

**Frequently Asked Questions about the
Pima County Multiple Species Conservation Plan (MSCP): Public Draft**

Q1: What is the Multiple Species Conservation Plan and do we really need it?

A1: Despite the current economic downturn, Pima County will continue to attract new residents and this growth in the human population will result in the “incidental take” (a legal term for accidentally harming or killing) of species that are currently—or has the potential to be—listed under the Endangered Species Act. Future listings are almost certain due to the fact that Pima County is in one of the most ecological diverse regions of the United States and some species in the County occur nowhere else in the U.S. The combination of population growth and high biodiversity means that the loss of federally listed plants and animals and their habitats will create a conflict between some kinds of development and species’ well being.

A Multiple Species Conservation Plan (MSCP; a form of Habitat Conservation Plan for many species) and its associated Incidental Take permit (herein permit) provides a means to allow for the incidental take of species from otherwise lawful activities in exchange for assurances to the U.S. Fish & Wildlife Service (USFWS) that avoidance and minimization measures be put in place and that mitigation lands are conserved elsewhere in the County. Pima County, with the encouragement of the community, has voluntarily developed the MSCP to provide incidental take protection to the County and a subset of private development for some activities. The advantage of this plan (from a development perspective) is that the County’s permit will provide protection to projects, or parts of a project, that don’t have protection against taking a listed species through another Federal permit (such as an Army Corps of Engineers 404 permit). It would also provide an individual property owner an alternative way of complying with the Endangered Species Act that might save them time and money. Many in the environmental conservation community also see an advantage to the permit, because even though species’ habitat is being destroyed in some parts of the County, there are valuable conservation measures elsewhere.

Q2: How is the MSCP different from the Sonoran Desert Conservation Plan?

A2: The Sonoran Desert Conservation Plan (SDCP) is Pima County’s plan for balancing the conservation and protection of our cultural and natural resource heritage with our efforts to maintain an economically vigorous and fiscally responsible community. The SDCP takes a broad perspective and focuses on aspects of life in Pima County that make us who we are: our unique relationship with deep cultural roots, past and present; the importance of our natural surroundings for their biological values; and our sense of place. The MSCP is a part of the SDCP and is limited in scope to compliance with the Endangered Species Act: disclosing impacts to animal and plant species, describing how those impacts will be mitigated through the acquisition of natural open space lands, and committing to certain monitoring and management actions to ensure that the mitigation lands are, over time, providing healthy habitat for the wildlife and plant species. Another important difference is that the SDCP is an ongoing County endeavor which has no termination date, whereas the MSCP requires the USFWS to issue an

Incidental Take permit that will last no more than 30 years, unless the County and the USFWS decide to renew the permit.

Q3: What species are covered by the permit?

A3: The MSCP has 44 species: 4 plants, 7 mammals, 8 birds, 5 fish, 2 amphibians, 6 reptiles, and 12 invertebrates. Of these, 7 species are listed as threatened or endangered (Pima pineapple cactus, Huachuca water umbel, lesser long-nosed bat, southwestern willow flycatcher, Gila chub, Gila topminnow, and Chiricahua leopard frog). The remaining species have been determined to have the potential to be listed under the Endangered Species Act during the course of the permit. The advantage of including currently unlisted species in the permit now is that if they are listed during the course of the permit, Pima County will not be required to enact additional conservation measures as a result of the listing. Finally, it is hoped that the significant conservation measures that have been—and will continue to be—implemented will lessen the need for future listings; a win for the species, a win for Pima County.

Q4: Habitat Conservation Plans must specify what activities are covered by the Section 10 permit. Does the Pima County MSCP automatically provide permit protection for all private development activities?

