



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Washington, D.C. 20240



OCT - 8 2003

In Reply Refer To:
FWS/AEA/13318

Mr. Gerald M. Howard
Executive Vice President and CEO
National Association of Home Builders
1201 15th Street NW
Washington, DC 20005-2800

Dear Mr. Howard:

This is in response to your letter dated June 27, 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 the *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