

Janice K. Brewer
Governor

Mark Winkleman
State Land
Commissioner

ARIZONA STATE  LAND DEPARTMENT

*Via e-mail (Neva.Connolly@pima.gov)
and U.S. mail*

March 2, 2009

Neva Connolly
Pima County Office of Conservation Science and Environmental Policy
3500 West River Road
Tucson, Arizona 85741

Re: Comments on Pima County Multi-Species Conservation Plan – Draft V

Dear Ms. Connolly:

The State Land Department (the Department) has reviewed Pima County's Multi-Species Conservation Plan Draft V and submits the following comments for incorporation into the County's final proposal to the United States Fish and Wildlife Service ("USFWS").

1) With reference to the delineation of the Permit Area on page 7, the Permit Area excludes: "Private lands in unincorporated Pima County that are derived from the sale of State Trust lands after the issuance of the permit, unless land disposition is consistent with the Conservation Lands System guidelines." The Department appreciates the County's deference to the Department's jurisdiction over State Trust Lands. In addition, pursuant to the Department's obligations to pursue the "best interests of the Trust," the Department may not agree to measures that diminish the value of the Trust and that would not otherwise be required under state or federal law with respect to a particular parcel of Trust Land.

Nonetheless, the Department would welcome the benefit of the Section 10 permit when development on current or former State Trust Land conforms to Conservation Lands System ("CLS") guidelines. In addition, USFWS would presumably welcome the efficiency of not needing to undertake an unnecessary review process. Although the exclusion above may be attempting to provide this benefit, the wording does not accurately encompass either the nature of development on State Trust Land – development often occurs on lands that are not truly "private," for instance leased from the State or for which the State has fee title – or the nature of the CLS – which applies to requests for land use modifications, not "dispositions."

Consequently, the Department requests that the County simply eliminate the exclusion of State Trust Lands from the Permit Area. The Department sees no justification in the Draft, and contends that there is no justification, to distinguish Covered Activities governing development on lands that are currently State Trust Lands from development on existing private lands. The County's on-line survey mentions "uncertainty of the future of State Trust Lands" as a justification, but the Department does not understand the relevance or why the future of State Trust Lands is any more uncertain than the future of private lands as they relate to the Covered Activities. Should future development on current State Trust Land not proceed through the County planning, zoning, or permitting process, there would be no Covered Activity governed by the Section 10 permit in any event, so there would be no additional safeguard by excluding the lands from the Permit Area.

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2) Page 30 of Draft V suggests that the CLS “substantially lessens” the amount of land impacted by Covered Activities, but does not substantiate that claim. One could argue that rather than lessening the amount of CLS land impacted, the CLS guidelines instead result in impacts to substantially the same amount of CLS lands, just dispersed over a broader area. Evaluating that issue would appear to require an economic analysis of land development markets rather than just the application of the CLS set-aside percentages to the amount of land forecasted for development.

3) Page 89 of Draft V addresses Changed Circumstances including “desiccation of other groundwater dependent riparian systems.” The Department is concerned that the listed responses do not acknowledge that the County does not currently have any jurisdiction to control groundwater pumping particularly, for instance, in the “central wellfields.” Furthermore, hydrological studies should be required to confirm that any limitations on groundwater pumping or rezoning can in fact be linked to the protection of endangered riparian areas.

4) Page 108 of Draft V states that “most of the acquisitions will occur (2009-2010).” It appears that 2009-2020 should be the relevant timeframe. In addition, the County estimates that the per acre cost of future acquisitions will equal the per acre cost of acquisitions to date. The County may be reasonable in its assumption that generally prices will not increase appreciably above 2004-2008 levels during the next ten years. However, the County’s estimate does not address the possibility that future acquisitions may be qualitatively different and possibly more expensive than the past acquisitions, for instance because the less expensive locations have already been acquired as the County attempted to maximize the “bang for the buck” or because the more willing private sellers have already sold.

5) A heading on page 110 states, “Minimization of Regional Transportation Improvements,” but the text suggests that a more appropriate heading would be, “Minimization of Impacts of Regional Transportation Improvements.”

The Department would be happy to discuss further these comments or any other issues. Please contact Michael Del Castillo, Arizona State Land Department, Southern Arizona Office, 520-209-4262.

Sincerely,



Mark Winkleman
Commissioner

cc: C.H. Huckelberry, County Administrator