

FLOOD CONTROL DISTRICT
OF
MARICOPA COUNTY
325 W. DURANGO
PHOENIX, ARIZONA 85009

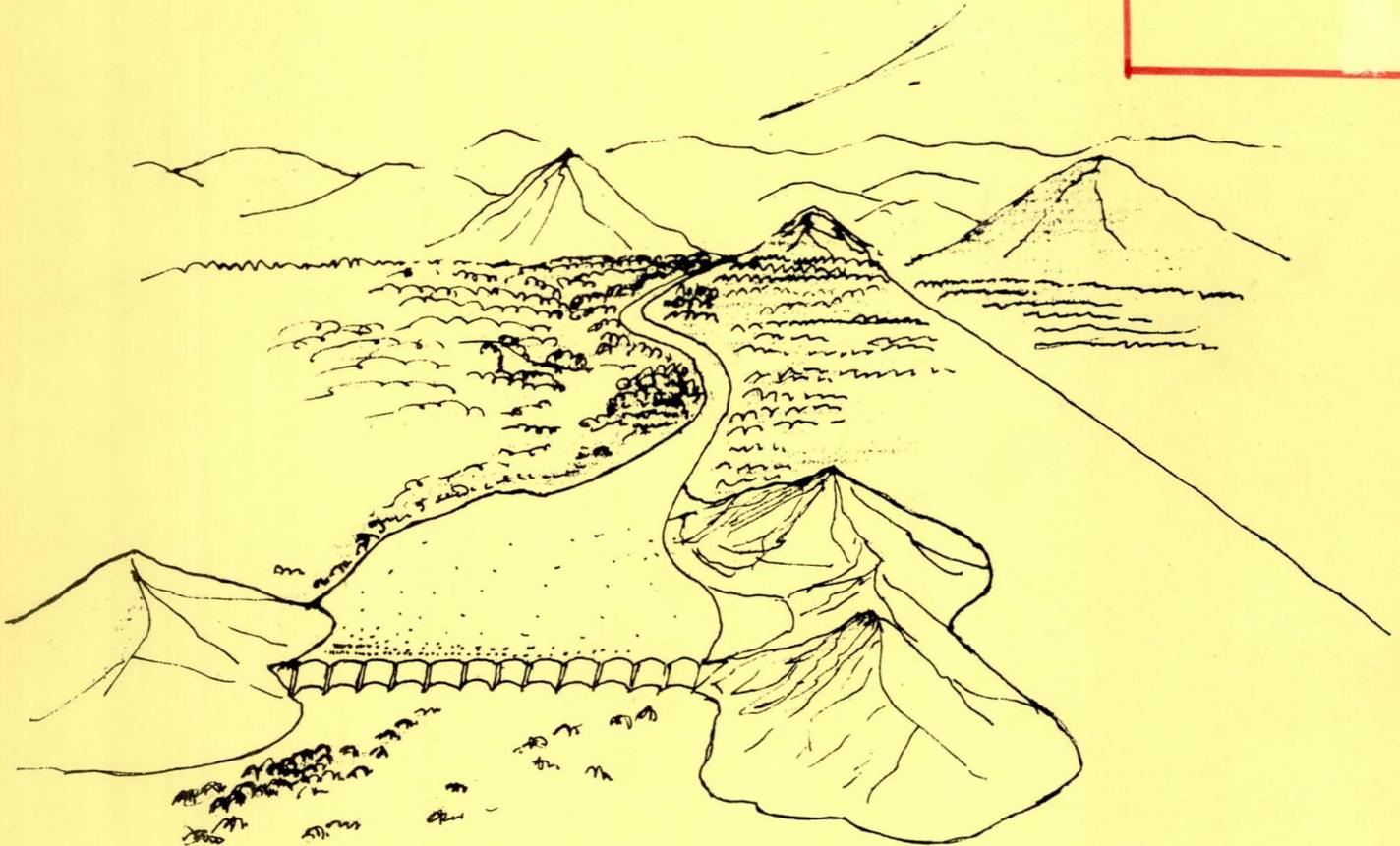
LIBRARY

**A FEASIBILITY STUDY
FOR THE
DEVELOPMENT OF THE
CAVE CREEK FLOODWAY**

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Phoenix, AZ 85009

P.R. 49



by
Steve Granillo

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PREFACE

This study proposing dedication, usage, and development of the recreational-open space potential of Cave Creek Wash, from the Cave Creek Reservoir to the town of Cave Creek, arose out of a study of the Desert Foothills Area. The investigation was conducted by the fourth and fifth year verticle planning studio of the College of Architecture at Arizona State University.

Initially different problems and issues of planning concern to the Desert Foothills Area were studied by various members of the studio. From these investigations reports were written as part of a preliminary phase and further areas were identified as needing more study. This report was written as a further investigation into the hydrological problems of the Desert Foothills Area. The study concerns itself with Cave Creek Wash, the speculative growth threatening the area and, the need for a land use policy along Cave Creek Wash.

With mass real estate speculation of the Desert Foothills Area on the horizon, the drainage way of the wash is potentially subject to alterations and encroachment. Vast acreages of state and public lands abutting the wash are vulnerable to sale and ultimately speculation. Therefore if we are to retain land in and along the drainage floodway for future open space we must begin planning now. We are currently in a position to influence how the future landscape will be utilized if we act taking advantage of recent planning enabling legislation regarding floodways. With these tools the multiple state, federal, private, and corporate interests along the wash could be coordinated to produce a beneficial planning scheme. It is hoped that this study will lend itself to discussion of the planning challenge and potential inherent in and along the wash, and ultimately to some community action.

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INTRODUCTION

Purpose

The purpose of this report is to study the feasibility of dedicating, using, and developing the open space-recreational potential of Cave Creek Wash.

Current Issues and Potential Leverage Points

There are a number of elements which seem to warrant a need for such planning and which indicate the potential realization of such a development; given design vision, proper sponsorship and guidance, among these are:

Recent flood control enabling legislation at both national and state levels.

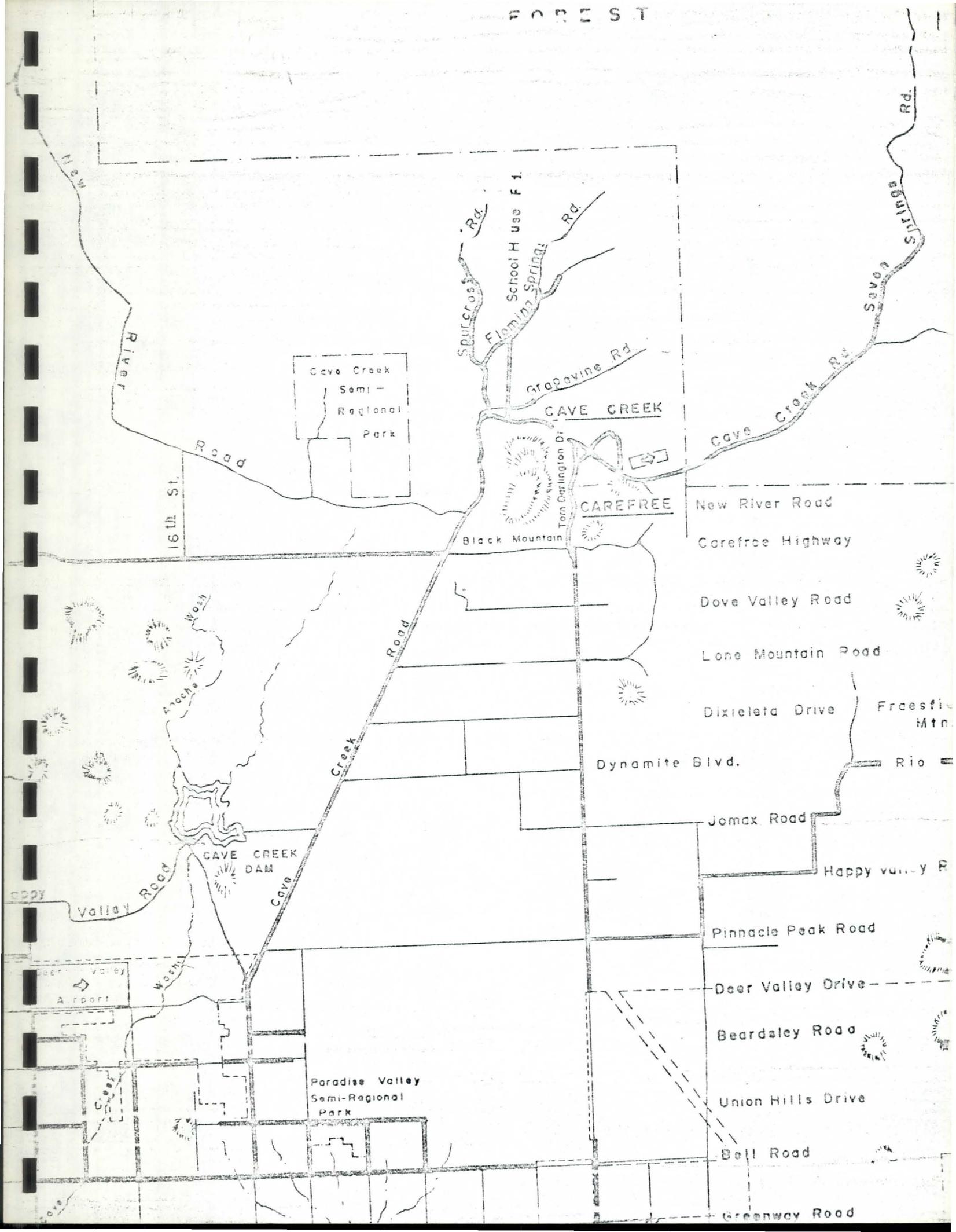
Projected growth and speculation of the Desert Foothills Area

Current Maricopa County Regional Park Proposals

Current proposed additions to a county wide system of riding and hiking trails.

Scope

This report will discuss each of these potential leverage points arguing for the dedication, use and development of the open space-recreational potential along the wash. It will illustrate what can be accomplished given realization of the need for such a policy toward this land, and will discuss what opportunities can be lost given failure to adopt a coordinated planning scheme for the area.



New River

16th St. Road

Cave Creek
Semi-Regional
Park

Spurcross Rd.

School H use F 1.
Flaming Springs Rd.

Grapevine Rd.

CAVE CREEK

Tom Darlington Dr.

CAREFREE

Black Mountain

New River Road

Carefree Highway

Dove Valley Road

Lone Mountain Road

Dixieleta Drive

Freestone Mtn.

Dynamite Blvd.

Rio

Jomax Road

Happy valley R

Pinnacle Peak Road

Deer Valley Drive

Beardsley Road

Union Hills Drive

Bell Road

Greenway Road

Ancho Wash

CAVE CREEK DAM

Cave Creek

Creek Road

Paradise Valley
Semi-Regional
Park

Deer Valley Airport

Wash

CDPY

THE PROBLEM

Problem Statement

Flooding and encroachment into flood prone lands is a problem. In undeveloped areas around existing urban centers, where ever increasing demands are being placed, occupancy of flood prone lands by unknowing or unscrupulous builders becomes a threat to life and property. One local area in which the threat of rampant speculative development is likely to occur, is the area north of the present reaches of Phoenix; the Desert Foothills Area (see location map).

Background

In arid regions, like the Desert Foothills Area, surface water is rare. Surface waters usually only occur from accumulation of runoff during the short intense thunderstorms which are characteristic to the area, at all other times, however, the drainage basins and floodways in which they flow lie empty and dry. In areas such as the Desert Foothills region where lands of great scenic beauty have aroused much interest, potential encroachment into the harmless looking drainage ways may occur. Encroachment or not; the waters periodically return to claim their natural course causing economic loss, suffering and possibly death to those in the way. Therefore flood control and flood plain management become necessary to minimize damages and prevent further encroachments.

FLOOD CONTROL & FLOOD CONTROL, ENABLING LEGISLATION

Why All the Concern?

