Board of Supervisors Memorandum

October 18, 2016

Ordinance Establishing Fees For Providing Certain Private Development Activities with Coverage Under the County's Endangered Species Act Section 10(a)(1)(B) Permit

Introduction

The Pima County Section 10 permit and the Multi-species Conservation Plan (MSCP) as approved by the US Fish and Wildlife Service (Service) provide private development projects with the opportunity to receive the same benefits and certainty in complying with the Endangered Species Act (ESA) as County and Regional Flood Control District (RFCD) projects. The Certificate of Coverage Program (Program), to be administered by the Office of Sustainability and Conservation, establishes the procedures and requirements necessary for the County to extend Section 10 coverage to private development projects and reflects extensive input from stakeholders received over the last 16 years.

On July 15, 2016, the Board received a memorandum describing the details of this voluntary program (Attachment 1). Included in that memorandum is my direction to staff to develop a fee ordinance to recover certain costs of providing Section 10 permit coverage to private development. Ordinance No. 2016-___ (Attachment 2) is the result of that direction.

The Board of Supervisors is being asked adopt Ordinance No. 2016-____ to apply fees pursuant to its authority under A.R.S. §11-251.05 and A.R.S. §11-251.08, in order to cover staff time and services required to administer certain elements of the Program. These are new fees that will apply only to those subdivisions or commercial or industrial developments that require a Pima County Development Services site construction permit and which voluntarily participate in the Program via the "Opt-in" process. Fees are to be assessed only once during the Certificate of Coverage authorization process and are not dependent upon project acreage. Fees are not proposed to apply to development projects on individual private lots that voluntarily participate in the Program via the "Opt-out" process because this process is automated and requires little to no staff time to administer.

The proposed fees are proposed as follows:

1. Application Fee: Assessed for each application for the "Opt-in" process; the proposed fee amount of $720 is based on the County's cost to review and process an application.

2. Compliance Monitoring Fee: Assessed in addition to the application fee when the project has certain natural open space set-asides that will be used as Section 10 permit mitigation land. The proposed fee amount of $2,450 is based on the County's cost to establish and monitor these lands in accordance with Section 10 permit requirements.

In addition to posting these proposed fees on the County's website for the 60-day notice period prescribed by A.R.S. §11-251-13, notice for this public hearing agenda item was published in *The Daily Territorial*, *Green Valley News*, and *Ajo Copper News* in compliance with A.R.S. §11-251-05.

Benefits

For the development community, regulatory certainty is paramount to project economic viability. Coverage under the Section 10 permit, for those who elect it, provides private entities an unparalleled opportunity to bring their projects into construction without enduring the uncertainties of ESA compliance, including unanticipated new species listings. Alleviating this uncertainty often results in reducing the amount of time it takes to move from project planning to project construction. Such time savings translate directly to cost savings, which promotes positive project economics. For example, the RFCD estimates that coverage under the County's Section 10 permit will save it months of time and $10,000 to $15,000 in biological survey costs for each project. Even though data such as these are not readily available for private sector projects, the RFCD estimates do provide a valuable frame of reference. However, it is necessary for the County to expend a modest amount of resources to provide Section 10 coverage to residential, commercial and industrial projects. The collection of fees in the reasonable amounts proposed allows the County to recover the cost of staff time necessary to provide Section 10 permit coverage to these projects, while not significantly eroding the project's economic gains realized through Section 10 coverage.

Recommendation

I recommend the Board of Supervisors approve of Ordinance No. 2016-____ to adopt fees for the Certificate of Coverage Program.

