DRAFT

Board of Supervisors Memorandum

MARCH 2, 1999

REPORT ON PUBLIC COMMENT, UPDATE AND RECOMMENDATIONS ON THE DRAFT SONORAN DESERT CONSERVATION CONCEPT PLAN

I. Background

On October 27, 1998, the Board launched a major conservation planning effort -- the Sonoran Desert Conservation Plan -- that will: (1) define urban form and prevent urban sprawl through the protection of natural and cultural resources; (2) provide the basis of a natural resource protection and environmental element of the Comprehensive Plan; (3) lead to the recovery of the endangered cactus ferruginous pygmy-owl and stabilize the ecosystem and plant communities which support multiple species and thereby prevent future listings; and (4) lead to issuance of a Section 10 permit under the Endangered Species Act for a regional multi-species conservation plan that is one of the largest, if not the largest in the United States.

From October 1998 through mid-January of 1999, comments were submitted from the public about the draft Sonoran Desert Conservation document. This memorandum outlines and suggests amendments to the draft document based on public comments, and recommends adoption of a Concept Plan. After completion of a biological evaluation and economic analysis, a final Sonoran Desert Conservation Plan will be forwarded to the Board for consideration and final adoption

The Sonoran Desert Conservation effort will create a model of how the Endangered Species Act can realize its potential for the protection of multiple species, and at the same time avoid the potential economic crisis and community disruption that a listing can cause. The Plan also is unique in that it honors the living in harmony with nature culture of Native American tribes, preserves the role of ranching families and protects historic landscapes. During the next eighteen months to two years, Pima County will focus on identifying and preserving six major categories of land areas which will form the natural resource component of Pima County's Comprehensive Plan:

Ranch Conservation	Mountain Park Expansion
Historic and Cultural Preservation	Establishment of Biological Corridors
Riparian Restoration	Critical and Sensitive Habitat Protection

One year ago the Board of Supervisors held its first study session on the topic of growth management. Since that time a number of important growth planning activities have occurred, not the least of which is our necessary compliance with the federal Endangered Species Act. Now Pima County is embarking on a conservation planning effort that potentially includes a land base that is ten times the size of the San Diego Multi-Species Conservation Program, which is considered to be the most complex permitted conservation plan in the United States. Though it will take time to develop and finalize, the Sonoran Desert Conservation Plan initiated by the Board holds a great deal of promise for the long term stability of the cultural, economic and natural resources of our region.

II. Summary of Public Responses

General Response: Over the course of a three month comment period, 183 letters were submitted on the draft Sonoran Desert Conservation concept document. With the exception of letters from the McGee Ranch community, there was only one letter that wholly rejected the Sonoran Desert Conservation concept. A compilation of responses was transmitted to the Board in a memorandum dated January 19, 1999 and additional letters are attached.

Governmental Response: Legislative action and other communication indicates that the Tohono O'Odham Legislative Council supports the County's conservation effort. Nine federal entities, four state entities, and seven local governments have communicated a willingness to participate in developing a regional conservation plan. (See attached Report at page 4.)

Non-Governmental Response: Seventy-seven non-governmental organizations or individuals have specifically asked to have a role in developing the plan. (See attached Report at pages 23-24.) As I stated in the January 19, 1999 transmittal of letters, parties interested in working on the Sonoran Desert Conservation Plan reflect constituencies as diverse as the conservation community, neighborhood groups, ranchers, miners, landowners, private property advocates, developers, home builders, the real estate industry, and water interests. A rough approximation of interest group participation is that 28 (36%) of the candidates represent neighborhood and environmental groups; 24 (31%) represent the business, real estate, and development community; 10 (13%) represent landowners and private property advocates; 9 (12%) represent ranching and mining interests; and 6 (8%) represent consulting, water or other interests. (See attached Report at page 25.)

III. Summary of Comments which Suggest Amendments to Boundaries by Element

Pages 6-22 and 55-60 of the attached Report include a review of the comments submitted.

Ranch Conservation: The Ranch Conservation Element has developed into one of the most important aspects of the process in light of its direct link to the issues of (1) protecting endangered species and preserving critical habitat, (2) weighing the importance of long term use of State, Forest, and Bureau of Land Management lands from a regional and landscape perspective, and (3) realizing the role that ranch lands play in preventing wildcat subdividing. The major boundary issue forwarded by ranch interests and the State Land Department is that the fate of private holdings by ranch families depends on the future of lease lands owned by state and federal entities. Decisions about private land are tied to the public use.

Cultural and Historic Preservation: State, federal and non-governmental entities suggested the addition of projects, including Esmond Station, Kentucky Camp, Robles Ranch, Romero Ruin and an archeological site on the northwest side of the Sierrita Mountains.

Riparian Restoration: Riparian projects that were emphasized in the text of comment letters include protection of Brawley Wash, the Canada Del Oro recharge project, Rincon Creek, the Santa Cruz River corridor, and Tanque Verde Creek.

Mountain Park Element: The mountain park designation generated concern from two communities: Southern Lago Del Oro and the Sierrita Mountain / McGee Ranch community. In contrast, there were requests to include a new mountain park for the Ragged Top and Silverbell Mountains, expand the Colossal Cave and Empire areas, and protect the Waterman-Roskruge area. The Tortolita Mountain Park proposal generated both letters which requested its expansion and letters requesting removal of lands from the proposed park.

Biological Corridor and Critical Habitat Elements: Corridors extending from Saguaro National Park, the Tortolita Mountains, the Tucson Mountains, and other areas were identified for inclusion, along with critical habitat which serves as the nest site or dispersal routes for pygmy-owls. One comment suggested that : "The draft Plan does a relatively good job of proposing land conservation around the County's perimeter, but completely ignores areas closer to the City limits. ... We think key parcels should be targeted for purchase and the regulatory mechanisms should be carefully considered." (Buffers)

The Buffers comment raises an important point. A number of properties in the urban area have been bypassed from development. To the extent possible, these areas should be considered for preservation, particularly when the properties can be interconnected to form linkage from the larger open areas within eastern Pima County into urbanized Tucson. An appropriate cost-benefit analysis should be performed to evaluate the benefits of converting these urban desert spaces into infill development.

IV. Adoption of Concept Document

While the final Plan is being developed, I will recommend adoption of the Sonoran Desert Conservation Plan in concept to establish a framework for more detailed planning by:

1) Incorporating changes to maps based on comments from the public in instances where there are no conflicting public comments submitted in relation to a specific land area;

2) Adopting, in concept form, maps as originally proposed on October 27, 1998 in instances where there is no public comment;

3) Working with the landowner and those who favor conservation during the planning process to achieve mutual goals where there are conflicting recommendations;

4) Changing the name of the proposed Sierrita Mountain Park to the Sierrita Ranch Conservation Area and removing the proposal of "mountain park" as applied to Southern Lago Del Oro, but working with the Southern Lago Del Oro community to achieve conservation goals;

5) Adding Silverbell Mountain Park which includes Ragged Top and Silverbell Mountains;

6) Considering urban desert corridors.

V. Steering Committee

On December 1, 1998, the Board accepted a structure for the planning process which created a Steering Committee, Technical Advisory Teams, and a Project Management Team. The Project Management Team (made up of staff from Pima County and the Department of Interior entities) will maintain the administrative record and coordinate the flow of work between the Technical Advisory Teams and the Steering Committee. The Technical Advisory Teams (made up of experts in areas of science, law and economics, historic preservation and ranch/range issues) will gather data and work products, produce white papers, and, in general, provide expert information to the Steering Committee. The Steering Committee will narrow the options created by this information into recommendations that will ultimately go to the elected officials of various governments for final deliberations.

The Board previously directed staff to return at the close of the comment period with letters of interest and recommendations for seating the Steering Committee. Seventy-seven non-governmental entities and over 20 government entities have expressed interest in developing the Sonoran Desert Conservation Plan. (See attached Report at pages 4 and 23.)

Several factors arise in considering the formation of a Steering Committee, including that the success of the process depends on its inclusiveness. Each of the parties feels strongly that he or she has an interest to protect and promote in the conservation planning process and would probably view exclusion at this stage as an attempt to limit public participation. At the same time, there is a great deal of knowledge that should be acquired by any advisory panel member who will ultimately make a recommendation on a preferred preserve alternative based on its conservation value and in light of the community's fiscal capacity. While the process of obtaining sufficient planning funds is taking place, Steering Committee members should use this time period to begin meeting at least two times each month over the next three months to acquire knowledge in a variety of subject areas, including:

1) The requirements of both the Endangered Species Act and private property law;

2) The status and baseline requirements of the cactus ferruginous pygmy-owl;

3) The trends in conservation practices, the policy direction of multi-species planning processes, and the actual nuts-and-bolts of how such a plan is drafted;

4) Knowledge of population and community demographic trends;

5) The requirements of other relevant laws, including the National Environmental Policy Act (NEPA), National Historic Preservation Act, Taylor Grazing Act, State and School Lands law, Growing Smarter legislation; mining, multiple use, and water laws;

6) An understanding of the role of ranching within the region and its integration with conservation and open space;

7) An understanding of land ownership, land use practices, and comprehensive plans now in place across the region;

8) An understanding of the location and significance of cultural and historic sites;

9) Knowledge of trends in natural resource consumption which might create population growth constraints;

10) The vegetation communities and habitat associations within Pima County;

11) The status and baseline requirements of species included within the Plan;

12) Familiarity with the cost of land, the costs associated with growth and development, and the costs of conservation program implementation.

A working knowledge of all these areas will be essential if the Committee members are to make a credible recommendation on a regional conservation program that will impact land use planning and development for decades into the future. These sessions will bring the entire group up to the same place in their knowledge of various aspects of multi-species conservation planning as described above, and prepare the Steering Committee for their most important role in recommending a preserve design to the Board in the future. The business of the Steering Committee, including updates on the work of the Technical Advisory Teams, will be presented during public meetings that precede workshops and seminars.

Recommendation to Begin Steering Committee Work: I will recommend that the Board direct staff to invite interested government entities and each of the non-governmental organizations and individuals who have submitted letters to become members of the Steering Committee contingent upon their willingness to begin attending a twice per month series of educational seminars and workshops. Everyone expressing an interest will be invited to participate. Within six months, I will forward recommendations to the Board about whether the Steering Committee should create an Executive Committee and defined Sub-Committees within the larger Steering Committee and/or invite additional members.

VI. Issues of Potential Liability under the Endangered Species Act

Two important federal decisions are pending which might provide assistance to Pima County in assessing and taking action to avoid liability under the Endangered Species Act. This section summarizes pages 27-37 of the attached Report, which provides a brief update on federal proposed pygmy-owl landowner guidance and survey protocol and the proposed critical habitat designation. It also provides an assessment of Pima County's capital improvement projects in light of these issues.

Survey Guidance: In August of 1998 the United States Fish and Wildlife Service and the Arizona Game and Fish Department jointly announced new guidance for determining if "take" of a cactus ferruginous pygmy-owl has occurred and new survey protocol for the pygmy-owl.

The comment period for this proposed guidance closes in mid-March of 1999. If a new survey standard is adopted, implementation would likely occur in January of 2000. The proposed survey protocol essentially changes the number of surveys from one to six, and the newly proposed surveys would have to be conducted in two different breeding seasons.

Critical Habitat: In December of 1998, the Service published proposed rules for designating critical habitat for the pygmy-owl. In June of 1999, the Service will determine whether to designate critical habitat. Under the proposed rules, federal projects within the critical habitat area are evaluated by the Service.

Application to Pima County: As long as Pima County lacks a Section 10 permit, it is subject to potential liability for "take" (harm, harass, significantly alter habitat etc) under Section 9 of the Endangered Species Act. That is the most important rule to keep in mind, and when properly understood, Section 9 creates a great desire on the part of the landowner for reliable advice. The survey guidance is intended to provide such advice.

Policy Proposal: As Pima County awaits the outcome of these processes, we not only lack protection from Section 9 liability (for our own projects, and potentially for projects permitted by the County), we lack unified agency advice. In the absence of a settled opinion, we have proceeded in a manner which has resulted in rational decision making and raised our confidence level about the impact of projects. This method might be improved and standardized to create a policy for County projects which includes:

1) Requiring projects that will significantly alter pygmy-owl habitat currently planned in areas identified as critical habitat to be included in and designed as part of the larger Sonoran Desert Conservation Plan, with exceptions for issues such as human safety forwarded to the Board for discussion and action;

2) Creating a check and balance method for other projects by:
   (a) seeking professional surveys and assessments from an independent biologists;
   (b) subjecting the results to peer review; and
   (c) consulting with agency biologists;

3) Undertaking additional surveys for County projects in areas that are identified as sensitive but not critical; and

4) Forwarding survey data to the Arizona Game and Fish Department for research purposes and to inform the Sonoran Desert Conservation planning process.

The layers of expertise involved in this process ensure the best advice available is generated, the search effort is rigorous and calibrated to the sensitivity of the habitat, and the information benefits the community. We must set a positive example for the balance of the community by incorporating the best advice available into effective species protection policy. Our projects must comply in all respects to existing and proposed federal policy on Endangered Species protection.

VII. Reducing Liability and Facilitating Inter-governmental Cooperation with Incentive Provisions

Incentives for progressive interim actions will also be incorporated into the intergovernmental cooperative agreement that can now be finalized upon the close of the comment period. At least 20 jurisdictions or government entities have expressed interest in the planning process. The entities that have land use authority are subject to potential liability for "take" until permits are issued at the end of the study process.

To create incentives for land use decisions that facilitate protection of pygmy-owls and other species during the interim period, the cooperative agreement, which we can now pursue with the close of the comment period, will include a provision which will allow lands acquired or conserved by other means during the interim period to be credited toward meeting obligations to the regional multi-species conservation plan, if such conservation measures actually contribute to achieving the final Sonoran Desert Conservation Plan goals, particularly the recovery of the pygmy-owl. This provision will encourage creative solutions and alliances.

VIII. Reducing Liability and Facilitating Private Sector Cooperation with Incentive Provisions

Need for Incentives - One complaint about the Endangered Species Act is that it seeks to protect animals by placing burdens on landowners with valuable habitat, which creates ill will toward either the government entity carrying out the law, or the protected animal itself. There are mechanisms which can provide incentives, including programs which allow landowners to capture economic value for sensitive habitat, and agreements which can accelerate the resolution of compliance issues for governments. Mitigation banks, transfer and purchase of development rights, and conservation easements are examples of programs or methods within programs that can be used to return economic value for the conservation of land.

Mitigation banking, described in greater detail in the attached Report (pages 43-44), is defined as "privately or publicly owned land managed for its natural resource values. The bank owner sells habitat credits to parties who are required to compensate for environmental impacts of their activities or who wish to fund land conservation efforts. Developing a conservation bank establishes legal links between the owner of the bank and resource agencies." The value of credits is a factor of the market, and can be quite high.

Purchase or transfer of development rights programs are gaining popularity with ranch and agriculture land owners. The attached Report provides greater detail at page 45. In general, a landowner can sell or transfer land uses such as development rights to another party (such as a local government). This keeps the land affordable, the ranch use protected, and the open space or ecological value preserved. Ranch owners who rely on public land for grazing leases will also need a use commitment from the public entity so that foregoing development rights on the private land makes long term economic sense.

Pima County's Role: Pima County has an interest as part of the Sonoran Desert Conservation Plan to encourage small scale preserves that result from mitigation banking and sale of development rights which then fit into the larger ecologically viable preserve design.

IX. Summary of Public Comments on Land Use Policy

The attached Report includes a more detailed compilation of comments submitted for a number of proposed land use policies. These are found in the Appendix at pages 61-63, and include:

No Upzoning in Environmentally Sensitive or Historic Areas - Five comment letters supported the notion of limiting upzoning in environmentally sensitive lands.

Create an Environmentally Compatible Standard for Rezoning Time Extensions - One local government and one non-governmental entity supported this concept.

Comprehensive Plan Amendments to Resource Conservation - Three comment letters described the need to undertake comprehensive planning along with conservation planning.

Transferable Development Rights - Three letters discussed the need for a transferable development rights program.

Infrastructure Investment Guidance - The Town of Marana expressed the need to recognize that in order to encourage appropriate growth, infrastructure must be made available in terms of sewer if we are to be successful and truly provide an integrated approach.

Environmental Enhancement Fee - One local government and two private citizens wrote in support of environmental enhancement fees.

Environmental Banking Authority - Land banking alternatives received support from the State Land Department.

X. Formation of Interim Environmental Land Use Policy

Based on the comments submitted and the need to deal effectively with endangered species issues in the interim planning period, I will recommend that the Board direct staff to draft policies for Board consideration which will apply during the planning period, including:

1) A limitation on upzonings in environmentally sensitive areas identified by federal critical habitat rules or the Sonoran Desert Conservation Concept Plan, with exceptions for upzonings which would result in actual conservation;

2) Enhanced review criteria on waiver of subdivision platting requirements;

3) Enhanced conditional use permit criteria to be more sensitive to conservation areas;

4) An environmentally compatible standard for rezoning time extensions;

5) Review the resource conservation definition within the Zoning Code for applicability to proposed conservation lands identified within the Concept document;

6) Revise and integrate grading and landscape standards into a unified policy proposal for Board consideration which encompasses recent changes to the Native Plant Preservation Ordinance, the hillside development and buffer overlay zones, and riparian habitat regulations, and which states as a specific Comprehensive Plan policy how the linkages of private land development adjacent to public preserves and our compliance with the Endangered Species Act respond to the conservation of the desert environment while encouraging responsible urban development;

7) Adoption of environmental enhancement fees to be used to maintain and expand public preserves as a standard condition of upzoning of any lands within designated elements of the Sonoran Desert Conservation Plan;

8) Develop and propose transfer and purchase of development rights programs;

9) Develop and propose ranch, cultural and historic preservation zoning classifications; and

10) Develop and propose environmental land banking and mitigation banking programs.

XI. Funding

Intergovernmental Funding: In addition to facilitating interim actions, the cooperative agreement among governments will establish the goal of recovery, commit agencies to data and information sharing, and move toward a cost sharing agreement next fiscal year. The federal agency that could make contributions to the planning process this year is the U.S. Fish and Wildlife Service, through potential funding for pygmy-owl studies and staffing. Also, in its letter submitted during the comment period, Arizona Game and Fish has suggested that potential financial resources are available. Both the State and the United States Forest Service offered scientific data and information to support the County's efforts.

Federal Appropriation and Other Strategies - On October 27, 1998, the Board directed staff to actively pursue a scientific study funding request that had previously been made to the Department of the Interior. Progress has occurred in this regard through lobbying efforts which might result in a $3 to $5 million federal planning appropriation to Pima County. At the time such money becomes available, the County can request proposals for the larger regional conservation planning effort. We simply lack sufficient funds to undertake long term regional planning now. The original allocation of $300,000 will be useful in advancing the science of the pygmy-owl, and staff members have made steady progress in working with other agencies to establish the groundwork for the biological evaluation as envisioned by the Sonoran Desert Protection Plan. A much larger amount of money is required for the regional plan process, however.

In addition to the science studies, funding will cover the cost of assessing environmental impacts and drafting an environmental impact statement, carrying out the public notice and public participation requirements of the National Environmental Policy Act (NEPA), and conducting an economic analysis of the cost associated with conservation alternatives to evaluate the community's fiscal capacity to adopt a conservation plan and to understand the cost associated with various conservation alternatives.

If the effort to obtain federal planning funds does not succeed, Pima County will have to seek other sources of funding. Local governments in California and Nevada have implemented fee generated funding schemes, as described on page 54 of the attached report.

XII. Research

Progress on Multi-Species Planning - In the work plan accepted by the Board of Supervisors on October 27, 1998, there was discussion of the elements of a long term ecosystem based conservation planning process. The work plan expanded the original Sonoran Desert Protection Plan to include both a biological assessment and an economic impact assessment. The expanded plan now has (1) a larger planning area, (2) more partners, (3) expanded public process, (4) a more comprehensive approach, and (5) greater scientific oversight and peer review. Progress in each of these areas has been achieved during the three month comment period, and is described in the attached Report, pages 48-50.

Progress on Pygmy-Owl Research Efforts - In the work plan accepted by the Board of Supervisors on October 27, 1998, there was discussion of the interim research needs for the pygmy-owl. A number of specific pygmy-owl studies were identified, including (1) more extensive survey efforts, (2) habitat and telemetry studies, and (3) genetics studies. Progress in each of these areas has been achieved during the three month comment period, as described in pages 51-53 of the attached Report and summarized below.

(1) Regarding more extensive survey efforts:

The work plan accepted by the Board states that interim action is needed to initiate more comprehensive surveys which will further our knowledge of how many pygmy-owls there are and where they are located. Based on discussions with agency scientists and members of the pygmy-owl recovery team, there is a recommendation to pursue a comprehensive survey effort during the remainder of the breeding season (March - June), and have contracts in place so that surveys can begin in January of the next breeding season in order to compile the data necessary for both the Sonoran Desert Conservation Plan and the recovery team effort.

The recommendation for this survey season is to increase the survey effort by considering contracts with a cumulative expenditure ceiling of $100,000, or $140,000 through a cost-sharing agreement with U.S. Fish and Wildlife. Individual members of the science pygmy-owl recovery team have volunteered to make recommendations to the County Administrator on contracts after reviewing proposals. The survey effort would be closely coordinated with telemetry, habitat assessment, and genetics work described below.

(2) Regarding habitat and telemetry studies:

The work plan accepted by the Board states that interim action is needed to undertake telemetry studies and habitat assessments which will provide information necessary to tailoring recovery and conservation plans to protect the owl and the economy.

Based on discussions with agency scientists and members of the pygmy-owl recovery team, there is a recommendation to pursue a contract with the Tucson Office of the Arizona Game and Fish Department to conduct habitat assessments and telemetry work. Mr. Scott Richardson has conducted this work to date and as the leading expert on the Arizona population of pygmy-owls, he is uniquely able to carry out such an assignment in the short term. The telemetry and habitat assessment effort would be closely coordinated with survey and genetics work. Results would be available to the science teams of both the Sonoran Desert Conservation Plan and the Recovery Team.

