



MEMORANDUM

Date: November 4, 2010

To: The Honorable Chairman and Members
Pima County Board of Supervisors

From: C.H. Huckelberry
County Administrator

Re: Multi-species Conservation Plan – Section 10 Permit

Background

Pima County has begun finalizing our Incidental Take (Section 10) permit for submittal to the United States Fish and Wildlife Service (Service) for Endangered Species Act coverage. The key feature of the Section 10 permit is our Multi-species Conservation Plan (MSCP), which provides a detailed description of the anticipated impacts to species and the measures the County will implement to avoid, minimize and mitigate for those impacts.

In my previous memo regarding the County's MSCP, I outlined the process that Pima County will undertake to initiate—and ultimately gain—permit coverage. This memo highlights key features of the County's Section 10 permit application package.

I begin with an overview of our proposal, including the Covered Activities, Permit Area and Covered Species. Attachment 1 to this memorandum provides answers to questions about the MSCP that have been asked by members of the community. Attachment 2 provides detailed answers to specific comments made regarding the December 2009 version of the MSCP. The latest draft of the MSCP, to be released to the public in the coming weeks, reflects many of the comments about the December 2009 version.

This memorandum will be followed by additional memoranda on topics of interest to the Board and public, including issues of funding and congruence with other federal laws.

Throughout the period leading up to the submittal of the permit application and until permit issuance, Pima County continues to seek public comment.

Overview of Pima County's MSCP

A Habitat Conservation Plan must address key elements that inform the scope of the impacts and the measures the applicant (Pima County) must institute to avoid, minimize, and mitigate for these impacts. The following discussion addresses each of these program elements as they relate to Pima County's proposed plan.

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Permit Area is the area for which Pima County is seeking a Section 10 permit and where Covered Activities will take place. The Permit Area includes those lands under the Pima County Board of Supervisor's legal authority: principally private, unincorporated lands over which the Board has some regulatory authority and those State lands managed by Pima County for mitigation purposes. The Permit Area includes all County-owned lands and all lands where Pima County constructs and maintains infrastructure on lands owned by another jurisdiction, including in adjacent counties. The Permit Area also will encompass State and Bureau of Land Management (BLM) lands in unincorporated Pima County if they are conveyed to the private sector for development or secured for the County's open space purposes.

Covered Activities are those otherwise legal activities covered under the Section 10 permit that may harm, harass or kill Covered Species. The principal Covered Activities in the Pima County MSCP are:

1. Rezoning from private land development that occur after permit issuance (likely in early 2012).
2. County maintenance and construction activities, including capital improvement projects.

Pima County also proposes to broaden the "Opt-in Program" originally proposed in December 2009 so that other private properties in unincorporated Pima County may gain access to the benefits of the permit. Although the cost of participating in the Opt-in Program has not yet been determined, it is anticipated there will be mechanisms to defray administrative costs as well as monitoring and management obligations for mitigation. County staff is currently developing a preliminary programmatic draft that will, in the very near future, be provided to stakeholders. Participation in the Opt-in Program will be entirely voluntary; it will be up to each potential participant to determine if the program benefits them.

Pima County is also proposing to cover some activities on its suite of ranchlands, including maintenance and construction of infrastructure, but not cattle grazing. Pima County maintains that covering grazing is not in the best interest of the County because (1) it was not recommended by the Steering Committee, (2) other, more quantifiable ranch management activities are being covered, (3) monitoring impacts is extremely difficult, (4) there is minimal likelihood of needing coverage for this category, and (5) coverage could be made available later through a permit amendment. If necessary, take of Covered Species can be addressed through Section 7 consultations (for County leases on federal lands).

Covered Species are those species that are, or could be, listed as threatened or endangered under the Endangered Species Act and are likely to be negatively impacted by the Covered Activities within the Permit Area. The Pima County MSCP will have 49 Covered Species: four plants, eight mammals, eight birds, six fish, two amphibians, seven reptiles, and 14

invertebrates. Pima County believes this large number of species is justified because of the rarity of many of the proposed Covered Species and the potential for a number of new listings in the future. Current candidates for listing include the western yellow-billed cuckoo, desert tortoise and Tucson shovel-nosed snake, all of which are included in the list of Covered Species.