Respectfully submitted,

C.H. Huckelberry
County Administrator

CHH/anc – September 27, 2016

Attachments

c: John Bernal, Deputy County Administrator for Public Works
Nanette Slusser, Assistant County Administrator for Public Works
Suzanne Shields, Director, Regional Flood Control District
Carmine DeBonis, Director, Development Services
Linda Mayro, Director, Office of Sustainability and Conservation
Sherry Ruther, Environmental Planning Manager, Office of Sustainability and Conservation

ATTACHMENT 1

MEMORANDUM

Date: July 15, 2016

To: The Honorable Chair and Members
Pima County Board of Supervisors

From: C.H. Huckelberry
County Administrator

Re: **Section 10 Permit Coverage and Endangered Species Act Compliance for Private Development**

The Section 10 permit and the Multi-Species Conservation Plan (MSCP) approved by the US Fish and Wildlife Service (Service) provide private property owners the opportunity to receive the same consistency and certainty in complying with the Endangered Species Act (ESA) as County and Regional Flood Control District projects. The decision to receive coverage under the County's Section 10 permit rests solely with the private property owner and is entirely voluntary. If they elect to receive coverage, private landowners are no longer subject to the uncertainties and vagaries currently associated with ESA compliance.

The cost of receiving coverage will not be an impediment for private property owners. Owners of individual, private lots will obtain coverage at no cost; developers of subdivisions and commercial and industrial properties will remit an application fee and, in some cases, a compliance monitoring fee. The amounts of these fees pale when compared to costs associated with completing an individual consultation with the Service for ESA compliance. Another benefit of electing coverage is the avoidance of costly project time delays related to individual consultation for ESA compliance.

There is, however, one important point to emphasize. Private property owners can only receive coverage under the County's Section 10 permit if their property is in unincorporated Pima County and their development project is subject to certain County permits.

In the development community, certainty of regulatory impact and compliance is paramount to project economic viability. The County's obtaining of the Section 10 Permit will provide this regulatory certainty and be of benefit to private property owners who choose to take advantage of compliance coverage under our Section 10 Permit.

Attached is a July 8, 2016 memorandum from the Office of Sustainability and Conservation that describes, in detail, the process the County will use to provide Section 10 permit coverage to private property owners. I have authorized staff to proceed with developing a fee ordinance, advertising it as required by State law, and preparing a draft Certificate of Coverage Program Administrative Procedure.

Attachment

c: John Bernal, Deputy County Administrator for Public Works
Nanette Slusser, Assistant County Administrator for Public Works
Suzanne Shields, Director, Regional Flood Control District
Carmine DeBonis, Director, Development Services
Linda Mayro, Director, Sustainability and Conservation
Sherry Ruther, Environmental Planning Manager, Sustainability and Conservation

PIMA COUNTY

Sustainability, Conservation & Historic Preservation

MEMORANDUM

Date: July 8, 2016

To: C.H. Huckelberry, County Administrator

From: Linda Mayro, Director
Sherry Ruther, Environmental Planning Manager

RE: **Certificate of Coverage Program - Providing Section 10 Permit Coverage to Private Development**

This memo reviews the County's approach to extending Section 10 permit coverage to development on private property described in the Final Multi-Species Conservation Plan (MSCP) and provides programmatic details about the Certificate of Coverage Program. This program defines the requirements and operational rules necessary to convey coverage to development on private property.

We are also seeking your direction on fees proposed to recover costs of providing coverage as well as the development of administrative procedures for implementation of the Certificate of Coverage Program.

Background

Since the very beginning of our efforts to develop the Multi-Species Conservation Plan (MSCP), the community has steadfastly requested that Pima County provide a means to extend Section 10 permit coverage to private development activities. The County embraced the idea and over time the concepts of how to provide such coverage evolved due in great part to the constructive input from stakeholders. The chronology of the various concepts is witnessed in the series of MSCP drafts. The concept described in the Final MSCP allows the County to extend coverage to the private sector in a manner consistent with Fish and Wildlife Service's Section 10 permit requirements and incorporates the following elements of significant importance to local stakeholders:

- Coverage is available on a voluntary basis
- Coverage is equally available for large-scale developments and projects on individually-owned private lots
- Coverage is available for development on entitled properties
- Coverage is available at the time development occurs
- Coverage does not require additional regulatory requirements
- Conservation Lands System natural open space set-asides are used as Section 10 permit mitigation land
- Section 10 mitigation land is protected in perpetuity
- Fees relate only to the impacts and mitigation affiliated with the individual project receiving coverage

Private development projects that elect coverage will gain the same protections and benefits as County projects. Attachment A provides a detailed discussion on the benefits afforded by coverage under the Section 10 permit.