A contract ceiling of $60,000 is recommended to cover the entire cost (travel, labor and equipment) of at least 10 telemetry studies, cooperative efforts with the genetics and survey work, and a habitat assessment which builds on the results of the 1998 study.

(3) Regarding genetics studies:

The work plan accepted by the Board states that interim action is needed to undertake genetic research. Based on discussions with agency scientists and members of the pygmy-owl recovery team, there is a recommendation to pursue a contract with Mr. Glenn Proudfoot from the University of Texas A&M. Mr. Proudfoot has submitted a proposal for genetics work, and as the foremost pygmy-owl genetics expert in the United States, he is uniquely qualified to conduct pygmy-owl genetics studies.

These studies of DNA sequence data will address two issues regarding genetic viability of ferruginous pygmy-owl populations in Arizona, and the feasibility of reintroduction, and thus serve as a framework for future management efforts:

- Are Arizona pygmy-owls lacking genetic variation relative to healthy populations?
- Are populations genetically differentiated from each other?

Results would be peer reviewed, submitted for publication in scientific literature, deposited in the national GenBank, and available to the science teams of both the Sonoran Desert Conservation Plan and the Recovery Team. The estimated time of completion is March 2000.

A contract ceiling of $37,000 is recommended to cover the entire cost to Pima County (travel, labor and equipment) of 110 genetics studies (10 studies with the Arizona pygmy-owl population and 100 comparative studies with Texas and Mexico pygmy-owls). The total project cost is $58,577, with the balance paid for by Texas A&M University.

XIII. Recommendations

I recommend that the Board approve the following actions:

1) Adopt Concept Document: While the final Plan is being developed, I recommend adoption of the Sonoran Desert Conservation Plan in concept to establish a framework for more detailed planning by:

a) Incorporating changes to maps based on comments from the public in instances where there are no conflicting public comments submitted in relation to a specific land area;

b) Adopting, in concept form, maps as originally proposed on October 27, 1998 in instances where there is no public comment;

c) Working with the landowner and those who favor conservation during the planning process to achieve mutual goals where there are conflicting recommendations;

d) Changing the name of the proposed Sierrita Mountain Park to the Sierrita Ranch Conservation Area and removing the proposal of "mountain park" as applied to Southern Lago Del Oro, but working with the Southern Lago Del Oro community to achieve conservation goals;

e) Adding Silverbell Mountain Park which includes Ragged Top and Silverbell Mountains;

f) Considering urban desert corridors.

2) Begin Steering Committee Work: I recommend that the Board direct staff to invite interested government entities and each of the non-governmental organizations and individuals who have submitted letters to become members of the Steering Committee contingent upon their willingness to begin attending a twice per month series of educational seminars and workshops. Within six months, I will forward recommendations to the Board about whether the Steering Committee should create an Executive Committee and defined Sub-Committees within the larger Steering Committee and/or invite additional members at that time.

3) Draft Survey Policy Proposal for County Projects: I recommend that the Board direct staff to draft a survey protocol policy for County projects which includes:

a) Requiring projects that will significantly alter pygmy-owl habitat currently planned in areas identified as critical habitat to be included in and designed as part of the larger Sonoran Desert Conservation Plan, with exceptions for issues such as human safety forwarded to the Board for discussion and action;

b) Creating a check and balance method for other projects by: (1) seeking professional surveys and assessments from an independent biologists; (2) subjecting the results to peer review; and (3) consulting with agency biologists;

c) Undertaking additional surveys for County projects in areas that are identified as sensitive but not critical, and

d) Forwarding survey data to the Arizona Game and Fish Department for research purposes and to inform the Sonoran Desert Conservation planning process.

4) Draft Interim Environmental Land Use Policy: Based on the comments submitted and the need to deal effectively with endangered species issues in the interim planning period, I recommend that the Board direct staff to draft policies for Board consideration which will apply during the planning period, including:

a) A limitation on upzonings in environmentally sensitive areas identified by federal critical habitat rules or the Sonoran Desert Conservation Concept Plan, with exceptions for upzonings which would result in actual conservation;

b) Enhanced review criteria on waiver of subdivision platting requirements;

c) Enhanced conditional use permit criteria to be more sensitive to conservation areas;

d) An environmentally compatible standard for rezoning time extensions;

e) Review the resource conservation definition within the Zoning Code for applicability to proposed conservation lands identified within the Concept document;

f) Revise and integrate grading and landscape standards into a unified policy proposal for Board consideration which encompasses recent changes to existing conservation ordinances, and which states as a specific Comprehensive Plan policy how the linkages of private land development adjacent to public preserves and our compliance with the Endangered Species Act respond to the conservation of the desert environment while encouraging responsible urban development;

g) Adoption of an environmental enhancement fees to be used to maintain and expand public preserves as a standard condition of upzoning of any lands within designated elements of the Sonoran Desert Conservation Plan;

h) Develop and propose transfer and purchase of development rights programs;

I) Develop and propose ranch, cultural and historic preservation zoning classifications; and

j) Develop and propose environmental land banking and mitigation banking programs.

5) Initiate Comprehensive Planning Process: Direct staff to return to the Board within 60 days with a strategy to integrate the actions of the Sonoran Desert Conservation Concept Plan with the Pima County Comprehensive Plan so that such a plan includes elements that accommodate conservation, equity and fairness considerations, and population growth.

6) Initiate a Pygmy-Owl Study Series: In the work plan accepted by the Board of Supervisors on October 27, 1998, there was discussion of the interim research needs for the pygmy-owl. I recommend that in the remaining months of this pygmy-owl survey season, Pima County should use a portion of the $300,000 budgeted for conservation planning to pursue three types of studies:

a) Contract for Pygmy-owl Surveys: The recommendation for this survey season is to undertake a survey effort by considering more than one contract with a cumulative expenditure ceiling not to exceed $100,000, or $140,000 through a cost-sharing agreement with U.S. Fish and Wildlife (with $40,000 from the Service).

b) Contract for Telemetry and Habitat Assessments: Based on discussions with agency scientists and members of the pygmy-owl recovery team, there is a recommendation to pursue a contract with the Tucson Office of the Arizona Game and Fish Department to conduct habitat assessments and telemetry work. A contract ceiling of $60,000 is recommended to cover the entire cost (travel, labor and equipment) of telemetry studies, cooperative efforts with the genetics and survey work, and a habitat assessment.

c) Contract for Genetics Studies: Based on discussions with agency scientists and members of the pygmy-owl recovery team, there is a recommendation to pursue a contract with Mr. Glenn Proudfoot from the University of Texas A&M for studies of DNA sequence data which will address two issues regarding genetic viability of Ferruginous Pygmy-Owl populations in Arizona, and the feasibility of reintroduction, and thus serve as a framework for future management efforts: (1) Are Arizona pygmy-owls lacking genetic variation relative to healthy populations, and (2) Are populations genetically differentiated from each other? A contract ceiling of $37,000 is recommended to cover the entire cost to Pima County (travel, labor and equipment) of 110 genetics studies (10 studies with the Arizona pygmy-owl population and 100 comparative studies with Texas and Mexico pygmy-owls). The total project cost is $58,577, with the balance paid for by Texas A&M University.

Respectfully submitted,

C. Huckelberry

C.H. Huckelberry
County Administrator

(February 18, 1999)

Attachment

FEBRUARY 1999

DRAFT SONORAN DESERT CONSERVATION CONCEPTS

Report on Issues Related to Public Planning Process, Liability, Incentive Options, and Study Series

SONORAN DESERT CONSERVATION PLAN UPDATE

PART I: Background ... p. 2

PART II: Public Process Issues... p. 3
A. Summary of Comments from Letters ... p. 4
B. Steering Committee ... p. 23

PART III: Liability Issues ... p. 27
A. Protocol and Proposed Critical Habitat ... p. 28
B. Pima County's Capital Projects ... p. 34

PART IV: Incentive Based Issues ... p. 41
A. Grading Ordinance Update ... p. 42
B. Mitigation Banking, Conservation Easements, and Purchase of Development Rights ... p. 43
C. Cooperative Agreement ... p. 46

PART IV: Funding and Research Issues ... p. 47

PART I: BACKGROUND

Update: Sonoran Desert Conservation Concepts

I. BACKGROUND

On December 1, 1998, the Board (1) extended the comment period for the draft *Sonoran Desert Conservation* concept document through January 15, 1999, (2) accepted a structure for the planning process which created a Steering Committee, Technical Advisory Teams, and a Project Management Team, and (3) directed staff to return at the close of the comment period with letters of interest and recommendations for seating the Steering Committee.

This report provides a summary of the 170 letters forwarded to the Board on January 19, 1999, along with additional letters found at Attachment A, and lists the names of individuals and organizations who have expressed an interest in participating on the Steering Committee. It also provides an update on other issues related to the cactus ferruginous pygmy-owl and describes measures that the Board might begin to consider and implement to protect the pygmy-owl and reduce the potential for liability during the planning process. The report is organized into these broad topics:

Issues Related to Public Process:

Summary of comment letters; names of individuals and organizations who have expressed an interest in participating in the development of the conservation plan; and suggestions for an education series for Steering Committee members;

Issues Related to Liability:

Update on federal proposed pygmy-owl landowner guidance and survey protocol and the proposed critical habitat designation; and application to Pima County's capital improvement projects;

Issues Related to Incentives:

Discussion of Pima County's draft Grading Ordinance; discussion of the need for programs in the areas of mitigation banking, conservation easements and purchase of development rights; a description of how incentives for interim actions can be incorporated into the intergovernmental cooperative agreement; and

Issues Related to Funding and the Study Sequence:

An update on funding for the overall planning process; discussion of study time lines; and a description of studies related to the pygmy-owl.

PART II: PUBLIC PROCESS

Update: Sonoran Desert Conservation Concepts

PART II: ISSUES RELATED TO PUBLIC PROCESS

A. Summary of Comments

1. Who submitted comment letters?
2. Detailed comments from non-governmental interests
3. Detailed comments from governments
4. Expression of neighborhood concerns
5. Specific requests for additions / deletions

B. Steering Committee

6. Who expressed interest in the steering committee?
7. What is the balance of interests represented?
8. What is the primary task of steering committee and what background is needed to fulfill this task?

A. SUMMARY OF COMMENTS

QUESTION #1: WHO SUBMITTED COMMENT LETTERS OR OTHER COMMUNICATION REGARDING THE DRAFT SONORAN DESERT CONSERVATION CONCEPT DOCUMENT?

A total of 176 letters dated on or before January 15, 1999 were generated during the twelve week comment period. Another seven letters were dated and received after the January 15, 1999 deadline. Communication has taken place and is ongoing with jurisdictions, including the Tohono O'Odham Nation and federal, state and local entities listed below.

FEDERAL ENTITIES
That Have Expressed Interest in the SDCP Concept

- United States Department of Agriculture, Forest Service
- United States Department of Defense, Air Force, Ranges and Airspace
- United States Department of Defense, Army Corps of Engineers
- United States Department of the Interior, Bureau of Land Management
- United States Department of the Interior, Bureau of Reclamation
- United States Department of the Interior, National Parks Service
- United States Department of the Interior, Office of the Secretary
- United States Department of the Interior, U.S. Fish and Wildlife Service
- United States Department of the Interior, U.S. Geological Survey

STATE ENTITIES
That Have Expressed Interest in the SDCP Concept

- AZ Dept of Environmental Quality
- AZ Dept of Water Resources
- Arizona Game and Fish Department
- Arizona State Land Department

LOCAL INCORPORATED ENTITIES
That Have Expressed Interest in the SDCP Concept

- City of South Tucson
- City of Tucson
- Town of Casas Adobes
- Town of Marana
- Town of Oro Valley
- Town of Sahuarita
- Town of Tortolita

NON-GOVERNMENTAL INDIVIDUALS AND ENTITIES
Who Forwarded Letters re the SDCP Concept (Chronological Order of Correspondence)

- Alan Lurie
- Mary Darling
- Jonathan DuHamel
- Joe Parsons
- Ellen Barnes
- Kenn Schultz
- Michael Zimet
- Luther Propst
- Ed/Margaret Bieber
- Mark Miller
- Michael Winn
- David Nix
- Aurelia Acton
- Jeanie Marion
- Graham Barton
- John Bordenave
- Brian/Karen Metcal
- Patricia Richardson
- David Hogan
- Lawrence Aldrich
- Jud Richardson
- John Menke
- Jan Gingold
- Andra Ewton
- Rob Kulakofsky
- Christina McVie
- Doug McVie
- Barbara Rose
- Glenda/ Robert Zahner
- John Pimental
- David Mehl
- Robert Smith
- William Hallihan
- Tim Blowers
- Neale Allen
- Jeanne Rosengren
- Jim Shiner
- Bill Arnold
- B.Deming/ M.Kidwell
- Lora Awtrey
- Janette Awtrey
- Bruce Gungle
- Tim Terrill
- Cassandra Martinez
- D./C. Honnas
- Patricia Awtrey
- Frances Werner
- Robyn/Lois Benson
- Laurence Marc Berlin
- Rodger Schlickeisen
- Lynn Harris
- Fred Depper
- David Hogan
- Tim Terrill
- Luther Propst
- Richard Rosen
- Kate Hiller
- Lynn Harris/Lucille Depper
- Open SpaceCommittee
- Buffers
- Linda Griggs
- Marcy Tigerman
- Patricia Dewitt
- Gary Forbes
- Marcel/Olga Nuets
- Gary Fox
- Dale Turner
- L.G./B.Wilson
- Rincon Institute
- Janette Awtrey
- Historical Commission
- Richard Daley
- John Martin
- Jill Rich
- Arkin/Emley
- Susan Zakin
- Thomas Wiewandt
- Mildred Kiteser
- B.Manfredonia
- Jill Littrell
- Jean Moore
- Ann Dursch
- Catherine Penny
- Erleen Martin
- Richard Genser
- Richard Harris
- L.Harris/H.Fox
- Lynn Harris
- James Harris
- Mary Ann Riley
- Betty Oryall
- T/S Harris
- Dudley Fox
- John Harris
- Center Wld Con
- Carl Davis
- Nancy Wall
- Gay Lynn Goetzke
- Neal/Karen Harris
- Barbara McDewitt
- PMcGee Coughanour
- Augusta Davis
- William Crosby
- Bill Schnaufer
- Dan Beckel
- Lois Kulakowski
- Natalie McGee
- Mona Wolters
- Michael Wolters
- Larry Wolters
- Carol Klamerus
- Holly Finstrom
- Jayne Kahle
- Lisa Stage
- Lucy Vitale
- Penelope Harris
- Norman Harris
- Donna McGee
- Judy Ann Fox
- Sheldon Fox
- Les Harris
- Jeremy Harris
- Stephen Bacchus
- Melissa Bacchus
- Kathy McGee
- Charles Bristow
- E. Espinoza
- Sarah Baker
- Wendell Baker
- B. Vermeerech
- Judith Murphy
- Carlene Peck
- Anne Davidson
- Eileen Bradford
- W.D. Matthews
- Lago Oro Com
- Carolyn Campbell
- Duffner/J.Murray
- G/M. Wendt
- Kinsey/ Ehrlich
- Sharon Conine
- Ernest Burnham
- Les Corey
- Vicki Cox Golder
- ZG Kirkpatrick
- Quinn Simpson
- Alter Valley
- George Bender
- Gerald Juliani
- Charles Award
- SW Network EEJ
- Defend. Wildlife
- N.Zerenberg
- Wayne Bryant
- Doug Koppinger
- Ellen Carmen
- Chris Monson
- Sally Wegner
- M/R/ Quigley
- Carol Tepper
- Terrence Moore
- Andy Holdsworth
- Deborah Hecht
- James Bell
- John Camper

QUESTION #2: WHICH NON-GOVERNMENTAL INDIVIDUALS OR ENTITIES SUBMITTED DETAILED COMMENT LETTERS WITHIN THE TIME PERIOD, AND WHAT DID THEY SAY?

Of the correspondence from 77 non-governmental organizations and individuals seeking a spot on the Steering Committee, approximately eight letters submitted during the 12 week comment period provide in-depth or specific reviews of the conservation concepts suggested in the draft *Sonoran Desert Conservation Plan* document. Highlights from these letters are summarized below.

Altar Valley Conservation Alliance
Buffers
Center for Wildlife Connections
Defenders of Wildlife
Green Valley Coordinating Council
Metropolitan Pima Alliance
Rincon Institute
Southwest Center for Biological Diversity

ALTAR VALLEY CONSERVATION ALLIANCE

"We are enthusiastic about the idea of open space protection. The Plan's recognition of ranches as part of the conservation solution is truly refreshing and encouraging, and we are pleased to see the Altar Valley highlighted as an area worthy of preservation and protection."

"We share the Plan's concern about urban expansion. We are keenly aware of the pressure of growth southwest of Tucson and in the Robles Junction area. Many ranches have already been purchased for development, resulting in permanent change to the productive agricultural capabilities and open space character of the Altar Valley. We are keen to avoid having additional Altar Valley ranch land head this direction."

"The Plan points out the importance of State Trust lands in protecting Pima County open space. Here in the Altar Valley, our future is closely tied to the fate of State Trust Land. Given the uncertain future of State land, it is difficult for private land owners to consider land protection measures such as conservation easements on their own land. There are numerous ways that State land open space preservation could be stabilized ranging from longer leases to purchase or transfer of State land development rights to establishment of State range land preserves. We hope that stabilizing the future of State Trust lands in the Altar Valley will be considered as a goal of the Plan."

ALTAR VALLEY CONSERVATION ALLIANCE continued ...

"We are pleased to see Altar Valley ranches included as a component of the open space preservation puzzle, and at the same time the recognition raises concern since the Plan provides so little detail about what the County has in mind. We hope that you will allow us to work directly with you to plan for our area."

"We are concerned about stewardship of the Brawley Wash area, and hope to identify ways to enhance this watercourse through our Watershed Resource Assessment Project funded by the Watershed Protection Fund. As with the Ranch Conservation element of the Plan, we hope the County will work directly with us to determine how this corridor will be protected and managed."

"We feel that [the critical and sensitive habitat] section needs significant development. We have a great deal of site-specific experience regarding endangered species situations among our members. We want to be part of developing this Plan to assure that species concerns are addressed, as well as the interests of the people using the land."

"All this said, we are willing to jump in and contribute to making this habitat conservation plan work for all of us. We sincerely hope that others involved in further development of this Plan will pause to realize that threatened and endangered species living on ranch lands are probably there because of good stewardship by ranchers, not in spite of ranching."

BUFFERS

"We would like to point out at the beginning that, far from considering too much land, the draft Plan is not nearly comprehensive enough."

"Generally, we believe the choices in the Plan for land acquisition are good ones."

"We suggest that lands currently in federal ownership should remain in federal ownership."

"Land that is in private ownership and is being managed as open space ... should be considered for conservation easements rather than outright purchase."

BUFFERS continued ...

"We suggest that the Biological Corridors and Links section needs to be broadened considerably. A few examples of areas that should be included are washes and bajadas on the west side and northeast side of the Sierrita Mountains; washes north of the Santa Rita Experimental Range and the Santa Rita District of the Coronado National Forest; washes on the northeast side of the Tucson Mountains; and washes that drain into the Cienega Creek."

"We believe that an archaeological district exists on the northwest side of the Sierrita Mountains that should be included in the draft Plan."

"We believe a comprehensive plan for the protection of Tanque Verde Wash needs to be devised. Such a plan should combine purchase with conservation easements."

"We believe the draft Plan needs to be broadened to include what we are calling the 'Inner County.' ... Some of the best examples are Sabino Canyon, the eastern slopes of the Tucson Mountains near Gates Pass, and area along Ajo Way and parts of the Avra Valley."

"We appreciate the fact that you have included recommended changes in land use policy. At the same time, we believe this area of the draft Plan must be seriously strengthened."

"We recommend that there should be no new upzonings."

"Land that is designated as an environmentally sensitive or historically valuable area should never be upzoned."

"Rezoning time extensions should seldom if ever be granted."

"Creating tax incentives to keep land in low density uses needs to be a high priority item."

"We strongly agree that a program that allows the transfer of development rights needs to be created."

"We recommend that the Plan include a limitation on the number of building permits issued each year."

"A regional oversight mechanism and involvement of other jurisdictions are both keys to the success of this plan."

"Make the acquisition of open space and conservation a top priority for Pima County."

CENTER FOR WILDLIFE CONNECTIONS

"Among these sections missing from the plan are the bighorn sheep calving area in the Silverbell Mountains and habitat where pygmy-owls have been identified by surveys and by high-quality, but unconfirmed observations."

DEFENDERS OF WILDLIFE

"We maintain our position that all proposed upzonings for lands likely to have ecological and historical value be denied in the interim. In addition, we recommend taking this policy one step further to deny all upzonings until such time as an assessment of the cumulative environmental impacts of development has been done."

"We believe that the SDCP omits key tracts of land in need of immediate protection. This cannot wait for years for the completion of the biological assessment.... In addition to furthering species protection, the up front acquisition of as much land currently known to be sensitive will make the upcoming MSCP process that much easier. We have several preliminary recommendations for land acquisition/protection to this end."

"Defenders believes that due to recently obtained information about the heightened importance to pygmy-owls of land slated for development at Dove Mountain, we would like to see the proposed Tortolita Mountain Park expanded to include all undeveloped areas of Dove Mountain, including the 'Bajada' acreage in addition to Ruelas Canyon which the SDCP proposes to acquire as part of the Tortolita Mountain Park expansion."

"In line with the County's proposed acquisition to link the Tortolita Mountains with the Santa Catalina Mountains, we also believe that protection of currently undeveloped land connecting the Tortolita fan across I-10 to the Tucson Mountains as well as to the Silverbell Mountains warrants immediate action. Maintaining the currently vegetated linkages that are likely to connect existing pygmy-owls in the Tortolitas to the remainder of the Arizona population further west should be a priority."

"The site of the proposed new high school for the Amphitheater School District, as one of the most heavily documented areas used by pygmy-owls in the northwest Tucson area, certainly warrants immediate acquisition. As such, it is also important to acquire or otherwise protect currently undeveloped land which would connect the Amphi site to the southern end of the Tortolita Mountains."