A4: No. Certain private development-related impacts will be covered when the property owner elects to participate in the County's permit. At the property owner's discretion, impacts on the entirety of any individually-owned, single lot will be covered, with no fee, under the County's permit whenever the property owner applies for and receives a grading permit for 14,000 square feet or more. Coverage under the County's permit will be provided unless the property owner declines coverage; this is referred to as the 'opt-out' provision. Permit coverage will also be available to developers whose projects are subject to a subdivision plat or development plan previously approved by the County. In these cases, the developer must initiate the request, or 'opt-in', for their development to be included under the County's permit. The ability to opt-in will be determined by eligibility criteria that include having an approved subdivision plat or development plan where the entire area is retained under a single ownership, and where none of the development contemplated by the plat or development plan has occurred. Costs to opt-in are based on a fee-for-service principle and will require payment of an application fee and may include a compliance monitoring fee where natural open space set-asides are dedicated as Section 10 mitigation lands. Regardless of the type of private development, however, it is completely left up to each potential participant to determine whether they will participate in the County's Section 10 permit.

Q5: Are the opt-in and opt-out elements of the plan voluntary?

A5: Yes. Both the opt-in and opt-out provisions are entirely voluntary and it will be up to the individual land owner to decide if permit coverage is appropriate for their property and situation.

Q6: Is there a maximum number of acres that will be covered under the permit?

A6: Yes. Pima County is proposing a cap of 36,000 acres, of which 5,000 acres is being reserved for County activities, most importantly Capital Improvement Projects. The remaining 31,000 acres will be available, on a first-come, first-served basis, to

privately-developed properties that elect permit coverage through the opt-in or opt-out provisions.

Q7: Why are the Maeveen Marie Behan Conservation Lands System (CLS) mitigation ratios different in the MSCP from the ones used for rezonings and comprehensive plan amendments?

A7: In keeping with its implementation of the Sonoran Desert Conservation Plan, the Board of Supervisors will continue to use the CLS mitigation ratios described in the Comprehensive Plan Regional Environmental Policies when applying the CLS to private development that requires a discretionary land use approval from the Board, especially rezonings and comprehensive plan amendments (Table 1). However, even though the MSCP utilizes the same category names as the CLS, the MSCP mitigation ratios associated with each category are different and are only applicable to Pima County—not private developers or individual property owners. The MSCP mitigation ratios will obligate Pima County to provide more open space under the permit at a higher ratio than that applied through the Board’s implementation of the CLS and Sonoran Desert Conservation Plan. The County wants to lead by example and have a mitigation program that will ensure the continued survival and health of those species for which the County is accountable.

Table 1. Mitigation ratios for the SDCP-CLS and the MSCP.

MMB-CLS Category	SDCP - CLS ratio	MSCP ratio
Important Riparian Area	4:1	5:1
Biological Core Management Area	4:1	5:1
Special Species Management Area	4:1	5:1
Multiple Use Management Area	2:1	3:1
Agricultural Lands W/in the MMB-CLS	None	2:1
Lands Outside the MMB-CLS	None	2:1

Q8: How will the County provide mitigation?

A8: Since 1999, Pima County has been identifying mitigation lands for the MSCP that were acquired through various means, most importantly the Open Space Bond Program. This advance acquisition of lands for the MSCP is sufficient to mitigate a number of years of impacts under the permit. In addition, natural open space set-asides that are dedicated as Section 10 mitigation lands via the private development community’s use of the opt-in program will be counted as mitigation lands (see Q10-12 below). Other ways we propose to offset species impacts include improving the conditions on State Trust lands we currently lease for the County’s ranch conservation program and repairing landscape connections for wildlife movement.

Q9: How is mitigation calculated?

A9: Each year Pima County will report the number of acres of ground-disturbing activities (impacts) to the USFWS. Mitigation will be calculated—and subsequently debited—from the pool of mitigation lands based on where impacts occur, via the CLS categories, and applying the corresponding MSCP mitigation ratio (Table 1). For

example, if a project is within the Multiple Use Management Area and impacts 100 acres, the amount of mitigation land the County would have to provide, using the MSCP mitigation ratio for Multiple Use Management Area (3:1), is 300 acres of land (i.e., 3x100).

Q10: Will the MSCP mitigation ratios be applied to private development if the development receives protection under the permit?

A10: No. Only the CLS Mitigation Ratios, as defined by the Comprehensive Plan Regional Environmental Policies, will be applied to private development regardless of whether the development receives protection under the permit. CLS Mitigation Ratios will continue to be applied to discretionary actions of the Board of Supervisors (e.g., rezonings, comprehensive plan amendments) according to the policy set forth in the Comprehensive Plan Regional Environmental Element.

