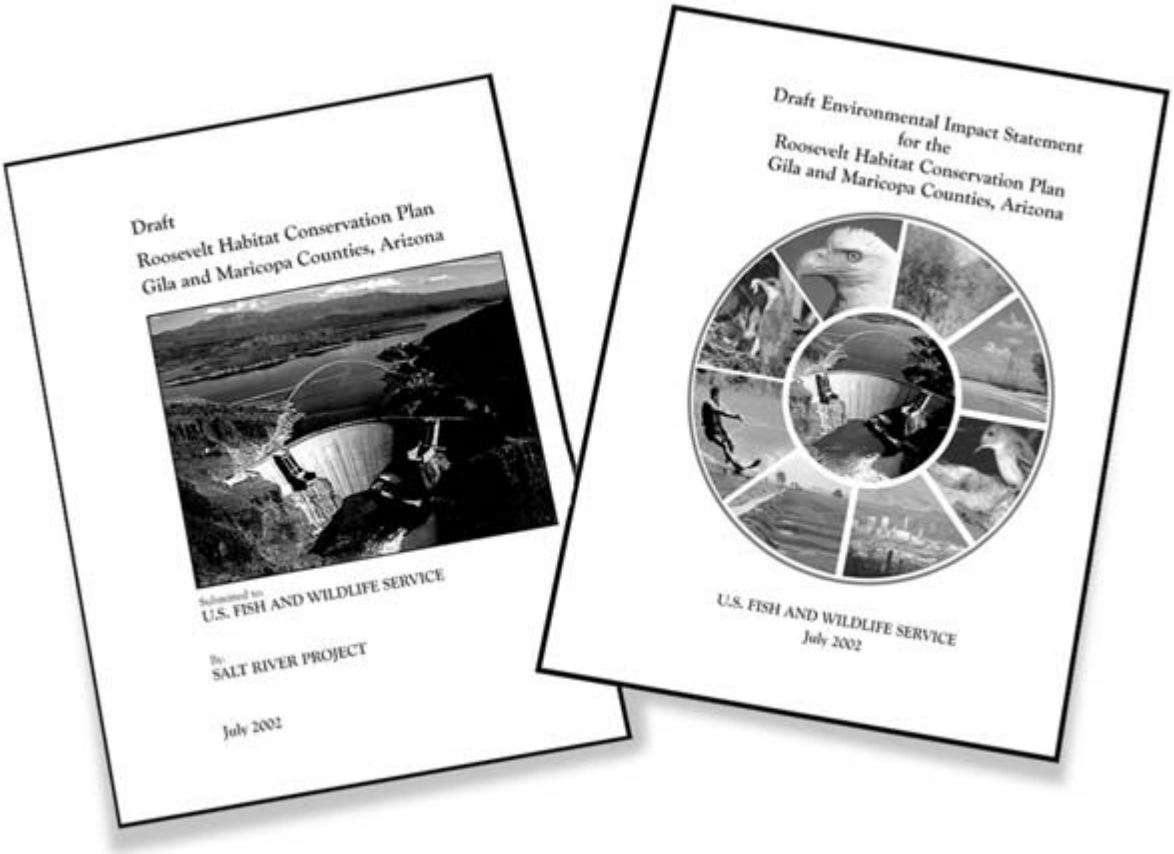
Comments and Responses
Draft Roosevelt Habitat Conservation Plan
and
Draft Environmental Impact Statement
Gila and Maricopa Counties, Arizona

Volume III of the FEIS



U.S. FISH AND WILDLIFE SERVICE

December 2002

CONTENTS

Alphabetical Index of All Comments Received iii

Responses to Detailed Written Comments 3

Response to General Written Comments 135

Responses to Comments Provided at the Public Hearing 155

ALPHABETICAL INDEX OF ALL COMMENTS RECEIVED

Comment Received From	Letter Number	Page Number
Arizona Chamber of Commerce	26	136
Arizona Municipal Water Users Association	8	100
Arizona Municipal Water Users Association (Mills)	9	102
Arizona Power Authority	22	128
Arizona Utility Investors Association	27	138
Bergman, Rebecca	21	127
Center for Biological Diversity	3	12
Central Arizona Labor Council	28	139
Central Arizona Project	29	140
Central Arizona Project Association	18	122
Citizen's Transportation Oversight Committee	30	141
Corps of Engineers, Dept. of Army Los Angeles District	2	10
David Evans & Assoc.	32	143
East Valley Partnership	34	144
Environmental Protection Agency	1	4
Fort McDowell Tribal Gaming Office	36	146
Fort McDowell Yavapai Nation	35	145
Friends of Arizona Rivers	11	105
Friends of Pinto Creek	4	30
International Brotherhood of Electrical Workers Local 266	38	147
Jansen, David M.	23	130
Liberty Wildlife	40	148
Maricopa Audubon Society	14	111
Mesa, City of	31	142
Nature Conservancy	15	114
Phoenix Chamber of Commerce, Greater	16	115
Phoenix, City of	17	117
Phoenix Urban League, Greater	37	146
Pulich, Michelle	12	107
Reclamation (Messing)	6	92
Reclamation (Sferra)	5	84
Reevis Mountain School & Sanctuary	10	104
Reevis Mountain School & Sanctuary	41	149

Comment Received From	Letter Number	Page Number
Rohovit, Janeen	39	148
Roosevelt Water Conservation District	42	150
Roumas, John J.	19	124
Salt River Pima-Maricopa Indian Community	7	96
Sierra Club	13	108
Slagle, Heidi	25	132
Southwest Gas Corp.	43	151
Sprinkle, Keith	20	126
Tempe Chamber of Commerce	44	152
Welsh, Frank	24	131
Westmarc	45	153
Zarbin, Earl and Dorothy	33	143

Introduction

The U.S. Fish and Wildlife Service (Service) received a number of comments from the public, Federal agencies, local governments, organizations, and special interest groups on the draft Roosevelt Habitat Conservation Plan (RHCP) and draft Environmental Impact Statement (EIS). These comments have been divided into three groups for ease of response:

- The first group contains detailed written comments on one or both of the documents requiring a response.
- The second group contains general written comments on the drafts not requiring an individual response.
- The third section summarizes the comments received at the public hearing on August 27, 2002 and provides responses to those comments.

A list of the comments and responses in the order in which they appear is at the beginning of each section.

RESPONSES TO DETAILED WRITTEN COMMENTS

Introduction

Comments were received on both the draft RHCP and the draft EIS. In this section, the Service provides responses to detailed written comments on both of these documents. Because the RHCP and EIS contain similar material, response to some comments required changes to both documents. The Service, in cooperation with the Salt River Project (SRP), incorporated changes to both the final RHCP and the final EIS (FEIS) as appropriate. Comments are addressed in the order listed below:

Letter Number	Comment Received From
1	EPA Region IX
2	Corps of Engineers, Dept. of Army, Los Angeles District
3	Center for Biological Diversity
4	Friends of Pinto Creek
5	Bureau of Reclamation (Sferra)
6	Bureau of Reclamation (Messing)
7	Salt River Pima-Maricopa Indian Community
8	Arizona Municipal Water Users Association
9	Arizona Municipal Water Users Association (Mills)
10	Reevis Mountain School & Sanctuary
11	Friends of Arizona Rivers
12	Michelle Pulich
13	Sierra Club
14	Maricopa Audubon Society
15	The Nature Conservancy
16	Greater Phoenix Chamber of Commerce
17	City of Phoenix
18	Central Arizona Project Association
19	John J. Roumas
20	Keith Sprinkle
21	Rebecca Bergman
22	Arizona Power Authority
23	David M. Jansen
24	Frank Welsh
25	Heidi K. Slagle

Comment #	Letter 1	Response
	UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION IX 75 Hawthorne Street San Francisco, CA 94105 Steven L. Spangle Acting Field Supervisor Arizona Ecological Services Field Office US Fish and Wildlife Service 2321 West Royal Palm Road, Suite 103 Phoenix, AZ 85021-4951 September 17, 2002 Dear Mr. Spangle: The Environmental Protection Agency (EPA) has reviewed the Draft Environmental Impact Statement (DEIS) for the **Roosevelt Habitat Conservation Plan, Gila and Maricopa Counties, AZ** (CEQ Number: 020308, ERP Number: SFW-K70008-AZ). Our review is pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and Section 309 of the Clean Air Act. The Salt River Project (SRP) has submitted an application for an incidental take permit under the Endangered Species Act for incidental take of the southwestern willow flycatcher, Yuma clapper rail, bald eagle, and yellow-billed cuckoo which could result from management actions allowing Roosevelt Lake to fill, causing inundation of occupied habitat. Arizona has been in a prolonged drought. Due to low runoff, Roosevelt Lake, which provides 71 percent of the SRP water supply storage capacity, is currently drawn down to less than 20 percent of capacity. The SRP provides water and power generation for the Phoenix metropolitan region, Salt River Pima-Maricopa Indian Community, Fort McDowell Indian Community, Gila River Indian Community and regional irrigation districts. After many years of drought, habitat supporting listed and candidate species has developed along the Tonto Creek and Salt River deltas of these now dewatered arms within the flood pool of the reservoir. The SRP needs to determine whether it can fill the reservoir this coming winter without risk that an unpermitted incidental take might occur. The SRP has completed the draft Roosevelt Habitat Conservation Plan (Roosevelt HCP) that provides measures to minimize and mitigate the effects of the proposed incidental taking of listed and candidate species and the habitats upon which they depend. These measures include off-site habitat acquisition and management in Roosevelt Reservoir, Salt River, Verde Valley, San Pedro and Safford Valleys and elsewhere in Arizona, if necessary; and additional conservation measures including acquisition of water rights for maintenance of riparian habitat and protection of upland buffers. RECEIVED SEP 23 2002 U.S. FISH & WILDLIFE SERVICE ES FIELD OFFICE PHOENIX, AZ	The Service appreciates the comments provided by the Environmental Protection Agency. The comments in the cover letter urging SRP to pursue a wide variety of tools and water sources to provide "management flexibility, reliability, and a long-term sustainable balance between water supply and demand" have been discussed with SRP. SRP has assured the Service that it has long held those same goals, has implemented many of the measures suggested by the EPA to meet those goals, and will continue to pursue those measures and new tools. The measures already implemented and continuing to be pursued by SRP include: • Water transfers and exchanges (RHCP, Subchapter I.F and Appendix 1; FEIS, Section 2.1); • Conservation measures such as canal lining (over 90 percent are now lined), automated real-time delivery systems, more accurate water measurements, irrigation scheduling and efficiency improvements, installation of variable frequency ground water pumps, xeriscaping, and numerous public education programs (RHCP, Subchapter V.N.6 and Appendix 9; FEIS, Section 3.6.6.2); • Increased operational flexibility through conjunctive use of alternative supplies (RHCP, Subchapter I.G); • Water rights enforcement (RHCP, Appendix 6); • Recharge and reuse (RHCP, Subchapter V.N.6.c; FEIS, Section 3.6.6); and • Water acquisition (RHCP, Subchapters I.G and V.N.6; FEIS, Section 2.2.4). Responses to EPA's detailed comments are provided below.

Comment #	Letter 1 continued	Response
	The preferred alternative is Full Operation of Roosevelt Reservoir as currently approved by the US Corps of Engineers, Bureau of Reclamation, and SRP. Other alternatives considered were: No Permit and Re-operation of Roosevelt Reservoir. Under the No Permit alternative, incidental take would not be allowed and SRP would be required to avoid take of federally listed species associated with its continued operation of Roosevelt Reservoir. Re-operation of Roosevelt Reservoir would modify operations to reduce the short-term impact of reservoir operations on listed and candidate species and would include issuance of an incidental take permit and implementation of a modified Roosevelt HCP. Although the No Permit and Re-operation alternatives would provide short-term benefits to listed and candidate species, the environmental analysis indicates that, over the long-term, there would be a decline in habitat values and no net gain in species populations or viability. In addition, the No Permit and Re-operation alternatives would have significant adverse effects on water supply, hydropower generation, and recreation. EPA recognizes the need to ensure a reliable and flexible water and energy supply for central Arizona by providing for full operation of Roosevelt Reservoir. We note the detailed evaluation of other alternatives which were eliminated from further consideration (Table 8 alternatives eliminated from further consideration, pg. 70-71; pgs 71-92). These eliminated alternatives include other options for water and power supplies, reoperation of other parts of the SRP system, and protection of riparian habitat on private and public land. While we concur that these eliminated alternatives may not meet this specific project's purposes, we urge SRP to continue to pursue the water and power supply alternatives in order to increase and ensure the reliability and flexibility of their water and power supply management plans and delivery systems. Given the increasing scarcity of water in the west, it is critical that comprehensive multi-faceted water supply management plans and delivery systems provide management flexibility, reliability, and a long-term sustainable balance between water supply and demand. EPA advocates use of all available tools to assure a long-term, sustainable balance between available water supplies, ecosystem health and water supply commitments. These tools include water transfers and exchanges, conservation, tiered pricing, irrigation efficiencies, operational flexibilities, market-based incentives, water acquisition, conjunctive use, voluntary temporary or permanent land fallowing, and wastewater reclamation and recycling. We urge aggressive implementation of water use efficiencies by the SRP to maximize beneficial use of project water. Based upon our review of the DEIS and Roosevelt HCP, we have concerns regarding the feasibility of acquiring sufficient off-site mitigation habitat and critical water rights to support this habitat. We are also concerned with the evaluation of cumulative impacts. Detailed comments are enclosed. Because of these concerns, we have rated this DEIS as category EC-2, Environmental Concerns - Insufficient Information (see attached "Summary of the EPA Rating System"). 2	

Comment #	Letter 1 continued	Response
	We appreciate the opportunity to comment on this DEIS. Please send two copies of the Final EIS to the address above (Mail Code: CMD-2) when it is filed with EPA's Washington, D.C. office. If you have any questions, please feel free to contact me or Laura Fujii, the primary point of contact for this project. Laura Fujii can be reached at 415-972-3852 or fujii.laura@epa.gov. Sincerely, Lisa B. Hanf, Manager Federal Activities Office Attachments: Summary of EPA Rating Definitions Detailed comments Filename: rooseveltdamdeis.wpd MI004012 cc: Sherry Barrett, FWS, Tucson Suboffice Jim Rorabaugh, FWS, Supervisory Biologist John Keane, Salt River Project Craig Sommers, ERO Resources Corporation Fort McDowell Yavapai Nation Salt River Indian Community Gila River Indian Community 3	

Comment #	Letter 1 continued	Response
	SUMMARY OF EPA RATING DEFINITIONS This rating system was developed as a means to summarize EPA's level of concern with a proposed action. The ratings are a combination of alphabetical categories for evaluation of the environmental impacts of the proposal and numerical categories for evaluation of the adequacy of the EIS. **ENVIRONMENTAL IMPACT OF THE ACTION** *"LO" (Lack of Objections)* The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal. *"EC" (Environmental Concerns)* The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts. *"EO" (Environmental Objections)* The EPA review has identified significant environmental impacts that must be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts. *"EU" (Environmentally Unsatisfactory)* The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the CEQ. **ADEQUACY OF THE IMPACT STATEMENT** *Category 1" (Adequate)* EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information. *"Category 2" (Insufficient Information)* The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analysed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS. *"Category 3" (Inadequate)* EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analysed in the draft EIS, which should be analysed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ. *From EPA Manual 1640, "Policy and Procedures for the Review of Federal Actions Impacting the Environment."	

Comment #	Letter 1 continued	Response
1-1 1-2	EPA DEIS COMMENTS, FWS, ROOSEVELT RESERVOIR HCP, SEPT 2002 **DETAILED COMMENTS** 1. The Draft Environmental Impact Statement states that intensive searches for suitable riparian habitat for compensatory mitigation on private and public land were conducted. These searches found only a few small areas of good quality riparian vegetation. Other challenges include lack of willing sellers, lack of reliable water supplies, high land costs, pressure from urbanization, and the narrow width of the floodplains (pgs. 78-79). Given the scarcity of quality riparian habitat, water supplies to support them, and the increasing competition to provide off-site mitigation habitat for listed and candidate species, we are concerned that sufficient mitigation habitat and water supplies for these parcels will not be available to fully implement the Roosevelt Habitat Conservation Plan (Roosevelt HCP). *Recommendation:* If possible, we recommend the Final Environmental Impact Statement (Final EIS) provide a list of probable mitigation lands and the likelihood that these lands will be successfully acquired for the Roosevelt HCP. The Salt River Project (SRP) and the US Fish and Wildlife Service should also provide a detailed contingency plan in the Final EIS describing the actions and mitigation measures which will be taken if sufficient mitigation habitat and water supplies are not available to fulfill the commitments made in the Roosevelt HCP. 2. Although current conditions are equivalent to the No Permit alternative scenario, the evaluation of cumulative effects (Section 4.13 Cumulative Effects, pgs. 190-195) appears to utilize full operation of Roosevelt Reservoir as the environmental baseline. There appears to be an assumption that continuation of management (i.e., Full Operation alternative) would have no net effect. Thus, the cumulative effects of the Full Operation alternative are "no effect", while the No Permit and Re-operation alternatives have cumulative impacts. *Recommendation:* It is EPA's position that "no action" or "a continuing action" does not necessarily equate with "no impact." The evaluation of a continuing action, status quo, or no action should be in the context of historical biological resource trends or actual on-the-ground environmental conditions. It is possible for a continuing action to result in the continuation of an adverse ecological trend. We recommend the Final EIS evaluate the cumulative environmental consequences of the continuing action alternative (i.e., Full Operation alternative) and other alternatives within the context of pre-drought conditions, the current drought conditions, and future potential conditions. 1	1-1. The Service is confident that SRP will be able to obtain sufficient high-quality mitigation properties to satisfy the commitments in the RHCP. The difficulties cited in this section of the EIS refer only to the Salt and Verde watersheds. Because of these difficulties, SRP's goals to obtain mitigation land in those two watersheds are relatively modest. As outlined in the RHCP and EIS, the largest amount of mitigation acreage will be obtained in the San Pedro or Safford valleys or elsewhere (EIS, Section 3.4.2.3). As recommended by the EPA, Table 3 in the FEIS and Table IV-3 in the RHCP have been revised to list the probability of acquiring those mitigation lands. In addition, a map of the lower San Pedro mitigation area has been added in response to Comment 4-8. Based on the investigation of available lands documented in the RHCP, the Service believes it is highly unlikely that sufficient mitigation land will not be obtained by SRP in central Arizona. For this reason, and because in that event the Service would have to reassess the issuance of an incidental take permit (ITP), a detailed contingency plan has not been developed. If SRP were unsuccessful in implementing its plan, including adaptive management measures, the ITP would be revoked, and SRP would have to submit a new application for a permit accompanied by a new HCP. 1-2. Long-term conditions are the basis for evaluation of impacts between alternatives in the EIS. Current conditions at Roosevelt share some similarities with the No Permit Alternative in terms of the current low water level, but are not equivalent in terms of reservoir operation and the likely long-term environmental conditions at Roosevelt should the No Permit alternative be implemented. Under the No Permit Alternative, the development of large areas of riparian habitat are unlikely because the maximum reservoir level would be maintained at a low level with less fluctuation to avoid take caused by inundation. Thus, the current riparian vegetation created by a receding reservoir would not become established under the No Permit Alternative. In addition, under the No Permit Alternative, other considerations such as reservoir operations, water releases, and hydropower generation would differ between current reservoir operations under drought conditions and reservoir operation with a maximum elevation of 2,095 feet.

Comment #	Letter 1 continued	Response
		Cumulative environmental effects would occur under the Full Operation Alternative even though this alternative represents a continuation of current reservoir operation. The environmental analysis for all alternatives was based on the long-term hydrology of the basin, which includes the full range of conditions from droughts to floods. Historical hydrologic conditions are likely to be representative of future conditions. As recommended by the EPA, additional discussion was added to Section 4.13 of the FEIS to more fully describe the cumulative environmental effects associated with the Full Operation Alternative.

Comment #	Letter 2	Response
2-1 2-2	**DEPARTMENT OF THE ARMY** LOS ANGELES DISTRICT, CORPS OF ENGINEERS P.O. BOX 532711 LOS ANGELES, CALIFORNIA 90053-2325 September 18, 2002 Office of the Chief Hydrology and Hydraulics Branch Mr. Steven L. Spangle Acting Field Supervisor U.S. Fish and Wildlife Service 2321 West Royal Palm Road, Suite 103 Phoenix, Arizona 85021 Dear Mr. Spangle: Thank you for giving us the opportunity to review and comment on the draft Roosevelt Habitat Conservation Plan, dated July 2002, and the accompanying draft Environmental Impact Statement (EIS), also dated July 2002. Although the Roosevelt Habitat Conservation Plan (RHCP) does not extend to the flood control storage space of Modified Roosevelt Dam, the Corps of Engineers would like to have the following items clarified in the report: a. Mitigation Areas: It is implied that some of the areas considered for mitigation are at Roosevelt. Both reports should state explicitly whether or not there are mitigation sites within Modified Roosevelt Dam's flood control pool. If there are, both reports should also state and discuss impacts to the flood control criteria of the dam as contained in the current approved water control manual. b. Possible Future Section 7 Consultation in the Flood Control Operation: The last sentence of the second paragraph under Section 3.4.1 titled "Roosevelt Operation", page 39 of the draft EIS states: "Any future changes in flood control operation that would affect listed species would be the subject of consultation under Section 7 of the ESA by the Army Corps of Engineers because SRP does not have discretion over the operation of that space". This statement is not entirely accurate. Although the Corps of Engineers (COE) is ultimately responsible for prescribing the flood control operation of the dam, it is not the Corps' sole responsibility to consult with the USFWS if it becomes necessary. The project owner - US Bureau of Reclamation (USBR), the project operator - Salt River Project (SRP), and the COE have joint responsibilities for such action and the consultation will be coordinated between these agencies. We suggest that this sentence be revised as such in the said section of the EIS, and other sections of both reports as necessary. RECEIVED SEP 23 2002 2002 820 U.S. FISH & WILDLIFE SERVICE ES FIELD OFFICE PHOENIX, AZ	2-1. One of the mitigation areas to be developed by SRP is located within the flood control pool at Roosevelt. The details of this proposed mitigation area were set forth in SRP's letter to the Corps dated November 29, 2001. As noted in that letter, the establishment of riparian vegetation at one or more of the three locations in the flood control pool at Roosevelt would have no effect on flood control operating criteria. In fact, in the event that the flood control pool is inundated for up to 20 days as a result of a flood (as provided in the current flood control operating criteria), the riparian vegetation on the mitigation site(s) would benefit from the additional water and any silt that might be deposited. The location of this mitigation within the Roosevelt flood control pool, the lack of an impact on flood control operations, and the potential benefit of temporary inundation from flood control operations has been clarified in the FEIS. 2-2. The sentence quoted in the comment has been modified, and other sections of the FEIS and RHCP have been changed to be consistent with the new statement. The paragraph now reads: "SRP operates the flood control space above 2,151 feet in accordance with the criteria established in the Modified Roosevelt Water Control Manual (Corps 1997, p. vii). Any action above elevation 2,151 feet that may affect listed species is a Federal action subject to consultation under Section 7 of the ESA. Flood control operation is therefore not covered by the RHCP." Additional information on the Modified Roosevelt Water Control Manual and prior NEPA compliance is available in the August 1996 EA prepared by Reclamation for the Corps.

Comment #	Letter 2 continued	Response
2-3	2 c. Reason Why the Flood Control Pool is not covered by the RHCP: Last sentence of the 8th paragraph of the Executive Summary on page ES-3 of the Roosevelt Habitat Conservation Plan states: "The operation of Roosevelt flood control space above elevation 2,151 feet is not covered by the RHCP because it is subject to regulations issued by the U.S. Army Corps of Engineers". Is this accurate? Please revise if necessary. Should you have any question, please call Mr. Melvin Meneses of our Reservoir Regulation Section at (213) 452-3530. Sincerely, Robert E. Koplin, P.E. Chief, Engineering Division	2-3. Yes, as discussed in response to Comment 2-2, the RHCP does not cover the flood control space in Roosevelt above elevation 2,151 feet because operation of that space is subject to Section 7 of the ESA. The sentence quoted in the comment has been changed accordingly.

Comment #	Letter 3	Response
3-1	Sep 23 02 10:55a USFWS-Tucson (520) 670-4638 p.3 CENTER FOR BIOLOGICAL DIVERSITY *Protecting endangered species and wild places through science, policy, education, and environmental law.* RECEIVED U.S. FISH & WILDLIFE SERVICES ES FIELD OFFICE-TUCSON, AZ September 17, 2002 Field Supervisor U.S. Fish and Wildlife Service 2321 West Royal Palm Road, Suite 103 Phoenix, AZ 85021 Re: Comments on the Draft Environmental Impact Statement (DEIS) for the Roosevelt Habitat Conservation Plan (HCP), Gila and Maricopa Counties, Arizona Dear Field Supervisor: The Center for Biological Diversity (CBD) is a non-profit, public interest conservation organization whose mission is to conserve imperiled native species and their threatened habitat. On behalf of our 7,500 members, we submit these comments for the record. We appreciate the opportunity to comment on the DEIS for the Roosevelt HCP. Only alternative #1, the no action/no permit alternative will prevent extinction of the Southwestern Willow Flycatcher. Only alternative #1 is based on the best scientific information available. As stated during the public hearing on August 27, 2002, the Center for Biological Diversity will not support any but the no action/no permit alternative #1 at this time. The other two alternatives fail to protect the Southwestern Willow Flycatcher from extinction. Issuing an Incidental Take Permit based on either of the other two alternatives provided would be arbitrary, as sufficient mitigation cannot be achieved to reach a no jeopardy opinion. The Southwestern Willow Flycatcher Recovery Plan (Recovery Plan) is the best scientific information currently available for the species. Failure to follow the recommendations of the Recovery Plan jeopardizes the recovery and survival of the species in the wild. The courts have recently examined the lack of an objective, verifiable, and measureable mitigation plan with respect to the protection of endangered species. In an Order, dated April 11, 2002, Judge Alfredo Marquez states, "The MOA includes a laundry list of possible mitigation measures related to water conservation and recharge that the Army may implement, …but it does not establish which projects have to be undertaken, when, Tucson • Phoenix • Idyllwild • San Diego • Berkeley • Sitka • Bozeman • Silver City PO Box 39629 • Phoenix, AZ • 85069-9629 PHONE: (602) 246-6498 • FAX: (602) 249-2576 www.biologicaldiversity.org RECEIVED SEP 17 2002 U.S. FISH & WILDLIFE SERVICE ES STATE OFFICE-PHOENIX, AZ	3-1. The Service will carefully evaluate the Roosevelt Habitat Conservation Plan (RHCP or Plan) to determine if sufficient mitigation will be implemented under the Plan to reach a no jeopardy biological opinion (BO). This evaluation will be conducted as part of the biological opinion to be prepared by the Service during consideration of SRP's application for an incidental take permit (ITP). Whatever opinion is reached will not be arbitrary but will be based on the best available science, including the recently approved flycatcher recovery plan (FRP or Recovery Plan). If the BO finds jeopardy, an ITP will not be issued. As discussed in the RHCP and EIS, "the No Permit alternative likely would have an adverse impact on flycatchers by reducing the long term amount of habitat available" at Roosevelt Lake (see RHCP, Subchapter V.C.1; and EIS Section 4.6.2.1).

Comment #	Letter 3	Response
3-2	Sep 23 02 10:55a USFWS-Tucson (520) 670-4638 p.4 nor what the conservation objectives are for the respective projects. Without such specificity, the mitigation measures in the Final BO are merely suggestions." (CBD v. Rumsfeld 2002, p. 16) The HCP and resulting Incidental Take Permit fail to meet these legal standards. **Mitigation Has Not Proven Efficacious to Date** Even with all of the mitigation strategies proposed by SRP, there is no reasonable proof or assurance that the Southwestern Willow Flycatcher will utilize habitat acquired for mitigation. Mitigation for Modified Roosevelt has not proven to be a successful alternative. The 2002 Roosevelt population of 277 (283 including fledglings) will die if forced to return to an inundated habitat. As part of the requirements set forth in the BO for Modified Roosevelt, the Flycatcher was to be monitored for population and nesting productivity, demographics, dispersal, emigration, and genetics. (USFWS 1996, p. 38-40) The results of this monitoring document only one flycatcher moving from Roosevelt to the San Pedro, and two flycatchers moving from the San Pedro to Roosevelt in a given season. Range wide, only approximately 29% of individuals move to new sites in a given year. (SRP 2002, p. 53) Given the degree to which this bird has been studied, these few cases of movement cannot be considered conclusive regarding the ability of this species to re-establish itself if or when its habitat is lost. Instead, the preponderance of scientific thought assumes the birds will not survive, and the few that do will overwhelmingly not have a successful breeding year. The HCP states: "...Short-lived species such as the flycatcher are vulnerable to short-term adverse effects, such as the reduction or loss of reproduction during one or more years... "...Following a loss of habitat from inundation at Roosevelt, some flycatchers may successfully relocate to other areas of suitable habitat, but the periodic loss of habitat and limited amount of habitat currently available nearby may reduce the size of a viable population of flycatchers at Roosevelt because searching for alternative nesting sites leaves individuals vulnerable to mortality from competition, starvation, or predation and can lead to a loss of breeding opportunities. The degree to which the Roosevelt population would disperse to the San Pedro, Verde, or other rivers is difficult to predict although banding studies have indicated some movement between these population centers... "Periodic modification or elimination of Roosevelt habitat would likely result in delayed or lost breeding attempts, decreased productivity and survivorship of adults that disperse in search of suitable breeding habitat, and decreased productivity of adults that attempt to breed at Roosevelt. At current levels of flycatcher density at Roosevelt, about 400 birds would occupy the 750 acres of Center for Biological Diversity Comments on the Draft Environmental Impact Statement for the Roosevelt Habitat Conservation Plan 2	3-2. The Service will evaluate the RHCP under the Section 10 legal standard of whether the proposed plan mitigates and minimizes the incidental take of flycatchers to the maximum extent practicable, not on whether there is "proof" that flycatchers will utilize the mitigation habitat. However, as discussed below, the RHCP utilizes the Recovery Plan priorities for mitigation habitat to assure that the habitat most likely to be used by flycatchers is acquired and managed, thereby providing assurance that mitigation will be successful to the maximum extent practicable. As described in the Recovery Plan, mitigation and minimization in the form of RHCP Habitat Acquisition and Management and Additional Habitat Conservation measures are a standard means by which to offset potential harm to flycatcher habitat (FRP, pp. 49-52, 82). Reclamation's implementation of measures in the BO to avoid jeopardy for construction of Modified Roosevelt Dam is proving to be successful as evidenced by the presence of 23 flycatcher territories on the San Pedro River Preserve in 2002 (RHCP, Subchapter IV.C.6). The land for the Preserve was acquired in 1996 as part of the reasonable and prudent alternative required by the BO on Reclamation's modifications to Roosevelt. In implementing minimization and mitigation measures provided in the RHCP, SRP would conserve about three times more habitat than the amount that would be potentially harmed at Roosevelt, in part because it is uncertain whether any particular mitigation acre will be successful. The 3:1 multiple of mitigation acres to acres that would be potentially harmed is intended to ensure that any impact at Roosevelt is fully mitigated. In addition, SRP provides criteria for habitat to be acquired and managed as part of the RHCP to assure that the mitigation will be successful. These criteria include adoption of Recovery Plan priorities for mitigation, such as protection of currently occupied habitat or currently unoccupied but suitable or potential habitat adjacent to flycatcher nesting areas, and habitat protection as close in proximity to Roosevelt as practicable (FRP, pp. 75, 83; RHCP Subchapter IV.C.1.a). SRP's management of mitigation properties in perpetuity will help to protect these areas from many of the factors that have lead to the historical decline in flycatcher populations such as stream channel alteration, phreatophyte control, recreation, fire, land development, stream dewatering and livestock grazing (FRP, pp. 33-38).

Comment #	Letter 3 continued	Response
	Sep 23 02 10:56a USFWS-Tucson (520) 670-4630 p.5 maximum predicted habitat and would be affected by a complete refill of the reservoir in that situation. If circumstances change and occupied habitat increased to 1,250 acres, about 640 birds would be present at current densities and would be affected by filling the lake to elevation 2,151…" (SRP 2002, p. 92) The April 11, 2002, District Court Order in CBD v. Rumsfeld supports that mitigation is not defensible when it is not proven sufficient to make up for the loss of habitat: "This recharge project is not intended to compensate for or mitigate the effects of groundwater pumping. The project is designed to create a 'mound' of groundwater between the cone of depression and the river that will, in theory, prevent baseflow from the San Pedro from flowing back into the groundwater during the next twenty years. (Admin. Rec. Ex. 5: Planning Aid Memorandum at 10.) This will delay and mask the effects of the deficit groundwater pumping (Admin. Rec. Ex. 2: Final BO at 121), but this is not a mitigating factor in relation to the Army's ten-year plan. While the FWS has argued that the recharge project will delay impacts for at least three years, it has not presented any evidence regarding the projects ability to mitigate the effects of a lesser agency action, such as the Army's operations and actions over the next three years. See also, National Wildlife Federation v. Coleman, 529 F.2d. 359,374 (5th Cir. 1976)(proposed action of agencies may not be relied on to mitigate impact, especially if other agency's actions is not sufficient to make up for loss of habitat caused by the federal agency)." (CBD v. Rumsfeld 2002, p. 18-19) Requiring habitat procurement for the sake of upholding the mitigation requirements, without any real proof that such mitigation will be effective or indeed support flycatchers in the future is an arbitrary and capricious act. **Loss of Roosevelt Population Cannot Be Mitigated**	Although the current population of flycatchers at Roosevelt would be impacted if the existing habitat were inundated by continued operation of the reservoir, all of the returning flycatchers are unlikely to die as a result of filling the lake. Even under a complete fill of the conservation storage space at Roosevelt, about 100 to 200 acres of nesting habitat that can be used by flycatchers is likely to remain at Roosevelt, and substantially more is likely to be available in years of only partial fill (RHCP, Subchapter III.A.3). In addition, many of the flycatchers returning from the wintering grounds are likely to disperse to other habitat in central Arizona (FRP, p. 25; RHCP, Subchapter III.C.2; EIS Section 4.6.2.1). As the Center's comments acknowledge, about 30 percent of flycatchers move to new sites in subsequent years, a few over long distances, and more are expected to relocate if conditions such as habitat inundation occur. Moreover, flycatchers currently residing in the areas in which SRP will acquire and manage mitigation habitat will have additional opportunities to expand their populations within the occupied habitat that would be acquired and managed under the RHCP or by colonizing nearby unoccupied mitigation sites.
3-3	The rate of successful nests for Roosevelt in 2002 was exceptionally low. Only 6 flycatchers fledged from 4 nests. (Hearing 2002, McCarthey 2002) With a 57% return rate, only about 160 birds can be expected to return to Roosevelt in 2003. (SRP 2002, p. 53) This smaller population, particularly facing inundated habitat, will undoubtedly experience reduced survivorship and successful breeding attempts. There is no assurance that these remaining birds will relocate to any of the acquired mitigation habitat. In one fell swoop, this inundation will wipe out the largest single population of Southwestern Willow Flycatcher—40% of Arizona's total population. According to USFWS' own BO in 1996 on Modified Roosevelt: "However, based on the size, central location of the Roosevelt Lake flycatcher population rangewide, and the proximity of this population to others in Arizona, the Service believes that it is likely the Roosevelt Lake population plays a significant role in regional population dynamics and maintenance of genetic diversity. Therefore, the loss or diminishment of the size or viability of the Center for Biological Diversity Comments on the Draft Environmental Impact Statement for the Roosevelt Habitat Conservation Plan 3	3-3. As discussed in response to the Center's Comment 3-1 above, mitigation is a legal and biologically reasonable method to offset the periodic loss of habitat at Roosevelt. It is not known whether Roosevelt might be a population sink. As noted in the comment, flycatcher productivity in 2002 was poor. However, overall productivity of the Roosevelt population has been high for the past 9 years since the initiation of data collection in 1993. In the future, if the Service issues an ITP to SRP for the full operation of Roosevelt, periods of reduced productivity due to inundation of habitat or extended droughts would likely be interspersed with periods of high productivity when the reservoir is drawn down. Thus, the best available science suggests that continued operation of Roosevelt is unlikely to result in a long-term sink for flycatchers.

Comment #	Letter 3 continued	Response
	Sep 23 02 10:57a USFWS-Tucson (520) 670-4638 p.6 Roosevelt Lake population may result in loss of populations throughout the region." (USFWS 1996, p. 24) Further, the USFWS determined in the 1996 BO: "…given the flycatcher's status, modifying the habitat of an established population to the extent described above, either temporarily during the breeding season or permanently, would result in delayed or lost breeding attempts, decreased productivity and survivorship of adults that disperse in search of suitable breeding habitat, and decreased productivity of adults that attempt to breed at Roosevelt lake… Ultimately, partial or complete loss of the Roosevelt Lake breeding population may affect flycatcher populations regionwide by increasing isolation/fragmentation of habitats and populations, reducing immigration/emigration rates and potentially changing patterns of source and sink populations, and severing genetic exchange." (USFWS 1996, p. 24-25) The BO for Modified Roosevelt concluded that the USFWS "believes that further losses of occupied habitat, suitable unoccupied habitat, and/or loss of individual flycatchers are inconsistent with the need to provide for the survival and recovery of this species." (USFWS 1996, p. 27) In order to operate Modified Roosevelt, the Bureau of Reclamation (BuRec) was required to fund the acquisition of mitigation acreage and additional conservation efforts. This mitigation has not been successful, as very few territories have been established on the property purchased as mitigation for Modified Roosevelt. With inundation, population decline of the species due to habitat loss and the reduction of productivity will follow for years. It will result in a population sink from which the flycatcher may not recover. A population sink was predicted in the '96 BO for Modified Roosevelt when there were only 45 territories at Roosevelt. (USFWS 1996, p. 24-25) Should inundation be allowed to occur, this sink would now be much larger as the population has increased to more than 141 territories or more than 40% of the entire Southwestern Willow Flycatcher in Arizona. (SRP 2002, p. 91) In addition, the import of these losses will be heightened if the current drought persists. The DEIS states that based on modeling and information available in the Recovery Plan, removing the Roosevelt population from the Gila Recovery Unit would only slightly decrease the equilibrium occupancy rate within the Unit. (USFWS 2002, p. 42) This assumption is no longer valid, however, as the population at Roosevelt incorporated into those studies was significantly lower by nearly half of the 2001 population. The 1999 Roosevelt population was 76 territories (USFWS 2001, p. 84; SRP 2002, p. 91). Usage of this smaller number as the basis for determining the current effect of losses on the Gila Recovery Unit metapopulation is inappropriate for the situation in 2002. Center for Biological Diversity Comments on the Draft Environmental Impact Statement for the Roosevelt Habitat Conservation Plan 4	Over the long term, the overall population and productivity of Arizona's flycatchers are expected to benefit from the continued availability of substantial habitat at Roosevelt in most years, as well as from the mitigation provided by SRP as part of RHCP implementation (RHCP, Subchapter V.O). The Service does not intend to rely heavily on its analysis in the 1996 BO on Modified Roosevelt. The Modified Roosevelt BO was based on the best available science at that time. However, a great deal of additional science has become available since 1996, in part because of Reclamation's studies at Roosevelt required by that BO. In addition, the Recovery Plan has compiled a great deal of additional science that has become available over the past 6 years. The Service intends to use the best science that is currently available in evaluating the RHCP and its alternatives. The population viability analysis discussion has been deleted from the final EIS.

Comment #	Letter 3 continued	Response
3-4	Sep 23 02 10:57a USFWS-Tucson (520) 670-4638 p.7 Furthermore, the Recovery Plan states: "Large populations, centrally located, contribute most to metapopulation stability, especially if other breeding populations are nearby. Large populations persist longer than small ones, and produce more dispersers emigrating to other populations or colonizing new areas." (USFWS 2001, p. 75) **Un-measurable Mitigation Measures** The Recovery Plan sets forth certain performance criteria it considers as necessary in evaluating mitigation plans: "*Performance criteria*: These criteria constitute the yardstick by which success of the mitigation will be evaluated. They must be quantifiable, and pertinent to the overall goal (National Research Council 1992, Kentula et al. 1993, Hauer and Smith 1998). For example, success criteria for the above goals might include 1) production of habitat with the following habitat characteristics (e.g., vegetation volume >x, perennial water present), or, alternatively, the following bird community (enumerate), 2) the presence of x nesting pairs of flycatchers, 3) cover of natives between x and y percent, 4) the occurrence of winter and spring floods with the following characteristics (enumerate), and 5) vegetation or bird goals met with no human intervention required. It is imperative that these criteria not be subjective (e.g., based on 'how the site looks'). In instances where some level of maintenance is involved in establishing the site or modifying conditions (e.g., irrigation of plantings, weeding, etc.), the maintenance should have ceased for a specified period prior to final site evaluation." (USFWS 2001, Appendix L) The HCP states that a management plan will be developed for each acquired mitigation property within one year of property acquisition, and that baselines, goals, monitoring, evaluations, annual reviews and amendments will be established at that time. (SRP 2002, p. 122) The associated template for management outlines the general idea that the properties, once acquired, will be managed for the benefit of flycatchers. The specific goals will be identified within one year of purchase. A list of goals or actions are included that may or may not apply to the potential sites, followed by measures for success which do not include any clear guidelines for quantifying that success. "…anticipated amount of tall dense riparian vegetation and other habitat suitable for flycatcher and cuckoo occupation is achieved, maintained, or increased… use of the site by flycatchers and cuckoos for breeding, or an eventual increase in the numbers of flycatchers and cuckoos using already established breeding areas… water table depth is maintained or decreased over time and surface water is available to the largest extent practicable…" (SRP 2002, Appendix 6, pg. 4) The recent District Court Decision clearly states that a laundry list of possible mitigation measures without specific recommendations equals the sidestepping of responsibility. Additionally, the Court makes clear that a "no jeopardy" ruling based on suggestions, rather than clearly defined and measurable mitigation measures is unsupportable: Center for Biological Diversity Comments on the Draft Environmental Impact Statement for the Roosevelt Habitat Conservation Plan 5	3-4. The RHCP lists clear goals and success criteria for mitigation efforts in Subchapter IV.E and Appendix 6. At the request of the Service, SRP has expanded the discussion of success criteria in the body of the RHCP (see Subchapter IV.E). Given the wide variability in the types of habitat occupied by flycatchers as documented by the Recovery Plan (FRP, pp. 11-15), the development of numeric measurements of the success or failure of mitigation measures prior to the acquisition of individual sites by SRP is premature and impracticable. As noted by the Center, the RHCP provides that site-specific management plans will be developed for each mitigation property within one year of acquisition (RHCP, Subchapter IV.C.1.a. and Appendix 6). The RHCP clearly identifies the locations and characteristics of the habitat to be acquired by SRP, the number of acres that must be acquired in mitigation for the loss of habitat at Roosevelt, and the specific management plans and goals for mitigation sites. (RHCP, Subchapter IV.C.1.a. and Appendix 6). In accordance with the Recovery Plan, SRP is using published sources to identify priority parcels of land for flycatcher mitigation (FRP, p. 83; RHCP, Subchapter IV.C.1.a.). The RHCP imposes deadlines for acquisition of habitat and the implementation of detailed management plans for each property acquired. The RHCP also provides a program and schedule for the monitoring of loss of habitat at Roosevelt, as well as the monitoring of mitigation habitat, to assess the need for adaptive management including specific triggers that require compliance (RHCP, Subchapter IV.E). The Service believes that the level of detail regarding the mitigation measures provided for in the proposed plan is sufficient for analysis.

Comment #	Letter 3 continued	Response
3-5 3-6 3-4 (continued) 3-7	Sep 23 02 10:58a USFWS-Tucson (520) 670-4639 p.8 "The whole premise of the 'no jeopardy' ruling, which is that within three years the Army and other interested parties will come up with a long-term plan to remedy the groundwater deficit problem, is an admission that what is currently on the table as far as mitigation measures is inadequate to support the FWS's 'no jeopardy' decision. The FWS is looking to the plans, the AWRMP and the RWRMP, to be prepared within three years, to identify the necessary mitigation measures, which will prevent adverse impact to the water umbel and Willow Flycatcher. These measures, however, have to be identified and included in the Final BO, either as RPAs or incorporated into the Army's proposed action, to support a 'no jeopardy' decision. Without these measures, there is no factual basis and no rational basis for the opinion." (CBD v. Rumsfeld 2002, pg. 17) Similarly, SRP fails to clearly identify the habitat it will acquire, the specific management plans for each, and the specific measurable, quantifiable goals for each site; ie. "x number individual flycatchers and x number flycatcher territories on the acquired property will be considered a success," etc. Included as mitigation in the HCP is 300 acres considered "additional conservation measures" that SRP assumes will be the equivalent of funding a Forest Service employee to protect habitat at Roosevelt. (SRP 2002, p. 123) SRP has not established, however, what will quantify this employee's success, nor is it able to assure that the employee will not be consumed with other Forest Service responsibilities. The Draft Implementing Agreement assures that funding for the project for the first five years will be included in SRP's annual budget and that any shortfalls will be addressed in writing to USFWS. By the end of the five years, SRP shall ensure funding is available through a trust or letter of credit or insurance or surety bond. Nowhere in the document is stated how much money will be set aside. (SRP 2002, Appendix 7, p. 4) The fact that SRP is already acknowledging that shortfalls will be addressed, is not only ominous, it is disingenuous. It speaks volumes to SRP's lack of objective commitment towards survival of the flycatcher. Success or failure of mitigation plans must also be assessed and reported. In Center for Biological Diversity v. Rumsfeld, Judge Marquez calls into question a plan that does not "measure the success or failure of ...mitigation measures." (CBD v. Rumsfeld 2002, p. 17) Marquez states, "...simply reporting project implementation is not a meaningful assessment of the success or failure of the mitigation measures in protecting... such an assessment would require systematic monitoring of either San Pedro baseflows or the groundwater aquifer." (CBD v. Rumsfeld 2002, p. 18) Monitoring flycatcher, cuckoo, Yuma Clapper Rail counts is to occur every two to three years. Vegetation monitoring will only occur at Roosevelt. General field observances of vegetation at mitigation sites will be recorded. Primarily, however, no guidelines for assessing or quantifying success or failure are specified in the HCP, nor are there clearly defined actions to mitigate for failure. Center for Biological Diversity Comments on the Draft Environmental Impact Statement for the Roosevelt Habitat Conservation Plan 6	3-5. As described in the RHCP (Subchapter IV.C.3), the Forest Service Forest Protection Officer (FPO) funded by SRP will assist in protecting and managing habitat at and near Roosevelt Lake. This is consistent with the Center's comment that additional protection of riparian areas near Roosevelt is important (bottom of page 10 of the comments). The Service, SRP and Forest Service will meet annually to determine if the efforts of the FPO are being successful in protecting and managing habitat; and to modify the job description as necessary to ensure maximum effectiveness of the position. If the Service determines that the FPO is not effective in protecting habitat at and near Roosevelt, other habitat conservation measures will be substituted (RHCP, Subchapters IV.C.3 and IV.F.1). 3-6. In response to this comment, estimates of the amount of funding required for implementation of the RHCP, including the estimated amounts to be set aside in non-wasting accounts, have been added to the RHCP (Subchapter IV.D) and EIS (Section 3.4.2.4). SRP is committing that it will ensure the full amount of funding required in order to implement the RHCP. The implementing agreement between the Service and SRP has been modified to clarify that no shortfalls in funding will occur. If the actual costs exceed previous estimates, SRP commits to provide additional funds to fully cover the actual costs (RHCP, Appendix 7). The Service will carefully evaluate whether SRP's funding assurances meet legal requirements, as well as SRP's long history of fully meeting its many financial obligations, as part of its considerations on whether or not to issue an ITP for continued operation of Roosevelt. The Service is required to make specific findings on these funding assurances in determining whether to issue an ITP to SRP. 3-7. Vegetation monitoring <u>will</u> occur at mitigation sites as well as at Roosevelt (RHCP, Subchapter IV.E.5). As discussed in the response to Comment 3-4, the purpose of vegetation monitoring on mitigation sites under the RHCP is to assess the need for adaptive management at those sites (RHCP, Subchapter IV.E.2). In the event of changed circumstances, the RHCP provides for numerous adaptive

Comment #	Letter 3 continued	Response
3-8 3-9	Sep 23 02 10:59a USFWS-Tucson (520) 670-4639 p.9 The HCP does state that if a decline of population at mitigation sites occurs, SRP will implement additional monitoring and management. The HCP states that if habitat acquisition is infeasible at a location, SRP will acquire and manage habitat elsewhere. If the pilot project is unsuccessful, SRP will acquire other habitat. (SRP 2002, p. 155) Nowhere does the HCP state that if populations fail to increase or remain stable, or if flycatchers fail to migrate to other sites, or if mitigation fails to remove jeopardy and reduces the likelihood of the survival and recovery of the species in the wild, that SRP will have any further responsibility beyond implementing "other conservation measures." This is nebulous. The HCP also calls for Adaptive Management as an "action to minimize, mitigate, and monitor the effects of Roosevelt operations." The narrow paragraphs that explain adaptive management only apply to the habitat within Roosevelt. The HCP simply states that if the monitoring reveals that more habitat will be lost than initially assumed, additional mitigation will be implemented within three years. The total number of acres that may be considered lost under the plan is limited to 1,250. If more acreage is lost, the permit will have to be amended. (SRP 2002, p. 124) This seems like an attempt by SRP to buy more time before they are predictably required to acquire the necessary amount of habitat to mitigate for predictable losses. **Not Enough Mitigation Acres – HCP Calculations Insufficient** The number of acres determined to be current suitable and potential habitat for the Southwestern Willow Flycatcher at Roosevelt is stated in the HCP to be 750 acres. This conflicts with the HCP assertion that the current tally of tall dense habitat at Roosevelt is over 1000 acres. (USFWS 2002, p. 125) In addition, to suitable and potential habitat, the Recovery Plan contains several discussions about the important contribution of adjacent habitat: "The definition of the two commonly used terms suitable and potential-restorable/regenerating habitat are important for managers to understand for the recovery of the flycatcher. Misunderstandings may arise as a result of misinterpretation, misrepresentation, or general lack of understanding about what these terms try to describe and how they should be used. These terms respectively define those areas where flycatchers are expected to nest, currently or in the future. *This encompasses all the habitat components that influence reproductive success, including foraging habitat, microclimate, vegetation density and distribution throughout the home range, or other factors as they become identified.*" (USFWS 2001, p. 15, emphasis added) "The health of riparian ecosystems and the development, maintenance, and regeneration of flycatcher nesting habitat depends on appropriate management of uplands, headwaters, and tributaries, as well as the main stem river reaches. All of these landscape components are inter-related. As a result, *nesting habitat is only a small portion of the larger landscape* that needs to be considered when Center for Biological Diversity Comments on the Draft Environmental Impact Statement for the Roosevelt Habitat Conservation Plan 7 W-91:90 28. 92 d3S	management measures on mitigation sites, including additional monitoring and property management efforts, as well as acquisitions of habitat in other locations. The Service does not accept the Center's hypotheses that, in the event a permit is issued, flycatchers will fail to migrate to or use the mitigation sites provided for in the RHCP, or that flycatcher populations at mitigation sites will fail to increase or remain stable. The available scientific data suggest that the covered species are likely to occupy mitigation lands. For example, Reclamation's implementation of measures in the BO for Modified Roosevelt Dam is proving to be successful as evidenced by the presence of 23 flycatcher territories on the San Pedro River Preserve in 2002. In the event that foreseeable changes in circumstances occur during the life of the ITP, adaptive management would be implemented (RHCP, Subchapter IV.F. and Appendix 9, Paragraph 9.0). Unforeseen circumstances would be addressed by the Service as provided in Section 10 of the ESA, its implementing regulations, and the applicable terms and conditions of the ITP. Should unforeseen circumstances occur during the life of the ITP, the Service would work with SRP to address those circumstances by redirecting resources and may require: (1) modifications within the mitigation lands conserved by the RHCP; and (2) modifications to the RHCP's conservation program for covered species. However, the holder of an ITP is not required to commit additional land, water or financial compensation not provided for in the HCP in the event of unforeseen circumstances; moreover, the Service may not impose additional restrictions on the use of land, water or natural resources otherwise available for use to the permittee under the original terms of the HCP. Additionally, under Section 10's implementing regulations, the Service may revoke the permit if the permitted activity would be inconsistent with the criteria set forth in 16 U.S.C. § 1539(a)(2)(B)(iv), and this consistency has not been remedied in a timely fashion. (See RHCP, App. 8). This criterion requires the Service to find, as a prerequisite to permit issuance, that the requested taking "will not appreciably reduce the likelihood of survival and recovery of the species in the wild."