Anticipated Impacts of Covered Activities. Pima County modeled the location and extent of Covered Activities for the entire 30 years of the Section 10 permit. Based on that exercise, it is reasonable to expect approximately 36,000 acres of disturbance could impact Covered Species and their habitats.

Conservation Measures are those the County agrees to implement to (1) avoid and minimize, and (2) mitigate for the impacts of the Covered Activities:

1. Avoidance and Minimization. Pima County's conservation strategy includes avoidance and minimization at spatial scales ranging from the regional landscape to individual projects. The Maeveen Marie Behan Conservation Land System map (MMB-CLS) is the primary tool that addresses impact avoidance from the landscape level by identifying those areas that are most suitable for development as well as those areas where development is least desirable. For rezoning proposals within the MMB-CLS, the Board of Supervisors has consistently applied the CLS conservation guidelines and achieves Natural Open Space Set-Asides onsite, offsite or in combination. Most Covered Activities, regardless of whether they are in or out of the MMB-CLS, trigger protocols or requirements (e.g., Native Plant Preservation Ordinance, Watercourse and Riparian Habitat Protection and Mitigation Requirements) that implement impact-minimization mechanisms at the scale of individual projects. These guidelines have been in place since 2002, and the MSCP will *not* change any of the processes a developer must go through to achieve rezoning approval.
2. Mitigation. Based on the modeling of future growth over the next 30 years, Pima County will be responsible for acquiring approximately 112,000 acres of mitigation. Despite not yet having a permit, Pima County has acquired over 71,000 acres of fee-owned lands; and according to current information from the Service, Pima County will receive partial credit for the lands it leases, which presently total over 130,000 acres. Likewise, Pima County's mitigation obligation would also be assisted by MMB-CLS set-asides made by the private sector through the rezoning process. Such a "down payment" of mitigation land is extremely rare for an HCP applicant.

Permit Duration and Phasing. The MSCP will be for 30 years and will be subdivided into three, 10-year phases. This phasing strategy creates checkpoints to monitor the plan's implementation and effectiveness, but it is not the same as permit renewal or a permit amendment. Prior to the end of each Permit Phase, Pima County will initiate an analysis of

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the biological effectiveness of the conservation and mitigation actions implemented to date under the Permit. Prior to the end of the 30-year permit period, Pima County may elect to extend the permit or let it lapse. Amendments may also be initiated prior to the end of the permit.

Land management is a critical component of this MSCP, and current efforts are directed at protecting the resources for which land was set aside or acquired by restoring selected conservation targets (e.g., riparian areas) and minimizing onsite threats such as invasive species and illegal trash dumping and directing recreation away from sensitive resources. Particular emphasis is being placed on the management of Pima County's extensive ranch holdings and on riparian restoration. Management of set asides on privately developed properties will consist of adherence to rezoning conditions as well as applicable County ordinances. It should be mentioned that these mechanisms include the control of invasive species.

Monitoring is essential to determine if the avoidance, minimization and mitigation program is having the desired effect. The Pima County Ecological Monitoring Program is conceived as a broad-scale monitoring program for a suite of program elements: individual species, species' habitat, threats, and climate. Particular emphasis will be placed on monitoring aquatic, riparian and rangeland elements. Monitoring will occur primarily on County-managed conservation lands. On September 30, 2010, the Board received a memorandum wherein the monitoring program was outlined in detail. That memorandum with associated details is available at <http://www.pima.gov/cmo/sdcp/Monitoring/index.html>.

Budget. Pima County has spent approximately \$140 million on land acquisitions since 2004; in part, to satisfy the requirements of the forthcoming permit. These monies came primarily from bond funds that were approved by voters in 2004. Most of the management and enforcement functions associated with this MSCP are already taking place as part of the County's commitment to the Sonoran Desert Conservation Plan. New program costs are primarily for the monitoring program.