An obvious question which comes to mind is why is there all the concern now about flood control and flood plain management? One factor which has been mentioned is the rate at which flood prone areas are being used as building and development sites with no regard to any consequences. Another is the fact that structural control measures such as dams, channels and levees have only been partially effective in controlling disaster, many times they have done more damage than good.

Federal Incentives

Despite nation-wide federal investments, in flood control, exceeding 9 billion dollars during the last 30 years economic losses continue to rise at over a billion dollars annually¹. So then with the magnitude of such losses approaching staggering proportion it has now been recognized that broader comprehensive flood control measures must be taken. Flood control must not be blanket applications of structural works but a balanced blend of structural improvements and sound management programs including where possible preservation of natural drainage courses. Further, human nature being what it is, the issue of flood control and flood plain management has come into national prominence not primarily because of any environmental lobbies or intents to do good but, because of economic concerns. According to a 1968 Housing and Urban Development (HUD) Act, to qualify for federally subsidized community flood insurance both local and state governments have to adopt land use regulations which include zoning, subdivision, building and health ordinances to protect people and property in flood plains. The economic issue seems therefore to be the prime mover in getting states to regulate the uses in flood plains.

Arizona State Enabling Acts

Since the passage of the federal H. U. D. Act the State of Arizona has passed a flood plain management enabling act to comply with federal requirements. Several other bills as related to flood control have been passed and together they form the basis for flood control management programs in the state. One piece of legislation relates to land acquisition for flood control projects, House Bill 2074, it authorizes the Arizona State Land Department to yield lands as right of way for flood control projects (see appendix). A second significant legislative act is Senate Bill 1104 authorizing funding for flood control projects. It provides for control works and significantly recognizes the

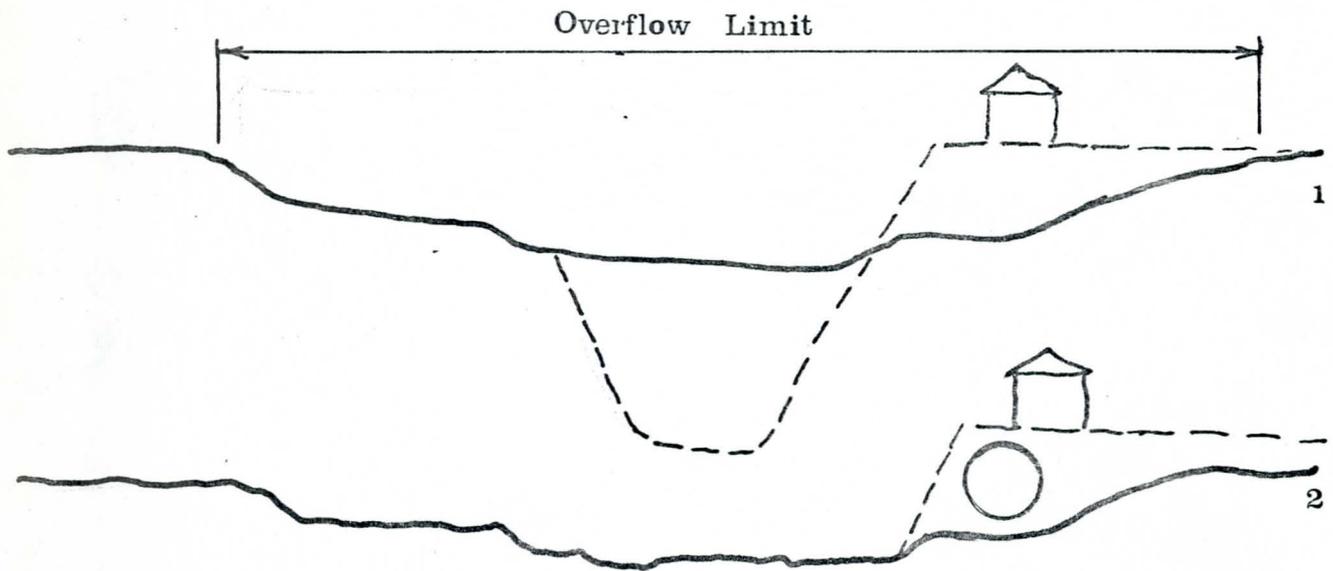
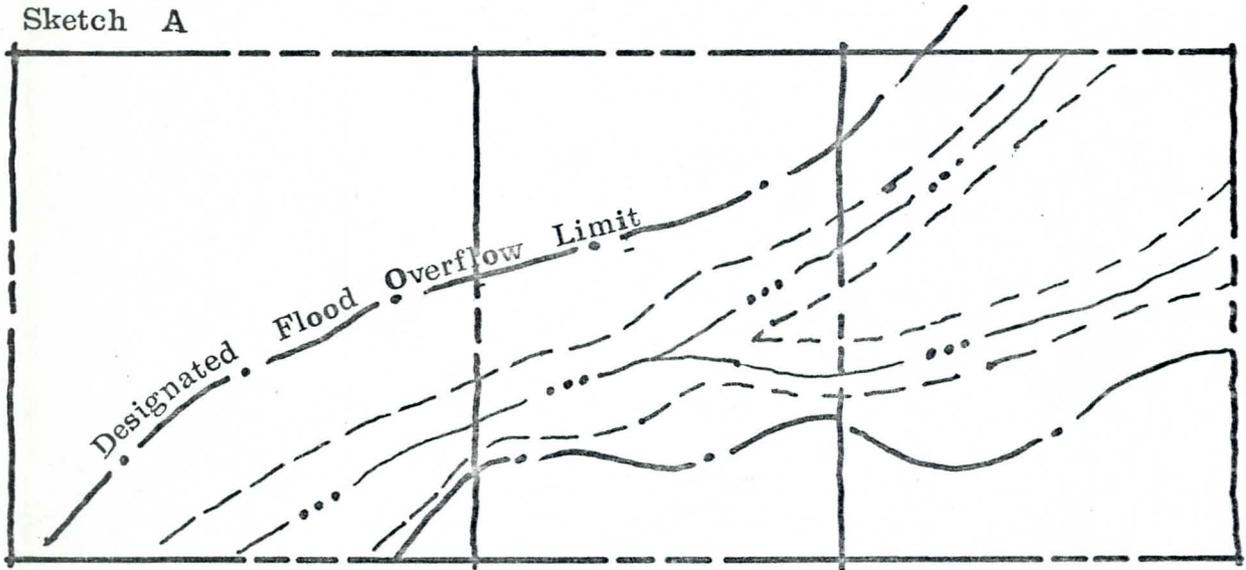
¹ Planning Advisory Service; ASPO Report No. 277, February 1972, pp. 3.

alternative to structural flood control methods by encouraging where possible natural drainage ways. The third piece of legislation is House Bill 2010 which required state and local adoption of flood plain management regulations to comply with federal requirements for subsidized insurance. Under House Bill 2010 numerous flood control boards are created which must adopt regulations to prevent further encroachment and minimize damages. These flood control boards are responsible for delineation of flood prone areas within their area of jurisdiction and must file these with the Arizona State Water Commission. The boards, also, may contract for help in the delineation of their areas from the U.S. Army Corp of Engineers, a county flood control district or from a qualified engineering consultant. The flood plain boards must also adopt zoning ordinances, subdivision regulations, building codes, housing codes, set back requirements and open area regulations controlling the use and development of land in flood prone areas. While in theory the new law is intended to cover all streams and water courses, practically speaking, it does not cover as yet all areas, but provides room for a stage by stage evaluation of streams for flood delineation. The law provides this room because to date only a minority of streams in Arizona have had studies done on them to determine their overflow limits caused by the 50 and 100 year flood requirement stated in the law. In the language of the new bill when each flood plain board adopts a flood plain limit, within which regulations will be applied, all further development will be illegal. Any project proposed will have to be applied for, if no data on a stream has been established to set the limits, a decision will have to be made by a resident flood plain board engineer. He will be responsible for determining whether or not a project will impede the flow of waters.

The whole question of flood control has a deeper meaning than mere protection. It involves a possible conflict with the wishes of the public and the right of property owners to do with their land what they see fit. Under the law and the decisions which will ultimately be made by a flood control board engineer, loop holes and ambiguities will surely be discovered. If public planning is to be useful anticipation of these ambiguous areas must be made. What ultimately will be construed to constitute an abstraction in light of the private property owners attempt to utilize his land will be interesting to behold. Further what will and won't be allowed will be subject to controversy and ultimately end up in the courts.

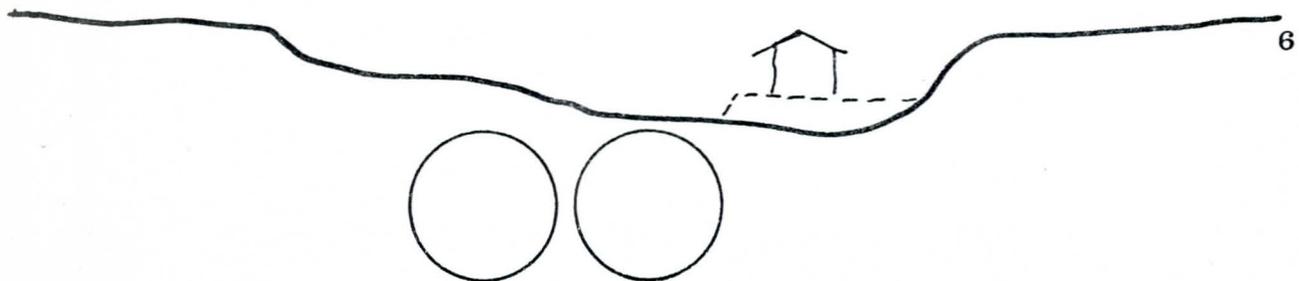
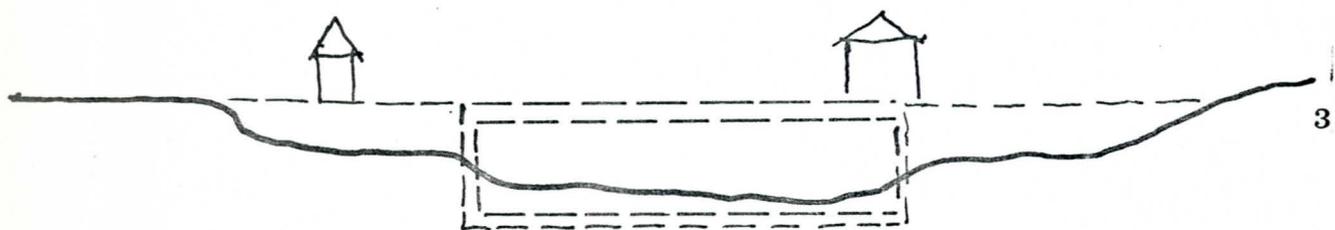
This author has in hypothesizing utilization of the Cave Creek Wash for public purposes thought of some of the conflicts which might arise and has posed some questions (see diagram No. 1 below). Admittedly I don't have the answers but someone in authority will ultimately be faced with yielding a decision.

