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In Reply Refer To:
AESO/SE
2-21-01-F-277

April 10, 2002

Mr. Terry Oda
Manager, CWA Standards and Permits Office
U.S. Environmental Protection Agency
75 Hawthorne Street
San Francisco, California 94105-3901

RE: Biological Opinion on the Effects of the Proposed Butterfly Mountain Development in Marana, Arizona.

Dear Mr. Oda:

This responds to the Environmental Protection Agency's (EPA) July 18, 2001, request for formal consultation with the U.S. Fish and Wildlife Service (Service) pursuant to section 7 of the Endangered Species Act (ESA) (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.) on the effects of the proposed Butterfly Mountain Development Project on the endangered cactus ferruginous pygmy-owl (CFPO or owl) (*Glaucidium brasilianum cactorum*) without critical habitat, and the endangered lesser long-nosed bat (*Leptonycteris curasoae yerbabuena*) without critical habitat. We received your request for consultation on July 27, 2001.

The Federal action under consideration is the issuance of a National Pollutant Discharge Elimination System (NPDES) storm water permit under section 402 of the Clean Water Act (CWA) from the EPA. Mr. George Costantini (applicant) was designated by the EPA as their non-federal representative for this consultation.

The EPA has requested Service concurrence that the proposed action is not likely to adversely affect the lesser long-nosed bat. We concur with this determination for the lesser long-nosed bat. The rationale for our concurrence is provided in Appendix A of this document.

This biological opinion is based on information provided in the July 2001, Butterfly Mountain Biological Assessment (BA) (WestLand Resources 2001); the March 6, 2002 Supplemental Report to the Biological Assessment of Butterfly Mountain (Supplemental Report) (WestLand Resources 2002); correspondence and meetings with the applicant; telephone conversations; correspondence and meetings with the Arizona Game and Fish Department (AGFD); and other sources of information. A complete administrative record of this consultation is on file at this office. We have assigned log number 2-21-01-F-277 to this project. Please refer to that number in future correspondence on this consultation.

Consultation History

The applicant and his consultant have met with us to discuss this project, and the details of those meetings are in the administrative record for this consultation. The most significant activities in the consultation process are summarized in Table 1.

Table 1: Summary of Consultation History.

<u>DATE</u>	<u>ACTIVITY</u>
May 2, 2001	Initiation of informal section 7 consultation
July 27, 2001	Initiation of formal section 7 consultation
August 23, 2001	Meeting with Service and consultant
November 14, 2001	Meeting with applicant, consultant and Service
February 1 , 2002	Service requests of the EPA a 120-day extension of the 135-day formal consultation period, scheduled to expire on December 9, 2001
February 6, 2002	EPA grants the requested 120-day extension; consultation period to expire on April 8, 2002
February 7, 2002	Service receives from EPA a February 5, 2002 Supplemental Report
February 25, 2002	Meeting with Service and consultant
March 7, 2002	Service receives from EPA a March 6, 2002 Supplemental Report incorporating discussions from February 25, 2002 meeting

BIOLOGICAL OPINION

I. DESCRIPTION OF THE PROPOSED ACTION

Since the original submittal of the Biological Assessment in July 2001, minor revisions of the proposed project plan have been developed based upon revisions in the site plan proposed by the applicant and in response to the Service's input. This revised project description synthesizes the original proposal provided in the BA (WestLand, July 2001), the Technical Memorandum submitted on February 5, 2002, and additional comments provided by the Service during a meeting with WestLand staff on February 25, 2002. This section is presented in two parts: Project Site Development and Construction Activities which describes the proposed onsite development activities; and Conservation Measures which address continued survey requirements for CFPO, development constraints if a CFPO is detected, and management provisions for protected open space within the project area.

Project Site Development and Construction Activities

The project site is zoned R-144 Residential (minimum lot area is 144,000 sq. ft.) by the Town of Marana. Consistent with that zoning, 28 single-family residential lots ranging from 3.31 to 5.18 acres in size will be developed on the subject property. Within each of the 28 lots, the total area of disturbance will average approximately 21,531 square feet (including driveway, septic system, and utility services). Table 2 lists the total square footage of surface disturbance allowed on each lot while Figure 1 in BA depicts the limits of clearing allowed for each lot. A private road will provide access to the lots from Moore Road. Approximately 3.49 acres of disturbance will result from roadway construction. The total acreage of disturbance from residential, utility, and roadway construction totals approximately 17.6 acres or 17.6 percent of the 100.2-acre project site.

Initial construction activities will be limited to construction of utilities (water service, relocation of overhead powerlines to below ground powerlines within the project area, and construction of the dry utilities). All of the project's utility infrastructure (except individual septic systems and the underground electrical line to be located between Lots 9 and 10) will be constructed within the roadways within the project. Streetlights will be limited to the entrance and at roadway intersections within the project. A six-foot-wide trail easement will be placed on the western portions of lots 1 and 2 to provide connection to the regional trail in Prospect Wash at the northwest corner of the property. The total area of potential surface disturbance that will result if the trail is constructed is 0.13 acre. The existing overhead powerline crossing through the property will be placed within a permanent easement between lots 9 and 10. The electric easement area totals 0.15 acre. Individual lot development will be done by the lot buyer, and the total area of grading and clearing activities on each lot will be restricted as outlined in Table 2.

Table 2. Areas of Disturbance within the Revised Project Area.			
Area	Total Acres	Maximum Acres of Surface Disturbance	Acres of Open Space
Lot 1	4.23	0.54	3.58*
Lot 2	4.23	0.53	3.68*
Lot 3	4.27	0.51	3.76
Lot 4	4.40	0.51	3.89
Lot 5	3.40	0.51	2.89
Lot 6	3.31	0.50	2.81
Lot 7	3.32	0.50	2.82
Lot 8	3.32	0.50	2.82
Lot 9	3.32	0.50	2.75**
Lot 10	3.31	0.50	2.74**
Lot 11	3.32	0.50	2.82
Lot 12	3.31	0.42	2.89
Lot 13	3.31	0.50	2.81
Lot 14	3.31	0.49	2.82
Lot 15	3.32	0.50	2.82
Lot 16	3.33	0.50	2.83
Lot 17	3.31	0.49	2.82
Lot 18	3.31	0.48	2.83
Lot 19	3.31	0.50	2.81
Lot 20	3.31	0.50	2.81
Lot 21	3.34	0.50	2.84
Lot 22	3.31	0.50	2.81
Lot 23	3.31	0.50	2.81
Lot 24	3.31	0.50	2.81
Lot 25	3.34	0.50	2.84
Lot 26	3.34	0.50	2.84
Lot 27	3.32	0.50	2.82
Lot 28	3.33	0.50	2.83
Roadway	3.36	3.36	0
Trail Easement	***	0.13	0
Electric Easement	***	0.15	0
Total	100.2	17.6	82.6
Total Percent Surface Disturbance = (17.62 / 100.21)*100 = 17.6%			

* Open Space area excludes trail easements (lots 1&2).

** Open Space area excludes electric utility easements (lots 9&10).

*** Area included in lot acreage.

Conservation Measures

The following conservation measures have been developed with the Service during the course of consultation. Proposed conservation measures include requirements for continued surveys for CFPO, provisions that potentially restrict land uses should a CFPO be detected, and specific conservation measures that outline procedures for the management and protection of natural open space areas that will be preserved within the property.

Two consecutive seasons of CFPO surveys have been completed on the subject property. As a prerequisite to any vegetative clearing activities, CFPO surveys will be completed in compliance with recommended CFPO survey protocols. Provisions for the continuation of surveys have been included in the natural open space management program that will be incorporated into the project's Codes, Covenants, and Restrictions (CC&R's).

Development Constraints – If An Owl Shows Up

The applicant is incorporating into the proposed project, specific conservation measures to guide development in the event that a CFPO nest site or territory center is detected within 600 meters of the project. This conservation restriction is based on the May 23, 2000 Service language that outlines the scenarios in which an owl establishes a territory in the vicinity of the proposed project prior to or after the initiation of construction. In these specific scenarios they have determined that certain continued construction activities would not harm or harass a CFPO as defined by Endangered Species Act (ESA) regulations.

In their analysis, four zones are described (presented here as Zone I through Zone IV). These zones are based upon the distance of construction activity from a known nest or activity center. Certain levels of construction can occur within each of these zones without resulting in a situation that reaches the level of effect not already considered in the analysis of potential project impacts. Situations that fall outside of the parameters described in the Service text, and that do not comply with the restrictions provided for in each of the zones described below, will require that the applicant coordinate with the Service to determine if consultation is required prior to continuing with the construction activities in question. Specific development restrictions that apply to each of the four zones are described in the sections below.

Zone I. 0 to 100 Meters from the CFPO Activity Center

1. No additional clearing of vegetation will be permitted without authorization from the Service.
2. Construction-related activities may continue on lands that have already been cleared of vegetation provided that they do not exceed the levels/intensity of activity that was occurring during the period of time that the territory was established.

3. Activities that would be more intense or cause greater levels of noise disturbance than was occurring during the period of time that the territory was established cannot proceed without authorization from the Service.

Zone II. 100 to 400 Meters from the CFPO Activity Center

1. No additional clearing of vegetation will be permitted without authorization from the Service.
2. No restrictions on the nature or type of construction activity (excluding the clearing of vegetation) from August 1st through February 28th of the following calendar year.
3. Construction activities during the breeding season (February 1st to July 31st) cannot exceed the levels or intensity of activities that occurred at the time the territory was established.

Zone III. 400 to 600 Meters from the CFPO Activity Center

1. No additional clearing of vegetation will be permitted without authorization from the Service.
2. No restrictions on the levels or intensity of construction activity (excluding the clearing of vegetation) at any time of the year.

Zone IV. Greater than 600 Meters from the CFPO Activity Center

1. No restrictions – any activity consistent with the project description provided in the BA, as amended by the supplemental reports, is allowed.

Management of Protected Open Space

Approximately 82.6 acres of the 100.2 acres (82.1 percent of the total project area) will remain undisturbed. All open space preserved within the project area will be within individual lots. All designated natural open space areas shall be subject to a permanent, natural undisturbed open space and conservation easement (the Conservation Easement).

The Applicant will form a non-profit Arizona corporation to act as The Home Owners Association (HOA) for the planned subdivision by preparing and filing with the Arizona Corporation commission articles of incorporation and such other initial corporate documents as may be reasonably required. The Applicant will also cause to be prepared a master set of (CC&R's) that will include the specific conservation elements outlined in this document. These CC&Rs will encumber the entire project, be recorded in the official records of Pima County and become tenets in the Declaration of Covenants, Conditions, Reservations and Restrictions for Butterfly Mountain signed by each lot owner.

Through its articles of incorporation, the HOA will establish its authority and responsibility for ensuring that protected open space within each lot remains undisturbed, for the benefit of CFPO and adjacent lot owners. The HOA will provide an annual report to the Service providing documentation of compliance with conservation elements of the CC&Rs and the CFPO survey requirements for any planned development activity. In its annual report, the HOA will document any trespass into the Conservation Easement and take the necessary steps authorized by its articles of incorporation to correct any such trespass and repair any habitat damage that may have resulted from trespass.

The specific conservation elements of the CC&Rs that will govern the management and conservation of open space within the project area (the Conservation Elements) are outlined below.

CC&R Conservation Element 1 - Surface Disturbance. The maximum allowable size of areas disturbed within each lot by grading and vegetation clearing for the building site utility, septic system, driveway, and other landscape features within the project area will be as described in Table 2 on page 4 of this document. The project proponent will be responsible for all vegetation clearing activities that will be conducted on each of the lots. Appropriate control techniques, such as t-post fencing, monitoring of vegetation clearing by the applicant, and the preservation of individual trees, shrubs, and cacti where practical within cleared areas will be used to minimize surface disturbance within the project area.

Prior to the initiation of utility and road construction activities, the applicant will have t-post and wire fence or its equivalent placed at the clearing limits. This fence shall remain in place until all road construction and utility construction activities are completed.

Prior to the initiation of any clearing activities within each lot, permanent, relocatable and surveyable pins or other permanent markers indicating all of the corners of the clearing limits/Conservation Easement boundaries within each lot will be installed. These will be placed prior to any clearing activities within each lot and shall be maintained by the homeowner as a condition of the CC&Rs to facilitate long-term monitoring. Any modifications of a lot plan originally authorized by HOA architectural review must be reviewed and approved by the architectural review committee and must be contained within the maximum allowable surface disturbance area for each lot.

In the event of trespass and habitat damage within the Conservation Easement, the HOA will first seek compliance and/or restoration through a process of resolution/agreement with the individual landowner as detailed in "Declaration of Covenants, Conditions, Reservations and Restrictions for Butterfly Mountain". If unsuccessful, the HOA will be responsible for completing necessary restoration efforts and then proceeding with necessary actions to be reimbursed for its costs and to ensure future compliance with the conservation elements of the CC&Rs.

CC&R Conservation Element 2 - Landscape Restrictions. Landscape restrictions will be incorporated into the CC&Rs. Traditional xeriscape planting zones will be utilized for all

residential lots. The use of native versus non-native vegetation¹ will be guided by the xeriscape zone concepts summarized below. Wherever possible, native species should be used for landscape purposes.

THE OASIS ZONE. This zone includes fully enclosed yards within each approved building envelope and unenclosed areas within 30 feet of residential structures. This document shall not restrict plantings and landscaping in this zone. Landscaping within the designated oasis zone that requires the clearing of native vegetation (by hand or mechanized equipment) is considered part of the grading limits established in the plan.