Comment #	Letter 3 continued	Response
		In evaluating SRP's application for an ITP, the Service will use the best available scientific and commercial data to ensure that the permit, if granted, would not appreciably reduce the likelihood of survival and recovery of the species in the wild. In the event a permit is issued, SRP will hold the permit subject to the provisions of the "No Surprises" regulations and the criteria for permit revocation described in the preceding paragraph. 3-8. Adaptive management has been clarified in the RHCP in response to this comment (e.g., Subchapter IV.E.7). SRP would employ two adaptive management components in the RHCP: 1) program adaptive management to mitigate for additional habitat occupied by flycatchers above 750 acres but less than 1,250 acres (RHCP, Subchapter IV.C.1.a), and 2) biological adaptive management involving changed circumstances at mitigation sites (RHCP Subchapters IV.C.2, IV.C.4, IV.C.6, and IV.C.7; and Appendix 6). With respect to program adaptive management, the maximum predicted amount of occupied habitat for the covered species, upon which SRP's immediate mitigation efforts are based, has been developed using the best available science. The adaptive management component represents incremental mitigation above and beyond that needed for predictable losses, and is based on the unlikely but foreseeable possibility that additional habitat <u>might</u> be occupied at Roosevelt at some point in the 50-year term of the proposed permit. 3-9. In this case, and consistent with the definition of "harm" in the definition of "take" at 50 CFR 17.3, loss of occupied habitat is an appropriate standard for determining take. A total of 750 acres of occupied habitat are expected to be affected. To the extent that suitable or potential habitat at Roosevelt becomes occupied in the future, the RHCP commits to mitigate that habitat. In the extremely unlikely event that the adaptive management caps on occupied habitat are exceeded (e.g., a total of 1,250 acres of habitat occupied by flycatchers), a permit amendment would be required. As used in the RHCP, the measure of occupied habitat at Roosevelt includes the adjacent habitat that may influence reproductive success (RHCP, Subchapter III.C). This same measure is being used to account for mitigation habitat that is acquired by SRP (RHCP, Subchapter IV.C.1.a.). Thus, the RHCP <u>is</u> consistent with the Recovery Plan.

Comment #	Letter 3 continued	Response
3-10 3-11	Sep 23 02 11:00a USFWS-Tucson (520) 670-4630 p.10 developing management plans, recovery actions, and biological assessments for Section 7 consultations with the USFWS, or other documents defining management areas or goals for flycatcher recovery." (USFWS 2001, p. 16, emphasis added) "The riparian patches used by breeding flycatchers vary in size and shape. These may be relatively dense, linear, contiguous stands or irregularly-shaped mosaics of dense vegetation with open areas... Flycatchers often cluster their territories into small portions of riparian sites (Whitfield and Enos 1996, Paxton et al. 1997, Sferra et al. 1997, Sogge et al. 1997b), *and major portions of the site may be occupied irregularly or not at all.*" (USFWS 2001, p. 16, emphasis added) "Except in extreme cases (such as the tamarisk patches in the Grand Canyon), *all flycatcher breeding patches are larger than the sum total of the flycatcher territory sizes at that site.* This is true because flycatchers, typically do not pack their territories into all available space within a habitat. Instead, *some territories are bordered by additional riparian habitat that is not defended as a breeding territory, but may be important in attracting flycatchers to the site and/or in providing an environmental buffer (from wind or heat) and in providing post-nesting use and dispersal areas.* Based on numerous habitat use studies (Whitfield and Enos 1996, Paxton et al. 1997, Sferra et al. 1997, Sogge et al. 1997) it is clear that flycatchers often cluster their territories into small portions of riparian sites, and that *major portions of the site may be occupied irregularly or not at all.*" (USFWS 2001, Appendix D-11, emphasis added) "For purposes of these recovery criteria, habitat targets were not set at a minimum number of hectares per flycatcher territory. The flycatcher territory size varies widely across the flycatcher's range, and likely differs among habitat type and with patch suitability. Further, *occupied breeding sites always include more riparian habitat than simply the total area of flycatcher territories at that site* (i.e., there is riparian vegetation 'buffer' around the flycatcher territories). *Thus, it is not prudent to specify a single minimum territory size to apply rangewide.*" (USFWS 2001, p. 80, emphasis added) As the Recovery Plan is the best science available for the flycatcher, the recommendations it sets forth should be the rule for the HCP. The AGFD model used in the HCP has previously been used to aid the agency in determining where to look for flycatcher. (SRP 2002, p. 82) The model is inappropriate for use in determining the amount of habitat for which to mitigate. The accounting of suitable and potential habitat upon which any mitigation is based merits recalculation. It is also not enough to mitigate for only suitable and potential habitat as large portions of habitat are occupied rarely or not at all. The larger landscape and totality of tall dense vegetation that has drawn the flycatcher to the site must be considered. SRP should be locating at least 3000 acres of replacement habitat with Center for Biological Diversity Comments on the Draft Environmental Impact Statement for the Roosevelt Habitat Conservation Plan 8	With respect to the importance of including adjacent habitat, most flycatcher territories range in size from 0.5 to 1.2 acres (FRP, p.22). In the RHCP, the entire area within an 11.1-acre neighborhood of each territory is considered to be part of occupied habitat (RHCP, Subchapter III.C). 3-10. Although the AGFD model used to define occupied flycatcher habitat for the RHCP was originally developed to find and monitor habitat throughout Arizona, the model <u>was developed based on data from habitat actually occupied by flycatchers at Roosevelt,</u> as well as from the primary mitigation area for the RHCP, near the confluence of the San Pedro and Gila Rivers (RHCP, Subchapter III.A.4). Thus, it represents the best available science and is based on the site-specific characteristics of occupied habitat at Roosevelt. Nearly all of the scientists that considered alternative methods to estimate occupied habitat at Roosevelt concluded that the AGFD model was the best available scientific method (RHCP, Subchapter III.A.4 and Appendix 5). 3-11. We appreciate the Center's specific suggestion on the amount of replacement habitat that it believes to be necessary to satisfy mitigation requirements at Roosevelt. The Center's suggested minimum of 3,000 acres is based on a 3:1 mitigation ratio for 1,000 acres of potential and suitable habitat at Roosevelt. However, as explained in response to Comment 3-9, occupied habitat, not suitable and potential habitat, is the standard for measurement of "take."

Comment #	Letter 3 continued	Response
3-12 3-13	Sep 23 02 11:01a USFWS-Tucson (520) 670-4630 p.11 additional conservation measures applied as necessary to maintain, protect, restore and make viable the 3:1 acquired habitat. **Not Enough Mitigation Acres – 3:1 Ratio** River systems and the transitional state of associated riparian habitat are dynamic and constantly fluctuating. The Recovery Plan calls for a replacement of habitat subject to loss by a project at a ratio of no less than 3:1. "A ratio of at least 3:1 increases the probability that the desired acreage of suitable habitat is maintained across the landscape." (USFWS 2001, p. 81) However the DEIS calls for only 2:1 habitat replacement and 1:1 "additional conservation measures." (USFWS 2001, p. 46) The April District Court ruling stipulates that mitigation measures must be verifiable and accountable. The "additional conservation measures" are ambiguous at best. (See section "Other Mitigation Measures" below.) In keeping with the Recovery Plan, the additional conservation measures should be accomplished to preserve or restore the integrity of the acquired habitat or maintain habitat at Roosevelt to prevent further take. They should not be considered as equivalent to acres of replacement habitat. **Habitat Should Be Acquired Prior to Action** The flycatcher Recovery Plan states that to maximize mitigation success and minimize threats to the flycatcher, mitigation should be completed prior to the loss of habitat: "'Up-front' mitigation (mitigation achieved prior to destruction/degradation of habitat) is preferable to mitigation concurrent with habitat loss because it avoids even a temporary net loss of habitat, and increases the probability that the mitigation has been successfully achieved." (USFWS 2001, Appendix K) As precedent, the 1996 BO for Modified Roosevelt required BuRec to acquire all replacement habitat prior to using the new conservation space. In the BO, USFWS requires that BuRec "…submit for the Service's review a proposal for acquisition (including a proposed habitat management plan)," and that they "…have arranged for the acquisition and perpetual protection of replacement lands by September 1, 1996." (USFWS 1996, p. 32) According to the DEIS, "much of the acquired habitat would be initially unoccupied and may never achieve the densities of birds found at Roosevelt." In addition, "a lag time may exist between acquisition/easements and improvement of the suitability of the habitat through management." (USFWS 2002, p. 47) Combining the delay in acquiring mitigation habitat with the lag time in which the habitat may become suitable, is the equivalent of doing nothing at all. Center for Biological Diversity Comments on the Draft Environmental Impact Statement for the Roosevelt Habitat Conservation Plan 9	3-12. A recovery plan is guidance. Measures suggested in a recovery plan are not mandatory. The "additional conservation measures" provided by the RHCP will specifically benefit habitat for the covered species in addition to the riparian land that is directly acquired and managed as habitat for those species. These measures are not ambiguous. They have been carefully developed to benefit specific acres of habitat. In response to this comment, the Service and SRP have clarified that any other additional conservation measures incorporated into the RHCP with approval by the Service will benefit habitat (RHCP, Subchapter IV.C.1.a. FEIS, 3.4.2.3). One of the Additional Habitat Conservation measures specified in the RHCP is the Forest Service Forest Protection Officer (FPO) funded by SRP to provide additional protection and management of habitat at and near Roosevelt Lake. This habitat includes the tall dense riparian vegetation at Roosevelt that is predicted to vary from about 250 acres to over 1,000 acres (RHCP, Figure III-2 and accompanying text). This vegetation provides habitat for all of the covered species as well as other wildlife, not just the flycatcher. In addition, the FPO is responsible for increasing the management of habitat within the Tonto Creek Riparian Unit, an 18-mile reach of lower Tonto Creek just above Roosevelt Lake (EIS, Section 3.6.5.3). Buffer areas would be acquired by SRP where necessary to protect riparian land that provides potential or suitable habitat to the covered species (RHCP, Subchapter IV.C.1.a.). These are specific acres that will provide clear benefits to the adjacent riparian habitat. Water rights will be converted to instream flows and ground water pumping will be retired on additional acres that would be acquired by SRP (RHCP, Subchapter IV.C.1.a). The purpose of these land acquisitions is to increase stream flows to increase the amount and quality of riparian habitat conserved for the covered species. A single acre of land will not be counted twice— once for its riparian vegetation and then again for its water rights. 3-13. The Center's suggestion that all mitigation should be completed prior to the loss of habitat is not practicable. The Service's HCP Handbook indicates that completion of mitigation after permit issuance or incidental take is acceptable if the applicant provides assurances that the mitigation will be completed (Handbook, p. 3-22).

Comment #	Letter 3 continued	Response
3-14 3-15 3-16 3-17 3-18	Sep 23 02 11:01a USFWS-Tucson (520) 670-4630 p.12 USFWS should require the mitigation prior to any inundation of habitat and assurances that substantial portions of this habitat will be suitable for flycatcher breeding activities before the loss of habitat at Roosevelt. **Additional Inconsistencies with Flycatcher Recovery Plan** The Recovery Plan for the flycatcher states that the goal at Roosevelt Lake is to maintain 50 territories. However, the request for the ITP is for all suitable occupied and potential occupied habitat (essentially the entire population) at Roosevelt. Issuing the ITP would clearly work directly against USFWS' own prescribed management plans for the species. This plan not only states that 50 territories should be maintained, but that "maintaining/augmenting existing populations is a greater priority than allowing loss and replacement elsewhere." (USFWS 2001, p. 76) Modified dam operations are actions consistent with the Recovery Plan, yet SRP will not fully consider a modified option for the benefit of this endangered bird. They instead cite full operations as the most "biologically effective alternative that minimizes socioeconomic impacts and satisfies legal obligations for SRP water delivery." (USFWS 2002, p. 44) The use of the term "biologically effective" in this context minimizes the term and is disingenuous. It obscures SRP's responsibility to thoroughly examine alternatives, and instead allows SRP to continue to reap financial gains at the expense of the flycatcher and to further contribute to the demise of the bird. **Mitigation Locations** CBD encourages SRP and USFWS to consider participation in the acquisition, protection and restoration of rivers and streams that are closer to Roosevelt, such as Pinto Creek. This has not been fully considered. Proximity to Roosevelt is listed as a priority both in the HCP and in the Recovery Plan. (SRP 2002, p. 27; USFWS 2001, p. 81) Because of the large amount of habitat that ultimately will required for adequate mitigation, however, SRP should also consider areas along the Big Sandy and Bill Williams where flycatchers are also present but imperiled with habitat loss. The efficacy of all acquired habitat as mitigation must be monitored and assessed. Habitat that fails to attract and support populations of flycatcher must be immediately replaced with suitable habitat. **Other Mitigation Measures** The funding for additional riparian protection and management at Roosevelt is an important part of protecting habitat in the area. This measure should remain in any further operations proposals. Impacts from recreation and trespass cattle have been well documented. (USFWS 2002; USFWS 2001, Appendices G and M) However, the mitigation measure should absolutely not count as acreage—300 acres—in the 1:1 additional conservation measures. Center for Biological Diversity Comments on the Draft Environmental Impact Statement for the Roosevelt Habitat Conservation Plan 10	SRP is providing these assurances in the RHCP and would be legally bound to implement the mitigation by the Implementing Agreement and the permit, should it be issued (RHCP, Subchapters IV.D and IV.G). SRP's Habitat Acquisition and Management of riparian land and implementation of Additional Habitat Conservation measures will take several years. However, SRP is working diligently in cooperation with the Service to implement mitigation measures and expects to have acquired more than 215 acres of mitigation by the end of 2002. In combination with the previous acquisition of the San Pedro River Preserve by Reclamation (623 acres of mitigation), approximately 838 acres of mitigation will be in place prior to final consideration of SRP's application for an ITP. This is more mitigation than the maximum predicted habitat loss of 750 acres. Moreover, the actual currently occupied habitat at Roosevelt is about 500 acres, significantly less than the maximum predicted amount of 750 acres (RHCP, Subchapter III.C.2). Thus, even if Roosevelt were to completely fill in early 2003, substantially more mitigation already would have been provided than the 500 acres of currently occupied habitat that might be unavailable for flycatchers when they return in the spring. In addition, SRP's modeling estimates that about 100 to 200 acres of tall dense vegetation that may be suitable for flycatcher nesting would remain at Roosevelt after a complete fill of the reservoir (RHCP, Subchapter III.A.3.). Thus, the combination of residual potential habitat at Roosevelt and mitigation already in place (about 838 acres of mitigation plus 100 to 200 acres at Roosevelt) would be about double the maximum amount of habitat that could be lost in 2003. If only partial fill occurs in 2003, all (or nearly all) of the total amount of mitigation might be in place prior to any net loss of habitat at Roosevelt. 3-14. The Recovery Plan states that 50 territories is the goal for the Roosevelt Management Unit, although 40 territories would be sufficient to achieve recovery if an additional 10 territories were present elsewhere in the Gila Recovery Unit (FRP, pp. 78 and 85). The Roosevelt Management Unit encompasses the entire Salt River watershed with the exception of the Verde River basin. A substantial acreage of flycatcher habitat, enough for the Recovery Plan goal of 40 to 50 territories, is anticipated to exist within the Roosevelt Management Unit even if Roosevelt were to be completely filled in the

Comment #	Letter 3 continued	Response
		spring of 2003 or later (FRP, pp. O-19 and O-20). This acreage includes, but is not limited to, residual habitat at Roosevelt, the Rockhouse mitigation site, the Tonto Creek Riparian Unit, and riparian habitat along the lower Salt River near the confluence with the Gila River (where resident flycatchers were found in 2002). In addition, small pockets of habitat may be present along tributaries of the Salt River and Tonto Creek on Forest Service land (FRP, p. 91). The Service believes that the RHCP contributes to recovery by providing habitat conservation measures within the Roosevelt Management Unit and within the Gila Recovery Unit. 3-15. Consistent with the Recovery Plan, the Service believes that SRP has carefully evaluated the full range of dam operations ranging from complete avoidance of any impacts to currently occupied habitat (No Permit alternative) to continuation of full reservoir operations (Full Operation alternative). That same full range of dam operation alternatives is also evaluated in the EIS. The Service agrees with SRP that full operation of Roosevelt, in conjunction with the habitat conservation measures set forth in the RHCP, appears to be the most biologically effective alternative. The No Permit and Re-operation alternatives would result in less available habitat for the covered species over the proposed term of the permit. 3-16. As to mitigation potential along Pinto Creek, see the response to Comment 4-37. The Service and SRP will consider areas such as the Big Sandy and Bill Williams Rivers if necessary to complete the mitigation effort. However, as stated in the Recovery Plan, the highest priority areas for mitigation in the RHCP are located as close to Roosevelt as possible. 3-17. As to monitoring of the mitigation sites, see the response to Comment 3-7. With respect to replacement of habitat that fails to attract and support flycatcher populations: As stated in response to Comment 3-2, issuance of an incidental take permit under Section 10 of the ESA is not conditioned upon the submission of "proof " by the applicant that the covered species will occupy the mitigation habitat. Rather, the Service must evaluate the mitigation measures in the proposed plan and determine, in light of the best available scientific and commercial data,

Comment #	Letter 3 continued	Response
		whether the measures will, to the maximum extent practicable, minimize and mitigate the take of covered species resulting from proposed activity. In this instance, the RHCP utilizes the priorities for mitigation habitat set forth in the Recovery Plan for the southwestern willow flycatcher to assure that the habitat most likely to be used by flycatchers is acquired and managed. SRP and the Service believe that utilization of these priorities, which constitute the best available science, assures that mitigation will be successful to the maximum extent practicable. Additionally, under Section 10 of the ESA and its implementing regulations, the Service may not require the holder of an incidental take permit to acquire additional mitigation lands in the event that the mitigation lands acquired pursuant to the HCP fail to attract or support covered species. If, after considering SRP's application, the Service decides to issue an ITP, SRP will be obligated under the permit and its implementing agreement with the Service to fully implement all minimization and mitigation measures specified in the RHCP, including adaptive management measures designed to accommodate changed circumstances. The RHCP provides for numerous such measures on mitigation sites, including additional monitoring and property management efforts, as well as the acquisition of habitat in other locations. As long as these and all other measures in the RHCP are being fully implemented, the Service will discuss additional conservation and mitigation measures with SRP, but may only require those measures of SRP, if unforeseen circumstances occur, in accordance with the Federal regulations governing "No Surprises." Under the regulations, such additional measures are limited to: (1) modifications within the mitigation lands conserved by the RHCP; and (2) modifications to the RHCP's conservation program for covered species. The Service, in accordance with "no surprises," cannot require SRP to commit additional land, water or financial compensation not provided for in the RHCP; moreover, the Service cannot impose additional restrictions on the use of land, water or natural resources otherwise available for use to SRP under the original terms of the RHCP. 3-18. The ESA requires that Federal agencies "in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this chapter by carrying out programs for the conservation of endangered species and threatened species listed

Comment #	Letter 3 continued	Response
		pursuant to section 1533 of this title" 16 U.S.C. § 1536(a)(1). See 16 U.S.C. §1531(c)(1). Pursuant to this statutory provision, the United States Forest Service and Bureau of Reclamation, within the scope of their respective authorities and through the resources provided to them by Congress in their annual budgets, have in the past and continue to carry out programs for the conservation of endangered and threatened species. These programs, which have been implemented in consultation with the Service, include, for example, the Tonto Creek Riparian Unit (TCRU), established by Reclamation and carried out by the Forest Service, which has greatly improved the quality of riparian areas along Tonto Creek in the immediate vicinity of Roosevelt. Another example is Forest Service consultation on grazing allotments in the vicinity of the lake, which have resulted in grazing exclusions within five miles of occupied flycatcher habitat, cowbird trapping, and monitoring. SRP's funding of a riparian protection and management officer as part of the RHCP is in addition to, and not in substitution for, efforts by Reclamation and the Forest Service to conserve endangered and threatened species. The funding provided to the Forest Service by SRP, which the commentator acknowledges is "an important part of protecting habitat in the area," will augment, not replace, the Congressional funding already provided to this agency for species conservation. Further, in the event that the habitat protection and management program funded by SRP does not provide additional benefits at Roosevelt, the Service may request that SRP devote remaining funds to habitat acquisition or other habitat conservation measures (RHCP, Subchapter IV.C.2 and IV.F). This adaptive management measure provides additional assurance that the funding provided by SRP will result in the implementation of habitat conservation measures in addition to those required of Federal agencies under the ESA.

Comment #	Letter 3 continued	Response
	Sep 23 02 11:02a USFWS-Tucson (520) 670-4638 p.13 According to the HCP, "The original water conservation storage space behind Roosevelt is on land that was withdrawn from the public domain in 1903 by Reclamation for purposes of the Salt River Project. Additional land was withdrawn in 1999 in the area that could be inundated as a result of the modifications to Roosevelt Dam (64 FR 67929, December 3, 1999). The withdrawn land surrounding the reservoir is managed under a three-way agreement between SRP, Reclamation, and the U.S. Forest Service (Forest Service), with the Tonto National Forest being responsible for management of recreation and other public land uses." (SRP 2002, p. 11) Federal agencies are bound by law to protect endangered species. Under the ESA Section 2 (c)(1): "It is further declared to be the policy of Congress that all Federal departments and agencies shall seek to conserve endangered species and threatened species and shall utilize their authorities in furtherance of the purposes of this Act." According to the Recovery Plan, "Habitat loss, modification, or fragmentation on federal lands should not be offset with protection of federal lands that would qualify for protection if the standards set forth in the Recovery Plan or other agency guidance were applied to those lands." (USFWS 2001, p. 81) Congress under the ESA mandates protection and management at Roosevelt. The Recovery Plan further disqualifies land that is already under federal control. Funding a Forest Service employee, though necessary for proper management of natural resources at Roosevelt, cannot be included as mitigation. Counting this protection as mitigation acreage is unlawful. **Other Endangered and Candidate Species** CBD is additionally concerned about the effects of the preferred alternative on the other endangered and candidate species located at Roosevelt. The yellow-billed cuckoo has been denied endangered species listing purely because of USFWS politics. The cuckoo may be more imperiled than the flycatcher. It should be given every consideration and protection. The same argument for full 3:1 ratio of replacement habitat (on the ground acres) for lost habitat applies here (not the prescribed 2:1 habitat, 1:1 conservation measures). Habitat acquisition and management for the flycatcher will also benefit the cuckoo, however, their habitat does not entirely overlap. (USFWS 2002) **Water Alternatives** SRP is currently using groundwater and CAP water to meet its delivery obligations. (Arizona Republic 2002a) SRP is also reducing its water delivery to municipalities and to residential flood-irrigation customers. (Arizona Republic 2002b) These alternative sources and water conservation measures should continue to be utilized until mitigation acreage is acquired and proven useful to the flycatcher and a factual "no jeopardy" opinion can be reached. Center for Biological Diversity Comments on the Draft Environmental Impact Statement for the Roosevelt Habitat Conservation Plan 11	
3-19		3-19. Because mitigation habitat for the cuckoo is not necessarily the same as for the flycatcher, the RHCP would provide additional habitat if necessary (RHCP, Subchapter IV.C.1.d). As discussed in response to Comment 3-12, the additional habitat conservation measures provided in the RHCP would constitute benefits to "on the ground acres."
3-20		3-20. Available ground water and CAP water are insufficient to meet SRP's delivery obligations (RHCP, Subchapters I.D.4 and V.N.6). In fact, SRP has reduced its allocation of stored and developed water to its shareholders by one-third for 2003 because of insufficient surface water, ground water and CAP water. The loss of 60 percent of Roosevelt's storage capacity would greatly exacerbate water supply shortfalls.

Comment #	Letter 3 continued	Response
3-21 3-22	Sep 23 02 11:03a USFWS-Tucson (520) 670-4638 p.14 The HCP briefly examines and suggests that treated effluent could replace a portion of water lost from changes in reservoir operations. (SRP 2002, p. 169) This option is later dismissed due to potential expense and because it will not replace the full amount of water lost. The HCP fails to consider that alternatives, either in combination or in addition to those given cursory glance, may be necessary to fulfill all of their responsibilities. **Failure to Explore Full Range of Alternatives** Though several alternatives to full operations are listed in abbreviated form in the HCP, each is aborted and deemed too expensive. This insults the NEPA process. It ignores the billions of dollars in tax-exemptions SRP has received. SRP has long benefited from exemptions at the expense of other taxpayers. SRP doles out tens of millions of dollars worth of subsidized water to agricultural interests most years. SRP has destroyed the lower Salt River and much of the Verde River to create its infrastructure. It continues to contribute to the demise of endangered species. **Conclusion** Mitigation projects to date for the Southwestern Willow Flycatcher have not proven successful. The mitigation implemented for Modified Roosevelt has fallen short. SRP's preferred alternative will cause the loss of all or the majority of the Roosevelt flycatcher population. The loss of productivity of such a large population of birds, even for one season is catastrophic. And this year's breeding season at Roosevelt was pitiful. Another season will be an utter tragedy for the species. According to the Recovery Plan for the Southwestern Willow Flycatcher: "All effort should focus on preventing loss of flycatcher habitat. However, where occupied, unoccupied suitable, or unoccupied potential habitat is to be lost, modified, fragmented, or otherwise degraded, habitat should be replaced and permanently protected within the same Management Unit (or at least within the same Recovery Unit). All efforts should strive to acquire habitat prior to project initiation. While the quality and quantity of flycatcher habitat loss may vary, compensation habitat should be acquired at no less than a 3:1 ratio. A ratio of at least 3:1 increases the probability that the desired acreage of suitable habitat is maintained across the landscape. Natural flood processes and recruitment events are likely to shift habitat distribution over time within any river reach." (USFWS 2001, p. 81) The current HCP does not meet the requirements set forth in the Recovery Plan. The plan for acquisition spreads the deadlines out over three years. Habitat will only be acquired at a 2:1 ratio with additional conservation measures made equivalent to acres at a 1:1 ratio. The acres acquired are acknowledged to possibly not be suitable as habitat for years to come (the small acreage at Rockhouse won't be suitable until at least 2009 "if successful"). Center for Biological Diversity Comments on the Draft Environmental Impact Statement for the Roosevelt Habitat Conservation Plan 12	3-21. The option of using effluent was not dismissed from the RHCP or EIS; it was fully considered under both alternatives to SRP's continued operation of Roosevelt. Although full use of available effluent, ground water and CAP water would be insufficient to replace the water lost from Roosevelt under the No Permit alternative, that alternative was rejected for biological as well as practical, legal and economic reasons (RHCP, Subchapter V.O.). 3-22. See response to Comment 3-15.

Comment #	Letter 3 continued	Response
	Sep 23 02 11:03a USFWS-Tucson (520) 670-4638 p.15 The overall recovery goal for the flycatcher is 1950 pairs (3900 individuals). Currently there exists only as many as 900 pairs. Before delisting once recovery is achieved, twice as much suitable breeding habitat as that many birds would use has to be protected in each recovery unit. (USFWS 2001, p. 77, 80) To ensure that these recovery goals are met, requiring full 3:1 mitigation and protecting the Roosevelt population of flycatcher is imperative. The recent District Court Order for CBD v. Rumsfeld clearly states that mitigation measures must be objective and verifiable. SRP's Roosevelt HCP lacks sufficient measurable mitigation to achieve this legal standard. Section 10(2)(B)(ii and iv respectively) of the ESA and regulations at 50 CFR 17.22(b)(2) require by law that SRP in applying for an ITP "minimize and mitigate the impacts of such takings," and "the taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild." CBD feels that the plans as set forth by SRP will foreclose the survival and recovery of the Southwestern Willow Flycatcher. Thank you again for the opportunity to comment on the DEIS for the Roosevelt HCP. If you have any questions, please do not hesitate to contact Michelle Harrington at (602)246-6498 or mharrington@biologicaldiversity.org or Dr. Robin Silver at (602)246-4170 or rsilver@biologicaldiversity.org. Sincerely, Michelle T. Harrington Phoenix Area Coordinator Robin D. Silver, M.D. Conservation Chair Center for Biological Diversity Comments on the Draft Environmental Impact Statement for the Roosevelt Habitat Conservation Plan 13 SEP 23 '02 11:19AM	

Comment #	Letter 3 continued	Response
	Sep 23 02 11:04a USFWS-Tucson (520) 670-4630 p.16 **Bibliography** Arizona Republic 2002a. The Arizona Republic, "SRP To Cut Water Supply 33%," by Shaun McKinnon, September 10, 2002. Arizona Republic 2002b. The Arizona Republic, "Colorado River Not Doing Job," by Shaun McKinnon, September 9, 2002. CBD v. Rumsfeld 2002. Center for Biological Diversity v. Donald H. Rumsfeld, CIV99-203 TUC ACM, U.S. District Court, Judge Alfredo C. Marquez, Order April 11, 2002. Hearing 2002. Roosevelt HCP and draft EIS hearing, August 27, 2002. McCarthey 2002. McCarthey, Tracy, Arizona Game and Fish Department, personal communication, September 13, 2002. SRP 2002. Salt River Project, Draft Roosevelt Habitat Conservation Plan, Gila and Maricopa Counties, Arizona, July 2002. USFWS 1996. U.S. Fish & Wildlife Service, Biological Opinion for the Southwestern Willow Flycatcher and the Operation of the Modified Roosevelt Dam, July 17, 1996. USFWS 2001. U.S. Fish & Wildlife Service, Southwestern Willow Flycatcher Recovery Plan, Albuquerque, New Mexico, April 2001. USFWS 2002. U.S. Fish & Wildlife Service, Draft Environmental Impact Statement for the Roosevelt Habitat Conservation Plan, Gila and Maricopa Counties, Arizona, July 2002. Center for Biological Diversity Comments on the Draft Environmental Impact Statement for the Roosevelt Habitat Conservation Plan 14	

Comment #	Letter 4	Response
	FRIENDS OF PINTO CREEK ~~617 E. Apache Blvd., No. 48, Tempe, AZ 85281~~ ~~Phone/Fax (602) 446-9328~~ email: pintocreek@asu.edu 9742 N. 105th Dr., Sun City, AZ 85351 – 623-583-6764 (phone/voice/fax) 17 Sept. 2002 Jim Roarbaugh, Field Supervisor U.S. Fish and Wildlife Service 2321 West Royal Palm Rd., Suite 103 Phoenix, AZ 85021 Dear Jim Roarbaugh: Attached are my comments on the Draft Environmental Impact Statement for the Roosevelt Habitat Conservation Plan and on the Draft Roosevelt Habitat Conservation Plan for your consideration and response. Thank you. Sincerely, Thomas W. Sonandres Coordinator, Friends of Pinto Creek. RECEIVED SEP 20 2002 U.S. FISH & WILDLIFE SERVICES ES FIELD OFFICE-TUCSON, AZ RECEIVED SEP 17 2002 U.S. FISH & WILDLIFE SERVICE ES STATE OFFICE-PHOENIX, AZ *Dedicated to the Preservation of Pinto Creek, Powers Gulch and Haunted Canyon*	

Comment #	Letter 4 continued	Response
	COMMENTS OF Thomas W. Sonandres 9742 N. 105th Dr. Sun City, AZ 85351 (623) 583-6764 ON The Draft Environmental Impact Statement for the Roosevelt Habitat Conservation Plan The Draft Roosevelt Habitat Conservation Plan SUBMITTED TO Jim Roarbaugh, Field Supervisor U.S. Fish and Wildlife Service 2321 West Royal Palm Rd., Suite 103 Phoenix, AZ 85021 ON 17 Sept. 2002	

Comment #	Letter 4 continued	Response
	TABLE OF CONTENTS INTRODUCTION P. 01 QUESTIONS – GENERAL P. 02 DATA ISSUES – GENERAL P. 03 DAM OPERATION ISSUES P. 06 MITIGATION AND OTHER ECO-DATA ISSUES – GENERAL P. 07 WITHER THE FLYCATCHER IF 100% OR 50% OF ROOSEVELT SUITABLE HABITAT IMPACTED? P. 12 #1 - GENERAL LIKELIHOOD P. 12 #2 – LIKELIHOOD TO DISPERSE NEARBY P. 13 #3 – LIKELIHOOD TO DISPERSE TO SAN PEDRO P. 14 #4 – LIKELIHOOD TO CRASH P. 15 THE IMPORTANCE OF VARIETY IN MITIGATION P. 19 ADD PINTO CREEK TO HIGH PRIORITY MITIGATION TO ACHIEVE FINAL PLAN VARIETY P. 20 WHY TONTO CREEK NOT PINTO? P. 34 PINTO PROPOSALS P. 35 GRAZING P. 35 HABITAT SURVEY OF PRIVATE/PUBLIC LAND P. 36 ENDANGERED/THREATENED SPECIES SURVEY P. 37 PUBLIC LAND MITIGATION P. 37 PRIVATE RANCH LAND AND WATER RIGHTS P. 38 BACKUP OR SECOND ROCKHOUSE PILOT PROJECT P. 39 SRP BUY OUT WITH OTHERS OF CARLOTA MINE P. 40 RESERVOIR LEVEL ADJUSTMENT PROPOSAL P. 44 PROPOSAL TO INCREASE IMPACTED ACREAGE TO 1000 ACRES P. 46 CONCLUSION P. 48 FULL OPERATIONS ALTERNATIVE P. 48 NO JEOPARDY DECISION P. 48 APPENDIX – MAPS OF 1997 BHP SPILL INCLUDING PROJECTED IMPACT ON CAROTA, PHOTO P. 50 **INTRODUCTION** SRP and FWS are to be complimented with the manner in which the RHCP process has been conducted, the responsiveness to my personal queries, the effort put into the Draft Plan and the extent to which it addresses the environmental as well as dam operation concerns. . To raise the Plan's environmental mitigation to the same highest standard as the dam operations portion, which guarantees fifty years of maximum water/hydroelectric/storage use to contracted Valley consumers with no restrictions due to the flycatcher, I make various proposals for the purpose of: - Adding variety to but not changing the essential focus of the Draft's distant big-parcel mitigation	The Service appreciates the comments provided by the Friends of Pinto Creek. The general comments made in the Introduction of these comments are addressed below.

Comment #	Letter 4 continued	Response
	2 - Restoring and preserving the Pinto Creek watershed, the only Roosevelt tributary still offering in 2002 opportunity to do so and, if done, an in-perpetuity monument to SRP-FWS-Tonto-private collaboration. Incorporate into the Final Plan a private/public land survey of lower and middle Pinto and lower Haunted Canyon's 10+ miles of perennial reach, and add all acreage found occupied/unoccupied, suitable/potential, to the Final Plan high priority mitigation. This should provide a variety of good quality mitigation habitat including, in the area near Roosevelt now without mitigation. - Increasing the impacted acreage at Roosevelt in the event of a complete fill from the Draft's 750 maximum impacted acres to the actual 1000 suitable and potential tall dense acres that would be impacted in the event of a fill in winter-spring 2002-2003. This change would remove such Draft anomalies as substituting, at a 3:1 ratio, a substantial amount of tall dense unoccupied mitigation habitat and little if no occupied habitat for impacted occupied habitat. Plan criteria calls for targeted riparian habitat for acquisition to be occupied by flycatchers or have similar or greater proportions of tall dense woodland as that lost (EIS 47). This change would restore in the Final Plan the intended targeted tit for tat, namely mitigation acres for impacted acres in which both are suitable/unsuitable and occupied/unoccupied mitigation. **QUESTIONS – GENERAL** 4-1 01 - LIKELIHOOD OF ROOSEVELT FILL IN NEAR FUTURE. What is the likelihood that the eventual inundation of the flycatchers, under full operations instituted in December 2002, will be in 2003? In 2004? When as best can be estimated? At 7% capacity (2033 ft. elevations) in December 2002, the reservoir would have to increase 62 ft. by April 2003 to reach the root base of the lowest flycatcher 2001 nest tree and 82 ft. to reach the 2115 ft. elevation and beginning of the location of 60% of 2001 nesting sites. The Jan.-to-Jan. records of historical elevations, 1950-2002, suggest the increase exceeded 62 feet in six years (12%) and 82 feet in three years (6%). If the answer is that the real-world crunch, the reservoir level filling to 2095 ft. elevation, is not likely to occur until winter 2003 or winter 2004, as best as can be estimated, then no water would be lost to SRP customers, and would provide additional time to develop the Final Plan irrespective of its signing date (e.g., conduct the cuckoo survey in the 2003 breeding season, move ahead toward property purchase, and, as proposed here, to survey Pinto Creek, evaluate the 2002 nesting failure on the 2003 flycatcher breeding season, fully evaluate public comments, etc.) 4-2 02 - ROOSEVELT CUCKOO HABITAT SURVEY. Was the cuckoo habitat survey of Lake Roosevelt finished in the 2002 season? If not, when is it scheduled to be finished? If Roosevelt cuckoo habitat floods in 2003, how can a future survey accurately reflect 2001 and 2002 conditions? Be included in a Dec. 2002 Permit?	4-1. Roosevelt Lake is expected to be at about 10 percent of capacity going into the winter of 2002. Historically, precipitation in the winter months generates runoff that contributes to the refill of Roosevelt. The amount of runoff and reservoir fill has varied widely in the past, so it is difficult to predict precisely to what elevation the reservoir will fill in 2003. Because the reservoir is currently at exceptionally low levels, a very wet winter would be necessary to completely fill Roosevelt; however, large runoff events have occurred regularly in the past, which would fill the reservoir above 2,095 feet. Regardless of the amount of reservoir fill in 2003 or future years, the conservation measures, monitoring, and other commitments in the RHCP would be implemented according to the proposed schedule if the Service issues a permit. This would ensure that the mitigation in the RHCP would begin to accrue as soon as possible. 4-2. No formal survey for cuckoos was conducted at Roosevelt in 2002. Observations by USGS and AGFD biologists during the flycatcher nesting surveys in 2002 indicated that three cuckoos were present at Roosevelt but it is unlikely that any nesting occurred (RHCP, Subchapter II.B.4.i). Under the RHCP, the initial formal cuckoo surveys at Roosevelt would be conducted in 2003 and 2004. Potential impacts on cuckoos were based on the amount of suitable habitat present at Roosevelt in 2001, not on occupied habitat, because occupation data are not available. Cuckoos prefer mature tall riparian vegetation rather than young salt cedar, so existing cuckoo habitat is believed to be near maximum at Roosevelt. Monitoring and adaptive management would be used to identify possible changes in cuckoo mitigation measures.

Comment #	Letter 4 continued	Response
4-3 4-4 4-5 4-6	3 03 - RESULTS OF 2002 ROOSEVELT FLYCATCHER SURVEY. What is the elevation of the base root of the lowest elevation nest, which is to determine the new lowest level that the reservoir may be raised to until a permit takes effect? If cowbirds were such prevalent predators in 2002, why weren't they trapped? If prevalent in 2003, will they be? What possible adverse impact did 2002 field survey techniques -- the most extensive survey conducted of the Roosevelt population? – have on nest failure rate and/or the reported more lethargic, less active behavior of the flycatchers? Or, is the best estimate that prolonged drought conditions, directly and indirectly, larger contributed to the 2002 nesting season acute failure? 04 - FLYCATCHER DENSITY. If the model for flycatcher breeding density is defined as **.22 (pairs per) acres** or **1 pair per 4.5 acre** of immediately surrounding vegetation density (EIS 144), why, for the 20-acre Rockhouse pilot project (i.e., 10-20 flycatcher territories = 10-20 pairs), was it calculated between **.50 to 1 pairs per acre** or **1 pair per 1-2 acres?** **DATA ISSUES – GENERAL** 05 - INDEX. Create a reader-friendly, time-effective index of important references, perhaps of 3-4 pp., in the EIS and RHCP. Per the Draft EIS, no index appears because most of the key terms are used frequently throughout the document and the table of context provides the best index (EIS 221). In fact, a very small percentage of key EIS issues appear in the table of contents, and, not being in alphabetical order are difficult to find. Examples not found in the EIS table of contents (ref pages are not complete): Examples: ■ AGFD Model (i.e., basis to quantity flycatcher breeding habitat in Az.): EIS p. 144 ■ Forest Protection Officer (i.e., key proposed mitigation at Lake Roosevelt): EIS 30, 58-59 ■ Ft. McDowell (i.e., site of the principal bald eagle mitigation): EIS at Figure 8 at p. 45, p.60, p. 162 ■ Pinto Creek (i.e., site of a principal Roosevelt bald eagle, subject of scoping questions, the principal Salt tributary nearest Roosevelt with flycatcher dynamic riparian system): ES-5, 27, 28, 78, 79, 80, 133, 134, 158, 160, Figure 21 at 177 ■ Safford (i.e., said to be included in the high priority acquired mitigation): Figure 8 at 45; Table 3 at 46; Table 4 at 50; 58, "Gila" at 62. 06 - ACRONYMS/ABBREVIATIONS. Add to the list on the reverse side of the and HCP title pages:	4-3. Preliminary data indicate that the lowest elevation of the root crown of flycatcher nest trees in 2002 is similar to 2001. Cowbirds were not trapped in 2002 because in recent years parasitism has not been a major concern. The reasons for reduced flycatcher productivity in 2002 are not clearly known. Increased parasitism by cowbirds appears to be a factor along with drought conditions and reduced insect populations. Impacts to flycatchers attributable to monitoring techniques are unlikely based on previous monitoring activities. 4-4. The estimate of flycatcher density at the Rockhouse pilot project was incorrectly stated in the draft EIS and RHCP. The density of flycatchers in occupied habitat at Roosevelt in 2001 was about 3.5 acres/territory. Thus, the 20-acre Rockhouse project would support about 6 flycatcher territories. Corrections to the text in Section 3.4.2.3 of the EIS and Subchapter IV.C.2 of the RHCP were made. 4-5. The Table of Contents provides the best index for locating information in this EIS. 4-6. As requested, additional acronyms/abbreviations were added to the EIS and RHCP.

Comment #	Letter 4 continued	Response
	4 BA – Biological Assessment ERO – ERO Resources Corporation [e.g., 126, 127] FEIS – Final Environmental Impact Statement FMIC – Ft. McDowell Indian Community Recommendation – [that of the Recovery Team, e.g., EIS 42]	
4-7	07- GLOSSARY. Add to list, beginning at EIS, p. 217 amendment buffer including "buffer zone," "upland buffer," "environmental buffer" ERO Resources Corporation [i.e., contracted to write the EIS and RHCP] habitat protection and management program [at EIS 58-59] habitat including "model," "suitable," "potential" "occupied" [includes buffer?] mitigation expanded to define "acquired and mitigated," "acquisition and management," "additional/other conservation measures," "high priority," "candidate," "minimization," "adaptive management," "conservation measures," "protection and management" [i.e., locating terms in one location would be very helpful to the public.] vegetation including "tall and dense," "riparian," "dense"	4-7. As requested, additional terms were added to the glossary.
4-8	08 - MAPS. Add to the Draft EIS one map of each other high priority mitigation site besides Roosevelt, in order to locate text references: ■ Verde Valley (e.g., Camp Verde, "another portion" at EIS 59) ■ San Pedro (e.g., San Pedro Preserve, Dudleyville, Winkleman, Mammoth, Middle San Pedro Valley near Reddington (EIS 62) ■ Safford, including (e.g., Ft. Thomas and Pima at EIS 45, Gila upstream from Safford and Carlos Lake at EIS 62, San Francisco River at EIS 122, ■ Pinto Creek, if recommendations in these comments are considered (e.g., lower and middle Pinto Creek including the 8.8 mile perennial stretch, Pinto Valley Weir, Henderson Ranch, Layton Ranch, lower Haunted Canyon, Pinto-Haunted confluence, BHP – Pinto Valley Mine, proposed Carlota Copper Project)	4-8. In response to this comment, an additional map of the San Pedro River was added to the EIS (Figure 10), along with additional detail on previous maps for referenced locations in the Safford Valley, Verde River and Pinto Creek.

Comment #	Letter 4 continued	Response
4-9	5 09 - TABLE OF RESERVOIR ELEVATIONS. Add a table to reference elevations, not now comprehensively listed in Figure 5 (EIS 18) or Tables 11 and 12 (EIS 106). For example: ROOSEVELT RESERVOIR ELEVATIONS **2218** feet: Crest of dam after 1996 modification, a 77-foot increase, from 280 to 357 ft. **2151-2218:** For flood control operations, the responsibility of the Army Corps of Engineers, not SRP; evidently due to negotiated environmental concerns. Water may enter this space only in an emergency and is to be removed as fast as possible **2151:** Flood control release when capacity exceeds 2151 elevation, Alternative 2 full operations maximum elevation. The SRP proposed alternative in the draft EIS, continued operation of the entire conservation space up to 2151. Total Roosevelt dense vegetation below this point is 1000 acres, 2001. (EIS 128) **2136-2151**: The new conservation space (NCS), the 17-foot increase of reservoir capacity after the 1996 dam modification; possibly financed by Valley municipal and federal funds. . **2141**: Pre-modification crest height (Estimated). **2136** – Historical maximum before crest modification **2128**: Total Roosevelt dense vegetation below this point is 500 acres (EIS 128) **2125-2135:** Pinto and Tonto eagle nests (EIS 134). **2125** – Alternative 3 Re-Operations maximum elevation **2115-2125** – Location of 60% of 2001 flycatcher habitat. * In 2001 the majority of the nests were in trees and shrubs with root crowns between 2095 and 2120 feet (EIS 41). **2095** – No-action alternative maximum elevation after May 1 (EIS 37). If the lowest nest in significantly lower in the 2002 survey, this elevation would be lowered; Seven feet higher than the base of the lowest shrub or tree with a nesting flycatcher, considering that flycatchers typically nest 10-16 feet above the trees at Roosevelt (EIS 37) **2088** – Base of lowest nesting flycatcher tree or shrub, 2001 (EIS 37) **2062** – Minimum 150-ft head to operate the generator, below which Roosevelt generation ceases to operate (EIS 172) **2033** – Elevation at 7% capacity when reservoir level is below the dam outlet to the lower Salt.	4-9. An additional table of reference elevations for Roosevelt was added to the EIS.

Comment #	Letter 4 continued	Response
4-10 4-11	6 **DAM OPERATION ISSUES** 010 - RECHARGE. During the 50-year permit period, commit to a substantially larger AF/year recharge capacity than 300, 000 acre-feet, for example, to 826521.5 AF or 50% of the Lake Roosevelt capacity. Per the EIS, recharge of water stored at Roosevelt is severely limited by legal, institutional, practical, and cost constraints (EIS 71). Nonetheless, the SRP plans to develop another recharge facility along the Agua Fria River channel with a capacity of 100,000 AF/yr., and, if feasible and fully implemented, the combined capacity of all recharged facilities described would total 300,000 AF/yr. (EIS 85), which is 18.1% of the Roosevelt reservoir capacity. Immense past historic problems were overcome to develop what has been described as, with Los Angeles, the best water supply network ever constructed on the planet. The times call for an SRP goal, if not commitment, to do its part toward a recharge capacity in the next fifty years of substantially more than 18.1%. This permit provides SRP the opportunity to assess the next fifty years, and make a statement. 011 - PHOENIX EXCESSIVE EXCESSIVE WATER CONSUMPTION. Make a strong statement addressing high Phoenix per capital water consumption, indications that the prolonged drought may not be the anomaly in past decades, and propose that increased effective conservation measures now will reduce imposition of enforced conservation measures later. The Draft Plan reverses this situation. Cities and other water users dependent on Roosevelt water potentially could more fully utilize available water supplies through implementation of water conservation measures However, these measures already are being implemented as a result of intensive regulation under Arizona's Groundwater Management Act... The population increased 86% 1980-1998 and municipal water use increased only 36%... Because cities have already undertaken aggressive conservation measures as required by the lake, **there is little or no opportunity to replace the loss of water supply from Phoenix...through water conservation** (EIS 83) Two dated web postings have Phoenix per capital water consumption far more than Tucson, Flagstaff and every other southwestern cities. **Phoenix: 228 gallons per capita per day** Albuquerque: 209 gallons per capita per day El Paso: 159 gallons per capita per day Tucson: 158 gallons per capita per day, Santa Fe: 143 gallons per capita per day http://www.cabq.gov/waterconservation/insert.html **(circa 1994)**	4-10. There are significant legal, institutional, and practicable constraints associated with substantially increasing planned water recharge, underground storage, and recovery operations, particularly for water that would otherwise be stored in Roosevelt (RHCP Subchapter V.N.6.c). Constraints include restrictions in Arizona law that limit long-term underground water storage and recovery projects, the practicability of locating additional feasible recharge sites and providing conveyance capacity to recharge sites, and the cost of implementing these actions. Expansion of recharge capacity above 300,000 AF/yr would be difficult because of these limitations. SRP is currently participating in the Granite Reef Underground Storage Project on the Salt River Pima-Maricopa Indian Reservation and a proposed recharge, underground storage, and recovery project on the Agua Fria River. 4-11. The extremely hot climate in the Phoenix area contributes to the higher than average water use when compared to other southwestern cities. Municipalities in the Phoenix area have implemented a variety of conservation measures to reduce water consumption including educational programs, xeriscaping, low-flow plumbing codes, and conservation programs. In 1998, the City of Phoenix implemented a Water Conservation Program with comprehensive water conservation measures. SRP promotes water conservation efforts through educational programs, maintenance and upkeep on delivery and conveyance systems, and implementation of conservation measures at SRP facilities (see the general response to Letter 1).