Sketch A



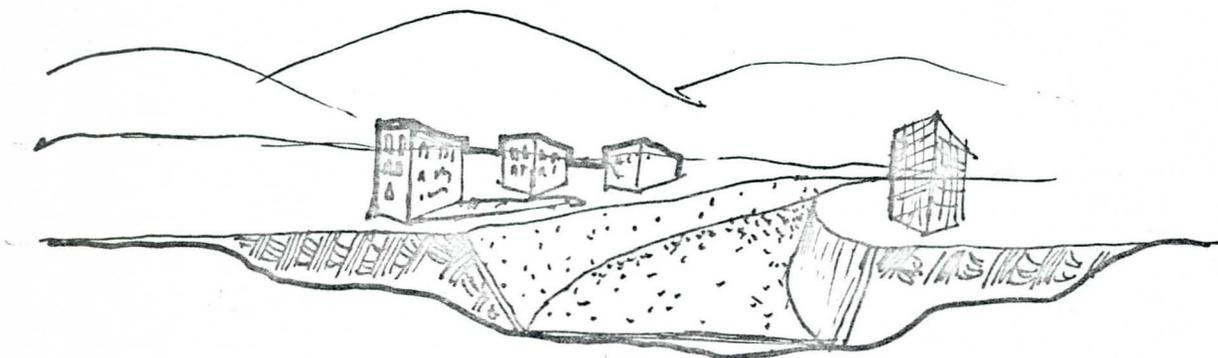
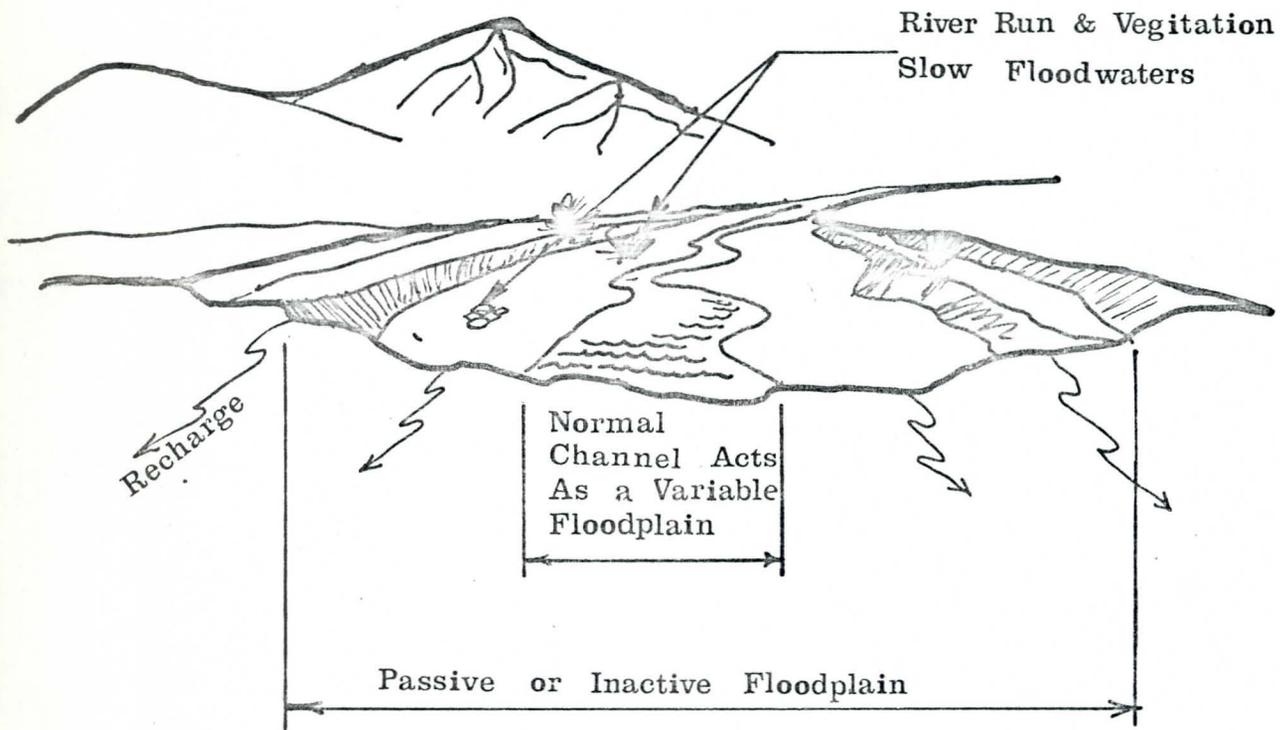
Given the situation shown in sketch A, where the designated flood plain limits most of an individual property owners land, what uses will ultimately be allowed? Will the attempted uses shown in sketches 1 through 6 be allowed? These are the policy decisions which will be subject to controversy and the one's which may possibly end up in court.

Diagram No. 1



While the spirit of the law advocates control and regulation of these lands the word of the law is generally open to conflict and is ambiguous. Several other areas of ambiguity are discussed here as follows:

1. While House Bill 2010 sets guide lines for the definition of a design flood plain between areas inundated by a minimum, 50 year flood and maximum 100 year flood, no coordination among adjacent municipalities is required. The net effect of this could be extensive channelization within the jurisdiction of one community. This would amplify the effect of say a 50 year flood by raising the normal height and increasing its velocity by providing a smooth channel through which the flood waters could race. With extensive channelization of a water course the recharge of ground water could be impaired and, the active and inactive flood plains, which have a more effective stabilizing effect on flood waters, would be eradicated. Conflicts of non-coordination would arise when a community down stream chose to regulate flows by leaving the stream in a natural state; allowing no encroachment within a 50 year flood plain but possibly some within the 100 year. The increased velocity and volume coming from the community who choose channelization would empty into the lands of the other, flooding more severely or cancelling any flood proofing attempted within one set of regulations (see diagram No. 2). This set of circumstances is further compounded by the many flood plain boards created. The main question posed by this author is, why isn't one overall jurisdictional body like a county flood control district given the ultimate responsibility and authority for handling flood control management programs. This would eliminate multiple jurisdictions and provide for effective control.
2. Section 2343 paragraph B, part 2 of House Bill 2010 states that one does not have to receive written authorization, or shall a flood plain board prohibit the construction of storage dams for watering livestock or wildlife. This seems to be in conflict with the intent of the bill in that foreseeably these uses could increase the flood flow heights causing lateral backup of water into areas which would normally be out side of danger. This author believes that while the spirit of the law states one thing elements of the language have other connotations. Further there will probably be many court cases which will finally shape a meaning to be generally held.



Channelization encourages building development along its banks. This increases the runoff into the channel increasing the volume of flow. It further removes the active and inactive flood plains which allow ground water recharge and removes natural obstructions which help slow floodwaters.

POSSIBLE SOURCES OF CONFLICT IN NONCOORDINATION OF FLOOD CONTROL LIE IN THE BASIC PATTERN DIFFERENCES BETWEEN CHANNELIZATION AND LEAVING A STREAM IN A NATURAL CONDITION.

Diagram No.2

3. One final observation is related to enforcement. No provision is defined in the law as to whom will serve notice of violations or who will patrol the water sheds to check for violators. This issue of enforcement was driven home while researching material for this study. While conferring one day with the Maricopa County Flood Control District, a complaint was received by them stating that a certain contractor was filling in a wash. The complainant called the County Sheriff's Department only to be told that they had no jurisdiction in the matter and that it was a matter of flood control. Flood control claimed they had no power to serve summons. It was later discovered that the only recourse the complainant had was to file suit against the contractor to get an injunction for him to stop. The matter of enforcement will be quite a problem indeed, if no machinery is set up to handle this.

Summary

In summary then there is now a case for flood control which has federal and state backing, which now recognizes a broader approach to flood problems than mere physical structural works. The new emerging approaches for flood control through land use regulations has a potential to shape the future landscape of our urban and rural areas. As a new approach possibly limiting private land use the effectiveness will ultimately depend on how well we will be able to anticipate what will be challenged.

COMMUNITY AND REGIONAL PROFILE

General

There are several important elements emerging which reinforce the need for formulating land use concepts toward Cave Creek Wash. One is the projected growth and speculation of the Desert Foothills Area; another is the emerging attitude held by the communities of Cave Creek-Carefree on continued growth and the desert environment; other elements are Maricopa County's current plans for a Regional Recreation Area in the vicinity and future extensions to the county wide system of hiking and riding trails.

Projected Population Growth & Speculation

The 1990 population projections for Maricopa County range from 1,910,000 to 2,215,000 persons². Based on these county figures the 1990 population of Cave Creek-Carefree area can be expected to reach 7000 (see plate 3). Therefore with continued growth it is reasonable to assume that present development below Thunderbird Lane will leap frog into the Desert Foothills Area and the present 10 mile corridor between Phoenix and Cave Creek-Carefree will be urbanized, since 1966 fifteen subdivisions in the Cave Creek Area have been approved. At the present rate of rapid growth it is reasonable to assume continued growth and development (see plate 4). Therefore open space must be planned for now.

Emerging Community Attitudes

Based on the findings of a poll taken concerning desirable growth patterns, most people of the area held that low density development was best for the Area. Further people felt that growth in a controlled manner was best to minimize desert destruction and to protect the environment. The people of the Desert Foothills Areas have shown by their leadership in establishing the Desert Foothills Scenic Drive and the Black Mountain Reserve that they intend to preserve the desert environment and extend an appreciation of it to others who may seek it. Therefore any flood control programs proposed must take into account community attitude on the type of control program that is best.

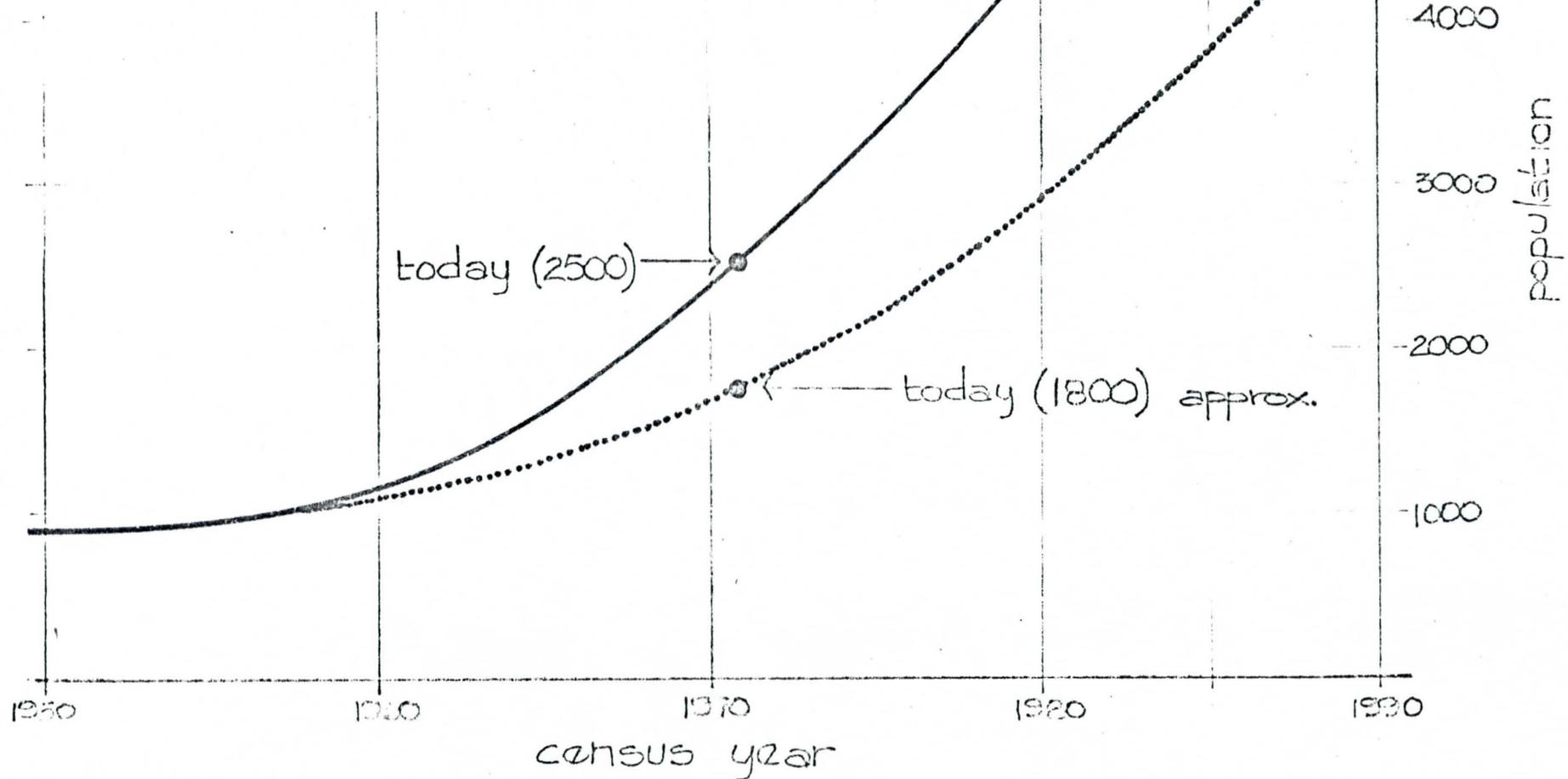
Based on the attitudes and community service record of the people of the Desert Foothills Area it is reasonable to assume that any open space regulatory proposal for flood control on the reach of Cave Creek Wash through their area would meet with enthusiasm. There is the very real possibility that they may institute the community support for such plans if proposed. If the prevalent community ideals are to be met the people in the area must be given alternatives to the structural flood control project proposed on Cave Creek Wash by the Army Corp of Engineers which is to consist of an 800 foot dike along the wash.