THE DROUGHT TOLERANT ZONE. This area is transitional between the Oasis Zone and the Natural Zone and includes highly visible locations such as driveway entrances and borders. Within the Drought Tolerant Zone, plants will be utilized that may require occasional watering after establishment to maintain a healthy, aesthetically acceptable appearance. The plant pallet for this zone will be restricted. A specific list of appropriate plant species for this zone is provided in Appendix A.

THE NATURAL (XERIC) ZONE. This zone will occupy the remainder of each individual lot and will include all areas outside of the grading envelope. Landscaping efforts within this zone will generally be limited to habitat restoration efforts and the plant pallet will be restricted to plant species indigenous to the immediate vicinity of the project area.

ROADWAYS AND COMMON AREAS. Areas temporarily disturbed by construction, except as otherwise required by law, will be seeded with species native to the project area. Temporary irrigation may be used in these areas to facilitate revegetation efforts.

VEGETATION MANAGEMENT. Vegetation management activities (including weed control, selective thinning, or other activity) within the natural landscape zone of each lot, whether this area is currently disturbed from existing land uses or is undisturbed upland Sonoran desertscrub or xeroriparian habitat, is restricted to the control of non-native plant species only. Management activities that restrict the ability of the disturbed area(s) to recover are not allowed.

CC&R Conservation Element 3 - Native Plant Preservation Plan Compliance. Each lot owner shall be responsible for compliance with applicable Native Plant Preservation Ordinance (NPPO) requirements for the Town of Marana. To the extent possible, large trees and saguaros will be preserved in place. Where preservation in place is not possible, the lot owner shall comply with applicable NPPO regulations.

CC&R Conservation Element 4 - Domestic Animals. The lot owners will be required to contain all domestic animals within an enclosed area on their lot within the established clearing limits and/or under strict control at all times. Dogs found outside of enclosed areas shall be leashed in

¹ Unless specified otherwise in this document for a specific application, native vegetation is defined here to include all plant species native (not introduced or naturalized) to the Lower Colorado or Arizona Upland subdivisions of the Sonoran desertscrub biotic community.

conformance with Pima County Code 6.04.030. For the protection of domestic cats and native wildlife, all domestic cats shall be restricted to the inside of the home or leashed.

CC&R Conservation Element 5 - Trails and Roadways. Roadways within the project will be private. The developer has elected for private roadways in order to minimize the overall width of disturbance necessary for roadway construction and allow for a 24-foot road section.² The roadway will have six-inch extruded curbing placed along its edge, which will minimize the extent of potential vegetation disturbance from street parking. Pedestrian activities shall be confined to existing roadways and trails within the project vicinity. Unauthorized clearing of paths through natural undisturbed portions of lots is not allowed. Any paths within an individual lot will be counted as part of the allowable surface disturbance for that lot except for Lots 1 and 2; the public trail easement shall not count against the net surface disturbance for these lots.

CC&R Conservation Element 6 - Fence Restrictions. To maintain a network of interconnected open space, the construction of fence of any type along the perimeter of each lot is prohibited. Fencing within the boundaries of the clearing limits of each lot shall be placed at the perimeter of the oasis zone or at the limits of the conservation easement whichever is the lesser area. No woven wire or chain link fencing will be used. Recommended fencing types/materials include blockmasonry, wood, wrought iron, tubular steel, or other equivalent materials.

CC&R Conservation Element 7 - CFPO Survey and Monitoring Restrictions. Development activities will be subjected to the CFPO survey and monitoring restrictions described in Sections 3.2.1 and 3.2.2 of the BA. After the master developer is no longer involved in project activities, the HOA shall contract with a qualified biologist to ensure that two consecutive seasons of survey exist prior to the clearing of vegetation on any lot.

CC&R Conservation Element 8 - Allowable Uses and Management of the Conservation Easements. The lands encumbered by the Conservation Easement (Conservation Property) shall be maintained as natural open space, consistent with the conservation of the CFPO, and in connection therewith, the Landowner or its successor or designee will make periodic inspections of the Conservation Property for vandalism, dumping, and other habitat damage on the Conservation Property. The management of the conservation lands will specifically exclude the following: motorized vehicle use, the application of herbicides or insecticides, artificial lighting such as light poles or other permanent lighting fixtures, organized events that consist of more than 10 individuals, any vegetation salvage or disturbance of native vegetation except as required for construction along the Electric and Trail Easements, use of fires or outdoor cooking, equestrian use by parties of 10 people or more, the boarding of horses, or the staging of equestrian events. Pamphlets developed by the Service to inform landowners on the importance of these restrictions will be distributed when available.

CC&R Conservation Element 9 - Monitoring and Reporting. The Butterfly Mountain HOA will be responsible for all management, monitoring, and reporting to the Service in regard to

² In addition to the conservation requirements outlined in this document and in the BA, a primary function of the HOA will be the care and maintenance of the private road system within the development.

compliance with these conservation restrictions. An annual report will be submitted to the Service during the fourth quarter of each calendar year. The report will provide a brief summary of the development activities completed in the previous year and the project's compliance with these conservation restrictions. As a requirement of the annual monitoring effort, the monitor will visit each relocatable pin and, using the adjacent pins as an aid, determine if any impacts to the Conservation Easement have occurred and include a report of those findings in the annual report.

Prior to grading activities at each lot, the HOA will record the baseline conditions of the lot by having two photographs taken from each relocatable pin, looking towards each of the adjacent relocatable pins. These will become part of a permanent lot file on record with the HOA to document baseline conditions for future monitoring efforts.

Up to 24 permanent photo points will be established at the relocatable pins that identify the corners of the clearing limits/Conservation Easement boundaries. We expect that the number of permanent photo points will increase each year as lots are developed until the target number (24) is reached. A minimum of six photo points will be established in the first year. At each photo point a photograph will be taken that incorporates as much of the Conservation Easement as possible. The direction of the photo (compass bearing), the monument identification, and time and a date of the photograph will be recorded. Each year the monitor will retake a photograph from each of the permanent photo points that matches as closely as possible the aspect of the original monitoring point photograph. At the discretion of the HOA, available commercial aerial photographs may be used to supplement ground photographs.

The Annual Report will be provided in a format similar to that found as Exhibit C of BA. It will include, as attachments, necessary documentation regarding CFPO survey results, color copies of monitoring photographs, a monitoring log summarizing the results of the ground inspection, NPPO Compliance Reports, and half-size (11x17) site plans for lots developed during the previous year. The site plan shall clearly delineate the vegetation clearing limits and a calculation and summary table prepared by the design architect or engineer, which demonstrates the project's compliance with the grading limitations.

CC&R Conservation Element 10 - Management Funding. The HOA's monthly fees will be a perpetual source of funding for the management and monitoring of the conservation easements. A portion of the monthly HOA association fees will be allocated to cover the cost of CFPO survey, management and monitoring activities, and annual reporting activities.

CC&R Conservation Element 11 - Amendments to the CC&Rs Subject to Service Approval. Any changes to the Conservation Elements incorporated into the CC&Rs are subject to approval by the Service. Upon written request of the HOA, the Service may approve amendments to the Conservation Elements in the CC&Rs. The Service shall have no authority over elements of the CC&Rs that are not identified specifically as Conservation Elements nor shall they have the authority to impose additional restrictions without the unanimous approval of the membership of the HOA.

II. STATUS OF THE SPECIES/CRITICAL HABITAT

A detailed description of the life history and ecology of the CFPO may be found in the Birds of North America (Proudfoot and Johnson 2000), Ecology and Conservation of the Cactus Ferruginous Pygmy-owl in Arizona (Cartron and Finch 2000), and other information available at the Arizona Ecological Services Field Office. Information specific to the CFPO in Arizona is limited. Research in Texas has provided useful insights into the ecology of the subspecies, and in some instances represents the best available information; however, habitat and environmental conditions are somewhat different in Arizona and conclusions based on Texas information are tentative.

Species/critical habitat description

The Service listed the Arizona population of the CFPO as a distinct population segment (DPS) on March 10, 1997, (U.S. Fish and Wildlife Service 1997 [62 FR 10730]). The past and present destruction, modification, or curtailment of habitat is the primary reason for the decrease in population levels of the CFPO. On July 12, 1999, we designated approximately 731,712 acres of critical habitat supporting riverine, riparian, and upland vegetation in seven critical habitat units, located in Pima, Cochise, Pinal, and Maricopa counties in Arizona (U.S. Fish and Wildlife Service 1999 [64 FR 37419]). However, on September 21, 2001, the U.S. District Court for the District of Arizona vacated this final rule designating critical habitat for the CFPO, and remanded its designation back to the Service for further consideration.

Life history

CFPOs are small birds, averaging 6.75 inches in length. CFPOs are reddish-brown overall, with a cream-colored belly streaked with reddish-brown. The CFPO is crepuscular/diurnal, with a peak activity period for foraging and other activities at dawn and dusk. During the breeding season, they can often be heard calling throughout the day, but most activity is reported between one hour before sunrise to two hours after sunrise, and late afternoon/early evening from two hours before sunset to one hour after sunset (Collins and Corman 1995).

A variety of vegetation communities are used by CFPOs, such as: riparian woodlands, mesquite (*Prosopis* spp.) “bosques” (Spanish for woodlands), Sonoran Desertscrub, and semidesert grassland communities, as well as nonnative vegetation within these communities. While plant species composition differs among these communities, there are certain unifying characteristics such as the presence of vegetation in a fairly dense thicket or woodland, the presence of trees or saguaros large enough to support cavity nesting, and elevations below 4,000 feet. Historically, CFPOs were associated with riparian woodlands in central and southern Arizona. Plants present in these riparian communities include cottonwood, willow (*Salix* spp.) and hackberry (*Celtis* spp.). Cottonwood trees are suitable for cavity nesting, while the density of mid- and lower-story

vegetation provides necessary protection from predators and an abundance of prey items for the CFPO. Mesquite bosque communities are dominated by mesquite trees, and are described as mesquite forests due to the density and size of the trees.

Over the past several decades, CFPOs have been primarily found in the Arizona Upland Subdivision of the Sonoran Desert, particularly Sonoran Desertscrub (Brown 1994). This community in southern Arizona consists of paloverde, ironwood, mesquite, acacia, bursage (*Ambrosia* spp.), and columnar cacti (Phillips et al. 1964, Monson and Phillips 1981, Davis and Russell 1984, Johnson and Haight 1985, Johnsgard 1988). However, over the past several years, CFPOs have also been found in riparian and xeroriparian habitats and semidesert grasslands as classified by Brown (1994). Desertscrub communities are characterized by an abundance of saguaros or large trees, and a diversity of plant species and vegetation strata. Xeroriparian habitats contain a rich diversity of plants that support a wide array of prey species and provide cover. Semidesert grasslands have experienced the invasion of velvet mesquites (*Prosopis velutina*) in uplands and linear woodlands of various tree species along bottoms and washes.

The density of trees and the amount of canopy cover preferred by CFPOs in Arizona is unclear. However, preliminary results from a habitat selection study indicate that nest sites tend to have a higher degree of canopy cover than random sites (Wilcox et al. 2000). For areas outside Arizona, CFPOs are most commonly characterized by semi-open or open woodlands, often in proximity to forests or patches of forests. Where they are found in forested areas, they are typically observed along edges or in openings, rather than deep in the forest itself (Binford 1989, Sick 1993), although this may be a bias of increased visibility. Overall, vegetation density may not be as important as patches of dense vegetation with a developed canopy layer interspersed with open areas. The physical settings and vegetation composition varies across *G. brasilianum*'s range and, while vegetation structure may be more important than composition (Wilcox et al. 1999, Cartron et al. 2000a), higher vegetation diversity is found more often at nest sites than at random sites (Wilcox et al. 2000).

CFPOs typically hunt from perches in trees with dense foliage using a perch-and-wait strategy; therefore, sufficient cover must be present within their home range for them to successfully hunt and survive. Their diverse diet includes birds, lizards, insects, and small mammals (Bendire 1888, Sutton 1951, Sprunt 1955, Earhart and Johnson 1970, Oberholser 1974) and frogs (Proudfoot et al. 1994). The density of annuals and grasses, as well as shrubs, may be important to the CFPO's prey base. Shrubs and large trees also provide protection against aerial predation for juvenile and adult CFPOs and cover from which they may capture prey (Wilcox et al. 2000).

CFPOs are considered non-migratory throughout their range by most authors, and have been reported during the winter months in several locations, including Organ Pipe Cactus National Monument (OPCNM) (R. Johnson unpubl. data, T. Tibbitts, Organ Pipe Cactus National Monument unpubl. data). CFPOs begin nesting activities in late winter to early spring. In Arizona differences between nest sites may vary by as much as two months (Abbate et al. 1996, S. Richardson, Arizona Game and Fish Department unpubl. data). As with other avian species, this may be the result of a second brood or a second nesting attempt following an initial failure (Abbate et al. 1996). In Texas, juveniles remained within approximately 165 feet of adults until

dispersal. Dispersal distances (straight line) of 20 juveniles monitored from their natal sites to nest sites the following year averaged 5 miles (ranged from 0.75 to 19 miles (G. Proudfoot unpubl. data). Telemetry studies of dispersing juveniles in Arizona during 1999 and 2000 ranged from 1.4 to 12.9 miles (straight line distance) (n=6, mean 6.2 miles) in 1999, and 1.6 to 11.7 miles (n=6, mean 5.8 miles) in 2000 (S. Richardson and M. Ingraldi, Arizona Game and Fish Department unpubl. data). Telemetry data from 2001 is not yet available. CFPO telemetry studies have documented movement of owls between southern Pinal County and northwestern Tucson (S. Richardson and M. Ingraldi, Arizona Game and Fish Department unpubl. data). Typically, juveniles dispersed from natal areas in July, but did not appear to defend a territory until September. They may move up to one mile in a night; however, they typically fly short distances from tree to tree instead of long single flights (S. Richardson, Arizona Game and Fish Department unpubl. data). Subsequent surveys during the spring have found that locations of male CFPOs are in the same general location as last observed the preceding fall.