Q11: If natural open space set-aside areas on private property are counted as MSCP Mitigation, is the property owner obligated to comply with special requirements or make special concessions?

A11: Yes, but only if the property owner of a subdivision or non-residential development elects, through the opt-in program, to participate in the County's permit. The natural open space set-aside must remain undeveloped and protected in perpetuity by a legally-enforceable instrument approved by the Board of Supervisors. (Only natural open space set-asides that are established in order to comply with the Board of Supervisors' application of the CLS Mitigation Ratios as defined by the Comprehensive Plan Regional Environmental Policies will be eligible to be counted as MSCP Mitigation.) The County will periodically rely on remote sensing technologies and not on-the-ground inspections to monitor the undeveloped status of the natural open space.

Q12: Will there be different regulatory requirements placed on developments that receive protection under the permit?

A12: No. Regulatory requirements pertaining to private development receiving protection under the permit will not vary from those established in Pima County Code. It is not the County's intent to create a two-tiered development process where there are different regulations for developments receiving protection under the permit and those that do not receive protection under the permit. In keeping with the current practice, any changes to the Pima County Code will be made through the public hearing processes that the Board of Supervisors utilizes.

Q13: A management and monitoring program is a key aspect of the Section 10 permit. Will County staff be managing and monitoring on private land?

A13: Not directly. On-the-ground management and monitoring is not being proposed for private land; instead the focus of on-the-ground monitoring will be on lands owned and leased by the County. Monitoring the undeveloped status of natural open space where it is dedicated as MSCP Mitigation land, however, is the responsibility of Pima County. The County will periodically rely on remote sensing technologies to monitor the undeveloped status of the natural open space. Any on-the-ground activities will take place where rights granted to the County by the property owner allow the County

sanctioned access to natural open space on private property where the natural open space is dedicated as mitigation land.

Q14: Cattle graze on many of the County lands that will be used for mitigation. Why is Pima County *not* proposing to cover grazing as a source of incidental or direct take of species?

A14: Pima County is proposing to provide incidental take protection to maintenance and construction of County ranch infrastructure, but not the physical act of cattle consuming plants or walking across the land. Pima County maintains that providing permit protection to grazing is not in the best interest of the County, because (1) it was not recommended by the Steering Committee; (2) other more quantifiable ranch management activities are being covered; (3) monitoring impacts are extremely difficult; (4) this is minimal likelihood of needing coverage for this category; and (5) coverage could be made available later through a permit amendment. If necessary, take of Covered Species can be addressed through a Section 7 consultation (for County leases on federal lands).

Q15: For how long will the permit be valid?

A15: As proposed, the permit would be valid for 30 years or when impacts total 36,000 acres, whichever comes first. However, the commitment to maintain the mitigation lands as natural open space is perpetual because the loss of impacted acreage is, according to the U.S. Fish & Wildlife Service, a permanent loss. The permit period could be shorter or longer than 30 years depending on the pace of development. Extending the length of time of the permit would require a renewal.

Q16: How much will this cost and where will the money come from?

A16: Pima County has spent approximately \$135 million on land acquisitions since 2004, in part, to satisfy the requirements of the forthcoming permit. These monies came primarily from bond funds that were approved by voters in 2004. (A recent analysis indicated that land acquisitions cost the average household approximately \$1.40 per month). Most of the management and enforcement functions associated with this MSCP are already taking place as part of the County's commitment to the Sonoran Desert Conservation Plan. New program costs are largely restricted to monitoring activities, which are estimated to cost approximately \$570,000/year for the first year, and increasing thereafter until year five, when the levels out.

Q17: What is the timeline for the MSCP?

A17: On December 7, 2012, the USFWS published a Notice of Availability for the Environmental Impact Statement (EIS) dealing with the County's MSCP. This notice initiates a 90-day public comment period. The USFWS will then review comments and amend the EIS and work with the County to amend the MSCP if both parties agree to the changes. Assuming no significant changes are made to the MSCP and EIS and assuming the Pima County Board of Supervisors approves the final terms and conditions of the permit, issuance of the permit would follow, most likely in early 2014.