Amendments. Amendments to the Pima County MSCP may be sought if there are actions such as changing the Permit Area or the addition of Covered Species. Such amendments would be considered major in nature and would require a full public review process.

CHH/mjk

Attachments

c: Nicole Fyffe, Executive Assistant to the County Administrator
Julia Fonseca, Environmental Planning Manager

ATTACHMENT 1

Frequently Asked Questions about the Pima County Multi-species Conservation Plan (MSCP)

The MSCP is a fairly technical document; therefore, included here are brief answers to questions we have addressed from constituents.

Q1: How is the MSCP different from the SDCP?

A1: The Sonoran Desert Conservation Plan (SDCP) is Pima County's plan for balancing the conservation and protection of our cultural and natural resource heritage with our efforts to maintain an economically vigorous and fiscally responsible community. The SDCP takes a broad perspective and focuses on aspects of life in Pima County that make us who we are—our unique relationship with deep cultural roots, past and present; the importance of our natural surroundings for their biological values and our sense of place. The MSCP is a part of the SDCP and is limited in scope to compliance with the Endangered Species Act: disclosing impacts to animal and plant species, describing how those impacts will be mitigated through the acquisition of natural open space lands, and committing to certain monitoring and management actions to ensure that the mitigation lands are, over time, providing healthy habitat for the wildlife and plant species.

Q2: Why do we need the MSCP?

A2: Despite the current economic downturn, Pima County will continue to attract new residents. The need to accommodate an expanding population will result in the development of new lands. Such new impacts are likely to "incidentally take" (a legal term for accidentally harming or killing) species that are currently—or have the potential to be—listed under the Endangered Species Act (ESA). Future listings of species as threatened or endangered in Pima County are almost certain since Pima County is in one of the most ecological diverse regions of the United States, and some species in the County occur nowhere else in the United States. The combination of future population growth and Pima County's high biological diversity means the loss of federally listed plants and animals and their habitats will create a conflict between some kinds of development and species' wellbeing.

The MSCP, a form of Habitat Conservation Plan for many species, and its associated Incidental Take permit provides a means to allow for the accidental injury or death of an endangered or threatened species that results from conducting an otherwise lawful activity as long as habitat is conserved elsewhere and that avoidance and minimization measures are implemented. Pima County, with the encouragement of the community, developed the MSCP to provide incidental take protection to the County and a subset of private development for some activities. The advantage of this plan—from the perspective of many in the development community—is that the County's permit alleviates some private property owners from having to obtain an individual incidental take permit from the US Fish & Wildlife Service (Service).

Q3: What species are covered by the permit?

A3: Pima County's Section 10 permit will cover 49 species: four plants, eight mammals, eight birds, six fishes, two amphibians, seven reptiles and 14 invertebrates. Of these, eight species are listed as threatened or endangered (Pima pineapple cactus, lesser long-nosed bat, southwestern willow flycatcher, desert pupfish, Gila chub, Gila topminnow, and Chiricahua leopard frog). The remaining 41 species have the potential to be listed under the ESA during the course of the permit. If a listing of one of the Covered Species occurs during the permit period (30 years), then no additional conservation measures would be required; this is one of the advantages of obtaining a Section 10 permit.

Q4: Habitat Conservation Plans must specify what activities are covered by the permit; does the Pima County MSCP automatically provide permit protection for all private development activities?

A4: The principal activities that would receive protection under the County's permit for incidental take of species are County construction and maintenance activities and rezonings of private property approved by the Board of Supervisors after the Service issues the permit. Pima County is also developing a program that will provide permit coverage for development on properties that were either rezoned prior to the County obtaining a permit or being developed pursuant to entitled rights. This program is the *Opt-in Program*. Although the cost of participating in the Opt-in Program has not yet been determined, it is anticipated that, at a minimum, there will be costing mechanisms to defray administrative costs as well as monitoring and management obligations for mitigation. Pima County staff will be refining the Opt-in Program prior to receiving a permit and staff will do so in consultation with the community as we move through the federal alternatives analysis.