²The Desert Foothills Area General Landuse Plan, by Maricopa County Planning & Zoning, May 1973.

○ 1990 population of 4,600 was arrived at by applying c.c. & c. percentage of maricopa co.'s pop (.207) to a high estimate of 2,215,000 pop. of maricopa co. by 1990.

○ 1990 population of over 7,500 was arrived at by extending the 1970 to 1972 growth factor of area.

○ population : (past, present, future projections)



maximum pop. during tourist months, all dwelling units occupied



permanent year round pop.

Public Lands

Vast acreages of public land abutt Cave Creek Wash and the Desert Foothills Area (see plate Nos. 5 & 6). These areas are vulnerable to sale and speculation. If lands owned by the Federal and State government are not reserved now for flood controll purposes the risk of ever preserving and developing any open space-recreational potential along the wash may be lost or unduely complicated. Dedications must be made now while there are current political mechanisms with which to do so.

County Park Proposals

Other elements emerging which indicate the possible desireability of developing Cave Creek Wash are the county proposal for a regional park and proposed future additions to a county wide system of riding and hiking trails.

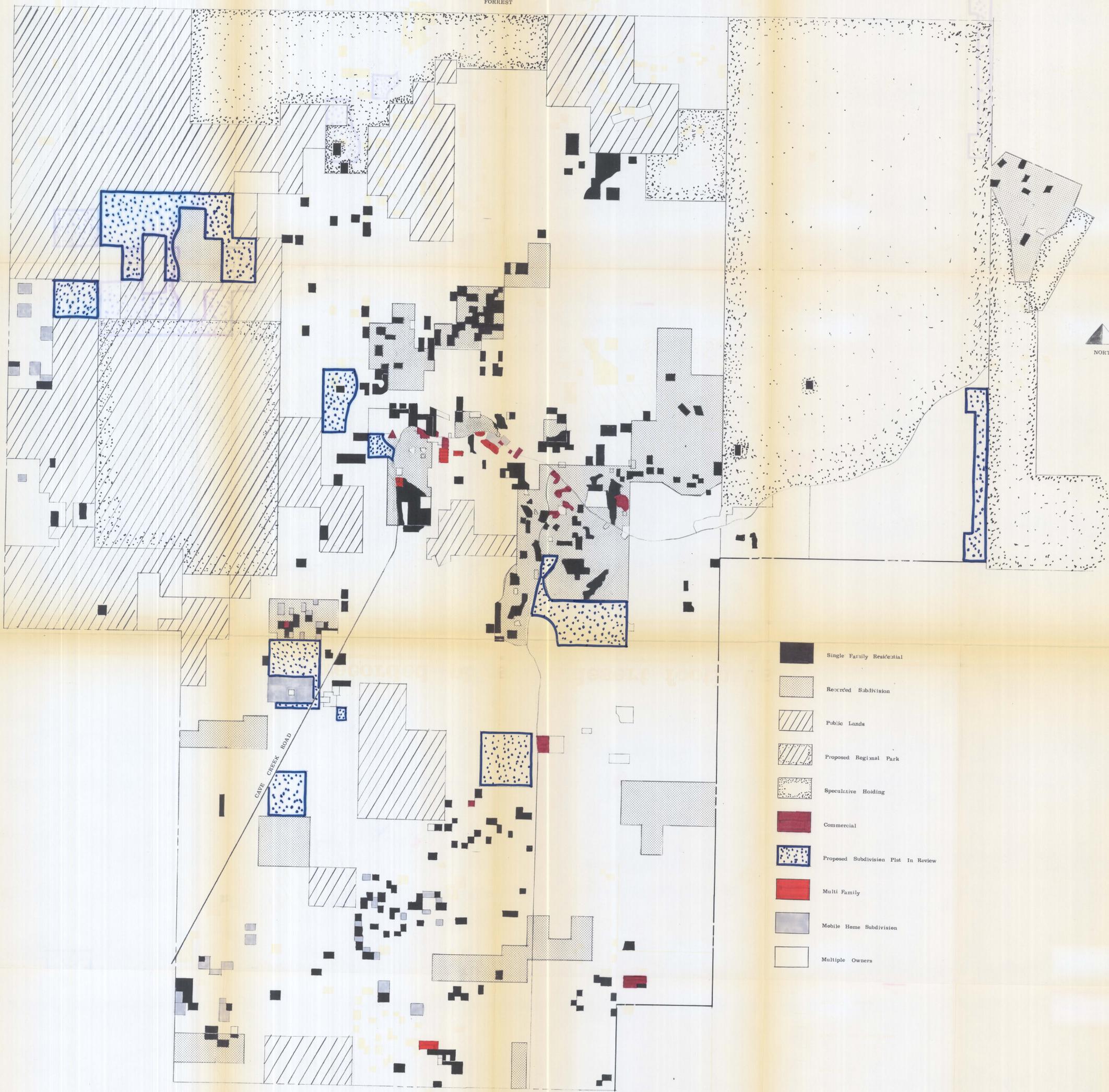
Currently being planned is a county regional park on lands acquired from the U.S. Bureau of Land Management (see plate No.7). To date there has been no construction but plans are to include outdoor eating for single family groups (ie,; individual ramadas) and public rest room facilities with "pit type collectors". Although the land acquired involves some four sections relétively small areas will be used for picnicing structures principally due to the steep rocky terrain. Because of this limited land area in which these facilities are to be located fewer people will be accomodated.

An alternate proposal to this park and one which may ultimately become a hiking and riding corridor consistant with future plans would be utilization of a corridor in and along the floodways of Cave Creek Wash (see plate No. 8). This corridor could span from the Cave Creek Reservoir to the proposed park site and beyond into the towns of Cave Creek-Carefree. included within its boundries could be a hiking and riding trail with picnicing and rest stops along the way. A botanical nature trail could be initialized with plants identified in a manner similar to the Desert Foothills Scenic Drive. This might be a more permanent location for them not being in a highway easement and possibly in danger of being wiped out as street widening would warrant.

Summary

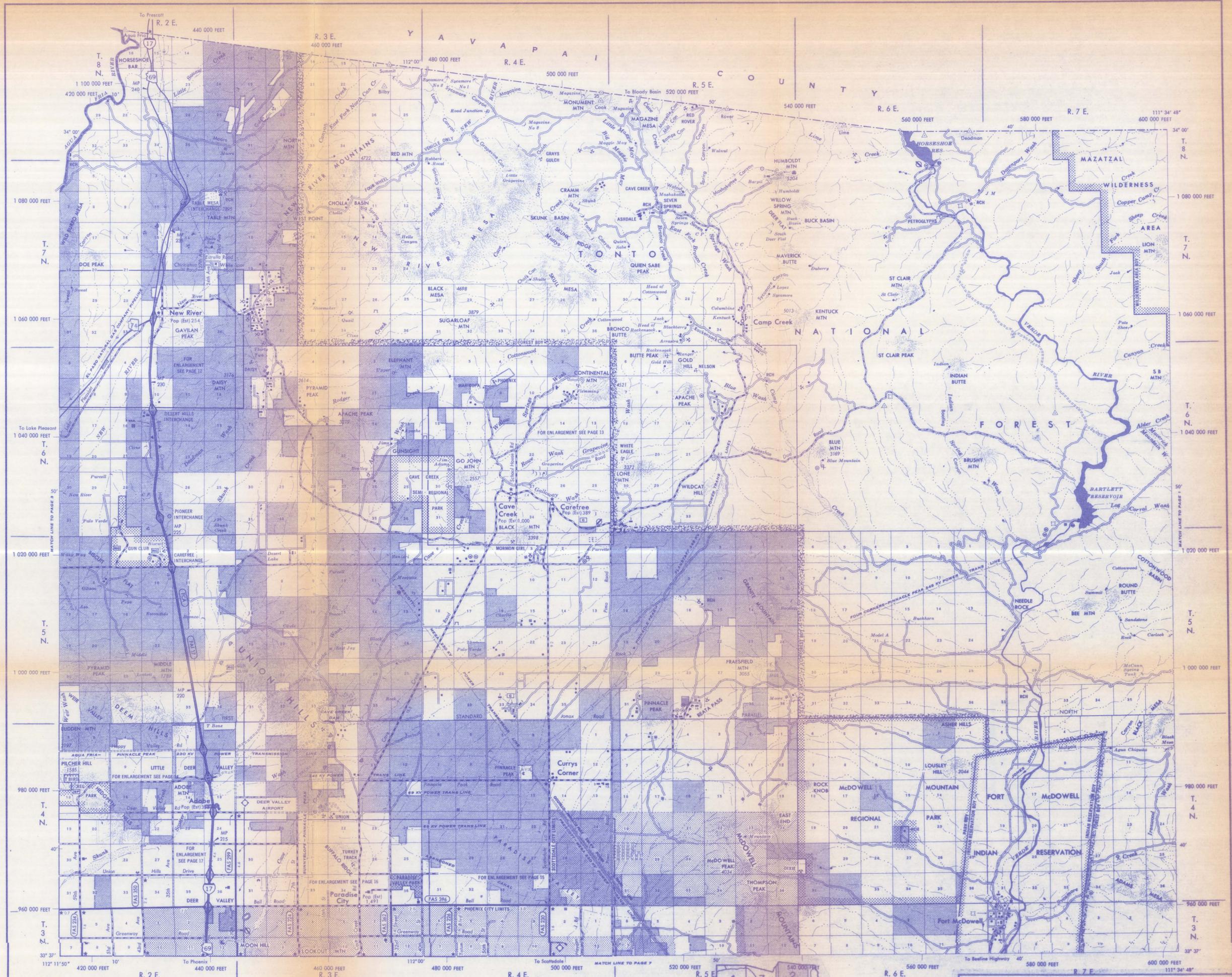
Summarizing then, it can be reasonably stated that the Desert Foothills Area will be speculated upon and that future population growth will surely encroach upon the drainage path of the Cave Creek Wash. If future open space is to be retained we must out to work now some of the potential planning leverage forces discussed and not miss the opporunities presenting themselves here. Properly planned open space is as important as transportation in giving future form to our landscape. This project proposal may someday function as a link in a county wide system of green belts possibly connecting to the Rio Salado and

Indian Bend Wash projects. What ever its future it would surely be a planning and flood control asset.