DEFENDERS continued ...

"Another example of important pygmy-owl habitat in need of immediate protection would be any fledgling dispersal corridors."

"The conservation plan must start with protection of currently occupied pygmy-owl habitat, and the umbrella of protection must extend to previously occupied habitat and lands necessary for feeding, reproduction, sheltering, and dispersal. Critical habitat that will be designated by the U.S. Fish and Wildlife Service must be included among protected lands as well."

"We recommend that HCPs enhance the recovery of listed species, that large-scale HCPs (such as Pima County's) have independent scientific review of multiple stages of the process, that HCPs define biological goals, and that biological monitoring and adaptive management direct ongoing implementation."

GREEN VALLEY COORDINATING COUNCIL

"The Plan should be coordinated and a relevant part of the Pima County Comprehensive Land Use Plan which recognizes not only desert conservation but a need for sound residential, commercial and industrial development."

"The Plan should strongly relate to the extension of existing public lands."

METROPOLITAN PIMA ALLIANCE

"The Sonoran Desert Conservation Plan needs to be studied and implemented in conjunction with a comprehensive plan update."

"It should also be judged in the context of its influence on long-term economic vitality of the region, transportation planning and infrastructure, water resources supply and demand, public services and facilities and long-term public funding requirements and sources."

RINCON INSTITUTE

"The Rincon Institute is proposing that the boundaries of Colossal Cave be modified to include approximately 14,160 additional acres comprised of the large parcel of State Trust land on the northwest and the remainder of the Agua Verde Creek riparian corridor on the southeast."

"Adding these lands to the Colossal Cave will preserve critical headwater tributaries of Rincon and Agua Verde Creeks; connect Colossal Cave with Rincon Creek and Saguaro National Park; and connect the Agua Verde Creek corridor with the Rincon Mountain Wilderness."

"An even more important benefit of protecting these lands is that they are essential to providing an adequate long-term biological linkage between the Rincon and Santa Rita Mountains, the Empire-Cienega Resource Conservation Area, and other protected areas to the south."

"We found that a small portion of the Rincon Creek riparian corridor located immediately upstream from the Rincon Creek Restoration area and west of Camino Loma Alta is not designated as a biological corridor / link as is the remaining upstream portion of the creek."

SOUTHWEST CENTER FOR BIOLOGICAL DIVERSITY

"[T]he Center and others are concerned that steps be taken by the County and Fish and Wildlife to ensure that all decisions by the Steering Committee be truly representative of the opinions and concerns of all participants."

"We also conveyed our concern that the Technical Advisory Committees be made up of independent experts and/or agency personnel with responsibility for relevant committee subjects. For example, we suggest that participation by biologists from Fish and Wildlife, Game and Fish, and the University of Arizona and the biological consultant in a biological technical advisory committee would be appropriate. In another example, personnel from participating federal agencies would perhaps be most qualified to achieve the goals of a NEPA committee."

"[Y]ou conveyed similar concerns and a commitment that decisions by the Steering Committee would be achieved only by consensus. I genuinely appreciate this commitment."

QUESTION #3: WHAT GOVERNMENTAL ENTITIES SUBMITTED DETAILED COMMENT LETTERS WITHIN THE TIME PERIOD, AND WHAT DID THEY SAY?

At least ten governmental entities provided detailed responses to the draft *Sonoran Desert Conservation* concept document. Highlights from these letters are summarized below.

Arizona Game and Fish Department
Arizona State Land Department
Bureau of Land Management
City of Tucson
National Park Service
Town of Marana
Town of Oro Valley
Town of Tortolita
U.S. Fish and Wildlife Service
U.S. Forest Service

ARIZONA GAME AND FISH DEPARTMENT

"The Department encourages and seeks to participate in resource management strategies that are proactive and productive. We have a variety of potential financial resources that may be available, as appropriate. We also have scientific data and information to lend to Pima County's efforts."

ARIZONA STATE LAND DEPARTMENT

"[T]here has been no 'fire sale' of State Trust lands to developers in Pima County."

"The scale of land disposition proposed by the Draft Plan -- 103,072 acres -- would take over 100 years to process at our present rate and given our present staffing resources."

"[M]any of these areas [in SDCP] are not eligible for designation [under the Arizona Preserve Initiative]. Further, we would recommend that, of those areas that are potential eligible for classification as suitable for conservation, these petitions be phased over time to increase the likelihood that funding will exist to successfully purchase or lease these lands."

ARIZONA STATE LAND DEPARTMENT continued ...

"In general, ASLD shares Pima County's desire to maintain ranching operations on the vast majority of State Trust lands in Pima County. Conservation of ranch lands identified by the plan as a priority will involve a number of creative techniques, but all require the active participation of ranch owners."

"The most important point we can make is that buying a ranch does not buy the State Trust land that is leased by that particular rancher. Rather, those leases would be assigned to the new landowner. If the new landowner chooses not to conduct ranching operations on this property, the State Trust lands involved would no longer be eligible for a grazing lease. If however, the grazing leases were to continue on non-API lands, then we need to note for the record that the lands involved are no more protected than any other land leased for grazing. Therefore, in this scenario, ASLD can accept proposals for higher and better land uses and cancel the existing grazing leases. As examples, Empire/Cienega, Posta Quemada, and Empirita ranches are not 'preserved.'"

"ASLD would urge Pima County and other participants to explore with us the legal issues involved such as the applicability of the Endangered Species Act to Arizona State Trust Lands; ASLD's ability to participate in mitigation activities; the rights of ASLD lessees."

"Esmond Station ought to be considered for addition to the list of future [historic and cultural preservation] projects."

"There are a variety of land banking alternatives that could be considered. These should be investigated and debated, and enabling legislation sought if necessary."

BUREAU OF LAND MANAGEMENT

"I hope the current conceptual framework will have enough flexibility to allow for enhancements to area boundaries in order to meet jurisdictional, biological and cultural needs. In some cases that may mean the expansion or removal of portions of some areas."

"Several of us have received calls from permittees and landowners asking about the opportunities to exchange or purchase lands identified in or adjacent to the conservation areas identified. We are very willing to support these efforts but feel this would greatly benefit all players involved if this was carried out in a coordinated effort through the planning process."

BUREAU OF LAND MANAGEMENT continued ...

"I would like to suggest we take the opportunity to present this effort to the Southwest Strategy's Regional Executive Committee in order to develop a strong level of awareness, recognition and support across several agencies. This is an excellent on the ground example of what the Southwest Strategy Group is looking for in local collaborative processes that have a high potential for success."

CITY OF TUCSON

"The Sonoran Desert Conservation Plan is an ambitious undertaking, as is the update to the Comprehensive Plan. Both Plans will require regional participation and cooperation to ensure that all jurisdictions contribute and benefit in proportion to their needs."

"City staff believes that the mission and the work program of the proposed oversight committee must address the impact of the Growing Smarter Legislation on regional open space, environmental and land use planning."

"Currently the City is participating in many of the activities cited in the Sonoran Desert Conservation Plan. These activities include the Multiple Benefit Water Projects .... Additionally, Pima County is a partner with the City in the Kino Sports Park, the Rillito Recharge, the Pima Mine Road Recharge and the Rillito Creek Habitat Restoration Projects."

"Half of the present and future Cultural and Historic Projects in the Plan are located within and sponsored by the City of Tucson including the Tucson Presidio, Mission San Augustin, the De Anza Trail and Fort Lowell."

NATIONAL PARKS SERVICE

"Just as Saguaro National Park cannot maintain ecosystem integrity/viability without interconnecting protected areas, Pima County cannot reach your goals without integrating with your neighbors. In fact, this may well serve as a national model for other counties facing similar situations."

NATIONAL PARKS SERVICE continued ...

"We are particularly interested in maintaining biological and riparian corridors that link various protected areas, thus reducing habitat fragmentation. We also want to reduce the potential for the invasion of non-native species, primarily fire-prone plants and aggressive amphibians like bullfrogs."

"In Saguaro East, we endorse the concept of the entire length of Rincon Creek, from where it exist the park boundary to its junction with Pantano Wash, to be identified as a biological corridor. .... We support the Rincon Institute's proposal to expand Colossal Cave Mountain Park even more by adding more adjacent state lands than currently shown in the plan."

"On the north side of the Rincon Mountain District, we would like for you to consider including the small sliver of land between the park boundary and Tanque Verde Creek as part of a biological corridor linking the park with the wash."

"Furthermore, protecting riparian habitat within the Tanque Verde creek bed from where it exits National Forest land to where it joins Agua Caliente is important for wildlife movement. If possible, protection should extend to its juncture with Sabino Creek or Pantano Wash."

"Designation and protection of the Waterman-Roskruge Mountain Park and protection of the Tucson Mountain West Biological Corridor, shown with cross hatches on figure 14 are essential projects for maintaining important linkages. There may also be some remnant corridors on the east side of the Tucson Mountain District that have not been identified."

TOWN OF MARANA

"The Town of Marana has evaluated the draft Conservation Plan against the policies contained in the General Plan and with the Future Land Use Plan Map and finds that, for the most part, the documents are compatible."

"The Land Use Element of the Town's General Plan identifies as its first goal the Practice of Environmental Sensitivity."

"The General Plan strongly encourages actions which implement programs for open space acquisition and standards for preservation of natural resources as well as the adoption or improvement of regulatory provisions that prevent intense development on sensitive lands."

TOWN OF MARANA continued ...

"In addition to the General Plan, the Town recently completed a draft Park System Master Plan that will serve as the Parks and Recreation element of the General Plan. Although it is currently not yet adopted, this Master Plan also was reviewed for conformity with the Conservation Plan and clearly incorporates similar goals."

"[P]otential conflict does exist between the draft Conservation Plan and Marana's Future Development Plan Map specifically with respect to the degree of the proposed expansion of the Tortolita Mountain Park."

"The Town of Marana sees a tremendous opportunity to place great emphasis on the Santa Cruz River as a venue for a multi-faceted approach to parks and recreation, water resource management, wildlife corridor and critical habitat development, and economic development."

"I respectfully request that the Conservation Plan place more priority on the Santa Cruz River corridor for designation of resources."

"We believe that the more ways we can encourage development to move into the corridors of flat non-vegetated farmlands, the better off the regional will be toward preserving more environmentally sensitive areas and ensuring adequacy of renewable water supplies. However, the public must recognize that in order to encourage appropriate growth, the infrastructure must be made available in terms of sewer if we are to be successful and truly provide an integrated approach."

"In conclusion, the Town's General Plan and Park System Master Plan reflect conformity with, and generally support adoption of, the Sonoran Desert Conservation Plan. I feel it is a much needed impetus to provide a long-term blueprint."

TOWN OF ORO VALLEY

"The Town of Oro Valley ... finds that the [Sonoran Desert Conservation] Plan conforms to the goals and policy directions as described in several elements throughout the General Plan" including the first goal in the land use element; the Town's Core Community Goal; the Canada Del Oro Recharge Project is supported by policies identified in the natural resource conservation element; the Tortolita Mountain Park concepts is also supported. "Both the Riparian Restoration and the Mountain Park elements support many of the goals and policies indicated in the Park, Open Space, and Recreation Element" [of the Oro Valley Plan].

TOWN OF ORO VALLEY continued ...

"Additionally, the Town's General Plan recommends that 'strategies that would enable preservation of lands extending north and west from Honey Bee Canyon / Sausalito Creek and connecting to the Tortolita Mountain Parks through independent methods and through coordination with Pima County, Arizona State Land Department, and / or any nationally recognized conservation organization."

"In conclusion, staff finds the Plan to be in conformance with the Town's General Plan and supports adoption of the Sonoran Desert Conservation Plan."

TOWN OF TORTOLITA

"Wild Burro Canyon's mouth has been left unprotected."

"The suggestion is to aggressively seek out other funding sources, public and private, for acquisitions."

"There is a marked omission of any connectivity between the Northern and the Western reaches of the valley. Specifically connecting the Tortolita Mountain western bajada with the Tucson Mountains."

"There needs to be a similar corridor to the one proposed between Tortolita Mountain Park and Catalina State Park. We propose some connectivity from TMP and the TMP on the west."

"We propose the county maintain a hold on zoning levels in prime pygmy owl/ironwood forest habitats which are compatible with pygmy owl survival."

"Why is the Rincon Creek Restoration Area limited to only a 2 mile restoration?"

"All lands within designated mountain parks, riparian zones or ranches designated for conservation should not be rezoned to uses greater than what is now permitted."

"Require as an acid test that any conditional use applications not have a detrimental effect on an area designated as being environmentally sensitive."

"The 'Environmental Enhancement Fee' could be higher."

UNITED STATES FISH AND WILDLIFE SERVICE

"The Service asks that the following tenets of conservation biology be kept in mind during development of SDCP -- (1) conserve target species throughout the planning area; (2) large reserves are better; (3) keep reserve areas close to one another; (4) keep habitats contiguous; (5) link reserves with corridors; (6) make reserves diverse; and (7) protect resources from encroachment."

"The Service agrees that the pygmy-owl research elements needed in the short-term and mentioned in the SDCP are of utmost importance."

"The Service is excited to see that the SDCP's intent is to cover the entire county."

UNITED STATES FOREST SERVICE

"At least two of the ranches identified for conservation have grazing privileges on National Forest system land. ... We are thus particularly interested in working with you on any action that may involve these properties."

"The Romero ruin is located on Forest land and subject to regulation and management accordingly."

"We suggest the addition of Kentucky Camp for consideration as an additional site for preservation."

"We would like to coordinate with you on [riparian areas noted for restoration and protection that originate on National Forest system land]."

"We have information in our geographical information system that may assist in this effort which we will be glad to share with you."

"We recently initiated a challenge cost-share agreement with the Arizona Game and Fish Department to provide for more information and better management of the cactus ferruginous pygmy owl."

"We have initiated a review and revision process for the Coronado National Forest's Land and Resource Management Plan and thus the timing is good to coordinate with you on development of a long term ecosystem based conservation plan. We look forward to working with you as partners in this effort."

QUESTION #4:

WHICH NEIGHBORHOODS OR COMMUNITIES HAVE EXPRESSED CONCERNS?

Concerns of some ranch and neighborhood communities can be addressed through the planning process.

ANDRADA PROPERTY OWNERS

This community would like to participate in the planning of the subarea conservation strategy.

McGEE RANCH / SIERRITA MOUNTAIN COALITION

This community engaged in an extensive letter writing campaign based primarily on a misunderstanding of the meaning of a proposed "park" designation. Following meetings with staff, the community -- through a Coalition and through the Sierrita Mining and Ranching Company -- has asked to join the steering committee. A recent letter stated:

"At the meeting, there was a 100% consensus that the designation (Sierrita Mountain Park) be changed to Ranch Conservation, or something more appropriate."

SOUTHERN LAGO DEL ORO COMMUNITY

This community requests that the Board remove them "from the proposed designation of Mountain Park as shown on the first draft of the Sonoran Desert Conservation Plan."

QUESTION #5:

WHAT CORRESPONDENCE CONTAINS SPECIFIC REQUESTS FOR ACTION?

A number of letters contained specific requests, as highlighted below.

PIMA COUNTY OPEN SPACE ACQUISITION REVIEW COMMITTEE

"[W]e believe that the two-pronged attack of acquisition combined with regulation is the only way to approach the problem of desert protection and controlled growth."

"[W]e hope we can continue to be involved and play a useful role in the successful completion of the Sonoran Desert Conservation Plan."

TUCSON-PIMA COUNTY HISTORICAL COMMISSION

"We support the county's efforts and would very much like to contribute our expertise to both the steering committee and technical advisory committee for the Sonoran Desert Conservation Plan."

COTTONWOOD PROPERTIES

"In the plan, Pima County shows a portion of our property as future expansion area for the Tortolita Mountain Park. In addition, you indicate possible expansion of the Tortolita Mountain Park of approximately 30,000 acres of public lands and additional private lands. ... We request that in any final document to be approved by Pima County that the Dove Mountain lands be removed from the areas shown for expansion of the Tortolita Mountain Park."

SILVERBELL MOUNTAIN ALLIANCE

Add a mountain park in the Silverbell / Ragged Top area.

BOB DEMING AND MARY KIDWELL, KIDWELL TRUST

"Your plan just doesn't go far enough. Have you been out to the base of Empire Mountains? That whole regional including the creek should be protected."

"The creek flows to Bobo Spring from the Doppler Radar. ... The peaks need to be protected in the area and so do the riparian areas which are not reflected on your plan."

"The areas are Sect(s) 21, 28, 33, 34, 27, 22, 35, 36, 09, 03, 05."

BRIAN AND KAREN METCALF

"I specifically support:

(1) the proposed freeze on upzonings and

(2) the creation of a preservation fund based on the imposition of new and higher impact fees on new development."

VILLAGE OF CASAS ADOBES

"For this report to be accurate, it is important that all official jurisdictions be recognized. Correcting this oversight will greatly improve this report."

WRONG MOUNTAIN WILDLIFE PRESERVE

"We urge you to hasten preservation of the remainder of the Rincon Valley that would include:

(1) The preservation of all remaining state land as open space.

(2) The rapid expansion of Colossal Cave Mountain Park ....

(3) No up-zonings of private land that is currently in, adjacent to or within ½ mile of any proposed open space or park areas.

(4) Prohibit construction of any RV park within the valley boundary."

TREES FOR TUCSON

"[S]tress air quality maintenance." .... "We need to pursue means to protect these well-vegetated interurban areas that could be lost to infill projects."

"An additional funding source for open space could be generated through land value gain taxation .... [with] all- revenue [earmarked] to compensate other landowners whose wildlife or scenic resource valuable lands are downzoned or restricted to a lower density of development than currently allowed."

B. STEERING COMMITTEE

QUESTION #6: WHO AMONG THE NON-GOVERNMENTAL INDIVIDUALS AND ENTITIES HAS REQUESTED A SEAT ON THE STEERING COMMITTEE ?

Seventy-seven of the 183 letters were from non-governmental organizations or individuals who expressed an interest in participating in developing the plan. In alphabetical order, the list of interested parties includes:

1.	Ken Abrahams	Commercial Development
2.	Stan Abrams	Industrial Development Relationships
3.	Neale Allen	Mountainview Homeowners Association
4.	Bill Arnold	Real Estate
5.	Peter Aronoff	Homebuilder
6.	Charles Award	Southern Lago del Oro Community
7.	Ellen Barnes	Landowner
8.	Dan Beckel	Andrada Property Owners Association
9.	George Bender	Cyprus Sierita Mining Company
10.	Robyn/Louis Benson	Lou Benson Construction Company
11.	Laurence Marc Berlin	Attorney / Private Property
12.	Tim Blowers	Developer / Landowner
13.	John Bordenave	Enchanted Hills Neighborhood Association
14.	Carolyn Campbell	Coalition for the Sonoran Desert Protection Plan
15.	Joe Cesare	Hotels/Property Owner
16.	Sue Chilton	Chilton Ranch
17.	Hector Conde	Oro Valley Neighborhood Coalition
18.	Les Corey	The Nature Conservancy
19.	Vicki Cox Golder	Real Estate / Golder Ranch
20.	William Crosby	Environmental & Cultural Conservation Organization
21.	Richard Daley	Desert Museum
22.	Carl Davis / Z.Kirkpatrick	Silverbell Mountain Alliance
23.	Mary Darling	Darling Environmental & Surveying
24.	Carol Duffner /J.Murray	Northwest Coalition for Responsible Development
25.	Jonathan DuHamel	President, Tucson Chapter of People for the USA!
26.	Andra Ewton	Defenders of Wildlife
27.	Richard Genser	Real Estate
28.	Gay Lynn Goetzke	Property Rights
29.	David Goldstein	Real Estate Development/Manufacturing
30.	Mike Grassinger	Land Planning
31.	Bruce Gungle	Tucson Mountains Association
32.	William Hallihan	Cottonwood Properties
33.	Richard Harris	McGee Ranch, Sierrita Mountain Coalition

34.	Lynn Harris / Heather Fox	Sierrita Mining & Ranching
35.	G.Hartmann / N.Y. Wright	Buffers
36.	Duff Hearon	Real Estate Development Law
37.	Deborah Hecht	Landowner
38.	Kate Hiller	Citizen's Alliance for Responsible Growth
39.	David Hogan	Southwest Center for Biological Diversity
40.	Donald/Carolyn Honnas	Honnas Land and Cattle
41.	Barbara Huffstetler	Southern Arizona Leadership Council
42.	Jan Johnson	Pima Trails Association
43.	Gerald Juliani	Pure Water Coalition
44.	Pat / Macaela King	Anvil Ranch
45.	Rob Kulakofsky	Center for Wildlife Connections
46.	Teresa Leal	SW Network Environmental / Economic Justice
47.	Alan Lurie	Southern Arizona Home Builders Association
48.	Lance MacVittie	Land Planning/Engineering
49.	John Martin	Landowner
50.	Andrew McGibbon	Alter Valley Alliance
51.	Christina McVie	Desert Watch
52.	Doug McVie	Landowner
53.	John Menke	Saguaro Forest Associates
54.	Mary Miller	Elkhorn Ranch
55.	Mike Milroy/Dave Naugle	Tucson Chamber of Commerce
56.	Chris Monson	Development
57.	Mark Myers	Tucson Regional Water Council
58.	Joe Parsons	Parsons Ranches
59.	Luther Propst	Sonoran Institute
60.	Jud Richardson	Green Valley Coordinating Council
61.	Patricia Richardson	Tucson Association of Realtors
62.	Barbara Rose	N.Tucson Mountains Resource Conservation Project
63.	Chris Sheafe	Homebuilding / Development
64.	Jim Shiner	Developer / Landowner
65.	Quinn Simpson	Center for Environmental Ethics
66.	Lisa Stage	Women for Sustainable Technologies
67.	Tim Terrill	Metropolitan Pima Alliance
68.	Saul Tobin	Retired Homebuilder/Developer
69.	Dale Turner	Sky Island Alliance
70.	Lucy Vitale	Line by Line Editorial Services
71.	Dick Walbert	Land Planning/Engineering
72.	Sally Wegner	Landowner
73.	Frances Werner	Landowner
74.	Michael Winn	Ecological Restoration and Management Associates
75.	Carl Winters	Land Planning
76.	Michael Zimet	Pima County Private Property Rights Association
77.	Nancy Zurenberg	Wildlife Damage Review

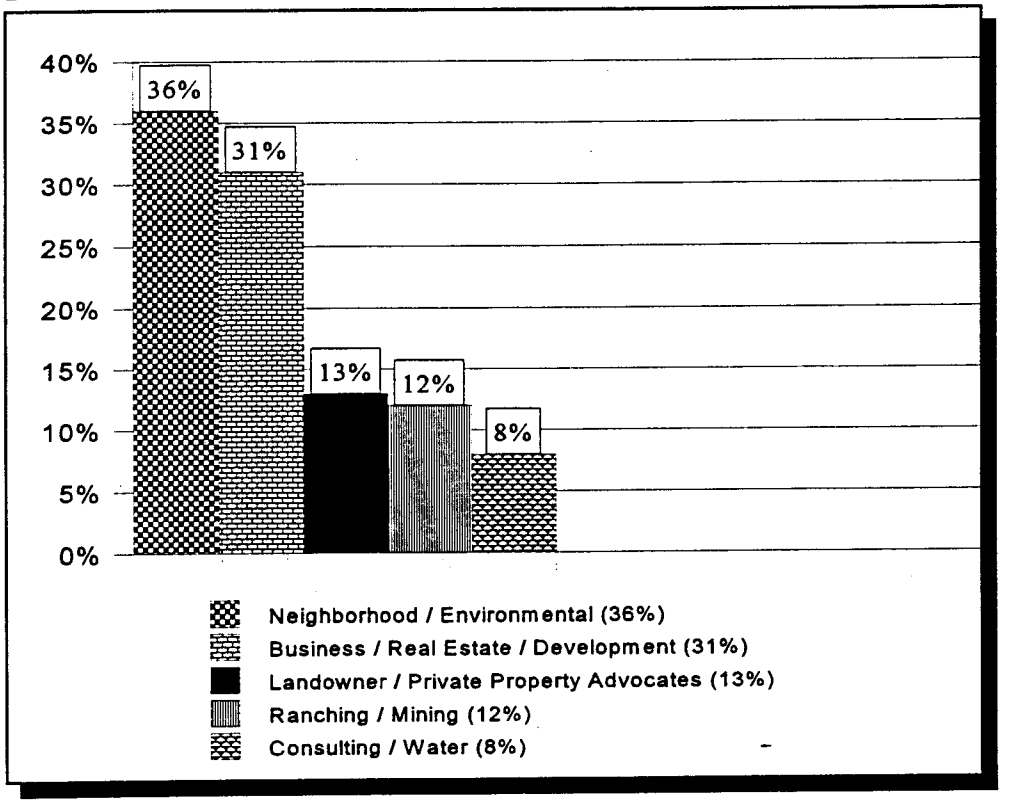
QUESTION #7: WHAT BALANCE OF INTERESTS IS REPRESENTED?