Comment #	Letter 4 continued	Response
4-12 4-13 4-14 4-15 4-16	7 Phoenix 180 gals. per capita per day http://az.arizona.edu/OALS/ALN/aln28/brittain.html (1999) 012 - If indeed Phoenix per capital consumption remains so high, if incidents of excessive consumption are prevalent, if no measures been put in place this summer despite prolonged record drought and other state and southwestern cities instituting emergency water measures, if climate changes could prolong drought in sharp contrast to patterns of previous centuries and if Phoenix population continues to increase rapidly, we have a problem. The yardstick is water consumption, not self-tests on remembered ad campaigns. Do Lake Tempe, downtown misters, cleaning sidewalks by hosing, and numerous maladjusted automatic sprinklers daily sending water into streets year after year support the conclusion that there is "little or no opportunity" to do significantly more? I understand that SRP is not in a legal position to reduce excessive Phoenix per capital water consumption, and that municipal emergency plans are in place. However, **the permit provides SRP with an excellent opportunity to make a statement.** **MITIGATION AND OTHER ECO-DATA – GENERAL** 013 - 2250 TOTAL MITIGATION ACRES. What is the estimated number of mitigation acres that, at the time added to the mitigation schedule (EIS 50), are potential acres (e.g., without sufficient water to be suitable)? What percentage of what amount of the 958 acres so far added to the mitigation schedule in the Pre-Permit Phase I are potential and not suitable habitat? At what point, does the Plan call for them to become suitable acres? The plan obligates that they will remain suitable in perpetuity? 014 - ROOSEVELT 300 "OTHER" MITIGATION ACRES. Please clarify the nature of these acres, which are nowhere clearly identified. ■ Confirm that they are not existing "floating" acres of suitable habitat, their location dependent on shifting reservoir levels and stream flow patterns, and not related to the 300-400 existing acres available on average over the long term in the next paragraph. 015 - (B) Please clarify the Draft reference to 300-400 acres available over the long-term for flycatcher nesting at Roosevelt and there would be habitat along the lake fringe near the Tonto Creek and Salt River inflow points at full reservoir levels (EIS 47). In April 2003 or after similar prolonged drought periods as the current one, approximately how many suitable acres at the Tonto and Salt inlets would there be with a complete reservoir fill? I understand from agency personnel that there would be substantially many acres fewer than 300-400 acre average, if not essentially no acres. With three complete fills predicted in the next 100 years, in how many of the next fifty years are 300-400 suitable acres predicted to be available? In how many would the amount be under 200? Under 100? What is the estimated high and low end of the 50-year range of suitable acreage? 016 - (C) Please clarify if the 300 are existing acres.	4-12. Please see response to Comment 4-11. 4-13. The acquisition of mitigation lands will focus on high quality properties with occupied, suitable, and potential habitat for flycatchers. A portion of mitigation properties may include riparian habitat that is not currently suitable for flycatchers due to previous natural or human disturbances but, if managed and protected, would develop into suitable habitat. An estimate of the relative proportion of suitable and potential habitat on mitigation sites is not currently available. Acquired mitigation properties would be managed in perpetuity with the expectation of providing suitable habitat for flycatchers and other covered species, but riparian ecosystems are dynamic and their condition and suitability for flycatchers will fluctuate over time with climatic conditions, runoff, flooding, and other events beyond management control. 4-14. Assuming that this comment refers to the 288 acres of habitat conservation listed for Roosevelt in Table 3 of the draft EIS, please see the response to Comment 4-16. With respect to the 300-400 acres in the next paragraph, this refers to the long-term average of suitable nesting habitat at Roosevelt, which is part of the habitat that the forest Protection Officer will be helping to protect. Under drought conditions, the actual amount of suitable habitat could increase up to the 1,000 acres of tall dense vegetation currently present or more. It is anticipated that suitable habitat would likewise develop in the future at the Rockhouse pilot project and within the Tonto Creek Riparian Unit of Tonto National Forest. A footnote was added to Table 3 to clarify this value. 4-15. As discussed in the response to Comment 4-14, around 300 to 400 acres of suitable flycatcher nesting habitat is likely to be present on average (50% to 60% of the time) at Roosevelt near the Salt River and Tonto Creek inlets. If Roosevelt were filled to an elevation of 2,151 feet, the acres available for nesting in May are estimated to be about 100 to 200 acres. Figure 11 in the EIS and Figure III-5 in the RHCP illustrate the percentage of time that different amounts of nesting habitat would be available at Roosevelt based on hydrologic data since 1889. Estimated suitable nesting habitat using the hydrology for the period of record ranges from about 100 acres to over 1,000 acres.

Comment #	Letter 4 continued	Response
	8 The Roosevelt mitigation schedule suggests that the 300 are the equivalent of the value of enforcement time and expenses (Footnote, Table 4, EIS 50). SRP funding of protection and management personnel at Roosevelt provides a "credit" of 300 acres (EIS 48). It is understood that the Tonto Forest Protection Officer, 1.5 years after Permit issuance, will patrol riparian acres, whatever their amount, existing at any given time (EIS 58). But it is not clear that the Roosevelt 300 "additional conservation" acres add 300 physical acres to the "additional" total of 750, of if they add non-existing "credit" acres. The question here and in the following paragraph is important in evaluating the count of real-acre mitigation at the Roosevelt site of the flycatchers and in the total mitigation acreage. 017 - 750 "ADDITIONAL CONSERVATION" MEASURES ACRES AND OTHER "CREDIT" NON-EXISTING ACRE MITIGATION. Please clarify.	4-16. Additional Habitat Conservation measures are a different category of mitigation measures separate from Habitat Acquisition and Management. Mitigation in the form of equivalent acres of credit is given for activities such as the funding for a Forest Protection Officer at Roosevelt. Funding for a Forest Protection Officer is valued as a mitigation credit of 288 acres as shown in Table 4 of the EIS. For more discussion of additional conservation measures, see the response to Comment 3-12.
4-17		4-17. See response to Comment 4-16 and 4-18.
4-18	018 - (A) How many of the 750 "additional" acres are real-world existing acres? How many are "credit" acres for ground water pumping decreases, water rights obtainment, agency funding etc.? Per the Draft, the retirement of 164 acres of irrigated land and ponds at the San Pedro Preserve is a 220 "mitigation credit" subtracted from the 750 "additional conservation" acres (EIS 152). Per the Draft RHCP [understood non-existing "credit" acres or possible "credit" acres are in bold]: These additional measures would take a variety of forms, including (1) **protection and management of riparian habitat at Roosevelt;** (2) where feasible, acquisition and management of upland buffers to minimize threats to protected habitats; (3) **acquisition of water rights and reduced diversion or ground water pumping, with concomitant benefits to protected riparian habitat; (4) other measures approved by FWS** (RHCP 122).	4-18. The mitigation plan includes 750 acres of Additional Habitat Conservation measures for activities such as protection and management of riparian habitat at Roosevelt, acquisition and retirement of water rights, and acquisition and management of buffer lands. These measures have an acre equivalent value as described in Section 3.4.2.3 of the EIS. Table 4 in the EIS illustrates the distribution and schedule for implementation of Additional Habitat Conservation measures.
4-19	019 - (B) Is there a double count? That is, are any of 164 San Pedro acres, counted in the 220 "credit" acres under "additional conservation" acres, also part of Reclamation's 600 acre total counted in the 1500 acquisition acres? This is not entirely clear from the Draft: If this (crediting) occurs re property acquired by Reclamation, mitigation habitat will not be double-counted as credit in the RHCP (EIS 122)	4-19. There is no "double count" of mitigation acres. Additional Habitat Conservation credit equivalent to 220 acres is based on the conversion of 440 AF of water rights from 164 acres of irrigated land on the San Pedro; no Habitat Acquisition and Management credit would be given for these 164 acres. Reclamation's acquisition of about 603 acres of riparian habitat (403 acres currently and about 200 acres within 3 years) is part of the total Habitat Acquisition and Management goal of 1,500 acres (RHCP, Subchapter IV.C.1.a).
4-20	020 - (C) Are the Draft's maximum of 150 buffer acres, to be counted in these 750 acres, also the total buffer acreage obtained? If not, will buffer acreage be also purchased and counted in the Draft's 1500 acquired acreage total? If so, what	4-20. Lands acquired as upland buffer to riparian habitat are credited as part of the 750 acres of Additional Habitat Conservation measures within the 750 acres, but are not part of the 1,500 acres of Habitat Acquisition and Management. It is expected that less than 150 acres of buffer lands would be given credit as an Additional Habitat Conservation measure. Credit for buffers will be determined in discussions between the Service and SRP on a case-by-case basis. As requested, a definition of buffer was added to the glossary. The use of buffer in this context addresses protection of riparian mitigation lands and is not related to the "buffer" around flycatcher territories; this latter use of the term has been changed to "mapped." The term "environmental buffer" has been discontinued.

Comment #	Letter 4 continued	Response
	9 percentage of 1500 acreage is considered buffer, and why is buffer counted in both categories? The definition of buffer would assist, as said under "Glossary," p. 4 of these Comments, in that there are at least three: "buffer" as integral part of the AGFD model habitat, "upland buffer," and "environmental buffer. Are upland buffers at play here? They are defined to insulate habitat from impacts of adjacent land use (EIS 48) and are not necessarily suitable/potential habitat or perhaps definitely not.	
4-21	021 - (D) On what basis are the above (i.e., some) parts of the enormous SRP costs of this plan counted as non-existing "credit" and "mitigation" credit acres, and other costs are not. For example, are improvements to upland buffer, acquired under "additional" mitigation, then not counted among cash outlays credited in equivalent acres? Or, why is patrolling by the FPO and her/his possible planting credited in equivalent "additional" acres but the patrolling and planting of SRP maintenance funding evidently not? Per the Draft: > The amount of credit to SRP will be based o the proportion of management funding provided by SRP in relation to the total cost of acquisition and management of the land. If an agency spends $500,000 to acquire 150 acres of habitat and SRP commits $250,000 for permanent management, SRP would receive one-third of the habitat credits (50 acres). If this occurs re property acquired by Reclamation, mitigation habitat will not be double-counted as credit in the RHCP (EIS 122) Other examples of not credited costs appear to be: - acquisition acreage and related costs - the enhancement that is to go into all acquired mitigation acres such as planting, fencing, security patrols, other efforts in the management plan for each property - cowbird trapping (EIS 29) by Reclamation - sampling, aerial photography, monitoring costs (EIS 29-31)	4-21. SRP has clearly identified its mitigation plan in Chapter IV of the RHCP. There are two primary components of proposed conservation measures included in the RHCP: 1) Habitat Acquisition and Management of potential or suitable habitat, which includes purchase and/or conservation easements of riparian land, and 2) Additional Habitat Conservation measures, which includes acre equivalent credit for retirement of water rights, funding for a Forest Protection Officer at Roosevelt, acquisition and management of buffer lands adjacent to riparian habitat, or other measures agreed to by the Service. In addition to these conservation measures, SRP will be responsible for funding activities in support of these conservation measures, including monitoring at Roosevelt and mitigation sites, cowbird trapping, management of the Rockhouse pilot project, property management in perpetuity for acquired properties, Fort McDowell riparian protection, and SRP management and administrative staff.
4-22	022 - (E) Will it be possible to include all acre-equivalent cash value for all the water rights purchased, all the water restored by purchase of irrigated lands, all the fencing that will be installed or upgraded, all SRP management funding in relation to the total cost of acquisition and management of the land (EIS 122) etc., in the total mitigation acreage? If not, what happens to the credit equivalent not counted?	4-22. Acquisition and retirement of ground water pumping or conversion of water rights to instream flow would be valued as equivalent acreage based the acre-feet of water retired (historic annual depletion) divided by 2 (the estimated consumptive use of water by tall dense riparian habitat is 2 AF/acre). No acre-equivalent value is given for fencing or SRP management; this is a property management cost. See the response to Comment 4-21. Management is required for all land acquired for mitigation.
4-23	023 - (F) How many of the 1500 acres are existing acres visible to the flycatcher and humans, and how many are management funding, non-existing credit-acres?	4-23. Conservation measures include acquisition and management of 1,500 acres of physical riparian habitat. See response to Comment 4-21.
4-24	024 - PROPOSED NEW ACREAGE COUNT FOR FINAL PLAN. Only count existing acres in "acquisition" and "additional" mitigation. Include, as in the Draft Plan, under "additional" acres the "up to 150" buffer (EIS 122-123) in that they are existing acres. To make up the deficit by removal of non-existing "credit" acres, add to the Final Plan mitigation acreage totals other categories of existing acres, for example, public land	4-24. The Additional Habitat Conservation measures are credited as mitigation because these measures directly benefit flycatcher and cuckoo habitat. See also response to Comments 3-12 and 4-21.

Comment #	Letter 4 continued	Response
4-25	10 mitigated acres. Count the Draft's "credit" acres (i.e., the cash equivalent in acres for the Forest Protection Officer and value of withdrawn water rights in the Draft's 750 "additional" acreage) as cash placed in a new list which consists of the total enormous mitigation and non-mitigation costs, which SRP spends on a Final Plan, which SRP and media and others cite. This proposal has the merit that all mitigation acres, whether "acquisition" or "additional," (A) would be existing and visible to the flycatcher, (B) would contain no seemingly arbitrary "credit" acres inserted as cash-equivalent for some mitigation enhancement but not others, (C) would be acres visible to the eye, and (D) make the 3:1 ratio, per Recovery Team Recommendation, clearly tit for tat -- real existing mitigation acres exchanged for real existing impacted acres, or: "compensation habitat should be acquired at no less than a 3:1 ratio. 025 - QUANTIFY HABITAT ELIGIBILITY FURTHER. Provide a standard of measurement that determines that determines the nature of suitable habitat under the Plan selection process. Provide a table with these measurements for the big-parcel high-priority mitigation sites (i.e., San Pedro, Safford, Camp Verde) and the eight "candidate" sites (EIS 62), and, per these comments, for Pinto Creek. If more convenient due to unknown data, provide those categories with a word description rather than a number (e.g., "yes" "estimated," etc.). Include in the standard and tables the numerical criteria that made Draft sites eligible for high priority and candidate status, that made public land and other private land sites ineligible. Suggested categories for numerical criteria would include: • maximum allowable gradient, • summary of water reliability, • width (i.e., narrowness) of floodplain • width range of riparian vegetarian, provided for the Verde Valley (500-1600 ft., EIS 59) • the numerical distinction between big-parcel and small-parcel • distance from Lake Roosevelt, a critical Plan criteria • estimated occupied habitat or summation of flycatcher sightings • summary of degree of degradation, including grazing, development This proposal would have the merit of expanding the scientific basis in the Draft (e.g., in the AGFD model) to the selection process and to enable the reader to understand the numerical criteria involved, for example, to: ■ Distinguish large-scale habitat protection, on which Draft Plan compensation will focus, rather than "small isolated parcels" (EIS 44) ■ Understand why private lands on Pinto Creek and other nearby Roosevelt creeks were eliminated because of "small size of the parcels, high gradient of the stream channels, narrowness of the floodplains, or lack of reliable water supplies"? (EIS 79)	4-25. A number of factors were used to identify and evaluate the quality of lands for mitigation. In response to this comment, these factors are clarified in Section 3.4.2.3 of the EIS and Subchapter I.C.1.a of the RHCP. These factors include: • Proximity to Roosevelt • Presence of flycatchers • Suitability of riparian vegetation • Potential for development of suitable riparian vegetation • Proximity to occupied flycatcher habitat or other protected lands • Proximity and quality of streams and floodplain including sufficient water supplies, floodplain width, and low stream gradient • Available water supplies • Potential to acquire large contiguous blocks of land and large patches of potential or suitable habitat • Current and adjacent land uses

Comment #	Letter 4 continued	Response
4-26	11 ■ To understand why "remaining National Forest lands were unsuitable for developing flycatcher riparian vegetation due to the narrow width of the floodplain and high stream gradient" (EIS 79) DISTANCES FROM LAKE ROOSEVELT OF MITIGATION AND OTHER SITES Tonto inlet = 8% of total Arizona flycatcher population, 2001 Salt inlet = 35% of total Arizona flycatcher population, 2001 (EIS 130) 02.0? miles From Tonto inlet to single large tall dense block (map. EIS 127) on Tonto Creek, a Candidate site 00.3 miles From Salt River inlet to **Rockhouse** Pilot Project on upper Salt 04.3 miles From breeding area near Salt River inlet to the downstream end of the 8.8 mile perennial reach of lower **Pinto** Creek 49 miles From Salt River inlet to Dudleyville (**Lower San Pedro** River mitigation site)* 70 miles From Tonto inlet to Camp Verde (**Verde** River mitigation site) 78 miles From Salt River inlet to Ft. Thomas (**Gila** River, Safford mitigation site) *The reference of the Salt River inflow to San Pedro as 42.9 miles (RHCP 53) possibly refers to the Gila-San Pedro confluence, not Dudleyville 026 - MINIMUM SINGLE PAIR PARCEL SIZE. What is minimum single-pair parcel size? The historical smallest parcel, the minimum band or block in which one nesting pair has been found in Arizona? What is the minimum band or block in which a single nesting pair has been found? One ornithologist, familiar with the flycatcher, has said the smallest parcel could be "two acres. Per the Draft, 18 breeding sites were in Arizona in 2000 (Figure 11, EIS 122)? The Draft EIS informs that precise characterization of flycatcher habitat has eluded analysis to date. No single comprehensive model has been developed that defines flycatcher habitat (EIS 142). The AGFD Model for Arizona has an **11.1-acre neighborhood** of an observed breeding area with an area of floodplain of **100 acres surrounding** the site (EIS 144). The model does not quantify narrowness of width of the surrounding floodplain, the gradient, definition of "reliable water supply," or specific parcel size, criteria on which public and private land mitigation was eliminated, as well as distance from water. Cuckoos need at least 10-acre blocks, more than flycatchers and	4-26. The Recovery Plan for the flycatcher references flycatcher nesting in patches as small as 1.5 acres in the Grand Canyon. However, narrow linear riparian habitat less than 33 feet wide is not likely to support flycatcher breeding according to the Recovery Plan.

Comment #	Letter 4 continued	Response
4-27 4-28 4-29	12 generally do not **use narrow strips** (EIS 52). Riparian vegetation (Verde Valley) varies in width from approximately **500 to 1,600 feet** (EIS 59). 027 - (B) As small-parcel is defined by the above answers, what percentage of flycatchers breed in small-parcel habitat? How good is the data? That is, to what extent have small-parcel sites been surveyed in Arizona? Elsewhere? **WITHER THE FLYCATCHER IF 100% OR 50% OF ROOSEVELT SUITABLE HABITAT IMPACTED?** 028 - In the next fifty years, many scenarios are possible re short-term reservoir changes and available of lakeside longer term suitable habitat. Please address two essential ones: SCENARIO "A" -- COMPLETE FILL AFTER PROLONGED DROUGHT. This could occur In April 2003, in the event of a complete fill, which, I understand is the basis for determining the 750 maximum acres of occupied habitat impacted, or at any April in the next fifty years after a prolonged drought, a scenario that would possibly find no significant habitat above the 2151 ft. fill line because of the drought-affected degradation of tall dense vegetation at that elevation. Per the Draft, some 90 acres of tall dense vegetation are currently above 2151 feet (HCP 41), but most or all could be unsuitable for nesting. In Scenario A in April 2003, the 90 acres would await as many as 300+ returning flycatchers. At the AGFD density (1 pair per 4.5 acres), if all 90 acres are suitable, they could handle 20 flycatchers (10 pairs), leaving 280 flycatchers in trouble. Roosevelt will average three drought cycles in the next 100 years, suggesting one to two cycles in the fifty-year Permit period. Such times of prolonged drought result in lowering average reservoir levels. This results in vegetative explosive growth following the declining level, and increasing deterioration of near fill-line tall dense vegetation. (B) SCENARIO "B" – 50% OF RETURNING FLYCATCHERS WITHOUT SUITABLE HABITAT. This would occur in any April, in whatever year under whatever circumstances, in which returning flycatchers (e.g., 25-400) find Roosevelt reservoir suitable habitat able to accommodate 50% of their numbers. 029 - **#1 – GENERAL LIKELIHOOD.** The specific question: What is the likelihood that what percentage of displaced nesting Roosevelt flycatchers would go where in the event of (A) and (B)? The question – the fate of the Roosevelt flycatcher population – is legitimate and central to the Plan. In the scoping, commentators questioned if the flycatcher would find new breeding grounds, how their migration and movement wold be affected, and the likely survival of the population (EIS 8). The issue merits in the Final Plan an in-depth response of what can and cannot be said, including what the historical record indicates (e.g., at the San Pedro PZ Ranch, Elephant Butte in New Mexico), the considered opinion of the Plan's contributors, and that of the professional community.	4-27. The Recovery Plan indicates that flycatcher nesting is predominantly in smaller areas because of the lack of large riparian patches. The percentage of flycatchers nesting in small sites depends on how small sites are defined. The annual AGFD *Willow Flycatcher Survey and Nest Monitoring Reports* provide information on the distribution of flycatchers at different sites in Arizona. 4-28. The presence of riparian habitat for flycatchers and other covered species at Roosevelt will vary from year to year based on precipitation, runoff, and lake levels. When Roosevelt is filled to an elevation of 2,151 feet, about 100 to 200 acres of nesting habitat is likely to be present. About 50 to 60 percent of the time at Roosevelt, 300 to 400 acres of nesting habitat would be present. To the extent that flycatchers are displaced from Roosevelt because of a lack of habitat, they are likely to disperse to other locations. This may include dispersal to mitigation properties or other suitable habitat. See also response to Comment 4-29. 4-29. The recent expansion of the flycatcher population at Roosevelt corresponds to recent extended drought conditions in central Arizona and the subsequent decline in reservoir water levels. Flycatchers have taken advantage of the development of suitable riparian habitat in the Roosevelt lakebed. As the flycatcher population at Roosevelt expanded, many of the returning flycatchers were those fledged at Roosevelt. A decrease in the amount of suitable flycatcher habitat at Roosevelt is likely in the future as the result of either inundation or decay of riparian habitat no longer supported by receding lake levels. As the amount of available flycatcher habitat changes, it is anticipated that some of the flycatchers that have been nesting at Roosevelt will be displaced and will emigrate to other areas of suitable habitat. Banding research by the USGS and AGFD (Luff et al. 2000) has indicated that about 30 percent of known surviving banded flycatchers moved to new sites between 1999 and 2000. A decrease in suitable habitat at Roosevelt is expected to result in flycatcher dispersal to locations such as the Verde, San Pedro, and Safford valleys or

Comment #	Letter 4 continued	Response
4-30	13 030 - **#2 – LIKELIHOOD TO DISPERSE NEARBY.** What is the likelihood what percentage would disperse to suitable habitat nearby Roosevelt (e.g., up to 10-20 miles)? The consensus suggests, under Scenarios A and B, that the likelihood is high that large percentages would first seek suitable habitat nearby. As said, a direct response is merited. I find no directly response in the Draft. Indirectly, the Plan's first priority criteria – to seek mitigation as close to Roosevelt as possible (EIS 43, 47, HCP 160-161, etc.) – suggests that Plan contributors believe most likely that there would be a dispersal to suitable nearby habitat. The Recovery Team's Draft Recommendation also suggested the importance of nearby mitigation: Small populations can contribute to metapopulation stability when **arrayed in a matrix with high connectivity**. Within a Management Unit or portion thereof, a matrix of small populations (e.g., three populations 13 of 25 each) may provide as much or more stability than a single isolated population with the same number of 14 individuals (e.g., one population of 75) because of **the potential to disperse colonizers throughout the network** of 15 sites. **Develop new habitat near extant populations**. Using the habitat restoration techniques described above, increase the extent , distribution, and quality of habitat close **(15 km)*** to extant populations. This will increase the stability of local metapopulations by providing new habitat that will serve dual functions: (1) **replacement habitat in the event of destruction of some habitat** in the current population, and (2) **new habitat for colonization, which once occupied will enhance connectivity** between sites (Southwestern Willow Flycatcher Recovery Plan Draft of April, 2001) *15 km. = 9 miles, a radius within which is some 5 miles of the 8.8-mile perennial reach of lower Pinto, but except for the 20-acre Rockhouse pilot protect, to reach full suitability in 2009 if successful, the next closest off-site acquisition and "additional" mitigation is at San Pedro, some 40 miles outside the nine-mile radius. In conversations with several professional ornithologists, agency personnel, and others who follow the flycatcher, all opine that a high percentage would first seek nearby suitable habitat. This is in their innate survival instinct. More problematical is how many would successfully nest nearby. ■ One professional said, "Since the **birds generally disperse close to existing nest areas,** those riparian areas closest to Roosevelt Lake will be very important." ■ Two professional ornithologists believe that the likelihood is that the Roosevelt flycatchers will **first go to nearby suitable habitat on down some innate scale**. Suitable habitat includes Roosevelt-type big parcel, not available nearby and at	other available habitat. The extent or percentage of flycatchers that will find replacement habitat at other locations is not known; however, flycatchers are adapted to riparian habitats that frequently fluctuate from year to year. Flycatcher populations, like the riparian habitat they prefer, are likely to be dynamic over time, responding to available habitat at Roosevelt and other regional locations. Also, see response to Comments 3-2 and 3-3. 4-30. It is likely that flycatchers displaced from Roosevelt will seek other nearby locations that have habitat characteristics necessary for nesting. The percentage or number of flycatchers moving to nearby habitat versus more distant habitat is unknown. As discussed in the response to Comment 4-29, dispersal to other areas of suitable habitat is anticipated.

Comment #	Letter 4 continued	Response
4-31	14 Roosevelt impacted in Scenarios A and B above, and small parcel. One of these professionals, from the University of Arizona, **said flycatchers will pick and choose nearby to an amazing degree as long as what is present is among those types of vegetation they require at the basic level.** ■ Another ornithologist, as said, stated that **minimum suitable habitat for an isolated nesting pair is as small as two acres**. ■ An agency Plan contributor said that **flycatchers conceivably could go to small parcel habitat along Pinto Creek** (beginning 4 miles upstream from current Salt River inlet breeding grounds)**, if available Roosevelt habitat were occupied to a maximum extent.** Under Scenario A's total inundation and no significant suitable habitat along the fill-line fringe, it would seem that such a similar situation (i.e., no available suitable habitat at Roosevelt) would have a similar result, forcing flycatchers to seek nearby suitable habitat. ■ Under such situations as Scenario A and B, a professional ornithologist said that territory demarcation at Roosevelt would be particularly intense among aggressive males, nesting density would likely reach maximum levels, and the unsuccessful younger males, not as strong or experienced, **would likely then next seek nearby suitable habitat**. 031 - **#3 – LIKELIHOOD TO DISPERSE TO SAN PEDRO**. What is the likelihood that what percentage would fly to a distant location, for example, San Pedro, 50 miles away, the nearest Draft mitigation site and the principal one? The consensus, with exceptions, seems to be, under either Scenario A or B, that there is serious question if high percentages would fly to San Pedro. Under the Draft's projected high priority land acquisition mitigation, San Pedro has (1360/1500) 90.7% of all acquisition acre mitigation. If the Verde and Rockhouse fail, San Pedro could theoretically have 100%. Eight other alternative central Arizona locations are mentioned (EIS 62), but, per 27 August public hearings, are not being actively pursued. As said, a response in the Final Plan is merited and should include the citation of the historic record, the position of the Plan contributors, and professional opinion. The EIS alludes to the possibility of mitigation to San Pedro, but focuses on the difficulties of prediction. There has been **some** observed movement of flycatchers between Roosevelt and the San Pedro Valley (EIS 61). Following a loss of habitat from inundation at Roosevelt, some flycatchers may successfully relocate to other areas of suitable habitat**, but the periodic loss of habitat and limited amount of habitat currently available nearby may reduce the size oif a viable population of flycatchers at Roosevelt** because searching for alternative nesting sites leaves individuals vulnerable	4-31. Flycatchers displaced from Roosevelt may disperse to the San Pedro River and other locations, but a percentage estimate of the number that may move to this location is unknown. The San Pedro River was selected for habitat acquisition because of the quality of habitat and presence of flycatchers in the area. In accordance with the Recovery Plan, acquisition and protection of flycatcher habitat will focus on occupied habitat, unoccupied suitable habitat, and unoccupied potential habitat.

Comment #	Letter 4 continued	Response
4-32	15 to mortality form competition, starvation, or predation and can lead to a loss of breeding opportunities. **The degree to which the Roosevelt population would disperse to the San Pedro, Verde, or other rivers is difficult to predict although banding studies have indicated some movement between these population centers** (RHCP 92). What is known is that extremely few birds have flown between Roosevelt and other sites. A half-dozen in 2002? Interpretations as to the significance of this movement have varied. ■ "In the last five years, biologists have tracked four birds that flew from the confluence of the San Pedro and Gila rivers to Roosevelt, two birds that traveled from Camp Verde to the San Pedro, one bird flying from Camp Verde to Roosevelt, and **one bird making the trek from Roosevelt to the San Pedro.** All of the flights covered at least 50 miles. This year (2001), banders found a bird that flew from the White Mountains to Roosevelt, a distance of nearly100 miles. (NEW TIMES 19 July 2001) "Sogge of the U.S. Geological Survey says even small numbers are significant because banders are recording only a fraction of the flycatchers. "There could be all kinds of unbanded birds," he says. **"They could be moving to places nobody's monitoring. We had no idea that these birds could move on this scale. It says they're much better suited to finding new sites than we thought at first."** (Ibid.) "But the movement is not enough to alleviate (Center for Biological Diversity) Suckling's fears...So far, surveyors have tracked only one bird making this route. (Ibid.) 032 - **#4 – LIKELIHOOD TO CRASH.** What is the likelihood that the population will survive? The consensus seems to be that there is a real possibility, one beyond "remote," that the current Roosevelt population may crash, and, if a similar crash occurs near the same time with the San Pedro population, a less likely double-crash scenario, the population of the species is in jeopardy. The Draft raises the definite possibility of a severe or total loss of the Roosevelt flycatcher population. • At the time of the July 1996 Biological Opinion, the FWS anticipated that up to 90 flycatchers would be taken annual, based **on the assumption that inundation of the flycatcher habitat would permanently eliminate the flycatcher habitat at Roosevelt** (EIS 29). • Future changes in population size are difficult to estimate because population dynamics, and the relationship between population size and area of suitable	4-32. Potential impacts to flycatchers at Roosevelt would occur primarily from a loss or modification in nesting habitat. Although the requested ITP would allow a take of all of the flycatchers within occupied habitat at Roosevelt, it is unlikely that this would occur. As previously discussed in the response to Comment 4-28, about 300 to 400 acres would be available 50 to 60 percent of the time at Roosevelt. Thus, a population of flycatchers is expected to be maintained over the long term, although the annual population would vary. In addition, displaced Roosevelt flycatchers are expected to disperse to other areas of available habitat, including riparian lands acquired and managed as part of the RHCP. Riparian lands would be acquired and managed in perpetuity for flycatchers and it is likely that flycatcher populations would expand at these sites. The Service will carefully evaluate the RHCP to determine if sufficient mitigation will be implemented. The Service's Biological Opinion and Findings will detail the results of that evaluation.

Comment #	Letter 4 continued	Response
	16 habitat are not well understood (EIS 142). Any take would be based on breeding and nesting success or other indirect impacts from not being able to nest at Roosevelt, but **the numbers are impossible to quantify** SRP/FWS agreed to the alternative of quantifying incidental take by harm to acreage of occupied habitat (EIS 143). • Keeping the level of Roosevelt low (No Alternative Option) would cause a decline in Roosevelt riparian vegetation, a decline in Roosevelt flycatcher population, **a possible decline in regional population flycatcher, and a long-term reduction in occupied habitat could fragment the regional flycatcher population and reduce the amount of genetic exchange** (EIS 146). It would appear that whether the dam is kept low by reservoir release or by drought, the Draft makes clear that the Roosevelt flycatcher population is at risk. • **Some** flycatchers may successfully relocate to other areas of suitable habitat when the riparian habitat at Roosevelt is inundated, but the periodic loss of habitat, low amount of suitable habitat available nearby, and regional **fragmentation may reduce the size of a viable population of flycatchers at Roosevelt** (EIS 148). • ...modifying or eliminating the habitat of an established large population during the breeding season is some years would likely result in delayed or lost breeding attempts, decreased productivity and survivorship of adults that disperse in search of suitable breeding habitat, and decreased productivity of adults that attempt to breed at Roosevelt. Reducing adult productivity and survivorship over the long term, or eliminating both in this short term**, may periodically result in partial or complete loss of productivity from up to about 40% of the flycatcher territories documented in Arizona** (EIS 150). • **The reduced survivorship and productivity of individuals from a decrease in habitat is uncertain**. Implementation of the proposed RHCP including habitat creation, acquisition, protection and management and monitoring measures, is expected to minimize and mitigate the potential impact to flycatchers and their habitat. (EIS 152-153). The draft Plan also suggests the real possibility of a loss of the Roosevelt population in explaining its mitigation for flycatcher populations (i.e., for Roosevelt and others): > ...the primary purpose of the off-site mitigation is to provide additional habitat for flycatcher **populations** to expand to offset any take of flycatchers at Roosevelt (RHCP 93). The Draft suggests that there is no problem with the Roosevelt population when habitat is available.	

Comment #	Letter 4 continued	Response
	17 There is a possibility that the Roosevelt population may not be able to sustain itself without immigration from other populations; however, immigrant and productivity at Roosevelt is likely to continue in the future as it has recently **when habitat is available.** (EIS, 148). Concern has been expressed by some scientists that full population will result in a population sink (i.e., population decreases or reduced breeding success...Flycatcher populations and breeding success also will fluctuate **with available habitat**. Roosevelt is not expected to be a population sink more than other riparian habitats occupied by flycatchers in the region (HCP 91).	
4-33	033 - The question here, however, is when that habitat is **essentially not available during those rare times as now** when a complete fill after a prolonged drought leaves essentially little or no available habitat accommodating a significant percentage of April returning flycatchers. In this circumstance, what is the possibility of a severe sink or end of the Roosevelt population? In the event of a complete fill in the next several years allowing no time for near fill-line regeneration, maximizing today's degradation of near fill-line vegetation? In this scenario, what is the minimum amount of suitable tall dense vegetation HCP estimates would be available near the fill-line? For what range of returning birds (250-350?)? In this worse-case but possible scenario these next few years and again after prolonged drought, how long would it take for near fill-line tall dense suitable vegetation to recover sufficiently to provide nesting to accommodate a high percentage of returning flycatchers? Two years? Given the average life span of the flycatcher (2-3 years?), the return rate, the acute nesting failures in the 2002 season, what is the likelihood of a severe or complete sink of the Roosevelt population? Again, what sinks have historically occurred and how to they apply to possible worse-case scenarios at Roosevelt?	4-33. As discussed in the response to Comment 3-3, Roosevelt is unlikely to be a major sink for flycatchers. Suitable nesting habitat above an elevation of 2,151 feet is approximately 100 to 200 acres, as discussed in the response to Comment 4-28 and 4-30. At the existing density of flycatchers at Roosevelt (about 3.5 acres/territory), this habitat would support about 28 to 57 territories, if the habitat were fully utilized. On average, over the long-term, 300 to 400 acres of suitable nesting habitat for flycatchers would be available at Roosevelt and could support about 85 to 115 territories.
4-34	034 - In this regard, please comment on the following: The Draft discusses an acute habitat loss in a No-Permit Alternative section as the consequence of no long-term cycle of large fluctuation. However, as said, this acute-loss scenario would occur whether due to intentional release absent a permit and/**or due to prolonged drought**. Whether substantial habitat is eliminated by more severe scouring in the Draft discussion or by inundation after a prolonged drought, the result would appear to be the same – **no significant available habitat**, and the Draft discussion's conclusion would appear to be the same – **virtually all suitable flycatcher habitat could be eliminated.** much of the existing riparian vegetation on the lakebed would become decadent. Riparian vegetation would be confined to relatively narrow bands along Tonto Creek and the Salt river above elevation 2,095, and a margin above the maximum lake level on the inflow delta. In addition, lower reservoir levels would result in a greater potential for vegetation along the Salt and Tonto inflow points to be periodically scoured... Such occasional scouring **could potentially eliminate virtually all of the vegetation used as habitat by flycatchers at Roosevelt** (HCP 163) The Draft Recovery Plan also acknowledges the possibility of a catastrophe:	Recovery of inundated vegetation depends on the length of the inundation as discussed in Section 4.6.2.1 of the EIS. Inundation for 12 months is needed to kill tall dense vegetation. Because Roosevelt typically drops 15 to 25 feet during any particular year, it is unlikely tall dense vegetation at elevations above 2,136 feet would be adversely impacted by periodic inundation. However, the amount of tall dense habitat available for flycatcher nesting will depend on the water level at the beginning of the breeding season in May and early June. 4-34. The extensive riparian habitat currently present within the Roosevelt lakebed is ephemeral in nature and is likely to undergo periodic decay and regeneration over time regardless of how the reservoir is operated. Under the No Permit alternative, the high water table that created conditions necessary for the establishment of riparian vegetation as the lake level dropped would not occur. If the lake is held to an elevation of 2,095 feet, development of riparian habitat substantially above this elevation is unlikely. Under the Full Operation alternative, prolonged drought conditions, which keep the reservoir at low levels, could produce similar results until the reservoir fills again.

Comment #	Letter 4 continued	Response
4-35	18 A population of 2,000 to 5,000 can still be devastated or even extinguished by catastrophic events, but for populations distributed over a large range, such as the flycatcher's, no single natural catastrophe or even several co-occurring natural catastrophes would likely cause the extinction of the entire taxon. Each flycatcher Recovery Unit occupies so large an area that catastrophes are unlikely to even impact all of the flycatchers within a unit. Nevertheless, **catastrophes, whose effects are nearly impossible to model, could affect most individuals in Recovery Units where large proportions of territories are in the same Management Unit, river reach, or site.** (Southwestern Willow Flycatcher Recovery Plan Draft of April, 2001) Other opinion is varied: "We're dealing here with **an absolute extinction crisis** with the flycatcher. Much of the species' continued decline is caused by all these reservoirs wiping out the bird," Suckling says. (NEW TIMES July 17, 2001) "But what consensus is that **the possibility of a crash of the Roosevelt population is not that remote.** If the San Pedro population crashes, the survival of the species becomes an issue." (Ibid.) Other comment: " SRP's permit will have to be much larger, though – more than 200 birds, which would **be the largest "take" of Southwestern willow flycatchers ever granted by Fish and Wildlife.** "Observations from the trenches confirmed what dam-backers had been saying all along: **"If you're a bird that lives in a temporary habitat, you better be genetically programmed to look for other habitats, even when your habitat is good,"** says Scott Mills, a biologist and consultant for Valley cities when they paid to expand Roosevelt Dam. Suckling (Ctr. for Biological Diversity) insists that at Roosevelt, the flycatchers will not fly to habitat miles away just because humans set it up for them.... Suckling, who has made saving the flycatcher one of the Center's biggest campaigns, still believes in older research showing **the bird clings to former breeding sites. He points to observations at Elephant Butte Reservoir in New Mexico several decades ago, when flycatchers returned to flooded habitat and attempted to nest in dead trees. Most of the nests failed,** he says. NEW TIMES July 17, 2001. 035 - BIOLOGICAL OPINION ESTIMATE OF PERMANENT ELIMINATION. What has changed since the July 1996 Biological Opinion?	4-35. See response to Comment 3-3. The 1996 Biological Opinion anticipated the take of up to 90 flycatchers annually as the result of construction of the new conservation storage space between an elevation of 2,136 feet and 2,151 feet. The BO was based on a worst-case scenario using information available at that time, i.e., reservoir inundation would permanently eliminate flycatcher habitat. Because of the prolonged drought, there has been no take of flycatchers at Roosevelt over the last 7 years. SRP's ITP application addresses the take of all flycatchers within occupied habitat up to an elevation of 2,151from this point forward for 50 years due to full operation of the reservoir. The dynamic conditions that have created flycatcher habitat at Roosevelt will continue in the future. Hence, over the long-term the amount of habitat and the number of flycatchers at Roosevelt is likely to fluctuate annually as will the impact on habitat and flycatchers.

Comment #	Letter 4 continued	Response
4-36	19 Then, a take of 90 flycatchers annually was calculated based on the assumption that inundation of the flycatcher habitat would **permanently eliminate all flycatcher habitat at Roosevelt.** (EIS 29). The Draft, in contrast, while allowing the possibility that the Roosevelt population may not be able to sustain itself without immigration from other populations; however, immigrant and productivity at Roosevelt is likely to continue in the future as it has recently when habitat is available. (EIS, 148). 036 - Per the Recovery Team's Draft Recommendation, **the number of known territories at Roosevelt, 75, would reduce to 50 because of increasing the reservoir level** (1993-1990 data). This is a one-third reduction. Roosevelt territories in 2001 were around 140 (Figure 15, EIS 128), suggesting that three of seven Management Units in the Gila Recovery Unit in 2001 had over 100 territories. Does this also suggest that the reduced territories due to rising reservoir levels will be further reduced by Scenario A's cyclical repetition leaving only two Management Units in the Gila with over 100 territories? What is the RHCP estimate of the impact on Roosevelt territories in the event of Scenario A (complete fill after prolonged drought) and B (50% habitat availability)? This net reduction in the number of territories in the Roosevelt Management Area is based on the expected inundation of habitat resulting from increasing the surface elevation of Roosevelt Reservoir. The target for minimum number of territories will be re-evaluated after 5 years. (Southwestern Willow Flycatcher Recovery Plan Draft of April, 2001, IV–Recovery, p. 84) The best answer to Scenarios A and B and the above discussion may be that of an SRP official, who said, "Who the h___ knows?" Nonetheless, before this bottom-line conclusion is reached, there are legitimate points and questions that merit addressing in the Final Draft. **THE IMPORTANCE OF VARIETY IN MITIGATION** . The flycatcher and cuckoo prefer a transitional stage of riparian habitat which can never be permanent on any particular stream because the trees grow (eventually getting too big) or are destroyed by floods (then having to grow again to get to the right height for good habitat). The more streams with potentially suitable habitat that are protected, the higher the odds that some stream will have riparian vegetation at the right stage of succession. The Draft EIS recognizes the importance of diversity. Habitat would be acquired and restored along several rivers where there are flycatchers already nesting nearby, increasing the area along those corridors for colonization and movement, **avoiding having so many eggs in one basket where fire, flood or other disaster could eliminate most or all of the habitat at once** (EIS 47). In this regard, the Draft has a map of 18 Arizona flycatcher nesting sites in 2000 (EIS 122).	4-36. The Recovery Plan goal for flycatchers in the Roosevelt Management Unit is 40 to 50 territories. The large number of territories within the conservation space at Roosevelt (e.g., 140 in 2001 and 148 in 2002) were not included in the goal because the "habitats probably only developed recently and are subject to inundation and possible destruction when reservoir levels are raised" (FRP, p.31), and because "the Recovery Plan does not seek to maximize flycatcher numbers in habitats" (FRP, p. O-20). Over the long-term, it is anticipated that sufficient habitat for 40 to 50 flycatcher territories will be available in the Roosevelt Management Unit (FRP, pp. O-19 and O-20; see response to Comment 3-14). The Upper Gila and Middle Gila/San Pedro Management Units each currently contain over 100 flycatcher territories. Please see the response to Comment 4-28 on the potential impacts on flycatchers with reservoir fill.

Comment #	Letter 4 continued	Response
4-37	20 **ADD PINTO CREEK TO HIGH PRIORITY MITIGATION TO ACHIEVE FINAL PLAN VARIETY** 037 - ONE REASON to add suitable habitat along Pinto to Final Plan high priority efforts to meet acquired and "additional" total mitigation acreage is to provide more variety. This would be in the event of problems with the two current high priority mitigation sites, San Pedro and Camp Verde. Both involve in-perpetuity constraints beginning with current and future water because of population and business demands, constraints, which no doubt will challenge SRP's commitment to in-perpetuity mitigation. ■ The Verde Valley acres suffer habitat fragmentation, water diversion, recreational-livestock-development pressures (EIS 59); if acquisition near Camp Verde is not feasible, another (unidentified) portion of Verde Valley would be evaluated; the data base may be old (i.e., derived from 1980 and 1991 files – EIS 60) in a fast-expanding population base; ■ The San Pedro acres are in a region stressed by loss and degradation of riparian habitat from development and other land uses, by water quality impacts and dewatering (EIS 61); preliminary investigation indicates a number of constraints including varying sizes of land blocks and uncertain water supplies (EIS 62), The EIS does not elaborate, in this regard, on the possible accelerated acreage loss and degradation due to the ASARCO pumping from the San Pedro and the dead and dying vegetation, the impact of Ft. Huachuca dewatering, said jeopardizing the existence of the southwestern willow flycatcher. Scoured or burnt Roosevelt habitat is not to be compensated (EIS 68). Nearby Pinto mitigation offers some relief in the event of this contingency. Pinto's nearby acres are important because, without them, the Draft Plan places essentially one huge mitigation egg into San Pedro's distant big-parcel acreage, where, as said (1360/1500) 90.7% of all acquisition acre mitigation are targeted. If the Verde and/or Rockhouse fails, San Pedro could theoretically have 100%. Eight other alternative central Arizona locations are mentioned (EIS 62), but, per 27 August public hearings, are not being actively pursued. **With Pinto's acres, the Final Plan has a third egg.** SECOND REASON. In the next fifty years, there will be times of prolonged drought, such as now, when a complete reservoir fill will leave inadequate suitable habitat to accommodate the next season of returning flycatcher, possibly only a fraction. Mitigated acres at Pinto would offer relief. (A) Please clarify how many acres suitable for nesting are currently at Roosevelt above the 2151 ft. elevation fill-line. The long-term average is set at 300-400 suitable acres of Roosevelt habitat available near Tonto and Salt inflow points at full reservoir levels (EIS 47). As best as I understand, from	4-37. In response to this comment and similar comments including testimony at the public hearing by others, representatives of the Service, SRP, Reclamation, and the Sierra Club conducted a field tour of Pinto Creek and Haunted Canyon on October 28, 2002. Based on the observations of experienced flycatcher biologists (Susan Sferra and Janine Spencer), some reaches of Pinto Creek appear to have potential for development of suitable flycatcher habitat. However, as noted in Comment 4-62, there are particular risks and uncertainties associated with attempting to build a flycatcher population at mitigation sites along Pinto Creek including: • Substantial risk of stream flow reductions due to diversions by existing and proposed copper mining operations upstream; • Risk of water quality contamination from existing and proposed copper mining operations upstream; and • Risk of spills of waste materials from existing and proposed copper mining operations upstream. Thus, the Service and SRP intend to proceed as follows: • Include private lands, water rights or other habitat conservation opportunities along Pinto Creek as a specific potential mitigation area in the RHCP in the event that insufficient mitigation is available in the Verde, San Pedro and Safford valleys, or in the event that the Rockhouse pilot project is not successful. • The Service will coordinate with Reclamation and the Forest Service to have flycatcher surveys conducted along Pinto Creek in 2003 to collect information on habitat conditions and flycatchers' presence or absence. If flycatchers are nesting along Pinto Creek in 2003, the Service and SRP will reevaluate the priority of this area for mitigation. This comment does not correctly interpret Figures III-4 and III-5 in the RHCP. Those figures indicate that at least 100 acres would be present 100 percent of the time and up to 200 acres would be present 98 percent of the time based on model results. There are no times when 0 acres are predicted to be available.

Comment #	Letter 4 continued	Response
	21 conversation with agency personnel, the 300-400 acres, in the event of a complete fill in April 2003, are not now there above the fill-line, except in token amount, a situation that could repeat two times in the fifty-year cycle of the permit (i.e., three times in a 100-year cycle). However: **Breeding acreage declined by 20% between 1999 and 2001 as the reservoir receded and tall dense vegetation more distant from water began to dry out or became less desirable for nesting** because of the distance from open water. (EIS 144) Figures III-4 and III-5 (HCP 80, 81), as best I understand, suggest 0-100 acres are available 100%, 101-200 98% of the time, but neither shows how often a minimum number of acres are available above the fill-line or what is there today. 101-200 acres 98% of the time **suggest (a) 2% of the time there are 0-100 acres 100% of the time and (b) times when there would be 0 acres available.** The III-5 indication that 1000 or more acres are available some 2% of the time, suggests that 2% is what would be available now at the fill-line, in the event of a complete fill, and that acreage above 2151 suitable for nesting is now minimal whatever its estimated amount. Table II-2 (HCP 41) suggests that there **are 90.7 tall dense acres above 2151 ft. elevation and 93.5 acres at or above 2150 ft.**, but it is not clear if these acres are suitable for flycatcher nesting in April/May 2003 nor is it clear how close to the reservoir water flycatchers are willing to build nests (i.e., how many of otherwise suitable 90.7 tall dense acres are "nestable"). * * For calculation purposes, the Draft determined the 2001 maximum elevation at 2095 on the basis that the crown root of the lowest tree or shrub with a nest, found in 2001 to be at 2088 feet, would on average be 10-16 feet above the ground (EIS 37). This is so that the reservoir level could, without impacting on the nest, be raised up to a point 7 feet from the 10-16 foot high nest. The extreme difficulties SRP faces are acknowledged, with sympathy, in terms of its need to maximize reservoir levels in this pre-permit phase [i.e., to avoid user lawsuits] while avoiding impacting on endangered habitat. In 2001, for example, "the lake filled within .8 of a foot of that elevation"(Paul Cherrington, SRP, quoted in *Arizona Capital Times*, Sept. 6, 2002). Nonetheless, the questions remain: (A) What if the lowest nest was below the 2095 elevation? Nest height can range as low as 1.6 feet above the ground (EIS 123). (B) Would any flycatcher place its 10-16 ft. high nest in or stay in such a nest in a tree or shrub in which reservoir waters are three to nine feet below the nest?	

Comment #	Letter 4 continued	Response
	22 **300 acres of tall dense vegetation dried out at Roosevelt since 1997 (HCP 37).** It is not known what amount of the "90.7" acres is comprised of this 300-acre dried out vegetation. Plantings, to begin in Jan. 2004 at the Rockhouse Ranch 20-acre pilot project, are not assured of success, and **would not be fully suitable until Jan., 2009**.	
4-38	038 - THIRD REASON. Variety in the form of Pinto mitigation provides habitat in the category where the flycatcher likely would first seek habitat it, in those times when Roosevelt habitat cannot accommodate its numbers: nearby. The Draft's closest acquired mitigation or "alternative" mitigation is essentially 50 miles away. The exception, Rockhouse, is only 20 acres, not totally suitable by 2009, possibly not successful, and if not, to be replaced by 20 acres 50 miles or more away along the San Pedro.	4-38. Please see the response to Comment 4-37.
4-39	039 - FOURTH REASON. Pinto would in general provide mitigation "insurance" (i.e., a margin of safety) for the 50-year Final Plan. That is: (a) When the reservoir level covers Roosevelt suitable habitat – lower Pinto's perennial reach is several hundred feet above and some four miles distant from impacts of a Roosevelt reservoir level at its fill-line. (b) If the RHCP otherwise underestimates the take. (c) If flycatchers nest in small numbers in Pinto suitable habitat, they would best find that habitat mitigated under the Final Plan (e.g., "cowless," existing suitable acreage substantially augmented by planting). (d) If the reservoir fills before 1.5 years after permit issuance and before the Roosevelt's "alternative" "300 acres" would be on stream (EIS 50). See these Comments, pp. 7-9, regarding distinguishing between Roosevelt's 300 non-existing "credit" acres, its on average 300-400 existing "floating" acres, and p. 20, regarding its current suitable acres above the 2151 ft. fill-line, (e) If during the 50-year permit, returning flycatchers find insufficient suitable acreage at Roosevelt due to fire, scouring, and/or inundation, they would have the "insurance" of Pinto suitable habitat most years. For those years that Pinto habitat recovers from scouring, flycatchers most years would at least have some substantial Roosevelt suitable habitat. (f) If other unanticipated surprises occur, the addition of Pinto would provide extra insurance to cope. Uncertainties include:	4-39. Please see the response to Comment 4-37.

