

United States Department of the Interior

U.S. Fish and Wildlife Service
2321 West Royal Palm Road, Suite 103
Phoenix, Arizona 85021-4951
Telephone: (602) 242-0210 FAX: (602) 242-2513

AESO/FA

July 11, 2001

Colonel John P. Carroll
District Engineer
Los Angeles District, Corps of Engineers
P.O. Box 532711
Los Angeles, CA 90053-2325

Dear Colonel Carroll:

The Service has received and reviewed Special Public Notice dated June 1, 2001, requesting comments on the supplemental environmental assessments prepared for 11 nationwide permits and three regional conditions. We continue to be concerned that the nationwide permit (NWP) program permits activities that have more than minimal individual and cumulative adverse effects on the environment, and the established regional conditions are insufficient to protect Arizona's sensitive natural resources.

These concerns have been previously relayed to your agency in comments dated August 27, 1998, and May 11, 2000, in response to Public Notice 98-50449-BAH; comments dated May 24, 2000, to assist your agency in preparing a formal consultation initiation package for effects of the NWP program on the cactus ferruginous pygmy-owl; and comments dated April 23, 2001, in response to your agency's request for concurrence that establishment of regional conditions and assertion of discretionary authority for the NWP program would not likely adversely affect threatened and endangered species or their critical habitats.

As discussed in those letters, we believe the NWP program does not ensure minimal adverse effects on the environment due to a scope of impact analysis narrowly and inappropriately confined to areas below the jurisdictional ordinary high water mark. We have suggested initiation of an interagency effort to cooperatively craft acceptable regional conditions and standard local operating procedures for endangered species (SLOPES) that appropriately addresses the issues of scope of analysis and minimal effects. Such an effort has not been initiated.

Based on these concerns, we do not believe the supplemental environmental assessments for the NWP program support a finding of no significant impact. We recommend the Corps contact our office to pursue appropriate resolution of these issues and the development of acceptable regional conditions and SLOPES.

Colonel John P. Carroll

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If we can be of further assistance, please contact Mike Martinez or Don Metz.

Sincerely,

/s/ David L. Harlow
Field Supervisor

cc: Regional Director, Fish and Wildlife Service, Albuquerque, NM
Chief, Regulatory Branch, Army Corps of Engineers, Phoenix, AZ
Regional Administrator, Environmental Protection Agency, Region IX, San Francisco, CA
Supervisor, Project Evaluation Program, Arizona Game and Fish Department, Phoenix, AZ

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