As described in the January 19, 1999 transmittal of letters, parties interested in working on the *Sonoran Desert Conservation Plan* reflect constituencies as diverse as the conservation community, neighborhood groups, ranchers, miners, landowners, private property advocates, developers, home builders, the real estate industry, and water interests.

Of the 77 non-governmental organizations and individuals who have requested to participate in developing the *Plan,* approximately 28 (36%) represent neighborhood and environmental groups; 24 (31%) represent the business, real estate and development community; 10 (13%) represent landowners and private property advocates; 9 (12%) represent the ranching and mining community; and 6 (8%) are from the consulting and water interest community.

Many individuals represent more than one interest, which makes the separation of interests a poor predictor of interest group positions.

BALANCE OF INTERESTS REPRESENTED



QUESTION #8: WHAT IS THE PRIMARY TASK OF THE STEERING COMMITTEE AND WHAT BACKGROUND INFORMATION WOULD ASSIST IN FULFILLING IS THE PRIMARY TASK OF THE STEERING COMMITTEE?

The Steering Committee will ultimately make a recommendation on a preferred preserve alternative based on its conservation value and in light of the community's fiscal capacity.[1] In order to do this members will have to acquire knowledge in at least these subject areas:

(1) The requirements of both the **Endangered Species Act** and private **property law;**

(2) The status and baseline requirements of the cactus ferruginous **pygmy-owl;**

(3) The **trends in conservation practices**, the policy direction of multi-species planning processes, and the actual nuts-and-bolts of how such a plan is drafted;

(4) The status and **baseline requirements of species** included within the *Plan;*

(5) The **vegetation communities** and habitat associations within Pima County;

(6) An **understanding of land** ownership, land use practices, and comprehensive plans now in place across the region;

(7) An **understanding of the role of ranching** within the region and its integration with conservation and open space;

(8) Knowledge of population and **community demographic** trends;

(9) Knowledge of **trends in natural resource consumption** which might create population growth constraints;

(10) **Familiarity with the cost** of land, the costs associated with growth and development, and the costs of conservation program implementation;

(11) The requirements of **other relevant laws**, including the National Environmental Policy Act (NEPA), National Historic Preservation Act, Taylor Grazing Act, State and School Lands law, mining, multiple use, and water laws; and

(12) An understanding of the location and significance of **cultural and historic sites.**

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1 *The Endangered Species Habitat Conservation Handbook* provides the following guidelines for the structure and purpose of Steering Committees: "[S]teering committees are usually appointed by the permit applicant and can fulfill several roles -- they can assist the applicant in determining the scope of the habitat conservation plan (size of the planning area, activities to include), help develop the mitigation program and other HCP conditions, provide a forum for public discourse and reconciling conflicts, and help meet public disclosure requirements. Steering committees are particularly useful in regional conservation plans, especially those in which the prospective permittee is a state or local government agency, and are recommended for these types of efforts." ... "Ideally, a steering committee should include representatives from the applicant; state agencies with statutory authority for endangered species; state or federal agencies with responsibility for managing public lands within or near the habitat conservation plan area; tribal interests; affected industries and landowners (especially those with known or possible endangered species habitats); and other civic or non-profit groups or conservation organizations with an interest in the outcome of the habitat conservation plan process." (P. 3-3)

PART III: LIABILITY ISSUES

Update: Sonoran Desert Conservation Concepts

PART III: ISSUES RELATED TO POTENTIAL LIABILITY

A. Protocol and Proposed Critical Habitat

9. Status of the proposed protocol
10. Status of proposed rules for critical habitat
11. Status of litigation on permitting practices

B. Pima County's Capital Improvement Projects

12. Projects in potential critical habitat
13. Biological consultants available for surveys

A. PROTOCOL AND PROPOSED CRITICAL HABITAT

This section describes the status of proposed landowner guidance, proposed rules for critical habitat, and litigation on permitting practices of local governments.

QUESTION #9:

WHAT IS THE STATUS OF THE PROPOSED TAKE GUIDANCE AND SURVEY PROTOCOL?

PRIOR ACTION: On August 13, 1998 the United States Fish and Wildlife Service and the Arizona Game and Fish Department jointly announced by publication in the Federal Register two notices of availability and the opening of a 30 day public comment period for (1) new guidance for determining if "take" of a cactus ferruginous pygmy-owl has occurred and (2) new survey protocol for the pygmy-owl.

PENDING DECISION: This comment period was subsequently extended. It closes on March 14, 1999. Sometime after the closing of the comment period, the Service will exercise one of several options:

(1) The newly proposed protocol and guidance could become the advisory standard;

(2) The existing guidance could remain in place as the advisory standard; or

(3) The Service could decide not to issue any advisory standard to assist landowners in assessing their risk of liability under Section 9 of the Endangered Species Act, which prohibits "take" of an endangered animal.[2]

SUMMARY OF PROPOSED CHANGES: Read together, the newly proposed take guidance and survey protocol differ from the past in at least the following ways:

- The "take" guidance adds several counties to the covered geographic area. Now, in addition to Pima County, the guidance applies within defined areas of Maricopa County, Southeastern Yuma County, Graham, Greenlee, and Gila Counties, Santa Cruz County, and Cochise County. The affected area of Pima County does not include the "Tucson urban area," defined according the guidance flowchart as follows: "The urban area of Tucson is defined as south of River Road, west of Harrison Road, north of Irvington Road, and east of Interstate 10."

2 When the pygmy-owl was listed as endangered on March 10, 1997, the U.S. Fish and Wildlife Service identified actions that might result in the "take" of an owl. "Take" is a term from the Endangered Species Act which means harass, harm, pursue, hunt, shoot, wound, kill, trap, collect or attempt to do any of these acts in relation to a listed species. Under the Endangered Species Act, "take" is a violation of federal law.

- The "take" guidance adds riparian habitat. In the past, only desertscrub habitat was included. Now riparian vegetation such as cottonwoods, willows, and mesquites growing along watercourses are included within the scope of the guidelines.

- Both the "take" guidance and the proposed survey protocol describe that there is an expansion of the survey effort "from one year to two years prior to actions that may impact the owl or its habitats."

- Other survey protocol changes include:

  (1) The survey period will be 6 months (January to June) instead of 9 months.

  (2) The survey frequency will be increased from one survey (during one year) to three surveys per year (for two consecutive years). A minimum of fifteen days must separate surveys, although 30 days is recommended. One survey must take place between February 15 and April 15, during pygmy-owl breeding season.

  (3) Under the newly proposed protocol, surveys must be conducted during the same calendar year as the disturbance and must be conducted within 1500 feet of the site being disturbed. Calling and listening periods are extended at each call point from 6-8 minutes, to 11-12 minutes. Call point intervals have changed and differ depending on whether the survey is being conducted for a clearance or for large area search purposes.

IF THE PROPOSED PROTOCOL AND GUIDANCE DOES BECOME THE ADVISORY STANDARD, THEN ... :

- The cost of meeting survey requirements will increase due to (1) the increase in frequency (1 survey to 3) and (2) the extension of time (1 year to 2 years). While the first factor may not have an impact on the local economy that is felt at an appreciable scale, the second factor could have that effect.

- The inclusion of eight counties in addition to Pima County makes the proposed pygmy owl measures broad in geographic scope, and the addition of riparian habitat might impact more of Pima County.

- However, there is no regulatory assurance attached to following the advisory standard of the guidance or protocol. Pima County could follow the guidance and still incur Section 9 liability through the "take" of a pygmy-owl. Therefore, the U.S. Fish and Wildlife Service continues to recommend that: "Development of a region-wide, multi-party, comprehensive conservation plan is the preferred long-term option to allow for the survival and ultimate recovery of the pygmy-owl in Arizona. In the absence of such a plan, individual site-specific Habitat Conservation Plans will be the means to obtain incidental take permits that allow landowners to proceed with their plans while providing appropriate protection for pygmy-owls."

VIEW OF THE FUTURE: The proposed changes to the advisory standards have not been rejected or accepted, therefore Pima County and other landowners essentially lack reliable advice at this time. Because the State Game and Fish Department has withdrawn its support for the proposed guidance and survey protocol, it is unlikely that a settled scientific opinion will emerge on the survey protocol issue in the near term.

QUESTION #10:

WHAT IS THE STATUS OF THE PROPOSED RULES FOR DESIGNATING CRITICAL HABITAT?

PENDING DECISION: On December 30, 1998, the United States Fish and Wildlife Service published a proposed rule for designating critical habitat for the cactus ferruginous pygmy-owl and announced that the Service will accept comments through March 1, 1999.

Critical habitat is defined in the U.S. Code as: "the specific areas within a geographic area occupied by the species at the time of listing ... on which are found physical or biological features essential to the conservation of the species and which may require special management considerations or protection; and specific areas outside the geographic area occupied by the species at the time it is listed ... upon a determination of the Secretary that such areas are essential for the conservation of the species."

The proposal includes approximately 730,565 acres of riverine habitat and upland habitat across Pima, Pinal, Maricopa and Cochise Counties.

Three public hearings were held and the Service will conduct an economic analysis of the proposal before a final determination is made. The hearing in Tucson was scheduled for February 12, 1999 at 7:00 p.m. in the Leo Rich Theater of the Tucson Convention Center.

By court order, a final decision about whether to designate critical habitat is due by June 25, 1999. The Service may decide (1) not to designate critical habitat; (2) to designate critical habitat based on the proposed rule; or (3) to designate critical habitat based on a modification of the proposed rule.

SUMMARY OF PROPOSED RULE:

The table below describes the land ownership of proposed critical habitat. The map on the following page reflects where specific units of proposed critical habitat are located within Pima county.

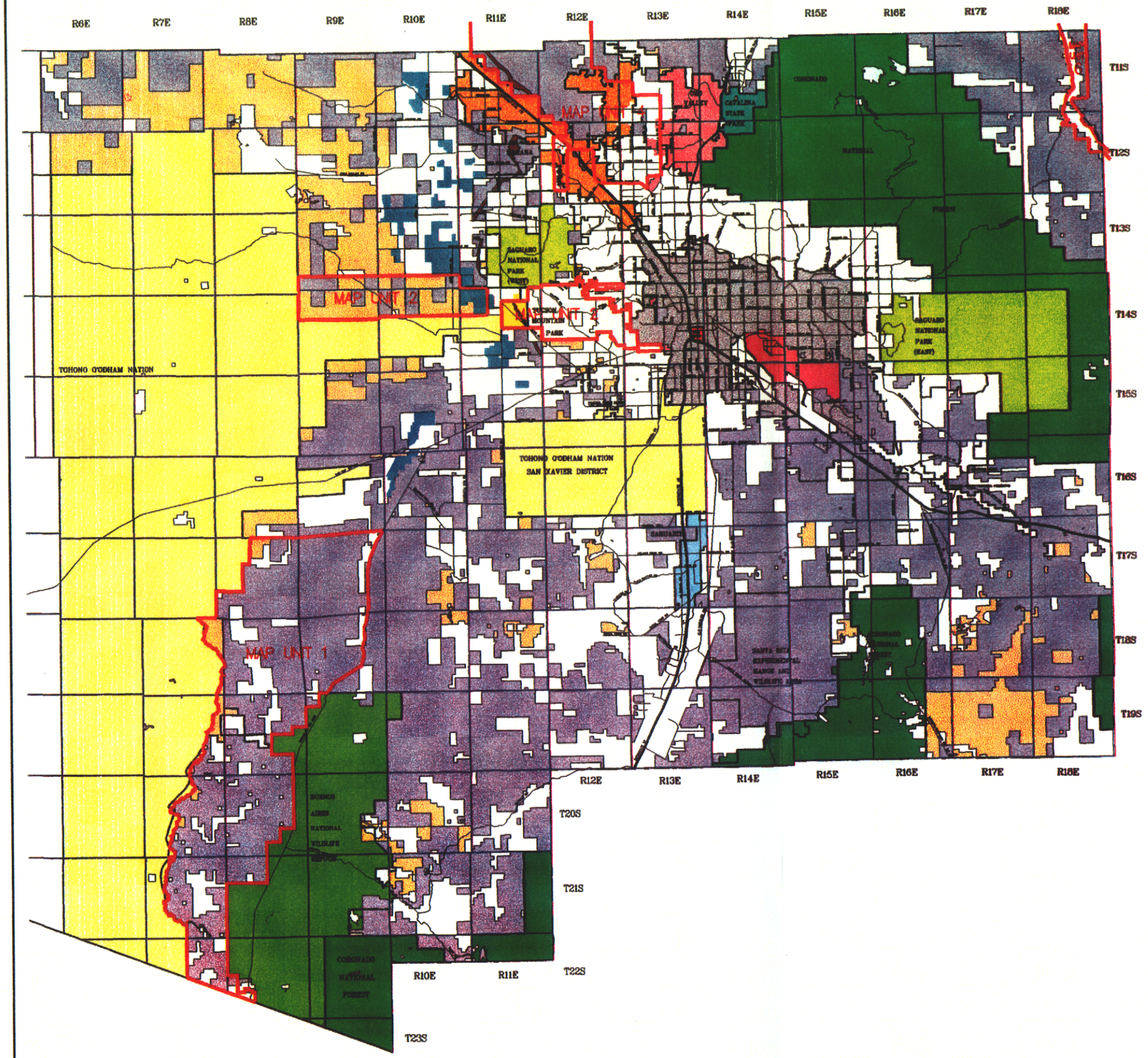
Federal Register Table of Approximate Critical Habitat Acreage

	Pima	Cochise	Pinal	Maricopa	Total
Forest	0	0	4,160	32,840	37,000
BLM	21,070	0	90,640	0	111,710
State	154,750	2,420	258,005	0	420,175
Private	60,060	2,420	74,400	100	136,980
Other	20,700	0	4,000	0	24,700
TOTAL	**261,580**[3]	**4,840**	**431,205**	**32,940**	**730,565**

[3] There is a 5,000 acre discrepancy in the chart between the Pima County total and the breakout by land owner within Pima County.

Proposed Determination Of The Critical Habitat For The Cactus Ferruginous Pygmy Owl In Pima County Map Units 1-4 And 6

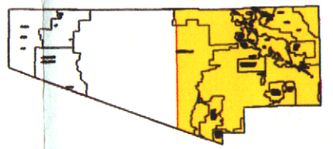
U.S. Fish And Wildlife Service
As Published In The Federal Register 12/30/98



- Map Unit Boundaries
- Major Roads And Streets
- Township And Range Lines
- Administrative Boundaries

- Bureau Of Land Management (BLM)
- Bureau Of Reclamation
- Bureau Of Reclamation Addition
- Catalina State Park
- Existing Pima County Mountain Parks
- Indian Nation
- Military Reservation
- National Forest Land
- National Parks And Monuments
- National Wildlife Refuge
- Non-Federal Parks
- Private Lands
- State Trust Lands
- Tucson Water Land
- Other
- Tucson
- South Tucson
- Marana
- Sahuarita
- Oro Valley

Pima County Index Map



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/mach33/special/parks/proposed/amls/pygmy2.aml

Plotted: 1/15/99

IF THE PROPOSED RULE FOR DESIGNATING CRITICAL HABITAT IS IMPLEMENTED, THEN ...:

A final rule, if adopted, would apply to federal projects. The significance of a proposed listing of critical habitat includes these factors:

- Critical habitat is a "classification used to identify areas in which Federal agencies need to exercise special care to avoid damage to federally listed endangered and threatened species."

- A critical habitat designation "does not affect State actions or lands, private actions or lands, [or] local government actions UNLESS those actions involve Federal funds or authorizations."

- "Critical habitat is proposed solely on the basis of biological information. The proposal to designate an area as critical habitat is subjected to extensive public review and comment as well as economic and regulatory analysis."

- "Federal projects and activities [within critical habitat] are individually evaluated by the implementing agency and the U.S. Fish and Wildlife Service ...."

VIEW OF THE FUTURE: The County might choose to utilize a potential future designation of critical habitat as a form of guidance for decisions during the interim period as the long term conservation plan is being developed based on:

(1) The specificity of the recommendation and its link to the best science information available[4], and

(2) The close correspondence that exists between areas that may be designated as critical habitat, and areas proposed for protection in the draft Sonoran Desert Conservation concept plan.[5]

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4 In the Federal Register notice, the Service describes factors that went into determining areas that are essential for the survival and recovery of the species, including: (1) "In an effort to map areas essential to the conservation of the species, we used data on known pygmy-owl locations to initially identify important areas. We then connected these areas based on the topographic and vegetative features believed most likely to support resident pygmy-owls and / or facilitate movement of birds between known habitat areas." (2) "We did not propose all pygmy-owl historical habitat as critical habitat. We proposed only those areas that we believe are essential for the conservation of the pygmy-owl and in need of special management or protection." (3) "We recently appointed the Cactus Ferruginous Pygmy-Owl Recovery Team that will develop a recovery plan for the species. ... Upon the team's completion of a recovery plan, we will evaluate the plan's recommendations and reexamine if and where critical habitat is appropriate." (4) "We used the best scientific information obtainable in the time allowed by the court."

5 The Service's concern with land that falls within Unit 1 might be addressed through ranch conservation measures proposed in that area within the draft Sonoran Desert Conservation document. Land that the Service has called Unit 2 falls directly into the proposed Waterman-Roskruge Mountain Park. Certain land within Unit 4 corresponds with Tortolita Mountain Park and corridor protection proposals in the Northwest side. The riparian segment of Unit 6 which crosses into Pima County could be addressed through the proposed Buehman-Bingham Natural Preserve expansion, the Bingham Riparian Restoration project and riparian corridor protection proposals.

QUESTION #11:

WHAT IS THE STATUS OF LITIGATION RELATED TO LOCAL GOVERNMENT PERMITTING?

RECENT DECISIONS: A few recent decisions have found local governments liable for issuing permits that result in the take of a listed animal after the holder of the permit harms or kills an individual animal during the course of otherwise lawful activity.

Whales and Massachusetts Officials: The First Circuit upheld an injunction against Massachusetts officials for issuing permits that led to the harm and mortality of Northern Right whales that became entangled in fishing gear. The Supreme Court denied cert on this case, so the decision stands.

Piping Plovers and the Town of Plymouth: In May of 1998, the United States Fish and Wildlife Service successfully obtained an injunction against the Town of Plymouth when the elected officials failed to take steps consistent with the Endangered Species Act, and town officials rejected a Memorandum of Agreement (MOA) which town staff entered into with the U.S. Fish and Wildlife Service to protect a listed species.

The species in this case is the piping plover, which is listed as threatened. Approximately 1200 breeding pairs populate the Atlantic Coast. The Town of Plymouth sells between 1000 and 2500 permits to recreational vehicles to drive on the beach. These vehicles were thought to be the cause of the "take" of several piping plovers, especially newly hatched and dispersing chicks.

Some of the circumstances which led the United States government to pursue an injunction against the Town include: the Town Manager entered into a Memorandum of Agreement (MOA) with the U.S. Fish and Wildlife Service to avoid civil penalties for take, and to protect the piping plover population, but at a meeting of the elected officials, the MOA was rescinded after "piping mad citizens" packed the meeting, the Town Manager was criticized, staff was "lambasted," and the community actions were contrary to notions of protecting the listed species.