Apparently, unpaired females may also remain in the same territory for some period of time. In the spring of 2001, an unpaired female (the male died in 2000) remained in the same territory as was occupied in previous years well into the spring, exhibiting territorial behavior (calling) for approximately two months until ultimately switching territories, pairing with an unpaired male and successfully nesting (S. Richardson, Arizona Game and Fish Department unpubl. data). Researchers suspect that if this unpaired female could have attracted an unpaired male during that time, she would have likely remained in her original territory. Apparently at some point the urge to pair is too strong to remain and they seek out new mates.

In Texas, Proudfoot (1996) noted that, while CFPOs used between 3 and 57 acres during the incubation period, they defend areas up to 279 acres in the winter. Therefore, a 280 acre home range is considered necessary for CFPOs. Proudfoot and Johnson (2000) indicate males defend areas with radii from 1,100 - 2,000 feet. Initial results from ongoing studies in Texas indicate that the home range of CFPOs may also expand substantially during dry years (G. Proudfoot unpubl. data).

Species status and distribution range wide

The CFPO is one of four subspecies of ferruginous pygmy-owl. CFPOs are known to occur from lowland central Arizona south through western Mexico to the States of Colima and Michoacan, and from southern Texas south through the Mexican States of Tamaulipas and Nuevo Leon. It is unclear at this time if the ranges of the eastern and western populations of the ferruginous pygmy-owl merge in southern Mexico. Recent genetic studies suggest that ferruginous pygmy-owl populations in southern Arizona and southern Texas are distinct subspecies, and that there is no genetic isolation between populations in the United States and those immediately south of the border in northwestern or northeastern Mexico (Proudfoot and Slack 2001). Results also indicate a comparatively low haplotypic diversity in the northwestern Tucson population, suggesting that it may be recently separated from those in the Altar Valley, Arizona, and in Sonora and Sinaloa, Mexico.

The Service is currently funding habitat studies and surveys in Sonora, Mexico to determine the distribution and relative abundance of the CFPO there. Preliminary results indicate that CFPOs are present in northern and central Sonora (U.S. Fish and Wildlife Service unpubl. data). Further studies are needed to determine their distribution in Mexico.

The range of the Arizona DPS of the CFPO extends from the International Border with Mexico north to central Arizona. The northernmost historic record for the CFPO is from New River, Arizona, about 35 miles north of Phoenix, where Fisher (1893) reported the CFPO to be "quite common" in thickets of intermixed mesquite and saguaro cactus. According to early surveys referenced in the literature, the CFPO, prior to the mid-1900s, was "not uncommon," "of common occurrence," and a "fairly numerous" resident of lowland central and southern Arizona in cottonwood forests, mesquite-cottonwood woodlands, and mesquite bosques along the Gila, Salt, Verde, San Pedro, and Santa Cruz rivers and various tributaries (Breninger 1898, Gilman 1909, Swarth 1914). Additionally, CFPOs were detected at Dudleyville on the San Pedro River as recently as 1985 and 1986 (Arizona Game and Fish Department unpubl. data, Hunter 1988).

Records from the eastern portion of the CFPO's range include a 1876 record from Camp Goodwin (nearby current day Geronimo) on the Gila River, and a 1978 record from Gillard Hot Springs, also on the Gila River. CFPOs have been found as far west as the Cabeza Prieta Tanks, Yuma County in 1955 (Monson 1998).

Hunter (1988) found fewer than 20 verified records of CFPOs in Arizona for the period of 1971 to 1988. Formal surveys for the CFPO on OPCNM began in 1990, with one located that year. Beginning in 1992, survey efforts conducted in cooperation with the AGFD, located three single CFPOs on OPCNM (U.S. Fish and Wildlife Service unpubl. data and Organ Pipe Cactus National Monument unpubl. data). In 1993, surveys were conducted at locations where CFPOs had been sighted since 1970. Only one CFPO was detected during these survey periods, and it was located in northwestern Tucson (Felley and Corman 1993). In 1994, a pair and single owl of unknown breeding status were located in northwestern Tucson during informal survey work by AGFD (Abbate et al. 1996). In 1995, AGFD confirmed 5 adult CFPO and one juvenile, one of which was the first nest in many years. In 1996, AGFD focused their survey efforts in the Tucson Basin. A total of 12 CFPOs were detected, including one known nesting pair and their 2 fledglings which successfully fledged. Three additional CFPOs and three other unconfirmed reports were also recorded at OPCNM in 1996.

While the majority of Arizona CFPO detections in the last seven years have been from the northwestern Tucson area in Pima County, CFPOs have also been detected in southern Pinal County, at OPCNM, Cabeza Prieta National Wildlife Refuge (CPNWR), Buenos Aires National Wildlife Refuge (BANWR), and on the Coronado National Forest. The following is a brief summary of recent owl numbers and distribution³:

³ To a large degree, survey effort plays an important factor in where owls have been documented. Survey effort has not been consistent over the past several years in all areas of the state, affecting the known distribution and numbers of owls in any particular area.

In 1997, survey efforts of AGFD located a total of five CFPOs in the Tucson Basin study area (the area bounded to the north by the Picacho Mountains, the east by the Santa Catalina and Rincon mountains, the south by the Santa Rita and Sierrita Mountains, and the Tucson Mountains to the west). Of these owls, one pair successfully fledged (young that left their nest cavity) two young which were banded. Two adult males were also located at OPCNM, with one reported from a previously unoccupied area (T. Tibbitts, Organ Pipe Cactus National Monument pers. comm. 1997).

In 1998, survey efforts in Arizona increased substantially and, as a result, more CFPOs were documented, which may at least in part account for a larger number of known owls. In 1998, a total of 35 CFPOs were confirmed (S. Richardson, Arizona Game and Fish Department unpubl. data, U.S. Fish and Wildlife Service unpubl. data, T. Tibbitts, Organ Pipe Cactus National Monument unpubl. data, D. Bieber, Coronado National Forest unpubl. data).

In 1999, a total of 41 adult CFPOs were found in Arizona at 28 sites. Of these sites, 11 had nesting confirmed by AGFD and the Service. CFPOs were found in three distinct regions of the state: Tucson Basin, Altar Valley, and OPCNM. Almost half of the known owl sites were in the Altar Valley. Overall, mortality was documented for a number of fledglings due to natural (e.g., predation) or unknown causes. Of the 33 young found, only 16 were documented as surviving until dispersal (juveniles known to have successfully dispersed from their natal area). It is unclear what the survival rate for CFPOs is; however, as with other owls and raptors, a high mortality (50% or more) of young is typical during the first year of life.

Surveys conducted in 2000 resulted in 24 confirmed CFPO sites (i.e. nests and resident CFPO sites) and several other unconfirmed sites (S. Richardson, Arizona Game and Fish Department unpubl. data, T. Tibbitts, Organ Pipe Cactus National Monument unpubl. data, U.S. Fish and Wildlife Service unpubl. data). A total of 34 adult CFPOs were confirmed. Nesting was documented at 7 sites and 23 fledglings were confirmed. A total of 9 juveniles were known to have successfully dispersed from their natal areas in 2000. Successful dispersal was not confirmed at two nests with four fledglings. The status of the remaining fledglings was unknown; however, they were presumed dead.

Surveys conducted during the 2001 season resulted in a total of 47 adult CFPOs confirmed at 29 sites⁴ in Arizona (S. Richardson, Arizona Game and Fish Department unpubl. data, T. Tibbitts, Organ Pipe Cactus National Monument unpubl. data, U.S. Fish and Wildlife Service unpubl. data). There were also several other unconfirmed sites that are not included in these totals. Nesting was documented at 17 sites and 24 young were confirmed to have successfully fledged. In addition, there were 2 nests with young that potentially could have fledged young; however, this was not confirmed. Similar to the previous three years, there was over a 50% fledgling mortality documented in 2001 (S. Richardson, Arizona Game and Fish Department unpubl. data). The following regions of the state are currently known to have CFPOs:

⁴ CFPO sites are nests and resident male CFPO sites that have been confirmed by AGFD or the Service.

- Tucson Basin (northwestern Tucson and southern Pinal County) - A total of 8 adults (3 pairs and 2 single resident males) were confirmed at 5 sites, all of which were in Pima County. One single unpaired male CFPO was documented in southern Pinal County. Three nests in northwestern Tucson were confirmed, all with young.
- Altar Valley - A total of 18 adult CFPOs were documented at 12 sites⁵. As a result of increased access to portions of the valley, the number of known owls increased to 7 pairs and 4 resident single owls. A total of 7 nests were confirmed.
- OPCNM and CPNWR - Twelve adults, consisting of 2 pairs and 4 single CFPOs were confirmed at 8 sites. Three nests were active. Two new sites were documented on the CPNWR and 1 north of OPCNM near Ajo, Arizona.
- Other Areas - A total of 9 adults, consisting of 4 pairs and 1 single CFPO at 5 sites documented elsewhere in southern Arizona. Nesting was confirmed at 4 of these sites. It is unknown how many of these young successfully dispersed. There were several other possible CFPO detections reported elsewhere in the state, but they were not confirmed.

One factor affecting the known distribution of CFPOs in Arizona is where early naturalists spent most of their time and where recent surveys have taken place. For example, a majority of surveys in the recent past (since 1993) have taken place in OPCNM and in the Tucson Basin, and these areas are where most owl locations have been recorded. However, over the past three years, large, previously unsurveyed areas have been inventoried for owls, resulting in a much wider distribution than previously thought. As a result, our knowledge is changing as to CFPO distribution and habitat needs as new information is collected. For example, before 1998, very few surveys had been completed in the Altar Valley in southern Pima County. Prior to 1999, the highest known concentration of CFPOs in the state was in northwestern Tucson. However, in 1999, after extensive surveys in Altar Valley, more owls were found there (18 adults) than in northwestern Tucson (11 adults), although until 2001, there have been fewer nest sites in Altar Valley than in the Tucson Basin (S. Richardson, Arizona Game and Fish Department unpubl. data). As a result, our knowledge is changing as to their distribution and habitat needs as new information is collected.

Range wide trend

One of most urgent threats to CFPOs in Arizona is thought to be the loss and fragmentation of habitat (U.S. Fish and Wildlife Service 1997, Abbate et al. 1999). The complete removal of vegetation and natural features required for many large-scale and high-density developments directly and indirectly impacts CFPO survival and recovery (Abbate et al. 1999).

Habitat loss, degradation, and fragmentation are widely accepted causes contributing to raptor population declines worldwide (Snyder and Snyder 1975, Newton 1979, LeFranc and Millsap

⁵ There was one additional female found in Altar Valley dead in a saguaro cavity, suspected to have been killed by a screech owl (S. Richardson, Arizona Game and Fish Department unpubl. data).

1984). Habitat fragmentation is the process by which a large and continuous block of natural habitat is transformed into much smaller and isolated patches by human activity (Noss and Csuti 1994). Fragmentation has two components (1) reduction of the total amount of habitat type and (2) apportionment of remaining habitat into smaller, more isolated patches (Harris 1984, Wilcove et al. 1986, Saunders et al. 1991). Casualties caused by pest control, pollution, collisions with cars, radio towers, glass windows, power lines, and cat predation are often underestimated, although likely increasing in occurrence due to human population growth (Banks 1979, Klem 1979, Churcher and Lawton 1987). Even where human-related deaths are uncommon, they may still substantially affect populations of rare birds (Cartron et al. 2000a). Because of the proximity of CFPO sites to residential areas in northwestern Tucson, these interactions may be a significant cause of owl mortality there (Cartron et al. 2000a).

Nesting in small natural patches may have additional risks. For example, Haug (1985) found burrowing owl home range size increases with the percentage of vegetation disturbance. In fragmented landscapes, burrowing owls may forage greater distances and spend more time away from the nest, making them more vulnerable to predators, and therefore, less efficient at reproduction (Warnock and James 1997). As fragmentation increases, competition for fewer productive CFPO territories may occur (Abbate et al. 1999). Unlike other larger birds that can fly long distances over unsuitable or dangerous areas to establish new territories, CFPOs, because of their small size, and their short style of flight are exposed to greater risks from predation and other threats (Abbate et al. 1999).

Site tenacity in birds is one of many factors that may create time lags in response to fragmentation and other disturbances. Individuals may remain in sites where they bred successfully in the past, long after the habitat has been altered (Wiens 1985). Because of lack of data, it is unclear whether site tenacity for CFPOs, in increasingly fragmented landscapes, such as exists in the action area, is a factor. For example, researchers have been closely monitoring an established CFPO site (documented each year since 1996) in which the male died in 1999, apparently from a collision with a fence (S. Richardson, Arizona Game and Fish Department unpubl. data.). This site has not been known to be active since 1999. It has one of the highest amount of development (33%) within its estimated home range of any other known nest site (S. Richardson, Arizona Game and Fish Department unpubl. data.). The site will continued to be monitored to determine if new owls reestablish a nest site.