Q5: Is the Opt-in Program voluntary?

A5: Yes; the program is entirely voluntary, and it will be up to the individual landowner to decide if permit coverage is appropriate for their property.

Q6: Is there a maximum number of acres that will be covered under the permit?

A6: Yes; Pima County is proposing a cap of 36,000 acres, of which 5,000 acres are being reserved for County activities, most importantly Capital Improvement Projects. The remaining 31,000 acres will be available, on a first-come, first-serve basis to properties rezoned after permit issuance and those participating in the Opt-in Program.

Q7: Can a landowner, whose property is rezoned after permit issuance, "opt-out" of the permit?

A7: No. The process of inclusion is automatic upon approval of rezonings. Pima County has strived to make permit coverage as easy as possible, and no cost is associated with the automatic coverage.

Q8: Why did the amount and type of private development to receive protection under the County's permit change from previous drafts of the MSCP?

A8: Mitigation is a key feature of any Habitat Conservation Plan. After refining the models used to project growth over the next 30 years and evaluating the availability of potential mitigation lands and funding for them, the County determined it could not provide adequate mitigation for more than 36,000 acres of development.

Q9: Why are the mitigation ratios different in the MSCP from the ones used for rezonings and comprehensive plan amendments?

A9: In accordance with the SDCP, the Board of Supervisors will continue to use the MMB-CLS mitigation ratios described in the Comprehensive Plan Regional Environmental Policies when applying the MMB-CLS to private development, especially rezonings and Comprehensive Plan amendments (Table 1). However, in the MSCP, Pima County is imposing upon itself a higher standard to protect more open space under the permit than is asked of the private sector through the SDCP. The County wants to lead by example and have a mitigation program that will ensure the continued survival and health of those species for which the County is accountable.

Table 1. Mitigation ratios for private development within the MMB-CLS and for the MSCP.

CLS Category	MMB-CLS guidelines for rezoning	MSCP
Important Riparian Area	4:1	5:1
Biological Core Management Area	4:1	5:1
Special Species Management Area	4:1	5:1
Multiple Use Management Area	2:1	3:1
Agricultural Lands within the CLS	None	2:1
Lands Outside the CLS	None	2:1

Q10: Will the MSCP mitigation ratios be applied to private development if the development receives protection under the permit?

A10: No. Only the MMB-CLS Mitigation Ratios (as defined by the Comprehensive Plan Regional Environmental Policies) will be applied to private development, regardless of whether the development receives protection under the permit. MMB-CLS Mitigation Ratios will continue to be applied to discretionary actions of the Board of Supervisors (e.g., rezonings, comprehensive plan amendments) according to the policy set forth in the Comprehensive Plan Regional Environmental Element.

Q11: How will the County provide mitigation?

A11: Pima County has provided and will continue to provide mitigation by acquiring and managing open-space and floodprone lands. Pima County proposes that the amount of

mitigation land necessary be determined based on where impacts occur, via the MMB-CLS categories, and applying the corresponding MSCP mitigation ratio (Table 1). For example, if a road project is within the Multiple Use Management Area and impacts 100 acres, the amount of mitigation land the County would have to provide, using the MSCP mitigation ratio for Multiple Use Management Area (3:1), is 300 acres of land (3 x 100).

For a property that is rezoned after Pima County obtains the Section 10 permit, the County will provide mitigation for impacts for the total acreage of the rezoned property according to the property's MMB-CLS Category and MSCP mitigation ratio. For rezonings, this sets aside an area of natural open space to comply with the SDCP in accordance with the Board of Supervisors' approval of the rezoning. Fifty percent of that natural open space will also be counted as mitigation toward the County's MSCP obligation.

Example: 100 acres within the Multiple Use Management Area are rezoned. 67 acres are set-aside by the developer as natural open space in keeping with the Comprehensive Plan Environmental Policies (i.e., two acres of conservation for every one acre of development; 2:1). The County would be responsible to the Service for providing 300 acres of mitigation land to comply with the 3:1 MSCP Mitigation Ratio for Multiple Use Management Area. Thirty-three acres of mitigation credit (50 percent of 67 acres) would be provided by the developer's natural open space set-aside.

