

**United States Department of the Interior
U.S. Fish and Wildlife Service
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AESO/FA
22410-2006-FA-0023

May 25, 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 (PN) 2006-00459-MB, issued April 26, 2006, by the U.S. Army Corps of Engineers, regarding application by Red Point Development, Inc., for a Section 404 Clean Water Act (CWA) permit to construct the 1,202-acre Cascada master-planned community within Marana, Pima County, Arizona (Sections 9-11, 14, 15, and 22, T12S, R12E). These comments are provided under the authority of and in accordance with the Fish and Wildlife Coordination Act (FWCA) (48 Stat. 401, as amended U.S.C. 661 et. seq.), but do not constitute our final review.

The proposed project would be located in the northwest Tucson area (i.e. Marana, Oro Valley, and Avra Valley) east of the Tucson Mountains and west of the Catalina Mountains. The project area is characterized by Sonoran desertscrub with a variety of native plant species including velvet mesquite, foothill paloverde, whitethorn acacia, ironwood, hackberry, creosotebush, triangle-leaf bursage, burroweed, and opuntia cacti.

The proposed project would directly impact 25.3 acres of jurisdictional waters through the discharge of dredged and fill material for construction of building pads, roadway crossings, and utility crossings that are integral to the overall Cascada development plan. An additional 8.1 acres of waters would be isolated as a result of project construction. We recommend that your scope of analysis address the total environmental impact of the 1,202-acre development on terrestrial and aquatic resources, including direct, indirect, secondary, and cumulative effects, above and below the ordinary high water mark, as well as surrounding areas and other wildlife in accordance with the section 404(B)(1) Guidelines. We believe this project is functionally similar to Lone Mountain (2000-01928-RWF), for which your agency previously expanded the scope of analysis. Thus, your scope of analysis for Cascada should be structured similarly.

The PN states that a preliminary determination has been made that an environmental impact statement is not required for the proposed work in accordance with the National Environmental

Policy Act (NEPA). We request that you evaluate this determination in light of the Environmental Protection Agency's previous comments on similar projects such as Festival Ranch (PN 2000-00966-RWF), Elianto (2001-01153-RWF), and Mirielle (PN 2006-00346-RWF). We recently provided comments on environmental assessments for both Lone Mountain and Festival Ranch. We refer you to those comments, posted on our webpage <http://www.fws.gov/arizonaes/>, under Document Library, to guide the development of your NEPA document for the Cascada project.

The PN states the applicant will provide a mitigation and monitoring plan. We recommend using an empirical functional assessment to quantify impacts and guide preparation of the mitigation plan. 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 hi-water mark. The Corps recently acknowledged authority over uplands in the March 28, 2006, Proposed Rule for Compensatory Mitigation for Losses of Aquatic Resources (71 FR 15520-15556), which it states on page 15527, "...the district engineer may grant compensatory mitigation credit for upland areas within a compensatory mitigation project, if those uplands increase the overall ecological functioning of the compensatory mitigation site or other aquatic resources in the watershed or ecoregion." The Corps also recognized this authority in the August 9, 2001, Proposal to Reissue and Modify Nationwide Permits (66 FR 42070-42100), which states on page 42071 "The Corps statutory authority to require vegetated buffers next to streams and other open waters originates in the goal of the CWA which is to restore and maintain the chemical, physical and biological integrity of Nation's waters."

We request the permit application be held in abeyance until we have been provided the opportunity to review the draft NEPA document and mitigation plan and provide comments and recommendations in accordance with the FWCA and Section 404(m) of the CWA. We also encourage you to coordinate the review of this project with the Arizona Game and Fish Department. Thank you for your coordination on this project. 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
Supervisor, Project Evaluation Program, Arizona Game and Fish Department, Phoenix, AZ