In northwestern Tucson, all currently known CFPO locations, particularly nest sites, are in low-density housing areas where abundant native vegetation separates structures. Additionally, they are adjacent to or near large tracts of undeveloped land. CFPOs appear to use non-native vegetation to a certain extent, and have been observed perching in non-native trees in close proximity to individual residences. However, the persistence of CFPOs in areas with an abundance of native vegetation indicates that a complete modification of natural conditions likely results in unsuitable habitat conditions for CFPOs. While development activities are occurring in close proximity to owl sites, particularly nest sites, overall noise levels are low. Housing density is low, and as a result, human presence is also generally low. Roads in the areas are typically dirt or two-lane paved roads with low speed limits that minimizes traffic noise. Low density housing

areas generally have lower levels of traffic noise because of the limited number of vehicles traveling through the area.

Other factors contributing to the decline of CFPO habitat include the destruction of riparian bottomland forests and bosques. It is estimated that 85 to 90% of low-elevation riparian habitats in the southwestern U.S. have been modified or lost; these alterations and losses are attributed to woodcutting, non-native plant invasions, urban and agricultural encroachment, water diversion and impoundment, channelization, groundwater pumping, livestock overgrazing, and hydrologic changes resulting from various land-use practices (e.g., Phillips et al. 1964, Carothers 1977, Kusler 1985, Jahrsdoerfer and Leslie 1988, U.S. Fish and Wildlife Service 1988, U.S. General Accounting Office 1988, Szaro 1989, Dahl 1990, State of Arizona 1990, Bahre 1991). Cutting of trees for domestic and industrial fuel wood was so extensive throughout southern Arizona that, by the late 19th century, riparian forests within tens of miles of towns and mines had been decimated (Bahre 1991). Mesquite was a favored species because of its excellent fuel qualities. In the project area, the famous vast forests of "giant mesquites" along the Santa Cruz River in the Tucson area described by Swarth (1905) and Willard (1912) fell to this threat, as did the "heavy mesquite thickets" where Bendire (1888) collected CFPO specimens along Rillito Creek, a Santa Cruz River tributary, in present-day Tucson. Only remnant fragments of these bosques remain.

Regardless of past distribution in riparian areas, it is clear that the CFPO has declined throughout Arizona to the degree that it is now extremely limited in distribution in the state (Johnson et al. 1979, Monson and Phillips 1981, Davis and Russell 1984, Johnson-Duncan et al. 1988, Millsap and Johnson 1988, Monson 1998). A very low number of CFPOs in riparian areas in recent years may reflect the loss of habitat connectivity rather than the lack of suitability (Cartron et al. 2000b).

In recent decades, the CFPO's riparian habitat has continued to be modified and destroyed by agricultural development, woodcutting, urban expansion, and general watershed degradation (Phillips et al. 1964, Brown et al. 1977, State of Arizona 1990, Bahre 1991, Stromberg et al. 1992, Stromberg 1993a and 1993b). Sonoran Desertscrub has been affected to varying degrees by urban and agricultural development, woodcutting, and livestock grazing (Bahre 1991). Pumping of groundwater and the diversion and channelization of natural watercourses are also likely to have reduced CFPO habitat. Diversion and pumping result in diminished surface flows, and consequent reductions in riparian vegetation are likely (Brown et al. 1977, Stromberg et al. 1992, Stromberg 1993a and 1993b). Channelization often alters stream banks and fluvial dynamics necessary to maintain native riparian vegetation. The series of dams along most major southwestern rivers (e.g., Colorado, Gila, Salt, and Verde rivers) have altered riparian habitat downstream of dams through hydrological and vegetational changes, and have inundated former habitat upstream.

In the United States, CFPOs are rare and highly sought by bird watchers, who concentrate at a few of the remaining known locations. Limited, conservative bird watching is probably not harmful; however, excessive attention and playing of tape-recorded calls may at times constitute harassment and affect the occurrence and behavior of the CFPO (Oberholser 1974, Tewes 1993).

For example, in 1996, a resident in Tucson reported a CFPO sighting which subsequently was added to a local birding hotline and the location was added to their website on the internet. Several car loads of birders were later observed in the area of the reported location (S. Richardson, Arizona Game and Fish Department pers. comm. 1999).

One of the few areas in Texas known to support CFPOs continues to be widely publicized as having organized field trips and birding festivals (American Birding Association 1993, Tropical Birds of the Border 1999). Resident CFPOs are found at this highly visited area only early in the breeding season, while later in the season they could not be detected. O'Neil (1990) also indicated that five birds initially detected in southern Texas failed to respond after repeated visits by birding tours. It is unknown if the birds habituate to the playing of taped calls and stopped responding, or if they abandoned the area. Oberholser (1974) and Hunter (1988) additionally indicated that in southern Texas, recreational birdwatching may disturb owls at highly visited areas.

Human activities near nests at critical periods of the nesting cycle may cause CFPOs to abandon their nest sites. In Texas, 3 of 102 CFPO nests monitored from 1994-1999 were abandoned during the early stage of egg laying. Although unknown factors may have contributed to this abandonment, researchers in Texas associated nest abandonment with nest monitoring (G. Proudfoot pers. comm.). Some outdoor recreational activities (e.g., off road vehicle [ORV] and motor bike use/racing, firearm target practicing, jeep tours, etc.) may disturb CFPOs during their breeding season (particularly from February through July (G. Proudfoot pers. comm. 1999 and S. Richardson, Arizona Game and Fish Department pers. comm. 1999). Noise disturbance during the breeding season may affect productivity; disturbance outside of this period may affect the energy balance and, therefore survival. Wildlife may respond to noise disturbances during the breeding season by abandoning their nests or young (Knight and Cole 1995). It has also become apparent that disturbance outside of a species' breeding season may have equally severe effects (Skagen et al. 1991).

Currently, all known nesting CFPOs within northwestern Tucson are located in areas containing no development or low-density housing developments that are adjacent to undeveloped tracts of land with varying amounts of noise disturbance. Individual CFPOs may react differently to noise disturbances, some individuals exhibiting less tolerance than others. Noise can affect animals by disturbing them to the point that detectable change in behavior may occur. Such behavioral changes can affect their activity and energy consumption (Bowles 1995). Dangerous or unfamiliar noises are more likely to arouse wildlife than harmless and familiar noises. Habituation is the crucial determinant of success in the presence of noisy disturbances. The habituation process can occur slowly, so it may not be detected in the short-term. In the long-term, some nesting birds become more tenacious and less responsive in the presence of human disturbance if they are not deliberately harassed (Burger and Gochfeld 1981). It is unknown if noise habituation occurs in some CFPOs as it does with other bird species. Robert and Ralph (1975), Schreiber et. al (1979), Cooke (1980), Parsons and Burger (1982), Ainley et al. (1983), and McNicholl (1983) found that adult birds, and chicks to some extent, habituated to the

presence of humans, and their responses to people seemed to be less than those of undisturbed birds.

Because of the lack of data specific to this subspecies in Arizona, we must also rely in part on our knowledge of effects this type of action may have on CFPOs elsewhere and other species, particularly raptors. Raptors in frequent contact with human activities tend to be less sensitive to additional noise disturbances than raptors nesting in remote areas. However, exposure to direct human harassment may make raptors more sensitive to noise disturbances (Newton 1979). Where prey is abundant, raptors may even occupy areas of high human activity, such as cities and airports (Newton 1979, Ratcliffe 1980, White et al. 1988). The timing, frequency, and predictability of the noise disturbance may also be factors. Raptors become less sensitive to human disturbance as their nesting cycle progresses (Newton 1979). Studies have suggested that human activities within breeding and nesting territories could affect raptors by changing home range movements (Anderson et al. 1990) and causing nest abandonment (Postovit and Postovit 1987, Porter et al. 1973).

Application of pesticides and herbicides in Arizona occurs year-round, and these chemicals pose a potential threat to the CFPO. The presence of CFPOs in proximity to residences, golf courses, agricultural fields, and nurseries may cause direct exposure to pesticides and herbicides. Furthermore, ingestion of affected prey items may cause death or reproductive failure (Abbate et al. 1999). Illegal dumping of waste also occurs in areas occupied by CFPOs and may be a threat to CFPOs and their prey; in one case, drums of toxic solvents were found within one mile of a CFPO detection (Abbate et al. 1999).

Little is known about the rate or causes of mortality in CFPOs; however, they are susceptible to predation from a wide variety of species. In Texas, eggs and nestlings were depredated by racoons (*Procyon lotor*) and bullsnakes (*Pituophis melanoleucus*). Both adult and juvenile CFPO are likely killed by great horned owls (*Bubo virginianus*), Harris' hawks (*Parabuteo unicinctus*), Cooper's hawks, and eastern screech-owls (*Otus asio*) (Proudfoot and Johnson 2000, G. Proudfoot unpubl. data). CFPOs are particularly vulnerable to predation and other threats during and shortly after fledging (Abbate et al. 1999). Therefore, cover near nest sites may be important for young to fledge successfully (Wilcox et al. 1999, Wilcox et al. 2000). Although nest depredation has not been recorded in Arizona, only a relatively small number of nests have been monitored ($n = 37$ from 1995-2001). Additional research is needed to determine the effects of predation, including nest depredation, on CFPOs in Arizona and elsewhere.

Another factor that may affect CFPOs is interspecific competition/predation. In Texas, depredation of two adult female CFPOs nesting close to screech-owls was recorded. These incidences were recorded as "depredation by screech-owl" after examination of the CFPO corpses and assessment of circumstances (i.e., one CFPO attempted to nest in a box that was previously used as screech-owl roost site, the other established a nest in a box within 5 meters (16 feet) of screech-owl nest site). In 2001, an unpaired female CFPO was found dead in a tree cavity, apparently killed by a screech-owl (S. Richardson, Arizona Game and Fish Department unpubl. data). Conversely, CFPOs and screech-owls have also been recorded successfully

nesting within 2 meters (7 feet) of each other in the same tree without interspecific conflict (G. Proudfoot unpubl. data). The relationship between CFPO and other similar small owl species needs further study.

Direct and indirect human-caused mortalities (e.g., collisions with cars, glass windows, fences, power lines, domestic cats [*Felis domesticus*], etc.), while likely uncommon, are often underestimated, and probably increase as human interactions with owls increase (Banks 1979, Klem 1979, Churcher and Lawton 1987). This may be particularly important in the Tucson area where many CFPOs are located. CFPOs flying into windows and fences, resulting in serious injuries or death to the birds, have been documented twice. A CFPO collided into a closed window of a parked vehicle; it eventually flew off, but had a dilated pupil in one eye indicating serious neurological injury as the result of this encounter (Abbate et al. 1999). In another incident, an adult owl was found dead on a fence wire; apparently it flew into a fence and died (S. Richardson, Arizona Game and Fish Department unpubl. data). AGFD also has documented an incident of individuals shooting BB guns at birds perched on a saguaro which contained an active CFPO nest. In Texas, two adult CFPOs and one fledging were killed by a domestic cat. These owls used a nest box about 75 meters (246 feet) from a human residence. In 2001, predation by domestic cats is also suspected by researchers in two instances in northwestern Tucson (S. Richardson, Arizona Game and Fish Department unpubl. data). Two female juvenile owls, located 2 ½ miles apart, were found dead from apparent wounds sustained from a cats. Free roaming cats can also affect the number of lizards, birds, and other prey species available to CFPOs; however, very little research has been done in the southwest on this potential problem.

CFPOs have been observed moving around the perimeter of golf courses, avoiding non-vegetated areas. Roads and other openings may act as barriers to their movements (Abbate et al. 1999, S. Richardson, Arizona Game and Fish Department unpubl. data). On one occasion, a radio-tagged dispersing juvenile stopped within 0.7 mile of Interstate 10 where there were large openings and few trees or shrubs, and reversed its direction (Abbate et al. 1999). However, radio-tagged, juvenile CFPOs have crossed two-lane roads with low to moderate vehicular traffic, where trees and large shrubs were present on either side (Abbate et al. 1999). Most recently, CFPOs monitored during the summer 2001 dispersal period were observed near two lane roads on several occasions (Arizona Game and Fish Department unpubl. data). Although owls were not directly observed crossing roads, radio telemetry data were collected on either side of roadways. Movement across roads appeared to occur during the night, although transmittered owls were not continuously monitored. Because of a lack of funds and personnel, AGFD researchers are at best only able to collect relocations during 2 random times during a 24-hour period, therefore, the time and location of this crossing is unknown.

CFPOs are capable of flying short distances up to 100 feet or more over undisturbed vegetation (e.g., Sonoran Desertscrub, semidesert grasslands, or riparian areas) with little or no human activities or structures such as roads, fences, buildings, etc. (G. Proudfoot, unpubl. data, S. Richardson, Arizona Game and Fish Department unpubl. data). However, as opening size (i.e., gaps between trees or large shrubs) increases, coupled with increased threats (e.g., moderate to high traffic volumes and other human disturbances) relatively wide roads (greater than 40 feet),

may act as barriers or significantly restrict owl movement. Wide roadways and associated clear zones cause large gaps between tree canopies on either side of roadways, resulting in lower flight patterns over roads. This low flight level can cause owls to fly directly in the pathway of oncoming cars and trucks, significantly increasing the threat of owls being struck. Measures can be implemented in roadway design to minimize these threats and allow successful movement across roadways. Among other measures, decreasing the canopy openings between trees on either side of roads and increasing the density of trees along roadways to provide greater shelter and cover from predators and human activities can be utilized to minimize adverse effects to owls attempting to cross roads. Specific research is needed to determine at what distance do road and clear zone widths significantly affect successful owl movement, types of vegetation needed, roadway and landscaping designs, speed limits, etc.