Comment #	Letter 4 continued	Response
	23 SRP and FWS have agreed to the alternative of quantifying incidental take in terms of harm to acreage of occupied habitat because the level of anticipated incidental take of flycatchers at Roosevelt is **uncertain.** (EIS 142) In the event of **unforeseen** circumstances or extraordinary circumstances, SRP or FWS may propose amendments to the RHCP (EIS 67). A list of twelve **changed** circumstances, including scouring and fire at Roosevelt, are listed (Table 7, EIS 68). Past surprises included: ■ FWS was **skeptical** that the Pinto eagle breeding area would ever become viable due to its close proximity to the Pinal breeding area (1990 Biological Opinion, EIS 27). ■ Flycatcher pairs can breed **without dense understory** (e.g., at Campaign Flats, Salt River upstream Lake Roosevelt) ("Survivorship and Movement of the Southwestern Willow Flycatcher in Arizona 2000." Bureau of Reclamation) ■ About a decade ago, birders discovered the **flycatcher subspecies missing** from riparian areas across Arizona, California and other Southwestern states. NEW TIMES 19 July 2001 ■ In 1993 flycatchers were **found at Lake Roosevelt**. ■ Scientists used to believe the flycatchers were loyal only to specific breeding sites, and had trouble relocating and breeding again when their habitat was destroyed. But **surveys...blow traditional views** about the flycatcher out of the water. They reveal a migratory bird that is **resilient and mobile, capable of flying long distances and breeding like crazy when the right habitat is available,** according to interviews with half a dozen biologists from the Arizona Game and Fish Department, the U.S. Geological Survey, the U.S. Bureau of Reclamation, U.S. Fish and Wildlife Service and Arizona State University. NEW TIMES, 19 July 2001 ■ The astounding list of flycatcher studies called for in the literature, in addition to the various draft Plan references to unknown aspects of flycatcher behavior, etc., add to the **possibilities of future surprises**. One such list called for more than a dozen studies.*	

Comment #	Letter 4 continued	Response
4-40	24 *Find, verify and track all breeding sites, learn habitat patch –detailed data on breeding biology and population dynamics is currently only from one site (Kern River in CA); determine patterns of philopatry/site fidelity, natal dispersal, and adult; obtain population demography of adult and immature flycatchers including productivity of females and survivorship of adults and immatures, expand current flycatcher vocalization study to determine local/population and/or sub-specific differences in primary; determine current genetic variability, determine historic genetic variability from museum; determine genetic basis for subspecies of willow flycatcher, determine historic distribution of southwestern willow flycatchers during the non-breeding season; determine current distribution of southwestern willow flycatchers during non-breeding season; determine prey selection by flycatchers and prey abundance including seasonal patterns, determine causes of nest failure to evaluate spatial and temporal patterns of predation and their effects on productivity; determine local cowbird population characteristics and movement patterns. http://www.usgs.nau.edu/swwf/wiflneed.html 040 - FIFTH REASON. Pinto has suitable and potential flycatcher habitat. With mitigation, it would have substantially more. Six reports from three agencies, one consultant, and one ornithologist refer to suitable habitat: ...the riparian communities associated with Pinto form the transition or interface between terrestrial and aquatic regimes and are generally of three types – Sycamore, Alder/Cottonwood/Willow, and Cottonwood/Willow. The relative abundance and distribution of these types of riparian communities are extremely limited and considered by many to be the most biologically productive habitats in Arizona. These relatively narrow, linear shaped communities provide **essential nesting and foraging habitat for migratory birds such as the yellow-billed cuckoo** and bullock's Oriole and **"could support the endangered southwestern willow flycatcher when the willow understory recovers from recent flooding**." The riparian communities and several springs in this ecosystem also provide the habitat necessary to sustain a variety of amphibians and reptiles such as the Lowland leopard frog (rana yavapaiensis – spotted on Pinto) and the Mexican garter snake (thamnophis eques – not spotted), both Federal Category 2 candidates. (Letter from Southwestern Field Biologists to the Corps of Engineers, 2 Aug. 1993) There were **some short reaches in this area (lower Pinto) that have potential for flycatcher habitat**. The problem is lack of understory vegetation, which is a product of livestock grazing in the riparian area. The small pools, if revegetated with bank willow and soft-stemmed bulrush, might make attractive habitat for flycatchers. Grazing would have to be eliminated and plant materials brought into the area. **This lower reach of Pinto Creek has high potential for yellow-billed cuckoos**. Small floods and channel changes will help develop more riparian vegetation and might	4-40. Please see the response to Comment 4-37.

Comment #	Letter 4 continued	Response
4-41	25 provide something suitable for the flycatcher. Also, above the [Henderson] Ranch were a couple of areas with some potential but we were unable to explore these sufficiently because of time constraints. (Professor Bob Ohmart, Report on 16 Sept. 2001 visit) The Pinto Grazing Allotment, near the upstream end of the 8.8-mile perennial stretch, contains **two or three flycatcher category habitats: suitable and potential** (not occupied), as is the situation at Queen Creek, Tonto Creek, the Verde, and the Salt River confluence at Roosevelt (I understand this is from the Biological Assessment, FWS, 2001?). This allotment is good habitat for the flycatcher (conversation with Tonto National Forest official, 2002). **The dense canopy and diversity of tree age-classes** provides important habitat for **breeding neotropical** birds and other wildlife species. (Resource Information Report, Potential wild Scenic Recreational River Designation, US Forest Service Southwestern Region, with information compiled by **AGFD**, **Tonto**, and five other National Forests in Arizona, Sept. 1993) Eight months after the Jan. 1993 last major flood along Pinto, "The potential River Area provides moderate to good riparian habitat for a variety of threatened, endangered, or sensitive species which may include...**southwestern willow flycatcher** (Ibid.) 041 - SIXTH REASON. Cuckoos were sighted on Pinto. Does RHCP believe more sighting have not been reported because there are none to report or because Pinto has not been monitored to any significant degree? The Draft EIS indicates no Pinto flycatcher sightings, no cuckoo sightings (e.g., Figure 18, Detections of Yellow-billed Cuckoo in Arizona 1998-1999, EIS 137), and no eagle sightings upstream of the Pinto confluence with Roosevelt Lake, location of a bald eagle nest. We aware of cuckoo sightings along Pinto, but not of any flycatcher sightings, Yuma Clapper rail or any eagle sightings along Pinto beginning at the 8.8 mile perennial reach of lower Pinto, some 4.3 air miles south of Lake Roosevelt. However: Tonto reports **a possible eagle presence** in lower Pinto. It noted the potential reduction of eagle prey or the eagle ingestion of contaminated prey in Pinto perennial waters downstream of the Carlota Copper Project as a result of the accidental release of Project contamination (Tonto Carlota FEIS, 3-208). In 1993, there were reported sightings of the yellow-billed cuckoo downstream of the Haunted Canyon and Pinto confluence, some 15 miles south (upstream) of Lake Roosevelt. **The sightings included three in three consecutive days in June 1993 [the breeding season] at the Iron Bridge**	4-41. The Service was not aware of documented cuckoo sightings at Pinto Creek. This information will be considered as part of the future evaluation of Pinto Creek as a mitigation area (see response to Comment 4-37). To the Service's knowledge, formal surveys for cuckoos have not been conducted on Pinto Creek.

Comment #	Letter 4 continued	Response
	26 **[some 14 miles upstream Roosevelt]** (Tonto FEIS for the Carlota Copper Project, 1997, p. 3-188). Riparian areas along Pinto Creek downstream to near Roosevelt Lake **represent potential habitat for the cuckoo**. (Tonto Carlota FEIS 3-188). Suitable habitat is in Haunted Canyon and in downstream portions of Pinto Creek (Tonto Carlota FEIS 3-210). Lower Haunted has a .9 mile perennial stretch, Middle Pinto short perennial reaches, and lower Pinto an 8.8 mile reach of perennial water For lower Pinto's perennial reach: The potential River Area provides moderate to good riparian habitat for a variety of threatened endangered, or sensitive species **which may include ... the Western yellow-billed cuckoo** (Resource Information Report, Potential Wild Scenic Recreational River Designation, US Forest Service Southwestern Region, with information compiled by AGFD, Tonto, and five other National Forests in Arizona, Sept. 1993)	
4-42	042 - SEVENTH REASON. Pinto has tall dense flycatcher-type riparian vegetation. There was a mix of age classes in both Fremont **cottonwoods** and Gooding's **willow** along with good vigorous stands of bank **willow** (Salix exigua) along the stream proper. There were also good stands of alder along this lower reach. (Professor Bob Ohmart, Report on 16 Sept. 2001 visit) **Willows**, ash, and **cottonwood** are among flycatcher dense-tree habitat (RHCP 46). Eight months after the Jan. 1993 last major flood along Pinto, it was reported that: "Dominant tree species in the 8.8 mile perennial reach of lower Pinto include Fremont cottonwood, Gooding willow, sycamore, and alter, The community is early to mid-seral, and largely lacks old age-class trees. Other age classes are well represented. The tree **overstory canopy is dense**, varying **from 50-77% .** Shrub cover is sparse. The **herbaceous component is luxuriant and diverse**. Dominant herbaceous species including scouring rush, sedges, rabbitfoot grass, cattail, water bentggrass, and Bermuda grass. The **dense canopy** and diversity of tree age-classes provides important habitat for **breeding neotropical birds** and other wildlife species. (Resource Information Report, Potential wild Scenic Recreational River Designation, US Forest Service Southwestern Region, with information compiled by **AGFD**, **Tonto**, and five other National Forests in Arizona, Sept. 1993)	4-42. Please see the response to Comment 4-37.
4-43	043 - EIGHTH REASON. Pinto has flycatcher gradient. I do not find flycatcher stream slope quantified in the Draft. Stream slope standard of 1% (53 feet per mile) or less is said to be a critical factor by one professional ornithologist.	4-43. Please see the response to Comment 4-37.

Comment #	Letter 4 continued	Response
	27 Two known gradients are **1%** (50 ft./mile) **at the confluence of Pinto and Haunted Canyon**, and **0.7% (35 feet/mile) at the confluence of Pinto and Horrell Creek** (1997 Tonto Carlota Final EIS 3-67). The latter confluence is some two miles upstream of the 8.8 mile perennial reach of lower Pinto, itself at the lower end of the 30+ mile-long streambed where gradients generally tend to be flatter. . The upper reach of Pinto Creek (lower Haunted Canyon, Pinto below its Haunted confluence) has narrower floodplains but also more **flat gradients** (than an approximate one mile area around Henderson Ranch). (Professor Bob Ohmart, Report on 16 Sept. 2001 visit)	
4-44	044 - NINTH REASON. The Draft EIS does not define minimal floodplain width for suitable habitat, but Pinto has some floodplain at least to 500 feet. In the Verde Valley, riparian vegetation varies in width from approximately 500 to 1,600 feet (EIS 59). A 500-foot floodplain width is reported in a reach near the Carlota private holdings on Pinto, roughly six miles upstream from the upstream end of lower Pinto's 8.8-mile perennial reach. Alluvial deposits range from 80-500 feet in width (Tonto Carlota FEIS 3-45). In lower Haunted Canyon 150-400 feet wide (Ibid. 3-90). A topo map identifies lower Pinto one 570-foot creekbed width and various areas of presumably wider floodplain width	4-44. The Recovery Plan for flycatcher recognizes that habitat is most likely to develop within the floodplain along lower gradient streams and rivers, but no minimal floodplain width has been determined. The model used to identify flycatcher habitat by the AGFD found a correlation between occupied flycatcher habitat and proximity to floodplains, but did not determine a minimum floodplain width.
4-45	045 - TENTH REASON. Pinto substantially meets the criteria of high priority mitigation except for big-parcel. As said, the Draft does not provide a specific list of criteria at one location that defines suitability nor distinguish numerically between large-parcel vs. small parcel habitat. However, the following is gleaned from Draft references. Text in bold indicates that Pinto qualifies. An RHCP goal: acquiring mitigation habitat that is similar to Roosevelt in terms of **vegetation composition** and patch sizes (EIS 5). Purchase and management in perpetuity of **substitute habitat** permitting the annual take of up to 90 flycatchers resulting form inundation of the NCS (FWS BO, EIS 41). The Recommendation includes recovery actions that are believed to be important to flycatcher recovery where feasible, legal and effective... focussing on conservation of riparian habitat that is used or **may be used by flycatchers that is as close to Roosevelt as possible** using best efforts to conserve the mitigation sites prior to permit issuance... (EIS 43).	4-45. Please see the response to Comment 4-37.

Comment #	Letter 4 continued	Response
	28 These (candidate river reaches) have numerous species of concern. **Cuckoos have been detected** along the Gila, Hassayampa and Santa Cruz rivers (EIS 62). **"Up-front mitigation"** is preferred over re-vegetating (private conversation with SRP). The **highest priority is being given to measures at or close to Roosevelt** with diminishing priority to distance from the reservoir increases. (HCP 161, EIS 35). The focus of conservation efforts will be in areas where flycatcher populations currently exist **or in areas that are in proximity to existing populations** (HCP 145). Pinto is 4 miles from Lake Roosevelt, location of 40% of known breeding flycatchers and the largest anywhere.	
4-46	046 - ELEVENTH REASON. Reconsider Draft explanation or possible explanation for the exclusion of Pinto. BIG-PARCEL VERSUS SMALL PARCEL. It is understandable why Plan focus is on large blocks involving hundred of acres [e.g., to meet mitigation totals, to create a synergism with other conservation efforts, to provide better quality blocks), and not small projects mitigating for a few acres (EIS 47)].	4-46. Please see the response to Comment 4-37.
4-48	048 - It is not understandable why the Draft Plan has a stated exclusive focus on large-parcel, an exclusivity: which eliminates nearby small-parcel habitat suitable for flycatcher, cuckoo, if not, with reference to an explosion of cattail in the extreme lower end of the Pinto Creek (p. 40 of these comments), the Clapper rail, which places the nearest mitigation habitat of consequence for the Roosevelt flycatcher population fifty miles away with no case made historically or otherwise that the Roosevelt population would en masse or in significant numbers fly off to lower San Pedro, which evidently results in no Pinto Creek survey to evaluate what suitable acreage is there (50 acres? 200 acres?) and no Pinto survey for the presence of breeding cuckoos, flycatchers or the Clapper rail, which eliminates Pinto's small-parcel habitat, natural, currently suitable, nearby, but includes: a small-parcel **20-acre** Rockhouse pilot project, which is not natural, not current (a 5-year time-frame to reach suitability), may fail in which case it would be replaced by acreage 50 miles or more distant, and which involves intensive and extensive management requirement.	4-48. The acquisition of flycatcher mitigation habitat in the RHCP focused on selecting large parcels in the Verde, San Pedro, and Safford valleys that contain occupied habitat, unoccupied suitable habitat, and unoccupied potential habitat. These locations provide the best opportunity to provide linkage with existing populations and other protected habitats. Large parcels allow natural stream processes to operate and minimize the threats from nearby land uses, which will maximize the potential for long-term success of the mitigation. Protection of larger parcels also meets the goal of replacing habitat impacted at Roosevelt with similar types of habitat. Should smaller parcels be identified that meet the habitat criteria for mitigation, they will be considered for acquisition (see response to Comment 4-18).

Comment #	Letter 4 continued	Response
4-49	29 as substitute for two small-parcel narrow cattail marshes totaling 4 acres (HCP 04), **five acres** of the 20-acre small-parcel Rockhouse pilot project would be reserved for the Yuma Clapper rail, and if not feasible, alternative private land would be sought along the lower Salt or Gila rivers for acquisition and management (EIS 51). Areas along the Salt River or Tonto Creek, or their tributaries upstream will be researched for potential acquisition and restoration sites. The quantity of habitat will be acquired at the alternative locations(s) will be **20 acres.** (HCP 137) which eliminates from mitigation, what one professional ornithologist has said is, of the Salt's Roosevelt tributaries, the **only drainage that offers ephemeral small-parcel flycatcher habitat, and more cuckoo habitat, that has a live, dynamic system, constructing new habitat.** This could be enhanced with plantings, but the cows would have to go. He said that the perennial reaches in lower and middle Pinto (i.e., downstream of the Haunted Canyon tributary and lower Haunted Canyon below the Powers Gulch tributary) have the gradient, the vegetation, the understory, and the canopy now, and, if enhanced, would have substantially more suitability if enhanced. which eliminates opportunity for SRP to restore and preserve a Roosevelt tributary for the benefit of SRP water users and the environment, and to create, to the extent now possible, a small-parcel synergy with the lakeside environmental efforts. 049 - Please clarify possible references in the Draft to Pinto's elimination from consideration. These are not clear. For example: --The search focused on private inholdings on Tonto, Salt River, Cherry, Pinal and Pinto Creek, finding a few small areas of good quality riparian vegetation, but without record of flycatchers nesting in or adjacent to them. (EIS 78). As said, the presence of flycatchers is not an essential criterion: Much of the acquired habitat would be **initially unoccupied and may never achieve the densities of birds found at Roosevelt** (EIS 47) **If flycatchers...are present** (at the San Pedro sites) (HCP 145), that is, the Draft does not report that they are. It is understood that one has since been observed, but the point is San Pedro acquisition does require the presence of flycatchers.	4-49. Please see the response to Comment 4-37.

Comment #	Letter 4 continued	Response
4-50	30 In 2001 the Camp Verde site was not surveyed **and no other (Verde Valley) surveyed site had resident flycatchers** (HCP 139) Patches of riparian habitat targeted for acquisition would be occupied by flycatchers **or would have similar or greater proportions of tall, dense woodland as that lost** ... (EIS 47). Tonto Creek is eligible as a candidate mitigation area [(i.e., if high priority mitigation is unsuccessful (EIS 62)], but **there currently is no known existing riparian habitat used by flycatchers along Tonto Creek above the maximum storage level in the reservoir and opportunities to establish or restore riparian habitat are limited** (EIS 55). This is in marked contrast to opportunities along lower and middle Pinto Creek. 50 – Please clarify Pinto's elimination on the basis of the Draft reference to a search of Tonto Creek between Roosevelt and Gisela, Greenback Creek (a tributary of Tonto), Pinto and the Salt immediately above Roosevelt, ...these areas were eliminated from [private land] further consideration due to the small size of the parcels, **high gradient** of the stream channels, **narrowness** of the floodplains, or **lack of reliable water supplies** (EIS 79). As said, Pinto has: • 1% gradient or less gradient in two of two locations where I have found gradient information; • floodplains extended to 500 feet at different locations • up to 10+ miles of perennial water in lower and middle Pinto, whereas it is understood that lower San Pedro mitigation sites may have serious water availability problems now and in the future that may require continues intense SRP efforts to rectify and guarantee for in-perpetuity. The one Draft-reported visit to a specific site on Pinto Creek was to the private land portion of the Carlota Copper Project, which is 11% on private land and 89% on public land (Tonto National Forest). The site was eliminated from further consideration due to its relatively small parcel size, narrow floodplain, steep gradient, and historical water quality problems (EIS 78). The elimination of the 300-acre private Carlota holding from adding to acquisition suitable flycatcher habit mitigation is understandable.	4-50. Please see the response to Comment 4-37.

Comment #	Letter 4 continued	Response
	31 miles of the Carlota Project Area along the Pinto reach on or near this privately owned area, as said, has an alluvium floodplain reaching 500 feet. Water quality along and upstream of the private land is overexceedance in copper due to the presence of surface copper on the private land, and, according to ADEQ Jan. 2001 measurements, due to a greater presence in the several mile reach upstream (where two known historic mine workings release measured pollutants at times of heavy rains). Finally, the nearest reported cuckoo sightings begin some three miles downstream from this private land and the suitable and potential habitat along Pinto begin some two miles downstream Pinto. Here, near the Haunted/Pinto confluence is the northern-most end of Carlota Copper Project, part of its public land Project Area and planned site of three water wells, a main water pipeline, a powerline, road and road expansion, a mitigation water pipeline to replace Haunted Canyon and Pinto surface water sucked out by aquifer pumping, a holding tank, a vehicle and pipe stream-crossing, and a possible cooling tower to assure higher temperature aquifer mitigation water replaces lost Haunted and Pinto surface water at the correct temperature. FYI lower Haunted Canyon's .7-mile perennial reach contains 16.1 acres of the highest quality riparian habitat in the Project, where Arizona **alder** dominates some reaches, summer canopy approaches **95%**, **large pools** exist not found elsewhere in the Project Area (Tonto Carlota FEIS 3-182) An agency official informed that the linear habitat of Pinto gets scrubbed during high flows (the last occurred in Dec. 1992- Jan. 1993), which wash out understory so desirable, by flycatchers. The reference is not clear in that scouring is part of the dynamics that make up the flycatcher system, part of the cycle of the creation and destruction of the tall dense habitat it favors. Scouring is a sufficient phenomenon in the occupied Roosevelt habitat and Draft mitigation sites that the Draft proposes that SRP will not replace habitat at Roosevelt or mitigation sites lost from **scouring floods** (EIS 68). Flycatcher **habitat is dependent on hydrological events such as scouring floods,** sediment deposition, periodic inundation, and ground water recharge for them to become established, develop, be maintained, and ultimately to be recycled through disturbance (HCP 42) Roosevelt suitable flycatcher habitat has fluctuated widely, historically, these habitats have always been dynamic and unstable in place and time, due to natural disturbance and regeneration events such as **floods,** fire, and drought (EIS 124). Understory (along Pinto) may well have suffered much more from grazing than scouring. It is proposed in these comments that grazing be eliminated in the Final Plan in order to restore understory and natural recovery of the riparian vegetation.	

Comment #	Letter 4 continued	Response
4-51	32 5 There were some short reaches in this area (Pinto downstream its Haunted Canyon confluence) that have potential for flycatcher habitat. **The problem is lack of understory vegetation which is a product of livestock grazing in the riparian area.** The small pools, if revegetated with bank willow and soft-stemmed bulrush, might make attractive habitat for flycatchers. Grazing would have to be eliminated and plant materials brought into the area. (Professor Bob Ohmart, Report on 16 Sept. 2001 visit) The Salt River Inflow – Campaign Bay location has a small area of young tamarisk with a canopy height of approximately 6 m. There is also an adjacent area with both mature willow (10 m tall) and tamarisk (8 m tall) interspersed with 5 m tall mesquite (*Prosopis spp.*). **In these areas there is very little understory vegetation**. (All five of the six Salt inlet reported locations, in which understory was referenced, had little understory) (Survivorship and Movement of the Southwestern Willow Flycatcher in Arizona 2000, USGS Report to the Bureau of Reclamation) (Six months after the last major flood of Jan. 1993) Re lower Pinto: "The **tree overstory canopy is dense,** varying from 50-77%. Shrub cover is sparse. **The herbaceous component is luxuriant and diverse**... **The dense canopy and diversity of tree age-classes** provides important habitat for **breeding neotropical** birds and other wildlife species. (Resource Information Report, Potential wild Scenic Recreational River Designation, US Forest Service Southwestern Region, with information compiled by **AGFD**, **Tonto**, and five other National Forests in Arizona, Sept. 1993) 051 - TWELFTH REASON. Pinto has various sensitive species that would benefit from this proposed mitigation in the same way that endangered and other sensitive species near Roosevelt would benefit from Plan mitigation. Species on the Plan's Roosevelt lists (EIS 121, 140-141) also on the Pinto list at or near the Haunted/Pinto confluence are in bold: From the Biological Section of the Tonto Carlota FEIS, July 1997, principally for habitat at or near the Haunted Canyon and Pinto confluence; Pinto has 11 sensitive species sighted (Tonto FEIS, Biological Resources): the endangered Arizona hedgehog cactus, Arizona toad, loggerhead shrike, Maricopa Tiger Beetle, the common black hawk, and, on the EIS special wildlife species, the **nesting bald eagles** (at the Pinto/Roosevelt confluence; not upstream), **yellow-billed cuckoo**; the **longfin dace, desert sucker, Southwestern Cave Myotis, lowland leopard frog** . FWS believes a	4-51. Please see the response to Comment 4-37.

Comment #	Letter 4 continued	Response
	33 twelfth may be present, the lesser long-nosed bat (11 May 1996 letter to Tonto), and there is habitat for a thirteenth, the **southwestern willow flycatcher.** From the Wild&Scenic Designation Resource Report: The potential River Area provides moderate to good riparian habitat for a variety of threatened endangered, or sensitive species which may include ... **southwestern willow flycatcher** Mexican garter snake Arizona southwestern toad Swainson hawk Loggerhead shrike Occult little brown bat southwestern cave myotis **western yellow-billed cuckoo** **lowland leopard frog** common black-hawk Western red bat Harris' hawk coati ringtail	
4-52	052 - THIRTEEN REASON. Mitigation of lower Pinto would preserve, enhance and most importantly protect the 8.8 mile reach potentially eligible for Wild&Scenic River designation. Because of a shift of view of the Arizona U.S. congressional delegation, this designation is now unlikely, according to a recent conversation with a Tonto official. It was to have been favorably considered at the time of the next Tonto National Forest Plan, long delayed and now set for 2009. In the early 1990s, the Az. congressional delegation had proposed this designation, a time preceding the announcement of the proposed Carlota Copper Project. The outstandingly remarkable values identified for Pinto Creek include scenic, riparian, and ecological values. (Tonto Carlota FEIS, 3-287).	4-52. Please see the response to Comment 4-37.
4-53	053 - FOURTEENTH REASON. Additional reasons to include Pinto are: As said, "up-front mitigation" is preferred over re-vegetating (private conversation with SRP). Pinto currently has suitable flycatcher habitat, unlike the Rockhouse pilot project (scheduled for full suitability in 2009), and apparently unlike Roosevelt, in the event of a compete fill, until several years after that fill to refurbish and regenerate suitable habitat around the 2151 ft. elevation fill line. To minimize and mitigate impacts of taking listed species to the maximum extent practical (EIS 35). Pinto mitigation in the Final Plan would provide	4-53. Please see the response to Comment 4-37.

Comment #	Letter 4 continued	Response
4-54	34 a small percentage of what is not in the Draft: nearby mitigation and small-parcel mitigation. Please clarify the extent to which RHCP considers that Pinto has suitable habitat, the merit of adding survey-found suitable and potentially suitable Pinto private and public land habitat to high priority Final Plan targeted acquisition and "alternative" mitigation lists, and the basis of its conclusion including the extent to which RHCP has surveyed Pinto's perennial reaches. **WHY TONTO CREEK AND NOT PINTO?** 054 - Please clarify why areas along the Salt River or Tonto Creek, or their tributaries upstream from Roosevelt also will be researched for potential acquisition and restoration sites, and why Pinto was eliminated. The quantity of habitat that will be acquired at alternative location(s) will be 20 acres (HCP 132). Please include in your response the following: ■ Private inholdings on Tonto, Salt River, Cherry, Pinal and Pinto Creek, finding a few small areas of good quality riparian vegetation, but without record of flycatchers nesting in or adjacent to them. (EIS 78). ■ Several reaches of Tonto Creek above Roosevelt are listed on the Clean Water Act 303(d) list of impaired waters due to contamination. The headwaters of Tonto and Christopher Creek have a higher than allowable standards of nitrogen and phosphorus, due to fish hatchery and heavy summer recreation use. The mainstem of Tonto Creek between Rye and Gun creeks has higher than allowable sediment load possibly associated with grazing. (EIS 104-105). Pinto Creek 303(d) listing is due to an area ending upstream of the Haunted/Pinto confluence, where reports of suitable flycatcher and cuckoo habitat begin. The 303(d) listing for all of Pinto was erroneously applied (in the late 1990s?) – no exceedances had been discovered at Henderson Ranch for some nine consecutive years through 2000 or 2001 nor at the Pinto Valley Weir immediately upstream of the 8.8 mile lower Pinto perennial reach. ADEQ was scheduled to remove the 303(d) listing from middle and lower Pinto downstream in October 2002. ■ With reference to a search of Tonto Creek between Roosevelt and Gisela, Greenback Creek (a tributary of Tonto), Pinto and the Salt immediately above Roosevelt, ...these areas were eliminated from [private land] further consideration due to the small size of the parcels, **high gradient** of the stream channels, **narrowness** of the floodplains, or **lack of reliable water supplies** (EIS 79). ■ The FWS has documented **numerous unauthorized actions** involving manipulations of the active channel on Tonto that directly threaten maintenance or establishment of riparian habitat. **Livestock trespass on National Forest**	4-54. Please see the response to Comment 4-37.

Comment #	Letter 4 continued	Response
	35 **lands in the Tonto have contributed to past disturbance of flycatcher habitat** (EIS 192). ■ No Tonto or Salt tributary evidently comes close to matching Pinto's lower Haunted Canyon tributary attributes (e.g., 95% summer canopy): > The small pools, if revegetated with bank willow and soft-stemmed bulrush, might make attractive habitat for flycatchers. Grazing would have to be eliminated and plant materials brought into the area. (Professor Bob Ohmart, Report on 16 Sept. 2001 visit) > I was highly impressed by Haunted Canyon. I cannot remember having seen a riparian area with the size and array of tree species that I observed in the canyon. I have been in areas with giant sycamores, willows, cottonwoods, alders, and Arizona walnuts; but the area is truly unique with its tree species composition and the huge specimens it supports. (Ibid.) **PINTO PROPOSALS** 055 - **PINTO PROPOSALS – GRAZING.** Withdraw grazing from middle and lower Pinto Creek (north of US 60). Obtain the commitment of Tonto to enter into negotiations with private land grazing operators at the Pinto Valley Mine (a Phelps-Dodge contract on BHP private land?) to stop violations into Haunted Canyon and middle Pinto Creek or face the Tonto implementation of a significant schedule of fines, legal actions, etc., that would effectively end the violations. This would restore and maintain the cottonwood/willow habitat that southwestern willow flycatchers prefer (Pinto also has tamarisk, alder, etc.), a habitat also usable by cuckoos. In this regard, the Draft Plan provides for "additional" conservation for Pinto Creek if unique circumstances are found to protect or improve riparian habitat: > ...unauthorized actions involving manipulations of the active channel on Tonto that directly Additional management of livestock grazing or other measures to protect or improve habitat on National Forest lands were eliminated from further consideration in the RHCP because Federal agencies already have a duty to manage these lands. On alternative suggested during scoping is to retire Federal grazing rights along Pinto Creek. These allotments fall within Tonto, therefore this alternative is already subject to Section 7(a)(1) and Section 7 of the ESA. However, **if unique circumstances are found where measure to protect or improve riparian habitat on Federal land would benefit listed species and Section 7 consultation is inadequate, SRP and FWS may agree to implement those measures as part of additional conservation under the RHCP** (EIS 80).	
4-55		4-55. Please see the response to Comment 4-37.

Comment #	Letter 4 continued	Response
4-56	36 "Unique circumstances" are now present. Tonto Forest has manpower shortages. Grazing damage to Pinto riparian area continues despite increased rancher and Tonto efforts. Small-parcel flycatcher and cuckoo suitable/potential habitat exists now along Pinto and would significantly increase with the removal of cattle and other mitigation. And, the Final Plan presents a unique opportunity to make this restoration. As said: > The Pinto Grazing Allotment, which includes area near the upstream end of the 8.8-mile perennial stretch contains **two or three flycatcher category habitats: suitable and potential** (not occupied) as well as cuckoo suitable and potential habitats (Biological Assessment?, FWS, 2001?) The Draft Plan emphasizes the continuing serious and unresolved problem in the area: > While improvements have been made in rangeland management over the last 75 years, **conditions are generally poor** and recovery has been slow. Although grazing allotments exist adjacent to Roosevelt grazing is managed to minimize impacts to listed species (EIS 174). The FWS has documented **numerous unauthorized actions** involving manipulations of the active channel on Tonto that directly threaten maintenance or establishment of riparian habitat. **Livestock trespass on National Forest lands in the Tonto have contributed to past disturbance of flycatcher habitat** (EIS 192). For the exceptional purpose of grazing and post-grazing mitigation, Pinto Creek is, as said, the one area nearby Roosevelt that now has suitable small-parcel flycatcher habitat available and the one Roosevelt Salt River tributary that **offers ephemeral small-parcel flycatcher habitat, and more cuckoo habitat, that has a live, dynamic system, constructing new habitat.** Pinto does not suffer yet the extensive degradation and degree of contributing human-activity factors of the Tonto Creek tributary, a "candidate" mitigation site. The Final Plan offers the restoration and preservation of the one Roosevelt watershed that is still possible. > Haunted Canyon and Pinto Creek hikers in the spring 2000 reported repeated cattle trespass in the creekbed vicinity. The Draft Plan makes clear the consequence of this lost opportunity: > **FWS anticipates that these types of activities would continue legally and illegally on both private and Federal land** (EIS 192). 056 - **PINTO PROPOSAL - HABITAT SURVEY**. Include in the Final Plan a survey of lower and middle Pinto perennial reaches for suitable and potential flycatcher habitat on private and public land per RHCP survey procedures (e.g., aerial, on the ground). Add all acreage found to be suitable and potentially suitable flycatcher habitat to the high priority mitigation in the final total of acquisition acres and "additional" conservation measure acres.	4-56. Please see the response to Comment 4-37.

Comment #	Letter 4 continued	Response
	37	
4-57	057 - **PINTO PROPOSAL - SPECIES SURVEY**. Add lower and middle Pinto suitable habitat to field surveys for consecutive breeding season surveys for flycatchers and cuckoos. As best as known, Pinto has not been well surveyed. It is not known, for example, if it received the attention given other sites in the 1998-1999 survey for breeding cuckoos (EIS 137). As said, this proposal is not intended to change Plan focus on distant big-parcel land, which "would be occupied or would have the same or greater proportions of tall, dense woodland as that lost..." (EIS 47). It is to change the essentially exclusive focus of distant big-parcel to include a small percentage of the best nearby land available, small-parcel habitat along Pinto Creek, which would be **occupied or has would have the same or greater proportions of tall, dense woodland as that lost..."** (EIS 47) Apply all but the big-parcel criterion to the survey criterion, which, if understood, involves 100-acre blocks or larger, and floodplain width of 500-1600 feet. Otherwise do as is now being done, target in Pinto's perennial reaches the same suitable/potential and occupied/unoccupied acreage targeted for the Draft's high priority acquisition and "additional" conservation measures, private and public.	4-57. Please see the response to Comment 4-37.
4-58	058 - **PINTO PROPOSAL - SPECIFIC PUBLIC LAND MITIGATION MEASURES.** Specifically proposed for public land Pinto mitigation are: improved fencing, increased Tonto patrolling, cattle removal, a negotiated and amenable buyout of grazing permits, after which cattle-proofed riparian understory could be planted and a minimally intrusive diversion dam* installed to widen the irrigated floodplain. * The Draft refers to the diversion dam which would alleviate flood damage at Rockhouse (EIS 171), whereas a Pinto diversion dam would additional spread the perennial flow from a tendency to flow in deep channels in drought periods	4-58. Please see the response to Comment 4-37.
4-59	059 - NATURE OF CONSULTATION/COLLABORATION TO INCLUDE PINTO MITIGATION IN FINAL PLAN. Pinto mitigation would be in keeping with the various other Section 7 and other consultations/collaborations vis-a-vis SRP, Reclamation, FWS, other agencies, involving public and private land mitigation, and the Draft Recovery Plan. ■ FWS-Bureau of Reclamation (BOR) additional reservoir capacity, 1983/1984 (EIS 26), 1989/1990 (EIS 27), 1992-1993 (EIS 28), 1995-1996 (EIS 29). Reclamation and various entities produced an FEIS on Roosevelt modifications, 1984 (EIS 25), an environmental assessment, 1996 (EIS 26). Reclamation informed SRP that it intends to request consultation with FWS re the effects of the Roosevelt modification in conjunction with FWS consideration of SRP's application for a Incidental Take Permit (EIS 41) ■ Regular meetings FWS-SRP since Jan. 2001 (EIS 161), and annual meetings to review the permit after issuance. FWS –SRP consultations to augment Gila, Verde, or San Pedro sites (EIS 58)	4-59. Please see the response to Comment 4-37.

Comment #	Letter 4 continued	Response
4-60	38 ■ Southwestern Willow Flycatcher Recovery Team Recommendation, RHCP, and SRP collaboration and cooperation [(e.g., RHCP implementation of Recovery's 3:1 ratio of compensated habitat (EIS 42-43)]. ■ SRP-BOR-Tonto(?) 20-acre Rockhouse pilot project (EIS 55). SRP-BOR consultation/collaboration and/or coordination re acquired and "additional" mitigation measures for the lower San Pedro mitigation (EIS 29-30, 63, 151) ■ SRP-Tonto Memorandum of Understanding to fund a Forest Protection Officer with vehicle and appropriate equipment for patrolling Roosevelt, protect riparian habitat, fence maintenance, possible planting near the Tonto and Salt inlets, etc. (EIS 58-59). ■ Reference to SRP-Tonto Section 7 grazing consultations for Pinto Creek under "unique circumstances" (EIS p. 80). Tonto manpower shortages, continuing grazing damage to Pinto riparian area despite increased rancher/Tonto efforts, existing flycatcher suitable/potential habitat along Pinto and its significant increase with mitigation, and the opportunity presented by the Final Plan suggest that the "unique circumstances" are now present. ■ Tonto-FWS consultations re Biological Opinions for then all known occupied flycatcher habitat, 1995 (EIS 31). Planned consultations under Section 7 will occur in late 2002 or early 2003 for Tonto Basin, Poison Spring, and Sierra Ancha Allotments, and on the remaining allotments possibly affecting the flycatcher or its habitat between 2002 and 2004 (EIS 31-32). The Recovery Team's Draft Recommendation criteria includes: ■ 1.1. Secure and enhance occupied, suitable, and potential habitat **on federal lands**. Secure and enhance all occupied, suitable, and potential breeding habitat **on federal lands** and/or on lands affected by federal action, within the framework of recovery criteria identified in section IV.B., above. (Southwestern Willow Flycatcher Recovery Plan Draft of April, 2001, p. 98?) 060 - **PINTO PROPOSAL - SPECIFIC PRIVATE LAND MITIGATION MEASURES.** We propose the purchase on lower Pinto of the Henderson Ranch – the pending closing of its owner, the Pinto Valley Mine, could facilitate its purchase -- and near the Pinto Valley Weir on Middle Pinto the purchase of the Layton Ranch. This would facilitate the amiable purchase of grazing permits. We propose the retirement of water rights of the two ranches, facilitated by their purchases and the water rights of the Pinto Valley Mine after its closure, steps that would preserve this water for SRP and the natural environment.	4-60. Please see the response to Comment 4-37.

Comment #	Letter 4 continued	Response
4-61	39 061 - **PINTO PROPOSAL - BACKUP OR SECOND ROCKHOUSE PILOT PROJECT ON PINTO.** (A) If the Rockhouse Project fails, designate Pinto mitigation for replacement. The Draft provides for replacement by means of FWS –SRP consultations to augment Gila, Verde, or San Pedro sites (EIS 58). As said, San Pedro alone could have 100% of all acquisition habitat (p. 14 of these Comments), whereas a small percentage is imminently worth while nearby Roosevelt. (B) Alternatively, establish now on Pinto a nearby second Rockhouse pilot project, which provides flycatcher/cuckoo habitat. The Henderson Ranch purchase (see p. 38 of these Comments) provides one such opportunity. Pinto would have the following similarities and advantages: The Pinto 20-acre s pilot project would be the same size as the Draft's small-parcel mitigation for Rockhouse, would exceed by more than 300 feet the flood crest level of the Roosevelt reservoir (2218 ft.) in contrast to Rockhouse, while 20 feet above the reservoir maximum fill line (2151 ft.) would be 87 feet below maximum flood stage of that crest. Pinto would be subject to the same scouring process as Rockhouse, which is in the extreme downstream end of the Upper Salt, but presumably the Pinto would be impacted several times less than the Upper Salt watershed, which must be several times larger than Pinto's 178 square mile watershed, an area that excluded its listing in the Draft's main Roosevelt tributaries (EIS 102). Pinto would have several times more limited access than that of Rockhouse, .3 miles from Arizona's second largest tourist attraction. Lower Pinto one convenient access road is neither well known, well marked, or frequently visited. Pinto would have the disadvantage of not having the bald eagle habitat planned for Rockhouse, unfortunately given the presence now in lower Pinto of eagle-size cottonwoods. However, at Rockhouse it is questionable (a) if in five years Rockhouse would have a cottonwood tree of sufficient height for a bald eagle, (b) if the current Pinto eagle would permit a rival eagle to nest there, given the Pinto male's successful chasing off of the far more distant Pinal eagle, and, (c) if, by the time a Rockhouse cottonwood tree is of sufficient configuration for an eagle, whether the current Pinto eagle would still be alive to consider moving there or if reservoir inundation of the current Pinto eagle's nest tree would still be in the future. Possibly Pinto would not require the elaborate fencing, ditch, locked gates, and other security planned for Rockhouse (EIS 56-57	4-61. Please see the response to Comment 4-37.

Comment #	Letter 4 continued	Response
4-62	40 062 - **PROPOSAL THAT SRP PARTICIPATE IN THE BUYOUT OF THE PLANNED CARLOTA COPPER PROJECT.** The action would eliminate that mine's actual and threatened impact on the proposed Pinto mitigated acres as well as on SRP water users and the environment in general. It is proposed that SRP, in collaboration with the Federal Water and Conservation Fund, contributing private foundations, other organizations, private individuals, and the Trust for Public Lands or similar facilitating organization, buy out the approximate 300 patented acres or the 11% private land portion of the Carlota Copper Project, arrange the permanent withdrawal of mineral rights, and return that land to the in perpetuity care of the Tonto National Forest or the care of some other appropriate entity. The merits of this proposal would be that, combined with the withdrawal of grazing from lower and middle Pinto (i.e., north of US 60), the purchase of two private ranch landholdings, and the withdrawal of their water rights and those of the BHP Pinto Valley Mine after its closure, the buyout would enable the restoration and preservation of a 178 square mile watershed of a Roosevelt tributary. Pinto evidently is the only Roosevelt Salt Tributary for which such restoration and preservation is still possible. It continues to have 10+ miles of perennial water, significant small-parcel suitable and potentially suitable flycatcher habitat despite substantial ongoing grazing degradation. The action would be a fitting Final Plan mitigation, in-perpetuity and engineered by SRP, FWS, and Tonto Forest, not only for the benefit of the flycatcher and cuckoo, but also for the bald eagle (i.e., the elimination of potential Carlota mine contaminants in prey ingested by the eagle) if not the Yuma Clapper rail (i.e., numerous cattails have been reported at the downstream end of the 8.8-mile perennial reach of lower Pinto). It would also be to the general benefit of both SRP users (i.e., elimination of mine use of SRP water, of threats to water quality and water availability), and to the environment in general, given the unique qualities of the perennial reaches of Pinto and lower Haunted Canyon. As said, the former is potentially eligible for extremely rare Wild & Scenic River Designation and the latter has among many attributes a 95% summer canopy and one of the finest stands of Arizona Cypress in the state. The steeply graded tall dense riparian vegetation of Powers Gulch, a tributary of Haunted, would be spared installation of an almost two-mile long heap-leach pad, which would raise the canyon floor some 500 feet after burial of its in-perpetuity toxics. This proposal would eliminate: (A) CARLOTA IMPACTS ON WATER AVAILABILITY to the watershed, SRP customers, Roosevelt recreationalists. There would be up to five impacts, one catastrophic. . #1 – ACRE-FEET CONSUMED DURING OPS. During 20 years of operations, the Carlota projected water use would be an average of 580 gals./min or 950 acre-feet/year Carlota (Tonto FEIS 2-43). The approximately 100 gal./min. of additional mitigation wellfield pumping to replace lower Haunted Canyon and Pinto surface water removed by that pumping would bring the total **to 1113 acre-feet per year**.	4-62. Please see the response to Comment 4-37.

Comment #	Letter 4 continued	Response
	41 #2 – ACRE-FEET CONSUMED AFTER OPS. Beginning some 13 years into operations, the one-mile pit in Pinto would begin to fill, and, after some 100 years from the end of reclamation (Carlota-Year 23), the pit-lake level would stabilize and evaporation from the in-perpetuity pit lake would top off at **480 acre-ft. per year.** (Tonto FEIS 3-345). A one-mile artificial diversion channel, built on a lower bank of the pit, would divert Pinto Creek around the pit in perpetuity. If Globe takes over water use after the close of operations at the same pumping rate as Carlota – a Carlota-Globe feasibility study reportedly was drawn up several years ago, wellfield use and pit lake loss could move up to **1593 acre-feet/year** at that time, if the wellfield aquifer is capable of sustaining that pumping rate. The well field is located in the downstream end of the .7 mile perennial reach of lower Haunted Canyon and along Pinto immediately downstream of its Haunted confluence. #3 – CARLOTA PLANNED ENTRY WHEN BHP EXITS. The above planned Carlota water consumption plan plus the Globe post-Carlota studied plan would deplete Pinto water quantity at a time when it has been recuperating. This is a result of the 1998 phase-down of operations of the BHP Pinto Valley Mine, immediately east of the Carlota proposed site, and the BHP planned closure in 2007 (1997 Tonto Carlota FEIS, 1-12), a date that possibly has subsequently been set back. It is believed that since the 1998 phase-back in operations, a substantial portion of BHP's 1997 water use , **10,200 acre-feet/year** (Tonto Carlota FEIS 3-131), has been reduced. Since then, the middle Pinto Creek aquifer has no doubt begun to recover and would continue to do so until and unless Carlota starts-up operations with up to five wells authorized near the Pinto/Haunted confluence. #4 – THREAT TO AQUIFER. Carlota could deplete the Haunted/Pinto aquifer. Whatever the possibility – I am informed that there are no guarantees, this contingency has required Carlota under its agreements with Tonto, to find an alternative low-quality water supply. As of the July 1997 Tonto Carlota FEIS, none had been found free of legal problems, with an adequate supply of water, and without two other mines with higher priority use during drought months/years. #5 – THREAT OF BLOCKAGE OF UPPER PINTO CREEK WATER. The catastrophic threat to water quantity would be the loss to SRP, Roosevelt recreational users, and some 17 miles of downstream Pinto of the waters of upper Pinto Creek. There is a multiple threat of the loss of 11 miles of Pinto's watershed upstream of Carlota. The one-mile pit, over 500 feet deep, would top out in 100+ years at an equilibrium level 135 feet below the diversion channel bank. Any channel collapse, or blockage at or nearby the channel could divert floodwaters and all other waters from upstream Pinto Creek into the one-mile pit. This could happen under the following scenarios: -- Collapse of the artificial diversion channel -- Channel blockage from a higher bank slide or collapse, from flood debris. -- Blockage upstream of the diversion from a slide, particularly from a planned waste dump	

Comment #	Letter 4 continued	Response
	42 -- Blockage downstream of the diversion from a slide, particularly from a downstream Carlota waste dump, or from an embankment collapse from the adjacent Pinto Valley Mine -- A waste rock dump slide into Powers Gulch could block off its waters from reaching Pinto and Lake Roosevelt. The October 1997 collapse of an embankment of the Pinto Valley Mine resulted in one of some half-dozen accidental massive releases since the 1940. It would have blocked the Pinto diversion channel had Carlota been into its fourth year of operations (maps and photo at pp. 49-51 of these Comments). The excellent BHP cleanup, a 24/7 operation, took one year to complete. BHP quickly installed pipes to carry water, backed up by the debris and then a quickly installed upstream dam, through the toxic debris and on downstream. Backed up Pinto water upstream subsided after some weeks (months?). Presumably during Carlota's presence in the watershed, the mine would undertake necessary repairs to have upper Pinto waters again flowing downstream, although there is no bond or other legality preventing the Canadian-owned mine to declare bankruptcy at any time and depart the U.S. The BHP cleanup of less than a mile of mine tailings in Pinto Creek cost over $35 million. This spill was successfully contained. Previous Pinto Valley Mine spills at Pinto flood stage were carried the 17 miles into Lake Roosevelt in an hour or so. After Carlota's reclamation bonds are returned and it dissolves or departs (Carlota-Year 28? CY 32?), cleanup after a massive Carlota spill would fall to the of U.S. taxpayers, among whose number are SRP Valley water and hydropower users. (B) Carlota's water quality threats to the watershed: Carlota and agencies will oversee installation of elaborate and numerous safeguards, but no one can guarantee there will be no releases. Water quality threats during operations include: #1 – WASTE ROCK DUMP RELEASES. Seeps into the watershed from three waste rock dumps (two in perpetuity), releases of waste rock dump runoff in heavy rains escaping from six 10-year rain and one 100-year catchment basins cleaned out during operations (but evidently not after Carlota's departure.) NOTE: The EPA-issued pollution permit authorizing catchment basin overflows, the last pending major mine permit, was appealed and oral hearings are scheduled on 24 October before the EPA Appeals Board in Wash., D.C. #2 – RELEASE FROM PROCESS PLANTS, PONDS, THE HEAP-LEACH PAD. Leaks or spills could occur. Several of numerous causes include: subsidence (collapse under the pad's in-perpetuity toxics), perforation during installation of a 300-acre pad liner; liner leakage – it has a 50% retention rating after 400 years. The worse case would be collapse of one of two 10-story pad embankments, deemed unlikely, which could send up to a 27-foot wave of toxics down Haunted Canyon, and, in less than an hour still be almost ten-feet high as it passes the US288 bridge en route to Lake Roosevelt. More than a dozen rock-fill	

Comment #	Letter 4 continued	Response
	43 embankments such as Carlota's planned three, two more than ten stories high, collapsed in the 1980s. #3 – SPILL FROM TANKER-TRUCKS. 17 tanker-truck deliveries of sulfuric acid are scheduled daily to the mine for twenty years. Statistically 2-4 trunk accidents are projected in this time frame, not necessarily spilling acid directly into Pinto Creek. #4 – PIT WATER. There is a threat of the passage of polluted pit water into the ground water, which is linked to surface water via many fissures. Tonto assures sinks such as the one-mile Carlota-Cactus pit are 100% non-release, but BLM has reported that at least a half-dozen large pits in the west, also sinks, release. #5 – COPPER POISONING of mayflies, caddisflies, and blackflies. These are indicators of good water quality and possibly flycatcher food. In 1993, the macroinvertebrate community (on the sampled section of Pinto) seems to have been primarily influenced by floods or spills that occurred six months prior to the sampling. Acute levels of copper exceeded water quality standards (Tonto Carlota FEIS, 3-193). A 1991 pre-spill survey found 13 taxa at Henderson Ranch (at the halfway point of the 8.8 mile lower Pinto perennial stretch), and only 3 in May 1993. "The most logical explanation is that some species may still be recovering from the flood event and spills" (Tonto Carlota FEIS 3-198). Per the Tonto FEIS, Lewis (1977 Thesis, ASU) found noticeably higher levels of heavy metals in macroinvertebrates than did the 1993 survey. From the Lewis thesis, fish are often dependent upon stream refuge areas during drought conditions, but these refuges were altered by suspended solids and heavy metals from mines during 1975. Metal concentrations in Pinto Creek were not toxic except during times of large effluent discharges. Copper-zinc was the most lethal combination. Copper residues closely reflected the water quality. Reduced surface flow, heavy metals and sedimentation (i.e., without correction) will destroy most aquatic species dependent upon Pinto Creek for their survival. Copper poisoning from the Douglas smelter was said by an environmental organization to be the most likely cause of the extirpation of the Tarahumara leopard frog from the U.S. Therefore increased copper levels would certainly impact other native frogs and amphibians. (C) OTHER IMPACTS. These include: #1 – POST-CARLOTA LIABILITY. After reclamation, inspection, release of bonds, and departure, responsibility for the remaining in-perpetuity facilities evidently falls to the U.S. taxpayer, with, per the Tonto FEIS, no provision (as allowed by the law) for in-perpetuity maintenance, monitoring, inspection, emergency repair, and liability for several miles of diversion channels, the one-mile pit, two surface waste rock dumps, buried pits in Powers Gulch and the buried toxic heap-leach pad. As said, safeguards are voluminous but there are no guarantees that mishaps will not occur. As SRP can appreciate more than most, the Natural Law is: **what's upstream, eventually comes downstream**.	

