership between Wickenburg & FCD
 - Flood Control: acquire 6 “occupied” houses
 - Wickenburg: unoccupied house & vacant parcels

Project Description

- FCD Goal: Voluntary buy-out before 2016 monsoon
- Offers based on “pre-disaster” appraisal
- Wickenburg: Unoccupied residence & vacant parcels
- FCD: relocate residents & demolish all structures
- Wickenburg: Reimburse cost of demo
- FCD: Deed properties over to Wickenburg at end
- Wickenburg: Perpetual maintenance as open space
- Wickenburg: Potential future Corps project/Park

Project Budget

- Title Reports & Appraisals: \$18,000 (FY15-16)
- Acquisitions: \$945,000 (FY15-16)
- Relocation & Demolition: \$273,000 (FY16-17)
- Wickenburg Acquisitions: ~\$70,000
- Reimbursement: ~\$25,000 (FY16-17)
- FCD FY15-16 Total: \$963,000
- FCD FY16-17 Net: \$248,000
- Total Project for FCD: \$1,211,000

Project Status

- FCD: 5 of 6 Acquired or In Escrow
- Working with Town on one holdout
- Wickenburg: 1 of 2 Vacant Parcels
- Council: Approval for eminent domain
- Facilities Mgmt. & Risk Mgmt.
 - Board up of vacant structures
 - Asbestos testing & abatement
 - Demolition

Questions?



★ = occupied structure; possible District acquisition

★ = unoccupied structure/vacant land; possible Town acquisition

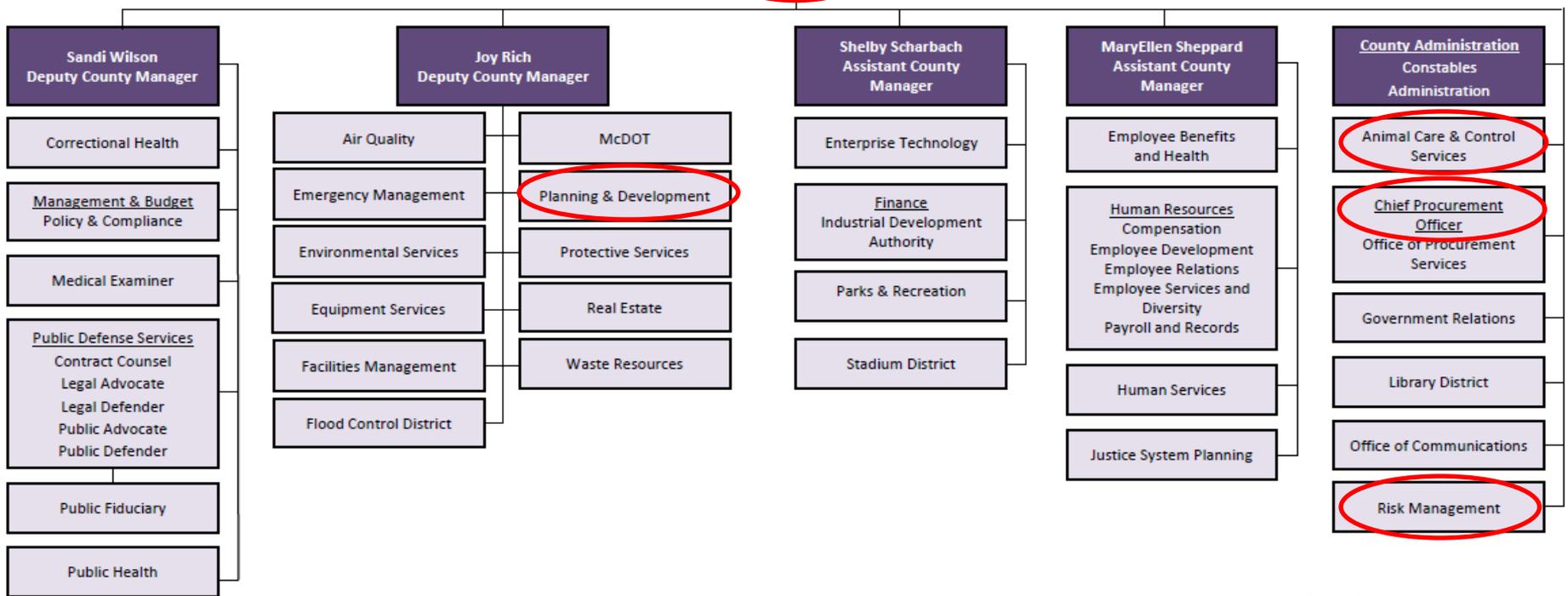
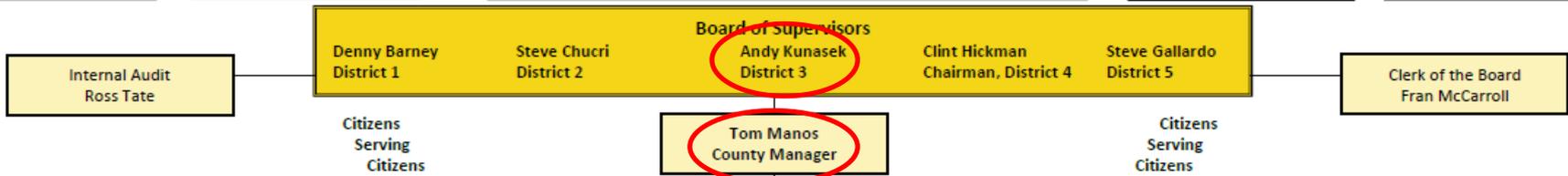
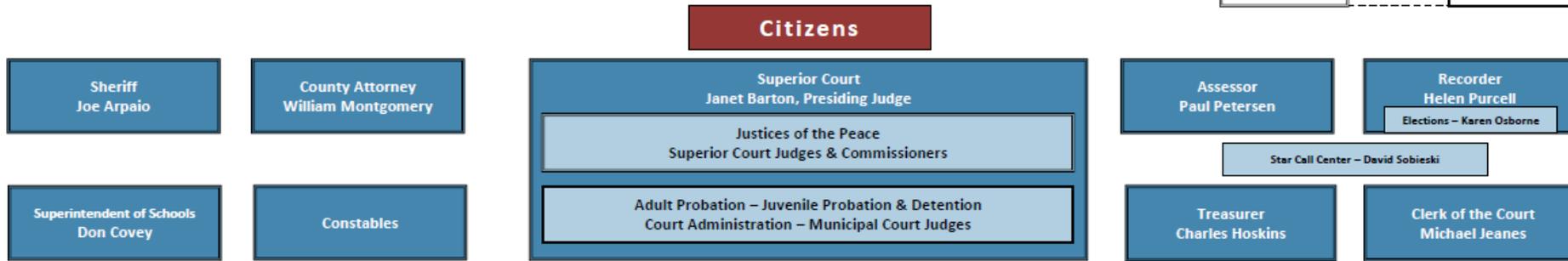


Comments from the Chief Engineer and General Manager



Maricopa County Organizational Chart

Elected Position	Key	Appointed Position
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Tom Manos

Tom Manos, County Manager
Effective 2/22/2016



Summary of Recent Actions By the Board of Directors



Denny Barney
District 1



Steve Chucri
District 2



Andy Kunasek
District 3



Clint L. Hickman
District 4
- Chairman -



Steve Gallardo
District 5