Telemetry data collected by AGFD in 2001 indicate that owl movement is affected by roads and traffic (S. Richardson, Arizona Game and Fish Department, unpubl. data). On two separate occasions within the action area, juvenile owls fitted with radio transmitters were tracked moving along washes and upland areas with native vegetation until they came upon busy roads with relatively wide clear zones on either side of the roadways. These owls stopped and were repeatedly observed reacting to passing vehicular traffic by retreating from the road edge vegetation to nearby trees as cars and trucks passed by. They appeared to be affected by road width, the density of vegetation on either side of the roadway, and traffic volume. In both cases, they eventually crossed these roads during lower traffic periods at areas with narrower gaps in vegetation where trees were present on either side of the road. More research is needed to fully understand how these and other factors affect owl movement.

Researchers in Arizona have found that CFPOs require habitat linkages, within and between territories for movement and dispersal of young. Continuous cover or patches of trees and large shrubs spaced at close, regular intervals, to provide concealment and protection from predators and mobbing, as well as shade and cool temperatures is necessary (S. Richardson, Arizona Game and Fish Department unpubl data, Abbate et al. 1999). CFPOs, particularly juveniles because of their inexperience, are susceptible to predation, weather extremes, human-related injury/mortality factors (e.g., cars, buildings, fences, domestic cats, etc.) and other mortality factors (mortality of juveniles is typically 50% or more for owls and other raptors). Therefore, it is essential to maintain habitat conditions that reduce their exposure to these threats and provide protection as they disperse from their natal areas. A high degree of cover throughout the landscape increases the likelihood of survivorship to the next breeding season. Limiting these mortality factors is critical, especially for small, depressed populations, such as CFPOs in Arizona.

Fires can affect CFPOs by altering their habitat (Abbate et al. 1999). A recent fire altered habitat near an active CFPO nest site (Flesch 1999) and although four mature saguaros in the area survived (at least in the short-term), post-fire mortality of saguaros has been recorded (Steenbergh and Lowe 1977 and 1983, McLaughlin and Bowers 1982). Flesch (1999) also noted that approximately 20 to 30% of the mesquite woodland within 50 meters (164 feet) of the nest was fire- or top-killed, and ground cover was also eliminated until the summer monsoons.

Careful use of prescribed fires in areas potentially suitable for CFPOs is necessary so that habitat is not lost or degraded (Flesch 1999).

Low genetic variability can lead to a reduction in reproductive success and environmental adaptability. Caughley and Gunn (1996) further note that small populations can become extinct entirely by chance even when their members are healthy and the environment favorable. The pairing of siblings or parents with their offspring, particularly in raptors, is rare, and has been documented in only 18 cases, representing 7 species (Carlson et al. 1998). Four of these species were owls: barn owls, burrowing owls (*Athene cunicularia*), screech-owls, and spotted owls (*Strix occidentalis*). In 1998 and 1999, two cases of sibling CFPOs pairing and breeding were documented (Abbate et al. 1999). In both cases, young were fledged from the nesting attempts. These unusual pairings may have resulted from extremely low numbers of available mates within their dispersal range, and/or from barriers (including fragmentation of habitat) that have influenced dispersal and limited the movement of young owls (Abbate et al. 1999). Further, because the CFPO is nonmigratory, there may be an additional limitation on the flow of genetic material between populations which may reduce the chance of demographic and genetic rescue from immigration from adjacent populations.

Recent genetic research suggests that CFPOs in the action area may be isolated from other populations in Arizona and Mexico (Proudfoot and Slack 2001). They have found that the low level of genetic variation and the absence of shared haplotypes between owls in northwestern Tucson and the remainder of the state and Mexico may be indicative of natural divergence of this population from the rest of the CFPO population in Arizona. Specifically, this study found that CFPOs in northwestern Tucson are in a distinct clade and suggests a current separation between populations in northwestern Tucson and elsewhere in the state and Mexico. In addition, these owls have extremely low levels of average haplotype diversity. Researchers acknowledge this may also be a product of sampling (i.e., sampling from one maternal lineage) and or an extremely high level of inbreeding as a result of low population numbers and geographic isolation. Given the low number of CFPOs in the action area, their potential isolation from source populations, the fact that inbreeding has occurred to the second generation in two documented cases, and potential pressure from urban development, there is a high level of concern for the Tucson Basin population of CFPOs.

Environmental, demographic, and genetic stochasticity, and catastrophes have been identified as interacting factors that may contribute to a population's extinction (Hunter 1996). Environmental stochasticity refers to random variation in habitat quality parameters such as climate, nutrients, water, cover, pollutants, and relationships with other species such as prey, predators, competitors, or pathogens. Demographic stochasticity is uncertain due to random variation in reproductive success and survivorship of individuals. Genetic stochasticity is the random variation in gene frequencies of a population due to genetic drift, bottlenecks, inbreeding, and similar factors. Catastrophes are events such as droughts or hurricanes that occur randomly. When these factors interact with one another, there are likely to be a combination of effects, such that a random environmental change like habitat fragmentation can result in population and genetic changes by preventing dispersal. These factors are much more likely to cause extinction when a species'

numbers are already extremely low. The small, fragmented population of CFPOs in Arizona may not have the ability to resist change or dramatic fluctuations over time caused by one or more of the factors mentioned above.

Soule (1986) notes that very small populations are in extreme jeopardy due to their susceptibility to a variety of factors, including demographic stochasticity, where chance variations in birth and death rates can result in extinction. A series of environmental changes, such as habitat reduction, reduce populations to a state in which demographic stochasticity takes hold. In small populations such as with the CFPO, each individual is important for its contributions to genetic variability of that population. As discussed above, low genetic variability can lead to a lowering in reproductive success and environmental adaptability, affecting recovery of this species.

III. ENVIRONMENTAL BASELINE

The environmental baseline includes past and present impacts of all federal, state, or private actions in the action area; the anticipated impacts of all proposed federal actions in the action area that have undergone formal or early section 7 consultation; and the impact of State and private actions which are contemporaneous with the consultation process. The environmental baseline defines the current status of the species and its habitat in the action area to provide a platform to assess the effects of the action now under consultation.

The action area is defined as all areas to be affected directly or indirectly by the federal action and not merely the immediate area involved in the action (50 CFR §402.02). The applicant has determined the action area to be the project area plus a 600 meter buffer area (WestLand Resources 2001). We disagree with this determination. The Service has determined the action area to include the project parcels and off-site utilities and areas within 19 miles. We based this determination on the dispersal distance of juvenile CFPOs in Texas and Arizona (G. Proudfoot unpubl. data, S. Richardson, Arizona Game and Fish Department unpubl. data). With so few individual CFPOs in Arizona, the maximum dispersal distance may be periodically needed to maintain genetic interchange between groups of owls. This is particularly important when there is a limited gene pool available. On two separate occasions in the action area, siblings of the same nest were documented breeding with each other the following year (Abbate et al. 1999) (see Range wide Trend section below). Instances of sibling breeding may be a reflection of small isolated populations of owls, and maintaining genetic diversity within depressed populations is important to maintain genetic stochasticity and fitness.

The project parcel is within the Arizona Upland Subdivision of the Sonoran Desertscrub vegetation community (Brown 1994). This subdivision is limited in its distribution, forming a narrow, curved band along the northeast edge of the Sonoran Desert from the Buckskin Mountains, southeast to Phoenix, Arizona, and south to Altar, Sonora, Mexico. It is described as a low woodland of leguminous trees with an overstory of columnar cacti and with one or more layers of shrubs and perennial succulents. Within the United States, columnar cacti include either saguaros (*Carnegiea gigantea*), or organ pipe cactus (*Stenocereus thurberi*). Trees within this subdivision include blue paloverde (*Cercidium floridum*), foothills paloverde (*C.*

microphyllum), ironwood (*Olneya tesota*), mesquites (*Prosopis* spp.), and cat-claw acacia (*Acacia* spp.). Cacti of many species are found within this subdivision, and include many varieties of cholla and prickly pear (*Opuntia* spp.), fish-hook barrel cactus (*Ferocactus wislizenii*), and compass barrel cactus (*F. acanthodes*) (Brown 1994).

Over the past 12-month period, we have conducted over approximately 60 informal section 7 consultations for projects within the action area (e.g., capitol improvements, residential, commercial, and other developments) that have either yet to undergo formal section 7 consultation, or were not likely to adversely affect the CFPO. In addition, we have provided technical assistance to approximately 500 individual projects without a federal nexus (i.e., projects not requiring a federal permit, authorization, or funding [e.g., development of single family residences, churches, fire stations, etc on individual lots]). These projects individually were not likely to adversely affect CFPOs, or their adverse effects were insignificant or discountable due to their location, size, and scope. Collectively however, these projects without a federal nexus have taken place since listing, and continue to occur in areas that are within known CFPO territories, dispersal corridors, and areas that are important for survival and recovery within the action area. The Service has provided technical assistance to many of these landowners and project proponents to reduce and minimize these adverse effects of their projects by retaining suitable habitat on their parcel (generally limiting vegetation disturbance to 20-25% of their parcel and maintaining the remainder portion in a natural condition) and providing connectivity for owl movement. However, this assistance is not always requested, nor has it always been followed. Overall, suitable CFPO habitat in this area continues to be lost, and movement corridors continue to be affected.

Within the action area, the Town of Marana experienced 467% growth and Oro Valley 310% growth from 1990-1999; the Arizona State Department of Economic Security stated that Marana is one of the two fastest growing communities in Arizona (The Arizona Daily Star 2000b). Housing starts in the area have continued to increase with Marana issuing over 1,000 permits for the first time in 1999 (The Arizona Daily Star 2000a). As increasingly more houses are built, commercial developments and capitol improvements all continue to affect the survival and recovery of the CFPO. Pima County's population has grown from 666,000 in 1990 to estimates of at least 850,000 in 2000 or a 30% increase. This annual growth rate has varied from 15,000 to 30,000 persons each year, consuming at the present urban density approximately 7-10 square miles of Sonoran Desert each year (Pima County 2001). Also see Status section above for additional threats to the CFPO that have occurred since listing.

In addition, there have been several projects that have occurred, or are on-going at this time that have not undergone formal section 7 consultation with a federal agency. In December 1999, approximately 40 acres were graded for the Amphitheater High School site in northwestern Tucson. We did not receive a request for consultation on this activity prior to grading. Since that time, there have been four other federally permitted projects⁶ that we are aware of within the project area that have resulted in (or are currently causing) the destruction of approximately 550

⁶ Section 402 and/or 404 permits under the CWA issued by the EPA and COE, respectively.

acres of suitable habitat without undergoing section 7 consultation. This has further reduced the amount and availability of suitable habitat and movement corridors within the action area.

On-going development activities are occurring immediately adjacent to the east of this project. The project proponent has not contacted the Service in regard to the development of this 10-acre parcel.

We have completed livestock grazing consultations with the USDA Forest Service and Bureau of Land Management (BLM) in southern and central Arizona that addressed adverse impacts to CFPOs. These projects have adversely affected suitable habitat from continued livestock grazing and associated gathering activities. Also, within the project area, we have completed several other consultations with the EPA and COE: In September 1999 we completed an informal consultation with the EPA for approximately 90 acres (parcels, 4a, 4b, 5 and 6) of Heritage Highlands, a 587-acre master-planned community, directly to the north west of this parcel. In July 2000, we completed a consultation with the EPA for a 20-acre residential development (Countryside Vistas Blocks 5 and 6) approximately 4 miles to the southwest of this parcel. In October 2000, we completed a consultation with the EPA for a 5,924-acre residential and commercial development (Dove Mountain) approximately 1 mile to the northwest. In December 2000, we completed a consultation with the EPA for a 29-acre residential development (Tecolote de Oro) approximately 3 ½ miles to the southeast of this property. In July 2001, we completed a consultation on the 7-acre Crescent Ridge Apartments, approximately three miles to the south. In December 2001, we completed consultation with the EPA on the 141-acre residential development Hartman Vistas, approximately 4 miles southwest. In February 2002, we completed a consultation with the EPA on improvements to Thornydale Road which will remove 9 acres of suitable habitat.

We have also completed consultations on several smaller projects including a utility substation, water recharge facility, recreation facility, and 5-year hiking trail work plan. For each of these projects, suitable CFPO habitat will be removed; however, they all incorporated conservation measures that are consistent with the best scientific and commercial information available and with draft recommendations of the CFPO Recovery Team. These measures maintain connectivity and movement corridors through the affected areas, and provide suitable habitat at levels consistent with those where successful breeding owls have occurred elsewhere within the action area (e.g., maintaining a 20-25% vegetation disturbance level [see discussion below for this analysis]). All of these consultations resulted in no jeopardy and no adverse modification of critical habitat (which was designated at that time) determinations by the Service.

In December 1998, an ESA section 10(a)(1)(B) permit for the CFPO was issued by the Service for a guest ranch (Lazy K Bar) which may eventually be converted to low density residential housing in northwestern Tucson. This project contained conservation measures to minimize adverse effects that were based on the best available information at that time. Although breeding, sheltering, and foraging were adversely affected, their functions and movement of CFPOs through this area were maintained.

Several thousand acres of State Trust land are located in large continuous blocks to the west and north of the project parcel. This land contains suitable CFPO habitat. Surveys in this area have not been comprehensive, but there is documentation of dispersing juveniles moving through the area. Nests have not been documented in this area, but this may be due to the low level of survey efforts to date. At present, this land is not developed. Presently, State Trust lands are being leased for grazing. Other activities (e.g., recreational off-road vehicle [ORV] use, shooting/target practice, hunting, etc.) also occur on these lands.