The Judge outlined his reasons for issuing the injunction after concluding that the elected officials "will not authorize the Town Manager to take appropriate measures to protect the piping plover." These include the attitude of the residents; the "roasting" of the Town Manager who was "attempting to work with state and federal authorities; the firing of a staff member who was trying to comply with the law; and "the decision to rescind the Memorandum of Agreement" with U.S. Fish and Wildlife.

SIGNIFICANCE FOR PIMA COUNTY: Pima County's land use practices are scrutinized by citizen groups and by the U.S. Fish and Wildlife Service. Currently, the County practice is to notify permit applicants that property "may be habitat for the pygmy-owl" Effective use of the permitting process as a mechanism for protecting the pygmy-owl is hindered by the fact that the habitat needs of the pygmy-owl are not well known. The first preliminary report describing habitat of occupied owl sites is due for publication in the next few weeks. The ability to make prescriptive determinations of habitat needs is still more than one year away.

B. PIMA COUNTY'S CAPITAL IMPROVEMENT PROJECTS

This section describes the status of on-going capital improvement projects that fall within areas identified as environmentally sensitive, and the availability of private contractors with permits to conduct surveys for the cactus ferruginous pygmy-owl.

QUESTION #12:

WHAT PIMA COUNTY CAPITAL IMPROVEMENT PROJECTS ARE LOCATED IN AREAS THAT MAY BE DESIGNATED AS CRITICAL HABITAT?

The maps on the following five pages show the location of capital projects and the overlay of proposed areas of critical habitat. Very few projects fall within the area so far proposed as critical habitat. More projects are found within the larger area of the palo-verde saguaro and ironwood plant communities, and within areas that lack vegetation.

FACILITIES MANAGEMENT: Of the 13 bond projects mapped on the next page, no project falls within the area currently proposed as critical habitat. Further, no project falls within the areas currently considered to contain palo-verde saguaro and ironwood plant communities.

FLOOD CONTROL - AIRPORTS: Of the 16 locations mapped for flood control and airport projects (bond and non-bond), no project falls within the area currently proposed as critical habitat. A few projects fall within the areas that contain palo-verde saguaro and ironwood plant communities in the foothills and northwest side.

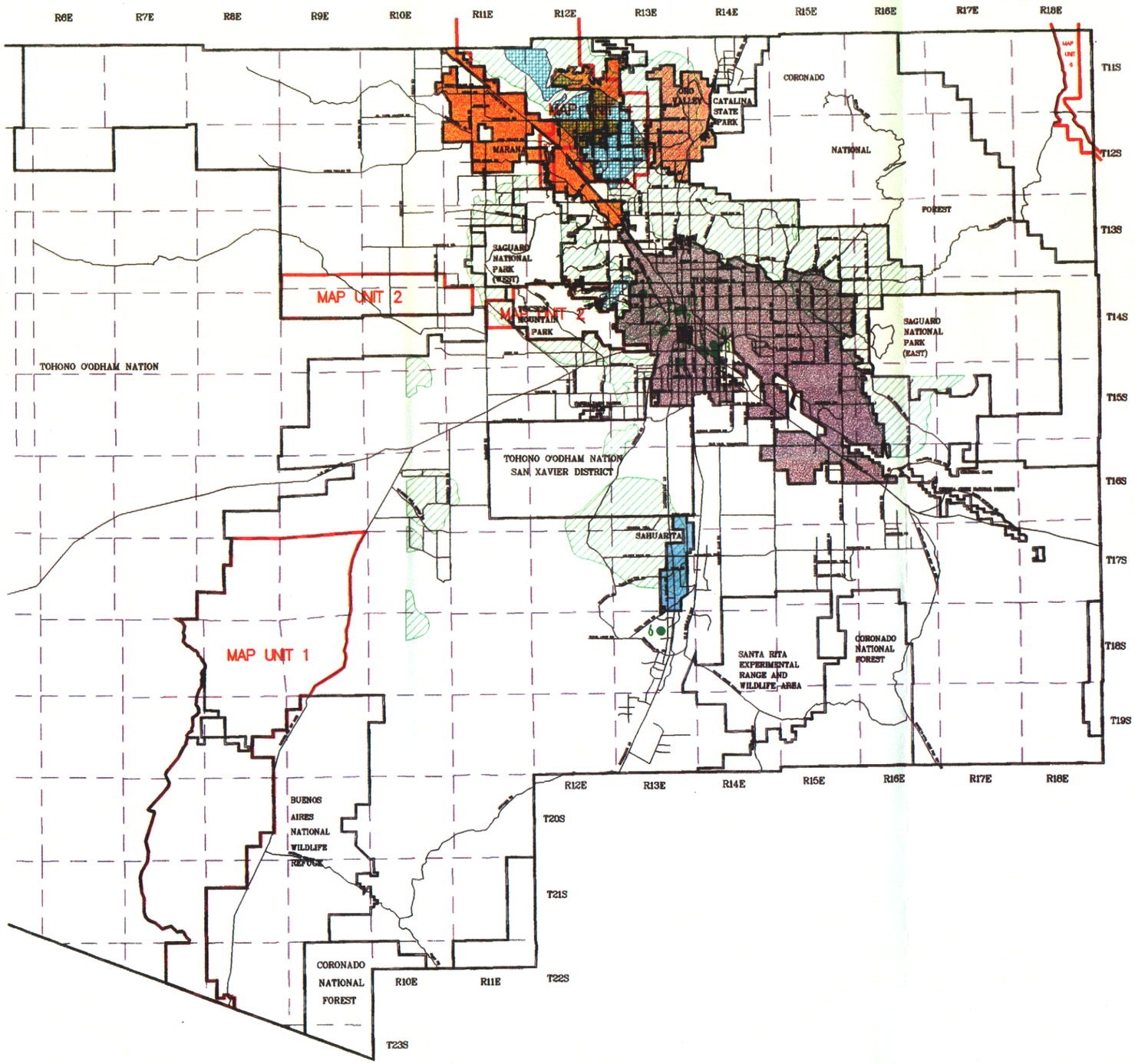
PARKS AND RECREATION - CULTURAL RESOURCES: Of the 44 locations mapped for parks, recreation, and cultural resources projects (bond and non-bond), a few miscellaneous park system renovation projects fall within the within the area currently proposed as critical habitat. More projects fall within the areas that contain palo-verde saguaro and ironwood plant communities in the foothills and northwest side.

TRANSPORTATION: Of the 41 locations mapped for transportation projects (bond and non-bond), there are a few scheduled for the future on the Northwest side within potential critical habitat. These projects could be redesigned and re-considered as part of the conservation planning process.

WASTEWATER AND SOLID WASTE MANAGEMENT: Of the 27 locations mapped for wastewater and solid waste management projects (bond and non-bond), no project falls within the area currently proposed as critical habitat; however, several are found on the boundary. More projects fall within the areas that contain palo-verde saguaro and ironwood plant communities in the foothills and northwest side.

Proposed Determination Of The Critical Habitat For The Cactus Ferruginous Pygmy Owl

U.S. Fish And Wildlife Service Federal Register 12/30/98



FACILITIES MANAGEMENT

BOND PROJECTS:

1. Juvenile Court Detention And Administrative Facilities
2. Superior Court New Courtrooms
3. Superior Court Adult Probation -South Office Expansion
4. Sheriff Maximum Security Detention
5. Sheriff's Evidence Security
6. Green Valley Performance Art Center
7. Los Artes Youth Learning Center
8. El Pueblo Adult Education And Childcare Center Expansion
9. El Rio Adult Education And Childcare Center Expansion
10. Kino Youth, Library And Resource Center
11. South Tucson Library Expansion
12. L.S.B. -Asbestos Abatement (County Wide)
13. Kino Hospital Repair

- Palo Verde-Saguaro Sonoran Desert Community
- Ironwood Plant Community
- Major Roads And Streets
- Township And Range Lines
- Administrative Boundaries
- Map Unit Boundaries
- Tucson
- South Tucson
- Marana
- Sahuarita
- Oro Valley

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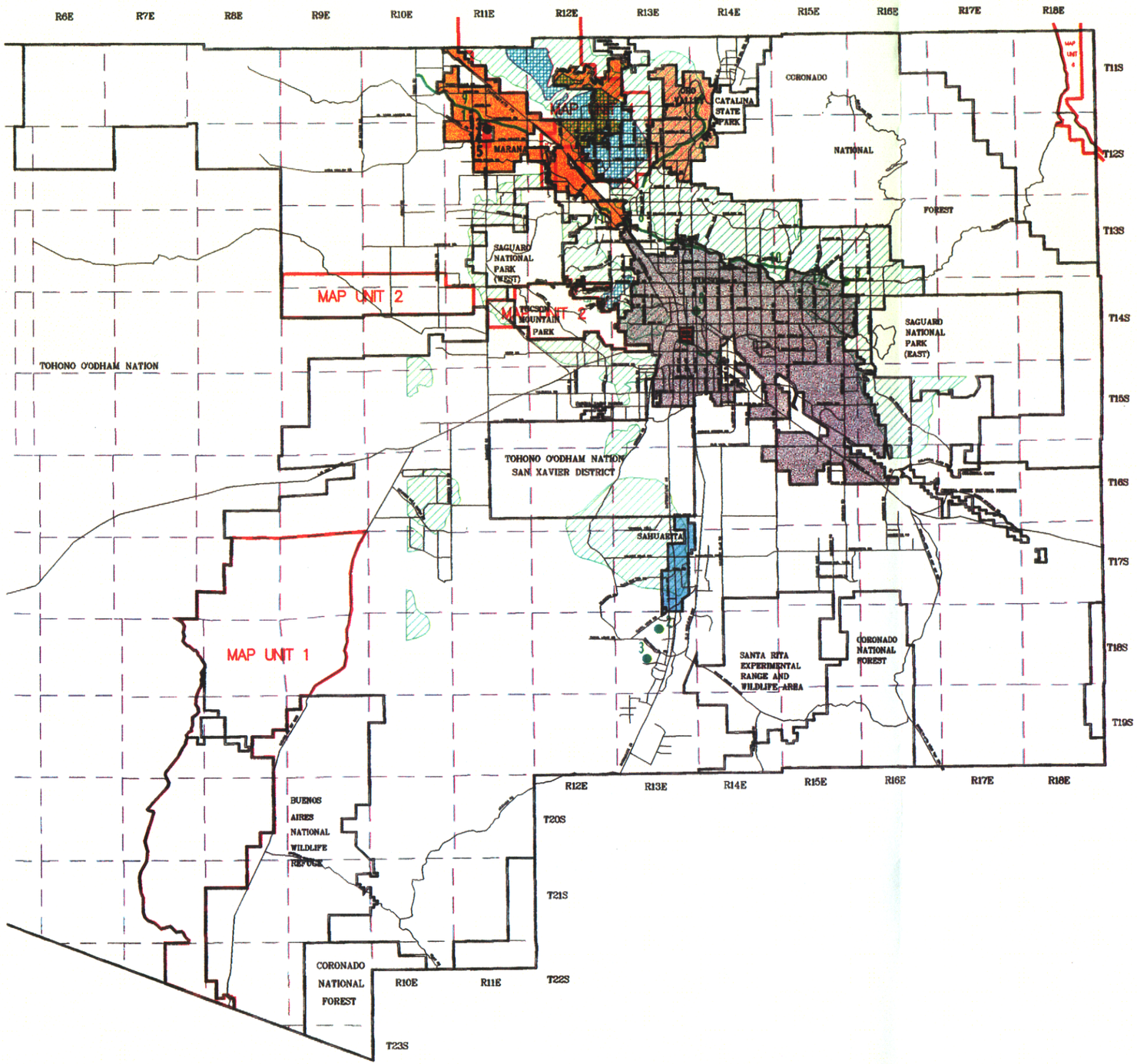
Plotted 1/11/99



Proposed Determination Of The Critical Habitat For The Cactus Ferruginous Pygmy Owl

U.S. Fish And Wildlife Service Federal Register 12/30/98

FLOOD CONTROL - AIRPORTS

FLOOD CONTROL (Green)

BOND PROJECTS:
1. Lower Santa Cruz Flood Control Levee
2. Green Valley Drainageway No.9
3. Continental Vista Erosion Protection

NON-BOND PROJECTS:
5. Agua Caliente Wash At Tanque Verde Rd Bridge
6. Rillito Creek Bank Stabilization
7. Tucson Diversion Channel River Park
8. Arroyo Chico Detention Basin
9. Northwest Replenishment Project
10. Tanque Verde Creek: Sabino Canyon To Craycroft
11. SCR: Bank Stabilization Near Ina
12. Tanque Verde Creek At Lakes Of Castle Rock

AIRPORT (Red)

NON-BOND PROJECTS:
13. Avra Valley A/P Land Acquisition
14. Avra Valley Airport, Widen And Light Taxiway "A"
15. AV Airport -Fire Suppression System
16. Ajo AP Access Road/Taxiway Paving

COUNTY WIDE PROJECTS NOT SHOWN ON MAP:
Floodprone Land Acquisition Program

- Palo Verde-Saguaro Sonoran Desert Community
- Ironwood Plant Community
- Major Roads And Streets
- Township And Range Lines
- Administrative Boundaries
- Map Unit Boundaries

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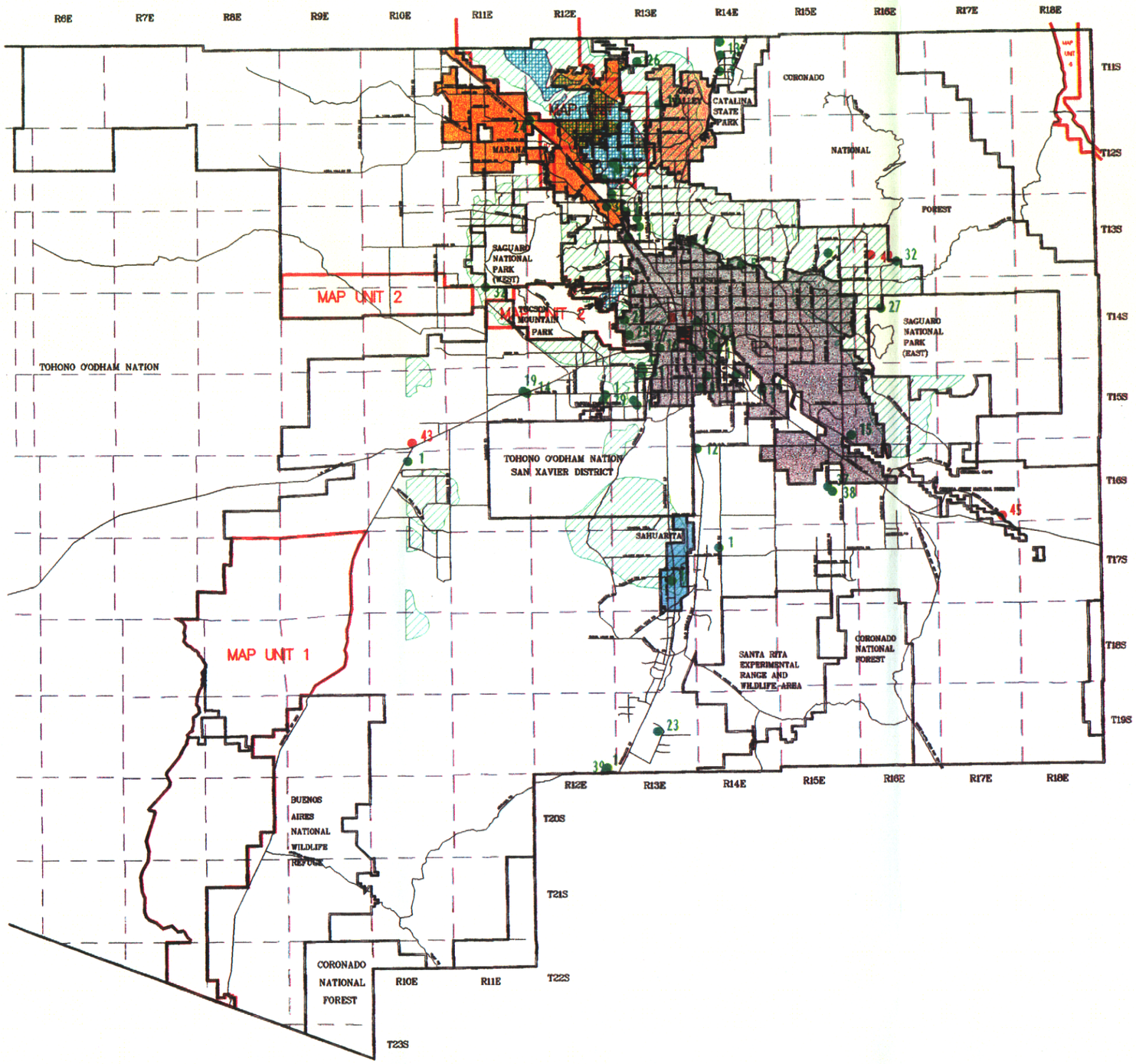
Plotted 1/11/99

Proposed Determination Of The Critical Habitat For The Cactus Ferruginous Pygmy Owl

U.S. Fish And Wildlife Service Federal Register 12/30/98



PARKS AND RECREATION - CULTURAL RESOURCES

PARKS AND RECREATION (Green)

BOND PROJECTS:
1. Miscellaneous Park System Renovations (26 Locations)
2. Ajo Pool Renovations
3. Tucson Athletic And Play Field Improvements (Various Locations)
4. Rillito Park Improvements
5. Mehl-Foothills Park Improvements
6. Coronado Middle School Play Field Lighting
7. Yaqui Park Improvements
8. South Tucson Play Field Lighting Improvements
9. Augie Acuna-Los Ninos Neighborhood Park Improvements
10. Sam Lena Recreation Area Improvements
11. Santa Rita Park Lighting Improvements
12. Old Nogales Park Land Acquisition
13. Catalina Park Land Acquisition
14. Ryan Field Park Land Acquisition
15. Southeast Park Land Acquisition
16. Santa Cruz River Community Park
17. Canyon Del Oro Riverfront Park
18. Kino Community Field Lighting Improvement
19. Branding Iron Park
21. Ochoa-Lena Resource Center
22. Northwest Community
23. Canoa Ranch
24. Central Arizona Project (CAP) Trailhead
25. 36th Street Trailhead
26. Tortolita Mountain Park Trail System
27. Various Trailhead Parking/Staging
28. Tucson Diversion Channel Trail Connection

NON-BOND PROJECTS:
29. Lawrence District Park -Phase II
31. Winston Reynolds-Manzanita District Park
32. Trail Access
34. Thomas Jay District Park
35. Ted Walker District Park
37. Southeast Regional Park
38. Southeast Regional Park -OHV Track
39. Kay Stupi-Soperi Pool
41. Winston Reynolds-Manzanita Pool

CULTURAL RESOURCES (Red)

BOND PROJECTS:
42. Agua Caliente Ranch Buildings Rehab
43. Robles Ranch House Rehab
44. Mission San Agustin

- Palo Verde-Saguaro Sonoran Desert Community
- Ironwood Plant Community
- Major Roads And Streets
- Township And Range Lines
- Administrative Boundaries
- Map Unit Boundaries

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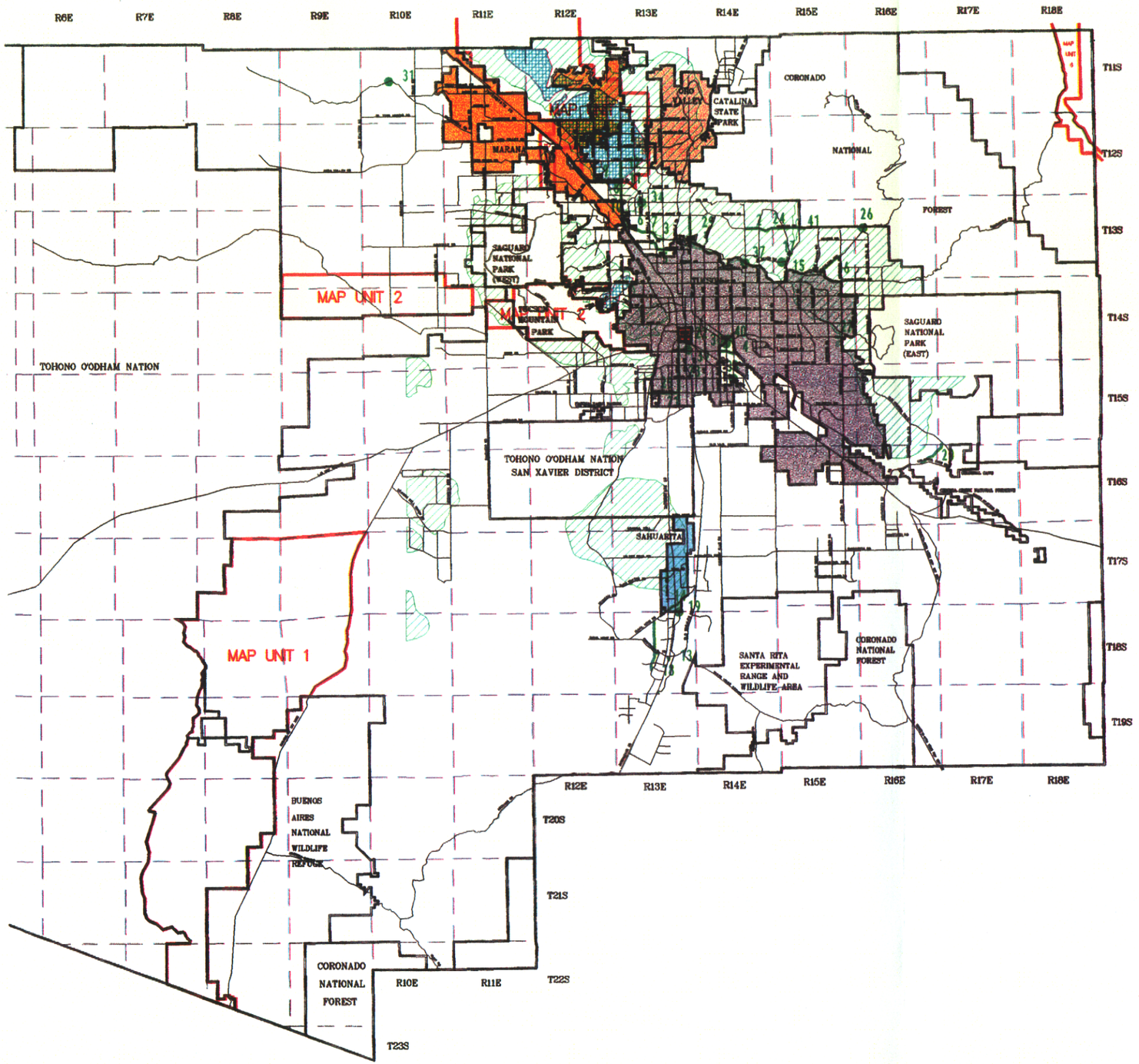

