

**United States Department of the Interior  
U.S. Fish and Wildlife Service  
2321 West Royal Palm Road, Suite 103  
Phoenix, Arizona 85021  
Telephone: (602) 242-0210 FAX: (602) 242-2513**

AESO/FA  
22410-2006-FA-0051

October 4, 2006

Ms. Cindy Lester  
Chief, Regulatory Branch  
U.S. Army Corps of Engineers  
3636 North Central Avenue, Suite 900  
Phoenix, Arizona 85012-1936

Dear Ms. Lester:

Thank you for Public Notice 2005-02157-SDM (PN) dated August 30, 2006, issued by the U.S. Army Corps of Engineers. Caballero East LLC has submitted an application for a Section 404 Clean Water Act (CWA) permit to construct the 640-acre Caballero residential community in Pinal County, Arizona (Sections 19, 23-26, 35, 36, T3S, R9E). We also thank you for granting an extension of the comment period to October 6, 2006. These comments are provided under the authority of, and in accordance with, the Fish and Wildlife Coordination Act (48 Stat. 401, as amended U.S.C. 661 et. seq.) (FWCA), but do not constitute our final review of the permit application under the FWCA.

The PN indicates that, of a total of 2.6 acres of jurisdictional waters on site, the proposed project would directly affect 1.28 acres through the discharge of dredged and fill material for the construction of roads, building pads, utilities, and drainage channels integral to the Caballero development plan. We believe it is proper to assess the total impact of the development, including any parts to be located on uplands and any secondary effects, including those located above the ordinary high water mark. We believe the footprint of the permitted project that should be assessed by your agency is, at minimum, the total 640 acres of development, and should include the effects of upland development on jurisdictional washes not subject to a discharge, and the effects of the larger project on a landscape scale. Our rationale for this approach has been presented to your agency in comments on other 404 Public Notices such as Rocking K Ranch (974-0475-RJD), Lone Mountain (2000-01928-RWF), Whitestone (974-0218-RWF), Willow Ridge (2005-00230-MB), and others posted on our internet homepage at <http://www.fws.gov/arizonaes/>. We believe this project is functionally similar to Lone Mountain, for which your agency previously expanded the scope of analysis.

The PN states that a preliminary determination has been made that an environmental impact statement (EIS) is not required for the proposed work. We request the opportunity to review the

draft NEPA document for Caballero so we may evaluate your environmental impact analysis and complete our review of the proposed project.

We believe your analysis for Caballero should address the potential effects of the development on Sonoran desertscrub vegetation communities and local and regional wildlife resources; including potential shifts in community structure and long-term effects on population demographics and viability. This analysis should use standardized empirical methodologies to quantify and evaluate impacts on biological function, such as measures of vegetative structure, volume, cover, biomass, density, and diversity; and wildlife species richness, evenness, relative abundance, and diversity. These methods should be derived from standard texts, and other relevant literature, and be developed in coordination with all appropriate Federal, State, and local agencies and stakeholders.

The PN provides no information regarding preparation of a mitigation and monitoring plan. In accordance with existing regulations and procedures, mitigation measures should be developed that first address the issues of avoidance and minimization, then compensation. Compensatory mitigation should have a functional basis and mitigate both vegetative and animal parameters. Monitoring provisions and criteria should be developed to track the success of mitigation for animal populations as well as vegetation communities. We have not seen evidence suggesting that preservation of small isolated habitat islands within an urban landscape can adequately mitigate the expected detrimental affects on regional wildlife communities and the loss of habitat contiguity. We believe it would be within your authority to require mitigation that addresses the totality of project-related impacts, both above and below the ordinary mark, as they relate to the function of jurisdictional waters. We request that the draft mitigation and monitoring plan be provided to our office so we may evaluate its scope, review proposed methodologies, provide written recommendations, and complete our review.

We request that this permit be held in abeyance and the comment period extended until we have had an opportunity to review the draft EA and mitigation plan, and to provide additional comments and recommendations in accordance with the FWCA and section 404(m) of the CWA. We would also appreciate the opportunity to review any response to our comments prepared by the applicant. We also encourage you to coordinate the review of this project with the Arizona Game and Fish Department. If we can be of further assistance please contact Mike Martinez (x224) or Debra Bills (x239).

Sincerely,

/s/ Steven L. Spangle  
Field Supervisor

cc: Regional Administrator, Environmental Protection Agency, San Francisco, CA  
Chief, Habitat Branch, Arizona Game and Fish Department, Phoenix, AZ