The Final MSCP and Section 10 permit define some of the basic characteristics that must exist before coverage can be offered to a development on private property. The project must be:

- Within the area subject to the Section 10 permit (Permit Area)
- Within un-incorporated Pima County
- Under Pima County's jurisdiction
- A private undertaking
- Located on a privately-owned individual lot and requires a Pima County Development Services building permit authorizing the grading of 14,000 square feet or more
- Located on privately-owned property and requires a Pima County Development Services site construction permit in order to develop a subdivision or commercial or industrial facility

Two processes have been created to make coverage available to private development projects: one for projects on individual lots; the other for development of subdivisions or commercial or industrial facilities. Although separate administrative processes, they both require the property-owner's consent to bestow coverage. The terms and benefits of coverage are the same regardless of which process is used to authorize coverage. The processes are outlined below:

1. Development on individual, private lots. When development on an individual, private lot requires Pima County Development Services to issue a building permit authorizing the grading of 14,000 square feet or more, the property owner will be asked to decide whether they want Section 10 permit coverage during the building permit application process. At that time, if the property owner does not want Section 10 permit coverage, they must actively indicate they do not want coverage. If the property owner does not decline coverage or if they fail to answer the question, coverage will be automatically authorized simultaneously with issuance of the building permit.

This process is also referred to as 'Opt-Out' as the default status for this process is to provide coverage unless the property owner actively declines it. This administrative process will operate as an automated function executed through the County's enterprise permitting system.

No fees are being proposed to receive coverage authorized through this process.

The County is solely responsible for providing all mitigation required by the Section 10 permit to off-set impacts of development on individual, private lots.

2. Development of a subdivision or commercial or industrial facility. When development of a subdivision, commercial, or industrial facility requires Pima County Development Services to issue a site construction permit, the property owner must actively indicate they want coverage and make application within a limited timeframe. The request and application for coverage must be received after the site construction permit application is submitted to Development Services but before Development Services issues the site construction permit. When the request and application for coverage is received prior to Development Services' issuance of the site construction permit, the process to authorize coverage proceeds to conclusion independent of Development Services' issuance of the site construction permit.

As the result of previous development approvals, some subdivision or commercial or industrial projects will have set aside Conservation Lands System (CLS) natural open space to achieve compliance with rezoning conditions or to protect Important Riparian Areas (IRA) subject to *Title 16.30 – Riparian Protection and Mitigation Requirements*. Such CLS and IRA set-asides will be used as Section 10 mitigation land to help off-set their project impacts and will require additional legal protections in order to meet Section 10 mitigation land standards for perpetuity. The execution of this legal protection will occur as part of the authorization process and must occur before coverage will be authorized for the project. CLS natural open space set-asides are project-provided Section 10 mitigation lands.

This process is also referred to as "Opt-In" as the default status for this process is that coverage will not be authorized unless the property owner actively requests it. This administrative process requires staff to review and process applications as part of the authorization process, including facilitating the execution of legal protections. Staff is also responsible for annually monitoring the condition of project-provided Section 10 mitigation land generated through this process. This coverage authorization process will be conducted through the County's enterprise permitting system.

Fees are recommended to cover staff time and services in order to receive coverage authorized through this process. Pending Board approval, fees would be assessed once on a per project basis, regardless of the amount of acreage involved, and collected as part of the authorization process.

- Application Fee:
  Assessed for each application; the proposed fee amount is based on the County's cost to review and process an application. Current calculations suggest $720.00 would be an appropriate fee.