Comment #	Letter 4 continued	Response
	44 #2 – NO SPILL BOND. As said, there is none and none is required. The Roosevelt Community Association representing more than 1000 residents protested this threat upstream from Lake Roosevelt. #3 - THE MINE IS ILL-SITED. It is in the most polluted county in Az., Gila, 20 times more polluted than the second county, and partly in Pinal, the second most polluted. The next creek east of Pinto, Pinal Creek, is the site of an almost $200 mil. attempt to stop a toxic underground plume slowly edging its way toward Lake Roosevelt. Carlota's in-perpetuity toxics in its buried heap-leach pad are some 15 miles upstream Lake Roosevelt, main source of Valley drinking water. It is 2.5 miles upwind of the Superstition Wilderness where its airborne pollutants will measurably impact. Its Power Gulch pits are 4000 ft. from Top of the World (TOTW), a 500-member community around US 60. Those pits' six years of ear-shattering blasts threaten TOTW wells. The Project Boundary line will be 600 ft. from TOTW. #4 – OTHER LOSSES These include 23.9 acres of endangered Arizona hedgehog cactus, which have been transplanted, the threat to 237.6 acres of potential cactus habitat, and the loss of 50 Native American cultural sites. The Zuni, Hopi, White Mountain Apache, Yavapai Apache, and San Carlos Elders protested. **RESERVOIR LEVEL ADJUSTMENT PROPOSAL** 4-63 063 - Include in the Final Plan a clause that continues what I understand to be reservoir level adjustments in vogue in recent years that protect flycatcher habitat while not losing one drop of SRP reservoir water. That is, when allowed by other conditions, lower downstream Apache Canyon, and Saguaro reservoir levels (to 35%?) prior to times of anticipated maximum runoff into Roosevelt in order to enable Roosevelt, those years when its levels threaten flycatcher habitat, to release a maximum amount of water to fill the three downstream reservoirs (to 90%?) before Roosevelt level are allowed to impact as they will on flycatcher habitat. With 55% of the capacity of three downstream reservoirs to fill, for example, Roosevelt could thereby release 205,015 AF or 10% of its capacity. **PROPOSAL TO INCREASE IMPACTED ACREAGE TO 1000** 4-64 064 - The Final Plan should increase the total impacted acreage at Roosevelt, in the event of a complete fill, from the Draft Plan's 750 acres to 1000 acres, the maximum number of acres of current flycatcher suitable habitat which would be impacted (i.e., inundated). These 1000 "tall dense" impacted acres (EIS 125) would include the Draft's 750 maximum estimated impacted occupied acres and an additional 250 tall dense acres. Regarding the 750 impacted acres, the Draft defines "occupied:" "In general, occupied flycatcher breeding habitat consists of nest trees, male-defended territory space, and adjacent areas used for feeding, dispersal, or as an environmental buffer" (EIS 142).	4-63. SRP has not adjusted reservoir operations in recent years to protect flycatcher habitat; the low reservoir levels have been a result of the extended drought in Arizona. The Salt River reservoir system is designed and operated as a cohesive unit to optimize water storage, drought protection, flood control, and hydropower production. The re-operation of lower Salt River reservoirs to reduce water storage in Roosevelt would not fully utilize system water storage capacity, result in the loss or inefficient use of water supplies, greatly reduce power generation, and would have limited beneficial impact on covered species habitat at Roosevelt because of the small storage capacity in Apache, Canyon, and Saguaro reservoirs. 4-64. See response to Comments 3-9 and 3-11. As described in the response to Comment 3-9, the "take" standard under the ESA is based on the amount of occupied habitat rather than all of the potential or suitable habitat available (e.g., the current amount of about 1,000 acres of tall dense vegetation). The RHCP addresses the incidental take flycatchers that use up to 500 acres of occupied habitat present in 2001 plus an additional 250 acres of projected maximum occupied habitat loss, for a total of 750 acres. Should the loss of occupied habitat exceed 750 acres, adaptive management to address for up to an additional 500 acres would be implemented. The 250 acre difference between the 1,000 acres of tall dense vegetation and the 750 acres of occupied habitat is not a buffer, but rather is suitable, but unoccupied habitat. Mitigation for the take of occupied habitat is based on a ratio of 3:1 for all occupied habitat, not all suitable habitat.

Comment #	Letter 4 continued	Response
	45 But the Draft does not define the remaining 250 acres of the 1000 tall dense acres impacted in the event of a complete fill. Agency officials suggested that the 250 acres are potentially suitable habitat. In time under higher level reservoir conditions, some or all of the 250 acres could become suitable habitat and part of the up to a maximum of 750 occupied acres. However, at the same time, some of the original 750 acres would no longer be suitable (e.g., inundated), so that the maximum total of occupied habitat at Roosevelt would not exceed the estimated 750 acres. If it did, the Plan provides for adaptive management to take effect, replacing up to 500 more occupied impacted acres with up to 1000 additional mitigated acres (HCP 124). Are the 250 impacted acres buffer? An agency suggested not at all necessarily so. The 750 acres already include "environmental buffer" acres, per the AGFD model. That is, it contains the 11.1-acre neighborhood of an observed breeding area needed by an adult and juvenile flycatchers for refuge, dispersal, and foraging near nests and territories (EIS 144). It seems that much is not known as to what amount of surrounding unoccupied tall dense vegetation flycatchers consider "buffer," the innate "bulk" to disperse to, feed off, and serve as environmental buffer, and what amount of such surrounding vegetation they do not consider buffer. But, the best estimate is that the 250 acres are not needed "buffer" for the 750 acres. Nonetheless, I still recommend that the 1000 acres impacted today, in the event of a complete fill, be the basis for determining the 3:1 Final Plan mitigation, because: (A) The risk of a serious decline or even complete destruction of the Roosevelt population is too great today and at other similar prolonged drought conditions in the fifty-year period of the Permit, and the effective mitigation options available to prevent this are so limited, that this increased mitigation is at least one practical and available option toward maximizing the mitigation that we can do. (B) All 1000 acres impacted by a complete fill at Roosevelt are a mix, **suitable and potential** habitat of **occupied and unoccupied** acres. Today the 1000 acres are mostly suitable and some potential, half occupied (Figure 19, EIS 149) and half not occupied, but estimated to go up to a maximum 750 acres occupied leaving 250 of today's remaining acres unoccupied. However, the 3:1 compensated habitat in the Draft, is not tit for tat. The Draft substitutes as compensated habitat considerable potential habitat, with a time lag to be converted to suitable, for entirely suitable impacted habitat, and substitutes almost entirely if not entirely unoccupied habitat for entirely occupied habitat. This proposal would remove the anomaly, substituting suitable/potential and occupied (hopefully) and unoccupied mitigation habitat for Roosevelt suitable/potential and occupied/unoccupied habitat. That is, in Table form:	

Comment #	Letter 4 continued	Response

	Mitigation Habitat	Lost Impacted Habitat
DRAFT PLAN	suitable and potential (possibly considerably potential at first)	entirely suitable
	almost or entirely unoccupied	entirely occupied
PROPOSED FINAL PLAN	**suitable and potential** (possibly considerably potential at first)	**suitable and potential** (mostly suitable)
	occupied and unoccupied (almost or entirely unoccupied)	**occupied and unoccupied** (up to ¾ occupied)

This proposal, setting Final Plan impacted acreage at 1000 acres, would increase the corresponding mitigation acreage from the Draft's 2250 acres to 3000 acres (i.e., from 1500 to 2000 acquired mitigation acres and from 750 to 1000 "other" conservation measure acres).

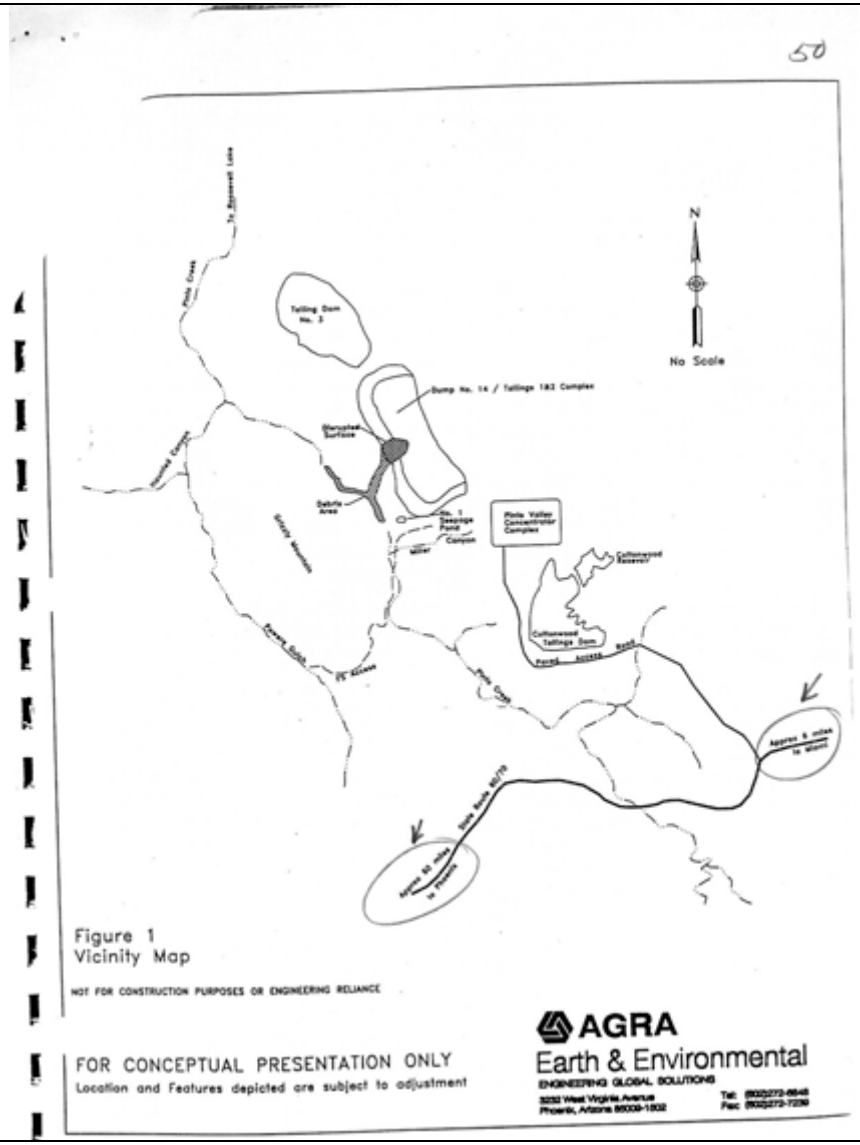
This recommendation would thereby remove five Draft Plan anomalies:

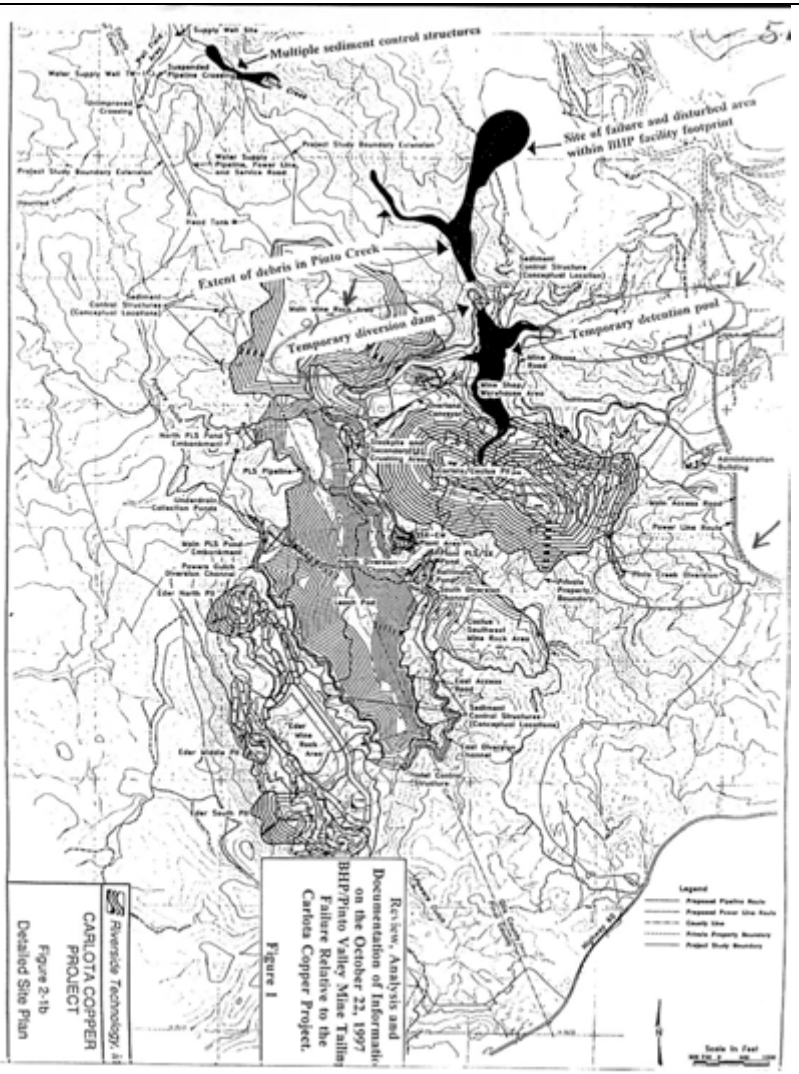
- Having unoccupied/potential flycatcher habitat, apparently in unavoidably large amounts, in its mitigation offsetting the 100% occupied/suitable habitat impacted at Roosevelt
- Not counting as impacted, in the event of a complete fill, Roosevelt's 250 acres of "future potential" habitat (EIS 47), but counting in the 1500 acquired mitigation acres "future potential" (i.e., acres with a time lag to reach suitability, EIS 47) in the off-site mitigation.
- Eliminating the 250 acres, without which, at different reservoir levels, the 750 acres could not exist, being unable to replenish its newly inundated acres with newly restored acres from the 250 in the natural dynamics of the Roosevelt system. Without the 250 potential acres, Roosevelt could not sustain at higher reservoir levels the projected 300-400 suitable acres on average available yearly to returning flycatchers.
- Not adhering to the Plan criteria that patches of riparian habitat targeted for acquisition would be occupied by flycatchers or would have similar proportions of tall dense woodland as that lost (i.e., at least 60% would have moist soil or patches of surface water during the nesting season, EIS 47), whereas, "that lost" includes 250 acres of tall dense woodland that is not without merit. Flycatchers continue to occupy mature patches in the upper portions of the reservoir (EIS 144) -- eight nests between 2130 and 2199 ft. elevations (EIS 129).

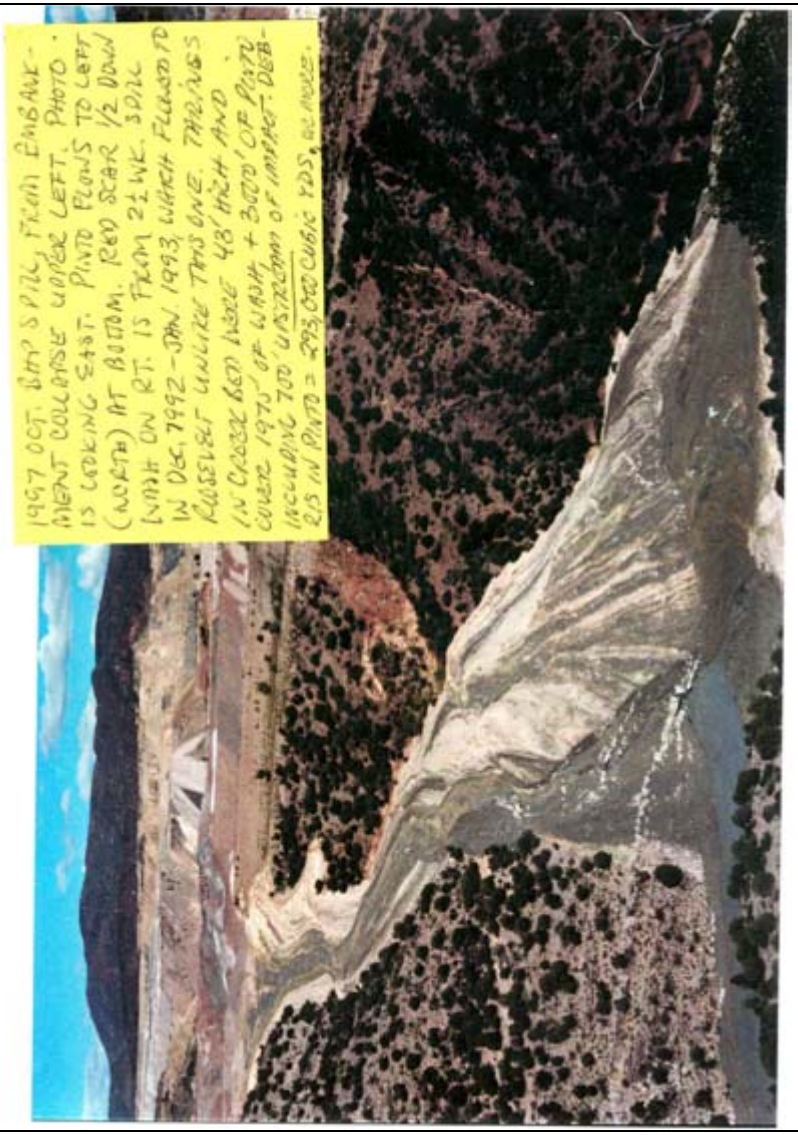
Comment #	Letter 4 continued	Response
	47 ■ Not adhering to the Recovery Recommendation: "compensation habitat should be acquired at no less than a 3:1 ratio. The Recovery Plan text suggests that **unoccupied potential habitat** are to be compensated, and it suggests, as said, that all compensation habitat under the 3:1 ratio, is existing habitat, not credited habitat or a cash equivalent in acre values of management of compensated habitat. All effort should focus on preventing loss of flycatcher habitat. However, where occupied, **unoccupied suitable**, or **unoccupied potential habitat is to be lost**, modified, fragmented, or otherwise degraded, **habitat should be replaced and permanently protected** within the same Management Unit (or at least within the same Recovery Unit). All efforts should strive to **acquire habitat** prior to project initiation. While the quality and quantity of flycatcher habitat loss may vary, compensation **habitat** should be **acquired** at no less than a 3:1 ratio. A ratio of at least 3:1 increases the probability that **the desired acreage of suitable habitat** is maintained across the landscape. Natural flood processes and recruitment events are likely to shift habitat distribution over time within any river reach. Permanent habitat loss, modification, or fragmentation resulting from agency actions should be offset with **habitat** that is permanently protected, including adequate funding to ensure the habitat is managed permanently for the intended purpose. (Southwestern Willow Flycatcher Recovery Plan Draft of April, 2001, IV-Recovery, p. 81) The southwestern willow flycatcher is endangered because of a variety of factors, **the chief of which is loss and degradation of breeding habitat.** Not only has extensive habitat loss severely reduced flycatcher populations, but it exacerbates other threats, such as cowbird parasitism and the demographic vulnerability inherent in a rare species that exists mainly in small, isolated populations. Recovery of the flycatcher will require **substantially increasing the quantity of suitable nesting habitat, and preserving all currently suitable and occupied habitat**. (Southwestern Willow Flycatcher Recovery Plan Draft of April, 2001, IV-Recovery, p. 97)	

Comment #	Letter 4 continued	Response
	48 **CONCLUSION** The Plan offers a unique opportunity. While allowing full operations of the reservoir, its mitigation can set in motion significant steps to the benefit of the Plan's endangered and threatened species as well as of the environment. Specifically, a modified Final Plan could offer: ■ **More direct protection for the Roosevelt flycatcher population itself** in the next few extremely vulnerable years and in perpetuity for other prolonged drought years; including on-site mitigation (e.g., dam release policies not impacting on SRP users) and near-site mitigation along Pinto Creek. ■ **More direct protection for the endangered flycatcher species** in perpetuity by compensating for the 1000 acres impacted now by a complete reservoir spill and by having all compensation acres, acquired and "additional conservation measures," be the same type visible acres that are impacted as, as I understand, are envisioned in the Draft Recovery Plan. ■ **The addition of Pinto Creek to Final Plan high priority targeted mitigation**. Pinto has the best nearby mitigation available, good small parcel suitable flycatcher habitat along its lower and middle perennial reaches. A noble outcome of the Permit would be the restoring and protection of the Pinto watershed in perpetuity. In the next 50 years, this would mean a clean watershed, water quality and quantity protected and preserved for the flycatcher, the environment, SRP water and hydroelectric users, and the people of Arizona. **ALTERNATIVE TWO – FULL OPERATIONS.** I recommend the Full Operations Alternative with the environmental mitigation, along the above and/or similar lines, increased to the same maximum standard as that for the dam operations portion. **NO JEOPARDY.** It is clear that the not-remote possibility of a very large take if not the destruction of the Roosevelt population and its adverse impact on the survivability to the species make all the more important mitigation that is at the maximum practicable level. This is why I submit these fifty pages of comments and proposals intended, to a larger degree than in the Draft, to maximize practical mitigation. The possibility of a worse-case sink scenario faces us today and, historically, will occur again. Sharp reservoir rises have happened after prolonged droughts. Several more years now of non-fill would further deteriorate already depleted near fill-line suitable vegetation available to returning flycatchers at the time of complete fill. The situation appears exasperated by the acute 2002 nesting failure, given the short life-span of the flycatcher (2-3 year average?), the average percentages that annually return, and the population's	

Comment #	Letter 4 continued	Response
	49 vulnerability to sudden adverse impacts on its traditional breeding habitat (e.g., the marked increased in predation in 2002). Granted, this is a rare combination of circumstances that normally would not jeopardize the population, but, as said, the possibility of that scenario not only exists, but is increasing. The issue here is if FWS is to issue a no-jeopardy decision. I am not familiar with the criteria involved, and do not have time to research it or too many other issues, but, as a layman, there is no other conclusion than that the population is in jeopardy and, worse, there is nothing humanly possible to prevent the situation. Maintaining the reservoir at a level below the fill-line has the intolerable result of contracts with Valley users not met and related lawsuits, public/political pressure, wasting water that neither SRP nor the rest of us should waste, etc., and, as the Draft suggests under the No-Action Alternative, the far less than ideal conditions for the maintenance of long-term flycatcher habitat at Roosevelt. As a layman, my only conclusion is to support the issuance of a no-jeopardy opinion after the maximum possible has been done as suggested in these Comments or along these lines elsewhere from the public, agencies, etc. This "maximum possible regards not only off-site mitigation for flycatcher populations (e.g., the 1000 impacted acre proposal) -- > ...the primary purpose of the off-site mitigation is to provide additional habitat for flycatcher **populations** to expand to offset any take of flycatchers at Roosevelt (RHCP 93). but also regards **on-site and near-site mitigation specifically for the Roosevelt population.** Then, at the very least, we will have done the possible to minimize the jeopardy to listed species and to the adverse impacts to critical habitat. + + + It is not our part to master all the tides of the world but to do what is in us for the succor of those years wherein we are set, uprooting evil in the fields that we know, so that those who live after may have clean earth to till. What weather they shall have is not ours to rule. J.R. Tolkein, RETURN OF THE KING	

Comment #	Letter 4 continued	Response
		

Comment #	Letter 4 continued	Response
		

Comment #	Letter 4 continued	Response
		

Comment #	Letter 5 — Bureau of Reclamation, Susan Sferra	Response
	Draft Roosevelt Lake Conservation Plan Comments Susan Sferra Bureau of Reclamation Phoenix, Arizona 602-216-3855 ssferra@lc.usbr.gov September 11, 2002 GENERAL COMMENTS This document is very well written, organized, and easy to follow. This greatly facilitated review and evaluation of decision processes. However, some of the decision processes need further explanation to allow the reader to fully evaluate the proposed mitigation. There are many positive management strategies proposed in this conservation plan, such as the full-time position created to protect riparian habitat at Roosevelt Lake, the experimental Rockhouse Farms habitat creation project, and the potential for habitat acquisition and retirement of water rights. However, as expressed in our planning meetings and in e-mails, I remain concerned about two issues:	
5-1	1) the number acres used as the basis for mitigation may be an underestimate because the AGFD model was not meant to be used for determining all habitat needed for long-term willow flycatcher persistence. This would be less of a concern if the number of acres calculated at mitigation sites is consistent with how it was calculated at Roosevelt Lake. The method used for determining acreage at mitigation sites is not explained and is most likely an overestimate in relation to how it was calculated at Roosevelt. An underestimate of acres at Roosevelt Lake and an overestimate of acres at mitigation sites results in fewer acres being acquired for flycatchers.	5-1. Please see the response to Comments 5-13, 5-18, 5-29, and 5-41.
5-2	2) Species monitoring does not require banding or tracking movement of flycatchers in response to a fill event at Roosevelt Lake. One of the goals of the RPA in the 1996 Opinion was to document where the banded flycatchers go when the lake rises as a means of determining long-term impacts of full reservoir operation and how flycatchers respond to catastrophic events. Results of this monitoring effort were to help fill in information gaps that would ultimately aid in our strategy for recovery of the species.	5-2. Please see the response to Comment 5-25. . As noted in the Recovery Plan, research to aid recovery is not an appropriate mitigation measure (FRP, p. 82).
	PAGE-SPECIFIC COMMENTS	
5-3	p. 31, 85. Historical Vegetation. "However, based on analysis of photographs, topography and hydrology, this riparian vegetation was concentrated in relatively small areas and narrow bands along the streams." "In summary, cottonwoods and willows were present in relatively small areas and narrow bands along the channels of the Salt River and Tonto Creek within the reservoir area prior to the construction of Roosevelt in 1911." This section should acknowledge that without grazing or in between scouring events, significantly more vegetation may have been present than in the available photos.	5-3. As requested, the texts of the EIS and RHCP have been changed as appropriate.
5-4	P. 46. "During the June 2, 2002 survey, five territories were identified, with at least one nesting pairs." This can be changed to "During the 2002 field season surveys, five territories were identified, with at least two pairs." No nests were confirmed but we suspected breeding given the frequency, path, and location of entry into the vegetation.	5-4. As requested, the texts of the EIS and RHCP have been changed as appropriate.

Comment #	Letter 5 continued	Response
5-5	p. 53. Table II-5. Include the date when cowbird trapping began (1996?). Also, the first couple of years trapping was not totally successful due to occasional trap failure. More nests may have been parasitized than would have been if the traps were fully operational.	5-5. As requested, the texts of the EIS and RHCP have been changed as appropriate.
5-6	p. 53. Change "Kearney" to "Kearny."	5-6. As requested, the texts of the EIS and RHCP have been changed as appropriate.
5-7	P. 54. Include when and where the Yuma clapper rail was found at Roosevelt and name of the first person who found it (prior to page 56). Include whether anyone has looked for clapper rails since 1996. It should be mentioned so the reader will know whether they were absent or whether surveys were not conducted.	5-7. As requested, the texts of the EIS and RHCP have been changed as appropriate.
5-8	P. 55. The critical habitat citation should be the federal register announcement rather than a Biological Opinion.	5-8. Because critical habitat has not been designated for the Yuma clapper rail, a Federal Register notice is not available for citation.
5-9	p. 56. Include whether clapper rail surveys have ever been conducted at Roosevelt Lake so the reader will know whether they were absent or unknown from the area.	5-9. As requested, the texts of the EIS and RHCP have been changed as appropriate.
5-10	p. 78. "The 10-foot maximum level of inundation on May 1 is the primary assumption in the nesting model..." Ideally, inundation under the lowest flycatcher elevation on May 1 should be no greater than 2 feet so that there will be no standing water under nest trees at the time young fledge. Newly fledged young just learning to fly may drown in standing water. This may or may not be a significant risk depending on how many nests are at the edge of the reservoir and how well fledglings can maneuver. If the 10-foot maximum level of inundation on May 1 is adopted, the RHCP should at least mention the risks.	5-10. The possible drowning of newly fledged young has been added to the discussions of potential take (e.g., Subchapters III.B, III.C.1, and III.F.1).
5-11	p. 78. "Water may function to reduce nest predation, much like dense lower vegetation." I have a hard time believing this as there are known flycatcher predator species that can attain access by wing, swimming, or traversing branches above the water level.	5-11. The text of the RHCP has been changed to quote the cited report.
5-12	P. 78. "...water is considered to be the functional equivalent of dense lower vegetation." I do not agree with this statement. Water cannot take the place of vegetation in terms of substrate or insect production.	5-12. As requested, the texts of the EIS and RHCP have been changed as appropriate.
5-13	P. 82. "Although the model was not developed to quantify occupied habitat, biologists with AGFD believe this area is the best available estimate of the amount of habitat needed by adult and juvenile flycatchers for refuge, dispersal, and foraging in the vicinity of nests and territories." While this may be the best model, I do not agree that the model alone should be used as the sole estimator of flycatcher habitat. For example, the habitat for 19 territories was not identified as suitable by the model. Jim Hatten, who created the model, states in his 02/22/02 memo to Tracy McCarthey that the "120-m radius circle (4.5 ha) represent a bare-bones minimum concerning habitat conservation and may not provide enough habitat for long term persistence. Therefore, I would be as inclusive as possible when considering mitigation for SWFL habitat." In my 02/15/02 memo to Craig Sommers and Steve Dougherty, I restated the method of including supplemental habitat I thought we had agreed on in our December 17 Panel of Experts meeting. The 03/10/02 response from Craig Sommers stated that ERO and AGFD came to the conclusion	5-13. The AGFD model itself was <u>not</u> directly used to estimate the quantity of occupied habitat. However, one of the results of the model—that flycatcher breeding areas are significantly correlated with the vegetation density and variability within the 11.1-acre neighborhood surrounding a territory—was used as the estimated area of occupied habitat. The neighborhoods around the 19 territories that the AGFD model did not identify are included in the estimate of occupied habitat. With respect to Jim Hatten's memo of 2/22/02, in response to questions regarding his statement of the 11.1-acre neighborhood as being "a bare-bones minimum concerning habitat conservation..." he clarified that he was referring to having patches of habitat larger than 11 acres at mitigation sites. Mr. Hatten and the other biologists at AGFD originally proposed using the 11.1-acre neighborhood to define occupied habitat at Roosevelt in January 2002. SRP's mitigation plan is consistent with Mr. Hatten's observation that large patches of mitigation habitat are

Comment #	Letter 5 continued	Response
		important. SRP's highest priority habitat acquisition efforts in the Verde, San Pedro, and Safford valleys are focused on contiguous parcels that can provide large patches of riparian habitat at a given site (RHCP, Subchapter IV.C.1.a). The Service considered the concerns in the February 15, 2002 memo regarding inclusion of additional habitat at meetings held on February 19, 2002 between the Service, Reclamation and SRP. The Service concluded that inclusion of potential or unoccupied suitable habitat at Roosevelt would not be consistent with the definition of take. The Service is not sure what is intended by the commentor's use of the phrase "long term persistence." The standard under which the Service is reviewing SRP's ITP application is that "the incidental take will not appreciably reduce the likelihood of the survival and recovery of the species in the wild." To the extent that "long term persistence" refers to the survival and recovery of the population in the Roosevelt Management Unit, the Service believes that sufficient habitat exists in that Unit, outside of the conservation space at Roosevelt Lake, to meet recovery goals (FRP, pp. O-19 and O-20). To the extent that the phrase refers to the larger population of flycatchers, the Service believes that survival and recovery of the flycatcher is likely to be enhanced through the combination of the continued availability of habitat at Roosevelt in most years and the mitigation provided by SRP as part of the RHCP. In summary, the Service believes that the 11.1-acre neighborhood is the best available estimate of occupied habitat at Roosevelt after review of all of the available methods to estimate occupied habitat, the comments submitted by the various biologists on the AGFD model and its results, the Recovery Plan, and the analysis in the RHCP.

Comment #	Letter 5 continued	Response
	that this method was too subjective, not repeatable and overestimated take. However, I believe the method adopted may not include all habitat needed for long term flycatcher persistence, especially where the perimeter of buffered territories is less than the size of a patch.	
5-14	P. 82. Tracy McCarthey clarified in a 03/04/02 e-mail to Craig Sommers that "when he (Jim Hatten) first ran the change detection he did not include those areas closest to the lake which were under water when the original model was created. This means that a good portion of the newly forming habitat closer to the lake would not have been included. Just before he left he ran the change detection again and there wasn't a decline in the amount of habitat, and although quality of some of the older patches of habitat did appear to be declining, it has been replaced by newer habitat." Therefore, the change detection does not show a decline in the total acreage of habitat. In addition, the number of flycatchers increased from 1999 - 2001, making use of more available habitat.	5-14. As requested, the texts of the EIS and RHCP have been changed as appropriate.
5-15	P. 83. "Direct impacts to flycatchers, their nests or eggs are not expected unless a nest tree with eggs or nestlings in it falls due to inundation or drying." As stated above, fledging young may drown.	5-15. As requested, the texts of the EIS and RHCP have been changed as appropriate.
5-16	P. 85. "Precise characterization of flycatcher habitat has eluded analysis to date. No comprehensive model has been developed that defines flycatcher habitat." It would be worth mentioning that because willow flycatcher habitat varies so widely across the range of this species, it is difficult to produce a precise habitat characterization or model.	5-16. As requested, the texts of the EIS and RHCP have been changed as appropriate.
5-17	P.85. "Despite uncertainty over precise habitat characterization, most flycatchers... prefer to nest close together in tall dense patches of salt cedar and willow relatively close to water." Some of the flycatcher sites are not what we typically think of as dense, such as Lakeshore. Many of the flycatchers are not nesting close to water.	5-17. As requested, the texts of the EIS and RHCP have been changed as appropriate.
5-18	P. 86. "After review of this proposal by the biologists and FWS, all agreed that this was the best available method to approximate occupied habitat." I thought the model should be supplemented with and compared to other methods. Evaluating what is considered to be occupied habitat is different than evaluating what might be needed for flycatchers for long-term persistence.	5-18. As requested, the texts of the EIS and RHCP have been changed as appropriate. As noted in response to Comment 3-9, occupied habitat is the legal standard for "take."
5-19	p. 91. "Second, flycatchers displaced from Roosevelt are likely to relocate, which could bolster populations in other areas." Add "if they breed" to the end of this sentence.	5-19. As requested, the texts of the EIS and RHCP have been changed as appropriate.
5-20	P. 96 -97. "The Salt River and Tonto Creek deltas in Roosevelt prior to the 1980s were much smaller than present, and large areas of the reservoir bed were frequently dry or scoured by large inflow events, which limited the acreage of riparian vegetation." Although I understand the scope of this HCP is only for Roosevelt Lake, this statement is misleading. Dam construction altered not only the deltas, but miles of habitat downstream, including the availability of large trees for nesting bald eagles. Therefore, the amount of riparian vegetation suitable for obligate riparian species may have been greater prior to dam construction.	5-20. As noted in the comment, downstream historical impacts are outside the scope of the issues being addressed by the EIS and RHCP.
5-21	P. 99. We should not consider cottonwoods near the maximum elevation of the lake as a reliable	5-21. The bald eagle nest trees near the maximum elevation of the lake were addressed in the Services' 1983, 1990, and 1993 biological opinions to Reclamation on construction of modifications to Roosevelt (RHCP, Subchapters I.H. 2 and I.H.3).

Comment #	Letter 5 continued	Response
	bald eagle nest tree source, given inundation and dessication over time. What will be done to ensure nest trees exist in the future?	
5-22	P. 101, 102. "Mammalian prey may become a more important component of bald eagle prey during low water years. As noted above, these studies of bald eagles nesting near Roosevelt and the Arizona population in general indicate that resident and breeding bald eagles at and near the reservoir are likely very opportunistic feeders and readily adapt to dynamic food resources and prey availability." This conclusion is meaningful only if it can be shown that at least as many young fledged at Pinal, Rock Creek, and Dupont when reservoir levels are low.	5-22. The quoted sentences provide information on alternative food sources during low reservoir conditions. As described in Subchapter III.E.3 of the RHCP, fewer fledged young are correlated with low reservoir conditions.
5-23	P. 106. Direct loss of cuckoo fledglings can occur when young learning to fly drown in standing water beneath nests. If 10 feet is the accepted water level in May, it is likely that standing water will remain at the time of fledging.	5-23. As requested, the texts of the EIS and RHCP have been changed as appropriate.
5-24	p. 107. The first paragraph on this page states cuckoos nest in habitat greater than 65% canopy cover. ....vegetation was placed in the "tall" category if canopy heights were greater than 15 feet, and "dense" if canopy cover was greater than 80 percent" It may be a typo, but if the latter statement is true, the ERO classification of dense canopy being at least 80% probably underestimates the amount of cuckoo habitat currently existing.	5-24. The Service believes that SRP's estimate of suitable cuckoo habitat is a reasonable approximation based on available vegetation mapping. Based on the vegetation maps and aerial photos, the acreage difference between canopy covers of "over 65 to 70 percent" and "greater than 80 percent" appears to be slight because the canopy cover of tall woody vegetation at Roosevelt is typically much more dense or much more sparse than 65 to 80 percent.
5-25	P. 114. "When implemented along with the existing RPAs and RPMs from prior Biological Opinions, the RHCP is intended to provide a comprehensive plan to address impacts on listed and candidate species, and alleviate any need for additional conservation measures by Reclamation as a result of the reinitiated Section 7 consultation." One of the goals of the RPA in the 1996 Opinion was to document where the banded flycatchers go when the lake rises as a means of determining long-term impacts of reservoir operation and how flycatchers respond to catastrophic events. Results of this monitoring effort were to help fill in information gaps that would ultimately aid in our strategy for recovery of the species. Surveys are being conducted annually on the middle Gila and lower San Pedro Rivers under the existing Opinion, where flycatchers may disperse to when the lake rises. The lake has not risen and may not rise by 2006, when the terms of the RPA expire. The RHCP does not take on the task of banding birds at Roosevelt or tracking movement of flycatchers beyond Roosevelt Lake. If the Reclamation reconsultation or the RHCP do not incorporate this intended goal, we will not know where flycatchers disperse to when the lake rises.	5-25. The Service does not believe that it is SRP's responsibility to continue the banding program after Reclamation's efforts cease because this monitoring would not result in information that could be used to aid adaptive management under the RHCP. However, the Service anticipates that the reservoir will fill by 2006 and the answer will be obtained from Reclamation's efforts.
5-26	P. 115. The Willow Flycatcher Recovery Plan is expected to be published in the Federal Register in September. It was finalized and signed by the FWS Regional Director on August 30, 2002.	5-26. As requested, the texts of the EIS and RHCP have been changed as appropriate.
5-27	P. 115. Footnote 57. Although clarifications were made to Recovery Plan sections on dam operations, the conclusion that reservoirs negatively alter naturally functioning riparian ecosystems remains. The Recovery Plan recommends creative solutions in mimicking natural ecosystems within the confines of controlled rivers.	5-27. As requested, the texts of the EIS and RHCP have been changed as appropriate.
5-28	P. 117. "The 3:1 ratio, rather than a greater amount, is especially appropriate because the continued operation of Roosevelt will not result in the permanent loss of habitat around the lake	5-28. As requested, the texts of the EIS and RHCP have been changed as appropriate.

Comment #	Letter 5 continued	Response
	in quantities similar to historical levels." We really do not know what natural historical levels are in the absence of grazing impacts and many of the historical photos were taken shortly after a scouring event. In addition, miles of downstream habitat have been altered by Roosevelt Dam, not just the area around the lake.	
5-29	P. 119-121. Table IV-1. Reclamation mitigation measures. "The 820 acres comprises acquisition and management of an estimated 600 acres of riparian habitat and 220 acres of additional conservation measures." Is the "600" a typo? "The San Pedro Preserve, which was purchased by Reclamation as mitigation for the construction of Modified Roosevelt, contains about 403 acres of riparian habitat (about 60 percent cottonwood/willow) suitable for flycatchers (TNC 1999b, p. 28; Harris, pers. comm. 2001)." It is unclear how the estimate of 820 acres was derived. The San Pedro River Preserve is 865 acres, only 232 of these acres were suitable willow flycatcher habitat at the time of purchase (documented in my 05/24/02 email to Craig Sommers). The estimate of 232 acres was generous as it included large openings within large expanses of marginal suitable habitat. It did not include open floodplain with sparse stringers of habitat. Although I would be the first to support inclusion of adjacent habitat as important to nesting flycatchers, the method for calculating mitigation habitat acreage should be as similar as possible to how the amount of habitat was determined for Roosevelt Lake. Since adjacent habitat and unoccupied suitable habitat were not included in the Roosevelt Lake estimate other than what the model calculated, it would be difficult to justify including this acreage for mitigation sites. The TNC citation and Harris personal communications are not appropriate sources for determining the amount of suitable willow flycatcher habitat.	5-29. The estimate of 820 acres has been clarified in the RHCP (now 823 acres, Subchapter IV.C.1.a). That estimate is based on the following components: • 403 acres of riparian land with characteristics like the occupied habitat at Roosevelt, i.e., about 60 percent (232 acres) of mostly tall dense vegetation and about 40 percent (171 acres) of other adjacent riparian land. The calculation of mitigation habitat on the Preserve is consistent with the composition of riparian land and vegetation in occupied habitat at Roosevelt. • 220 acre-equivalents of retirement of ground water pumping (see response to Comment 5-34). • About 200 acres of riparian land that Reclamation intends to acquire within 3 years with the remainder of the management fund under the RPA for Modified Roosevelt (SRP would be responsible for any remainder). The TNC and Harris citations have been moved to an appropriate location.
5-30	P. 128. "The San Pedro Preserve, which was purchased by Reclamation as mitigation for the construction of Modified Roosevelt, contains about 230 acres of existing cottonwood/willow habitat and Reclamation will acquire...." This is the correct estimate at the time of purchase, which has not changed much. It is unclear how the estimates in Table IV-1 were derived.	5-30. For estimates of mitigation habitat for cuckoos, only the 232 acres of tall dense vegetation on the Preserve counts toward mitigation, rather than the 403 acres used in the flycatcher calculation, because this is "apples-to-apples" with the way cuckoo habitat was estimated at Roosevelt. In addition, the 220 acre-equivalents of ground water pumping retirement on the Preserve count toward cuckoo mitigation because 220 acres of cuckoo habitat are estimated to benefit from the additional water. The total of these two components is 452 acres. In addition, as noted in response to the previous comment, approximately 200 acres of riparian habitat is to be acquired by Reclamation, bringing the estimated total up to about 652 acres. The typographical error in Table IV-1 of the RHCP (550) acres has been corrected. If less than 652 acres is suitable for cuckoos, SRP would be responsible for the difference.
5-31	P. 121. There appears to be inconsistency in how acres of suitable habitat at both Roosevelt Lake and mitigation properties were calculated, making it difficult to evaluate the estimate of how many acres are needed for mitigation. The RHCP refers to: acres of occupied suitable habitat not including the entire patch but using the AGFD habitat suitability model, acres of current and future potentially suitable riparian habitat, acres of riparian habitat that is 60% tall, dense vegetation, etc. The number of acres needed for mitigation will vary widely depending on how the acres on properties used for mitigation are calculated. A step by step outline of how acres were calculated for both Roosevelt Lake and mitigation properties is needed.	5-31. The same characteristics are being applied to occupied habitat at Roosevelt and riparian land for mitigation (60 percent tall dense vegetation, 40 percent other riparian land). See response to Comment 5-29. The criteria for mitigation land have been clarified (RHCP, subchapter IV.C.1.a).
5-32	P. 123. "...Reclamation retired about 164 acres of irrigated land and ponds on the San Pedro Preserve, which consumed approximately 440 AF of water per year (ADWR 1991)...leaving 520 acres of Additional Conservation Measures to be implemented by SRP." Does the amount of retired acres take into account the acres currently being irrigated for sacaton and other grasses and the remaining pond?	5-32. The referenced section of the RHCP has been clarified to indicate

Comment #	Letter 5 continued	Response
		that the water rights calculation does not include the remaining pond but does include the water being used in the short term to establish sacaton grass.
5-33	P. 130. Table IV-3. Unclear how much acreage purchased by Reclamation is being used for mitigation. Approximately half of the 403 acres of "riparian habitat" is not suitable flycatcher habitat, unless adjacent habitat of open floodplain is included. How is the inconsistency with the way habitat was calculated at Roosevelt Lake going to be addressed?	5-33. See responses to Comments 5-29 and 5-31.
5-34	P. 131. Figure IV-1. If shading is retained for municipalities and reservations, a legend is needed to avoid confusion with proposed mitigation locations.	5-34. As requested, the figures in the EIS and RHCP have been changed.
5-35	P. 131. "If the pilot project is not successful, SRP will acquire and manage riparian habitat at alternative locations." This is a great approach, experimenting with creating habitat while committing to fulfill the riparian habitat requirement if it does not work. This helps buffer the skepticism held by many that creating flycatcher habitat is likely to be unsuccessful. Even if unsuccessful, we will learn what does not work in creating habitat that can be applied to other projects.	5-35. Thank you for the comment.
5-36	P. 145. "Management funding will include initial construction or improvement, and long-term maintenance of fencing to prevent access by people and livestock." It may be more accurate and politically correct to state you are preventing access by "off-road vehicles" than "people."	5-36. As requested, the texts of the EIS and RHCP have been changed as appropriate.
5-37	p. 151. "SRP will be monitoring less frequently than Reclamation because one of the purposes of Reclamation's monitoring was to provide some basic research on flycatcher populations in central Arizona, while SRP's purpose is to monitor permit compliance, long-term population trends, and effectiveness of mitigation measures." While this may be true, there is no plan to track where flycatchers go when the lake rises. This planned monitoring under the 1996 Opinion, which was to have been achieved by Reclamation when it was predicted that the lake would fill by 2006, was part of the basic research intended to provide information for recovery planning. Birds have been banded each year in anticipation of tracking movement beyond Roosevelt Lake during a fill year. If the lake does not fill by 2006, there will be no opportunity in this Plan to track movement beyond Roosevelt Lake.	5-37. See response to Comment 5-25.
5-38	P. 179. "Thus, increased flood flows from reservoir operations considered in the RHCP were determined to have minimal impact on downstream areas, and mitigation or minimization measures were not pursued." Although there may be other reasons why increasing flood flows may be difficult to accomplish, increasing flood flows at the appropriate time of year could improve riparian habitat to benefit wildlife.	5-38. The Service agrees that there may be benefits but there may also be adverse impacts depending on the size and timing of the flow. Overall, whether beneficial or adverse, these impacts appear to be minimal. .
5-39	p. 181. Table V-2, p. 185-188. Although changing Verde operations may be expensive and experimental, I recommend that it not be ruled out and should be classified as "Not entirely eliminated." Presence of breeding season willow flycatchers in 2002 along the Verde River at Horseshoe Reservoir makes this alternative more appealing even if only narrow bands of vegetation can be established and maintained. Young trees currently exist just downstream of Horseshoe Dam. Recreation and livestock are not as great an impediment to recruitment of new trees as they once were and management can further reduce their impacts.	5-39. For purposes of the RHCP and EIS, this alternative was entirely eliminated.
5-40	P. 194. Reduction of Water Use through Conservation Measures. SRP could be doing more to	5-40. See general response to Comment 1 (EPA).

Comment #	Letter 5 continued	Response
5-41	promote water conservation, especially when considering mandatory or incentive-based water rationing has been implemented in many cities across the western United States, but not in Phoenix. Appendix 5. Although the AGFD model identifies willow flycatcher habitat, it is not designed to identify all habitat needed by flycatchers for nesting, foraging, and fledging or long-term persistence. Some members of the Panel of experts expressed concern/caution about the limitations of modeling results in deriving acreage for mitigation in written comments from Jim Hatten (02/22/02 memo to Tracy McCarthey), Mark Sogge (02/27/02 letter to Craig Sommers), Eben Paxton (03/03/02 memo to Craig Sommers), and myself (02/15/02 memo to Craig Sommers).	5-41. See response to Comment 5-13. With respect to the comments of Mr. Sogge, a later e-mail indicated that he was satisfied with the way that impacts to occupied habitat were being addressed after receiving clarification (3/4/02). The Service and SRP considered Mr. Paxton's comments, along with all other comments that were received, in the evaluation of the alternative approaches for estimating occupied habitat that resulted in Appendix 5 to the RHCP.