Q12: If open space set-aside areas on private property are counted as MSCP Mitigation, is the property owner obligated to comply with special requirements or make special concessions?

A12: No. The property owner is only required to stay in compliance with conditions assigned by the Board of Supervisors in their approval of the rezoning and to abide by the requirements of the Pima County Code.

Q13: Will there be different regulatory requirements placed on developments that receive protection under the permit?

A13: No. Regulatory requirements pertaining to private development receiving protection under the permit will not vary from those established in Pima County Code. It is not the County's intent to create a two-tiered development process where there are different regulations for developments receiving protection under the permit and those that do not receive such protection. In keeping with current practice, any changes to the Pima County Code will be made through the public hearing processes utilized by the Board of Supervisors.

Q14: A management and monitoring program is a key aspect of the Section 10 permit. Will County staff be managing and monitoring on private land?

A14: No. On-the-ground monitoring is not being proposed for private land; instead, the focus will be on lands the County owns and leases. For monitoring and management for open-space set asides on private properties that provide MSCP mitigation, Pima County will

periodically employ remote sensing technologies to ensure those areas remain undeveloped and that no encroachment is occurring.

Q15: Cattle graze on many of the County ranchlands that would be used for mitigation. Why is Pima County *not* proposing to cover grazing as a source of incidental or direct take of species?

A15: Pima County is proposing to provide permit protection for maintenance and construction of County ranch infrastructure but not the physical act of cattle consuming plants or walking across the land. Pima County maintains that providing permit protection to grazing is not in the best interest of the County because (1) it was not recommended by the Steering Committee, (2) other, more quantifiable ranch management activities are being covered, (3) monitoring impacts is extremely difficult, (4) there is minimal likelihood of needing coverage for this category, and (5) coverage could be made available later through a permit amendment. If necessary, take of Covered Species can be addressed through Section 7 consultations (for County leases on federal lands).

Q16: How long will the permit be valid?

A16: As proposed, the permit would be valid for 30 years or when impacts total 36,000 acres, whichever occurs first. However, Pima County's commitment to manage the mitigation lands as natural open space is perpetual because the loss of impacted acreage is, according to the Service, a permanent loss. The permit period could be shorter or longer than 30 years, depending on the pace of development, but extending the length of the permit would require an amendment.

Q17: How much will the MSCP cost and where will the money come from?

A17: Pima County has spent approximately \$150 million on land acquisitions since 2004; in part, to satisfy the requirements of the forthcoming Section 10 permit. These monies came primarily from bond funds that were approved by voters in 2004. Most of the management and enforcement functions associated with the MSCP are already taking place as part of the County's commitment to the Sonoran Desert Conservation Plan. New program costs are expected for monitoring (See MSCP Chapter 8).

Q18: What is the timeline for submitting the MSCP and obtaining the Section 10 permit?

A18: Pima County is finalizing the MSCP and associated documents (Environmental Impact Statement and Implementing Agreement). Once the MSCP and associated documents are complete, they will be submitted to the Service for administrative review. A formal public comment period will occur after the Service completes its administrative review. Permit issuance is likely by early 2012.

ATTACHMENT 2

**Responses to Stakeholders Comments on the December 2009 Draft MSCP and Coalition
for Sonoran Desert Protection Comments on the May 2010 Draft of the Pima County
Ecological Monitoring Program Planning Document**

Comments from Southern Arizona Homebuilders (SAHBA)

SAHBA1: Several things are unclear about the opt-in including costs.

Staff is exploring various alternatives as the result of recent input from stakeholders on the Opt-in Program. Staff will work with the stakeholders and have more details in the coming months.

SAHBA2: What departments oversee and what are the responsibilities and authorities?