Proposed Determination Of The Critical Habitat For The Cactus Ferruginous Pygmy Owl

U.S. Fish And Wildlife Service Federal Register 12/30/98

TRANSPORTATION

BOND PROJECTS: (Green)

1. River Road: First To Campbell Avenue
2. Sunrise Drive: Swan Road To Craycroft Road
3. River Road: La Cholla Blvd. to La Canada Drive
4. Ajo Way, Country Club Road To Alvernon Way
5. Wetmore/Ruthrauff Road: La Cholla To Fairview
6. River Road: Thornydale To Shannon
7. River Road: Shannon To La Cholla
8. Cortaro Farms Road: I-10 To Thornydale Road
9. Hartman Lane North Of Cortaro Farms Road
10. Thornydale Road: Orange Grove To Ina
11. Thornydale Road: Ina Road To Cortaro Farms Road
12. Thornydale Road: Cortaro Farms To Linda Vista
13. Interstate 19 Southbound Frontage Rd At Continental Rd
14. Abrego Dr. At Interstate 19 Northbound Frontage Rd
15. River Road At Ventana Canyon Wash
16. Catalina Highway: Tanque Verde Road To Houghton Road
17. Sabino Canyon At Kolb Road
18. Camino Del Sol: Continental Road To Ocotillo Wash
19. Abrego Dr. At Drainageway No.1 / Box Culvert
20. Pistol Hill Rd: Colossal Cave Rd To Old Spanish Trail
21. Valencia Road: Interstate 19 To South 12th Avenue
22. South Tucson, 6th Avenue And Various Locations
23. 12th Avenue: 10th Avenue To Los Reales Road
24. Sunrise Drive: Craycroft Road To Kolb Road
25. Valencia Road: Mission Road To Interstate 19
26. Mt. Lemmon Shuttle
27. Golf Links Road: Bonanza Avenue To Houghton Road

NON-BOND PROJECTS:

29. First Avenue: River Road To Orange Grove
30. Veteran's Memorial Overpass
31. Silverbell Road At Blanco And Brawley Washes
33. Alvernon Way And Drexel Road Intersection
34. Ina Road At Mona Lisa Road Intersection
37. Swan Road Bridge At Rillito River
39. Veteran's Hospital Bike Path Connection
40. Aviation Highway / Golf Links Bike Path Connection
41. Sunrise Drive: Kolb Road - Sabino Canyon Road

COUNTY WIDE PROJECTS NOT SHOWN ON MAP:

Safety Improvements (Various Locations)
Dust Control Surfacing
Spot Safety Improvements
Right-Of-Way: General
Bridge Deficiency Repairs
Improvement Districts / Local Improvements
Roadway Drainage Improvements
PSTLER Projects
Traffic Signal Installation
ADA Pedestrian Improvements
Bridge Scour Study

Palo Verde-Saguaro Sonoran Desert Community

Ironwood Plant Community

Map Unit Boundaries

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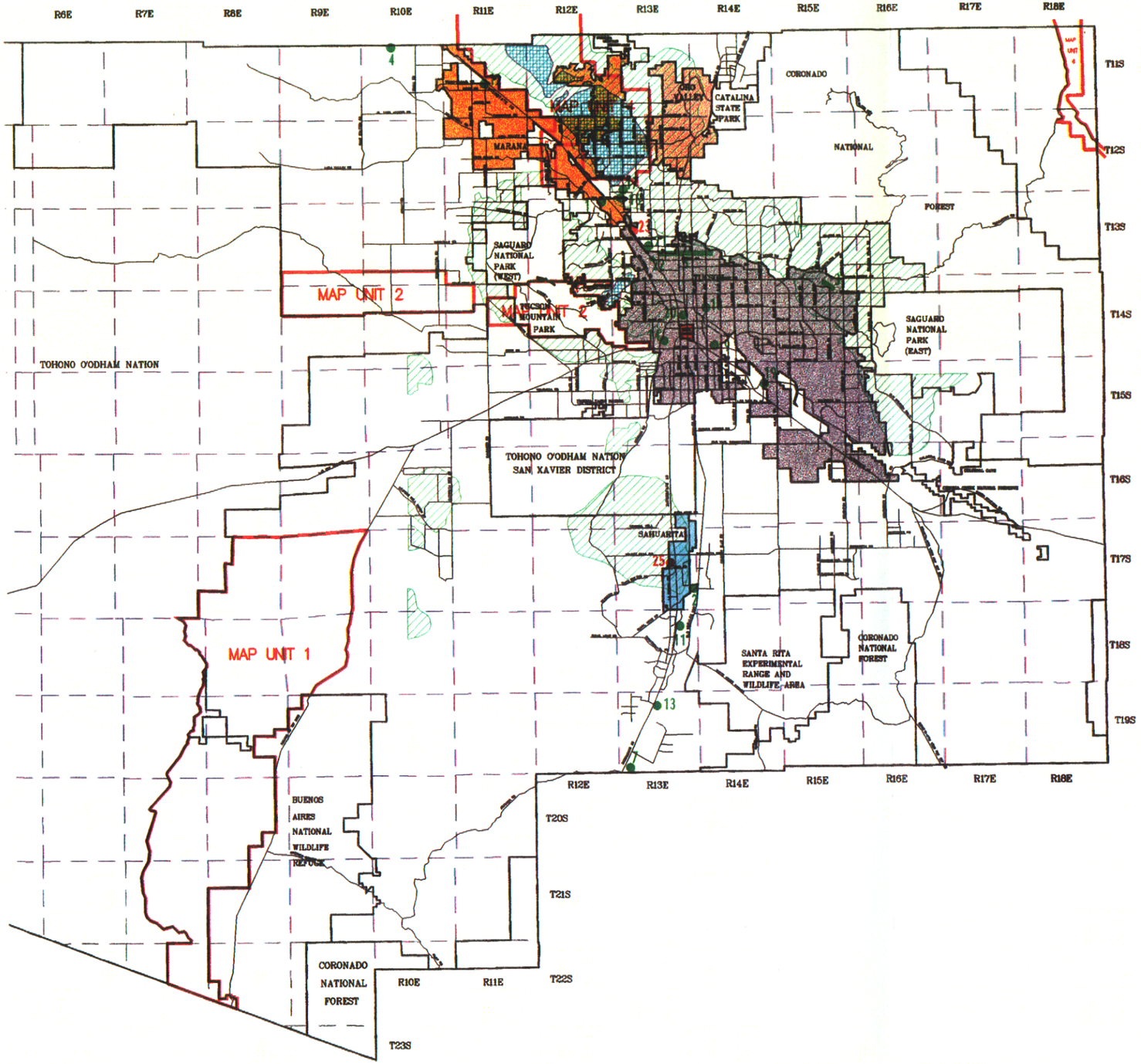

WASTEWATER AND SOLID WASTE MANAGEMENT

WASTEWATER MANAGEMENT (GREEN)

BOND PROJECTS:
1. Ina Rd WPCF Process Change And Expansion To 37.5 mgd
2. Green Valley WWTF Upgrade And Expansion
3. Tanque Verde Interceptor, Hidden Hills Wash To Arbor Circle
4. Marana WWTF Relocation
5. Roger Road Sewer Rehabilitation
6. Roger Road POTW Odor Control Facilities (County Wide)
7. Arivaca Junction WWTF Relief Sewer
8. Miscellaneous Wastewater Reclamation Facilities
9. Kino Effluent Wetland Recharge

NON-BOND PROJECTS:
11. Green Valley CC Trunk Sewer Reloc.
12. Trico-Marana / Sanders WWPS Replacement
13. Green Valley Sewer Protection
14. Santa Cruz River Sewer Crossing Rehabilitation
16. Thornydale Road Trunk Sewer: Phase II
17. Thornydale Road Trunk Sewer: Phase I
18. Broadway Sewer Rehabilitation
19. Littletown Sewerage System
20. Carrillo School / El Paso St Sewer Rehabilitation
21. Northwest Interceptor Rehabilitation
22. Highway Drive

SOLID WASTE MANAGEMENT (RED)

BOND PROJECTS:
23. El Camino Del Cerro Environmental Remediation

NON-BOND PROJECTS:
25. Sahuarita: Cell 1 Closure

COUNTY WIDE PROJECTS - NOT SHOWN ON MAP
26. Miscellaneous Sewer Relocations (Not Shown)
27. Flow Monitoring Stations (Not Shown)

- Palo Verde-Saguaro Sonoran Desert Community
- Ironwood Plant Community
- Major Roads And Streets
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QUESTION #13:

WHAT IS THE AVAILABILITY OF BIOLOGICAL CONSULTANTS TO EVALUATE HABITAT AND CONDUCT SURVEYS FOR PYGMY-OWLS?

There are approximately 10 private firms or individuals who have received a permit from U.S. Fish and Wildlife which allows them to conduct surveys for pygmy-owls. Firms holding a permit may employ a number of surveyors under the permit.

1. Aaron Flesch

2. CJ Surveys
   Ralph Brewer

3. Dames and Moore
   Linwood Smith

4. Darling Environmental & Surveying Ltd.
   Mary Darling

5. Entranco Engineers, Inc.
   Rex Wahl

6. Harris Environmental
   Lisa Harris

7. Pygmy-Owl Surveys
   Michael Terrio

8. SWCA, Inc. Environmental Consultants
   Ken Kingsley

9. Thomas Olsen and Associates
   Thomas Olsen

10. WestLand Resources
    Jim Tress

PART IV: INCENTIVE ISSUES

Update: Sonoran Desert Conservation Concepts

PART IV: ISSUES RELATED TO POTENTIAL INCENTIVES

A. Pima County's Draft Grading Ordinance

B. Landowner Incentive Programs

14. How do mitigation banks, conservation easements, transfer of development rights, and purchase of development rights programs compare?

C. Incentive for Government Participation in Interim Solutions

A. PIMA COUNTY'S DRAFT GRADING ORDINANCE AMENDMENTS

Elements of the Draft Grading Ordinance Amendments: Proposed text amendments to the County ordinance that defines grading standards include the following:

- "A property owner with a site that is 144,000 square feet or greater requiring a Type 1 grading permit and located in an area identified by U.S. Fish and Wildlife Service as potential ... pygmy-owl habitat, shall have a certified owl surveyor conduct a pygmy-owl survey." ... "A property owner with a site that is 36,000 square feet or greater requiring a Type 2 grading permit and located in an area identified by U.S. Fish and Wildlife Service as potential ... pygmy-owl habitat, shall have a certified owl surveyor conduct a pygmy-owl survey."

- "Prior to approval of the grading plan and issuance of the grading permit, the property owner shall submit a valid owl survey report to the Development Services Department. If the results of the survey show the presence of pygmy-owls, the owner shall submit to Pima County the appropriate written authorization from U.S. Fish and Wildlife Service prior to issuance of grading permit for the proposed grading. A grading permit shall not be issued unless and until the above requirement is met."

Inconsistency of Proposed Amendments with the Endangered Species Act: The stated purpose of the text amendment is to "align Pima County planning and development review policies closer with federal and state efforts to prevent harm to the pygmy-owl and its habitat." However, Section 9 of the Endangered Species Act does not differentiate for lot size as the first two proposed amendments above provide. Potential landowner liability attaches to the small lot owner just as it does to the large development project.

Inconsistency of Proposed Amendments with the Regional Conservation Planning Effort: The text amendment states that when a survey finds a pygmy-owl, the County will withhold a grading permit until receiving "appropriate written authorization from U.S. Fish and Wildlife." Given the low number of known individual owls, "written authorization" will be a Section 10 permit. Accordingly, this provision encourages individual or piecemeal conservation planning.

Inconsistency of Proposed Amendments with the Economic Realities: At the time this Amendment was proposed, U.S. Fish and Wildlife Service had issued advice to conduct one survey. The Service is now considering guidance which would include six surveys conducted over a two year time span during certain months of the year. Adding a two year survey requirement to the grading permit stage of the development process would create a mismatch with other timing issues and incentives that are a part of the landowner's decision to pursue a grading permit. County staff members have observed that grading permits are often sought when interest rates are most favorable. The underlying economic basis of the decision would be foiled by adding a lengthy survey requirement at this stage.

If the County adopts a lengthy survey requirement, such requirement might be more effectively initiated in an earlier stage of the permit process. Likewise, amendments to the Grading Ordinance or any stage of the permit process that are designed to protect certain species will be most effective if they work in a consistent fashion with other timelines and incentives that drive the permitting process.

B. LANDOWNER INCENTIVE PROGRAMS

A common concern of landowners and private property rights advocates is that the Endangered Species Act will be enforced in a way that does not return economic value for high resource value land. Some communities have initiated programs that allow owners to capture value for sensitive habitat if development or other uses are not feasible in light of federal species protection measures enforced by the U.S. Fish and Wildlife Service. Mitigation banks, conservation easements, and transfer or purchase of development rights programs are examples of mechanisms which can be used to conserve land and retain the economic value of land.

QUESTION #14: HOW DO MITIGATION BANKS, CONSERVATION EASEMENTS, TRANSFER OF DEVELOPMENT RIGHTS, AND PURCHASE OF DEVELOPMENT RIGHTS PROGRAMS COMPARE AND CONTRAST?

Prior Discussion: The draft *Sonoran Desert Conservation* concept document suggests that the Board pursue the establishment of an environmental banking authority and a transferable development rights ordinance. On pages 32 and 33, the draft states:

> "**Environmental Banking Authority** - In the past the State Legislature has placed fees on the use of State resources. The best example is groundwater withdrawal fees imposed in groundwater management areas. While it is State policy to preserve our groundwater, it should also be State policy to protect our natural environment. Similar to the assessment of groundwater withdrawal fees it should be possible to assess fees for the removal of natural habitat or the reduction in environmental resources caused by urbanization. These fees would be deposited with an Environmental Banking Authority to purchase unique natural lands and place them in permanent open space. Presently 4,500 acres of property are consumed by annual urbanization. If a fee of $100 per acre was assessed, $450,000 would be available each year for preservation."
>
> "**Transferable Development Rights** - An appropriate ordinance transferring development rights from private properties within designated mountain parks, river corridors, biological corridors or ranch properties designated for ranch conservation to other property should be developed. The purpose of the transferable development rights ordinance would be to create a mechanism where private lands within these areas could be conserved, however, the economic benefits of development could be received by the present owners and transferred to property that should be developed to accommodate future growth. Such a process should substantially assist in encouraging in-fill development.

Federal Support for the Incentive-Based Approach: The United States Fish and Wildlife Service is currently drafting policy on mitigation banks associated with habitat conservation plans. The Service has worked in coordination with mitigation banks in other jurisdictions.

MITIGATION BANKING

Mitigation Banking Defined:

A technical report on *Conservation Banking* defines conservation banks as highlighted below:

> "A conservation bank is privately or publicly owned land managed for its natural resource values. The bank owner sells habitat credits to parties who are required to compensate for environmental impacts of their activities or who wish to fund land conservation efforts. Developing a conservation bank establishes legal links between the owner of the bank and resource agencies, such as the California Department of Fish and Game, U.S. Fish and Wildlife Service, or the U.S. Army Corps of Engineers."

General Operation of Mitigation Banks:

A report entitled *The Habitat Transaction Method* describes that mitigation banks can be financed through land exchanges, "or by fees charged when land is developed in development zones, which are then used to acquire land in preservation zones." Under a fee based system, increased activity in development zones generates more revenue to acquire land in preservation zones.

Once land is identified which serves as the mitigation bank to offset the impact to habitat of a project that takes place outside the mitigation area, the land is divided into credits. The owner of the land can sell the credit. Developers of land outside the area buy credits. Upon sale of all the credits that define the mitigation area, the bank is closed.

Role of Conservation Easements:

Within a mitigation bank, conservation easements can be utilized to preserve land as an alternative to ownership in fee title.

Revenue for Operation and Maintenance:

The long-term operation and maintenance cost of the preserved land is factored into the price of a credit. Up-front costs for planning and biological studies are also included.

Determining the Value of Habitat:

The *Habitat Transaction Method* report suggests one way of determining the conservation value of a habitat type. (1) First, the land is awarded quality points based on factors such as soil, slope and aspect, elevation, quality of characteristic vegetation, and species richness. (2) Second, quality points are adjusted in light of factors such as size and contiguity of patches. (3) Finally, further adjustment is made based on the shape of the habitat patches. This is merely one example of a valuation method, and provides a way to begin to conceptualize the habitat credit system.

PURCHASE OF DEVELOPMENT RIGHTS

Purchase of Development Rights Defined:

An information paper prepared for the Arizona Common Ground Roundtable meeting in January entitled *Purchase of Development Rights and PDR Programs* defines, provides examples, and describes how to establish purchase of development programs. The definition is highlighted below:

> "One stick in the bundle of property rights associated with a parcel of land is the right to subdivide and the right to build additional buildings for residential, commercial, or industrial uses. When development rights are purchased or donated to another party, the vehicle for doing so is a conservation easement that extinguishes the right to subdivide and develop."

There is no formula for easements: the rights granted in an easement are a negotiating point between the landowner and the easement purchaser.

Determining the Value of the Purchase of Development Right Easement:

In general, the value of the easement is determined by subtracting the price of the land with the easement from current market value of the property with development rights. The *Purchase of Development Rights* information paper estimates that development rights in Arizona can represent 50 to 90% of the land's value. However, the Arizona Department of Revenue Conservation Easement Valuation Guideline, raises issues such as the fact that: (1) each easement is unique; (2) the impact of easements on servient and dominant estates may result in an enhancement to property; (3) an easement may have little or no effect on the underlying fee; and (4) if an easement on agriculturally classified land does not restrict agricultural uses, an easement restricting development rights "will normally result in no change."

Benefits of Purchase of Development Right's Programs::

The *Purchase of Development Rights* information paper outlines benefits in PDR programs:

- Ranches are protected for ranch use.
- Ranches are protected as open space, and as ecological and agricultural resources.
- Ranch land is retained in private ownership.
- Programs are voluntary.
- Ranch land is kept affordable.
- Easements are enforceable and run with the land.

Administration of Purchase of Development Rights Programs:

Purchase of Development Rights Programs have been implemented by 15 states and numerous counties. County PDR programs have purchased the development rights on a reported "several hundred thousand acres" of land. Funding is required to support acquisition and administration of easements.

C. INCENTIVE FOR GOVERNMENT PARTICIPATION IN INTERIM SOLUTIONS

In addition to discussions that are ongoing with the Native American Tribes, interest in participating in the development of the regional Sonoran Desert Conservation Plan has been expressed by federal, state and local entities.

FEDERAL ENTITIES

- United States Department of Agriculture, Forest Service
- United States Department of Defense, Air Force, Ranges and Airspace
- United States Department of Defense, Army Corps of Engineers
- United States Department of the Interior, Bureau of Land Management
- United States Department of the Interior, Bureau of Reclamation
- United States Department of the Interior, National Parks Service
- United States Department of the Interior, Office of the Secretary
- United States Department of the Interior, U.S. Fish and Wildlife Service
- United States Department of the Interior, U.S. Geological Survey

STATE ENTITIES

- Arizona Game and Fish Department
- Arizona State Land Department
- Department of Environmental Quality (AZ)
- Department of Water Resources (AZ)

LOCAL INCORPORATED ENTITIES

- City of South Tucson
- City of Tucson
- Town of Casas Adobes
- Town of Marana
- Town of Oro Valley
- Town of Sahuarita
- Town of Tortolita

The government entities that have land use authority are subject to potential liability for "take" of endangered species until permits are issued at the end of the study process. In order to create incentives for land use decisions that are conducive to the protection of pygmy-owls and other species of concern during the interim period, the cooperative agreement could include a provision which would allow lands acquired or conserved by other means during the interim period to be credited toward meeting respective obligations to the regional multi-species conservation plan if such conservation measures actually contribute to achieving the final Sonoran Desert Conservation Plan goals, and, when applicable, if such measures contribute toward the recovery effort for the pygmy-owl. The cooperative agreement will seek consistency in planning among jurisdictions and with Recovery Team efforts.

PART V: FUNDING & RESEARCH

Update: Sonoran Desert Conservation Concepts

PART V: ISSUES RELATED TO FUNDING AND RESEARCH

A. Progression of the Multi-Species Planning Process

B. Progression of Pygmy-owl Research

15. Survey efforts
16. Telemetry and habitat analysis
17. Genetics studies

C. Funding for Multi-Species Study Process

A. PROGRESSION OF THE MULTI-SPECIES PLANNING PROCESS

In the workplan accepted by the Board of Supervisors on October 27, 1998, there was discussion of the elements of a long term ecosystem based conservation planning process. The workplan states: "The original concept of the Sonoran Desert Protection Plan has been expanded to include both a biological assessment and an economic impact assessment. In general, the Coalition has worked with the County in creating a proposal which now has (1) a larger planning area; (2) more partners; (3) expanded public process; (4) a more comprehensive approach; and (5) greater scientific oversight and peer review." Progress in each of these areas has been achieved during the three month comment period, and is described below.

LARGER PLANNING AREA

October 1998 Action: The workplan accepted by the Board states: "A larger planning area which covers western Pima County will encompass more of the ecosystem, provide greater flexibility at the implementation stage, and create more opportunity to achieve consistency between the locally initiated conservation effort and the federally sponsored recovery effort."