Comment #	Letter 6 — Bureau of Reclamation, Henry Messing	Response
	From Henry Messing, B. Rec, Phoenix **COMMENTS ON DRAFT ROOSEVELT LAKE HABITAT CONSERVATION PLAN**	
6-1	**ES-3, Second full paragraph**: Mention that this also makes sense because the birds will move according to the availability of habitat irrespective of new conservation or old conservation space.	6-1. As requested, the texts of the EIS and RHCP have been changed as appropriate.
6-2	**ES-4, 3. Adaptive Management**: recommend that "adaptive management" be defined here or at an appropriate place in the RHCP.	6-2. As requested, the texts of the EIS and RHCP have been changed as appropriate. Adaptive management is now more clearly defined in Subchapter IV.E of the RHCP.
6-3	Pg. 2, ln 26: "....lake under existing **constraints** ~~objectives~~ will...."	6-3. As requested, the texts of the EIS and RHCP have been changed as appropriate.
6-4	Pg. 16, 2nd paragraph, ln 5: Compare water storage to spring of 2002 instead of 2000.	6-4. As requested, the texts of the EIS and RHCP have been changed as appropriate.
6-5	Pg. 35, ln 28: ~~Arizona Department of Game and Fish~~ **Arizona Game and Fish Department**	6-5. As requested, the texts of the EIS and RHCP have been changed as appropriate.
6-6	Pg. 39, Figure II-3: Include Roosevelt Dam on Roosevelt Lake inset map.	6-6. As requested, the texts of the EIS and RHCP have been changed as appropriate.
6-7	Pg. 42, ln 6: ~~dense vegetation are~~ **dense vegetation is**	6-7. As requested, the texts of the EIS and RHCP have been changed as appropriate.
6-8	Pg. 44, ln 17-18: Discuss with AGFD. The sentence about salt cedar habitat is not really accurate. PZ Ranch was an area with a Cottonwood overstory and salt cedar understory; mostly native as is most of the habitat on the lower San Pedro River. As currently written, it sounds as if the area was a dense salt cedar stand.	6-8. As requested, the texts of the EIS and RHCP have been changed as appropriate.
6-9	Pg. 45, ln 18: Aren't "gleaning them from foliage" and "reaching for them in nearby substrate" the same?	6-9. As requested, the texts of the EIS and RHCP have been changed as appropriate.
6-10	Pg. 47, Figure II-6: Add Horseshoe nesting sites	6-10. As requested, the texts of the EIS and RHCP have been changed as appropriate. The figure has not been changed because the final data for 2002 are not available.
6-11	Pg. 59, ln 15: *Conservation Assessment and Strategy for Bald Eagles in Arizona* should be italicized	6-11. As requested, the texts of the EIS and RHCP have been changed as appropriate.
6-12	Pg. 59, ln 39: I recommend contacting Jamie Driscoll at AGFD to confirm that crappie remains were found in prey remains at the Sheep nest. This would indicate that the eagles were foraging at the lake.	6-12. Based on discussions with Jamie Driscoll, the text of the RHCP has been changed to reflect that the eagles from the Sheep Breeding area may forage at Roosevelt.

Comment #	Letter 6 continued	Response
6-13	Pg. 68, ln 17-19: Longfin dace and the two suckers occur in Tonto Creek downstream of Gun Creek and are not as rare as implied.	6-13. As requested, the texts of the EIS and RHCP have been changed as appropriate.
6-14	Pg. 69, Table II-10. If no BLM lands occur near Roosevelt, why include BLM sensitive species? The status of the species are going to vary greatly due to differences between the lands managed by the 2 agencies.	6-14. The BLM sensitive species have been retained in the table because BLM lands occur in proximity to some of the mitigation lands.
6-15	Pg. 83, ln 13: add "Yuma clapper rail"	6-15. As requested, the texts of the EIS and RHCP have been changed as appropriate.
6-16	Pg. 89, footnote "40": it is not clear where the numbers in the equations come from and it may be useful to add some clarification to the footnote.	6-16. As requested, the texts of the EIS and RHCP have been changed as appropriate.
6-17	Pg. 92, ln 33 & 35: Change "would" to "could" Predicting actual numbers is not possible.	6-17. As requested, the texts of the EIS and RHCP have been changed as appropriate.
6-18	Pg. 95, 4-11: The first sentence of the paragraph states that no more than 4 acres is unlikely to occur. However, the last sentence states that the maximum amount is 5 acres (or less).	6-18. As requested, the text of the RHCP has been clarified to indicate the 5 acres represents the maximum estimated Yuma clapper rail habitat, which is one acre more than exists at present.
6-19	Pg. 99, ln 4-5: characterizing the bald eagle territories as "at or near" and "in the vicinity of" Roosevelt Reservoir is confusing. Also, is the Dupont BA, 15 miles away, "in the vicinity?" If it is, recommend referring to "six breeding areas in the vicinity" of Roosevelt Reservoir.	6-19. As requested, the texts of the EIS and RHCP have been changed as appropriate.
6-20	Pg 102, ln 19-28. The Rock Creek birds may also utilize Salome Bay and compete with the birds from the other BA s. Use of the relatively more productive inflow areas is likely restricted by the Tonto and Pinto BA s and the extent that the Rock Creek BA utilizes the river downstream of the Roosevelt Dam is unknown.	6-20. As requested, the texts of the EIS and RHCP have been changed as appropriate.
6-21	Pg. 114, ln 7 –16: **Delete the first two sentences and begin the third one with "In order to integrate…."** I'm sure we will need to discuss this one !!	6-21. The text of this paragraph has been changed after discussion with Reclamation.
6-22	Pg. 119, Table IV-1, Bald Eagle: is the reference to a management plan for a full blown "management plan" or for a "rescue" plan? The AGFD already has a bald eagle conservation program and the development of a Roosevelt Lake "management plan" may not be necessary or redundant. In addition, I was under the impression that SRP already had a "rescue" SOP in place.	6-22. As requested, the texts of the EIS and RHCP have been changed as appropriate.

Comment #	Letter 6 continued	Response
6-23	Pg. 121, ln 25: "…is ~~about~~ **above** 5 feet of ground water…"	6-23. As requested, the texts of the EIS and RHCP have been changed as appropriate.
6-24	Pg. 126, 3. … : Delete "maximum of three" Is there any reason why SRP would not support additional flights if necessary? Also, recommend a paragraph on what SRP intends to do if the bald eagle is de-listed" as has been proposed.	6-24. SRP continues to commit to a maximum of three flights due to the cost of flights.
6-25	Pg. 127, last sentence: I think the eagle closures are mostly lifted by the time the cuckoos arrive and are setting up territories. Check eagle fledging dates of bald eagles with currently known breeding data on cuckoos.	6-25. As requested, the texts of the EIS and RHCP have been changed as appropriate.
6-26	Pg. 132, ln 16: "…large enough to **potentially** provide nesting and foraging…"	6-26. As requested, the texts of the EIS and RHCP have been changed as appropriate.
6-27	Pg. 136 c. Evaluation of the Pilot Project: Consider establishing another benchmark time period that if SWF do not utilize the site, even though the habitat is potentially suitable, the project would be abandoned and SRP would look to acquire other mitigation properties. The **ultimate success** of the project will be occupancy by SWF/Eagles.	6-27. Rather than establishing a set deadline for occupancy by covered species, the Service and SRP will evaluate whether this mitigation site is successful on an annual basis (RHCP, Subchapter IV.C.2).
6-28	Pg. 140, Table IV-4: update with 2002 data.	6-28. The final 2002 data will not be available in time for the final RHCP. However, relevant preliminary data has been added to the RHCP where applicable.
6-29	Pg. 143, ln 42: "…and prevent **further** fragmentation ~~from further development~~."	6-29. As requested, the texts of the EIS and RHCP have been changed as appropriate.
6-30	Pg. 152, 5. ….: May want to establish a time limit (e.g. 10 years) whereby even if the habitat is suitable in the eyes of SRP/FWS but no birds colonize the site, the project will be abandoned. If no limit is set now, could be maintaining the site for 10, 20, 30 years or more.	6-30. See response to Comment 6-27.
6-31	Pg. 153, 8. …: "bald eagle monitoring will be done annually by AGFD ~~and FWS.~~ —FWS is a minor player.	6-31. As requested, the texts of the EIS and RHCP have been changed as appropriate.
6-32	Pg. 178, F. 1 & 2 : Should the 500,000 AF and 1,240,000 AF figures be reversed? Under the No Permit Alternative more water would be lost than under the Re-operation Alternative.	6-32. As requested, the texts of the EIS and RHCP have been changed as appropriate.
6-33	Pg. 203, ln 17: "Moreover, the proposed action is likely to provide as large of **a population** ~~populations~~ of listed …."	6-33. As requested, the texts of the EIS and RHCP have been changed as appropriate.

Comment #	Letter 6 continued	Response
6-34 6-35 6-36	Pg. 215, ln 21: "…J.A. Spencer **and** M.W. Sumner. 1997." Pg. 215, ln 28: "…P.E.T. Dockens **and** T.D. McCarthey. 2002." Pg. 216, ln 13: "… J.W. Rourke **and** M.W. Summer. 1996."	6-34. As requested, the texts of the EIS and RHCP have been changed as appropriate. 6-35. As requested, the texts of the EIS and RHCP have been changed as appropriate. 6-36. As requested, the texts of the EIS and RHCP have been changed as appropriate.

Comment #	Letter 7	Response
	Salt River Pima-Maricopa Indian Community 10,005 East Osborn Road, Scottsdale, Arizona 85256-9722 September 17, 2002 Office of Field Supervisor U.S. Fish and Wildlife Service 2321 W. Royal Palm Road, Ste. 103 Phoenix, AZ 85021 **Re: Roosevelt Habitat Conservation Plan and Draft Environmental Impact Statement for Maricopa and Gila Counties** To the Arizona State Office of the U.S. Fish and Wildlife Service: The Salt River Pima-Maricopa Indian Community (SRPMIC or Community) supports approval of the proposed Roosevelt Habitat Conservation Plan (RHCP) and Draft Environmental Impact Statement (DEIS) as necessary to protecting the Community's federally-established water rights as well as the future of endangered bird species in Roosevelt reservoir. Any actions that would delay RHCP approval for full operation of Roosevelt Dam would be detrimental to the water needs of more than 7,500 SRPMIC members and would harm important economic uses on SRPMIC lands. These uses include 11,000 acres of leased farming operations, large commercial retail outlets, sand and gravel plants, and other uses that provide income to SRPMIC members and contribute to the economy of the State of Arizona. Water storage on the Salt and Verde rivers cannot be separated from SRPMIC water rights settlements and treaty compacts dating back to the Kent Decree of 1916 and subsequent approval in 1935 of a contract giving the Community rights to water at Bartlett Lake. These limited initial rights were significantly increased in 1988 when Congress passed the SRPMIC Water Rights Settlement Act and Agreement Settlement Act and Agreement), giving SRPMIC rights to new conservation storage space at Roosevelt, other SRP water, and Roosevelt Water Conservation District credits. These enhanced supplies have been critical in developing numerous income, employment and revenue opportunities critical to Community members, now and into the future. Our water rights, which took years of litigation cannot be set aside, limited or lost. RECEIVED SEP 19 2002 U.S. FISH & WILDLIFE SERVICES ES FIELD OFFICE-TUCSON, AZ RECEIVED SEP 17 2002 U.S. FISH & WILDLIFE SERVICE	

Comment #	Letter 7 continued	Response
7-1	In light of the legal rights and obligations created by the SRPMIC Settlement Act and Agreement and other applicable federal laws as well as the negative impacts on the Community from the no action alternative, the Community presents the following legal analysis of the RHCP and DEIS: 1. The 1988 Water Rights Settlement Agreement and Congressional Act require the U.S. Fish and Wildlife Service (FWS) to select the preferred alternative in the DEIS, for three reasons. First, the Act arguably preempts the ability of the FWS to select any alternative in the DEIS other than the preferred alternative (to increase water storage in Roosevelt Lake to its full capacity). Second, the Settlement Act and Agreement arguably creates a contractual obligation on the part of the federal government, SRP and other parties to select the preferred alternative. Third, both the Settlement Agreement and the act at least militate in favor of selecting the preferred alternative. Selecting the preferred alternative out of a sense of obligation under the Water Rights Settlement Agreement and Act would not run afoul of the National Environmental Policy Act ("NEPA") or the Endangered Species Act ("ESA"). This is because NEPA and the ESA do not require the FWS to select the "least harmful" alternative. NEPA, for instance, merely requires that the FWS follow a set of procedures to take a "hard look" at the environmental consequences of each of the three alternatives in the DEIS and make a "broad dissemination of the relevant information" about those consequences for the edification of Congress and the public. *Kleppe v. Sierra Club*, 427 U.S.390, 410 (1976). > Although these [NEPA] procedures are almost certain to affect the agency's substantive decision, it is now well settled that NEPA itself does not mandate particular results, but simply prescribes the process [citations omitted]. **If the adverse environmental effects of the proposed action are adequately identified and evaluated, the agency is not constrained by NEPA from deciding that other values outweigh the environmental costs.** *Robertson v. Methow Valley Citizens Council*, 490 U.S.332, 350 (1989) (emphasis added). Therefore, it would not violate NEPA if the FWS after complying with NEPA's procedural prerequisites, decides that the "benefits to be derived" from filling Roosevelt Lake to full capacity justify the issuance of the Section 10 permit, "notwithstanding the loss of 15 percent, 50 percent, or even 100 percent" of southwest willow flycatchers in the immediate vicinity. Id. at 351. Other statutes may impose substantive environmental obligations on federal agencies, but NEPA merely prohibits uninformed -- rather than unwise -- agency action. Id. As long as the DEIS has properly and adequately analyzed all of the material environmental and socioeconomic impacts of each of the three	7-1. The Service acknowledges the applicability of the 1988 Settlement Act and implementing Settlement Agreement with the Salt River Pima-Maricopa Indian Community (SRPMIC) with respect to the storage of water at Roosevelt Dam on the Salt River. The Preferred Alternative was developed to maximize the potential for operational storage in Roosevelt Lake while addressing the needs of listed species. The Service believes that adoption of the preferred alternative is consistent with anticipated operations under the Settlement Agreement. Under the applicable provisions of the National Environmental Policy Act's ("NEPA") implementing regulations, the Service must consider an appropriate range of alternatives. The Service believes that the alternatives analyzed in the Draft Environmental Impact Statement ("DEIS") are "reasonable" in accordance with 40 C.F.R. 1502.14. Mere consideration of the alternatives presented in the DEIS is not inappropriate under NEPA, nor does such consideration affect in any way the Congressionally established provisions of the Settlement Act.

Comment #	Letter 7 continued	Response
7-2	alternatives, the FWS is free under NEPA to choose the preferred alternative in obedience to the values embodies in, and benefits deriving from, the 1988 Water Rights Settlement Agreement and Act. The ESA likewise does not drive the selection of a particular alternative in the DEIS process. Rather, the ESA simply requires the FWS to examine and select among "reasonable and prudent" alternatives that would minimize and mitigate the project's impacts on protected species or critical habitats. *Bennett v. Spear*, 520 U.S. 154, 157 (1997). Accordingly the alternative ultimately selected is held to be in compliance with the ESA as long as there are adequate assurances that such mitigation measures will be taken. 16 U.S.C. § 1539(a)(2)(B). In this case, each of the three alternatives in the DEIS, including the preferred alternative, is a "reasonable and prudent" alternative. Each alternative includes measures to mitigate and ameliorate its impacts and detailed measures to mitigate or ameliorate the preferred alternative are included in the HCP. Thus, the FWS is free also under the ESA to choose the preferred alternative in satisfaction of the Water Rights Settlement Agreement and Act, and should certainly do so. 2. NEPA Requires the DEIS to Describe the Socioeconomic Impacts of the Preferred Alternative in Positive Terms. According to the DEIS, failure to select the preferred alternative would result in adverse (negative) impacts to the Community. This method of describing socioeconomic impacts its inconsistent with Council of Environmental Quality ("CEQ") and FWS rules for implementing NEPA. However, under the rules, the FWS is also required to compare the beneficial and adverse impacts of the action alternatives to the impacts of the No-action alternative, which are by definition "none". 40 C.F.R. § 1502.16; *Kilroy v. Rucklehaus*, 738 F.Supp. 1471, 1492 (D.Ariz. 1990) (quoting "Forty Most Asked Questions Concerning CEQ's NEPA Regulations", 46 Fed. Reg. 18027 (March 17, 1981)). This means that all environmental and socioeconomic impacts (positive or negative) must be described relative to the No-action alternative. In fact for the Roosevelt Lake project, selection of the no action alternative would **perpetuate** the negative impacts to the Community that are associated with the lake's current operating level. It follows that selection of the preferred alternative would have the **most positive** socioeconomic impacts on the Community. The DEIS should be revised throughout to reflect this mode of analysis. In short, the negative impacts will continue with the no-action alternative whereas the most positive impacts will occur with the preferred alternative.	7-2. The RHCP and EIS already contain the analyses requested by the Community (RHCP, Subchapter V.D; EIS, Sections 4.2.2 and 4.12.2).

Comment #	Letter 7 continued	Response
	On wildlife protection, SRPMIC has a longer history than the Fish and Wildlife Service or any non-Indian environmental group in preserving and protecting animal and plant life sacred to our way of life and world view. We have successfully halted projects that would have endangered bald eagles and other species that depend on our rivers. We have worked to keep whole the natural beauty and value of our desert and mountains. We take second place to none in these efforts. And we conclude that RHCP proposals and funds set aside by SRP and managed under federal oversight will mitigate and prevent harm to the Southwestern Willow Flycatcher, Yellow-billed Cuckoo, Bald Eagle and Single Yuma Clapper Rail found at Roosevelt Lake. SRPMIC strongly supports full restoration at Roosevelt Lake. We urge the Fish and Wildlife Service to adopt the RHCP and DDEIS, issue an appropriate Section 10 permit to Salt River Project, and ensure that SRP can continue to meet water delivery obligations to our Community. Sincerely, Merna Lewis Vice President	

Comment #	Letter 8	Response
8-1	**arizona municipal water users association** 4041 north central avenue • suite 900 • phoenix, arizona 85012 • phone (602) 248-8482 • fax (602) 248-8423 September 10, 2002 Mr. Brian Hanson Acting Field Supervisor U.S. Fish and Wildlife Service 2321 West Royal Palm Road, Suite 103 Phoenix, AZ 85021 SEP 11 2002 U.S. FISH & WILDLIFE SERVICE RS FIELD OFFICE PHOENIX, AZ Dear Mr. Hanson: This letter responds to the July 19, 2002 Federal Register notice (67 **FR** 47564) offering the draft Roosevelt Habitat Conservation Plan (DRHCP) and accompanying Draft Environmental Impact Statement (DEIS) for public review and comment. Eight of the nine members of the Arizona Municipal Water Users Association (AMWUA) – the Cities of Chandler, Glendale, Peoria, Phoenix, Mesa, Scottsdale, Tempe, and the Town of Gilbert (Cities) – provide over 80 percent of the municipal and industrial water supplies in Maricopa County, and rely on Salt River Project (SRP) to provide a significant portion of their water supplies. This letter is submitted on behalf of the AMWUA Cities, although each AMWUA member may also file its own separate comment letter. Written comments will also be submitted on behalf of AMWUA by G. Scott Mills, Ph.D., a consulting ornithologist who has been retained by AMWUA to review the biology which is the basis for the DRHCP and DEIS. AMWUA strongly supports the implementation of Alternative 2 – Full Operation of Roosevelt, and strongly opposes implementation of Alternatives 1 or 3 as these alternatives are identified in the DEIS. The Cities rely on the surface water developed by the SRP conservation capacity up to elevation 2136' to satisfy the demands of their water service customers located within the boundaries of the Salt River Project. Additionally, six of the Cities (Chandler, Glendale, Phoenix, Mesa, Scottsdale, and Tempe) have contributed over $44 million to fund the recent modifications to Roosevelt Dam. In return, these six cities have obtained the rights, pursuant to Arizona law, to the water that may be developed by the new conservation space between elevations 2136' and 2151'. Unlike the SRP water, this new conservation space water can be used anywhere within the six cities' service areas. Any change in the operation of Roosevelt Dam will result in the long-term loss of surface water to the Cities as described in the DEIS. In fact, the loss of surface water from implementation of either Alternative 1 or Alternative 3 could be more severe than the impacts described in the DEIS. The Arizona Groundwater Management Act of 1980 (GMA) establishes a management goal of safe yield for the groundwater basins located in the Phoenix area. In central Arizona, safe yield essentially means the elimination of groundwater withdrawals. As a result, the Cities' reliance on and investment in the surface water supplies of the Salt and Verde Rivers has increased over the years. For example, just this year, the City of Peoria began operating a water A voluntary, non-profit corporation established by cities in the urban area of Maricopa County for the development of an urban water policy.	8-1. The Service's estimates of the effect of the loss of surface water under the No Permit or Re-operation alternatives are based on the best available data. Additional groundwater pumping was eliminated as an alternative water source to meet losses of Roosevelt surface water for the reasons discussed in AMWUA's comments (EIS, Section 3.6.6.1).

Comment #	Letter 8 continued	Response
	treatment plant located on the Arizona Canal for the express purpose of treating and distributing SRP surface water supplies and reducing Peoria's reliance on groundwater. At a cost of approximately $33 million, the treatment plant is the largest capital expenditure in Peoria's history. The six cities that contributed to the modification of Roosevelt Dam did so as a result of the GMA's requirements to limit groundwater pumping.	
8-2	The DEIS accurately describes the costs and problems associated with replacing the lost surface water supplies. But, the DEIS does not examine the environmental impacts associated with the replacement supplies. A Federal action subject to the National Environmental Policy Act (NEPA) may be necessary in order to implement some of the alternatives identified, and it is possible that the NEPA process could identify adverse environmental impacts associated with the replacement supplies.	8-2. The environmental impacts of the one feasible supply of replacement water, effluent, have been clarified in the EIS (EIS, Section 3.6.6.5). Reduction in flows downstream of the 91st Avenue wastewater treatment plan would result from the diversion of effluent for reuse, which would affect several miles of riparian habitat along the lower Salt River. A detailed analysis of environmental impacts of replacement water supplies that were eliminated from consideration is not required by NEPA. However, potential environmental issues associated with several of the replacement supplies are mentioned in Section of 3.6.6.6 of the EIS.
	The DEIS and the DRHCP describe the impacts of each of the alternatives on the southwestern willow flycatcher. Both documents demonstrate that implementation of Alternative 2 along with the proposed minimization and mitigation measures is also the best alternative from the perspective of creating the most benefits for the flycatcher.	
	AMWUA supports the 50-year term proposed for the incidental take permit. The GMA requires that the Cities demonstrate a 100-year assured water supply consisting of renewable resources for their customers, therefore, if anything, the 50-year term could be considered as too short given the requirements of the GMA.	
8-3	The six cities with rights to the new conservation space water have participated in funding the mitigation measures required by the 1996 Biological Opinion and incidental take statement issued to the U.S. Bureau of Reclamation as a result of the consultation under Section 7 of the Endangered Species Act that was undertaken for modified Roosevelt Dam. The six cities through AMWUA were applicants in that consultation and, to the extent that the 1996 Section 7 consultation is reinitiated, we expect to be involved in any reopened consultation process.	8-3 The requested duration of the ITP (50 years) takes into account the need to provide adequate certainty for future water supplies to SRP, its shareholders and contractors, including municipalities. A longer duration for the ITP would result in greater uncertainty with respect to conditions beyond 50 years that may affect reservoir operations or the covered species. The proposed permit terms and conditions provide that at the end of the 50-year term, SRP may seek a renewal of the ITP from the Service or a new ITP (RHCP, Appendix 8). The Service and SRP anticipate that the permanent mitigation implemented under the RHCP would be part of the basis for renewal of the ITP or issuance of a new ITP that reflects the conditions at that point in time.
	Upon the close of the comment period, the U.S. Fish and Wildlife Service should finalize the DEIS, approve the DRHCP and issue the incidental take permit by the end of 2002. If the comments made at the August 27, 2002 public hearing are any indication, it is difficult to believe that any substantive, scientifically-based written comments that question or otherwise cast doubt on the basic presumptions behind the proposed alternative can or will be filed.	
	We appreciate the opportunity to submit these comments.	
	Sincerely, Roger S. Manning Executive Director	
	VCD:dsp h:\hcp-eis.comments.doc	

Comment #	Letter 9	Response
	6603 Sierra Drive SE Lacey, Washington 98503 9 September 2002 Brian Hanson, Acting Field Supervisor U.S. Fish and Wildlife Service 2321 West Royal Palm Road, Suite 103 Phoenix, Arizona 85031 Dear Mr. Hanson: The following comments on the draft Roosevelt Habitat Conservation Plan (DRHCP) and the accompanying draft Environmental Impact Statement (DEIS) are submitted on behalf of the Arizona Municipal Water Users Association (AMWUA), whose members include the Cities of Chandler, Glendale, Peoria, Phoenix, Mesa, Scottsdale, Tempe, and the Town of Gilbert. As a professional biologist and environmental consultant, I have focused my comments on the biology, analysis of impacts, and proposed mitigation measures. It is my understanding that AMWUA is submitting additional comments that focus on the potential impacts of the proposed action and its alternatives on water supplies to the greater Phoenix area. Overall, I find both the DRHCP and DEIS to be very well written. Conclusions are well supported with data, and assumptions are clearly identified. Alternatives to the proposed action presented in the documents are reasonable and adequate. The legal basis for the documents and the overall HCP process is thoroughly explained. ERO Resources, Salt River Project, and the U.S. Fish and Wildlife Service, as well as the many other people who contributed directly or indirectly in the preparation of these documents, are to be commended. The analyses of impacts of the proposed action and its alternatives are especially well done. Basing the analysis of impacts on the amount of occupied habitat seems especially appropriate for the Southwestern Willow Flycatcher (SWF) because of the population fluctuations exhibited by the species, the difficulties in accurately determining the numbers of birds affected, and the exact nature of impacts to occupied habitat. The approach taken in the DRHCP to estimate the amount of existing and future occupied habitat is sound and based on the best available information. Determining impacts to habitat of any species is typically difficult and especially so for a species such as SWF whose exact habitat requirements are not well known. If anything, I suspect that the approach taken in the DRHCP and DEIS is likely to overestimate the amount of SWF habitat present and consequently to overestimate the impacts of the proposed project. Such overestimation would ensure that proposed mitigation measures are more than adequate to offset project impacts. The inclusion of adaptive management measures also ensures that impacts of the proposed project will be adequately mitigated. RECEIVED SEP 11 2002 U.S. FWS	

Comment #	Letter 9 continued	Response
	Based on the information presented in the DRHCP and DEIS, the proposed alternative, Alternative 2 or the Full Operation of Roosevelt, is clearly the best alternative. Not only does this alternative provide the least impact to ongoing operation of Roosevelt Dam and Lake, it also provides the best long-term management for the SWF and other affected species. As stated in the DRHCP, DEIS, and draft Recovery Plan for the SWF, fluctuations in the amount and location of suitable habitat for the SWF are to be expected and are natural events to which the SWF has undoubtedly adapted. Past and recent evidence of SWF movement of banded birds between populations indicate that SWFs are good colonizers that are likely to be able to exploit newly created habitat, as one would expect of a species that lives in temporally unstable plant communities.	
9-1 9-2	My only major criticism of the DRHCP and DEIS is that the amount of mitigation for the preferred alternative is excessive. Two issues appear to me to be inappropriate. First, I do not understand why SRP should have to commit mitigation lands in perpetuity when the HCP is good only for 50 years, and second, I do not understand why SRP should mitigate for some future potentially larger amount of occupied habitat. Both these issues arise from the somewhat unique nature of the impacts of operation of Roosevelt Dam on riparian habitat as identified in the DRHCP and DEIS. Unlike the majority of projects for which an HCP (or Section 7 consultation) is required, the proposed project does not result in the permanent elimination of habitat. It appears that because the proposed project is likely to result in the existence of some amount of habitat for the foreseeable future, SRP is being required to provide more mitigation than if the proposed project were to eliminate all existing occupied habitat permanently. That does not seem reasonable to me. I do, of course, understand that SRP needs to have an incidental take permit to cover the maximum expected impact to the covered species, but I do not understand why they are required to provide more mitigation for a project that provides future habitat for listed species than if their action was to permanently eliminate all existing habitat. If the proposed action were to permanently eliminate all flycatcher habitat from Roosevelt lake, the mitigation would be based on the existing amount of occupied habitat, no more. As it is, the proposed project provides for varying amounts of habitat for the foreseeable future (most likely more than even the no-action alternative), and SRP is providing mitigation based on more than the amount of existing habitat. If anything, it seems that SRP should get mitigation credit for an action that does not permanently destroy habitat, but instead they have provided additional mitigation for possible future conditions.	9-1. Permanent habitat acquisition and management is normally required as part of larger habitat conservation plans if the loss of habitat is permanent (HCP Handbook, p. 3-23). Although the loss of habitat at Roosevelt is not permanent in the sense of a one-time total loss, the periodic impacts will continue to occur as long as SRP operates Roosevelt Dam. For this reason, and because permanent mitigation assists in the furtherance of recovery of the species, the Service has requested, and SRP has agreed to provide, mitigation habitat in perpetuity. Moreover, as discussed in response to Comment 8-3, if SRP chooses to submit an application in 50 years, permanent mitigation would be part of the basis for renewal of the ITP or issuance of a new ITP. 9-2. In evaluating the RHCP, the Service is using occupied habitat as the standard for determining "harm," which, in turn, constitutes "take." Accordingly, the RHCP commits to mitigate for the loss of all occupied habitat resulting from the operation of Roosevelt Dam. During the life of the permit, to the extent that suitable or potential habitat at Roosevelt becomes occupied and is lost due to Roosevelt Dam operations, the RHCP likewise commits to mitigate for the loss of that occupied habitat. The RHCP does not commit to mitigate for the loss of unoccupied habitat, as this is not required by law under Sections 9 and 10 of the ESA.
9-3	Thank you for the opportunity to comment on the DRHCP and DEIS. Sincerely, G. Scott Mills G. Scott Mills, Ph.D.	9-3. The fact that the impact of reservoir operations on habitat is periodic rather than permanent was a consideration in determining the amount of mitigation to be implemented (RHCP, Subchapter IV.C.1.a).

Comment #	Letter 10	Response
10-1	**Reevis Mountain School** Reevis Mountain School HC02 Box 1534 Roosevelt, AZ 85545 September 17, 2002 US Fish and Wildlife Service 2121 West Royal Palm Road Suite 103 Phoenix, AZ 85021 Dear Sir or Madam: In regards to the Willow Fly Catcher of Roosevelt Lake and the Carlota copper mine. I am very much in favor of our US Government purchasing a place to support our Roosevelt Fly Catcher. We have a wonderful place for this lovely little bird up along Pinto Creek. Pinto Creek is a tributary of Roosevelt Lake. The scenic beauty of the area should be preserved any way. The purity of the water in Pinto Creek should also be protected as the water supply for our town comes from this source. So, to purchase Carlota Mine, the water rights, the grazing rights and the 2 private ranches would be very beneficial to the preservation of Pinto Creek. These purchases would make a good home for the fly catcher, protect the purity of the water, and protect the scenic beauty of our world famous Superstition Wilderness. Sincerely, Peter "Bigfoot" Busnack Peter "Bigfoot" Busnack President and founder Reevis Mountain School	10-1. See response to Comment 4-37.

Comment #	Letter 11	Response
11-1	FRIENDS OF ARIZONA RIVERS 503 E Medlock Drive Phoenix, AZ 85012-1512 602-265-4325 tjflood@worldnet.att.net September 16, 2002 Field Supervisor U.S. Fish and Wildlife Service 2121 West Royal Palm Road; Suite 103 Phoenix, AZ 85021 Dear Sir, The Friends of Arizona Rivers is a conservation group of approximately 25 members. We are interested in the USFWS' efforts to ensure habitat for the birds that would be affected by the Roosevelt Flycatcher Habitat Conservation Plan. One behalf of our members I offer the following comments for your consideration. It is important that FWS continue to address the reason(s) why flycatchers, cuckoos, and rails and other species have become imperiled in the first place. Their habitats have declined markedly across the West. I am concerned that these species are continually being forced to seek suitable habitat. SRP's use of their habitat to fill the Roosevelt Lake will be one more damaging event in the history of these species. I encourage FWS to seek a strong Plan that will allow for stabilization and recovery of these species. I believe that FWS should more closely consider the benefits of using Pinto Creek and its tributaries as a refugia for the birds. This creek has rebounded remarkably over the past few years. It is likely that the habitat can be judged suitable or potentially suitable for most of the bird species under consideration. It contains a mix of federal and private lands. With proper management and acquisition of conservation easements or outright purchase of lands and grazing permits, it would offer many of the characteristics sought for the birds. The fact that Pinto Creek habitat is improving should be a strong incentive for USFWS to conduct surveys there frequently and to consider it as a primary area for attempted mitigation. This creek is in the Salt River watershed – a favorable factor compared to the mitigation lands in other watersheds. I do support the efforts to attempt mitigation on the San Pedro watershed because the habitat there appears so promising. Nevertheless, that area is relatively distant from the habitat to be impacted on Roosevelt Lake. The same can be said of the proposed Camp Verde site. Pinto Creek and its tributaries are valuable because they are so near to the location at Friends of Arizona Rivers Page 1 RECEIVED SEP 19 2002 U.S. FISH & WILDLIFE SERVICES ES FIELD OFFICE-TUCSON, AZ RECEIVED SEP 17 2002	11-1. See response to Comment 4-37.

Comment #	Letter 11 continued	Response
	Roosevelt lake that will be disturbed. Furthermore, it is in SRP's and the US Forest Service's interest to assure good management in the Pinto Creek watershed: SRP wants good quality water flowing in to its dams, and the Forest Service also has responsibilities for assuring water quality and quantity on Pinto Creek.	
11-2	I hope that the Plan will be adaptive enough to accommodate the opportunistic nature of the flycatchers. There is an uncertainty factor that needs to strongly considered. The plan must include a sufficient number of alternative sites, and total acreage that also reflects the uncertainty factor. The 3:1 mitigation ratio seems skimpy. I would think it would be prudent for the Plan to hold some funds in reserve for use in responding to unforseen circumstances.	11-2. See response to Comment 3-2 regarding the uncertainty of use of mitigation habitat by flycatchers and the use of a mitigation ratio. See response to Comment 3-7 regarding the responsibility for unforeseen circumstances.
11-3	Fifty years seems inordinately long for a planning horizon. If conditions deteriorate for the birds, it would wise to have an opportunity to require modifications in a shorter time period. A shorter duration for the Plan (10-year windows) would seem appropriate to me.	11-3. As described in the RHCP, SRP has requested a 50-year permit to provide sufficient certainty for future water supplies, in order to commit to funding of long-term mitigation and to realize the results of that mitigation, and to reflect the cycle of reservoir fills and releases (RHCP, Subchapter I.C.4). Adaptive management will be implemented if necessary as a result of regular monitoring and annual meetings (RHCP, Subchapters IV.F).
	Thank you the opportunity to comment. Please keep me informed of progress in this action. Sincerely, Tim Flood Timothy J. Flood Conservation Coordinator	
	Friends of Arizona Rivers Page 2	

Comment #	Letter 12	Response
	Field Supervisor US Fish & Wildlife Service 2121 West Royal Palm Road Suite 103 Phoenix, AZ 85021 FAX 602-242-2513 To Sherry Mr. Steven L. Spangle, SLS Thank you for supporting the endangered Southwestern willow flycatcher and its protection under the Endangered Species Act. The comment I wish to make regarding the Roosevelt Flycatcher Habitat Conservation Plan is: 12-1 Mitigation should be for the maximum acreage, which I believe is 3000 acres. 750 acres may not be enough for the acres of habitat. If possible this number of acres should be increased to 1000 acres. 12-2 Also I second the recommendation to analyze Pinto Creek for mitigation opportunities. Respectfully, Michelle Pulich RECEIVED SEP 19 2002 U.S. FISH & WILDLIFE SERVICES ES FIELD OFFICE-TUCSON, AZ MICHELLE PULICH 2142 E. La Jolla Dr. Tempe, AZ 85282	12-1. See response to Comment 3-11. 12-2. See responses to Comments 4-37.

Comment #	Letter 13	Response
	SIERRA CLUB **Grand Canyon Chapter · Arizona** 202 E. McDowell Road, Suite 277 Phoenix, Az. 85004 September 17, 2002 Field Supervisor US Fish and Wildlife Service 2121 West Royal Palm Rd., Suite 103 Phoenix, AZ. 85021 Dear Field Supervisor, Thanks for the opportunity to comment on the Draft Environmental Impact Statement (DEIS) and Draft Roosevelt Habitat Conservation Plan (RHCP) for the southwestern willow flycatcher, yellow-billed cuckoo, bald eagle, and Yuma clapper rail. We greatly appreciate Salt River Project's efforts to involve the public and commend the USFWS and the consultants for an informative environmental study. In general we support the preferred alternative, Full Operation of the Dam, provided adequate mitigation could be preformed to help the flycatcher and other species avoid the possibility of extinction. Once abundant in all the state's major drainages, the flycatcher is now endangered for a variety of factors, primarily due to loss of high quality, dense riparian habitat. As much as 90% of these vital habitat areas have been lost or badly degraded in the southwest over the past century due to dam building, water diversions and groundwater pumping. Cattle grazing played a large role in the loss of prime riparian areas, and mining on our public lands has contributed to the problem as well. We are not convinced that the mitigation plan as written merits a finding of no jeopardy by the USFWS. There are 3 principal reasons for this view. First, the amount of flycatcher habitat in the Roosevelt Lake area may have been calculated too low. Second, the amount of mitigation land to be acquired, for various reasons, appears to be insufficient. Last, little if any nearby habitat is to be acquired. Low calculation of habitat The RHCP calls for the mitigation of 750 acres of occupied flycatcher habitat in Roosevelt Lake. However the DEIS and RHCP (p125 and p40 respectively) describes "a total of about 1000 acres of tall dense riparian habitat ... below 2151 feet in 2001. In addition, considerable riparian habitat exists in Roosevelt Lake in the flood pool above 2151. Given the uncertainties that accompany all mitigation efforts, it would seem prudent to include at least 1000 acres in the original mitigation. If mitigation of these last acres is left to the Adaptive Management Process discussed in the documents, the Final EIS should analyze in detail the wisdom of postponing the search for those mitigation lands given the time lag required to acquire suitable habitat.	
13-1		13-1. See response to Comment 3-9.
13-2	Insufficient mitigation It is not clear that the recommended number of actual acres for mitigation is being adhered to. The Draft Recovery Plan (DRP) prepared by the Southwestern Willow Flycatcher Recovery Team in April 2001 says that: "Habitat should be acquired at no less than a 3 to 1 ratio. A ratio of at least 3 to 1 RECEIVED SEP 19 2002 U.S. FISH & WILDLIFE SERVICE ES FIELD OFFICE PHOENIX, AZ	13-2. See response to Comment 3-12.

Comment #	Letter 13 continued	Response
13-3	increases the probability that the desired acreage of suitable habitat is maintained across the landscape." (DRP, Part IV, Recovery, p19). Note that the 3 to 1 recommendation is a minimum. The RHCP proposes not only a minimum number of mitigation acres, but suggests that a part of this mitigation, about 500 acres, will not be in actual acreage, but in credits obtained by such methods as management of buffers, a forest protection officer at Roosevelt Lake, and monitoring (RHCP, p122). The amount of actual mitigation acreage – 1500 acres as proposed in the plan - shrinks even more when the original 1996 mitigation of 600 acres for lost habitat is subtracted from the 1500 acres. The present RHCP in question is down to roughly 900 on-the-ground acres. SRP should consider a full 3 to 1 mitigation in actual acres to help ensure the program's success. If this mitigation strategy is not chosen, the FEIS should explain how the RHCP conforms to the recommendations in the DRP. Lack of Nearby Habitat The DRP recommends finding replacement habitat as nearby as possible and states that "establishing habitat close to existing breeding sites increases the chance of colonization" (DRP, Part IV, Recovery, item 10). While flycatchers have been known to move up to 118 miles from one year to the next in search of nesting habitat, the average distance moved according to studies is 8.7 miles (DRP, Part II, Biology, p19). The only nearby habitat proposed in the RHCP is the 20-acre pilot project at Rockhouse on the Salt arm of Roosevelt Lake. Although the site could eventually be increased to 75 acres, the likelihood of success of Rockhouse seems in question due to the artificial diversion needed and limited size of the project. The primary mitigation site for the RHCP is the San Pedro River, over 50 miles distant, far in excess of the average 8.7-mile yearly move documented in the DRP. While we greatly approved of the planned purchases of land along the San Pedro, our organization was disappointed that that the DEIS and RHCP did not also give attention to nearby Pinto Creek for mitigation opportunities for the flycatcher and other species. As we pointed out in our scoping comments of Nov.21, 2001, many organizations and individuals have spent much time trying to protect this creek from the negative effects of mining and grazing. Already a high quality riparian area, originating in the Pinal Mountains and flowing into the Salt arm of Roosevelt Lake, we believe opportunities exist to protect and further improve this creek via the RHCP. There is little doubt that this area is potential flycatcher and cuckoo habitat given proper management. USFWS in a 1995 letter to the Corps of Engineers, when expressing concerns about the proposed Carlota Copper Mine, wrote the following: "These relatively narrow, linear shaped communities provide essential nesting and foraging habitat for migratory birds such as the Yellow-billed cuckoo … and according to a letter from the Southwestern Field Biologists dated Aug. 2, 1993, could support the endangered Southwestern willow flycatcher when the willow understory recovers from recent flooding." Similarly, the Final EIS for the Carlota Copper Project reported sighting of cuckoos in June of '93 (FEIS, 3-188). An analysis by an independent biologist felt that lower Pinto had high potential for yellow-billed cuckoos and that Haunted Canyon, a tributary of Pinto Creek, could be potential habitat given additional understory (Ohmart letter, Sept 2001). In further recognition of the potential for flycatcher habitat, the Tonto National Forest, at the urging of USFWS, recently imposed new forage allocation limits on grazing to improve habitat for the bird. Mitigation opportunities in Pinto Creek are potentially numerous. The greatest benefit to the creek might be in reduction or elimination of groundwater pumping. The Pinto Valley Mine, currently owned by BHP, currently has about 40 wells in the watershed, and is likely to shut down operations in the not too distant future. SRP might be in a position to acquire these water rights which could benefit the creek and also provide additional runoff into Roosevelt Lake. Also, the Hendersen Ranch, presently owned by BHP,	13-3. See response to Comment 4-37.

Comment #	Letter 13 continued	Response
	might be purchased at some future time to ensure that cattle stay off the creek on that allotment and the riparian habitat achieve its full potential. While cattle have been taken off of several ranches in the area, the critical Pinto Creek allotment in an area found eligible for Wild and Scenic Rivers Designation remains a working ranch and still runs cattle. The permittee has worked hard to avoid unnecessary impacts to the creek, but fencing is still necessary to implement proper management. SRP might be able to help with this project. If the permittee ever decides to sell the base property, or perhaps just the value of the permit, SRP again might have additional opportunities that could be counted as mitigation. Removal of cattle has the added benefit of helping resolve the cowbird parasitism problem that plagues flycatcher recovery. In this instance, we do not agree with the RHCP's premise that better management of cattle is not appropriate mitigation. The biggest threat to Pinto Creek is the proposed Carlota Mine, which would directly bisect the stream and at the same time threaten Haunted Canyon due to placement of a leach pad upstream in Powers Gulch. We realize the complexities of a mine buyout. However, the Final HCP should at a minimum indicate an awareness of the proposed mine, information that the mine owner has been looking for a buyer, and the environmental benefits that could occur to lower Pinto if the mine were never built. There is a chance that at some future time, perhaps through the Adaptive Management program, that SRP could participate in some fashion in an action that would help retire the proposed mine. Such a measure to help protect existing habitat has the potential to result in benefits that outweigh all other mitigation measures combined. According to USFWS experts, the number of flycatcher territories need to double in order for the species to avoid extinction. In order for this to happen we will need to be especially generous with respect to replacing lost habitat. We realize that costs for the RHCP will eventually be passed on to SRP customers. Our members look forward to being able to contribute to SRP's habitat mitigation for Roosevelt Lake. Yours, Don Steuter Conservation Chair	

Comment #	Letter 14	Response
	 RECEIVED SEP 30 2002 **Maricopa Audubon Society** 4619 EAST ARCADIA LANE • PHOENIX, ARIZONA 85018 RECEIVED SEP 20 2002 U.S. FISH & WILDLIFE SERVICES ES FIELD OFFICE-TUCSON, AZ September 13, 2002 Field Supervisor, USFWS 2321 W. Royal Palm Rd., Suite 103 Phoenix, AZ 85021 **Commentary of the Maricopa Audubon Society regarding the Roosevelt Habitat Conservation Plan DEIS** Dear Field Supervisor:	
14-1	We support Alternative 2 of the HCP. Three thousand mitigation acres are needed rather than the proposed 2250 acres should be the number used. We would base this on the 1000 ACTUAL maximum acres of suitable "tall dense" habitat now at Roosevelt that would be impacted by a complete fill of the reservoir. The significance of this HCP plan in history and time is that it allows some return of the many miles of habitat that has been destroyed by the six SRP dams on the Salt and Verde Rivers. It is a well known fact that more than 90% of this precious willow/cottonwood riparian habitat here in Arizona has been destroyed by dams, diversions, groundwater pumping, cattle grazing and other such extractive uses. This HCP is historic in turning the clock back to offsetting at least some of those historic losses. These extractive riparian depletions are what have brought the Southwestern Willow Flycatcher, the Western Yellow-billed Cuckoo, the Yuma Clapper Rail and Arizona's beleaguered desert-nesting Bald Eagle population to their knees.	14-1. See response to Comments 3-11 and 3-12.
14-2	This HCP's inclusion of mitigation on the San Pedro and upper and lower Gila River, the Verde River, and the Verde Valley are important. Also the Agua Fria and Big Sandy, Bill Williams and other areas should be considered. However, the proximity to Roosevelt of Pinto Creek should make that area very important. It is not enough to say that the Forest Service should properly manage Pinto Creek. Their management has been disheartening to say the least. Their excuses are the usual ones, broken fences, trespass cattle, gates left open, etc. They run yearlings that RECEIVED SEP 16 2002 *DEDICATED TO THE PROTECTION OF NATURAL WETLANDS IN AN ARID ENVIRONMENT*	14-2. See response to Comments 3-16 and 4-37.

Comment #	Letter 14 continued	Response
14-3	devastate and obliterate the area's riparian habitat. Upland overgrazing in those same allotments causes rapid run-off and periodic floods of the downstream riparian habitat on Pinto Creek. Forest Service "management" or stewardship of the land is entirely absent here. SRP lobbyists and other private organizations should introduce legislation that would allow the willing-buyer, willing-seller retirement of these Pinto watershed grazing AUM's. This has happened on many National Monument lands and other ecologically significant areas. It happened on Organ Pipe, Canyonlands and Grand Staircase. It has happened on many Forest Service lands simply when the Forest Service deems it is vital. An example of grazing closure by USFS is Sycamore Creek in the Atascosa Mountains of the Coronado National Forest. Such ecologically priceless areas can be set aside by that federal agency if they deem it appropriate. Never was it more needed than now on Pinto Creek. Also retirement of BHP and any potential Carlota Mine and their water usage would return much more instream flow to that depleted watercourse. Mining company retirements may be costly but it is a small amount of money compared to the power-to-water subsidy of the Salt River Project. This is the subsidy given to those SRP beneficiaries who receive water deliveries that are made less costly as the result of the sale of SRP power. Since most power customers are homeowners and urban businesses and since most water deliveries have historically been for agribusiness, this can be viewed as a long-term penalty inflicted upon the metropolitan users for the benefit of local agribusiness. The Board of Directors of the Salt River Project are largely elected on the basis of acres of land owned, so this subsidy has come at the expense of urbanites in the Valley for the past many decades. That subsidy will be less clear in the future as SRP farmlands are being replace by homes and urban development. But this points out the fairness and equity to the great numbers of urban Arizona citizens who see the value of those few remaining fragments of this state's cottonwood/willow riparian habitat. That power-to-water subsidy amounts to ten, twenty or thirty million dollars every year and has been in effect in most years in the past. The purchase of such areas as BHP copper would be a small expenditure compared to that past huge subsidy. Also purchase of the San Manuel, Hayden, and Winkelman copper operations should be again considered for their water rights. No time would be better than now when there is a worldwide glut of copper. The Salt River project is a "municipality" under Arizona state law, with tax-exempt bonds that save billions, not just millions, for SRP's operations. This allows them to compete with APS and other non-municipality utilities on a playing field that is anything but level. Nonetheless, the Salt River Project should be complimented for their expressed willingness for stewardship here in the Roosevelt HCP. Their attitude of responsibility for the environment of this state has not been lost to the Maricopa Audubon Society. Their cooperation with USFWS to help preserve and protect these beleaguered riparian remnants has been a sea change from the times when Arizona conservationists were debating with them over a few tens of thousands of acre-feet yield at Orme Dam.	14-3. SRP has considered and will continue to pursue the acquisition of riparian lands and water rights for mitigation in the priority areas for acquisition, particularly in the lower San Pedro valley.

Comment #	Letter 14 continued	Response
	That dam would have flooded a Native American homeland, and invaluable Bald Eagle habitat, as well as creating a floodprone, floodplain real estate development in a toxic, landfill-polluted floodplain. Fortunately for the inhabitants of this state, it did not come to pass. The recent acquisition of water rights in the Pomerine area by TNC was a major step in helping the San Pedro. There are many areas of this reach of San Pedro that can still be salvaged and protected and we support and endorse those HCP San Pedro inclusions. The Upper Gila at Ft. Thomas is also a potentially valuable area, as are many other areas of that reach.	
14-4	A 3-1 ratio for mitigation is not at all excessive, considering the cyclical nature of quality riparian willow habitat. Cylcles of riparian habitat "blow-outs" from flooding, and periodic periods of senescence of over-mature willows are factors that are so severe that 3-1 is, at the least, the minimum ratio. Four-to-one seems more realistic to us.	14-4. See response to Comment 3-1.
14-5	It is difficult to be optimistic about the creation of a water ranch development on the north shore of the Salt River arm of Roosevelt reservoir for the Willow Flycatcher and other species. Though ponded water seemed to be a vehicle in the Roosevelt reservoir bed, this may be a very difficult way to create habitat with any success. Despite the fact our reply has not discussed the eagle, cuckoo or rail habitat aspects in this plan, we believe it is very important that these species must be considered and brought from the very brink of extinction. Past historic extractive water developments in the Southwest have taken a serious toll on these birds. We applaud the HCP's efforts to address these species. Those riparian restoration efforts can and will succeed. We would like to applaud the U.S. Fish and Wildlife Service, SRP and the private consultant for their dedication to this mitigation process and their efficient cooperative efforts. If we can be of further assistance, please let us know. Sincerely, Robert A. Witzeman Robert A. Witzeman, M.D., Conservation Chair 602 840-0052	14-5. The Service supports SRP's pilot project to establish riparian vegetation near the Salt River just above Roosevelt Lake. SRP has carefully evaluated the feasibility of this project in terms of soils, irrigation facilities, and other factors. If the pilot project is not successful, other mitigation will be substituted (RHCP, Subchapters IV.C.2 and V.F).