- Compliance Monitoring Fee:
  Assessed in addition to the application fee when the project has CLS or IRA natural open space set-asides that will be used as Section10 permit mitigation land. The proposed fee amount is based on the County's cost to establish and monitor these lands in accordance with Section 10 permit requirements. Current calculations suggest $2,450.00 would be an appropriate fee.

In all cases, regardless of whether a project provides Section 10 mitigation land, the County is the only entity responsible for ensuring that all impacts from the development of a subdivision or commercial or industrial facility are fully mitigated and compliant with the Service's standards for perpetuity. While project-provided Section 10 mitigation land will make a modest contribution toward off-setting project impacts, it will not fulfill the entire mitigation obligation for the project.

Certificate of Coverage Program

The Certificate of Coverage Program (Program) defines the procedural and operational rules for providing Section 10 permit coverage to private sector development and ensures that coverage is provided as described in the MSCP and Section 10 permit. As long as the Program is implemented consistent with the MSCP and Section 10 permit, implementation and operation of the Program is subject to the direction and discretion of the Board of Supervisors (Board). Therefore, both the Board as well as the Service has the ability to affect how, or whether, the Program is delivered.

Actions that can result in Program modification, suspension, or termination include:

Program modification:
- Amendments to the Section 10 permit dictate modification of the Program in order to stay compliant with terms of the Section 10 permit.
- The Service does not reject Program modifications proposed by the County

Program suspension:

- Analysis shows that the total acreage of impact from all (County and private) projects covered by the Section 10 permit will exceed the 36,000 acres of impact cap prescribed in the Section 10 permit.
- Analysis shows that the acres necessary to provide mitigation for all (County and private) projects covered by the Section 10 permit will exceed the number of acres available from Section 10 permit mitigation lands.
- The Service suspends the Section 10 permit.
- The Board elects to temporarily suspend the Program.

Program termination:

- The Service revokes or terminates the Section 10 permit.
- The Board terminates the Section 10 permit in its entirety or specifically terminates the Program.

Additionally, given this Program is viable only for as long as the Section 10 permit is effective, it will expire when the terms of the Section 10 permit have been fulfilled.

Certificates of Coverage - Issuance and Terms

A Certificate of Coverage can only be issued for those private development projects that meet Program eligibility criteria. These criteria are derived from the required characteristics identified in the Final MSCP and Section 10 permit mentioned above as well as other requirements necessary for the County to extend coverage including payment of any applicable fees and permission of the property owner.

A Certificate of Coverage ensures that there will be no liability for violations of the Endangered Species Act should a project result in take (harm, harassment, or death) of an endangered species included in the Final MSCP. It also ensures that the County will provide mitigation to compensate for that take. For purposes of this Program, take happens when grading, as allowed and verified under a DSD building or site construction permit, occurs.

Immediately upon successful completion of either the Opt-Out or Opt-In process, a Certificate of Coverage will be authorized. An Authorized Certificate of Coverage guarantees that at some point in the future, when grading occurs as allowed under a building or site construction permit, the take will be covered and mitigated at that time as prescribed by the Section 10 permit. Once grading actually occurs and has been verified by a DSD grading inspection, the status of the Authorized Certificate of Coverage changes to Executed. Regardless of its status a Certificate of Coverage runs with the land for which it was issued and is not transferrable to another property.

However, the distinction between Authorized and Executed Certificates of Coverage is important for several reasons. The status of authorized certificates can change over the life of the Section 10 permit, including being expired. The status of an executed certificate does not change and is effective for the duration of the Section 10 permit. The distinction between Authorized and Executed Certificates of Coverage also determines when the County is obligated to provide mitigation.

