

PROGRAMMATIC ENVIRONMENTAL ASSESSMENT CACTUS FERRUGINOUS PYGMY OWL

Executive Summary

The Arizona District Court ordered the U.S. Army Corps of Engineers to prepare a regionally based, programmatic impact analysis of Nationwide Permits (NWP) 13, 14, and 26 on the Cactus Ferruginous Pygmy Owl (CFPO, *Glaucidium brasilianum cactorum*) (*Defenders of Wildlife, et al. v. Ballard, CIV 97-794 TUC ACM*, Order, October 8, 1999).

The Corps completed programmatic environmental assessment will soon be available to the public on the Los Angeles District Regulatory Branch website (www.spl.usace.army.mil/regulatory/). In conducting the analysis, the Corps expanded the scope of the document beyond the court's three Nationwide Permits to consider all of the NWPs and their effect on the CFPO and its designated critical habitat. The geographic scope of analysis (GSOA) of the document includes three survey zones defined by the U.S. Fish and Wildlife Service (FWS), excluding the Tucson Urban Exclusion Area and lands above 4,000 feet in elevation. The GSOA includes seven former critical habitat units which were originally designated by the FWS on July 12, 1999 but which were set aside by a federal judge in September, 2001 (*National Ass'n of Homebuilders v Norton, 00-903-PHX-SRB, D, Ariz.*).

The Corps' purpose and need for the action are the continued implementation of the NWP program within the GSOA. To that end, the Corps developed six alternatives and conducted an analysis of direct, indirect, and cumulative impacts on the CFPO from each alternative. The Corps used its database system to determine the historic use of Nationwide Permits in the GSOA. The Corps assessed each of the alternatives in terms of direct, indirect and cumulative impacts on the CFPO and its habitat. The Corps' NWP program, currently and in the past, has required that projects, whether "notifying" or "nonnotifying," comply with the Endangered Species Act (ESA) and do not result in an effect to a threatened or endangered species or modification to designated critical habitat. The study determined that there are many factors outside of the regulatory control of the Corps, such as grazing pressures, recreation of public lands, unregulated "wildcat" development, and legal clearing of private land outside of washes, that contribute to the cumulative loss of CFPO habitat. The Corps determined that implementation of the current 43 NWPs, 27 general conditions, three regional conditions applicable to Arizona and case-specific special conditions (which often require mitigation) provides the greatest degree of protection to the CFPO and will result in no significant impact to the CFPO or its former or future designated critical habitat.