Comment #	Letter 15	Response
15-1 15-2	The Nature Conservancy® OF ARIZONA Saving the Last Great Places PHOENIX CONSERVATION CENTER 333 East Virginia Avenue, Suite 216 Phoenix, Arizona 85004 (602) 712-0048 Fax (602) 712-0059 TUCSON CONSERVATION CENTER 1510 East Ft. Lowell Rd. Tucson, Arizona 85719 (520) 622-3861 Fax (520) 620-1799 PATRICK J. GRAHAM State Director September 13, 2002 Steve Spangle Field Supervisor U.S. Fish & Wildlife Service 2321 West Royal Palm Road, Suite 103 Phoenix, AZ 85021 Re: Draft Roosevelt Habitat Conservation Plan Dear Mr. Spangle: Thank you for the opportunity to provide comment on the proposed Habitat Conservation Plan (HCP) submitted by the Salt River Project (SRP) in support of an incidental take permit application for federally listed and candidate species at Roosevelt Lake. We appreciate the effort SRP made to seek information from The Nature Conservancy (TNC) and others to develop a full understanding of the available options. We commend SRP's comprehensive approach to addressing the four species of concern by maximizing on-site opportunities for habitat maintenance while making a significant commitment to protect, restore, and manage in perpetuity additional habitat along some of central Arizona's most important and imperiled rivers. In addition to securing the future of 1,500 acres of riparian habitat, the plan's provision to acquire and retire water rights to enhance habitat maintenance will help to ensure that mitigation properties will retain their ability to support southwestern willow flycatcher (*Empidonax traillii extimus*) and yellow-billed cuckoo (*Coccyzus americanus*). The plan does a good job of assessing the importance of the hydrologic requirements for maintaining and restoring tall, dense riparian habitat. We suggest the standard be a three-foot depth to groundwater for lands credited as suitable for restoration of potential occupied habitat (page 121). As the footnote indicates, this depth will support native cottonwoods and willows, and the standard would help ensure that the restoration of native vegetation is favored on these lands. We also appreciate the provision of a management plan template for mitigation sites that clearly spells out expectations. The filing of a deed of conservation easement on these properties is a good step. It would be helpful to specify who will hold the easements and their role in ensuring permit compliance. We have submitted other comments to SRP previously, and many of these have been addressed satisfactorily. We appreciate the opportunity to comment. RECEIVED SEP 19 2002 U.S. FISH & WILDLIFE SERVICES ES FIELD OFFICE-TUCSON, AZ Sincerely, Pat Graham Patrick J. Graham State Director RECEIVED SEP 17 2002 U.S. FISH & WILDLIFE SERVICE ES FIELD OFFICE CC: Bruce Williams, Chairman, The Nature Conservancy's Arizona Board of Trustees Printed on recycled paper nature.org	15-1. The five-foot depth to ground water criterion for riparian land that is predicted to support flycatcher and cuckoo habitat is based upon the best available science related to establishment <u>and maintenance</u> of tall dense vegetation. As the stream cuts across the floodplain over time, sediment removal will result in areas that were formerly 5 feet above ground water becoming closer to the water table where new vegetation can become established. Other areas that become raised above the water table due to sediment deposition or downcutting will still be able to sustain tall dense vegetation even if the water table exceeds 5 feet. Thus, the area within 5 feet of groundwater was selected as the portion of the floodplain where the cycle of sediment removal and deposition was most likely to support establishment and maintenance of habitat similar to that being lost at Roosevelt. 15-2. At this time, the specific conservation organization or agency that will hold the conservation easements for each of the various mitigation properties is not known. The conservation easement holder must be acceptable to the Service. Although some or all of the monitoring and management tasks may be assumed by the holder of the conservation easement, SRP will remain ultimately responsible for permit compliance (see Reserved Rights in the draft form for conservation easements, Appendix 6).

Comment #	Letter 16	Response
	Greater Phoenix Chamber of Commerce September 10, 2002 Mr. Steve Spangle Field Supervisor Arizona Office, U.S. Fish and Wildlife Service 2321 W. Royal Palm, Ste. 103 Phoenix, AZ 85021 *RE: Roosevelt Habitat Conservation Plan and Draft Environmental Impact Statement* Dear. Mr. Spangle: The Greater Phoenix Chamber of Commerce (GPCC) and its affiliate organizations appreciate the opportunity to comment on the proposed Roosevelt Habitat Conservation Plan (HCP). As an entity representing more than 4,000 companies and 400,000 member employees, we support the plan's aims for returning Theodore Roosevelt Dam to full operation and resolving Endangered Species Act (ESA) issues that could otherwise severely limit surface water supplies to the greater Phoenix area. A Section 10 incidental "take" permit should be issued as soon as possible to avoid significant water loss and attendant economic damage to large areas of the Valley served by the Salt River Project. At stake is the future of the largest water storage reservoir in central Arizona – a facility necessary to providing water to nearly one-third of the Valley's population. In the face of drought, the need to store maximum runoff this winter is immediate and cannot be set aside even at risk to affected bird species. It is GPCC's understanding that the mitigation plan goes far in minimizing potential harm to willow flycatchers and other threatened and endangered birds that only recently have moved into Roosevelt's largely dried lake-bottom. According to the plan's biological assessments, the flycatchers are a migratory species capable of finding new habitats – often at considerable distances. It is, therefore, reasonable to expect the birds will survive and flourish in riparian habitats that SRP would acquire on Gila, San Pedro and rivers elsewhere in Arizona. The HCP analysis estimates economic impacts of the "no permit" and limited or "re-operation" alternatives respectively at $114 million and $64 million a year for replacement costs of water, including loss of the reservoir's new conservation storage space. This excludes lost recreation values and lost hydro-generation at Roosevelt Dam. RECEIVED SEP 12 2002 U.S. FISH & WILDLIFE SERVICE 201 North Central Avenue, 27th Floor, Phoenix, Arizona 85073 ▪ 602.495.2195 ▪ FAX 602.495.8913 ▪ www.phoenixchamber.com	

Comment #	Letter 16 continued	Response
16-1 16-2	The study rather dubiously assumes, however, that replacement water will be readily available from the Central Arizona Project, which has limited distribution and treatment capacities, or from groundwater pumping which is limited under the 1980 Groundwater Management Act. Additionally, the study takes no account of the ripple effect that SRP water limitations almost certainly would have on the Valley's overall economy. And these effects could be huge, particularly on development and business attraction efforts. As is, the preferred alternative for full use of Roosevelt carries high costs – estimated at between $20 million and $30 million to mitigate impacts on affected species. When coupled with the $16 million already committed by Valley cities to mitigate ESA impacts on the dam's new conservation storage space, total costs for regaining use of Roosevelt Lake could approach $50 million. While these costs appear inordinate to mitigate impacts on birds that never before inhabited Roosevelt reservoir, SRP and the six cities that paid to construct the dam's new conservation space have accepted this price-tag as necessary to preserve critical surface water supplies. GPCC, consequently, urges the U.S. Fish and Wildlife Service to approve the HCP preferred alternative, to do so expeditiously, and to make every effort to limit mitigation costs to SRP water customers throughout the Valley. Any other action by the federal government would violate common sense and wreak certain and significant economic harm to one of the fastest growing metropolitan areas in the nation. Sincerely, Valerie Manning President & CEO cc: Congressional delegation Governor Jane D. Hull Mayor Skip Rimsza	16-1. The EIS eliminates CAP and additional ground water pumping from consideration as replacement water supplies for a number of reasons, including those mentioned in the comment (EIS, Sections 3.5.5.1 and 3.6.6.4). 16-2. Although "ripple effects" of reduced water supplies or higher cost replacement water supplies would have an effect on the local economy, quantitative estimates of these effects are not available at this time.

Comment #	Letter 17	Response
	City of Phoenix OFFICE OF THE CITY MANAGER September 13, 2002 RECEIVED SEP 18 2002 U.S. FISH & WILDLIFE SERVICES ES FIELD OFFICE-TUCSON, AZ Mr. Brian Hanson Acting Field Supervisor U.S. Fish and Wildlife Service 2321 West Royal Palm Road, Suite 103 Phoenix, AZ 85021-4951 Re: Comments to the Draft Environmental Impact Statement for the Roosevelt Habitat Conservation Plan, July, 2002 and the Draft Roosevelt Habitat Conservation Plan. Dear Mr. Hanson: This letter presents the City of Phoenix' ("City") comments for both the Fish and Wildlife Service's draft Environmental Impact Statement ("EIS") and the Salt River Project's ("SRP") draft Roosevelt Habitat Conservation Plan ("RHCP"). The City also joins in the comments filed by the Arizona Municipal Water Users Association ("AMWUA") and by Dr. Scott Mills, consulting biologist for AMWUA The City has a vital interest in the outcome of the Salt River Project's application for an Incidental Take Permit that covers the continued operation of Roosevelt Dam and Lake. Over 60% of the City's current water use is supplied by the Salt River Project. Addtionally, the availability of Salt River Project water to facilitate exchanges for non-project City supplies and the existence of large amounts of carry-over storage in SRP's reservoirs for drought protection are key components in the management of the City's total water supply. The City also has rights to the water yield of the additional conservation storage space ("NCS") added at Roosevelt Dam in 1996. The City's interest in the continued operation of Roosevelt Dam is not new. Phoenix has been an active participant in the Advisory Group created to review and comment upon information submitted for the draft RHCP. The City has submitted comments to the scoping of the RHCP announced in the Federal Register (66 FR 45690, August 29, 2001). Previously, the City was an applicant with the Bureau of Reclamation in the Section 7 consultation addressing the modifications to Roosevelt Dam that created the NCS and which culminated with the issuance of an incidental take statement in a Biological Opinion dated July 23, 1996 ("1996 BO"). 200 West Washington Street, 12th Floor, Phoenix, Arizona 85003 602-262-6941 FAX 602-261-8327 Recycled Paper	

Comment #	Letter 17 continued	Response
17-1	Mr. Brian Hanson September 13, 2002 Page Two The City supports the adoption of the RHCP, the issuance of the Incidental Take Permit to SRP and the continued full operation of Roosevelt Dam and Lake as described in Alternative 2, the Proposed Action. It is clear that the Service's analysis contained in the EIS justifies the conclusion stated in Section 3.7.4, that "Alternative 2, Full Operation, is the environmentally preferred alternative because it surpasses other alternatives in realizing the full range of environmental policy goals in Section 101 of the NEPA" (National Environmental Policy Act of 1969). Furthermore, the Proposed Action produces the greatest benefits for the covered species, when compared to the other alternatives examined in the EIS. Impacts to the City related to the Alternatives Examined in the EIS The City recognizes that NEPA requires a comprehensive look at a broad range of environmental factors and believes the EIS meets that requirement. The City's comments here will focus mainly upon the water resources impacts inherent in Alternatives 1 and 3. The City is also providing comments on several other issues raised in the EIS and RHCP. The City will suffer dire consequences to its annual water supply, will be more prone to drought impacts and will likely expend large sums of money to replace lost water supplies under Alternatives 1 and 3. Only the adoption of the Proposed Action will avoid the negative impacts that are projected to occur with Alternative 1, the No Action Alternative and with Alternative 3, the Re-operation alternative. Under Alternative 1 Phoenix is projected to ultimately lose about 49,000 acre-feet annually of SRP water. The City will also lose approximately 24,000 acre-feet per year from the loss of its NCS yield. Together, that is enough water to supply 22% of the City's existing population of 1.3 million. Similarly, for Alternative 3 the City would lose 15,000 acre-feet of SRP water and 24,000 acre-feet of NCS yield. Combined, this is enough water to serve 12% of its existing population of 1.3 million people under that alternative. Both alternatives reduce drought protection as evidenced by the large reductions in conservation storage at Roosevelt Dam from 1.6 million acre-feet to 702,000 acre-feet in Alternative 1, and from 1.6 million acre-feet to 1.15 million acre-feet in Alternative 3. These impacts are severe and militate against the adoption of either Alternative 1 or 3. The problems and costs associated with replacing these lost supplies are well documented in Section 3.6.6 of the EIS. However, this EIS does not attempt to definitively analyze the environmental impacts associated with any of the replacement supplies identified in the examples discussed in that section. Those potential impacts	17-1. See response to Comment 8-2.

Comment #	Letter 17 continued	Response
	Mr. Brian Hanson September 13, 2002 Page Three are likely to create additional environmental problems of their own. In addition to the serious impacts to water resources and the economic hardships that will be foisted upon the City, it is evident that Alternative 1 has negative consequences for the covered species as well. Loss of vegetation from inundation, scouring or drying is expected according to Section 3.3.2 of the EIS. Likewise Alternative 3 has similar negative effects on species at Roosevelt Lake. Both alternatives will also result in a complete loss of hydropower revenues that will accrue to Phoenix as the result of the delivery of the additional water stored in the NCS. It is evident that the implementation of Alternative 2, the Proposed Action, will minimize multiple environmental impacts identified in the EIS. Its adoption will keep the City's water rights and water supplies delivered by SRP whole, provide for the maximum amount of carry-over storage and drought protection and at the same time provide the greatest benefits for the covered species. Integration of Prior Section 7 Consultations The City supports the reinitiation of formal consultation on the effects of Reclamation's action of modifying Roosevelt Dam because of the need to evaluate the changed circumstances described in Section 3.4.2.1 of the EIS and in order to integrate the conservation measures specified in the 1996 BO with those proposed in the RHCP. Since SRP has exclusive authority to operate the entire conservation pool at Roosevelt Lake, including the NCS, it makes sense that the ITP covering that operation is comprehensive as well. With issuance of the ITP the need for any additional conservation measures as a result of the reinitiation will be obviated. Term of the Incidental Take Permit	
17-2	In addition to the reasons enumerated in Section 3.4 that support a 50-year permit period the City believes that there are other factors which justify the 50-year term. The City prepares its water resources plan on a 50 year planning horizon. Thus, management of the City's water supplies will benefit from the certainty that will result from the issuance of a 50-year ITP that allows for the continued availability and use of the full amount of the City's SRP supplies. The City is also required by the terms of the State of Arizona's 1980 Groundwater Management Act to demonstrate that it has a 100-year supply of renewable water resources for its customers. For that purpose a term longer than 50 years would provide even greater certainty. Lastly, the City believes that	17-2. See response to Comment 8-3.

Comment #	Letter 17 continued	Response
	Mr. Brian Hanson September 13, 2002 Page Four	
	Adaptive Management, Funding Assurances, Monitoring and Additional Assurances and Changed or Unforeseen Circumstances measures presented in the EIS provide strong assurances that the covered species will be both protected and benefited during the entire 50-year term of the permit.	
	Suggested Changes to Verde River Reservoir Operations	
17-3	Public comment provided the impetus for the EIS to analyze changes in Verde River reservoir operations to create or enhance riparian habitat at or downstream of the reservoirs. The City believes that any analysis of re-operations of the Verde reservoirs requires a rigorous evaluation of the economic impacts and lost water supplies that would accompany those re-operation alternatives. This EIS did not provide an in-depth analysis of the economic, water resources or environmental impacts that would accompany Verde reservoir re-operation alternatives. If Verde reservoir re-operations are re-evaluated the City urges the Service to perform a more comprehensive study. For purposes of this draft EIS the analysis is sufficient. The City supports the conclusion that additional releases of water from the Verde dams to mimic the natural hydrograph would provide limited benefit to riparian vegetation and will create negative impacts to water supplies. Likewise, the City supports the conclusion that the option of transporting sediment below the dams is not viable because of the economics, the uncertainty of the potential benefits and related environmental impacts.	17-3. The EIS does not provide a "rigorous evaluation of the economic impacts and lost water supplies" from re-operation of the Verde River reservoirs because those alternatives were eliminated from further consideration for a variety of hydrological, physical, biological, and economical reasons.
	Critical Habitat Designation	
17-4	Phoenix does not anticipate any legitimate issue arising that relates critical habitat designation to the selection of the Preferred Alternative. However, since critical habitat is discussed in the EIS and in the RHCP the City believes the following comments are warranted. The Introduction section of the EIS, 1.1, states that, "Currently, there is no critical habitat designation for any of the federally listed species." The City believes this statement does not go far enough in addressing the issue of critical habitat for Roosevelt Lake. Based upon the definition of critical habitat there is no reason to designate the reservoir as critical habitat because conservation and mitigation measures have been in place since July 1996 to address the impacts on southwestern willow flycatcher from modifications to Roosevelt Dam under Section 7 consultation provisions of the Endangered Species Act. Continued long-term management for this	17-4. The table of changed circumstances in the RHCP provides that in the event of a critical habitat designation for covered species, no additional measures would be required of SRP (RHCP, Subchapter V.F). This provision adequately addresses the relationship of the critical habitat designation to the proposed permitted activity and the mitigation measures required by the RHCP. The location of particular lands to be designated as critical habitat is not a matter to be addressed in the context of the RHCP.

Comment #	Letter 17 continued	Response
	Mr. Brian Hanson September 13, 2002 Page five species will occur under the terms of the RHCP. Critical habitat is defined in Section 3 (5) (A) of the Endangered Species Act as: "(i) the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the …Act, on which are found those physical or biological features *(I) essential to the conservation of the species and (II) which may require special management consideration or protection…" (emphasis added)* Furthermore, the ESA requires that in addition to the guidelines contained in the definition the designation of any critical habitat must also be based upon the best scientific and commercial data available and must take into account economics. The Service has the discretion to exclude any area from critical habitat if the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat. Phoenix believes that economic considerations are a key component of the comparative benefits that the Service must weigh in designating critical habitat. Designation of critical habitat at Roosevelt or at or below Horseshoe Reservoir on the Verde River would have adverse economic impacts on Phoenix, Indian tribes, SRP and others that are likely to far exceed any benefits to the species from designation. The City believes that the Service should adopt the preferred alternative, publish the final EIS, approve the RHCP and complete the Record of Decision approving the issuance of the Incidental Take Permit by the end of 2002. Thank you for your consideration of these comments. Sincerely Yours, William L Chase William L. Chase, Jr. Water Advisor c: Regional Director, Fish & Wildlife Service, Albuquerque, NM Arizona Municipal Water Users Association Salt River Project	

Comment #	Letter 18	Response
	Central Arizona Project Association P.O. Box 86639 Phoenix AZ 85080-6639 Phone: 623-869-2605 N.W. "Bill" Plummer, President Thomas C. Clark, Executive Director September 14, 2002 Steven Spangle, Field Supervisor U.S. Fish and Wildlife Service Arizona State Office 2321 W. Royal Palm Rd., Suite 103 Phoenix, 85021 Re: Roosevelt Habitat Conservation Plan Dear Mr. Spangle: I am writing on behalf of the Central Arizona Project Association to urge, with certain reservations, approval of the Roosevelt Habitat Conservation Plan (RHCP). As offered by Salt River Project, the RHCP presents a means of resolving Endangered Species Act issues at Roosevelt Lake and getting the reservoir back to full operations by this winter. We have concerns about this plan because it seems to go far beyond the actual needs of the flycatcher and consequently results in huge expenditures to provide more mitigation than the law requires. Apparently, the directors of SRP have decided that it is better to yield to inflated demands than to subject the Valley's water users to a prolonged loss of storage capacity at Roosevelt Lake. We understand that decision. We support it, and hope it will prove to be the right decision. We urge the Fish and Wildlife Service to expedite issuance of the required Section 10 permit. Having put CAPA on record as supporting a Section 10 permit for the RHCP, I must declare that I see the process that "requires" this action to be one that is, at a minimum, out of balance...or possibly even out of control. The SRP Board has agreed to spend up to $30 million to acquire 1,000-acres of riparian habitat for southwestern willow flycatchers, up to 1,600 acres for yellow-billed cuckoos, and five acres of marshland for a single, abnormally appearing Yuma clapper rail. The plan calls for spending about $10 million of its commitment this year, prior to receiving a Section 10 permit; another $10 million shortly after a permit is issued; and the remainder within 36 months. This rapid buy-out of riparian real estate and/or conservation easements near Roosevelt and along the Verde, Gila and San Pedro rivers will guarantee that prime habitat is available to willow-flycatchers as they pursue their annual spring migrations from Central America. Additionally, the people that rely on SRP for water and RECEIVED SEP 20 2002 U.S. FISH & WILDLIFE SERVICES ES FIELD OFFICE-TUCSON, AZ RECEIVED SEP 16 2002 U.S. FISH & WILDLIFE SERVICE ES STATE OFFICE-PHOENIX, AZ	

Comment #	Letter 18 continued	Response
	power will be saddled with expenses of managing and monitoring habitat in perpetuity to protect nesting sites for a species that has survived droughts, floods and climatic changes since the Holocene Period ended 12,000 years ago. All of this even though the willow-flycatcher is a mobile species that has adapted to shifting habitats for centuries! Surely, there can be no doubt that SRP's RHCP will more than satisfy the needs of the species. It is also beyond doubt that there is an absolute need to have Roosevelt Lake ready for full storage by onset of winter. Under normal circumstances, Roosevelt is essential to meeting Valley water demands and providing flood control protection as established in the federal Plan 6 agreement and the Safety of Dams Act of 1980. With the present drought, immediate availability of Roosevelt storage becomes more critical than ever. Within the next few weeks, the reservoir will be down to 7 percent – the lowest levels since 1951- on a lake that holds 1.6 million acre-feet, or nearly three-quarters of SRP's surface supplies. Roosevelt also accounts for about a quarter of the water resources available to the metro-Phoenix area. Central Arizona Project water can make some of the difference for the time-being, but it cannot be substituted for Roosevelt water on a continuing basis if Roosevelt storage is reduced or cannot be replenished because of a delay in issuing a Section 10 permit. Any delay that would keep SRP from capturing runoff in what could be a rare, good winter would reduce central Arizona water supplies, worsen drought, cause clear economic harm, and probably initiate litigation and political outcry. While supporting an expedited issuance of the Section 10 permit, I maintain a concern that the RHCP fix for willow-flycatchers and other species goes beyond reasonable biological requirements almost to the extent of environmental extortion. This process must not set a precedent for separate ESA negotiations affecting storage on the lower Colorado River and other streams. In order to reduce the impression that it is permissible to decimate municipal water storage capability in order to gain questionable habitat benefits, Roosevelt Dam must be cleared for full operations as quickly as possible, even at the costs that SRP has offered to bear.	
18-1	I appreciated the opportunity to attend your August 27 hearing on this issue. However, I must state that I was disappointed that the period used primarily for questions and answers was not put into the record of this determination. That circumstance gives the impression that the questions or observations one might have about the process are considered to be without merit before they are put forth. That implication was intensified when the hearing coordinator informed us that debate (which I took to mean criticism) of the ESA was inappropriate. Sincerely, Thomas Clark Thomas Clark, Executive Director, CAPA	18-1. Typically a question and answer period is not provided by the Service at public hearings. However, in an effort to fully inform the public, such a period was provided at the August 27 hearing. The questions and answers were not recorded in order to allow an informal exchange of information outside of the formal written exchange of comments and responses.

Comment #	Letter 19	Response
19-1	9065 E. Riviera Drive Scottsdale, AZ 85260 August 9, 2002 RECEIVED AUG 18 2002 U.S. FISH & WILDLIFE SERVICE ES Phoenix, Arizona Mr. Steven L. Spangle Acting Field Supervisor U.S. Fish & Wildlife Service 2321 W. Royal Palm Road, Ste. 103 Phoenix, AZ 85021 Dear Mr. Spangle, I am writing to express my comments about the Salt River Project's draft of the Roosevelt Habitat Conservation Plan (RHCP) and the U.S. Fish & Wildlife Service's Environmental Impact Statement (EIS). As an avid outdoorsman and fisherman, I am very concerned over the severe water reduction in Roosevelt Lake. In addition to its prime importance as central Arizona's largest source of water, Roosevelt Lake is the region's largest and most intensely used recreational lake. Besides the fact that the lake looks bad, the extremely low water levels will have a serious long-term impact on both the environmental habitat for a wide range of wildlife as well as the recreational needs of the Phoenix Metropolitan Area. Some important points to consider are: • From a wildlife standpoint, the lake's water storage capacity has become important to maintaining healthy populations of numerous high desert species, including whitetail deer, mule deer, black bear, mountain lion, protected desert big horn sheep, javelina and a host of other wildlife. • Roosevelt Lake is a prime fishery for the threatened Southwestern Bald Eagle, whose population and survival depend on keeping the lake full and fisheries healthy. • The EIS conservatively estimated the lake's recreational (boating and fishing) value at approximately $6 million per year, based on Forest Service visitor day counts. Since these counts are based on tallies of campground fees, with no consideration to other uses in and around the lake, the annual dollar amount is conservatively low. It is ironic that the lake is named after former President Theodore Roosevelt, considered by many to be the father of modern conservation. He had the wisdom for always trying to find a balance between wildlife issues, water needs and recreational needs. We need to apply that same philosophy and vision to the current situation.	19-1. The recreation values reported in the EIS are based on the best available data on <u>total</u> recreational use at Roosevelt Lake (EIS, Section 4.11.1.5).

Comment #	Letter 19 continued	Response
	Therefore, I strongly urge you to do the right thing and allow Roosevelt Lake to be filled back up to its capacity. Any action that would delay or prevent approval of a federal permit to restore the lake to its full capacity this winter would not only be morally wrong from a water user's standpoint, but life threatening to wildlife and damaging to recreational concerns. Please allow the lake to do the job it was originally designed to do back in 1911 – provide water for the Valley, create habitat for a wide range of animals and offer recreational and economic opportunities for Phoenicians. Thank you for your consideration. Sincerely, John J. Roumas CC: Senator John Kyle Senator John McCain Congressman J. D. Hayworth Rocky Mountain Elk Foundation (National Office) B.A.S.S. (National Office) Ducks Unlimited (National Office)	

Comment #	Letter 20	Response
20-1	August 3, 2002 Steven Spangle Field Supervisor U.S. Fish & Wildlife Service 2321 West Royal Palm Road Suite 103 Phoenix, AZ 85021 Dear Mr. Spangle: I am writing to voice strong opposition to any Endangered Species actions that would reduce holding capacity at Roosevelt Lake or otherwise restrict and run up costs of operating Roosevelt Dam. The facility has been essential since its completion in1911 to providing the Valley with a dependable, low cost water supply. Any loss of reservoir space at Roosevelt would gravely diminish the Valley's ability to buffer itself from the repeated drought and flood cycles that characterize our desert environment. As a native Arizonan who deeply appreciates the importance of water to our state, I find it ironic that the severe drought we now face has produced conditions that have allowed a little-known bird species to threaten the future of Roosevelt Lake. As I understand it, the endangered Southwestern willow flycatcher would not be nesting at Roosevelt reservoir if the lake were not down to historically low levels. The bird clearly has managed to survive in other river areas. The way the Endangered Species Act is being interpreted, however, the Salt River Project will have to buy and manage thousands of acres of bird habitat or risk losing storage capacity at a reservoir where willow flycatchers have only recently appeared. Your studies also indicate SRP will have to build habitat for what is apparently the first and only Yuma clapper rail to be found near Roosevelt Lake. Does a single Yuma clapper rail constitute a breeding population? Or does this mean anyone unfortunate enough to have an endangered bird appear on their property from afar is subject to massive ESA compliance burdens? I would venture to guess that SRP has little choice but to comply if it is gain back Roosevelt storage by this winter. A permit granting SRP the right to resume full use of Roosevelt Dam should be issued forthwith and concerted efforts made by your agency to mitigate impacts to all human parties involved. Sincerely, Keith Sprinkle 2216 N. 74th Street Scottsdale, AZ 85257 RECEIVED AUG - 5 2002 U.S. FISH & WILDLIFE SERVICE ES FIELD OFFICE PHOENIX, AZ	20-1. SRP elected to request permit coverage for the effects of reservoir operation on habitat occupied by Yuma clapper rails in order to ensure that a permit amendment or an additional permit would not have to be obtained in the event that Yuma clapper rails are or become permanent occupants at Roosevelt. An individual of any species does not constitute a breeding population in and of itself.

Comment #	Letter 21	Response
21-1	Dear Sir - SLS Sherry I am writing to voice support for Endangered Species Act of protection for the Southwesteen Willow Flycatcher, Clapper Rail & Cuckoo and Bald Eagle who nest by Roosevelt Lake. SRP should pay for any lost habitat (that, eventually will mean us, Arizonans) maybe those strange, bright, abnormal green spots, golf courses should pay a little extra! I have lived in Arizona for 7 years and really enjoy the old growth wilderness, roadless spots to backpack in to and all the wildlife and support any/all ways to protect them. A voter in Arizona ~ Rebecca Bergman 12474 N. 81st St. Scottsdale, AZ 85260	21-1. As indicated in the RHCP under Subchapter IV.D, SRP will ensure adequate funding of all of the mitigation, management, and monitoring required to implement the RHCP, which will protect the flycatcher, Yuma clapper rail, bald eagle, and yellow-billed cuckoo.

Comment #	Letter 22	Response
	Commission Jewell M. Lewis Chair Michael C. Francis Vice-Chairman Dalton H. Cole John I. Hudson Richard S. Walden **Arizona Power Authority** 1810 W. Adams Street • Phoenix, AZ 85007-2697 (602) 542-4263 • FAX (602) 253-7970 **Staff** Joseph W. Mulholland Executive Director Tom Carter Deputy Director Rita K. Gallant Executive Secretary September 17, 2002 Mr. Steve Spangle Acting Field Supervisor U.S. Fish & Wildlife Service 2321 W. Royal Palm Rd., Suite 103 Phoenix, AZ. 85021 Re: Written Comments Upon the Roosevelt Habitat Conservation Plan and Draft Environmental Impact Statement Dear. Mr. Spangle: The Arizona Power Authority (Authority) is a public power marketer and markets the State of Arizona's allocation of hydroelectric power from Hoover Dam. The Authority participates in the Lower Colorado River Multi-Species Conservation Program (LCR-MSCP). The LCR-MSCP addresses many of the same issues and species as does the draft Roosevelt Habitat Conservation Plan. The Authority endorses the recommendations contained in the draft Roosevelt Habitat Conservation Plan (RHCP), specifically the method in which the RHCP satisfies the Fish & Wildlife's "five point policy" to improve the habitat conservation process. Those include biological goals and objectives, monitoring, adaptive management, permit duration, and public participation. Similarly, the Authority endorses the selection of the Full Operation Alternative for Roosevelt Lake by SRP consistent with its pre-permit operational objectives. Roosevelt Lake and its lower chain reservoirs provide over 25% of greater Phoenix's water supply, a critical element in the well being of Phoenix. The Authority is linked with Hoover Dam and the Colorado River. Through that linkage we are aware of the historic low water flows upon the Colorado and Gila drainages. We would suspect that similar conditions exist upon the Salt River drainage. With those thoughts in mind, we would encourage the Fish & Wildlife Service to issue a timely biological opinion and then subsequently promptly issue the operational permit for the Full Operational Alternative. Finally, I would also like to add two additional comments as an individual. I served as an Honors Program Attorney with the Office of the Solicitor during the Carter Administration. Although Congress RECEIVED SEP 19 2002 U.S. Fish & Wildlife	

Comment #	Letter 22 continued	Response
	- 2 -	
	passed the Endangered Species Act in 1973 (ESA), the Department of the Interior during the Carter Administration implemented the ESA.	
22-1	In connection with the RHCP, I note that the draft Plan imposes upon SRP a mitigation obligation of five acres for a single Yuma Clapper Rail. I suggest that the Clapper Rail mitigation obligation is inappropriate for a number of reasons.	22-1. See response to Comment 20-1.
	First, as noted in the Fish & Wildlife April 1998 Marsh Bird Monitoring Workshop, Rails, including a Yuma Clapper Rails, are marsh birds. As noted in the Coachella Valley Multiple Species Habitat Conservation Plan "Yuma clapper rails are and have been restricted to the region of the lower Colorado River, the Colorado River delta, and appropriate habitat around the Salton Sea and in the Whitewater River (sic) north of the Sea. There are rare recordings of the species in marshland habitat along the eastern shore of the Sea of Cortez….The Plan Area is at the edge of the Yuma Clapper Rail distribution." That is, the siting or presence of a single male Clapper Rail near Roosevelt Lake, far from its usual deltaic, marshland habitat suggests that the presence of the Rail is an aberration. My recollection of the ESA programmatic process is that mitigation or recovery obligations should not be imposed upon potential permittees based upon observations of a single member of a species that has likely wandered far from its usual range as has the Clapper Rail here. This could lead to unnecessary imposition of mitigation or recovery obligations when dealing with peripatetic species.	
22-2	Next, there are a number of multi-species conservation plans currently under development in the California-Arizona-Nevada region. Those include the Coachella Valley MSCP, the Lower Colorado River MSCP, as well as the Roosevelt Habitat Conservation Plan to name a few. Under an adaptive management approach, should the FWS consider collectively focusing remediation efforts for species common to each plan such as the Flycatcher or the Cuckoo which are instead currently analyzed separately in each of these proposed plans?	22-2. Although it is sometimes feasible for separate permittees to pursue a mitigation joint venture, e.g., to acquire a large block of riparian land, the analysis of impacts, mitigation requirements, and satisfaction of mitigation obligations are project-specific and must remain so under the ESA. In deciding whether to issue an incidental take permit to SRP, the Service must consider whether SRP's permit application and accompanying RHCP satisfy the issuance criteria of Section 10 of the ESA. Likewise, any application for an ITP submitted by those participating in the negotiation of the Lower Colorado River Multi-Species Conservation Plan or any other habitat conservation plan must be evaluated on their own merits, in light of the Section 10 permit issuance criteria.
	In closing, the Authority endorses the FWS' prompt approval of the Full Operation Alternative under the Roosevelt Habitat Conservation Plan. Sincerely, Douglas V. Fant Associate Legal Counsel cc: Mr. Joe Mulholland Mr. James Bartlett Mr. Tom Hine A730#128/Rsvlt\Hav#Conserv Draft EI	

Comment #	Letter 23	Response
23-1 23-2 23-3	8/28/02 Mr. Steven Spangle, Acting Field Supervisor U.S. Fish and Wildlife Service 2321 W Royal Palm Rd. Phoenix, AZ 85021 Re: Roosevelt Lake/SRP/Birds/Logic Dear Mr. Spangle, Where did these endangered birds nest before this new habitat was created, and for what reason would you expect they would not return there if/when this new one is lost? Who will guarantee the birds will accept any newly created habitat? Will they reimburse the SRP customers for the wasted money if they do not? Who could possibly/convincingly suggest the birds will drown? $30 m would provide for 500 (est.) Habitat for Humanity homes, benefiting 2,000 (est.) humans while enlarging the tax base and contributing to a productive society. Please consider the comparative logic. Allow the lake to refill (hope that it does soon). When this, hopefully, happens, I, and I'm certain many others, will show up to aid the birds (if necessary), as we do to build H 4 H homes. Sincerely, David M. Jansen 7226 N. Via de La Siesta Scottsdale, AZ 85258-4008 Cc: J. D. Hayworth, U.S. Congress John Shadegg, U.S. Congress Scottsdale Tribune RECEIVED AUG 28 2002 U.S. FISH & WILDLIFE SERVICE FS FIELD OFFICE PHOENIX, AZ	23-1. It is not known whether a population of flycatchers has been at Roosevelt for many years, or whether they are recent immigrants. If they are recent immigrants, they likely came from another river system in central Arizona. They are expected to disperse to other locations if their habitat is lost. However, there are likely to be impacts to the population if this occurs. 23-2. See response to Comment 3-2. 23-3. Adult birds are unlikely to drown. As described in the RHCP and EIS, the primary impact from continued reservoir operation is to habitat, not the direct take of birds. However, it is possible that some young fledglings that fall out of nests may drown if nest sites are located above open water.

Comment #	Letter 24	Response
24-1	Frank Welsh <welshfj@yahoo.com> 09/10/2002 04:23 PM To: jim_rorabaugh@fws.gov cc: "DonSteuter@aol.com" <donsteuter@aol.com>, "laurienessel@hotmail.com" <laurienessel@hotmail.com>, Sandy Bahr <grand.canyon@sierraclub.xohost.com>, Biodiversity <rsilver@biologicaldiversity.org>, "Dr. Witzeman" <witzeman@cox.net>, lisa force <lforce@livingrivers.net>, "Linda K. Fowler CPA" <lkfcpa@fastq.com>, Gil <gilvenable@azbar.org>, HAUNTED- Tom Haunted -Sonandres <spica@asu.edu> Subject: DEIS RHCP comments The proposed mitigation seems fine, as far as it goes. I believe more mitigation is called for and am quite disappointed that Pinto Creek and Haunted Canyon were given such short shrift. It is obvious that the preparer has not throughly investigated this area. I have led many hikes into the area and this spring saw a willow flycatched (SW?) where the Haunted Canyon trail first crosses the stream. Vegetation had returned when cattle were excluded. I was also with the agency etc group which traversed lower Pinto and was amazed at the changes wrought by the additional water released since BHP reduced pumping for mining and cattle have been removed. The floodplain is quite wide in many places and vegetation is returning. A few check dams, drop structures etc. would provide the meandering many think are desirable. During this trip, Bob Ohmart and I were the only ones to go into Haunted Canyon (possibly a few hundred yards) and he commented that this was the best potential habitat he had seen. Removal of cattle grazing would return the low story vegetation that is desirable. Again I would like this area to be added for mitigation. It is also habitat for the yellow billed cuckoo, etc. Frank Welsh, P.E. J.D. Yahoo! - We Remember 9-11: A tribute to the more than 3,000 lives lost http://dir.remember.yahoo.com/tribute	24-1. With respect to the need for more mitigation, please see the response to Comment 3-1. With respect to mitigation in the Pinto Creek area, please see the response to Comment 4-37.

Comment #	Letter 25	Response
	September 17, 2002 Field Supervisor USFWF 2121 W. Royal Palm Rd., Ste. 103 Phoenix, AZ 85021 To Whom It May Concern: Thank you and your staff for paying close attention to one of America's endangered species, the Southwest Willow Flycatcher. You have shown tremendous professionalism in dealing with this situation, informing the public, and facing this adversity. As a concerned citizen of Arizona, I ask you kindly to consider some of the following options.	
25-1	**Pinto Creek** – this is ideal habitat that seems to have been overlooked for one reason or another by SRP. Please analyze the Pinto Creek area to see if it would be suitable for relocating the Southwest Willow Flycatcher. This is an excellent riparian area and with some work and less mining impact it could be a healthy environment. If you and/or SRP were to consider this area, study its flora and fauna, I think you would be pleasantly surprised at how this could be the Southwest Willow Flycatcher's ideal new home away from home. Not only is there plenty of water and trees, but it is also relatively close in proximity to Roosevelt Lake, approx. 70 miles east of Phoenix and six miles west of Miami. The creek continues its 28-mile course from the Pinal Mountains north to Lake Roosevelt, as the flycatcher may fly. The Carlota Copper Project currently has permits as well as court case settlements and upheavals. SRP officials may be able to work out a deal with this mine and others in the area to purchase additional land for mitigation purposes. In Pinto Creek, SRP could find excellent riparian habitat to meet the regulations of the Endangered Species act, and also help clean up this creek which is polluted from the mining operations. In essence, SPR would be saving thousands of species of birds with one positive move.	25-1. Please see the response to Comment 4-37.
25-2	**Some additional considerations** – • **Increase the size of the habitat**. Currently you are considering 750 acres of habitat, and I feel it would be more beneficial to the birds if you were to increase it to include 1000 acres as their designated habitat. The areas above and beyond the water level and their nesting sites is critical habitat they need to catch insects and find mates. The birds need range of flight acres to be included in habitat to maintain their safety and viable population numbers. I feel strongly that the mitigation area therefore should be increased to a total of 3,000 acres. • **Buy out the rights to the mining company and/or the rancher's grazing rights** in and around the Pinto Creek area. If you were to successfully analyze the Pinto Creek riparian habitat for mitigation opportunities, you would be able to extend the mitation area to 3,000 acres. By purchasing the mining and grazing rights in	25-2. See response to Comment 3-11.

Comment #	Letter 25 continued	Response
	17 02 02:31p Philip Church 602-258-6533 p.3 this area, you will ensure a healthy southwest willow flycatcher habitat as well as maintain this threatened watershed for many other species. • **Keep up your dedication and perseverance.** Granted, the southwest willow flycatcher is in serious trouble. It's not the endangered species list because it is healthy and thriving. Anything you can do to help preserve the biological diversity of this planet is tremendously appreciated by me as well as many other concerned environmentalists. Thank you again for your consideration and time. Sincerely, Heidi K. Slagle Phoenix, AZ	

RESPONSE TO GENERAL WRITTEN COMMENTS

In this section, the Service provides copies of general written comments on the draft RHCP and draft EIS, a summary of those comments, and a general response. These general written comments were submitted by the individuals and organizations listed below:

Letter Number	Comment Received From
26	Arizona Chamber of Commerce
27	Arizona Utility Investors Association
28	Central Arizona Labor Council
29	Central Arizona Project
30	Citizen's Transportation Oversight Committee
31	City of Mesa
32	David Evans & Assoc.
33	Earl and Dorothy Zarbin
34	East Valley Partnership
35	Fort McDowell Yavapai Nation
36	Fort McDowell Tribal Gaming Office
37	Greater Phoenix Urban League
38	International Brotherhood of Electrical Workers Local 266
39	Janeen Rohovit
40	Liberty Wildlife
41	Peter Busnack (Reevis Mountain School & Sanctuary)
42	Roosevelt Water Conservation District
43	Southwest Gas Corp.
44	Tempe Chamber of Commerce
45	Westmarc

Summary of General Written Comments

All of the comments in this section are generally supportive of the RHCP and the Full Operation alternative in the EIS. Many of the comments express concern for expeditious processing by the Service of SRP's application for an incidental take permit.

Response to General Written Comments

The Service appreciates the many comments submitted by individuals and organizations in support of the RHCP and EIS. With respect to the concern for expeditious processing of SRP's application for an ITP, the Service is using all of its available resources to process SRP's application in a timely, yet careful, manner.

Letter 26

Arizona Chamber of Commerce
The Voice of Arizona Business

August 21, 2002

Field Supervisor
United States Fish and Wildlife Service
2321 West Royal Palm Road, Suite 103
Phoenix, Arizona 85021

Re: Comments on the Roosevelt Habitat Conservation Plan and Draft Environmental Impact Statement for Operations at Theodore Roosevelt Dam

Dear Fish and Wildlife Service:

As chairman of the Arizona Chamber of Commerce's policy subcommittee on water and natural resources, I appreciate the opportunity to comment on the draft environmental impact statement (DEIS) concerning continuing operations at Roosevelt Dam, a principal water conservation reservoir and hydroelectric generating project located in central Arizona. This facility and facilities like it around the state provide the water and energy that support the high standard of living enjoyed in Arizona. I am pleased to see the United States Fish and Wildlife Service working cooperatively with the Salt River Project Agricultural Improvement and Power District and Salt River Valley Water Users Association (collectively SRP) to develop a conservation plan that will protect and enhance wildlife habitat for our native species while simultaneously preserving the vital functions of this reservoir.

I am an attorney, licensed to practice law in the states of Arizona and California. My practice is mostly devoted to water management, natural resources and Endangered Species Act compliance issues. I was employed by the State of Arizona Department of Water Resources for thirteen years, and was the chief legal counsel for that agency from 1995 to February, 2002. I am currently in private practice in Phoenix, Arizona. I have reviewed both the DEIS and the draft Roosevelt Habitat Conservation Plan (RHCP) prepared by SRP. After discussing these documents with members of the Arizona Chamber of Commerce and its policy committees and subcommittees, I have prepared these comments, reflecting our collective views.

RECEIVED
AUG 24 2002
U.S. FISH & WILDLIFE SERVICE
ES/ELC

1221 East Osborn Road, Suite 100, Phoenix, Arizona 85014
Phone (602) 248-9172 • Fax (602) 265-1262 • www.azchamber.com

Letter 26 continued

General Observations

Water supply reservoirs are essential to the public health and welfare of Arizona. Roosevelt Dam was constructed by the United States Bureau of Reclamation in the early part of the 20th century for the purpose of conserving the erratic flows of the Salt River, Tonto Creek and other streams, and delivering that stored water in later months, or years, to supply the demands of the greater Phoenix metropolitan area. Reservoir levels were designed to fluctuate not only within the year, but year to year as well. Fluctuations in reservoir levels are an essential component of life in our state and a necessary part of surface water conservation. The recent severe droughts in the southwestern United States have again reminded us of the importance of this industry.

The recent modifications to Roosevelt Dam allowed greater conservation potential for the reservoir. The major cities in the Phoenix metropolitan area participated in the financing for the construction of these improvements and applied for permits to store and appropriate the water potentially stored in this reservoir under Arizona state law. The Arizona Department of Water Resources considered these applications in extensive public proceedings and, at the conclusion of the administrative process, issued permits to the applicant cities finding that the additional storage of water and appropriation of the stored water to beneficial municipal use was in the best interests of the citizens of the State of Arizona.

Because the modifications of Roosevelt Dam were undertaken as a federal project and had the potential to impact endangered species, the Bureau of Reclamation, as the federal action agency, formally consulted with the Fish and Wildlife Service (FWS) under section 7 of the Endangered Species Act (ESA) and has already taken several actions at the federal level designed to mitigate the impact of the modifications on habitat and species. *It is important to note that the consultation by the Bureau of Reclamation only addressed the new conservation storage space added by the modifications to Roosevelt Dam. However, the RHCP is much broader and encompasses SRP's storage space as well as SRP's on-going operation of both the new and old spaces in a manner required by project design, contractual operating agreements and existing customer obligations. SRP's proposed mitigation measures, along with Reclamation's mitigation obligations, provide comprehensive protection for species and habitat affected by water storage in Roosevelt Dam.*

The RHCP

The RHCP is intended to develop and implement a mitigation strategy for adverse impacts to habitat and species for the proposed operating regimen of Roosevelt Dam. It also forms the basis for the issuance of an incidental take permit under section 10 of the ESA, which will impose obligations upon SRP. The species to be protected are the southwestern willow flycatcher, the Yuma clapper rail, the bald eagle and the yellow billed cuckoo. One of the greatest difficulties in developing a habitat conservation plan is to accurately determine the amount of impact, if any, that the proposed action might have on species. *In preparing the RHCP, SRP used its ongoing model of Roosevelt hydrographic patterns, SRPSIM. This model has been used extensively by SRP to predict reservoir supply over many years. As a business entity, SRP has relied on*

Letter 26 continued

SRPSIM to make critical decisions affecting the entity's welfare. SRPSIM represents the best science available for habitat conservation planning on the Salt River system.

Of course, predicting the habits and needs of species is even less certain than predicting reservoir hydrographic patterns. In developing the RHCP, SRP has undertaken extensive studies to predict the impact of full operations on the species. Recognizing that predictions may not always be adequate, the *RHCP also includes ongoing monitoring programs and adaptive management principles that will require mitigation efforts to increase if adverse effects are more significant than predicted. The mitigation efforts will be phased-in, but with a relatively short phase-in period (e.g., 3 years total phase in time for willow flycatcher mitigation). Adaptive management will be provided in perpetuity, with secure permanent funding.*

The RHCP contemplates regulatory certainty under the ESA in exchange for a well funded commitment for mitigation activities and acquisitions for the benefit of species and their habitat. A concern frequently expressed in habitat conservation planning is the ability of the permit applicant to make good on its promises for future performance. Here, the RHCP is being proposed by one of Arizona's leading utilities. SRP has been delivering water and power in the greater Phoenix metropolitan area for almost a century. It is a land based organization with very deep ties to the state. For long term planning and species protection, SRP represents a stable and secure partner to assist the FWS in balancing the need to continue industry while protecting Arizona's wildlife.

The DEIS

The purpose of an environmental impact statement prepared under the National Environmental Policy Act is to consider the proposed action (here, full operation of Roosevelt Dam) against available alternatives, and insure that incidental impacts of the proposed action are understood before the action is undertaken. This DEIS has considered the proposed action and two alternatives, a "no action" alternative and a modified operating regime alternative. While these alternatives are theoretically feasible, and provide useful analytical aids in evaluating the proposed action, the alternatives are not workable in a practical sense and should be rejected, as the DEIS concludes.

As noted above, the full operation of the Roosevelt Dam is essential to the public health and economic well being of the greater Phoenix metropolitan area. To the extent that there are identifiable impacts to habitat and species protected under the ESA by such operation, a sound mitigation strategy is appropriate. The DEIS recognizes this, and concludes that the mitigation strategy proposed by SRP in the RHCP is adequate. Based on this finding, the DEIS concludes that an incidental take permit should be issued to SRP to give it the regulatory certainty necessary to justify long term commitment to the habitat conservation plan. This is an appropriate conclusion, and one that is justified by the critical scientific analysis undertaken in the DEIS.

Letter 26 continued

Conclusion

Arizona, like most of the western United States, is in the midst of a severe drought. Lake levels in the SRP reservoir system are near all-time lows. Reservoir levels in the Colorado River system, Arizona's other principal water supply, are also declining. It is essential that SRP be allowed to capture spring runoff in 2003 in the Salt River system to help restore the depleted water supplies for the Phoenix metropolitan area. Delay in approving the RHCP and finalizing the DEIS will be extremely detrimental to Arizona, and will have its own adverse effects on our environment, such as further depletion of our groundwater reserves.

The National Environmental Policy Act and the Endangered Species Act are important federal laws reflecting the need to strike a balance between industry and nature. Both laws contemplate the type of scientific study and critical analysis performed here in the DEIS and RHCP when contemplating federal authority to continue operations of a facility like Roosevelt Dam. The DEIS and RHCP are, in this case, in compliance with the letter and spirit of these laws and should be approved.

Sincerely,

Michael J. Pearce
Chair, Subcommittee on
Water and Natural Resources

PHX/MPEARCE/1331939.1/01001.352

Letter 27

AUIA
Arizona Utility Investors Association

2100 N. Central, Ste. 210
P.O. Box 34805
Phoenix, AZ 85067

Tel: (602) 257-9200
Fax: (602) 254-4300

Email: info@auia.org
Web Site: www.auia.org

August 26, 2002

RECEIVED
SEP - 3 2002
U.S. FISH & WILDLIFE SERVICES
ES FIELD OFFICE-TUCSON, AZ

Steven L. Spangle
Acting Field Supervisor
U.S. Fish and Wildlife Service
2321 W. Royal Palm Road, Suite 103
Phoenix, AZ 85021

Re: Roosevelt Lake Habitat Conservation Plan

Dear Mr. Spangle:

I am writing on behalf of the Arizona Utility Investors Association (AUIA), a 6,000-member organization that represents shareholders and bondholders who are invested in electric, gas, telecommunications and water utilities in Arizona. Most of our members are not only utility investors but residents of the state whose well being is directly affected by water management practices in Arizona.

I will tell you candidly that some of our members feel it is preposterous to: a) even consider restricting the operation of Roosevelt Lake to less than half of its storage capacity, with the attendant social and economic consequences; or b) to commit $20 to $30 million to preserve habitat for 292 transient birds.

However, the position of our organization is that the public interest is best served by a plan that balances the requirements of federal law with the needs of the 1.6 million people who rely on the Salt River Project (SRP) system of dams and canals for water supplies in a desert environment.

AUIA believes that the proposed Roosevelt Lake Habitat Conservation Plan (HCP) provides an appropriate balance and we urge its adoption and the issuance to SRP of an ESA Section 10 incidental take permit to allow normal operation of the reservoir. It is also our view that time is absolutely of the essence. SRP must have a permit by December in order to take full advantage of seasonal runoff next winter and spring.

We fully expect that you will hear from parties who want more: more money, more habitat, more groundwater retirements, more time. But this proposal must be viewed from a reasonable perspective.

We don't know how long the flycatcher has been roaming among riparian thickets in Arizona, but the bird undoubtedly has been here longer than we have. It has endured numerous climatic events, including perhaps the droughts that drove the Hohokam

RECEIVED
AUG 2 9 2002
U.S. F... ES FIELD ...

Letter 27 continued

Page 2, Spangle

and Anasazi people from the Salt River Valley in the 15th Century.