The status of an Authorized Certificate of Coverage reflects the status of the Program. In other words, if the Program is suspended or terminated, then authorized certificates will be suspended or terminated. Additionally, authorized certificates are subject to expiration where executed certificates are not. Authorized certificates will expire when grading associated with the building or site construction permit has not occurred and been verified by DSD within 6

years after authorization of the certificate. Expiring an executed certificate is not feasible because once take has occurred and mitigation has been provided, it is not reversible.

Regarding the County's mitigation obligation, because an Executed Certificate of Coverage represents a project where grading (take) has, in fact, occurred, the County is obligated mitigate for those project impacts. No mitigation obligation exists for projects subject to an Authorized Certificate of Coverage because grading, and therefore take, has not yet occurred. Mitigation is not required until take actually occurs.

Staff Recommendation

In order for the Certificate of Coverage Program to be operational by October 2016, staff requests your approval to proceed with the following:

- Draft a fee ordinance for approval by the Board.
- Post 60-day (County webpage) and 15-day (newspaper) notices regarding the Board's intent to deliberate a fee ordinance as required by A.R.S. § 11-251.13 and A.R.S. §11-251.05. These notices will allow the Board to deliberate the fee ordinance on or after September 20, 2016.
- Draft a Certificate of Coverage Program Administrative Procedure for your review.

C. Huckelberry
Approved 7/14/16

Denied

ATTACHMENT A

BENEFITS OF RECEIVING SECTION 10 PERMIT COVERAGE

The benefits of receiving coverage under the County's Section 10 permit (Permit) are available only to those projects that occur within the Permit Area and which are identified as Covered Activities in the Final MSCP (See Map 1 and Table 1).

The first section below provides an overview of the Endangered Species Act, as a basic understanding of this federal law is key to fully appreciating the benefits that Section 10 permit coverage provides. The subsequent section discusses key benefits of coverage under the County's Section 10 permit.

Endangered Species Act Overview

The Endangered Species Act (ESA) of 1973, as amended, provides legal protection to those species listed as threatened or endangered under the auspices of the Act, and establishes penalties for violations of the Act's provisions. There are three sections of the ESA that are especially relevant to both public and private development projects: Section 9, which strictly prohibits any unauthorized *"take"* of any listed species; Section 7, which requires all federal agencies to consult with the U.S. Fish and Wildlife Service (Service) on activities that may affect listed species; and Section 10, which provides non-federal entities such as the County and private landowners with a means to avoid violating the ESA when engaged in lawful activities.

Section 9 makes it illegal for any individual or any entity to *"take"* any species protected under the ESA without authorization from the Service. The ESA defines *"take"* as "...to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or any attempt to engage in any such conduct." This broad definition of *"take"* also includes habitat modification or destruction that impairs basic behaviors such as breeding, feeding, or sheltering and results in the death or injury of a listed species.

Section 7 requires all federal agencies to consult with the Service when undertaking any activity that may impact a listed species. These interagency consultations ensure that federal actions, including issuing permits, do not jeopardize the long-term survival of any listed species or adversely impact the species' habitat. The Service usually imposes mitigation measures on the federal agency who then passes the mitigation responsibility to the permit recipient.

Section 7 consultation for federal permits and "residual liability": Development activities are subject to Section 7 consultation if the activities involve some sort of federal action such as a permit. One example is when a development project needs a Clean Water Act 404 permit from the U.S. Army Corps of Engineers (ACOE). As the permitting agency, the ACOE, in keeping with Section 7, must consult with the Service before issuing the 404 permit. In such cases, it is important to note that Section 7 consultations and any protections they provide under the ESA are strictly limited to the scope of the federal permit. If the federal permit does not cover the entire project area, there is still potential for the project to inadvertently harm, harass, or even kill a listed species thereby violating Section 9. This is called "residual liability". Pima County had to deal with the consequences of residual liability in 2000, when Department of Transportation (DOT) roadway improvements along Thornydale Road resulted in unauthorized take of the cactus ferruginous pygmy-owl. The DOT received the required 404 permits from

ACOE after the required Section 7 consultation with the Service was completed. However, because the 404 permit only applied to wash areas and not the whole project area, project impacts that happened outside the washes resulted in unauthorized impacts to the pygmy-owl. Those unauthorized 'residual' impacts meant Pima County DOT violated Section 9. Consequently, road improvements halted until the County could provide suitable mitigation.