For aspects of the MSCP that relate to private development, the roles and responsibilities applicable today will persist with little change. The Development Services Department and the Regional Flood Control District will continue to have primary oversight and implementation responsibilities for the Maeveen Marie Behan Conservation Lands System Conservation (MMB-CLS) Guidelines, as prescribed in the Comprehensive Plan, and environmentally-related code requirements (e.g., Native Plant Preservation Ordinance and the Riparian Protection and Mitigation Requirements of the Floodplain and Erosion Hazard Management Ordinance). Other departments with critical roles and responsibilities that have yet to be fully realized are Natural Resources, Parks, and Recreation (NRPR) and the Office of Conservation Science & Environmental Policy (OCS&EP). NRPR manages properties that will serve as mitigation lands and oversees ranch management agreements; OCS&EP will monitor the County's compliance with terms of the permit and report those findings. These roles are subject to change if the County deems it necessary to transfer responsibilities among departments.

SAHBA3: Will there be two sets of regulations, one for Section 10 permit land and another for those that are not covered?

No. Application of the MMB-CLS Conservation Guidelines as prescribed in the Comprehensive Plan and the requirements of the Pima County Code are applied equally to lands covered by the Section 10 permit and those that are not. We do not intend to create different regulatory requirements based on a property's status under the Section 10 permit.

SAHBA4: How are the costs of management, monitoring and compliance funded

The costs of the program can be found in Table 8.1 of the forthcoming MSCP. All of these costs are currently paid for from a variety of sources, most importantly the County's General Fund. The monitoring program is the only portion of the County's proposed program for which only a small portion is currently funded (i.e., one staff position). The County is currently exploring ways to fund this program.

SAHBA5: What are the costs to private land owners [re: management, monitoring, and compliance]?

Private land owners are not expected to incur direct costs except under those circumstances where they incur costs necessary to participate in the Opt-In Program.

SAHBA6: Why are 25% credit for grazing leases?

The Service requires that Pima County fulfill all of the following criteria on each mitigation property in order to receive 100 percent mitigation credit:

- Possession of an ownership or management interest in the mitigation property;
- exercise legal protection over the mitigation property; and
- manage the mitigation property to retain the biological and species habitat values; and
- monitor the mitigation property to ensure that biological and species habitat values persist over time.

Based on feedback from the Service, mitigation lands under grazing lease do not meet all of the necessary criteria to be counted at 100%. The issue of greatest concern for the Service with regard to grazing leases is that the County does not have sufficient, long-term legal protection. The County's proposal to receive 25 percent partial credit for those mitigation properties under grazing lease is, however, proportional to the subset of the above-referenced criteria we believe our authorities under the lease allow us to fulfill.

SAHBA7: What impacts/responsibilities for HOAs?

Compliance with the MMB-CLS Conservation Guidelines, as prescribed in the Comprehensive Plan and implemented by the Board of Supervisors at the time of rezoning, is fundamental to the County's MSCP. Rezoning conditions are often established by the Board as a means of ensuring compliance with the Conservation Guidelines. The extent to which any rezoning condition applies to a homeowners association (HOA) is the only nexus between HOAs and any responsibility for Covered Lands or Mitigation Lands contemplated in the County's MSCP proposal. If the developer sets aside natural open space (NOS) as a common area under the HOA, then it must be maintained as NOS by the HOA. This would be true whether or not the NOS serves as Mitigation Land in the MSCP.

SAHBA8: Why not full credit for set-asides?

The Service requires that Pima County fulfill all of the following criteria on each mitigation property in order to receive 100 percent mitigation credit:

- Possession of an ownership or management interest in the mitigation property;
- exercise legal protection over the mitigation property;
- manage the mitigation property to retain the biological and species habitat values; and
- monitor the mitigation property to ensure that biological and species habitat values persist over time.

Based on feedback from the Service, mitigation lands preserved as set-asides within developments do not meet all of the necessary criteria to be counted at 100 percent. The County's proposal to receive 50 percent partial credit for those mitigation properties preserved as set-asides within development is, however, proportional to the subset of the above-referenced criteria we believe our land use and enforcement authorities allow us to fulfill.