In other words, this bird's resiliency may be superior to ours, even though it is classified as endangered.

The flycatcher is a transient and whimsical species. It claims no territorial imperative or geographical loyalty. It goes wherever it finds the habitat to be suitable. It may be here today and gone tomorrow. For example, birds banded at Roosevelt have migrated in subsequent years to nesting sites far removed from there. Consequently, the science supporting the creation or retention of habitat for this bird is somewhat thin.

On the other hand, we have a solid scientific and technological foundation for managing and harvesting watersheds and for regulating river systems for a variety of purposes. Indeed, the water storage and delivery systems that sustain life in central Arizona have been under development for 100 years.

Ironically, the very structures that were built to prevent flooding and sustain us through droughts are now threatened by transient bird populations. If the dams weren't here, the habitat that shelters these birds wouldn't be here either. If the human population must pay a price for its largesse, the cost should be measured and reasonable. We believe the Roosevelt HCP meets that definition, but additional restrictions or mitigation requirements could tilt the plan toward the unreasonable.

The two alternatives to the HCP that were investigated – no permit or modified operation – are unacceptable on two main grounds: deficient water management and species protection.

Under Alternative 1 (no permit), the Salt River system would simply not meet its public responsibilities. As you know, Roosevelt Lake provides 71 percent of the storage capacity of the system. At a maximum operating level of 2095 feet, Roosevelt would be at about 42 per cent of its capacity and would lose nearly 1 million acre-feet of storage.

The impact on water deliveries is documented in the EIS, along with some economic impacts. AUIA would add another consequence: state water policy, which hinges on preserving aquifers through reduced groundwater pumping, would be seriously undermined by this loss of stored surface water.

While Alternative 1 may reduce the short term impact on habitat for the protected species, the reality is that habitat in the upper reaches will dry out, resulting in a long term reduction. In addition, lower lake levels would harm riparian and aquatic wildlife.

Letter 27 continued	Letter 28

Page 3, Spangle

The impact of Alternative 3 (modified operation) on SRP water deliveries would be less severe, but unacceptable nevertheless in a community that relies on stored surface water for drought protection and to prevent depletion of its underground aquifers. This alternative would also subject the habitat to cyclical conditions and drying at higher elevations, with an ultimate loss of some habitat for the protected species.

AUIA believes the proposed Roosevelt Lake Habitat Conservation Plan strikes the appropriate balance between the community's social and economic needs and the goals of the Endangered Species Act. We urge your agency to approve the plan without modifications that would delay its implementation.

As we stated earlier, timing is critical. Under the current drought conditions in Arizona, it would be tragic if SRP were unable to capture all of the seasonal runoff in the Salt River watershed. Furthermore, the public would be outraged to see unused water flowing toward the Gulf of California in the Salt River channel.

Sincerely,

Walter W. Meek
President

VOICE @ WORK
freedom to choose a union

CENTRAL ARIZONA LABOR COUNCIL

5818 NORTH 7TH STREET • PHOENIX, ARIZONA 85014 • (602) 263-5460 • FAX (602) 263-9252

August 27, 2002

Steven Spangle
Acting Field Supervisor
U.S. Fish and Wildlife Service
2321 W. Royal Palm Road, Suite #103
Phoenix, AZ 85021

Dear Mr. Spangle,

I am writing on behalf of the Central Arizona Labor Council (CALC) to voice support for SRP's proposed plan for obtaining an Endangered Species Act permit to return Roosevelt Dam to historic and necessary uses by the end of this calendar year.

As an organization representing the largest segment of Arizona AFL-CIO's 127,000 working men and women, CALC recognizes that full water storage at Roosevelt Lake is essential to the economic health and future of the greater Phoenix area. With a holding capacity amounting to some 70 percent of SRP's total system, Roosevelt cannot be sacrificed, even for the sake of the Endangered Species Act. More importantly, the lake must be back in full use soon if SRP is to have any chance of overcoming drought conditions that have severely depleted its surface water supplies. Central Arizona Project water is not enough to make up for any reductions of permanent loss of Roosevelt's full capacity, every bit of which must be available for this winter.

The plan that SRP has offered to protect endangered bird species at Roosevelt appears extensive and should be more than enough to mitigate impacts on the Southwest willow flycatcher. Costs for buying alternate habitat for the flycatcher and other bird species will run between $20 million and $30 million, a lot of money for wildlife purposes by anybody's standards. What this kind of money could do for employment development, job-training or school improvements is a matter to contemplate. As we are told, however, that the commitment must be made to satisfy terms of the Endangered Species Act and assure issuance of a federal permit to regain full use of Roosevelt Lake. The alternative of not allowing Roosevelt to be filled above 42 percent or limiting storage would strip Maricopa County of invaluable water supplies, hurt our economy, and be intolerable.

SEP 13 2002

Letter 28 continued

The U.S. Bureau of Reclamation and Central Arizona cities already have promised about $16 million of mitigation, research and monitoring for these birds as part of new construction improvements to the dam completed in the mid 1990's. By 2007, the additional SRP outlay for habitat mitigation will drive the total cost of bird mitigation to as much as $46 million. The costs ultimately will be passed on to Valley water customers throughout SRP's service territories encompassing 10 valley cities. How much more are people expected to bear without concluding that the ESA Process is counter to reason.

We urge the Fish and Wildlife Service to support SRP's efforts to resolve this water-wildlife challenge on behalf of several million Central Arizona residents, and the several thousand working men and women of the Central Arizona Labor Council.

Sincerely,

Ted

Ted Murphree
President
C.A.L.C.

TMith
opeiu #56 (s-sep02)
afl-cio

cc: Ray Nunez, IBEW Local 266

Letter 29

CENTRAL ARIZONA PROJECT

P.O. Box 43020 • Phoenix, Arizona 85080-3020 • 23636 North Seventh Street (85024)
(623) 869-2333 • www.cap-az.com

September 17, 2002

Mr. Steven L. Spangle
Acting Field Supervisor
U.S. Fish and Wildlife Service
2321 W. Royal Palm Rd., Ste. 103
Phoenix, Arizona 85021

Subject: Roosevelt Habitat Conservation Plan

Dear Mr. Spangle:

The Central Arizona Water Conservation District submits the following comments on the draft Roosevelt Habitat Conservation Plan (RHCP) and the draft environmental impact statement (EIS) for the RHCP.

CAWCD strongly supports the proposed action–full operation of Roosevelt Dam–and opposes both of the alternatives considered in the EIS. Neither alternative is practical and neither offers the protection for endangered, threatened and candidate species that is afforded by the RHCP.

The EIS is correct to rule out using water from the Central Arizona Project to minimize or mitigate the water supply impacts that would result from a change in reservoir operation. Contrary to the suggestion made by the Center for Biological Diversity at the August 27 public hearing, there simply is not enough CAP water currently available to make up for the loss of water supply from re-operation of Roosevelt Dam. The entire normal year supply of CAP water is either under long-term contract or has already been allocated to or earmarked for particular users. Although some of those with long-term contracts do not yet need their full entitlement, there are many other users competing to purchase that water.

It is evident that a great deal of thought and effort has gone into creating the RHCP. We urge the Fish and Wildlife Service to approve the plan expeditiously and issue an incidental take

RECEIVED
SEP 19 2002
U.S. FISH & WILDLIFE SERVICE
FS FIELD OFFICE PHOENIX, AZ

Letter 29 continued	Letter 30
Mr. Steven L. Spangle September 17, 2002 Page 2 statement that will allow the Salt River Project to use all of the space behind Modified Roosevelt Dam, including the additional conservation space located above elevation 2,136 feet. Very truly yours, Thomas W. McCann Attorney lc: wpdocs\twm\Spangle.ltr 910.01	F. Rockne "Roc" Arnett, Chairman Dwight D. Amery, Member At Large Tom Liddy, Maricopa County District 1 Jim Lykins, Maricopa County District 2 Ron Gawlitta, Maricopa County District 3 Paul Schwartz, Maricopa County District 4 Vacant, Maricopa County District 5 CITIZEN'S TRANSPORTATION CTOC OVERSIGHT COMMITTEE 206 South 17th Avenue Mail Drop 118A Phoenix, AZ 85007 Telephone: (602) 712-7519 FAX: (602) 712-8001 August 21, 2002 Mr. Steven Spangle U.S. Fish and Wildlife Service 2321 W. Royal Palm Road Suite No. 2321 Phoenix, AZ 85021 Re: Habitat Conservation Plan for Roosevelt Lake. Dear Mr. Spangle: As chairman of the Citizens Transportation Oversight Committee (CTOC) and former Chairman of the ADOT Board, I am very familiar with the environmental conditions that must be considered in siting major transportation and infrastructure improvements. Such issues are often difficult to resolve and can mean time-consuming studies and costly delays in building needed roadway improvements to serve our state. Few issues, however, carry the pressing level of concern and economic impact of the Endangered Species Act (ESA) restrictions recently applied to Roosevelt Dam and Lake. Roosevelt Dam's critical importance in storing water for the Valley's ten largest municipalities makes it imperative that the dam be in full use by late this fall. The draft Roosevelt Habitat Conservation Plan and Environmental Impact State offer a means to do so, and should be approved without delay. A review of circumstances and issues surrounding Roosevelt storage leads to the following points: • Roosevelt Dam is the cornerstone of the Valley's water supply, providing some 600,000 acre-feet of water annually that cannot be easily or affordably replaced; • Use of Roosevelt Lake's old and new conservation spaces will be needed before winter to store water, offset drought and keep water prices affordable to Valley water users. • The RHCP appears to meet or exceed ESA requirements by providing habitat mitigation, not only for the Southwest willow flycatcher, but also for threatened bird species, including southwestern bald eagle populations; • In demonstration of good faith, the SRP Board has authorized extraordinary expenditures to complete habitat acquisitions in the shortest time possible; • SRP's mitigation costs and those of a 1996 mitigation plan involving the U.S. Bureau of Reclamation and six Valley cities will provide about $56 million for species recovery in the Roosevelt Lake area. An incidental take permit to restore water storage at Roosevelt Lake should be issued in the swiftest time-frame possible without additional burdens to SRP's water shareholders. Sincerely, Roc Arnett RECEIVED AUG 24 2002

Letter 31	Letter 31 continued

CITY OF MESA
Great People, Quality Service!

Resources Division

September 12, 2002

Mr. Brian Hanson
Acting Field Supervisor
U.S. Fish and Wildlife Service
2321 West Royal Palm Road, Suite 103
Phoenix, Arizona 85021

Re: Draft Roosevelt Habitat Conservation Plan and the Draft Environmental Impact Statement.

Dear Mr. Hanson:

This letter presents the City of Mesa's (City) comments for both the Draft Roosevelt Habitat Conservation Plan (DRHCP) and the Draft Environmental Impact Statement (DEIS). The City also joins in the comments submitted by the Arizona Municipal Water Users Association, of which it is a member.

The City is vitally interested in the outcome of Salt River Project's application for an Incidental Take Permit that covers the continued operation of Roosevelt Dam and Reservoir. The City serves water to approximately 435,000 people, of which approximately 60 percent are served by water obtained exclusively from the Salt River Project (SRP) system. The City also lies within the service area of the Roosevelt Water Conservation District, which obtains 40 percent of their water supply from the SRP system. In 1996, the City participated in the modification of Roosevelt Dam and acquired a water right in the new conservation storage space (NCS). Additionally, the City participated as a co-applicant in a Section 7 consultation for the modification to Roosevelt Dam and has supplied funds to implement the reasonable and prudent alternatives that resulted from that consultation.

The City supports the approval of Alternative 2, the Proposed Action, as described in the DRHCP and urges the U.S. Fish and Wildlife Service (FWS) to issue an Incidental Take Permit to SRP for the continued full operation of Roosevelt Dam and Reservoir. Not allowing SRP to operate Roosevelt Dam as it has for over 90 years would have a detrimental effect on the listed species and the City's water supply as described in the DEIS.

Mesa supports the need for a 50-year permit. The City is required by the State of Arizona's 1980 Groundwater Management Act to demonstrate a 100-year supply of renewable water resources. Issuing a permit for 50 years allows for the continued availability of the City's SRP supplies and allows the City to plan accordingly.

RECEIVED
SEP 24 2002
U.S. FISH & WILDLIFE SERVICE
ES FIELD OFFICE-PHOENIX, AZ

640 North Mesa Drive
P.O. Box 1466
Mesa Arizona 85211-1466
480.644.3306 Tel
480.644.2426 Fax

After several years of below normal runoff on the Salt and Verde rivers, the Roosevelt Reservoir is only 11 percent full with approximately 1.5 million acre-feet of available storage space. It is critical that as much runoff as possible is captured whenever it is available. To that extent, the City urges the FWS to adopt the preferred alternative, finalize the EIS, approve the RHCP, and issue the Incidental Take Permit by the end of 2002. Thank you for the opportunity to comment.

Sincerely,

Colette A. Moore
Water Resources Specialist

Letter 32

DAVID EVANS AND ASSOCIATES INC.

September 16, 2002

Steven Spangle
Acting Field Supervisor
U.S. Fish and Wildlife Service
2321 W. Royal Palm Road, Suite 103
Phoenix, AZ 85012

SUBJECT: ROOSEVELT HABITAT CONSERVATION PLAN AND EIS

Dear Mr. Spangle:

I am writing to voice my support for the program proposed by the Salt River Project (SRP) for protection and re-creation of habitat for the endangered species addressed in the report. I encourage you to do the right thing and approve the plan. I believe that the plan presented is a good one and significantly exceeds the minimum that SRP is required to do both legally and morally. Based on this and the fact that we are in a drought and are approaching the winter season when the Salt River Basin reservoirs historically fill, I hope that you can see fit to act expeditiously to do so and not to allow any postponement or delay of the decision.

Sincerely,

DAVID EVANS AND ASSOCIATES, INC.

Roger E. Baele, PE, RLS
Vice-president

RECEIVED
SEP 1 6 2002
U.S. FISH & WILDLIFE SERVICE
ES STATE OFFICE PHOENIX, AZ

Twenty five years

7878 North 16th Street Suite 250 Phoenix Arizona 85020 Telephone: 602.678.5151 Facsimile: 602.678.5155

Letter 33

August 27, 2002

Field Supervisor
U.S. Fish and Wildlife Service
2321 West Royal Palm Road, Suite 103
Phoenix, AZ 85021

Re: Draft Environmental Impact Statement for the Roosevelt Habitat Conservation Plan, Gila and Maricopa Counties, Arizona

As residents concerned about water conditions in the Salt River Valley, we urge the U.S. Fish and Wildlife Service to issue "an incidental take permit under Section (10(a)(1)(B) of the Endangered Species Act (ESA) to the Salt River Project (SRP) for continued operation of Theodore Roosevelt Dam and Lake."

Failure to issue "an incidental take permit" could result in the periodic loss of more than a million acre-feet of surface water for drinking and other purposes in Phoenix and other Salt River Valley communities served by the SRP. Allowing surface water to go to waste when we are fortunate enough to get it is senseless, but this is what some people have supported in the past, and presumably will support in the future. We trust that U.S. Fish and Wildlife Service officials will reject such ignorance and disdain for human survival.

When we are lucky enough to have surface water supplies, it means less water pumped from the ground. Pumping too much water from the ground eventually results in subsidence, earth fissuring, and ensuing problems, such as cracking of building foundations, roads, canals, etc. On balance, the well-being of more than three millions residents of central Arizona should have a priority higher than that of some birds.

We also doubt that the U.S. Congress, in approving the ESA, intended that human survival be ranked lower than the survival of the southwestern willow flycatcher or other birds.

Earl Zarbin

Dorothy Zarbin

3803 E. St. Catherine Ave.
Phoenix, AZ 85042-5013

RECEIVED
AUG 2 7 2002
U.S. FISH & WILDLIFE SERVICE
ES STATE OFFICE PHOENIX, AZ

Letter 34

EAST VALLEY PARTNERSHIP

550 West Baseline Road
Suite 102, Mailbox 102
Mesa, AZ 85210
Tel. 480.854.8335

August 27, 2002

Steven L. Spangle
Acting Field Supervisor
U.S. Fish and Wildlife Service
2321 W. Royal Palm Road, Ste. 103
Phoenix, AZ 85021

Re: Roosevelt Habitat Conservation Plan and EIS

Dear Mr. Spangle:

As an organization representing the interests of major businesses, industries and community groups in eastern Maricopa County, the East Valley Partnership (EVP) is highly concerned about impacts of the Endangered Species Act (ESA) on future operations of Theodore Roosevelt Dam. We are, therefore, writing to urge the U.S. Fish and Wildlife Service to move speedily in approving the Salt River Project's application under Section 10(a)(1)(B) of the ESA for an incidental take permit to operate Roosevelt Dam to full storage and flood control capacities. Any delay or increase in obligations and costs associated with permit approval would pose an unreasonable burden on SRP and could threaten water supplies critical to east Valley residents and businesses.

While we respect the importance of conserving native wildlife, we believe the draft Roosevelt HCP and EIS are more than sufficient to resolve concerns over endangered and threatened bird species found recently near Roosevelt Lake. With more than 1.6 million Valley residents dependent on SRP surface water supplies and Roosevelt accounting for 70 percent of SRP's total reservoir capacity, federal action is necessary to ensure the full use of Roosevelt Lake and other reservoirs in the SRP system. Anything less could leave cities like Tempe, Mesa, Chandler and Gilbert without adequate alternative or affordable water resources and could jeopardize a century of effort to develop sustainable, reliable water supplies for the entire Valley.

Arizona's ongoing drought, the worst in a hundred years, drives the point. Water is quintessential to our desert economy. East Valley communities and, indeed, the whole Phoenix area depend critically on a triad of balanced supplies from SRP's system, the Central Arizona Project and groundwater pumping, limited under terms of the 1980 Groundwater Management Act. Populations of Southwestern bald-eagles, cited in the

RECEIVED
AUG 28 2002
U.S. F&W

Improving the business environment and quality of life in the East Valley

Letter 34 continued

EAST VALLEY PARTNERSHIP

550 West Baseline Road
Suite 102, Mailbox 102
Mesa, AZ 85210
Tel. 480.854.8335

draft HCP, have increased substantially to the point of being considered for ESA delisting in large part because of past good runoff in the Salt and Verde watersheds, a healthy fishery at Roosevelt Lake and SRP's well-publicized cooperation in the state's bald eagle recovery program. While the Southwestern willow flycatcher, yellow-billed cuckoo and Yuma clapper rail deserve reasonable protection, they should not be treated in any way that would limit a reservoir that has operated for more than 90 years as a cornerstone to the Valley's development and existence.

A Section 10 permit that guarantees Roosevelt's full use for water storage, flood control, hydropower generation and recreation uses must be approved in the swiftest timeframe allowed to avoid limitations on SRP's ability to capture coming winter runoff in Roosevelt Lake. Failure to do so could leave the SRP storage system depleted by next summer and, with a continuation of drought, topple the three-legged water system upon which the Phoenix metro-area depends.

Sincerely,

Kerry Dunne
Executive Director

cc: Senator John McCain
Senator Jon Kyl
Congressman Jeff Flake
Congressman J.D. Hayworth
Governor Jane Hull
William P. Schrader, President, SRP

Improving the business environment and quality of life in the East Valley

2

Letter 35	Letter 35 continued

Fort McDowell Yavapai Nation

P.O. Box 17779, Fountain Hills, AZ 85269 Phone (480) 837-5121 Fax (480) 837-1630

President Dr. Clinton M. Pattea Vice President Bernadine Boyd Treasurer Larry Dola
Council Member Gwen Bahe Council Member Benedict Smith, Sr.

August 19, 2002

Steven L. Spangle
Acting Field Supervisor
U.S. Fish and Wildlife Service
2321 West Royal Palm Road, Suite 103
Phoenix, Arizona 85021

RE: Comments on Roosevelt Habitat Conservation Plan

Dear Mr. Spangle,

The people of the Fort McDowell Yavapai Nation (Nation) have resided within the central basin and portions of the northern and eastern region of this state for centuries. There is an inextricable relationship between our cultural and ceremonial heritage with the land and its resources that have been passed from generation to generation. Our creation was made possible by these elements and our existence is dependent upon them, not merely to exist, but to survive extreme hardships over the years and prosper.

The Yavapai people have a traditional kinship with birds that is respectful to the shared ecosystem. The presence of the North American Bald Eagles along the Verde River and their placement on the Endangered Species List averted the construction of Orme Dam; thus saving our land. The dilemma surrounding the development of the Roosevelt Habitat Conservation Plan touches the Yavapai people at a deep and personal level.

Many changes over the years have affected the lifestyle of the Yavapai people and today the Verde River and the riparian ecosystem is dependent on the regulated flows of Bartlett Dam, eight miles upstream from our northern boundary. We rely upon the water stored at Roosevelt Lake including the modern convenience of electrical power generation for our homes and businesses.

The formalization of the Endangered Species Act (ESA) of 1973, as amended, created procedural changes in the relationship between the Nation and the Salt River Project (SRP). The Nation is appreciative of the dialogue established over mutual concerns of water and species management as a result of these changes.

After review of the Roosevelt Habitat Conservation Plan (RHCP), the Nation is in support of the conservation plan and is confident that SRP is committed to riparian habitat protection. Over the years SRP has proven its commitment to species protection

RECEIVED
SEP 13 2002
U.S. FISH & WILDLIFE SERVICE

and working with the Nation to ensure the protection of the bald eagles. During the winter breeding season of the southwestern bald eagles, SRP provides equipment and contributes funding to complete monitoring and protection activities. SRP has assisted the Nation with restoration projects within our river corridor and has expressed a long-term commitment to continue these efforts. I am confident that SRP will work with our Environmental Department to protect and restore the riparian habitat within the Fort McDowell boundary.

In conclusion, the Nation supports the implementation of the RHCP because we have established a cooperative and effective relationship with SRP to protect and enhance our riparian habitats. The Nation reminds all federal agencies associated with the activities and implementation of the RHCP to ensure that management and protections of habitats, buffer zones and the dedication of water rights to benefit protected riparian habitat is effectively completed throughout the State.

Sincerely,

Dr. Clinton M. Pattea
President, Tribal Council President
Fort McDowell Yavapai Nation

Cc: SRP, Special Projects, Phx, AZ
BIA Western Regional Director, Phx AZ
BIA Salt River Field Office Superintendent
USEPA Region 9 Regional Administrator SF, CA
USFS Field Supervisor, Phx AZ
CoE, District Engineer Phx AZ
AZG&F, Director Phx AZ

Letter 36

Ft. McDowell
Tribal Gaming Office

July 26, 2002

Mr. Steven L. Spangle
Acting Field Supervisor
U.S.Fish and Wildlife Service
2321 W. Royal Palm Rd., Ste. 103
Phoenix, Arizona 85021

Dear Mr. Spangle:

Thank you for the opportunity to comment on the Roosevelt Habitat Conservation Plan. I commend it highly and recommend its approval as soon as possible as a compromise, which will allow Roosevelt Lake to be fully used as a water supply reservoir and yet protect endangered species.

Sincerely,

Executive Director

WMF/lg

RECEIVED
JUL 30 2002
U.S. FISH & WILDLIFE SERVICE
ES FIELD OFFICE - PHOENIX, AZ

P.O. Box 17891 Fountain Hills, AZ 85269 • (480) 837-1424 • Fax (480) 837-6526

Letter 37

GREATER PHOENIX URBAN LEAGUE
LEADING THE WAY TO EQUALITY

PRESIDENT & CEO
George Dean

A United Way Agency

1402 South Seventh Avenue
Phoenix, Arizona
85007-3902
602-254-5611
602-253-7359 FAX
www.greaterphoenixurbanleague.org

August 27, 2002

Mr. Steve Spangle
Supervisor
U. S. Fish and Wildlife Service
2321 W. Royal Palm Road
Suite 103
Phoenix, AZ 85021

Dear Mr. Spangle,

While the Greater Phoenix Urban League works diligently to improve educational, business and housing opportunities for African Americans, other minorities and the disadvantaged, we have become concerned over a threat to the lifeblood of the Valley of the Sun's economy – and that is water. The current drought, equal to the worst in the past 100 years, will pose an increasing threat to local economies unless the coming winter produces enough precipitation to refill reservoirs on the Salt and Verde rivers. Especially important is the need for maximum storage in the Valley's largest, Roosevelt Lake, which has been drawn to nearly empty levels as a result of the ongoing drought.

It is of urgent concern, therefore, that the U. S. Fish and Wildlife Service act to clear Endangered species Act (ESA) restrictions that would keep Roosevelt Lake from being filled to more than 40 percent capacity. A comprehensive plan has been put forth by the Salt River Project to resolve ESA issues and return Roosevelt to full use this year. While we cannot assess the plan's biological details, the magnitude of its cost – reported to be between $20 million and $30 million – attests to the far-reaching measures that will be taken on behalf of the endangered birds.

Given drought and water needs, it would be untenable for a federal agency not to approve a plan for allowing a quick return to full water storage at Roosevelt Lake. Already, the U. S. Bureau of Reclamation and six valley cities have committed some $16 million towards mitigation, research and monitoring of endangered birds at Roosevelt. The new SRP plan would more than double this financial commitment with the aim of ensuring preservation elsewhere for increasing numbers of southwest willow flycatchers that have migrated into the lake area. What such funds could do for disadvantaged children and families is a matter of separate discussion and policy debate.

Of immediate import is the need to get Roosevelt Lake back into full operation. The draft Roosevelt Habitat Conservation Plan offers a practical resolution to a serious water challenge. The Greater Phoenix Urban League urges your agency affirmative support for the SRP plan without added costs to Valley water users, including people served by the Greater Phoenix Urban League.

Sincerely,

George Dean
President and CEO
Greater Phoenix Urban League

GD/mb

RECEIVED
AUG 27 2002
U.S. FISH & WILDLIFE SERVICE
ES STATE OFFICE PHOENIX, AZ

Letter 38

International Brotherhood of Electrical Workers

Local Union 266

RAMON H. NUÑEZ
BUSINESS MANAGER / FINANCIAL SECRETARY

1650 NORTH 36TH STREET
PHOENIX, ARIZONA 85008
(602) 275-6222
FAX (602) 244-2402

August 23, 2002

Field Supervisor
Arizona Office
of U.S. Fish & Wildlife Service
2321 W. Royal Palm Road
Suite #103
Phoenix, AZ 85021

Re: Roosevelt Lake Habitat Conservation Plan

Dear Field Supervisor:

When it comes to public welfare, nobody is more committed than the men and women of the International Brotherhood of Electrical Workers (IBEW) Local 266. Since our organization was formed in the late 1930s, we have dedicated ourselves to bringing high-quality, safe water and power service to SRP customers. As part of these goals, we have maintained a strong commitment to environmental compliance as it applies to electric power and the provision of water to Valley residents, businesses, industries, government institutions and farms. For almost 70 years, the workers of IBEW Local 266 have been directly responsible for the safe operation and maintenance of water storage, flood control and hydro-generation facilities at SRP dams, including Theodore Roosevelt Dam. Roosevelt, as the Fish and Wildlife is aware, remains the centerpiece of the SRP water storage system and the largest, most important reservoir to serve the Phoenix-metropolitan area.

Now, because of abnormally dry conditions and a lowering of Roosevelt Lake's shoreline, a small population of Southwest willow flycatchers has moved into and built nesting areas in the exposed reaches of Roosevelt Lake. Their appearance has been artificial and has depended on growth of non-native salt cedar trees, usually considered a damaging plant. Yet the Endangered Species Act would make SRP responsible for protecting the birds at great cost, or risk losing 58 percent of Roosevelt's water storage in the middle of the worst drought in 100 years.

We ask the Fish and Wildlife Service to approve the SRP plan for offsetting impacts to birds and authorizing full use of Roosevelt storage space. Our 2,000 members and their families are among more than one and a half million Valley residents who would

RECEIVED
AUG 27 2002
U.S. FISH & WILDLIFE SERVICE

Letter 38 continued

suffer harm if Roosevelt storage is reduced or heavy additional costs incurred for habitat mitigation. We urge you to heed Endangered Species Act requirements for weighing human economic consequences against environmental demands and concerns.

Sincerely,

Ramon Nuñez
Business Manager
Financial Secretary
IBEW Local Union 266

RHN/ek
opeiu#56
afl-cio

Letter 39

September 9, 2002

Steven L. Spangle
Acting Field Supervisor
US Fish and Wildlife Service
2321 W. Royal Palm Road #103
Phoenix AZ 85021

Dear Mr. Spangle,

I grew up in Idaho. In fact, my father worked at Fish and Game for the State of Idaho when he first finished college. From early years I was taught to respect nature and consider myself to be someone who was raised with a sense of concern for wildlife balanced with a sense of concern for human life.

I disagree with the idea of spending $30 million of anyone's money to build a preserve for the Southwester Willow Flycatcher. I believe the Flycatcher VERY RECENTLY adopted the habitat around Roosevelt Lake and I believe they will adopt a new habitat if Roosevelt is allowed to store water for the valley. And, wasn't it nice that mother nature and the SRP stumbled upon a suitable place for the Flycatchers to multiply and replenish their numbers during the recent drought; a unique silver lining to our current water supply issues.

I am wondering if you are working to find some balance in this? If so, I can't see it. What I can see is that if you do not allow Roosevelt Lake to store water, and continue to pull water from the aquifers, you are jeopardizing our water supply.

Sincerely,

Janeen Rohovit / SRP water user at
609 E. Colgate Drive
and 2066 E. Pebble Beach Dr
both in Tempe AZ

RECEIVED
SEP 11 2002
U.S. FISH & WILDLIFE SERVICE
ES FIELD OFFICE PHOENIX

Letter 40

August 14, 2002

Steven L. Spangle
Acting Field Supervisor
U.S. Fish and Wildlife Service
2321 W. Royal Palm Road, Ste. 103
Phoenix, AZ 85021

Dear Mr. Spangle,

I am writing in support of the Roosevelt Lake Habitat Conservation Plan proposed by SRP and the Environmental Impact Statement proposed by the U.S. Fish and Wildlife Service. These documents address the endangered and threatened species issues at Roosevelt Lake.

This is a very complex issue with no perfect solution. It is my belief that the proposed alternative, permitting the continued operation of Roosevelt Dam and Lake up to the maximum elevation of 2,151 feet, along with the proposed measures to minimize and mitigate the effects on the listed species, appears to be a workable solution. Loss of water, and the implications resulting from this loss, may cause a drastic impact on the socio-economic status of the communities involved. Additionally, I am concerned that a negative backlash from water restrictions could lead to a loss of support for other programs designed to benefit wildlife and/or the recovery of threatened and endangered species.

I support the long-term efforts to protect any endangered and threatened species through the preservation of adequate habitat. The Roosevelt HCP seems to accomplish this objective by the establishment of new habitat that will be protected in perpetuity.

With this in mind, I would encourage all parties concerned to make every effort to utilize to the fullest extent the HCP measures designed to minimize and mitigate the taking of federally listed species.

Sincerely,

Megan Mosby
Executive Director
Liberty Wildlife

RECEIVED
AUG 16 2002
U.S. FISH & WILDLIFE SERVICE
ES STATE OFFICE PHOENIX AZ

Letter 41

United States Department of the Interior
U.S. Fish and Wildlife Service
Arizona Ecological Services Field Office
2321 West Royal Palm Road, Suite 103
Phoenix, Arizona 85021-4951
Telephone: (602) 242-0210 Fax: (602) 242-2513

In Reply Refer to:
AESO/SE

July 17, 2002

Dear Interested Party:

Subject: Application for Incidental Take Permit for Salt River Project's Operation of Roosevelt Lake

Attached for your review and comment are the draft Roosevelt Habitat Conservation Plan, and the draft Environmental Impact Statement (EIS) on that Plan. These documents concern the permit application from the Salt River Project for the continued operation of Roosevelt Dam, pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). The requested permit would authorize the incidental take of the following federally endangered, threatened and candidate species: the endangered southwestern willow flycatcher (*Empidonax traillii extimus*) (flycatcher) and Yuma clapper rail (*Rallus longirostris yumanensis*), the threatened bald eagle (*Haliaeetus leucocephalus*), and the yellow-billed cuckoo (*Coccyzus americanus*) (cuckoo), a candidate for listing.

The proposed incidental take would occur as a result of management actions allowing Roosevelt Lake to be filled, causing inundation of habitat occupied by federally listed and candidate species. The Fish and Wildlife Service has issued a draft EIS to evaluate the impacts of, and alternatives for, the possible issuance of an incidental take permit. Salt River Project has completed the draft Roosevelt Habitat Conservation Plan, which contains a draft Implementing Agreement, as part of the application package and as required by the Act for issuance of an incidental take permit. The draft Roosevelt Habitat Conservation Plan provides the measures developed to minimize and mitigate the effects of the proposed taking of listed and candidate species and the habitats upon which they depend.

Written comments on the draft EIS and draft Roosevelt Habitat Conservation Plan should be received by September 17, 2002, and should be sent to Field Supervisor, U.S. Fish and Wildlife Service, 2321 West Royal Palm Road, Suite 103, Phoenix, AZ 85021. Oral and written comments also will be accepted at a public hearing to be held on August 27, 2002, 6-8 p.m., at the offices of the Salt River Project, 1521 Project Drive (Galvin Parkway and Van Buren Street), Tempe, Arizona.

Arizona has been in a prolonged drought. Due to low runoff, Roosevelt Lake, the largest reservoir on the watershed serving Phoenix, is currently drawn down to less than 20 percent of capacity. After many years of drought, habitat supporting listed and candidate species has developed along the Tonto Creek and Salt River deltas of these now dewatered arms within the flood pool of the reservoir. It is imperative that Salt River Project know whether it can fill the reservoir this coming winter without risk that an unpermitted incidental take might occur. For this reason, we do not intend to extend this comment period beyond 60 days unless warranted by extraordinary circumstances. If additional information is needed from us or Salt River Project in order to evaluate the draft EIS or draft Roosevelt Habitat Conservation Plan, that information should be requested within 30 days of the date of this notice.

Letter 41 continued

2

For further information on the draft EIS, contact Ms. Sherry Barrett, Assistant Field Supervisor, Tucson Suboffice, 110 South Church, Suite 3450, Tucson, AZ, 85701 at (520) 670-4617 or Mr. Jim Rorabaugh, Supervisory Biologist, 2321 West Royal Palm Road, Suite 103, Phoenix, AZ, 85021 at (602) 242-0210.

For further information on the draft Roosevelt Habitat Conservation Plan, contact Mr. John Keane, Executive Environmental Policy Analyst, Salt River Project, P.O. Box 52025, PAB355, Phoenix, AZ 85072-2025 at (602) 236-5087 or Mr. Craig Sommers, President, ERO Resources Corporation, 1842 Clarkson Street, Denver, CO 80218 at (303) 830-1188.

RECEIVED JUL 22 2002

Sincerely,

Steven L. Spangle
Acting Field Supervisor

Enclosures

U.S. Fish & Wildlife Service 7/20/02

Dear Steven, thank you for sending a copy of the "Roosevelt Lake Habitat and conservation Plan". You have all done a truely impressive job on this project.

However, I am amazed that this was even necessary. We created the lake for water storage, electricity & irrigation water. It was meant to go up and down with water-weather conditions. When water comes back up as it always has the birds will go elsewhere till it goes down again. It's not like someone is out there poisoning or spraying toxic chemicals. If that area does not get flooded any more it will dry out and turn back to desert and those birds will still loose their habitat.

Lets get out of their way and let SRP do there job for what the lake was intended in the first place.

Respectfully Peter Bunack

Letter 42

ROOSEVELT WATER CONSERVATION DISTRICT

BOARD OF DIRECTORS

Division One
C.M. Berge
D. J. Beeb
P.L. Sele

Division Two
M. W. Dobson
D. B. Lemoineaux
R. N. Morrison

Division Three
W. R. Hunger
D. L. Riggs
J. Scremin

POST OFFICE BOX 100
HIGLEY, ARIZONA 85236

M. W. DOBSON
President

MICHAEL O. LEONARD
Secretary-General Mgr.

Telephone
(480) 988-9586

Fax
(480) 988-9589

September 5, 2002

Mr. Steven L. Spangle
Acting Field Supervisor
U.S Fish and Wildlife Service
2321 W. Royal Palm Road, Ste. 103
Phoenix, Arizona 85021

RECEIVED
SEP - 9 2002
U.S. FISH & WILDLIFE SERVICE
ESFO

Re: Roosevelt Lake Habitat Conservation Plan

Dear Mr. Spangle:

I am writing you this letter to state Roosevelt Water Conservation District's (RWCD or the "District") support of Salt River Project's Roosevelt Lake Habitat Conservation Plan (RHCP). I am sure SRP and others have provided you with a substantial amount of facts and figures relating to the RHCP and why it should be adopted. I would like to offer RWCD's support for the RHCP and the incidental take permit by describing how a refusal of both would impact RWCD.

A refusal by U.S. Fish and Wildlife Service to approve the RHCP in its current, or a substantially similar form, present numerous and costly ripple effects to RWCD. The most hazardous of those effects relate directly to the economic viability of RWCD, its customers and partners, the potential for substantially negating the intent of the 1980 Arizona Groundwater Management Act, and potentially opening the way for lengthy and costly litigation.

A brief description of RWCD is in order. RWCD was incorporated in 1924 to serve approximately 41,500 acres of land situated east of the Salt River Project (see attached map). RWCD operates its delivery system and provides water in a very similar fashion as Salt River Project. Based on our appropriations of surface water per a 1924 agreement between RWCD and SRP, we provide Salt and Verde River water for irrigation to approximately 3,500 urban, municipal, industrial, and agricultural customers. Additionally, we provide surface water for potable needs to the east valley cities of Mesa, Chandler, and Gilbert (the fastest growing community in the Nation). Finally, the District, like many other entities, has entered into water rights settlements and compacts with the Fort McDowell Indian Community, the Salt River-Pima Maricopa Indian Community, and the Gila River Indian Community; all of which are based on

Letter 42 continued

delivery of an annual apportionment of RWCD's surface water right to those respective Indian communities. Each of these delivery agreements, implied or perfected, is based solely on an average of the long-term supply provided by the Salt and Verde River systems as stored in Roosevelt Lake. The average long-term supply is based on a normal year for rainfall and a full or near full capacity at Roosevelt Lake, inclusive of the capacity created under New Conservation space as constructed by the Bureau of Reclamation.

The economic impact(s) of refusing to approve the RHCP in its current, or substantially similar form are immediate, extreme, and prolonged for RWCD. In a normal year, RWCD would expect to receive approximately 25,000 to 35,000 acre-feet of Salt and Verde River water annually from SRP per the entitlement provided by the 1924 agreement. Due to the ongoing drought, we are realizing a severely depleted surface water supply. As such, the District has been forced to revert to more expensive groundwater pumping (conservatively estimated at 250% the cost to produce surface water) in order to meet our current customer needs and maintain our surface water obligations for the previously mentioned settlements and agreements. An artificial reduction in the amount of stored water available from Roosevelt Lake, coupled with the recent drought, would seriously jeopardize the District's future by forcing us to produce more costly groundwater, and by potentially exposing RWCD (and the State) to lengthy and costly litigation as a result of RWCD's failure to meet the contractual obligations of our Indian water compacts and our agreements with the Mesa, Chandler, and Gilbert.

The water management effects of not approving the RHCP, or a similarly structured plan, are severe as well. The current drought has caused RWCD to increase its immediate groundwater pumping to meet the needs of its customers. Coupling the drought with a refusal to allow SRP full operating capacity at Roosevelt Lake would cause RWCD to produce groundwater in ever increasing amounts. Failure to approve the plan expeditiously would result in an inability to capture this year's winter runoff at Roosevelt Lake, causing RWCD to rely primarily on increased groundwater pumping to meet future demands. Once again, we would be forced to become dependent on groundwater supplies to meet our needs, supplanting the intent of the 1980 Arizona Groundwater Management Act, the current conservation requirements of the Arizona Department of Water Resources' Third Management Plan, and the future Fourth and Fifth Management Plans.

RWCD finds Salt River Project's Roosevelt Lake Habitat Conservation Plan to be adequate and encompasses a good balance between the needs of the State, its citizens, and species of birds listed in the RHCP. Salt River Project has agreed to spend up to $30 Million to help mitigate the impacts of the taking request for not only the select group of endangered transitory birds already

Letter 42 continued

identified, but also for a species not currently placed on the endangered list. This outlay and the RHCP as a whole is a result of SRP working in earnest with environmental entities and stakeholder parties, not against them.

In closing, Roosevelt Water Conservation District urges you to approve Salt River Project's Roosevelt Lake Habitat Conservation Plan and the incidental take permit in order to provide finality, certainty, and security for the State's water providers and its citizens on this most important of issues.

Thank you for your time and please do not hesitate to contact me at (480) 988-9586 if you have any questions or comments.

Sincerely,

Shane M. Leonard
Assistant General Manager
Land & Water Resources

Letter 43

SOUTHWEST GAS CORPORATION

August 15, 2002

Mr. Steven L. Spangle
Acting Field Supervisor
U.S. Fish and Wildlife Service
2321 W. Royal Palm Road, Suite 103
Phoenix, AZ 85021

Dear Mr. Spangle:

Thank you for the opportunity to comment on the draft Roosevelt Habitat Conservation Plan (HCP) and Environmental Impact Statement (EIS) on behalf of Southwest Gas Corporation.

Southwest Gas distributes natural gas to more than 1.4 million residential, commercial, and industrial customers in Arizona, Nevada, and California. Our largest service territory is Maricopa County, which is most dependent upon the surface water supplies managed by Salt River Project. Our nearly half a million customers in this area alone depend upon a reliable and safe energy and natural resource supply. This proposed plan by Salt River Project to deal with the recent nesting of certain endangered species in the bottom of Roosevelt Lake more than adequately balance the necessary and important needs to preserve habitat with the greater mission we all share to properly mete out our responsibilities to Arizona's families.

At Southwest Gas, we support the spirit and intent of our natural resource and environmental laws. We have reviewed this important submission by the Salt River Project and prudent response.

We encourage you, on behalf of our 2,500 employees, 23,200 shareholders, and more than 1.4 million customers to act favorably on the Roosevelt HCP and EIS proposed by Salt River Project to ensure that the critical balance for preserving habitat and endangered species works hand in hand for the benefit of the broader Arizona community as well.

Thank you for your time and consideration.

Sincerely,

Richard L. Foreman
Manager, Public Affairs
Southwest Gas Corporation

RECEIVED
AUG 16 2002
U.S. FISH & WILDLIFE SERVICE
ES STATE OFFICE PHOENIX, AZ

Administrative Offices: 10851 North Black Canyon Highway / Phoenix, Arizona 85029 / (602) 861-1999
P.O. Box 52075 / Phoenix, Arizona 85072-2075

Letter 44	Letter 44 continued

tempe
CHAMBER
OF COMMERCE

Tuesday, August 27, 2002

Mr. Steven Spangle
Field Supervisor
U.S. Fish and Wildlife Service
2321 W. Royal Palm Rd., Ste. 103
Phoenix, AZ 85021

Dear Mr. Spangle:

The East Valley Chambers of Commerce Alliance appreciates the opportunity to comment on the draft Roosevelt Habitat Conservation Plan (RHCP) – a document that we believe balances needs for water storage at Theodore Roosevelt Dam against the requirements of the Endangered Species Act. We support goals of the RHPC goals and attendant Environmental Impact Statement (EIS) and urge the issuance of a permit allowing the Salt River Project to use Roosevelt Dam to its fullest capacity.

As a coalition representing the business interests of Chambers of Commerce in Mesa, Chandler, Tempe, Gilbert and Apache Junction, the East Valley Chambers of Commerce Alliance takes a deep interest in public policy matters related to regional water supplies. Our concern is heightened by the fact that SRP's reservoir system provides a major part of the water available to East Valley residents and businesses, with Tempe about 90 percent dependent on SRP supplies. As you EIS recognizes, the Cities of Mesa, Chandler and Tempe are among six Valley cities that shared the costs of building a new conservation storage space at Roosevelt Dam in the mid-1990s. Costs of that project exceeded $200 million. And while drought has kept Roosevelt's new space from being used, the added capacity is crucial to meeting future water needs of our region and other Valley cities. The increased height of the dam also is needed for flood control to prevent the kinds of devastating floods that have wreaked hundreds of millions of dollars of damage in the recent past.

A major hurdle to use of Roosevelt's new conservation space was lifted in 1996 when the Fish and Wildlife Service approved a mitigation plan for endangered Southwestern Willow Catchers that had suddenly begun nesting in the new storage space. We now face a situation where the dam's increased capacity will become useless unless your agency approves additional mitigation for flycatchers that have moved into the dam's original conservation space. The irony of the situation is outstripped by significant economic harm that will result if Roosevelt operations should be reduced.

909 E. Apache Blvd.
PO Box 28500
Tempe, AZ 85285-8500
(480) 967-7891
(480) 966-5365 fax
www.tempechamber.org

While we cannot assess the details of the proposed mitigation, the RHCP sets forth a comprehensive plan for minimizing impacts on will flycatchers and other bird species. In this regard, SRP has had an outstanding record of environmental compliance on water and power issues, and can be expected to fulfill ESA requirements. Cost of lands to offset bird habitat at Roosevelt is estimated to run as high as $28 million compared to EIS estimates of $72 million a year in losses to Valley cities for purchase of alternative water supplies if no permit is granted.

The economics, water needs and flood safety concerns argue for approval of the RHCP and use of Roosevelt reservoir in time to capture badly needed snowmelt this winter.

Sincerely,

Victor Linoff
Chairman
East Valley Chambers of Commerce Alliance

Letter 45

WESTMARC

August 8, 2002

Mr. Steven Spangle
Acting Field Supervisor
U.S. Fish and Wildlife Service
2321 West Royal Palm Road
Suite 103
Phoenix, AZ 85021

Dear Mr. Spangle,

As a coalition representing 13 communities and 35 percent of the population in western Maricopa County, we strongly encourage the U.S. Fish and Wildlife Service to approve Salt River Project's application for an Endangered Species Act permit to operate Roosevelt Dam to its fullest capacity by this winter.

As the U.S. Fish and Wildlife Service is aware, Roosevelt Lake with a capacity of 1.6 million acre-feet is the largest water reservoir serving Maricopa County. While Lake Pleasant is crucial to storing Central Arizona Project water, Roosevelt Lake provides on average about 600,000 acre-feet of water a year to valley cities – about 40 percent of total CAP deliveries for the entire state. West valley communities lying within the Salt River Project's water service territory are largely dependent on SRP's surface water supplies and limited amounts of groundwater that can be pumped under terms of the state's 1980 Groundwater Management Act. While west valley areas can rely to varying degrees on unused CAP allocations to supplement local water needs, these supplies are expensive and short-term. Allocated CAP water, otherwise, can be used only outside SRP's service territory. Our region, in short, cannot afford to have SRP's water resources restricted further than they already are by ongoing drought.

We note that U.S. Fish and Wildlife agreed in 1996 to issue an incidental take permit to mitigate impacts on the southwest willow flycatcher and allow full use of Roosevelt's new conservation storage. It only makes sense to issue the permit needed to return Roosevelt Lake's original conservation space to full use and allow SRP to secure habitat as needed to reduce impacts on the threatened and endangered species that have settled in parts of Roosevelt's dried lakebed.

The fact that the SRP Board of Directors has authorized up to $30 million for a habitat for the flycatchers is testimony to the seriousness of this issue. We commend SRP for making this commitment to this most essential resource to our region, our residents, businesses and economy.

Cordially,

Diane B. McCarthy
President

RECEIVED
AUG 13 2002
2002703
U.S. FISH & WILDLIFE SERVICE
ES FIELD OFFICE PHOENIX, AZ

9017 North 57th Drive • Glendale, Arizona 85302
p • (623) 435-0431 f • (623) 435-0485 e • email: wmc@westmarc.org
www.westmarc.org

RESPONSES TO COMMENTS PROVIDED AT THE PUBLIC HEARING

A public hearing on the draft Roosevelt Habitat Conservation Plan and draft Environmental Impact Statement was held at the Salt River Project in Phoenix, Arizona on August 27, 2002. Approximately 48 people attended the hearing. The public hearing included presentations by the U.S. Fish and Wildlife Service and the Salt River Project. A question and answer session also was held to provide additional information to the public. Following questions and answers, the public was allowed an opportunity to make oral presentations for the record. A total of 24 people gave formal testimony. A copy of the hearing testimony is available for public inspection at the U.S. Fish and Wildlife Service Office, 2321 W. Royal Palm Road, Suite 103, Phoenix Arizona.

Summary of Comments Provided at the Public Hearing

Public hearing testimony included a variety of comments similar in nature to the written comments received. About 20 of the oral comments spoke in support of the proposed RHCP, citing the importance of maintaining the water supply to the Phoenix area, the economic importance to the business community, the negative consequences associated with further reliance on ground water, and the potential environmental impacts from development of other new water supplies. Several speakers also questioned the need and expense associated with mitigation. Several people indicated support for the adequacy of the RHCP and the balance it provides in securing long-term water supplies and habitat protection in perpetuity for species of concern.

Representatives from the Salt River Pima-Maricopa Indian Community expressed concern over alternatives to the proposed action that might jeopardize the water rights of the Community. These speakers also expressed support for the RHCP and Full Operation alternative in the EIS.

Several speakers suggested that other mitigation sites closer to Roosevelt, such as Pinto Creek should be included in the RHCP. One suggestion was made that the removal of livestock from Forest Service lands or the purchase of grazing allotments should be considered as a mitigation measure.

A comment was made that mitigation of at least 3,000 acres is needed for the inundation of habitat at Roosevelt. One comment indicated that mitigation measures are unfair and unspecific. Another issue mentioned was that the immediate and full operation of the reservoir is not fully justified because other water supplies are currently available. Related to this issue was a comment on the need to consider additional alternatives.

Responses to Comments Provided at the Public Hearing

With respect to comments in support of the RHCP and EIS, the Service appreciates the time and effort of these individuals and organizations to prepare and present comments in support of the RHCP and EIS.

The Service provides a response to the concerns of the Salt River Pima-Maricopa Indian Community next to Comment Letter 7 in the first section of this volume.

As a result of the suggestions that Pinto Creek be considered for mitigation, representatives of the Service, SRP, Reclamation, and the Sierra Club conducted a field tour of the Pinto Creek watershed. As a result of the tour, changes were made in the RHCP and FEIS to include lower Pinto Creek as a possible mitigation site (see the response to Comment 4-37).

With respect to the suggestion that grazing should be eliminated on certain Forest Service lands, as discussed in the RHCP, there may be unique circumstances where protection or improvements to riparian habitat on Federal land is appropriate, e.g., where Section 7 consultation is inadequate to achieve those benefits (RHCP, Subchapter V.N.5). The Service and SRP may agree to implement those types of measures as part of the additional conservation measures in the RHCP.

The Service's responses to the testimony regarding the need for additional mitigation for the impacts at Roosevelt are provided next to Comments 3-9 and 3-11. Fairness and specificity of mitigation is addressed with respect to Comment 3-4. In responses to Comments 3-2, 3-15, 3-20, and 4-1, the Service addresses comments concerning the need for additional water supply and reservoir operation alternatives.