Progress During the Comment Period: During the three month comment period, meetings were conducted with the Department of Defense, the Department of the Interior (including Bureau of Land Management and U.S. Fish and Wildlife Service), and scientists who are working on a one million dollar Sonoran Desert Eco-Regional Project which covers western Pima County.

The Sonoran Desert Ecoregional planning effort is a three stage study, funded by the Department of Defense. The first phase is a course scale characterization of the distribution of biodiversity across the entire ecoregion, which includes parts of California and Mexico. The science based method which underpins this stage includes species occurrence data from the State's Heritage Program; GIS coverages provided by agencies; and an experts workshop conducted in May of 1998 (background paper and experts list found at Attachment H). The second phase of the study involves assessment of stresses and current levels of protection for biodiversity. The third stage involves seeking intergovernmental cooperation across state and national boundaries to deal with ecosystem stresses.

Pima County's Sonoran Desert Conservation Planning effort will be able to assess the results of Stage 1 and take these results to the next level of refinement necessary to meet the multi-species conservation planning goals for the entire region. These results will probably be published next month and available for the County's study effort at that time.

Cooperative working relationships have been established through such information sharing meetings and discussions during the last three months.

MORE PARTNERS

October 1998 Action: The workplan accepted by the Board states: "Having more partners involved through a formal cooperative agreement will broaden representation in the planning process and thereby increase chances of acceptance of the program within the community, reduce the cost of the study to Pima County, increase the availability of science data through cooperative agreements (particularly with federal natural resource agency partners), and increase the chances that land acquisition proposals submitted for grant funding will be viewed favorably."

Progress During the Comment Period: As sections of this report describe in greater detail, there has been broad acceptance by governmental interests of Pima County's invitation to participate in the regional planning effort. The close of the comment period allows us to finalize a cooperative agreement among jurisdictions, which includes an incentive for interim action to protect the pygmy-owl as described above.

EXPANDED PUBLIC PROCESS

October 1998 Action: The workplan accepted by the Board states: "By expanding the public process to include additional parties early in the process, the Plan will comply with National Environmental Policy Act and thus enhance the utility of the biological assessment for future federal funding purposes, reduce tensions with landowners and other interests by addressing concerns through the process, and reduce the time that the planning process takes by conducting the federal process along a parallel track."

Progress During the Comment Period: As sections of this report describe in greater detail, there has been broad acceptance by non-governmental interests of Pima County's invitation to participate in the regional planning effort. Over 75 individuals or entities are seeking a role in developing the conservation plan. Many of these individuals represent large constituencies. Diverse interests are represented, as described above.

MORE COMPREHENSIVE APPROACH

October 1998 Action: The workplan accepted by the Board states: "The more comprehensive approach encompasses all aspects of federally recognized conservation planning including measuring the impact of alternative conservation scenarios, and measuring economic impact."

Progress During the Comment Period: As the section below discusses, planning dollars are being sought from Congress to carry out a full-scale regional multi-species conservation initiative.

GREATER SCIENTIFIC OVERSIGHT

October 1998 Action: The workplan accepted by the Board states: "Greater scientific oversight and peer review will facilitate the establishment of the best science available, ensure the independence of the scientific conclusions and insulate such from interest and advocacy influences, and eliminate duplication of past study effort by relying on the expertise within the community to confirm baseline information, identify gaps, and clarify on-going analysis."

Progress During the Comment Period: On December 1, 1998, the Board accepted a Steering Committee, Technical Advisory Team, Project Management Team structure. Pima County staff members have been assigned to oversee the Science Advisory Team and the Geographic Information System (GIS) Advisory Team, along with other members of the Project Management Team from the University of Arizona, and federal and state agencies.

Initial meetings have occurred to discuss the various lists that describe species of concern and to formulate a strategy for assembling the Science Advisory Team. Scientists from various public entities (University, Interior, Pima County) are drafting a letter to invite species and habitat experts (who were nominated at the meeting of agency scientists held in January) to a workshop in March where the goal will be to produce a list of species that might be included in the Sonoran Desert Conservation Plan, and begin to form the Science Advisory Team.

A repeated request from interest groups as various as the private property advocates, the ranch community, and the environmental community is that the science advisors not be aligned with an interest group. This request is being honored. The Project Management Team is also beginning to assemble a peer review team made up of academic scientists with national reputations in the field of conservation biology.

B. TIMETABLE FOR 1999 PYGMY-OWL RESEARCH

In the workplan accepted by the Board of Supervisors on October 27, 1998, there was discussion of the interim research needs for the pygmy-owl. The workplan states: "The pygmy-owl is vulnerable, as is the local economy. While we start the planning process for a long-term and comprehensive regional plan, we must pursue interim measures to advance the science of the owl and to protect the pygmy-owl." "On September 25, 1998, a request for funding interim studies was made to the Secretary of Interior based on the recommendations from meetings of biologists, agency staff recommendations, and comments from community members.

A number of specific pygmy-owl studies were identified in the October 27, 1998 memo, including (1) more extensive survey efforts; (2) habitat and telemetry studies; and (3) genetics studies. Progress in each of these areas has been achieved during the three month comment period, and is described below.

INITIATE MORE COMPREHENSIVE SURVEYS

October 1998 Action: The workplan accepted by the Board states that interim action is needed to: "Initiate More Comprehensive Surveys These studies would further our knowledge of how many pygmy-owls there are, and where they are located. Surveys need to be conducted at two levels: (A) survey for individual owls at a cost of $1,500 per survey ($4,500 per year or $9,000 for two years on average for a 160 acre plot), and (B) survey of habitat. The estimated total cost is $275,000 to $750,000."

Progress During the Comment Period: Based on discussions with agency scientists and members of the pygmy-owl recovery team, there is a recommendation to pursue a comprehensive survey effort during the remainder of the breeding season (March - June), and have contracts in place so that surveys can begin in January of the next breeding season in order to compile the data necessary for both the Sonoran Desert Conservation Plan and the recovery team effort.

The recommendation for this survey season is to increase the survey effort by considering more than one contract with a cumulative expenditure ceiling of $100,000, or $140,000 through a cost-sharing agreement with U.S. Fish and Wildlife. Individual members of the science pygmy-owl recovery team have volunteered to make recommendations to the County Administrator on contracts after reviewing proposals. The survey effort would be closely coordinated with telemetry, habitat assessment, and genetics work described below.

UNDERTAKE TELEMETRY AND HABITAT STUDIES

October 1998 Action: The workplan accepted by the Board states that interim action is needed to undertake:

"Telemetry Studies The study effort would provide information necessary to tailoring recovery and conservation plans to protect the owl and the economy. Questions that would be addressed include: Where do pygmy-owls go upon dispersal? How far do they travel? Is there exchange with other populations? Are they residents of specific areas, rather than migratory? How tolerant are they of various urban occurrences? How adaptable are they?

The method of the study would involve placing transmitters on 60 birds (30 from the Arizona population, assuming more birds will be found through surveys). To study 60 owls with a $300 transmitter each would cost about $18,000 for equipment (minimum). If each owl was tracked 24 hours per day by an employee making $8 per hour, the cost per day per owl would be about $200. Labor for 84 days (12 weeks/the life of a transmitter battery) per bird would be approximately $16,800, or $1,008,000 for 60 owls. The estimated total cost is up to $1,026,000.

Habitat Assessments Basic questions underlying these studies are: Can we describe the habitat that pygmy-owls need? Can we prescribe the habitat where pygmy-owls could breed, nest, feed and rest? What are the characteristics of that habitat in terms of density, height, breadth etc?

Using sites discovered through surveys and telemetry studies, for 60 sites (30 Arizona; 30 non-Arizona): (A) perform on-the-ground data gathering (cost of maps plus time for on-the-ground gathering; 40 hours for 5 acres at $15/hour) and (B) perform statistical analysis (200 hours at $30 - $50 per hour). The cost is estimated to be a minimum of $150,000."

Progress During the Comment Period: Based on discussions with agency scientists and members of the pygmy-owl recovery team, there is a recommendation to pursue a contract with the Tucson Office of the Arizona Game and Fish Department to conduct habitat assessments and telemetry work. Mr. Scott Richardson has conducted this work to date and as the leading expert on the Arizona population of pygmy-owls, he is uniquely able to carry out such an assignment in the short term.

The telemetry and habitat assessment effort would be closely coordinated with survey and genetics work.

Results would be available to the science teams of both the Sonoran Desert Conservation Plan and the Recovery Team.

A contract ceiling of $60,000 is recommended to cover the entire cost (travel, labor and equipment) of at 10 telemetry studies, cooperative efforts with the genetics and survey work, and a habitat assessment which builds on the results of the 1998 study.

UNDERTAKE GENETICS STUDIES

October 1998 Action: The workplan accepted by the Board states that interim action is needed to undertake:

"Genetic Research These studies would begin to answer the question of whether the Arizona population is related to the population in Mexico or elsewhere. Through analysis of feathers or blood samples these studies would compare 30 Arizona pygmy-owls (assuming more owls will be located through greater survey efforts) to 30 non-Arizona (Mexico based) pygmy-owls. Studies would involve 60 to 120 genetic tests at a cost of approximately $1000 each. The estimated total cost is $60,000 to $120,000."

Progress During the Comment Period: Based on discussions with agency scientists and members of the pygmy-owl recovery team, there is a recommendation to pursue a contract with Mr. Glenn Proudfoot from the University of Texas A&M. Mr. Proudfoot has submitted a proposal for genetics work, and as the foremost pygmy-owl genetics expert in the United States, he is uniquely qualified to conduct pygmy-owl genetics studies.

These studies of DNA sequence data will address two issues "regarding genetic viability of Ferruginous Pygmy-Owl populations in Arizona, and the feasibility of reintroduction, [and thus] serve as a framework for future management efforts":

(1) Are Arizona pygmy-owls lacking genetic variation relative to putative 'healthy' populations, and

(2) Are populations genetically differentiated from each other.

Method: The genetics work would be closely coordinated with the telemetry effort within Arizona (adding approximately 5 minutes onto the handling of owls). The proposal states that:

"Genetic data can be gathered directly by several means. Direct sequencing of mitochondrial DNA (mtDNA) is the primary method of choice at present. Because DNA is the genetic material of heredity, it is possible to document part of an individual's 'genetic blueprint' during direct sequencing. Comparison of these blueprints among individuals and with populations, and among populations, reveals genetic differences on local and regional scales, or genetic biodiversity. Analysis of mtDNA is now common place for many organisms and may be crucial for delegating appropriate management of species considered rare or endangered."

Results would be peer reviewed, submitted for publication in scientific literature, deposited in the national GenBank, and available to the science teams of both the Sonoran Desert Conservation Plan and the Recovery Team. The estimated time of completion is March 2000.

Cost: A contract ceiling of $37,000 is recommended to cover the entire cost to Pima County (travel, labor and equipment) of 110 genetics studies (10 studies with the Arizona pygmy-owl population and 100 comparative studies with Texas and Mexico pygmy-owls). The total project cost is $58,577, with the balance paid for by Texas A&M University.

C. FUNDING FOR THE MULTI-SPECIES PLANNING PROCESS

Federal Funding Contribution to the Multi-Species Planning Process:

On October 27, 1998, the Board directed staff to "actively pursue a scientific study funding request that had previously been made to the Department of the Interior." Progress has occurred in this regard through lobbying efforts which might result in a $3 million federal planning appropriation to Pima County from the FY 2000 budget. At the time such money becomes available, the County can request proposals for the larger regional conservation planning effort. Federal planning dollars have been available in prior large scale multi-species conservation initiatives in California.

Three tiers of science studies will be carried out as soon as sufficient funding is available. The first tier involves pygmy-owl studies, which, though initiated in the next few months, will have to be conducted over a few years time span in order to gather sufficient data on the status of the species. The second tier includes studies of the habitat associations and status of all other species that will be covered within the regional multi-species conservation plan. The third tier of landscape GIS work is the broadest, but involves the least field work.

In addition to the science studies, funding will cover the cost of assessing environmental impacts and drafting an environmental impact statement, carrying out the public notice and public participation requirements of the National Environmental Policy Act (NEPA), and conducting an economic analysis of the cost associated with conservation alternatives to evaluate the community's fiscal capacity to adopt a conservation plan and to understand the cost associated with various conservation alternatives.

Local Fee Generated Funding:

Regional endangered species conservation efforts that have failed to obtain sufficient federal dollars for planning or implementation have assessed fees on development. Per acre fees ranging from $550 per acre to a cost of tens of thousands per acre have been assessed.

Clark County Nevada assessed the relatively lower fee across a broader base of the development community in order to generate funds to pursue a regional section 10 permit.

At the high end, Orange County worked with a narrow definition of applicability and only assessed fees on those developers who converted occupied habitat.

Fees in Sacramento tended to be in the range of $2,000 to $2,500 per acre with some exceptions.

This type of fee, which is typically assessed at the stage of development when grading permits are sought, is different than the mitigation banking programs discussed earlier.

APPENDIX

Update: Sonoran Desert Conservation Concepts

APPENDIX

A. Public Comments on Amending Boundaries

B. Public Comments on Land Use Policy

A. AMENDING BOUNDARIES

PUBLIC COMMENTS ORGANIZED BY TOPIC AS PRESENTED WITHIN THE DRAFT CONCEPT DOCUMENT

A. AMENDING BOUNDARIES

A number of specific suggestions were forwarded in response to the proposed boundaries within the draft concept document.

1. Suggestions to Amend the Ranch Conservation Element:

Arizona State Land Issues:

"In general, ASLD shares Pima County's desire to maintain ranching operations on the vast majority of State Trust lands in Pima County. Conservation of ranch lands identified by the plan as a priority will involve a number of creative techniques, but all require the active participation of ranch owners."

"The most important point we can make is that buying a ranch does not buy the State Trust land that is leased by that particular rancher. Rather, those leases would be assigned to the new landowner. If the new landowner chooses not to conduct ranching operations on this property, the State Trust lands involved would no longer be eligible for a grazing lease. If however, the grazing leases were to continue on non-API lands, then we need to note for the record that the lands involved are no more protected than any other land leased for grazing. Therefore, in this scenario, ASLD can accept proposals for higher and better land uses and cancel the existing grazing leases. As examples, Empire/Cienega, Posta Quemada, and Empirita ranches are not 'preserved.'"

Center for Wildlife Connections:

"Various aspects of the Sonoran Desert Conservation Plan such as Ranch Conservation, Riparian Restoration and Cultural and Historic Preservation are commendable goals and important to our region. However, we believe the multi-species conservation plan should be finalized and fully funded before embarking on these other ambitious aspects of the SDCP."

United States Forest Service Issues:

"At least two of the ranches identified for conservation have grazing privileges on National Forest system land. It is likely that the base property requirement (40 acres plus livestock handling facilities) for these privileges is tied to land in the area identified for conservation. We are thus particularly interested in working with you on any action that may involve these properties."

2. Suggestions to Amend the Cultural and Historic Preservation Element:

Esmond Station:

"Esmond Station ought to be considered for addition to the list of future [historic and cultural preservation] projects." (State Land Department)

Kentucky Camp:

"We suggest the addition of Kentucky Camp for consideration as an additional site for preservation." (U.S. Forest Service)

Robles Ranch:

"We support restoration and use of the historic Robles Ranch as a community center." (Altar Valley Conservation Alliance)

Romero Ruin:

"The Romero ruin is located on Forest land and subject to regulation and management accordingly." (United States Forest Service)

Sierrita Archeological Site:

"We believe that an archaeological district exists on the northwest side of the Sierrita Mountains that should be included in the draft Plan." (Buffers)

3. Suggestions to Amend the Riparian Element:

Brawley Wash:

"We are concerned about stewardship of the Brawley Wash area, and hope to identify ways to enhance this watercourse through our Watershed Resource Assessment Project funded by the Watershed Protection Fund. As with the Ranch Conservation element of the Plan, we hope the County will work directly with us to determine how this corridor will be protected and managed." (Altar Valley Conservation Alliance)

Canada Del Oro Recharge Project:

"Future projects indicated under Riparian Restoration such as the Canada Del Oro (CDO) Recharge project supports the goals and policies identified in the natural Resource Conservation element." (Oro Valley)

Rincon Creek:

"We found that a small portion of the Rincon Creek riparian corridor located immediately upstream from the Rincon Creek Restoration area and west of Camino Loma Alta is not designated as a biological corridor / link as is the remaining upstream portion of the creek." (Rincon Institute)

"Why is the Rincon Creek restoration area limited to only a 2 mile restoration?" (Tortolita)

Santa Cruz River Corridor:

"I respectfully request that the Conservation Plan place more priority on the Santa Cruz River corridor for designation of resources." (Marana)

Tanque Verde Creek / Wash:

"Furthermore, protecting riparian habitat within the Tanque Verde creek bed from where it exits National Forest land to where it joins Agua Caliente is important for wildlife movement. If possible, protection should extend to its juncture with Sabino Creek or Pantano Wash." (National Parks Service)

"We believe a comprehensive plan for the protection of Tanque Verde Wash needs to be devised. Such a plan should combine purchase with conservation easements." (Buffers)

4. Suggestions to Amend the Mountain Park Element:

Arizona State Land Department:

"A large number of acres of State Trust land in many of the expanded or proposed parks are not eligible for API designation. Much of the ineligible land is classified for grazing, and as previously discussed, the Department intends to maintain these lands for grazing over the long term. Alternative means of conservation should be considered."

Catalina Mountain Park:

Southern Lago Del Oro Community requests that the Board remove them "from the proposed designation of Mountain Park as shown on the first draft of the Sonoran Desert Conservation Plan." (Southern Lago Del Oro Community)

Colossal Cave:

"The Rincon Institute is proposing that the boundaries of Colossal Cave be modified to include approximately 14,160 additional acres comprised of the large parcel of State Trust land on the northwest and the remainder of the Agua Verde Creek riparian corridor on the southeast."... "Adding these lands to the Colossal Cave will preserve critical headwater tributaries of Rincon and Agua Verde Creeks; connect Colossal Cave with Rincon Creek and Saguaro National Park; and connect the Agua Verde Creek corridor with the Rincon Mountain Wilderness. An even more important benefit of protecting these lands is that they are essential to providing an adequate long-term biological linkage between the Rincon and Santa Rita Mountains, the Empire-Cienega Resource Conservation Area, and other protected areas to the south." (Rincon Institute)

"In Saguaro East, we endorse the concept of the entire length of Rincon Creek, from where it exits the park boundary to its junction with Pantano Wash, to be identified as a biological corridor. .... We support the Rincon Institute's proposal to expand Colossal Cave Mountain Park even more by adding more adjacent state lands than currently shown in the plan." (National Parks Service)

"We urge you to hasten preservation of the remainder of the Rincon Valley that would include (1) the preservation of all remaining open state land as open space; (2) the rapid expansion of Colossal Cave Mountain park to the area outlined in the plan." (Wrong Mountain Preserve)

Empire Mountain Park:

"Your plan just doesn't go far enough. Have you been out to the base of Empire Mountains." That whole region including the creek should be protected. ... The peaks need to be protected in the area and so do the riparian areas which are not reflected on your plan. The areas are Sections 21, 20, 33, 34, 27, 22, 35, 36, 09, 03, 05." (Deming/Kidwell)

Sierrita Mountain Park:

"At the meeting, there was a 100% consensus that the designation (Sierrita Mountain Park) be changed to Ranch Conservation, or something more appropriate." (Sierrita Mountain Coalition)

"If your goal is indeed the same as ours, if your goal will indeed have the same outcome as we would like, then great. I'm sure we could try to work something out. What we basically want is to be left alone, to continue being good stewards of this land. We want to continue doing what we have been doing. We do not plan to develop this land and or become a wildcat subdivision. We do plan to continue our ranching. ... I do not think this place should be called a park. ... Call us Sierrita Mountain historical and ranching conservation ... but please do not call us a park." (Janette Awtrey, McGee Ranch, Sierrita Mountain Range)

Silverbell Mountains:

"Among these sections missing from the plan are the bighorn sheep calving area in the Silverbell Mountains and habitat where pygmy-owls have been identified by surveys and by high-quality, but unconfirmed observations." (Center for Wildlife Connections)

Tortolita Mountain Park and Surrounding Area:

"In the plan, Pima County shows a portion of our property as future expansion area for the Tortolita Mountain Park. In addition, you indicate possible expansion of the Tortolita Mountain Park of approximately 30,000 acres of public lands and additional private lands. ... We request that in any final document to be approved by Pima County that the Dove Mountain lands be removed from the areas show for expansion of the Tortolita Mountain Park." (Cottonwood Properties)

"Defenders believes that due to recently obtained information about the heightened importance to pygmy-owls of land slated for development at Dove Mountain, we would like to see the proposed Tortolita Mountain Park expanded to include all undeveloped areas of Dove Mountain, including the 'Bajada' acreage in addition to Ruelas Canyon which the SDCP proposes to acquire as part of the Tortolita Mountain Park expansion." (Defenders of Wildlife)

"[P]otential conflict does exist between the draft Conservation Plan and Marana's Future Development Plan Map specifically with respect to the degree of the proposed expansion of the Tortolita Mountain Park." (Marana)

"The Town of Oro Valley ... finds that the [Sonoran Desert Conservation] Plan conforms to the goals and policy directions as described in several elements throughout the General Plan" including the first goal in the land use element; the Town's Core Community Goal; the Canada Del Oro Recharge Project is supported by policies identified in the natural resource conservation element; the Tortolita Mountain Park concepts is also supported." (Oro Valley)

"Wild Burro Canyon's mouth has been left unprotected." (Tortolita)

Waterman-Roskruge Mountain Park:

"Designation and protection of the Waterman-Roskruge Mountain Park and protection of the Tucson Mountain West Biological Corridor, shown with cross hatches on figure 14 are essential projects for maintaining important linkages." (National Park Service)

5-6 Suggestions to Amend the Biological Corridor and Critical Habitat Elements:

Critical Habitat:

"The conservation plan must start with protection of currently occupied pygmy-owl habitat, and the umbrella of protection must extend to previously occupied habitat and lands necessary for feeding, reproduction, sheltering, and dispersal. Critical habitat that will be designated by the U.S. Fish and Wildlife Service must be included among protected lands as well." (Defenders of Wildlife)