-  Single Family Residential
-  Recreational Subdivision
-  Public Lands
-  Proposed Regional Park
-  Speculative Holding
-  Commercial
-  Proposed Subdivision Plat In Review
-  Multi Family
-  Mobile Home Subdivision
-  Multiple Owners

recorded plats in desert foothills



T. 8 N.
1 080 000 FEET
T. 7 N.
1 060 000 FEET
To Lake Pleasant
1 040 000 FEET
T. 6 N.
1 020 000 FEET
T. 5 N.
1 000 000 FEET
T. 4 N.
980 000 FEET
T. 3 N.
960 000 FEET
33° 37'

34° 00'
T. 8 N.
1 080 000 FEET
T. 7 N.
1 060 000 FEET
T. 6 N.
1 040 000 FEET
T. 5 N.
1 020 000 FEET
T. 4 N.
980 000 FEET
T. 3 N.
960 000 FEET
33° 37'

To Prescott
R. 2 E.
440 000 FEET
R. 3 E.
460 000 FEET
Y
A
V
A
P
A
I
R
C
O
U
N
T
Y
R. 4 E.
500 000 FEET
R. 5 E.
540 000 FEET
R. 6 E.
580 000 FEET
R. 7 E.
600 000 FEET
111° 34' 48"

112° 11' 50"
420 000 FEET
R. 2 E.
To Phoenix
440 000 FEET
R. 3 E.
460 000 FEET
112° 00"
480 000 FEET
R. 4 E.
To Scottsdale
500 000 FEET
MATCH LINE TO PAGE 7
520 000 FEET
R. 5 E.
540 000 FEET
R. 6 E.
580 000 FEET
To Beeline Highway
600 000 FEET
111° 34' 48"



The Arizona State Land Department makes no warranties, implied or express, with respect to information shown on these maps. These maps are intended for departmental use only.

GENERAL COUNTY MAP
MARICOPA COUNTY, ARIZONA
ARIZONA HIGHWAY DEPARTMENT
PHOTOGRAMMETRY AND MAPPING DIVISION
IN COOPERATION WITH THE
U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
BUREAU OF PUBLIC ROADS
1968

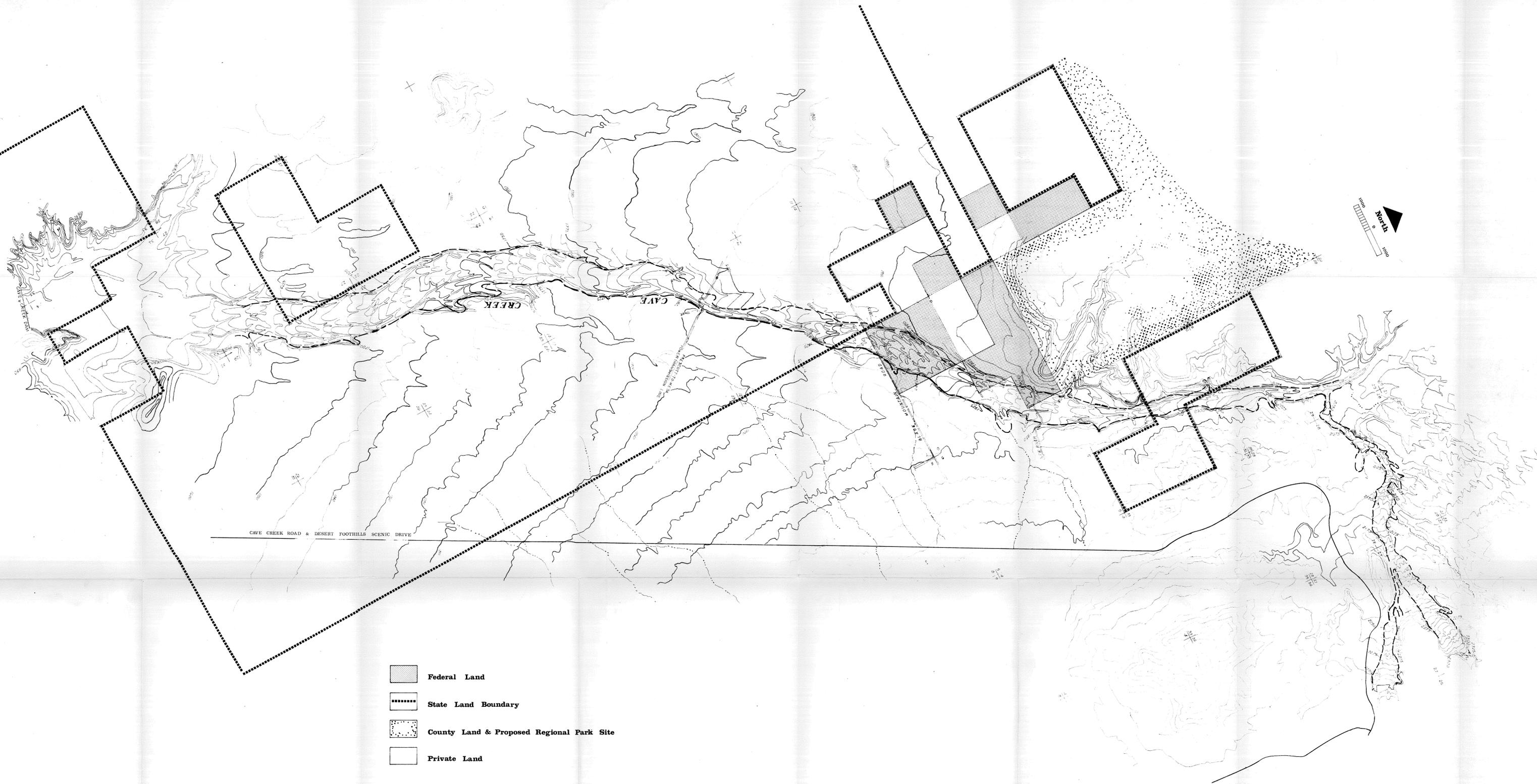


REVISION DATE
5-3-73

ARIZONA STATE LAND DEPT.
SURFACE TRUST LANDS
MARICOPA COUNTY
11 SHEETS, SHEET NO. 2

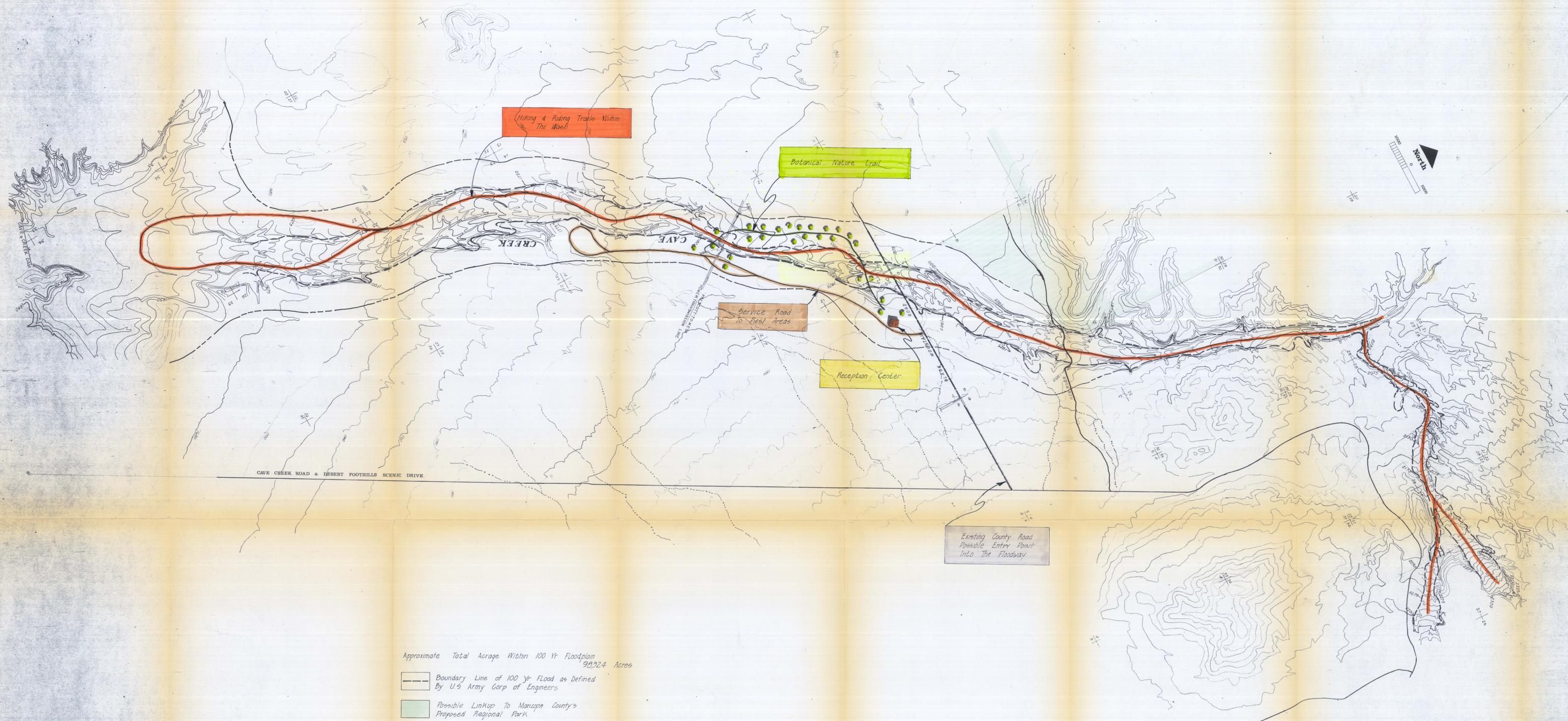
COMPILED BY PHOTOGRAMMETRIC METHODS. PHOTOGRAPHY 1967
CONTROL BY USCGS AND USGS
TRANSVERSE MERCATOR PROJECTION. 1927 NORTH AMERICAN DATUM
ARIZONA COORDINATE SYSTEM, CENTRAL ZONE
UNIVERSAL TRANSVERSE MERCATOR SYSTEM ZONE 12

© AHD



- Federal Land
- State Land Boundary
- County Land & Proposed Regional Park Site
- Private Land

cave creek wash



CAVE CREEK ROAD & DESERT FOOTHILLS SCENIC DRIVE

- Approximate Total Acreage Within 100 Yr Floodplain 98,324 Acres
- Boundary Line of 100 Yr Flood as Defined By U.S. Army Corp of Engineers
 - Possible Linkup To Maricopa County's Proposed Regional Park
 - Proposed 1000' Average Setback Required For Floodway Park

cave creek wash

OVERVIEW & RECOMMENDATIONS

Report Summary

Based on an analysis of each of the foregoing items, which have been discussed, several conclusions have been reached. Those of significance are the following:

1. The proposal for dedication, use, and development of the open space-recreational potential of Cave Creek Wash is indeed feasible. The large acreage of federal and state land abutting the wash; together with state and federal flood control legislation make the proposed land use dedication quite feasible.
2. Failure to adopt such a flood control-open space easement will result in speculation into and along the wash. This encroachment into the area could possibly prohibit any future public access. Further with no dedicated or proposed use, neglect could result and the usual accompanying blight could occur.
3. Failure by our legislators to anticipate loopholes regarding flood plain uses will result in a myriad patchwork of flood control works and attempted uses. These if allowed and taken collectively, might have the same effect as no law at all.
4. Failure to propose any alternative to the U.S. Army Corp of Engineers 800 foot dike along Cave Creek Wash will ultimately aid in its construction. If community ideals are to be preserved other considerations must be proposed.

Recommendations

Planning and public works involve by necessity legal enabling ordinances, but legislative acts alone won't guarantee that things will happen. Therefore, if land is to be retained as open space functioning in a flood control capacity with attendant beneficial uses for man and animal alike, interested organizations and individuals should discuss the idea, appoint a steering committee and:

1. Petition the Maricopa County Board of Supervisors for formulation of a floodway improvement district.
2. Petition the Maricopa County Planning and Zoning Dept. to designate the area on an official map. This would significantly lower the cost of right of way and, the law of eminent domain could be used if necessary to obtain right of way.

3. Contact the Arizona State Horseman's Association Trails Committee. This association has been an active lobby instrumental in establishing hiking and riding trails throughout Maricopa County.
4. Contact the Maricopa County Parks and Recreation Dept. They have been instrumental in acquiring right of way and federal funding for the hiking and riding trails.

Summarizing then, once the question of community support is resolved, there are many avenues open by which this proposal may be realized.