SAHBA9: Will development projects go through the SHPO process?

Pima County's Section 10 permit will not change the cultural resource compliance process as it is currently applied to private developers or Public Works departments. The requirement to work with the State Historic Preservation Office (SHPO) already exists, but Pima County's cultural resource group already acts in this capacity to assure compliance with SHPO. Our situation is different than that which SAHBA members may experience in the Town of Marana.

Comments from the Coalition for Sonoran Desert Protection (CDSP)

CSDP1: Outline responsibilities of each Department

See SABHA2.

CSDP2: Hire a Director, keep OCSEP intact, and assign MSCP implementation

The County Administrator has received your input.

CSDP3: Add a new alternative for all discretionary actions since 2002 and an opt-in for non-discretionary.

The scope of the Opt-in Program proposed in the latest draft of the MSCP has been modified in response to this feedback.

CSDP4: Centralize restoration discussion.

Some details for riparian restoration may emerge from our efforts to streamline ESA permitting related to Section 404 of the Clean Water Act. The County has made progress toward integrating the Section 10 and 404 permits, but there is more work to do to make this a reality.

CSDP5: Either eliminate mitigation credit for STL...

We do not feel this would be in the best interest of the MSCP, or more importantly, the conservation of these lands. Specifically, this approach would not mean that all fee owned

land would be free of grazing. It would mean that funding for management and monitoring of ranch lease lands would not be tied to the performance of the MSCP. Ranch conservation would remain solely under the SDCP. In general, we believe this is would provide less conservation benefit than if the ranches were part of the MSCP.

CSDP6:Or describe measurable condition goals

Yes, the County envisions a review process whereby very specific conditions goals must be met before credit is given. Those conditions goals would be related to specific parcels and target conditions would be based on conditions that exist at the time of permit issuance. This initial assessment will be made a high priority for the monitoring program, but without this baseline information, it would be imprudent to publish future condition goals. As was noted in the MSCP, we see the review process as involving local scientists and range management expertise.

CSDP7: How will County monitor grazing impacts on species?

Monitoring for grazing impacts on species is not required for the Service's issuance of the permit. Monitoring objectives have been developed by the Science Technical Advisory Team (STAT) and will be further refined through Service review. Standards and guidelines for the evaluation of grazing have been developed by Pima County and reviewed by the Coalition.

CSDP8: Consider non-use with restoration on state leases.

Nothing in the MSCP precludes non-use; in fact, Pima County has both fee and lease lands that are not currently being grazed. However, prolonged non-use for many of the larger parcels could lead to the loss of some grazing leases, and with it, the loss of the stronger conservation measures that the County is undertaking. We believe this will lead to fewer species protections.

Comments from Attorney Alan Glen

A. Glen1: Opt-in/opt-out in exchange for compliance with CLS.

In conversation with Mr. Glen's clients, it became clear they believed additional costs would be required for rezonings that comply with the CLS, and therefore, that a prudent client would need to weigh the costs of opting in against the benefits. There are no additional requirements for post-permit rezonings approved by the Board.

A. Glen2: Limiting the opt-in only to rezonings subsequent to adoption of the CLS may violate ARS 9-1202(H).

We disagree that statutes would be violated. This position appears to be based on misunderstanding the MSCP. However, we have modified the scope of the Opt-in Program proposed in the latest draft of the MSCP in response to the request to allow more generous access to protections of the Section 10 permit.

A. Glen3: 1) Add opting in for properties entitled before 2002 subject to meeting CLS guidelines. 2) Add opt-out at any time prior to recordation of a final plat.

Properties that are rezoned prior to permit issuance are not required to participate in the program. Properties that are rezoned after permit issuance are automatically included at no cost of the developer. Pima County has strived to make permit coverage as easy as possible, and no cost is associated with the automatic coverage. We have not accommodated an opt-out choice because there are no additional costs or burdens that the property-owner must bear, there appears to be no benefit to be gained in not-participating.