CFPOs were first documented in the action area around 1872 (see Status and Distribution section above) and were historically widespread. Collections of CFPOs were fairly regular in this region compared to elsewhere in the state until 1918 (Johnson et al. in prep.). Only one CFPO observation was recorded between 1918 and the 1970's (Hunter 1988, Johnson et al. in prep.). Several sightings of CFPOs were documented during the 1970's in the Tucson Basin; however, systematic surveys did not take place until 1993 by AGFD. Survey efforts in this area have dramatically increased since listing, particularly in the last 4 years (U.S. Fish and Wildlife Service unpubl. data). In addition, AGFD initiated radio telemetry research in the action area in 1998, which has provided valuable information on habitat use and movement patterns of adult and juvenile CFPOs.

The action area supports one of the highest known concentrations of breeding CFPOs in the state. We currently know of a small population (8 adults in 2001) of CFPOs in the action area (northwestern Tucson and southern Pinal County). However, the information regarding owl use in the action area, and particularly the vicinity of the project parcel, represents only limited data, collected primarily over the past few years. For example, telemetry equipment, which provides detailed information on use patterns and areas, was not utilized until 1998, and its use has been limited by the small number of birds transmittered and available resources (i.e., limited personnel for intensive monitoring and equipment). In addition, battery life on radio transmitters is only 90 days because of the small size that must be used on these small owls, which further limits the amount of telemetry data that can be collected.

Current information suggests that CFPOs can live and breed successfully in areas which have undergone at least some degree of low density human development; however, they do not appear to be able to tolerate all types of development, particularly high-density development. Since widespread surveys began in Arizona in 1999, more owl sites have been documented in areas with little or no human activity or development. For example, in 2001, of the 29 known CFPO sites in the state, 24 sites (83%) were in undeveloped areas with very little human activity, compared to only 5 sites (17%) that were in areas with some level of low-density development (S. Richardson, Arizona Game and Fish Department unpubl. data, U.S. Fish and Wildlife Service unpubl. data). No CFPOs have been documented in high-density commercial or residential developments. Of the known nest sites in 2001, 14 (82%) of the 17 nest sites were in undeveloped areas with little or no ground disturbance or human activity.

To determine the level of vegetation disturbance nesting CFPOs may be able to tolerate, a group of CFPO experts on the Recovery Team completed an analysis of all known 2001 and earlier nest

site home ranges (n=9) occurring in developed areas in northwestern Tucson that successfully produced offspring. They calculated the amount of vegetation disturbance (e.g., roads, buildings, horse corals, pastures, parking lots, golf courses, etc.) within the estimated home range (280 acres) at each nest site. They calculated their average percent disturbance to be 23% (also the median). However, over one-half (5 of the 9 home ranges [55%]) had levels below that average, and two-thirds (6 of the 9 sites [66%]) were at or below the 25% disturbance range. This, when added to the total number of nesting CFPO breeding sites in the state as indicated above, indicates the selection preference of CFPOs to areas with very little or no human development. In addition, because the majority of surveys are conducted in areas already with some level of development as a result of a proposed project, these areas are sampled in higher proportion to areas with no current or planned development, potentially under sampling areas without development.

It should be noted that one of the nest sites with one of the highest amount of vegetation disturbance (33%) is that of a long established pair that was documented from 1997 through 1999. Development in the general vicinity of this site continued during this time. As noted above, the male of this pair was found dead in 1999. Surveys in 2000 and 2001 did not locate any CFPOs at this site, therefore it remains inactive. Site tenacity in the short-term may have been a factor in this pair's ability to withstand this higher level of vegetation disturbance compared to other sites in Arizona; however, the long-term effect of this amount of disturbance is unknown. There were three new nest sites⁷ in 2001 with disturbance levels of 21%, 30%, and 34% (S. Richardson, Arizona Game and Fish Department, unpubl. data). Each of these territories successfully produced fledglings that dispersed to other areas in 2001. This was the first year these sites were reproductively successful and it is unknown whether they will be able to continue to remain in these territories in subsequent years. Preliminary surveys of these territories in 2002, indicate the loss of 2 females and one male from each of the sites. The remaining female from the territory with 34% disturbance has apparently paired with the male from an adjacent territory. As indicated above, two of these new nest sites, together with the other nest site that has been inactive since 1999 are at the extreme range of the amount of development occurring within all other CFPO nesting territories in Arizona (greater than 30% disturbance).

Although there have been some nesting territories in the upper range of disturbance, other factors also play an import role in developing a recovery strategy for this species. For example, these data represent a very limited sample size for breeding sites within developed areas (n=9); little is understood regarding the long-term effects of increasing levels of development occurring within nest sites in higher developed areas and how this will affect their suitability for breeding and movement in the future; and the potential cumulative effects that increasing levels of development have on owls in this region are not fully understood. The long-term productivity and success of breeding sites in these higher disturbed areas is unknown. In 2001, all of the nest sites were in new areas, resulting in a relatively large proportion (67%) of sites where nesting had occurred in the past but that were inactive in 2001 (S. Richardson, Arizona Game and Fish

⁷ Two were resident male CFPOs establishing territories in the fall of 1999, remaining at their respective sites until paired with females in the spring of 2001.

Department unpubl. data). More research and monitoring is needed to better understand habitat needs and the long-term relationship between development and CFPO requirements.

There also appears to be a difference in the tolerance to the amount of vegetation disturbance (i.e., development) between nesting and non-breeding CFPOs. Single owls may be able to tolerate higher levels of development and more marginal habitats, while breeding owls may need less disturbed vegetation within their home ranges. An analysis of all known CFPO sites in northwestern Tucson resulted in a considerably lower amount of vegetation disturbance at nest sites compared to non-breeding sites (e.g., unpaired males) (S. Richardson, Arizona Game and Fish Department unpubl. data). As stated above, the average amount of vegetation disturbance within the home range of 1998-2001 nesting sites in developed areas was 23%. The amount of vegetation disturbance within the home range of non-breeding sites in developed areas was considerably higher, averaging 37% during the same period. Although these overall results are based on a small sample size, they represent the best available information and indicate that nesting CFPOs may require less disturbed areas than unpaired owls. For example, a juvenile male CFPO established a new territory in the fall of 2000, which is surrounded on three sides by densely developed residential and commercial properties. This male has remained there throughout the 2000 and 2001 breeding seasons and failed to pair with a female owl, even after vigorous calling throughout the spring and summer months both years. In September 2001, a juvenile female CFPO dispersed from its nest and paired with this resident male. They remained together for approximately 2 weeks until the female was found dead, apparently as a result of cat predation. At this time, the male remains unpaired. Within this territory the habitat is highly fragmented, containing the highest degree of development (approximately 50%) of any other known CFPO territory (S. Richardson, Arizona Game and Fish Department unpubl. data.). It is unclear whether the amount of development and vegetation disturbance is too high for successful breeding. The Service and AGFD will continue to monitor this owl, using radio telemetry and direct observations.

Differences in the tolerance of vegetation disturbance between breeding and non-breeding owls are important because nesting owls are necessary for recruitment of young owls and demographic support to achieve recovery of the CFPO in Arizona. Although also important to the population from a demographic standpoint, non-breeding males do not directly contribute to the increase of the population by producing young. Therefore, the Service and Recovery Team believe that because successful breeding sites are necessary to produce offspring for the survival and eventual recovery of the CFPO Arizona population, vegetation disturbance levels found at breeding sites should be used as guidelines rather than those in non-breeding territories. These guidelines are particularly important within specific areas of the state recommended by the pygmy-owl experts on the Recovery Team as Special Management Areas (SMAs).

Recovery of the CFPO will require not only protection of all known sites, but also the conservation of other areas not currently known to have nesting owls, which can be measured at two spatial scales. At a large scale, connectivity is necessary among large blocks of suitable habitat that are either currently known to be occupied by owls or are important for recovery. An example is habitat connecting the Tucson Mountains west of Interstate 10 to the high concentration of owls in northwest Tucson. At a finer scale, the protection of habitat within the vicinity of known owl sites for establishment of new sites and movement between them is also

essential. For example, the area located south of Tangerine Road in northwest Tucson, which contains one of the highest numbers and density of breeding CFPOs known in Arizona, also contains areas not currently known to have nesting owls and is particularly important for the expansion of the population. Based on the analysis by CFPO experts on the Recovery Team, the best available science indicates the maximum amount of ground disturbance CFPOs are able to tolerate is 20 - 25% (average of 23%), combined with other conservation measures that provide connectivity for movement, etc. This level of disturbance is within the range of where most owls in northwest Tucson were found and best describes their tolerance for ground disturbance based on current data.

Surveys in 1996 found 16 CFPOs in the action area, including one pair and two fledged young. In 1997, surveys located 9 CFPOs, including one pair and four fledged young. In 1998, researchers found 3 nests where 11 juveniles were successfully raised in this area alone, which is at least twice the number of young documented in any prior year. In 1999, 9 sites and 6 nesting pairs of CFPOs were documented in the action area with 21 fledged young (S. Richardson, Arizona Game and Fish Department unpubl. data). In 2000, a total of 11 sites and 4 nests were confirmed with 17 fledged young (S. Richardson, Arizona Game and Fish Department, unpubl. data). In 2001, 5 sites were confirmed. Nesting was documented at 3 nests producing 9 successfully fledged young. Surveys for the 2002 breeding season are on-going.

There are 2 nesting territories within 1½ miles of the project site, and within a 5-mile radius, there are 14 different CFPO sites that have been documented by AGFD since 1996 (S. Richardson, Arizona Game and Fish department, unpubl. data, U.S. Fish and Wildlife Service, unpubl. data).

In 2001, a juvenile owl with a transmitter dispersed from its nest, and traveled just to the south of this parcel. (S. Richardson, Arizona Game and Fish department, unpubl. data).

The Butterfly Mountain Parcel is surrounded by large expanses of undeveloped land and low-density residential developments. It is bounded on the north and east by unimproved dirt roads and on the south by Moore Road, a county -maintained dirt road. Improvements to these roads are not planned in association with this project. It is currently zoned by the Town of Marana as R-144 (minimum lot area is 144,000 sq. ft.) allowing for 27 single-family residential units on 3.31 to 5.18 acre lots. The Dove Mountain Master Planned Community and Heritage Highlands occur to the northwest of this property. The area immediately to the north is also zoned R-144 for low-density residential. The area to the southwest is undeveloped and is in informal consultation with the Service for future development. The area to the south is zoned R-144 with some existing low-density single-family residences, and R-8, which allows for 8000 sq. ft. lots. The area to the east, where undisclosed development is occurring, is zoned RH (Rural Homestead) which allows for additional low-density development.

IV. EFFECTS OF THE ACTION

The proposed action will result in the permanent loss of approximately 17.6 acres of Sonoran desertscrub and xeroriparian vegetation which provides habitat for CFPO for sheltering, feeding,

and movement/dispersal; this site also has the potential to support nesting pairs. The proposed action will cause short-term noise disturbance and human activity associated with construction and long-term noise disturbance and human activity from use of the residential development.

This action will occur in the area that is of greatest concern to the Service (between Cortaro Farms Road to the south and the 13600 N street alignment to the north, east of Interstate 10 and west of La Cholla Boulevard), because it contains not only a very high concentration of owls, but also nesting owls. This area of northwest Tucson currently contains a considerable amount of residential and commercial development. Survival and recovery of the CFPO will be dependent on the availability of suitable habitat in this area for offspring to be able to successfully disperse and establish new territories.

This project will conserve 82.6 acres within the approximately 100.2-acre project site, resulting in an overall 17.6 % disturbance. The Service, using information from the pygmy-owl experts on the Recovery Team, recommends that disturbance be no greater than 20% in Northwest Tucson. The proposed action is within the range of the best available information on the amount of disturbance that owls may be able to tolerate. Therefore, this project contributes to the overall goal of conserving important areas for the survival and recovery of the CFPO where they are most at risk.

CFPOs, particularly juveniles, are susceptible to predation, weather extremes, human-related injury/mortality factors (e.g., cars, buildings, fences, domestic cats, etc.) and other mortality factors (mortality of juveniles is typically 50 percent or more for raptors). Therefore, it is essential to maintain habitat conditions that reduce their exposure to these threats and provide protection as they disperse from their natal areas. A high degree of cover throughout the landscape increases the likelihood of survivorship to the next breeding season. Limiting these mortality factors is critical, especially for small, depressed populations, such as CFPOs in Arizona. Conservation areas within this parcel will be established, and based on current information, will be of sufficient size and configuration to support breeding activities. It is unknown at this time as to what will occur on adjacent parcels, but if land uses are not compatible with CFPO conservation, dispersing juvenile owls will need to move greater distances from their natal areas to establish new territories, increasing their exposure to threats beyond what would otherwise occur if the parcel is not developed.

CFPOs require habitat linkages, within and among territories for movement and dispersal, consisting of continuous cover or patches of trees and large shrubs spaced at regular intervals, to provide concealment and protection from predators and mobbing, as well as shade and cover to moderate temperature extremes (S. Richardson, Arizona Game and Fish Department unpubl data, Abbate et al. 1999). To partially offset some of the adverse effects of the removal of approximately 17.6 acres of suitable habitat on this parcel, approximately 82.6 acres will be conserved in the undeveloped areas of each lot. A conservation easement will be recorded on the acreage outside of the building envelopes and conserved as open space, consistent with the conservation of the owl. As described in the Conservation Elements section in the project description of this document, these lands will be monitored and managed under CC&R's and the Home Owner's Association with reporting requirements to the Service to ensure these protective

measures are met. Development on this currently undisturbed parcel will fragment a block of suitable habitat increasing potential for human-related mortality of CFPOs. Adjacent areas are currently open space and low-density residential areas. Due to the conservation of the remaining undeveloped lands on this parcel, and to the management that will occur, this development is consistent with the recommendations provided by the pygmy-owl experts on the Recovery Team.