APPENDIX

House Bill 2010
An Act Relating to Waters
Compiled by Arizona Secretary of State

House Bill 2074
An Act Relating to Public Lands
Compiled by Arizona Secretary of State

Senate Bill 1104
Relating to Waters Providing for Flood Control Assistance
Compiled by Arizona Secretary of State

State of Arizona
House of Representatives
Thirty-first Legislature
First Regular Session

CHAPTER 106

HOUSE BILL 2010

AN ACT

RELATING TO WATERS; PROVIDING FOR FLOODPLAIN MANAGEMENT BY CITIES, TOWNS AND COUNTIES; AUTHORIZING ADOPTION OF RULES AND REGULATIONS THEREFOR; PROHIBITING OBSTRUCTION OF WATERCOURSES; PROVIDING FOR DECLARATION OF PUBLIC NUISANCE; REPEALING TITLE 45, CHAPTER 10, ARTICLE 4, ARIZONA REVISED STATUTES, AND AMENDING TITLE 45, CHAPTER 10, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 4.

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Purpose

3 The purpose of this act is to empower the agencies of the state
4 of Arizona, for lands owned by the state, and to empower, encourage and
5 assist cities, towns and counties of the state, to establish, along
6 watercourses, streams and lakes, appropriate regulations which are part
7 of a floodplain management program to:

8 1. Minimize flood damages and reduce the height and violence of
9 floods which are caused by obstructions restricting the capacity of the
10 floodways.

11 2. Prevent unwise encroachment and building development within
12 floodplain areas.

13 3. Protect the life and property of citizens who have settled in
14 floodplain areas.

- 1 4. Enhance property values of abutting floodplain lands.
2 5. Protect public health.
3 6. Reduce the financial burden imposed on the community, its
4 governmental units and its citizens if such land is subject to flooding.
5 7. Enhance wildlife and recreation values where appropriate by
6 preserving riparian vegetation in "green belts" along watercourses and
7 floodplains.

8 Sec. 2. Repeal

9 Title 45, chapter 10, article 4, Arizona Revised Statutes, is
10 repealed.

11 Sec. 3. Title 45, chapter 10, Arizona Revised Statutes, is amended
12 by adding a new article 4, sections 45-2341 through 45-2346, to read:

13 ARTICLE 4. FLOODPLAIN MANAGEMENT

14 45-2341. Definitions

15 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

16 1. "AREA OF JURISDICTION" MEANS:

17 (a) FOR AN INCORPORATED TOWN OR CITY, ALL OF THE LANDS WITHIN
18 THE TOWN OR CITY.

19 (b) FOR A COUNTY, ALL OF THE UNINCORPORATED AREAS OF THE COUNTY.

20 2. "DWELLING UNIT" MEANS A PLACE OF RESIDENCE AND MAY BE LOCATED
21 IN A SINGLE OR MULTIPLE-DWELLING BUILDING.

22 3. "FLOOD" OR "FLOOD WATERS" MEANS A TEMPORARY OVERFLOW OF WATER ON
23 LANDS NOT NORMALLY COVERED BY WATER.

24 4. "FIFTY-YEAR FLOOD" MEANS A FLOOD THAT HAS A TWO PER CENT CHANCE
25 OF OCCURRING, BASED UPON THE CRITERIA ESTABLISHED BY THE ARIZONA WATER
26 COMMISSION.

27 5. "ONE HUNDRED-YEAR FLOOD" MEANS A FLOOD THAT HAS A ONE PER CENT
28 CHANCE OF OCCURRING, BASED UPON THE CRITERIA ESTABLISHED BY THE ARIZONA
29 WATER COMMISSION.

1 6. "FLOODPLAIN" MEANS THE RELATIVELY FLAT AREAS OR LOW LANDS
2 ADJOINING THE CHANNEL OF A WATERCOURSE, OR AREAS WHERE DRAINAGE IS OR
3 MAY BE RESTRICTED BY MAN-MADE STRUCTURES WHICH HAVE BEEN OR MAY BE
4 COVERED PARTIALLY OR WHOLLY BY FLOODWATER, BUT SHALL COMPOSE AN AREA
5 NOT LESS THAN THAT AREA CONFINED BY THE FIFTY-YEAR FLOOD AND SHALL NOT
6 EXCEED THAT AREA CONFINED BY THE ONE HUNDRED-YEAR FLOOD.

7 7. "FLOODPLAIN REGULATIONS" MEANS THE CODES, ORDINANCES AND OTHER
8 REGULATIONS RELATING TO THE USE OF LAND AND CONSTRUCTION WITHIN THE
9 CHANNEL AND FLOODPLAIN AREAS, INCLUDING ZONING ORDINANCES, SUBDIVISION
10 REGULATIONS, BUILDING CODES, HOUSING CODES, SETBACK REQUIREMENTS, OPEN
11 AREA REGULATIONS AND SIMILAR METHODS OF CONTROL AFFECTING THE USE AND
12 DEVELOPMENT OF THE AREAS.

13 8. "PERSON" MEANS ANY INDIVIDUAL OR HIS AGENT, FIRM, PARTNERSHIP,
14 ASSOCIATION, CORPORATION, OR AGENT OF THE AFOREMENTIONED GROUPS, OR THE
15 STATE OR ANY AGENCY OR POLITICAL SUBDIVISION THEREOF.

16 9. "FLOODPLAIN BOARD" MEANS THE GOVERNING BODY OF AN INCORPORATED
17 TOWN OR CITY, CHARTER CITY OR COUNTY.

18 10. "WATERCOURSE" MEANS ANY LAKE, RIVER, CREEK, STREAM, WASH,
19 ARROYO, CHANNEL OR OTHER BODY OF WATER HAVING BANKS AND BED THROUGH WHICH
20 WATERS FLOW AT LEAST PERIODICALLY. THE TERM MAY INCLUDE SPECIFICALLY
21 DESIGNATED AREAS IN WHICH SUBSTANTIAL FLOOD DAMAGE MAY OCCUR.

22 45-2342. Flood magnitude criteria; floodplain
23 delineation; regulations

24 A. WITHIN SIXTY DAYS AFTER THE EFFECTIVE DATE OF THIS ACT, THE
25 ARIZONA WATER COMMISSION SHALL DEVELOP AND ADOPT CRITERIA FOR ESTABLISHING
26 THE FIFTY AND ONE HUNDRED YEAR FLOODS FOR THE STATE OF ARIZONA.

27 B. WITHIN ONE HUNDRED EIGHTY DAYS AFTER THE EFFECTIVE DATE OF THIS
28 ACT, THE FLOODPLAIN BOARD, WITHIN ITS AREA OF JURISDICTION SHALL DELINEATE
29 FOR AREAS WHERE DEVELOPMENT IS ONGOING OR IMMINENT, AND THEREAFTER AS
30 DEVELOPMENT BECOMES IMMINENT, FLOODPLAINS CONSISTENT WITH THE CRITERIA
31 DEVELOPED BY THE ARIZONA WATER COMMISSION. THE FLOODPLAINS SO DESIGNATED
32 SHALL BE SUBMITTED TO THE WATER COMMISSION.

1 C. THE FLOODPLAIN BOARD SHALL ADOPT FLOODPLAIN REGULATIONS
2 WHICH SHALL INCLUDE THE FOLLOWING:

3 1. REGULATIONS FOR ALL SUBDIVISION OF LAND, CONSTRUCTION OF
4 DWELLING UNITS OR COMMERCIAL OR INDUSTRIAL STRUCTURES OR USES WHICH
5 MAY DIVERT, RETARD OR OBSTRUCT FLOOD WATER AND THREATEN PUBLIC HEALTH,
6 SAFETY OR THE GENERAL WELFARE.

7 2. REGULATIONS WHICH ESTABLISH MINIMUM FLOOD PROTECTION ELEVA-
8 TIONS AND FLOOD DAMAGE PREVENTION REQUIREMENTS FOR USES, STRUCTURES
9 AND FACILITIES WHICH ARE VULNERABLE TO FLOOD DAMAGE. REGULATIONS
10 ADOPTED UNDER THIS SECTION ARE TO BE IN ACCORDANCE WITH STATE AND
11 LOCAL LAND USE PLANS AND ORDINANCES, IF ANY.

12 3. REGULATIONS WHICH PROVIDE FOR COORDINATION BY THE FLOODPLAIN
13 BOARD WITH ALL OTHER INTERESTED AND AFFECTED POLITICAL SUBDIVISIONS
14 AND STATE AGENCIES.

15 4. REGULATIONS WHICH REQUIRE THAT ANY DWELLING BUILT WITHIN A
16 FLOODPLAIN SHALL BE CONSTRUCTED SO AS TO PLACE THE MINIMUM FLOOR
17 ELEVATION OF THE DWELLING UNIT ABOVE THE HIGH WATER LINE OF THE ONE
18 HUNDRED YEAR FLOOD.

19 D. FLOODPLAIN BOARDS MAY ENTER INTO COOPERATIVE AGREEMENTS PUR-
20 SUANT TO TITLE 11, CHAPTER 7, ARTICLE 3 FOR THE DELINEATION OF FLOOD-
21 PLAINS AND ADOPTION OF REGULATIONS WITHIN SUCH FLOODPLAIN.

22 E. FLOODPLAIN REGULATIONS ENACTED PURSUANT TO THIS ARTICLE MAY
23 ONLY BE ADOPTED AFTER A PUBLIC HEARING AT WHICH PARTIES IN INTEREST AND
24 OTHER CITIZENS HAVE AN OPPORTUNITY TO BE HEARD. AT LEAST THIRTY DAYS PRIOR
25 TO THE HEARING, A NOTICE OF THE TIME AND PLACE OF HEARING SHALL BE PUB-
26 LISHED IN A NEWSPAPER OF GENERAL CIRCULATION WITHIN THE AREA OF JURISDICTION
27 OF THE FLOODPLAIN BOARD OR IF NO NEWSPAPER OF GENERAL CIRCULATION IS REGU-
28 LARLY PUBLISHED WITHIN THE AREA OF JURISDICTION, IN A NEWSPAPER OF GENERAL
29 CIRCULATION REGULARLY PUBLISHED NEAREST THE AREA OF JURISDICTION. A NOTICE
30 OF ANY HEARING ACCOMPANIED BY A COPY OF EACH OF THE PROPOSED RULES AND
31 REGULATIONS SHALL BE FURNISHED TO THE ARIZONA WATER COMMISSION AT LEAST
32 THIRTY DAYS PRIOR TO THE DATE OF SUCH HEARING. A COPY OF ANY REGULATION
33 ADOPTED BY A FLOODPLAIN BOARD PURSUANT TO THIS ARTICLE SHALL WITHIN FIVE

1 DAYS THEREAFTER BE FILED WITH THE ARIZONA WATER COMMISSION.

2 F. ONE HUNDRED EIGHTY DAYS AFTER THE EFFECTIVE DATE OF THIS
3 ARTICLE, AND AT ALL TIMES THEREAFTER, ALL SUBDIVISION OF LAND, CON-
4 STRUCTION OF DWELLING UNITS OR COMMERCIAL OR INDUSTRIAL STRUCTURES OR
5 FUTURE DEVELOPMENT WITHIN DELINEATED FLOODPLAIN AREAS IS PROHIBITED
6 UNLESS:

7 1. SEVENTY-FIVE PERCENT OF SUCH FLOODPLAIN AREA WITHIN A PLATTED
8 AND APPROVED SUBDIVISION TO BE DEVELOPED AND UTILIZED FOR SUCH UNITS AND
9 STRUCTURES HAS BEEN SO DEVELOPED AND UTILIZED ON THE EFFECTIVE DATE OF
10 THIS ARTICLE; OR

11 2. PRIOR TO REGULATIONS HAVING BEEN ADOPTED, A SPECIAL PERMIT IS
12 GRANTED BY THE FLOODPLAIN BOARD; OR

13 3. A SPECIAL PERMIT IS GRANTED BY THE STATE AGENCY HAVING THE
14 PRIMARY LAND MANAGEMENT ADMINISTRATIVE DUTY OVER THE LANDS IF DEVELOPMENT
15 OR CONSTRUCTION IS TO BE ON LANDS OWNED OR HELD IN TRUST BY THE STATE; OR

16 4. FLOODPLAIN REGULATIONS HAVE BEEN ADOPTED PURSUANT TO THIS
17 ARTICLE FOR SUCH FLOODPLAIN AREA AND ARE IN FULL FORCE AND EFFECT.