Section 10 provides a way to comply with the ESA for projects that do not need a federal permit or have a federal permit that only applies to a portion of the project. To receive a Section 10 permit, the applicant must submit a conservation plan that, among other things, specifies what steps will be taken to avoid, minimize, and mitigate impacts to listed species and habitat, and what funding will be available to implement those steps. For those activities covered under a Section 10 permit, they are not vulnerable to violating Section 9 if their activities inadvertently harm or kill a listed species.

Pima County applied for a Section 10 permit and submitted the Multi-species Conservation Plan (MSCP) as the required conservation plan. The Service will issue a Section 10 permit to the County which will cover both County development activities and certain private development activities (See Table 1).

Benefits of Receiving Coverage Under Pima County's Section 10 Permit

- Saves time and money: By streamlining ESA compliance, the Section 10 permit will save county and private developers significant time and money that would otherwise be spent on individual, project-specific consultations with the Service. For example, Pima County Regional Flood Control District estimates that coverage under the County's Section 10 permit will save them months of time, and $10,000 to $15,000 in biological survey costs for each project.

- Provides certainty: Every project covered under the County's Section 10 permit is guaranteed that a violation of Section 9 will not occur for any of the species included in the Final MSCP. Without coverage under the County's Section 10 permit, there is no clear cut way to determine when or if a Section 9 violation has occurred, especially if the project does not require a federal permit.

- Offers a local process for compliance: Achieving compliance with the ESA without participating in the County's Section 10 permit requires each development project (County or private) to endure the time and cost of waiting for their projects to be reviewed by the Service one-by-one. The County's Section 10 permit offers a local process, specifically designed around our local needs, that provides County and private development projects with a simple, easy, less time consuming, and ultimately less costly opportunity to achieve compliance with the ESA.

- County provides mitigation land and is responsible for management and monitoring: Projects covered by the County's Section 10 permit will not have to bear the full brunt of providing mitigation land to off-set their impacts or the related management and monitoring responsibilities. This is largely due to the community's support for open space bonds as the County will use lands purchased with these funds as mitigation land. Any monitoring and management actions necessary to maintain the ability to use these lands as Section 10 mitigation land is also the County's responsibility. Individual projects no longer have to deal with the time and cost of finding suitable mitigation and funding long-term mitigation obligations. If the project is not covered by the County's Section 10 permit, the responsibility of finding suitable mitigation and funding long-term mitigation obligations falls solely to the individual project.

- Ensures the rules do not change in the future: The County's Section 10 permit covers a total of 44 species - nine currently listed species and 35 others that, based on the best available science, may be listed in the future. Projects covered under the County's Section 10 permit will be able to proceed without delay and will not be required to comply with additional regulation should any of the 35 non-listed species be listed, or a listed species' distribution on the landscape changes, or if critical habitat is designated.

- Protects against "residual liability": Coverage under the County's Section 10 permit will prevent situations like the 2000 Thornydale Road improvement project, where a federal permit does not cover all of the project area. Extended time delays and significant financial costs necessary correct inadvertent violations of Section 9 because of residual liability after-the-fact would be avoided.

Map 1. Section 10 Permit Area (as excerpted from the 2016 Final MSCP) - Private developments must be located in un-incorporated Pima County.