Casualties caused by pest control, pollution, collisions with cars, radio towers, glass windows, power lines, and domestic cat predation are often underestimated, although likely increasing in occurrence due to human population growth (Banks 1979, Klem 1979, Churcher and Lawton 1987). Even where human-related deaths are uncommon, they may still substantially affect populations of rare birds (Cartron et al. 2000a). Because of the proximity of CFPO sites to residential areas, these interactions may be a significant cause of owl mortality (Cartron et al. 2000a). Scott Richardson (Arizona Game and Fish Department unpubl. data) has documented two separate instances where a CFPO has been severely injured or died as a direct result of a collision with a window or fence. The facilities, structures, and increased human activities resulting from the proposed project will increase the likelihood of CFPO mortality. In addition, the use of pesticides will likely increase within the proposed residential areas, indirectly affecting owls by reducing the availability of their prey base and potentially injuring or killing them from exposure. Use of pesticides will not occur within the conservation area to preserve its value to owls, and neither chainlink nor wovenwire fencing will be used within the project boundaries.

Predation by domestic cats has been now documented in both Arizona and Texas (Cartron et al. 2000a, S. Richardson, Arizona Game and Fish Department, unpubl. data). As is expected with residential developments, the number of cats will likely substantially increase, resulting in increased possibility of predation of CFPOs and a reduction in the abundance of CFPO prey species (e.g., lizards, birds) in this area, resulting in additional adverse impacts to CFPOs. The CC&R's will educate homeowners about the allowable activities within the conservation areas, and those that are restricted. Information provided by the Service at a future date, as to the importance of keeping dogs on leashes, and preventing free-roaming cats to reduce adverse effects to CFPOs and other wildlife species will also be provided to the homeowners. However, even with these measures, unattended cats and dogs may still enter these areas and may adversely affect owls and their prey base.

The conservation elements outline acceptable uses within the conservation areas and measures that will be taken to minimize adverse effects to the CFPO that are consistent with the management of the CFPO. Activities that will be prohibited from all conservation areas are: use of any motorized vehicles (i.e. off-road vehicles), use of herbicides, and insecticides, use of artificial lights, organized events that consist of more than 10 people, any type of vegetation salvage or activities that result in the removal or disturbance of natural vegetation, equestrian gathering, and use of fires or other outdoor cooking equipment. Permitted uses include foot traffic (hiking), walking of leashed dogs or pets, and equestrian use of groups less than 10 per party. In addition, because the use of fires will be prohibited in conservation areas, the risk of the loss of habitat from wildfire will be minimized. Due to their proximity to residential areas, the use of firearms is not expected to be permitted within conservation areas, thereby avoiding adverse effects to owls as well. These measure will minimize adverse effects to CFPOs, and will

ensure these areas will continue to provide breeding, sheltering, foraging, and movement habitat for CFPOs.

With respect to CFPOs and noise disturbance at the project site, activity levels will substantially increase with construction activities and the resulting residential developments. Studies have suggested that human activities within breeding and nesting territories could affect raptors by changing home range movements (Anderson et al. 1990) and causing nest abandonment (Postovit and Postovit 1987, Porter et al. 1973). The construction of the residential development will be a relatively short-term event, with a foreseeable end in noise disturbance activities. However, noise disturbance, increased vehicle traffic, and human activity within developed and conservation areas after development is a permanent effect. Increased noise levels may significantly disrupt normal behavioral patterns including breeding, feeding, and sheltering. CFPOs may be tolerant, to some extent, of certain low-level noise disturbances associated with a few scattered residences and light traffic. These disturbances include daily activities in residential areas such as people walking, voices, children playing, horses and other livestock, dogs, low to moderate vehicle and large truck traffic, and some occasional construction equipment activity.

If a new CFPO site is established prior to or after a construction phase has been initiated on the project parcels, the applicant will take adequate conservation measures as defined in the development constraints above to ensure noise disturbances will not cause the CFPOs to abandon their nest or activity center. In addition, a sufficient amount and configuration of suitable habitat will be present within their territory for it to remain viable for CFPOs.

Summary

Survival and recovery of the CFPO will require not only protection of all known sites, but also the conservation of other areas not currently known to have nesting owls, which can be measured at two spacial scales. At a large scale, connectivity is necessary among large blocks of suitable habitat that are either currently known to have nesting owls or are important for recovery. The project site provides important corridors for habitat within Northwest Tucson.

At a finer scale, the protection of habitat within the vicinity of known owl sites for establishment of new sites and movement between them is also essential. Connectivity between breeding and non-breeding owls and areas where juvenile owls can establish new nesting territories or replace owls as they die are essential for the conservation of the CFPO. Based on the current data, this project will maintain existing movement corridors for CFPOs.

The project will remove approximately 17.6 acres of suitable habitat that provides sheltering, foraging, movement, and possibly breeding habitat for owls. To minimize these adverse effects, approximately 82.6 acres will be managed on-site, in perpetuity for the conservation of the CFPO. Activities that are not conducive to the conservation of the CFPO (e.g., ORV use, application of herbicides, insecticides, disturbance of vegetation, large groups of people, etc.) will not take place in these conservation areas. These lands have the potential to directly benefit

CFPO's by providing nesting, foraging, sheltering, and movement habitat. We believe this approach to be consistent with the best available science and the intent of preliminary recommendations made by the Recovery Team and Service for conservation of Arizona CFPO population.

The conservation measures will be administered by the HOA through the CC&R's with reporting requirements to the Service to ensure the protective measures are met.

V. CUMULATIVE EFFECTS

Cumulative effects include the effects of future state, tribal, local, or private actions that are reasonably certain to occur in the action area considered in this biological opinion. Future federal actions that are unrelated to the proposed action are not considered in this section because they require separate consultation pursuant to section 7 of the ESA.

The action area is subject to ongoing residential and commercial development pressures, capitol improvements, and state, local, and private actions are expected to continue development in the immediate vicinity of the project site and elsewhere in the action area. Any activity clearing five acres or more requires a NPDES section 402 permit under the CWA from the EPA, and activities occurring within jurisdictional waters and wetlands of the U.S. require a section 404 permit under the CWA from the COE. As a result, a substantial number of these anticipated projects will be subject to future section 7 consultations and are not considered cumulative effects. However, we are aware of at least 5 other projects greater than 5 acres in size within the project area that have initiated or completed grading of suitable habitat either without filing for a section 402 or 404 permit, or they have submitted a notice of intent (NOI) for a 402 permit with the EPA but not undergone section 7 consultation with the Service. Many individual undeveloped parcels will not require a federal permit or other federal nexus and will continue to be built, and not subject to future consultation. For example, we have become aware of an estimated 500 private actions without a federal nexus⁸ (e.g., single family residences, churches, fire stations, etc) that have taken place within northwestern Tucson over the past 12 months. This is particularly important in the action area due to the large number of undeveloped small parcels zoned as SR and low-density residential areas that, when developed, will further reduce the amount of suitable habitat, increase fragmentation, and degrade habitat conditions.

We are aware of many planned residential and commercial developments, schools, churches, etc. in the action area that may further reduce and fragment CFPO habitat in this area. As stated above (Species Distribution section), this area supports one of the highest known concentrations of CFPOs in the state (3 active nest sites in 2001). Additionally, this area is currently experiencing a rapid growth in new home sales. Since the listing of this distinct population segment in Arizona, housing construction has continued to increase in the Tucson area, and this trend is expected to continue into the foreseeable future. For example, in May 1999, new-home closings were a record 467 units, higher than in any other May within the past decade (The

⁸ Such as a section 402 or 404 permit under the CWA, or some other Federal authorization or funding.

Arizona Daily Star 1999). In 1999, Tucson-area building permits were 10.9% more than in 1988, and topped 7,000 for the first time. Permits were highest in northwestern Tucson and, for the first time, Marana issued more than 1,000 permits, with a strong building trend expected to continue steady or increasing (The Arizona Daily Star 2000a). We have received, and continue to receive notification of numerous new housing subdivisions and commercial developments in this region as well. Many of these activities will require a Federal permit or authorization, and may enter into consultation with the Service in the future. However, as stated above, some projects are resulting in adverse effects to the CFPO and affecting the survival and recovery of the species but are not undergoing consultation. Therefore, these activities continue to reduce the amount of habitat and reduce possible movement corridors within the project area, further degrading the baseline condition. In addition, projects not having a Federal nexus (such as single family residences) are expected to continue in undeveloped areas within the project area until build-out, which will further affect the survival and recovery of the CFPO if not done in a manner that maintains a high proportion of conservation areas that is available for use by CFPOs.

VI. CONCLUSION

After reviewing the current status of the CFPO, the environmental baseline for the action area, the effects of the proposed action, and cumulative effects, it is the Service's biological opinion that the proposed action is not likely to jeopardize the continued existence of the CFPO. There currently is no critical habitat for the CFPO, therefore none will be affected. These conclusions are based on the record of this consultation including the BA, Supplemental Report, project description, and the following:

1. Conservation measures will be implemented to minimize noise and vegetation disturbance within the project parcels.
2. The loss of approximately 17.6 acres of suitable habitat will be offset with the protection of approximately 82.6 acres of conservation areas managed for CFPO conservation purposes. These lands will be managed in a manner that will protect suitable habitat for the CFPO and contribute to its conservation.
3. CFPO habitat connectivity within the parcel and to adjacent suitable habitat areas will be maintained.
4. The parcel will continue to provide habitat suitable for breeding, sheltering, feeding, and movement for CFPOs.
5. Management of the conservation areas within the parcel will be conducive to the CFPO by limiting in perpetuity, those activities that might adversely affect the owl.

INCIDENTAL TAKE STATEMENT

Section 9 of the ESA and federal regulation pursuant to section 4(d) of the ESA prohibit the take of endangered and threatened species, respectively, without special exemption. Take is defined as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such conduct. Harm is further defined by the Service to include significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering. Harass is defined by the Service as intentional or negligent actions that create the likelihood of injury to listed species to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding or sheltering. Incidental take is defined as take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. Under the terms of section 7(b)(4) and section 7(o)(2), taking that is incidental to and not intended as part of the agency action is not considered to be prohibited taking under the ESA provided that such taking is in compliance with the terms and conditions of this incidental take statement.

Amount or Extent of Take Anticipated

We do not anticipate the proposed Butterfly Mountain Development Project will incidentally take any CFPOs.

Disposition of Dead or Injured Listed Animals

Upon finding a dead or injured threatened or endangered animal, initial notification must be made to the Service's Division of Law Enforcement, Federal Building, Room 8, 26 North McDonald, Mesa, Arizona (602/261-6443) within three working days of its finding. Written notification must be made within five calendar days and include the date, time, and location of the animal, a photograph, and any other pertinent information. Care must be taken in handling injured animals to ensure effective treatment and care, and in handling dead specimens to preserve biological material in the best possible condition. If feasible, the remains of intact specimens of listed animal species shall be submitted as soon as possible to the nearest Fish and Wildlife Service or AGFD office, educational, or research institutions (e.g., University of Arizona in Tucson) holding appropriate state and federal permits.

Arrangements regarding proper disposition of potential museum specimens shall be made with the institution before implementation of the action. A qualified biologist should transport injured animals to a qualified veterinarian. Should any treated listed animal survive, the Service should be contacted regarding the final disposition of the animal.

CONSERVATION RECOMMENDATIONS

Sections 2(c) and 7(a)(1) of the ESA direct federal agencies to utilize their authorities to further the purposes of the ESA by carrying out conservation programs for the benefit of listed species. Conservation recommendations are discretionary agency activities to minimize or avoid effects of a proposed action on listed species or critical habitat, to help implement recovery plans, or to

develop information on listed species. The recommendations provided here do not necessarily represent complete fulfillment of the agency's section 2(c) or 7(a)(1) responsibilities for the CFPO. In furtherance of the purposes of the ESA, we recommend implementing the following discretionary actions:

1. The EPA should conduct or fund studies using both monitoring and telemetry, to determine CFPO habitat use patterns and relationships between owls and the human interface in northwestern Tucson. Surveys involving simulated or recorded calls of CFPOs require an appropriate permit from the Service. AGFD should also be contacted in regard to state permitting requirements.
2. The EPA should continue to actively participate in regional planning efforts, such as Pima County's SDCP, and other conservation efforts for the CFPO.
3. The EPA should assist in the implementation of recovery tasks identified in the CFPO Recovery Plan when approved by the Service.

REINITIATION NOTICE

This concludes formal consultation for the Butterfly Mountain Development Project in Pima County, Arizona. As provided in 50 CFR §402.16, reinitiation of formal consultation is required where discretionary Federal agency involvement or control over the action has been maintained (or is authorized by law) and if: (1) any incidental take not authorized herein occurs, (2) new information reveals effects of the agency action that may adversely affect listed species or critical habitat in a manner or to an extent not considered in this draft opinion, (3) the agency action is subsequently modified in a way that causes an effect to a listed species or critical habitat that was not considered in this draft opinion; or (4) a new species is listed or critical habitat designated that may be affected by this action. In instances where any incidental take not authorized herein occurs, any operations causing such take must cease pending reinitiation.

Effects to the CFPO that are outside of the parameters specified in the Conclusion Section of this opinion will require a case-by-case analysis to determine if reinitiation of consultation is necessary. If reinitiation is necessary, the Service shall expeditiously consult with the EPA to resolve any concerns related to the CFPO and to determine what, if any, measures are needed to minimize potential adverse effects to the CFPO.