18 G. THE FLOODPLAIN BOARD PRIOR TO ADOPTING REGULATIONS MAY ISSUE A
19 SPECIAL PERMIT AUTHORIZING CONSTRUCTION OR DEVELOPMENT WHEN THE FLOODPLAIN
20 BOARD FINDS THAT CONSTRUCTION OR DEVELOPMENT IS NOT A DANGER TO PERSONS OR
21 PROPERTY.

22 H. NOTHING IN THIS ARTICLE OR ANY REGULATIONS ADOPTED PURSUANT TO
23 THIS ARTICLE SHALL:

24 1. AFFECT EXISTING USES OF PROPERTY OR THE RIGHT TO THE CONTINUATION
25 OF THE USE.

26 2. AFFECT REASONABLE REPAIR OR ALTERATION OF PROPERTY FOR THE PUR-
27 POSES FOR WHICH SUCH PROPERTY WAS USED ON THE EFFECTIVE DATE OF THIS ACT
28 OR ANY REGULATIONS AFFECTING SUCH PROPERTY TAKES EFFECT.

29 3. AFFECT OR APPLY TO FACILITIES CONSTRUCTED OR INSTALLED PURSUANT
30 TO A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY ISSUED UNDER THE AUTHORITY
31 OF TITLE 40, CHAPTER 2, ARTICLE 6.2.

32 I. WITHIN ONE HUNDRED TWENTY DAYS AFTER COMPLETION OF CONSTRUCTION
33 OF ANY FLOOD CONTROL PROTECTIVE WORKS, THE FLOODPLAIN IN THE AREA BENEFITED
34 BY SUCH WORKS SHALL BE REDEFINED.

1 45-2343. Authorization required for construction

2 in watercourses; exemptions

3 A. NO PERSON SHALL CONSTRUCT ANY STRUCTURE WHICH WILL DIVERT, RETARD
4 OR OBSTRUCT THE FLOW OF WATERS IN ANY WATERCOURSE WITHOUT SECURING WRITTEN
5 AUTHORIZATION FROM THE FLOODPLAIN BOARD IN WHICH THE WATERCOURSE IS LOCATED.

6 B. WRITTEN AUTHORIZATION SHALL NOT BE REQUIRED NOR SHALL THE FLOOD-
7 PLAIN BOARD PROHIBIT:

8 1. THE CONSTRUCTION OF BRIDGES, CULVERTS, DIKES AND OTHER STRUCTURES
9 NECESSARY TO THE CONSTRUCTION OF PUBLIC HIGHWAYS, ROADS AND STREETS INTER-
10 SECTING OR CROSSING A WATERCOURSE.

11 2. THE CONSTRUCTION OF STORAGE DAMS FOR WATERING LIVESTOCK OR WILD-
12 LIFE, STRUCTURES ON BANKS OF A CREEK, STREAM, RIVER, WASH, ARROYO, OR
13 OTHER WATERCOURSES TO PREVENT EROSION OF OR DAMAGE TO ADJOINING LAND, OR
14 DAMS FOR THE CONSERVATION OF FLOOD WATERS AS PERMITTED BY TITLE 45,
15 CHAPTER 3.

16 3. CONSTRUCTION OF TAILING DAMS AND WASTE DISPOSAL AREAS FOR USE IN
17 CONNECTION WITH MINING AND METALLURGICAL OPERATIONS.

18 4. ANY FLOOD CONTROL DISTRICT, COUNTY, CITY, TOWN OR OTHER POLITICAL
19 SUBDIVISION FROM EXERCISING POWERS GRANTED TO IT UNDER THIS CHAPTER.

20 C. IN ADDITION TO OTHER PENALTIES OR REMEDIES OTHERWISE PROVIDED BY
21 LAW, THE STATE OF ARIZONA, ANY POLITICAL SUBDIVISION, OR ANY PERSON WHO MAY
22 BE DAMAGED AS A RESULT OF THE DIVERSION, RETARDATION OR OBSTRUCTION OF A
23 WATERCOURSE SHALL HAVE THE RIGHT TO COMMENCE, MAINTAIN AND PROSECUTE ANY
24 APPROPRIATE ACTION OR PURSUE ANY REMEDY TO ENJOIN, ABATE OR OTHERWISE PREVENT
25 ANY PERSON FROM VIOLATING OR CONTINUING TO VIOLATE ANY PROVISION OF THIS SECTION.
26 IF ANY PERSON IS FOUND TO BE IN VIOLATION OF ANY PROVISION OF THIS SECTION,
27 THE COURT SHALL REQUIRE THE VIOLATOR TO COMPLY WITH THIS SECTION OR REMOVE
28 THE OBSTRUCTION AND RESTORE THE WATERCOURSE TO ITS ORIGINAL STATE.

29 45-2344. Declaration of public nuisance; abatement

30 EVERY NEW STRUCTURE, BUILDING, FILL, EXCAVATION OR DEVELOPMENT
31 LOCATED OR MAINTAINED, WITHIN ANY FLOODPLAIN IN VIOLATION OF FLOODPLAIN REGU-
32 LATIONS ESTABLISHED BY THE FLOODPLAIN BOARD AND WITHOUT WRITTEN AUTHORIZATION
33 FROM SUCH BOARD IS A PUBLIC NUISANCE PER SE AND MAY BE ABATED, PREVENTED OR
34 RESTRAINED BY ACTION OF THE STATE OR ANY POLITICAL SUBDIVISION THEREOF.

1 45-2345. Unlawful acts; penalty

2 A. IT IS UNLAWFUL FOR ANY PERSON TO DIVERT, RETARD OR OBSTRUCT
3 THE FLOW OF WATERS IN ANY WATERCOURSE WHENEVER IT CREATES A HAZARD TO
4 LIFE OR PROPERTY WITHOUT SECURING THE WRITTEN AUTHORIZATION REQUIRED
5 BY SECTION 45-2343.

6 B. ANY PERSON VIOLATING THE PROVISIONS OF THIS SECTION SHALL BE
7 GUILTY OF A MISDEMEANOR.

8 45-2346. Local powers; preemption

9 NONE OF THE PROVISIONS OF THIS ARTICLE SHALL BE SO CONSTRUED AS TO
10 INVALIDATE ANY EXISTING RULES OR REGULATIONS OR ORDINANCES ADOPTED PUR-
11 SUANT TO OTHER PROVISIONS OF LAW OR CHARTER AND PRIOR TO THE EFFECTIVE
12 DATE OF THIS ACT, WHICH PROVISIONS ARE EQUAL TO THE MINIMUM STANDARDS
13 SET FORTH HEREIN.

Approved by the Governor - May 3, 1973

Filed in the Office of the Secretary of State - May 3, 1973

State of Arizona
House of Representatives
Thirty-first Legislature
First Regular Session

COMPILED AND ISSUED BY
WESLEY BOLIN
SECRETARY OF STATE
for use until Session Laws are printed

CHAPTER 41

HOUSE BILL 2074

AN ACT

RELATING TO PUBLIC LANDS; AUTHORIZING LAND DEPARTMENT TO PERMIT CONSTRUCTION AND MAINTENANCE OF CERTAIN FLOOD CONTROL AND SOIL PROTECTIVE SYSTEMS ON STATE LANDS; PRESCRIBING CONDITIONS AND LIMITATION THEREFOR; PROVIDING THAT DUE COMPENSATION SHALL BE PROVIDED FOR THE OWNERS OF IMPROVEMENTS ON LANDS AFFECTED BY SUCH FLOOD CONTROL AND SOIL PROTECTIVE SYSTEMS, AND AMENDING SECTION 37-461, ARIZONA REVISED STATUTES.

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 37-461, Arizona Revised Statutes, is amended
3 to read:

4 37-461. Grants of rights of way and sites for public uses;
5 authorizing certain construction; limitation

6 A. The state land department may grant rights of way for any
7 purpose it deems necessary, and sites for reservoirs, dams and power
8 or irrigation plants, or other purposes, on and over state lands, sub-
9 ject to terms and conditions the department imposes. The department
10 may make rules and regulations respecting the granting and maintenance
11 of such rights of way and sites.

12 B. When grant of a right of way or site amounts to the disposi-
13 tion of or conveys a perpetual right to the use of the surface of the
14 land, it shall be disposed of after approval by the department of the
15 application for the right of way or sites in conformity with the require-
16 ments of law, and the department may, if the best interest of the state
17 requires, state in the notice of sale that the sale is subject to
18 approval by the state land department, and in such case the purchaser
19 shall not be entitled to the right of way or site until his purchase is
20 confirmed.

1 C. THE DEPARTMENT MAY PERMIT THE USE OF STATE LANDS BY A GOVERN-
2 MENTAL AGENCY FOR THE CONSTRUCTION AND MAINTENANCE OF FLOOD CONTROL AND
3 SOIL PROTECTIVE SYSTEMS, WITHOUT COST TO THE CONSTRUCTING AGENCY, WHERE
4 IT IS DETERMINED BY THE DEPARTMENT THAT BY SUCH USE BENEFITS WHICH ARE
5 EQUAL TO OR IN EXCESS OF THE VALUE OF THE STATE LANDS TO BE SO USED
6 WILL ACCRUE TO OTHER STATE LANDS OR WILL BE IN THE BEST INTERESTS OF THE
7 BENEFICIARIES OF TRUST LANDS. AUTHORITY FOR SUCH USE BY A GOVERNMENTAL
8 AGENCY SHALL BE IN EFFECT ONLY SO LONG AS THE LANDS ARE USED FOR THE
9 PURPOSE FOR WHICH PERMISSION WAS GRANTED. DUE COMPENSATION SHALL BE
10 PROVIDED FOR THE OWNERS OF IMPROVEMENTS ON THE LANDS AFFECTED BY SUCH
11 FLOOD CONTROL AND SOIL PROTECTIVE SYSTEMS.

Approved by the Governor - April 9, 1973

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State of Arizona
Senate
Thirty-first Legislature
First Regular Session

COMPILED AND ISSUED BY
WESLEY BOLIN
SECRETARY OF STATE
for use until Session Laws are printed

CHAPTER 40
SENATE BILL 1104

AN ACT

RELATING TO WATERS; PROVIDING FOR FLOOD CONTROL ASSISTANCE; PRESCRIBING METHODS AND MEANS WHEREBY THE STATE MAY COOPERATE WITH THE UNITED STATES IN THE CONSTRUCTION OF FLOOD CONTROL PROJECTS; AMENDING TITLE 45, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 14, AND MAKING APPROPRIATIONS.

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Legislative intent

3 The growth of the state of Arizona, in terms of population, commerce
4 and industry, makes it essential that damages from floods be controlled
5 to the greatest extent possible so as to avoid damages to life and prop-
6 erty, while at the same time protecting the natural environment and ecol-
7 ogy. It is hereby declared that the people of the state have a primary
8 interest in the control and conservation of flood waters, prevention of
9 damage by flood waters, the washing away of river and stream banks by
10 floods and in the determination of the manner in which flood waters shall
11 be controlled for the protection of life and property in the control,
12 storage and use of the state's water resources in the general public
13 interest.

14 It is hereby declared that recurrent floods on streams, rivers and
15 other waterways of the state, causing loss of life and property, dis-
16 ruption of commerce, interruption of transportation and communications
17 and wasting of water, are detrimental to the peace, health, safety and
18 welfare of the people of the state. Support of the control, storage and

1 full beneficial use of flood waters, and the prevention of damages by
2 flood waters and the washing away of river and stream banks by floods
3 in cooperation with counties, cities, state agencies and public dis-
4 tricts and the United States, or any of its departments or agencies,
5 is a proper function of the state.

