



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Washington, D.C. 20240



In Reply Refer To:
FWS/AEA/12214

OCT 08 2003

Dennis Parker, Esq.
P.O. Box 1100
Patagonia, Arizona 85624

Dear Mr. Parker:

This is in response to your letter on behalf of Mr. Jim Chilton dated April 2, 2003, to the U.S. Fish and Wildlife Service (Service), pursuant to section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Public Law 106-554), also known as the Information Quality Act (IQA), which requested correction of information concerning: (1) *Cactus Ferruginous Pygmy Owl Draft Recovery Plan*, January 2003, Region 2 U.S. Fish and Wildlife Service, Albuquerque, New Mexico. (68 F.R. 1189) and (2) *Proposed Rule for Designation of Critical Habitat for the Arizona Distinct Population Segment of the Cactus Ferruginous Pygmy Owl (Glaucidium brasilianum cactorum)*, U.S. Fish and Wildlife Service. (67 F.R. 71032). As you know, we had previously extended our response date concerning your IQA request to October 15, 2003.

In August, the United States Court of Appeals for the Ninth Circuit ruled that the Service had acted arbitrary and capricious in designating the Arizona pygmy owl population as a Distinct Population Segment (DPS) under our DPS Policy and remanded the case back to the district court for further proceedings. Because of this pending litigation and any action proceeding from it, we are delaying any response to your request at this time. Once the court has acted, the Service will respond to your request accordingly.

Sincerely,

Thomas O. Melius
Assistant Director - External Affairs

Copy to: Dale Hall, Region 2