We appreciate the cooperation of the applicant and the EPA throughout this consultation process. We have assigned log number 2-21-01-F-277 to this consultation. Please refer to that number in future correspondence on this consultation. Any questions or comments should be directed to Kim Hartwig (520) 670-4637, or Sherry Barrett (520) 670-4617 of the Arizona Ecological Services Office.

Sincerely,

/s/ David L. Harlow
Field Supervisor

cc: Assistant Regional Director, Ecological Services, Albuquerque, NM
(Attn: Cindy Schulz)
George Costantini, Tucson, AZ

Westland Resources, Tucson, AZ (Attn: Jim Tress)
Director, Arizona Game and Fish Department, Phoenix, AZ
Regional Supervisor, Arizona Game and Fish Department, Tucson AZ
Arizona Game and Fish Department, Tucson AZ (Attn: Scott Richardson)
Town Manager, Town of Marana, Marana, AZ
Center for Biological Diversity, Tucson, AZ
Director, Arizona Cattlemen's Association, Phoenix, AZ

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Mr. Terry Oda

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APPENDIX A - CONCURRENCE

We concur with the applicant's determination that the proposed action may affect, but is not likely to adversely affect the lesser long-nosed bat (*Leptonycteris curasoae yerbabuena*). The rationale for this concurrence is detailed in the following discussion.

STATUS OF THE SPECIES

The lesser long-nosed bat is one of four members of the tropical bat family Phyllostomidae which are found in the United States. It was formally separated from the Mexican long-nosed bat (*L. nivalis*) as a distinct species (*L. sanborni*) by Hoffmeister (1957). The lesser long-nosed bat is a medium size, leaf-nosed bat. It has a long muzzle, a long tongue, and is capable of hover flight. These features are adaptations that allow the bat to feed on nectar from the flowers of columnar cacti such as the saguaro and organ pipe cactus, and from paniculate agaves such as Palmer's agave (*Agave palmeri*) and Parry's agave (*A. parryi*).

The lesser long-nosed bat is a medium-sized bat with a forearm measuring 51 to 56 mm (2.0-2.2 in) and weighing 20 to 25 grams (0.7-0.9 oz) as an adult. Adult fur is grayish to reddish-brown; juveniles have gray fur. Its elongated rostrum bears a small, triangular noseleaf, its ears are relatively small and simple in structure, and it has a minute tail. It is generally smaller in external and cranial measurements than *L. nivalis*. *L. curasoae* can be distinguished from the Mexican long-tongued bat (*Choeronycteris mexicana*), with which it co-occurs in Arizona, by the larger size, less elongated snout, and tiny tail.

The lesser long-nosed bat is migratory and found throughout its historic range, from southern Arizona and extreme southwestern New Mexico, through western Mexico, and south to El Salvador. In southern Arizona lesser long-nosed bat roosts have been found from the Picacho Mountains (Pinal County) southwest to the Agua Dulce Mountains (Pima County), southeast to the Chiricahua Mountains (Cochise County) and south to the international boundary. Individuals have also been observed from the vicinity of the Pinaleno Mountains (Graham County) and as far north as the McDowell Mountains (Maricopa County) (AGFD 1999). This bat is also known from far southwestern New Mexico in the Animas and Peloncillo Mountains (Hidalgo County). It is a seasonal resident in Arizona, usually arriving in early April and leaving in mid-September to early October. It resides in New Mexico only from mid-July to early September (Hoyt et al. 1994).

Roosts in Arizona are occupied from late April to October (Cockrum and Petryszyn 1991, Sidner 1997). In spring, adult females, most of which are pregnant, arrive in Arizona and gather into maternity colonies in southwestern Arizona. These roosts are typically at low elevations near concentrations of flowering columnar cacti. Litter size is one. After the young are weaned these colonies disband in July and August; some females and young move to higher elevations, ranging up to more than 1,818 m (6,000 ft), primarily in the southeastern parts of Arizona near

concentrations of blooming paniculate agaves. Actual dates of these seasonal movements by lesser long-nosed bats are rather variable from one year to the next (Cockrum and Petryszyn 1991, Fleming et al. 1993). Adult males typically occupy separate roosts forming bachelor colonies. Males are known mostly from the Chiricahua Mountains but also occur with adult females and young of the year at maternity sites (USFWS 1997b). Throughout the night between foraging bouts both sexes will rest in temporary night roosts.

The lesser long-nosed bat consumes nectar and pollen of paniculate agave flowers and the nectar, pollen, and fruit produced by a variety of columnar cacti. In Arizona, four species of agave and two cacti are the main food plants (Wilson 1985). The agaves include Palmer's agave, Parry's agave, desert agave (*A. deserti*), and amole (*A. schottii*). Amole is considered to be an incidental food source. The cacti include saguaro and organ pipe cactus. Nectar of these cacti and agaves are high energy foods. Concentrations of food resources appear to be patchily distributed on the landscape and the nectar of each plant species utilized is only seasonally available. Cacti flowers and fruit are available during the spring and early summer; blooming agaves are available through the summer, primarily from July through early October, though Parry's agave blooms earlier. Columnar cacti occur in lower elevation areas of the Sonoran Desert region, and paniculate agaves are found primarily in higher elevation desertscrub areas, desert grasslands and shrublands, and into the mountains. Parry's agave is usually found at higher elevations than Palmer's agave (Gentry 1982). The bats are generally considered to time their movement and feeding to the progression of flowering associated with these cacti and agaves. Many species of columnar cacti and agaves appear to provide a "nectar corridor" for lesser long-nosed bats as they migrate in spring from Central America and Mexico to as far north as southern Arizona, through fall when they return south (Gentry 1982, Flemming et al. 1993, Slauson et al. 1998).

Lesser long-nosed bats appear to be opportunistic foragers and efficient fliers, capable of flight speeds up to 23 km per hour (14 mph) (Sahley et al. 1993), and often foraging in flocks. Seasonally available food resources may account for the seasonal movement patterns of the bat. The lesser long-nosed bat is known to fly long distances from roost sites to foraging sites. Night flights from maternity colonies to flowering columnar cacti have been documented in Arizona at 24 km (15 mi), and in Mexico at 40 km (25 mi) and 61 km (38 mi) (one way) (Dalton et al. 1994, V. Dalton, pers. comm., Y. Petryszyn, University of Arizona, pers. comm.). A substantial portion of the lesser long-nosed bats at the Pinacate Cave in Sonora (a maternity colony) fly 40 to 50 km (25-31 mi) each night to foraging areas in OPCNM (USFWS 1997b). Horner et al. (1990) found that lesser long-nosed bats commuted 48 to 58 km (30-36 mi) round trip between an island maternity roost and the mainland in Sonora; the authors suggested these bats regularly flew at least 80 to 100 km (50-62.5 mi) each night. Lesser long-nosed bats have been observed feeding at hummingbird feeders many miles from the closest potential roost site (Petryszyn, pers. comm.).

Suitable day roosts and suitable concentrations of food plants are the two resources that are crucial for the lesser long-nosed bat (USFWS 1997b). Caves and mines are used as day roosts.

The factors that make roost sites useable have not yet been identified. Whatever the factors are that determine selection of roost locations, the species seems sensitive to human disturbance. Instances are known where a single brief visit to an occupied roost is sufficient to cause a high proportion of lesser long-nosed bats to temporarily abandon their day roost and move to another. Perhaps most disturbed bats return to their preferred roost in a few days. However, this sensitivity suggests that the presence of alternate roost sites may be critical when disturbance occurs. Interspecific interactions with other bat species may also influence lesser long-nosed bat roost requirements.

Food requirements of the lesser long-nosed bat are very specific. Adequate numbers of flowers or fruits are required within foraging range of day roosts and along migration routes to support large numbers of this bat. Locations of good feeding sites play an important role in determining availability of potential roosting sites, and roost/food requirements must be considered jointly when discussing the habitat requirements of this bat. A suitable day roost is probably the most important habitat requirement, but potentially suitable roosts must be within reasonable foraging distances of sufficient amounts of required foods before this bat will use them. It seems evident that the lesser long-nosed bat forages over wide areas and that large roosts require extensive stands of cacti or agaves for food. Therefore, destruction of food plants many kilometers from a roost could have a negative impact on this bat (USFWS 1997b).

The lesser long-nosed bat recovery plan (USFWS 1997b) identifies the need to protect foraging areas and food plants. Columnar cacti and agaves provide critical food resources for this bat. Populations of these plants need continued protection to sustain nectar-feeding bat populations. A critical need in this area is information about the size of the foraging areas around roosts so that adequate areas can be protected. This information will show the minimum area needed to support a roost of nectar- and fruit-eating bats, provided the roost locations are known.

Known major roost sites include 16 large roosts in Arizona and Mexico (USFWS 1997b). According to surveys conducted in 1992 and 1993, the number of bats estimated to occupy these sites was greater than 200,000. Twelve major maternity roost sites are known from Arizona and Mexico. According to the same surveys, the maternity roosts are occupied by a total of more than 150,000 lesser long-nosed bats. The numbers above indicate that, although many of these bats are known to exist, the relative number of known large roosts is small. Disturbance of these roosts and the food plants associated with them could lead to the loss of the roosts. Limited numbers of maternity roosts may be the critical factor in the survival of this species.

ENVIRONMENTAL BASELINE

Current and past environmental conditions in the project area are summarized in the environmental baselines for the CFPO. They are included here by reference.

Leptonycteris bats require suitable forage plants (paniculate agaves and columnar cacti) and suitable roost sites. Mines and caves occurring in southern and central Arizona provide suitable sites for post-maternity roosts of the lesser long-nosed bat. Potential foraging habitat (saguaros) for the lesser long-nosed bat occurs in the project site and vicinity. Agaves are found in varying densities and age classes within residential areas. They are found within the broad vegetation community classification of desertscrub, desert grassland, interior chaparral, oak woodland, pinyon-juniper woodland, pine-oak woodland, and mixed conifer in areas of the Coronado National Forest (Forest) and other areas in the region. The primary agave used by the bat is Palmer's agave, which, as estimated by the Forest, is widely scattered over 390,000 ha (1,000,000 ac) at densities less than 3 to over 40 individuals per ha (10-200 per ac), generally between the elevations of 909 and 1,818 m (3,000-6,000 ft). Parry's agave is found between 1,545 and 2,485 m (5,000-8,200 ft), and begins blooming in mid-spring.

Considerable evidence exists suggesting a dependence of *Leptonycteris* on certain agaves and cacti, although some Palmer's agave has been shown not to be dependent on *Leptonycteris* for pollination (Slauson 1996 and 1999, Slauson and Dalton 1998). Activities that adversely affect the density and productivity of columnar cacti and paniculate agaves may adversely affect populations of lesser long-nosed bats (Abouhalder 1992, USFWS 1997b). Excess harvest of agaves in Mexico, collection of cacti in the United States, and conversion of habitat due to urban expansion, agricultural uses, livestock grazing, and other development may contribute to the decline of long-nosed bat populations (USFWS 1988a).

Status of the Species in the Project Area

No documented lesser long-nosed bat maternity colonies are known from the project site; however, there is a roost in the Picacho Mountains, approximately 30 miles to the northwest and a suspected maternity colony on Saguaro National Park in the Rincon Mountains, approximately 61 km (38 mi) to the southeast (USFWS 1997b). Numbers of bats at this site have fluctuated widely from year to year, from several hundred to zero. Several post-maternity roosts which house from many thousands to only a few individual bats are also known from various locations in the region, the nearest being about 40 km (25 mi) to the northeast of the project site (AGFD 1999). These roosts are generally occupied from July through September, though the bats have been recorded in southeast Arizona in April (Petryszyn, pers. comm.) and they may remain into October (Sidner 1997). Based on distances lesser long-nosed bats have been known to travel from roost sites to foraging areas, potential foraging habitat may extend in a 64 km (40 mi) radius from roosts. From the known roosts in southeastern Arizona, the project site lies within potential foraging range of the lesser long-nosed bat.

EFFECTS OF THE ACTION

The severity of adverse effects to *Leptonycteris* bats resulting from the potential reduction in forage resources is dependent on the importance of forage plants in a specific area to reproduction, survival, and growth of the bat.

Indirect effects from residential developments in the action area on *Leptonycteris* bats may occur through adverse effects to forage plants, primarily paniculate agaves and saguaros. Both direct and indirect impacts, resulting from continued urban development, may occur to forage plants, particularly saguaros. Saguaros occurring on the project site will be preserved in place when possible. When preservation is not possible, saguaros will be salvaged in accordance with the Town of Marana's Native Plant Preservation Plan.

The primary food source for the lesser long-nosed bat in southeastern Arizona from mid-summer through fall is Palmer's agave, which does not occur on the parcel, therefore it will not be affected by this action. Documented bat use in the action area consists of few, mostly old records. However, there is a roost in the Picacho Mountains, to the northwest and a suspected maternity colony on the neighboring Saguaro National Park in the Rincon Mountains.

CONCLUSION

Leptonycteris bats are opportunistic foragers and are capable of long distance flights and potentially could forage in the project site. However, because of the distance from known forage, roost, and maternity sites, the limited amount of disturbance proposed on the parcel, and the low number of potential forage species on the project site, we concur with the effect determination that this action, as proposed, may affect, but is not likely to adversely affect the lesser long-nosed bat. Critical habitat has not been designated for the bat; therefore, none will be affected. We base this finding on the following:

1. Potential direct adverse effects to the species are expected to be discountable (i.e., extremely unlikely to occur).
2. Indirect adverse effects are considered insignificant (i.e., small size, extent of the impacts).
3. Saguaros that cannot be preserved in place will be salvaged according to the Town of Marana's Native Plant Preservation Plan which will maintain them on-site.