Proposed Amphi School Site:

"The site of the proposed new high school for the Amphitheater School District, as one of the most heavily documented areas used by pygmy-owls in the northwest Tucson area, certainly warrants immediate acquisition. As such, it is also important to acquire or otherwise protect currently undeveloped land which would connect the Amphi site to the southern end of the Tortolita Mountains." (Defenders of Wildlife)

Saguaro National Park to Tanque Verde Creek:

"On the north side of the Rincon Mountain District, we would like for you to consider including the small sliver of land between the park boundary and Tanque Verde Creek as part of a biological corridor linking the park with the wash." (National Parks Service)

Tortolita Mountain Park Corridor:

"The Tortolita East Biological Corridor, the Tortolita Mountain Park western expansion and the Tortolita Ironwoods area (Figure 13) appear to be configured to almost exclusively apply to State Trust lands. Rather than identifying a potential preserve area that appears to encompass mostly State Trust lands defined by section line boundaries while leaving the adjacent private lands open to development, we would prefer to see the potential preserve area defined by the actual locations of environmentally and ecologically sensitive areas on both State Trust and private lands." (Arizona State Lands Department)

"Additionally, the Town's General Plan recommends that 'strategies that would enable preservation of lands extending north and west from Honey Bee Canyon / Sausalito Creek and connecting to the Tortolita Mountain Parks through independent methods and through coordination with Pima County, Arizona State Land Department, and / or any nationally recognized conservation organization." (Oro Valley)

"There is a marked omission of any connectivity between the Northern and the Western reaches of the valley. Specifically connecting the Tortolita Mountain western bajada with the Tucson Mountains. There needs to be a similar corridor to the one proposed between Tortolita Mountain Park and Catalina State Park." (Tortolita)

Tucson Mountains Corridors:

"In line with the County's proposed acquisition to link the Tortolita Mountains with the Santa Catalina Mountains, we also believe that protection of currently undeveloped land connecting the Tortolita fan across I-10 to the Tucson Mountains as well as to the Silverbell Mountains warrants immediate action. Maintaining the currently vegetated linkages that are likely to connect existing pygmy-owls in the Tortolitas to the remainder of the Arizona population further west should be a priority." (Defenders of Wildlife)

"The Tucson Mountains are a relatively small range and maintaining connections between them and other nearby ranges is exceedingly important for maintaining viable wildlife populations. Linkages between the Tucson and Santa Catalina Mountains have been compromised beyond restoration, but protecting corridors t the west may still be accomplished. Additional scientific studies would be needed to determine the significance of these corridors." .... "There may also be some remnant corridors on the east side of the Tucson Mountain District that have not been identified." (National Park Service)

Washes / Corridors and Links:

"We suggest that the Biological Corridors and Links section needs to be broadened considerably. A few examples of areas that should be included are washes and bajadas on the west side and northeast side of the Sierrita Mountains; washes north of the Santa Rita Experimental Range and the Santa Rita District of the Coronado National Forest; washes on the northeast side of the Tucson Mountains; and washes that drain into the Cienega Creek." (Buffers)

B. LAND USE POLICY

PUBLIC COMMENTS ORGANIZED BY TOPIC AS PRESENTED WITHIN THE DRAFT CONCEPT DOCUMENT

B. LAND USE POLICY

A number of specific suggestions were forwarded in response to the proposed land use policies within the draft concept document.

1. No Upzoning in Environmentally Sensitive or Historic Areas:

"Assuming that the existing zoning is better than upzoning in all instances is probably not the case. There may be solutions that do involve upzoning which would enable acquisition of the most sensitive lands in a given area at no additional cost to the county." (AZ State Land)

"We recommend that there should be no new upzonings." "Land that is designated as an environmentally sensitive or historically valuable area should never be upzoned." (Buffers)

"We maintain our position that all proposed upzonings for lands likely to have ecological and historical value be denied in the interim. In addition, we recommend taking this policy one step further to deny all upzonings until such time as an assessment of the cumulative environmental impacts of development has been done." (Defenders of Wildlife)

"I specifically support: (1) the proposed freeze on upzonings." (Brian and Karen Metcalf)

"We propose the county maintain a hold on zoning levels in prime pygmy owl/ironwood forest habitats which are compatible with pygmy owl survival." ... "All lands within designated mountain parks, riparian zones or ranches designated for conservation should not be rezoned to uses greater than what is now permitted." (Town of Tortolita)

"No new upzoning of private land that is currently in, adjacent to or within ½ mile of any proposed open space or park area." (Wrong Mountain Wildlife Preserve)

2. Create an Environmentally Compatible Standard for Rezoning Time Extensions:

"Rezoning time extensions should seldom if ever be granted." (Buffers)

"Require as an acid test that any conditional use applications not have a detrimental effect on an area designated as being environmentally sensitive." (Town of Tortolita)

3. Comprehensive Plan Amendments to Resource Conservation:

"Many of the proposed mountain parks are likely slated for a time period far beyond the ten year life of comprehensive plans. Their plan designation should allow some flexibility for

interim and alternative land uses, whether resource productive or development related, should a mountain park fail to materialize." (Arizona State Land Department)

"The Sonoran Desert Conservation Plan is an ambitious undertaking, as is the update to the Comprehensive Plan. Both Plans will require regional participation and cooperation to ensure that all jurisdictions contribute and benefit in proportion to their needs." (City of Tucson)

"Creating tax incentives to keep land in low density uses needs to be a high priority item." (Buffers)

"The Plan should be coordinated and a relevant part of the Pima County Comprehensive Land Use Plan which recognizes not only desert conservation but a need for sound residential, commercial and industrial development." (Green Valley Coordinating Council)

"The Sonoran Desert Conservation Plan needs to be studied and implemented in conjunction with a comprehensive plan update. It should also be judged in the context of its influence on long-term economic vitality of the region, transportation planning and infrastructure, water resources supply and demand, public services and facilities and long-term public funding requirements and sources." (Metropolitan Pima Alliance:)

4. Transferable Development Rights:

"The Plan points out the importance of State Trust lands in protecting Pima County open space. Here in the Altar Valley, our future is closely tied to the fate of State Trust Land. Given the uncertain future of State land, it is difficult for private land owners to consider land protection measures such as conservation easements on their own land. There are numerous ways that State land open space preservation could be stabilized ranging from longer leases to purchase or transfer of State land development rights to establishment of State range land preserves. We hope that stabilizing the future of State Trust lands in the Altar Valley will be considered as a goal of the Plan." (Alter Valley Conservation Alliance)

"We strongly agree that a program that allows the transfer of development rights needs to be created." (Buffers)

"Land that is in private ownership and is being managed as open space ... should be considered for conservation easements rather than outright purchase." (Buffers)

5. Infrastructure Investment Guidance:

"I believe that greater recognition should be given to the potential of relieving pressure within designated critical habitats by encouraging or building development in environmentally appropriate areas. In regard to the Town of Marana, we believe that the more ways we can encourage development to move into the corridors of flat non-vegetated farmlands, the better off the region will be toward preserving more environmentally sensitive areas and ensuring adequacy of renewable water supplies. However, the public must recognized that in order to encourage appropriate growth, the infrastructure must be made available in terms of sewer if we are to be successful and truly provide an integrated approach." (Town of Marana)

6. Environmental Enhancement Fee:

"I specifically support ... (2) the creation of a preservation fund based on the imposition of new and higher impact fees on new development." (Brian and Karen Metcalf)

"The 'Environmental Enhancement Fee' could be higher, to allow the profiting developers to spread out and absorb more of the cost of growth, and reducing the burden on existing citizens." (Town of Tortolita)

7. Environmental Banking Authority:

"There are a variety of land banking alternatives that could be considered. These should be investigated and debated, and enabling legislation sought if necessary." (Arizona State Land Department)

8. Urban Desert:

"The draft Plan does a relatively good job of proposing land conservation around the County's perimeter, but completely ignores areas closer to the City limits. ... We think key parcels should be targeted for purchase and the regulatory mechanisms should be carefully considered." (Buffers)

The Buffers comment raises an important point. A number of properties in the urban area have been bypassed from development. To the extent possible, these areas should be considered for preservation, particularly when the properties can be interconnected to form linkage from the larger open areas within eastern Pima County into urbanized Tucson. An appropriate cost-benefit analysis should be performed to evaluate the benefits of converting these urban desert spaces into infill development.

A

Wildlife Damage Review
POB 85218, Tucson AZ 85754
520-884-0883 fax: 884-0962

Chuck Huckleberry
Pima Co. Admin.
130 W. Congress, 10th Fl.
Tucson AZ 85701

Jan. 12 1999

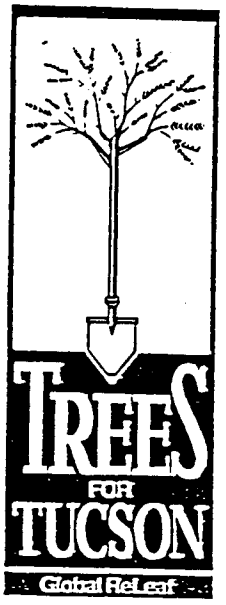
Dear Chuck / Maeveen,

Please note that Wildlife Damage Review is interested in participating on the Steering Committee for the development of the multi-species habitat conserv. plan.

At this time, the potential representative for this committee will be me. I'll include an email - other contact info. is on front of card.

Many Thanks for all your work + dedication to these most important phenomena -

Nancy Zierenberg
wdr@az.starnet.com



January 13, 1999

Charles H. Huckelberry
Pima County Administrator
130 W. Congress
Tucson, AZ 85701

RE: Sonoran Desert Conservation Plan

Dear Chuck:

I would like to offer a few thoughts on some of the subjects presented in the Sonoran Desert Conservation Plan (SDCP). Overall I thought the SDCP gave a thorough overview of the multitude of land protection efforts underway. Its clear that Pima County has done an admirable job undertaking protection efforts given the tremendous growth pressures the community has faced.

SCENIC RESOURCES

One area of the plan where I think there could be more emphasis is on the value of protecting desert scenery and the role it plays in our quality of life. To a large degree the distinctive appearance of the Sonoran Desert with its diverse mix of unusual plant forms highlighted by nearly constant sunshine is what makes Tucson a special place to live and visit. Certainly, protecting wildlife habitat will protect some of these esthetic amenities as well. And there is more leverage for land protection based on the wildlife given that existing laws focus on animal and plant species. But clearly our quality of life is just as dependent if not more on the visual integrity of our the desert and mountains. It is being threatened by deteriorating visibility from increased traffic and dust generated by more and more areas where the natural desert soils have been disturbed or destroyed.

While the Peaks and Ridges and BOZO ordinances provide some protection, there needs to be more done. Specifically, I am thinking of the need to stress air quality maintenance as something is fundamental to the protection of the desert's visual resources. The Plan should highlight how this can be accomplished.

INFILL OPEN SPACE

Pursuing land protection for outlying areas such as the Silverbell or Cerro Colorado Mountains is important given the proliferation of rural subdivisions that have occurred and will only increase in coming years as more retirees and semi-retirees are attracted to Arizona. Conversely, the pockets of lush Sonoran desert habitat that are interspersed within our expansive urban area give Tucson its unique desert identity. So we need to pursue means to protect these well-vegetated intraurban areas that could be lost to infill projects. Compared to oth er outlying parcels they will likely be costly, but their accessibility and viewshed values may justify the cost.

TUCSON CLEAN & BEAUTIFUL, INC. P.O. Box 27210 Tucson, AZ 85726 (602) 791-3109

The Environmental Enhancement Fee enacted at the Starr Pass resort is worth pursuing county wide (unincorporated and/or incorporated areas). Ventana Canyon Resort, La Paloma, El Conquistador and Westward Look together could generate a large fund that would directly benefit those and other resorts by protecting the amenities they offer. Funds from each resort could be earmarked for projects specifically beneficial to each site. For example, funds from Ventana and La Paloma could go towards high scenic or wildlife resource value parcels in their proximity threatened by development.

LEGAL STRENGTHENING

The broad scope and detailed nature of the Plan provides the kind of public input based planning and documentation needed to defend land use restrictions against legal challenge. The "linkage" (to a proven need) and "proportionality" (justifiable level of restriction or exaction) issues that some courts scrutinize in determining the legality of land use restrictions on specific pieces of land will be easier to address and defend with this comprehensive document..

CONSERVATION EASEMENTS

Conservation easements are frequently mentioned as a tool to protect land. I have helped the Arizona Open Land Trust place conservation easements on several parcels of land around Tucson. I would encourage the county to pursue working with that group and other appropriate organizations in those situations where easements can provide a viable option to outright land acquisition. They could tie in nicely with ranch conservation objectives. The cost saving associated with retaining private ownership (with land use restrictions) provides a strong argument for such an approach given the large areas the plan proposes for protection. This can also help control ever-increasing stewardship expenses.

PROPERTY MANAGEMENT STAFF

I strongly encourage the county to increase the size of its real property department to meet the needs for open space protection. First and foremost, this will help with the lands identified in the 1997 bond package. Cost containment is crucial to effectively protect lands identified in the bond package and for other lands identified in this plan. Having a number of optional acquisition sites gives the county leverage in working with several sellers to get the best return for public funds. We need to avoid paying top dollar with precious public dollars. Situations like the National Park Service acquisition of expansion lands at Saguaro National Park East at exorbitant costs must be avoided.

ZONING RESTRICTIONS

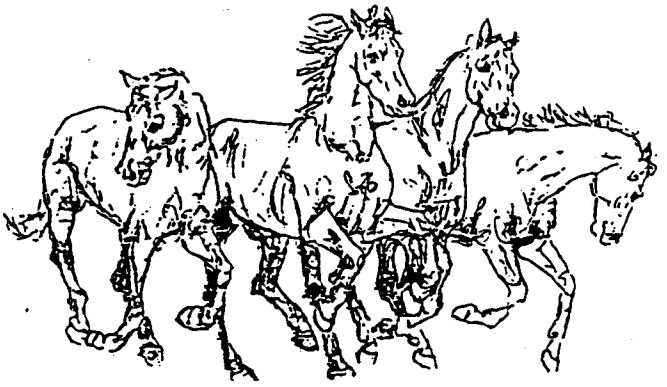
SR and RH land use classifications need to be strengthened without necessarily reducing the density they allow. For example, limitations on building and roof color and height should be looked into for these zoning categories. Also, amount of land clearing beyond a building footprint should be considered. Livestock use (usually horses) also needs to be addressed. A horse can easily denude a desert parcel of land just as surely as if it was graded. These steps will preclude the often specious argument made by proponents of large scale high density developments that

Conservation Plan controversial steps need to be taken such as restricting SR and RH zoning categories, taxing speculative land value profits locally, mandating conservation use of state lands, and strictly adhering to site analyses. Thank you for considering these comments.

Sincerely yours,

Doug

Doug Koppinger
Coordinator.



Mrs. Thomas N. Wegner
3701 North Camino del Oeste
Tucson, Arizona 85745
January 15, 1999

Charles H. Huckelberry
Pima County Administrator
Attention: Maeveen Behan re: SDCP
130 West Congress Street
Tucson, Arizona 85701

Dear Mr. Huckelberry:

My husband and I own property in Pima County; we have been residents since 1964.

We support the Sonoran Desert Conservation Plan. If we can assist the realization of the worthy project in a more specific and concrete manner than the writing of this letter, please so inform us.

Thank you for your attention.

Sincerely,

Sally C. Wegner
(Mrs. Thomas N.)

Copy: Tucson Mountains Association, Inc.
W. M. Conway, Esq.
Protection File

admirable and visionary stance in this latest example—we know it is an often difficult stance to maintain for someone in your position.

We are not opposed to growth; but we are extremely opposed to sprawling growth without regard to infrastructure capacity and the needs of the environment and its denizens. We moved here because the Sonoran desert is beautiful and unique. We do not wish to see it bulldozed in ever-widening strips fanning out from I-10 and I-19. We understand the need for a growing community to provide an increasing tax base to support the increasing costs of services; but we are not convinced that housing projects such as Canoa Ranch deliver more funds than they consume in increased services.

As you have no doubt surmised, we are strongly in favor of legislation and policies which protect and preserve the natural environment. The recently approved ballot initiative, "Growing Smarter", is deceivingly named and not nearly sufficient to deal with this issue. We wholeheartedly endorse the concept of using public funds to purchase and preserve wild lands before they fall before the bulldozer blade. County Administrator Huckleberry's high-profile Sonoran Desert Protection Plan is one we'd like to see implemented as soon as possible. It is always possible to strip and develop a wild piece of desert at a later time, it is rarely possible to restore habitat and species once they are destroyed.

Similarly, we are strongly in favor of measures to preserve what may be one of the most precious natural resources in Pima county: water. Again, we understand the practical need for people to draw groundwater for life-sustaining and business uses. We believe, however, that a greater sense of the seriousness of the problem must be instilled in both the public and the government. When we moved here, I began researching the history of the region and was appalled to discover that the Santa Cruz river flowed through Tucson as recently as the 1950s and is now dry due to overuse of its water. We have read reports of subsidence areas northwest of Tucson due to increased groundwater use. We are familiar with the history of the Central Arizona Project (CAP) and the local disinclination to use CAP water. We are not certain of the scientific basis for short-term aquifer recharge. (Two valuable books on the subject of water use and rights, and their consequences, are Marc Reiser's *Cadillac Desert* and former Senator Paul Simon's *Tapped Out*.)

Water use is a zero-sum game. We are concerned that insufficient measures are being taken to avert further serious loss of groundwater. Specifically, we fully support regulation of the use of groundwater for ornamental purposes—especially to irrigate golf courses. In fact, we would support a complete ban on the use of groundwater for this purpose. Other options (reclaimed grey water, rainfall capture, different species of grass, etc.) are available and must be used.

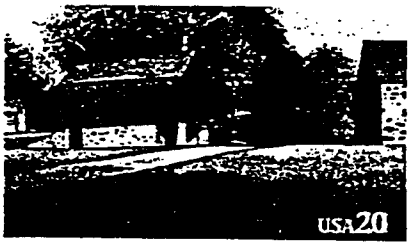
One issue which we did not expect before moving here, and which has alarmed us, is the perception that Pima county is broke. Recent news stories on such topics as education improvements and equity (although this appears more of a state issue than a county issue) and the possible loss of a federal grant for new Pima County Sheriff's Deputies due to a lack of available county funds concern us. Frankly, we are puzzled why Pima county and the state of Arizona are in any financial difficulty. The combined tax rates on a Pima county resident seem higher here than anywhere else we've lived, including California. The motor vehicle registration fee, of which a good portion goes to the county general fund, is

Dear Mr. Huckleberry, 4/19/99

Thank you for proposing the Sonoran Desert Conservation Plan. I support the establishment of new units to be preserved under the plan. Now is indeed our last opportunity to save what remains of our beautiful ecosystem.

In appreciation,
Carol Tepper

Carol Tepper
250 N. Arcadia #1302
Tucson Az 85711



Pima County Administrator Huckleberry
130 W. Congress
Tucson, Az 85701

TUCSON MOUNTAINS ASSOCIATION

Dear Mr. Huckleberry:

I am a member of the Tucson Mountains Association.
I support the Sonoran Desert Conservation Plan.

Comments: we need to do all we can to purchase & preserve all the land possible in & around Tucson !!!

My specific concerns regarding the Plan are:

preserve
preserve
preserve
think of the future !!!

Sincerely,

Terrence Moore (Signature)

TERRENCE MOORE (Printed Name)

P.O. box 85698 (Address)

Tucson, AZ - 85754

aside to be left relatively untouched. For instance, sizable areas of the Silverbell mountains that contain very unique relict plant assemblages must be carefully buffered from the increased traffic that county mountain park or natural preserve status would bring.

4. We believe strongly that the development of the SDCP be guided by both a biological consultant and an independent biological advisory committee. As a scope of work/request for proposals for the consultant has not been sent out for bid, we are concerned that this important part of the process is getting a back seat to the formation of the broad steering committee. The validity of the steering committee's work will be severely compromised if they do not get independent, Pima County-specific biological guidance as soon as possible.

We express our gratitude for proposing an excellent conceptual model for the SDCP and considering our input. We look forward to working with you as part of the steering committee (our president, Dale Turner sent a letter on 12/28/98 requesting a seat on this committee).

Sincerely,

Andy Holdsworth

Andy Holdsworth
Field Coordinator

Because I fervently want to have Tucson retain the Sonoran desert, the historical sites and the ranching way of life which gives us our unique flavor, I believe I would be helpful as a volunteer on the Steering Committee. I also believe because of 20 years in commercial real estate, that I have learned how to negotiate and have a unique way of problem solving and compromising. My land development background gives me first hand experience of how county planning works, city water and other governmental agencies.

I think this is a very exciting time for Tucson, and an important opportunity to keep Tucson a great place to live. I'd be happy to meet with you and hope to hear from you soon.

Sincerely,

D. Hecht

Deborah Hecht
(520) 743-0000

TUCSON
METROPOLITAN CHAMBER OF COMMERCE

January 29, 1999

The Honorable Sharon Bronson
Chairman, Pima County Board of Supervisors
130 West Congress Street
Tucson, AZ 85701

RE: Sonoran Desert Conservation Plan Steering Committee

Dear Ms. Bronson:

The Tucson Metropolitan Chamber of Commerce would like to submit the names of two of our active committee members for consideration for the steering committee for the Sonoran Desert Conservation Plan. Mike Milroy with Snell and Wilmer and Dave Naug e with Southwest Gas

The Chamber hopes that the plan will find a balance between the economic and environmental concerns of the community.

We request that representatives from the Chamber be included as members of the steering committee or sub-committees. The Tucson Metropolitan Chamber of Commerce represents over 3,200-member businesses. Our membership includes both large corporations and small businesses in manufacturing, tourism and retail. Our representation on the committee would provide valuable input for the Sonoran Desert Conservation Plan. Thank you for your consideration.

Sincerely,

John C. Camper, CCE
President

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Internet: www.tucsonchamber.org • email: center@azstarnet.com