Comments from the Tucson Association of Realtors (TAR)

TAR: Clearly stated departmental authority, implementation plans and budget projections should be included.

The federal review process will determine the extent to which this is specified in the document. Additional information can be developed administratively by Pima County, outside what is submitted to Service. Budget projections will be provided in the forthcoming MSCP.

TAR: No funding for the monitoring program has been identified.

We agree that the source of funding for this new program will need to be specified in the MSCP (see CSDP14 response for more information).

TAR: All for all and one for all coverage...revert to status quo ante.

Pima County proposes to broaden the "Opt-in Program" originally proposed in December 2009 so that private properties anywhere in unincorporated Pima County can gain access to the benefits of the permit for activities subject to County authority.

CSDP: Comments on the Monitoring Plan 6/23/2010

CSDP9: The Coalition respectfully disagrees with the assertion that monitoring cannot take place on privately owned open-space set asides because of barriers to access. We encourage the County to pursue such rezoning conditions when future open-space set-asides are created and to approach current landowners about formalizing access to open-space set-asides that already exist.

Privately-held NOS is an important component of the MSCP and a critical component of the SDCP. Pima County believes we have created an appropriate balance between private land owner rights and mitigation credit for the MSCP (50 percent). Though on-the-ground monitoring is not planned at this time, Pima County will be monitoring encroachment onto these lands, and as remote sensing tools become more refined, we anticipate being able to gather additional information such as location and density of invasive species.

CSDP10: More resources should be spent annually on grazing threats monitoring.

Grazing certainly has an impact on resources, but that function is largely under the purview of the NRPR grazing monitoring program. That program monitors parameters such as utilization. Based on a new set of standards and guidelines and an increased awareness to manage cattle operations for ecological health, Pima County has taken significant steps to monitor impacts of cattle on key resources and use this information to make informed management decisions.

CSDP11: More monitoring attention should be paid to Lehmann's lovegrass because of its invasiveness and positive response to climate change.

Lehmann's lovegrass, like all perennial grasses, will be recorded at long-term monitoring sites that are being proposed for the Pima County Ecological Monitoring Program. It is important to note, however, that it will not be possible or prudent to have monitoring and research that strays too far from the suggested monitoring program. Certainly, Pima County will seek partnerships and encourage research on species such as Lehmann's lovegrass.

CSDP12: Pima County states that the current distribution in Pima County for the Chiricahua leopard frog is primarily in the Las Cienegas National Conservation Area and the Buenos Aires National Wildlife Refuge. The areas of interest for monitoring this species should be the Sands, Clyne, Sopori, and Marley Ranches.

Pima County has noted the current and known distribution of the species near to the County properties. Pima County is committing to monitoring the Chiricahua leopard frog where it occurs on the County's Preserve Network, but thus far, no populations have been discovered. We welcome any information regarding its presence on County properties.

CSDP13: On page 111, the report describes a new internal advisory group comprised of various departmental representatives throughout Pima County. This group will, among other things, integrate existing monitoring efforts, such as stocking rates of livestock conducted by Pima County Natural Resources, Parks, and Recreation, into the Pima County Ecological Monitoring Program. The Coalition appreciates this new effort. We also encourage the County to either expand the scope of this internal advisory group to include the conservation measures and other relevant activities described in the larger Multi-Species Habitat Conservation Plan or to create an additional internal advisory group to

address the same. Integrating all the conservation activities of the MSCP, not just the monitoring program, with all County departments, is imperative for the success of this entire effort.

This is an excellent suggestion that we will consider more closely in the coming months.

CSDP14: We reiterate that the Coalition anticipates reviewing a more detailed description of an assured and segregated funding stream for the monitoring and management program. This portion of the MSCP is crucial to ensure widespread community support for such an ambitious effort.

Pima County is aware of the need to fully fund the monitoring program, and we recognize that many monitoring programs suffer from chronic underfunding. We are working to identify an appropriate funding stream, but it must be recognized that funding streams may change over time. Regardless of the source, the County is committed to adequately funding the program.