

Mission: Metropolitan Pima Alliance is dedicated to improving the quality of life and economic viability of metropolitan Pima County. MPA will strive to create dialogue among diverse groups to promote sound community planning solutions.

March 2, 2009

Ms. Neva Connolly
Senior Planner
Pima County
3500 W. River Rd.
Tucson, AZ 85741

RE: PIMA COUNTY MULTI-SPECIES CONSERVATION PLAN

Dear Ms. Connolly:

Metropolitan Pima Alliance (MPA) has conducted a preliminary review of the Version 5 Draft Pima County Multi-Species Conservation Plan (MSCP) and is providing questions and comments based on that review. The questions and comments provided are broad in nature. Additional comments may be provided after further review.

Generally, the document lacks clarity and needs editorial attention to provide a clear and understandable description of the future implementation of the MSCP. In its current form, interpretation of the MSCP's effect on private land owners, benefits to the environment, and cost for implementation are difficult to discern and evaluate. Key questions and comments that should be considered by the County as they move forward with the MSCP process are:

1. It is unclear from the document what the mitigation and conservation cost will be for private land owners and what process will have to be followed for private parties to obtain coverage under the Endangered Species Act (ESA) Section 10a permit.
2. There is a long list of covered activities in Version 5 of the MSCP. However, the means of securing take authorization is not clearly defined. The mechanism of obtaining and securing authorization needs to be clearly defined. The responsibilities of an applicant to secure take authorization needs to be completely and clearly defined. For example, would an applicant be responsible for conducting surveys for any of the covered species to obtain coverage under the MSCP?
3. The nature and extent of take for the covered activities needs to be more clearly defined and articulated in the document along with the means and methods of documenting and tracking the take that is authorized. We appreciate the habitat-based approach for quantifying take outlined in

the MSCP. However, some of the covered species are known to occur at very low densities within the permit area and do not appear to be limited by habitat availability based upon the habitat suitability modeling completed by the County and relied upon in the MSCP. If a covered species is detected during survey of a particular property, will the actual harm, including death, to any of the covered species be authorized? If so, how will this be tracked and monitored as part of the 10a permit?

4. If an applicant develops land within the County's Conservation Land System (CLS), conforming to the CLS requirements for open space set asides, who will be responsible for the monitoring and maintenance of the open space within the developed lands? From where will the funding for this monitoring come?

5. Can a land owner achieve the open space goals of the MSCP using a large lot subdivision where the conservation lands will be incorporated into individual lots? The documented use and benefit of such landscapes for some of the covered species make this approach a viable conservation measure.

6. The financial elements of the MSCP are lacking the detail needed to understand the cost to the community. What are the costs to implement the MSCP and where is the funding coming from to pay for the required cost elements? Funding for the MSCP should not come from the County's General Fund.

7. The community has invested significant amounts of money through the County bond program to secure and protect open space. Open space already purchased and set aside by the County plays a key role in the conservation described in the MSCP. Have you obtained assurance from US Fish and Wildlife Service that these lands will not be considered part of the existing baseline condition and that they will be counted as mitigation for future impacts to be authorized by the MSCP?

8. The current draft of the MSCP indicates that federal projects will not be covered by a proffered take permit. Clean Water Act (CWA) Section 404 permitting federalizes otherwise private actions on private lands. Does the MSCP mean to state that if a private development project or a county road or utility project requires a CWA Section 404 permit it would not be able to obtain take authorization from the County's 10a permit? The MSCP should make it clear that covered activities should be able to utilize the take authorization provided by the County's 10a permit to satisfy any ESA obligation, provided the federal agency agrees. It would be beneficial to the regulated community to establish some sort of Memorandum of Agreement (MOA) with federal agencies that might authorize or fund activities that would be otherwise covered by the County's 10a permit such as the US Army Corps of Engineers, US Department of Housing and Urban Development (HUD), or Federal Emergency Management Agency (FEMA), to facilitate this cooperative relationship. While such an agreement should not be established in a way that could be considered pre-decisional on the part of the federal agencies, the agreements could establish the frame work and procedure for extending 10a coverage to the ESA section 7 obligation of those agencies.

9. Several of our members have had conversations with County staff regarding the implementation of the MSCP and the covered activities. They were told that previously entitled lands within the permit area that do not conform to the requirements of the CLS would be allowed to proceed with development activities in reliance on their existing entitlement without modification and would in fact be covered by the 10a permit without further obligation. They were also told that coverage under the MSCP is voluntary and an applicant could opt out if they chose to do so. Please confirm these interpretations.

10. MPA encourages the County to review its list of covered species against any current studies or petitions for listing to ensure that all species with potential for future listing under the ESA are included in their list of covered species. This would ensure the County is covered for the take of any such species if listed in the future.

MPA appreciates the time staff has given to discuss some of these concerns. We look forward to continuing participation working with the County on the Multi-Species Conservation Plan.

Sincerely,

A handwritten signature in black ink, appearing to read "Amber Smith". The signature is written in a cursive, flowing style.

Amber Smith
Governmental Relations Director