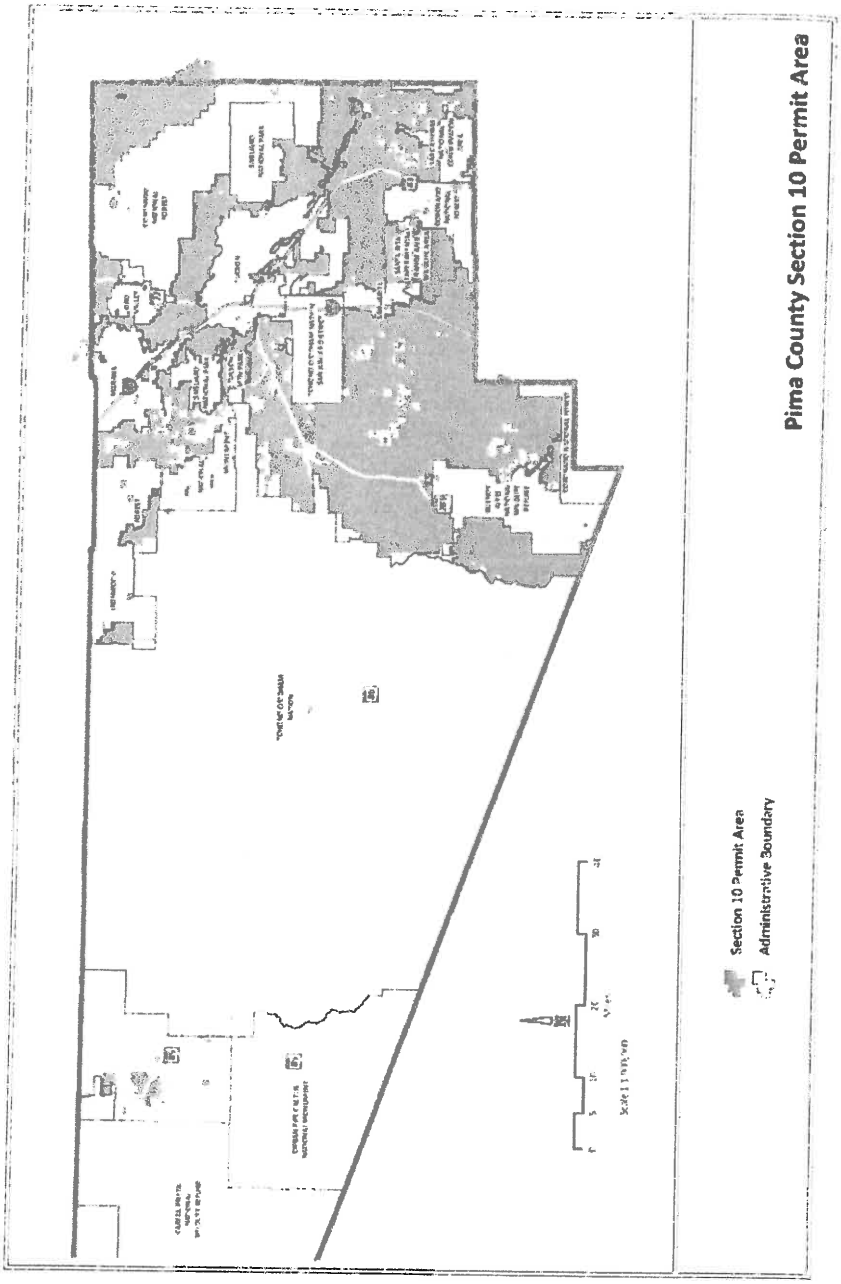

Table 1. Covered Activities as described in the 2016 Final MSCP.

The following will be considered a Covered Activity:

- Ground disturbances on individual, single-dwelling lots that occur subsequent to the County's issuance of a building permit that authorizes grading of 14,000 square feet or more provided that the property owner elects to participate in the County's Section 10 permit;
- Ground disturbances that occur as part of—and subsequent to—the development of a residential subdivision where such actions are subject to the County's issuance of a site construction permit provided the property owner elects to participate in the County's Section 10 permit after the submittal of the site construction permit application but prior to the County's issuance of the site construction permit (see Section 3.4.1.1);
- Ground disturbances that occur as part of—and subsequent to—the development of a non-residential facility where such actions are subject to the County's issuance of a site construction permit provided the property owner elects to participate in the County's Section 10 permit after submittal of the site construction permit application but prior to the County's issuance of the site construction permit (see Section 3.4.1.1);
- Activities of the County including construction, repair, maintenance, and operation of County facilities and infrastructure (see section 3.4.1.2 for details);
- Construction, operation, and maintenance of renewable energy generation projects located on County-owned lands leased to others specifically for that purpose;
- Relocation of utilities within County rights-of-way, where required by Pima County;
- Monitoring and land management activities including surveys, scientific studies, and other such activities carried out by Pima County and its cooperators for the purposes of this MSCP;
- Restoration activities such as vegetation treatments (including fire management activities) that are intended to improve the biological and ecological values; and
- Recreation activities authorized by Pima County; and
- County ranch-management activities—exclusive of livestock herbivory and trampling—on land owned by the County and lands managed by the County through grazing leases issued by the State of Arizona.

The County will cover up to approximately 36,000 acres of new ground-disturbing activities, which can come from any combination of Covered Activities. The County will reserve approximately 5,000 acres to cover its construction and maintenance activities; the remaining 31,000 acres is allocated for ground disturbances caused by private- sector development.

ATTACHMENT 2

ORDINANCE NO. 2016-_____

AN ORDINANCE OF THE PIMA COUNTY BOARD OF SUPERVISORS, PIMA COUNTY, ARIZONA, ESTABLISHING FEES FOR PROVIDING CERTAIN PRIVATE DEVELOPMENT ACTIVITIES WITH COVERAGE UNDER THE COUNTY'S ENDANGERED SPECIES ACT SECTION 10(a)(1)(B) PERMIT

THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA, FINDS THAT:

1. The U.S. Fish and Wildlife Service has issued Pima County a Section 10(a)(1)(B) permit under the Endangered Species Act, providing the County with protection in the event of "take" of covered species that may occur incidentally to certain activities covered by the Section 10 permit.

2. Activities covered under the Section 10 permit include maintenance and construction activities carried out by Pima County and the Pima County Regional Flood Control District as well as certain private development activities, covering a maximum of 36,000 acres of disturbance within the permit area for a duration of 30 years.

3. Private development activities included as Covered Activities are limited to ground disturbances subsequent to the County's issuance of a building permit that authorizes grading of 14,000 square feet or more on individual, single dwelling lots and ground disturbances subsequent to the County's issuance of a site construction permit for the development of residential subdivisions and non-residential facilities.

4. Coverage for private development activities is voluntary, and the County is providing this coverage as a service to the private development community, with the fees proposed in this ordinance intended to cover the actual costs of the coverage.

5. The Board of Supervisors has general authority to adopt ordinances under A.R.S § 11-251.05 and has authority under A.R.S. § 11-251.08 to adopt fees to defray the cost of services provided to the public by Pima County.

6. In compliance with A.R.S. § 11-251.13, sixty days' notice has been provided for this proposed new fee, with the Board of Supervisors scheduled to hear this proposal on or after September 20, 2016.

BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF PIMA COUNTY, ARIZONA:

SECTION 1. The following fees apply only to voluntary coverage of private development activities resulting in ground disturbances after Pima County issues a site construction permit under A.R.S. Title 11, Chapter 6 for the development of residential subdivisions and non-residential facilities:

A. Certificate of Coverage Application Fee: $720.00.

B. Certificate of Coverage Compliance Monitoring Fee: $2,450.00.

SECTION 2. This ordinance is effective 30 days after it is adopted by the Board.

PASSED AND ADOPTED by the Board of Supervisors, Pima County, Arizona, this _____ day of _____, 2016.

_____
Chair, Pima County Board of Supervisors

ATTEST:

_____
Clerk of the Board

APPROVED AS TO FORM:

9/15/16
_____
Deputy County Attorney
Lesley M. Lukach