

**United States Department of the Interior
U.S. Fish and Wildlife Service
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AESO/FA
22410-2006-FA-0050

September 29, 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 2006-01276-SDM (PN) dated August 28, 2006, issued by the U.S. Army Corps of Engineers. The City of Maricopa has submitted an application for a Section 404 Clean Water Act (CWA) permit to construct the North Santa Cruz Wash Expansion project in the City of Maricopa, Pinal County, Arizona (Sections 7, 18, 19, 30, 31, T4S, R4E). We appreciate your granting of 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).

The PN indicates that the project would discharge dredged and/or fill material into 10 acres of ephemeral jurisdictional waters to reroute and enlarge approximately five miles of the Santa Cruz Wash and provide a regional flood control channel that would reduce the size of the 100-year floodplain. The Santa Cruz in the project area runs through adjacent lands that are largely agricultural, though some Sonoran desertscrub vegetation exists. The PN indicates that much of this land is being developed for commercial and residential uses. 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. In this case it appears that flood control is being provided to facilitate future development. This development may or may not require permitting under section 404. As such, we recommend that the City of Maricopa spearhead a collaborative interagency effort to assess and mitigate the cumulative environmental effects expected to occur in the region served by this flood-control project. Preservation of open space is critical to the maintenance of the biological and ecological integrity of jurisdictional waters, Sonoran desertscrub, and native plant and wildlife communities. Only a large-scale, collaborative interagency effort will ensure such preservation on a scale sufficient to protect biological and ecological integrity and function.

The PN states that a preliminary determination has been made that an environmental impact statement (EIS) is not required for the proposed work. This determination should be made while considering the cumulative impact of facilitating future development. The analysis should address the potential effects of cumulative 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. We continue to recommend the use of standardized empirical methodologies to quantify and evaluate impacts on biological function.

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. We suggest that monitoring provisions and criteria be developed by a collaborative team of local, State, and Federal agency representatives, as well as any other interested stakeholders, to track the success of mitigation for animal populations as well as vegetation communities.

We 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