6 The legislature intends that from time to time allocations from
7 the general fund for flood control projects will be made to pay for
8 not to exceed one-half of the cost of all lands, easements and rights
9 of way necessary for the flood control purposes of projects adopted
10 and authorized pursuant to federal law and recommended by the Arizona
11 water commission and approved by the legislature concurrent with the
12 availability of federal funds for their construction.

13 Notwithstanding any provision hereof to the contrary, it is
14 neither the intent nor the purpose of this act to transfer any of the
15 duties of the state land department imposed by title 45 of the Arizona
16 code to the Arizona water commission, nor is it the intent to supersede
17 those duties of the state land department.

18 Sec. 2. Title 45, Arizona Revised Statutes, is amended by adding
19 chapter 14, article 1, to read:

20 CHAPTER 14

21 FLOOD CONTROL ASSISTANCE

22 ARTICLE 1. GENERAL PROVISIONS

23 45-2701. Definitions

24 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

25 1. "COMMISSION" MEANS THE ARIZONA WATER COMMISSION.

26 2. "DESIGN FLOOD" MEANS A SELECTED FLOOD AGAINST WHICH PROTECTION
27 IS PROVIDED, OR EVENTUALLY WILL BE PROVIDED, BY MEANS OF FLOOD PROTECTIVE
28 OR CONTROL WORKS. WHEN A FEDERAL SURVEY HAS BEEN AUTHORIZED THE DESIGN
29 FLOOD WILL BE DETERMINED BY THE APPROPRIATE FEDERAL AGENCY AND IN ALL
30 OTHER CASES IT WILL BE DETERMINED BY THE RESPONSIBLE PUBLIC AGENCY. IT
31 IS THE BASIS FOR DESIGN AND OPERATION OF A PARTICULAR PROJECT AFTER
32 FULL CONSIDERATION OF FLOOD CHARACTERISTICS, FREQUENCIES, AND POTENTIALS
33 AND ECONOMIC AND OTHER PRACTICAL CONSIDERATIONS.

1 3. "DESIGNATED FLOODWAY" MEANS THE CHANNEL OF A STREAM AND THAT
2 PORTION OF THE ADJOINING FLOOD PLAIN REQUIRED TO REASONABLY PROVIDE FOR
3 THE CONSTRUCTION OF A PROJECT FOR PASSAGE OF THE DESIGN FLOOD, INCLUDING
4 LANDS NECESSARY FOR CONSTRUCTION OF PROJECT LEVEES.

5 4. "FLOOD CONTROL PROJECT" MEANS ANY PROJECT REQUIRING LOCAL
6 COOPERATION FOR FLOOD CONTROL PURPOSES AUTHORIZED PURSUANT TO FEDERAL
7 LAW AND ON WHICH CONSTRUCTION COMMENCES AFTER THE EFFECTIVE DATE OF
8 THIS CHAPTER.

9 5. "LANDS, EASEMENTS AND RIGHTS OF WAY" MEANS:

10 (a) LANDS AND RIGHTS OF INTEREST IN LANDS NECESSARY FOR FLOOD
11 CONTROL STORAGE, CHANNEL IMPROVEMENTS AND CHANNEL RECTIFICATIONS.

12 (b) LANDS, RIGHTS OR INTERESTS IN LANDS NECESSARY IN CONNECTION
13 WITH THE CONSTRUCTION, OPERATION OR MAINTENANCE OF SUCH STORAGE, CHANNEL
14 IMPROVEMENTS AND RECTIFICATIONS, INCLUDING THOSE NECESSARY FOR FLOWAGE
15 PURPOSES, SPOIL AREAS, BORROW PITS OR FOR ACCESS ROADS.

16 (c) THE COST OF THE RELOCATION, RECONSTRUCTION OR REPLACEMENT OF
17 EXISTING IMPROVEMENTS, STRUCTURES OR UTILITIES RENDERED NECESSARY BY
18 SUCH CHANNEL IMPROVEMENTS AND RECTIFICATIONS.

19 6. "PUBLIC AGENCY" MEANS ANY STATE AGENCY OR POLITICAL SUBDIVISION
20 OF THE STATE.

21 45-2702. Investigation and certification by commission

22 AT SUCH TIMES AS THE FEDERAL GOVERNMENT BUDGETS FUNDS FOR THE
23 CONSTRUCTION OF ANY FLOOD CONTROL PROJECT IN THIS STATE, ANY PUBLIC
24 AGENCY AFFECTED MAY REQUEST THE COMMISSION TO INVESTIGATE SUCH PROJECT
25 AND REPORT TO THE LEGISLATURE THE RESULTS OF ITS INVESTIGATION, AND THE
26 COMMISSION SHALL CERTIFY TO THE LEGISLATURE THE DATE STATE FUNDS SHOULD
27 BE APPROPRIATED TO PAY THE COST OF STATE PARTICIPATION IN SUCH PROJECT
28 AND THE ESTIMATED AMOUNT.

29 45-2703. Limitation on expenditure of funds

30 THE COMMISSION SHALL NOT DISBURSE ANY FUNDS FOR A FLOOD CONTROL
31 PROJECT UNTIL THE LEGISLATURE HAS APPROPRIATED FUNDS TO CONTRIBUTE TOWARD
32 THE LOCAL COST OF LAND, EASEMENTS AND RIGHTS OF WAY FOR THAT PROJECT.
33 THE COMMISSION SHALL NOT UNDERTAKE THE CONSTRUCTION OF FLOOD CONTROL
34 PROJECTS.

1 45-2704. Flood plain regulations; effect of failure
2 to adopt

3 THE COMMISSION SHALL NOT DISBURSE ANY MONIES PURSUANT TO THIS
4 CHAPTER TO PAY ANY COSTS OF LANDS, EASEMENTS AND RIGHTS OF WAY FOR A
5 FLOOD CONTROL PROJECT FOR WHICH THE APPROPRIATE PUBLIC AGENCY FAILS
6 TO ESTABLISH, WITHIN A REASONABLE TIME AFTER NOTIFICATION BY THE COM-
7 MISSION, THE NECESSARY FLOOD PLAIN REGULATIONS FOR THE AREA CLASSIFIED
8 AS A DESIGNATED FLOODWAY BY THE COMMISSION UPON REVIEW OF THE COMPLETE
9 FEDERAL OR FEDERALLY ASSISTED PROJECT REPORT.

10 45-2705. Limit of financial assistance

11 FOR A PERIOD OF FIFTEEN YEARS FROM THE DATE OF THIS CHAPTER, THE
12 STATE MAY CONTRIBUTE FUNDS NOT TO EXCEED ONE-HALF OF THE NON-FEDERALLY
13 SUPPORTED COST SOLELY FOR LANDS, EASEMENTS AND RIGHTS OF WAY NECESSARY IN
14 CONNECTION WITH THE CONSTRUCTION OF ANY FEDERAL OR FEDERALLY ASSISTED FLOOD
15 CONTROL PROJECT RECOMMENDED BY THE COMMISSION, SUBJECT TO APPROPRIATION
16 OF MONIES BY THE LEGISLATURE.

17 45-2706. Time for determining costs; change of determination

18 A. THE STATE'S PORTION OF THE COSTS OF LANDS, EASEMENTS AND
19 RIGHTS OF WAY SHALL BE DETERMINED BY THE COMMISSION AT OR PRIOR TO THE
20 TIME THE COMMISSION SUBMITS ITS REPORT TO THE LEGISLATURE RECOMMENDING
21 AN APPROPRIATION FOR SUCH PROJECT.

22 B. THE STATE'S PORTION OF SUCH COSTS SHALL NOT BE CHANGED UNLESS
23 THERE ARE MAJOR PROJECT CHANGES MADE IN THE PLAN OF IMPROVEMENT, IN
24 WHICH CASE THE COMMISSION, PRIOR TO THE NEXT APPROPRIATION OF STATE
25 FUNDS FOR THE PROJECT, SHALL REVIEW THE PROJECT AND MAKE SUCH REPORTS
26 AND RECOMMENDATIONS TO THE LEGISLATURE AS IT DEEMS JUSTIFIED BY THE
27 PROJECT CHANGES.

28 45-2707. State held harmless

29 THE COMMISSION SHALL NOT DISBURSE ANY MONIES APPROPRIATED TO IT
30 PURSUANT TO THIS CHAPTER UNLESS AND UNTIL A PUBLIC AGENCY HAS IN WRITING
31 ASSUMED THE OBLIGATIONS OF MAINTENANCE AND PROVIDED THE FEDERAL GOVERN-
32 MENT AND THE STATE WITH WRITTEN INDEMNIFICATION FROM DAMAGES DUE TO THE
33 CONSTRUCTION OF FLOOD CONTROL PROJECTS.

1 PERSONS, AGENCIES OR OFFICERS OF THIS OR ANY OTHER STATE OR THE FEDERAL
 2 GOVERNMENT, CONCERNING FLOOD CONTROL AND FLOOD PLAIN MANAGEMENT.

3 B. THE COMMISSION SHALL KEEP ITSELF INFORMED AS TO ANY ACTIVITIES,
 4 REQUIREMENTS OR PROCEDURES OF THE FEDERAL GOVERNMENT, OR ANY OF ITS DEPART-
 5 MENTS OR AGENCIES, AFFECTING ANY PROPOSED FLOOD CONTROL PROJECTS WITHIN
 6 THE SCOPE OF THIS CHAPTER.

7 C. THE COMMISSION SHALL:

- 8 1. COLLECT AND FILE DATA.
- 9 2. MAKE NECESSARY STUDIES AND SURVEYS.
- 10 3. MAKE INVESTIGATIONS.
- 11 4. PREPARE PLANS AND ESTIMATES FOR COSTS AND BENEFITS OF ALL
 12 PROPOSED WATER DEVELOPMENT PROJECTS.
- 13 5. DETERMINE THE DAMAGE CREATED BY FLOOD WATERS.
- 14 6. ENCOURAGE THE CREATION AND DEVELOPMENT OF FLOOD CONTROL AND
 15 WATER CONSERVATION PLANS AND ACTIVITIES OF THE SEVERAL COUNTIES, CITIES,
 16 STATE AGENCIES AND PUBLIC DISTRICTS.
- 17 7. COOPERATE WITH THE FEDERAL GOVERNMENT OR ANY OF ITS DEPARTMENTS
 18 OR AGENCIES, COUNTIES, CITIES, STATE AGENCIES OR PUBLIC DISTRICTS, IN
 19 CARRYING OUT MEASURES FOR CONTROL, STORAGE OR USE OF WATERS IN STREAMS,
 20 RIVERS OR OTHER WATERWAYS, AND THE WATERSHEDS THEREOF WITHIN THIS STATE.
- 21 8. ADOPT RULES AND REGULATIONS FOR THE DISPENSING OF FUNDS APPRO-
 22 PRIATED BY THE LEGISLATURE PURSUANT TO THIS CHAPTER.

23 Sec. 3. Appropriations; purposes; exemption

24 A. The sum of two million four hundred fifty thousand dollars
 25 is appropriated to the Arizona water commission to carry out the provi-
 26 sions of this act, to be available for flood control projects, in the
 27 amounts stated, as follows:

28	1. Williams - Chandler watershed	\$1,350,000.00
29	2. Buckhorn Mesa watershed	1,000,000.00
30	3. Wickenburg watershed	25,000.00
31	4. Foote Wash watershed	<u>75,000.00</u>
32	Total	\$2,450,000.00

1 B. The sum of \$25,000.00 is appropriated to the Arizona water
2 commission for the administration of the act.

3 C. The appropriations made in this section are exempt from the
4 provisions of section 35-190, Arizona Revised Statutes, relating to
5 lapsing of appropriations.

6 Sec. 4. Emergency

7 To preserve the public peace, health and safety it is necessary
8 that this act become immediately operative. It is therefore declared
9 to be an emergency measure, to take effect as provided by law.

Approved by the Governor - April 9, 1973

Filed in the Office of the Secretary of State - April 10, 1973