

Private Landowner Guidance

Cactus Ferruginous Pygmy-Owl

March 2000

This information has been prepared by the Tucson Association of REALTORS® for use by its members and their clients and customers.

Information in this document is an abridged version of the Recommended Guidance For Private Landowners Concerning the Cactus Ferruginous Pygmy-Owl published by the U. S. Fish and Wildlife Service (USFWS), March of 2000. The intent is to inform REALTORS® and their clients and customers of the issues surrounding the Cactus Ferruginous Pygmy Owl (CFPO) and critical habitat.

Please note that many of the guidelines contained in this document are recommendations and not mandates. However, if the species, habitat or potential habitat is harmed and the recommended guidelines have not been followed, civil and criminal penalties may apply.

A complete copy of the Landowner Guidance in its entirety may be obtained from USFWS or the Tucson Office of Arizona Game and Fish. Current maps are available from Arizona Game and Fish, USFWS and local planning and zoning departments.

Surveys for the CFPO may only be conducted by a person with the necessary experience and surveyor permits from USFWS. Contact USFWS for a list of surveyors.

Parties who are selling, purchasing or leasing land which may be affected by this guidance are urged to contact USFWS to determine what guidelines may be applicable to any given parcel of land to minimize the risk of taking a CFPO and violating Section 9 of the Endangered Species Act.

The USFWS has identified three survey zones based on the potential of a CFPO being present within suitable habitat as defined in the Arizona Game & Fish Department and USFWS 2000 revised protocol. All three zones contain suitable CFPO habitat and are delineated according to the knowledge of USFWS. Zones 1 and 2 include areas that are within the current range of the CFPO and Zone 3 is within the historic range of the species.

The recommendations apply only to those areas that support suitable CFPO habitat in south-central Arizona.

Suitable habitat for the CFPO is defined as areas below 4,000 ft in elevation characterized by one or more of the following vegetation communities:

- Riparian vegetation: such as cottonwoods, willows, mesquites, ash or other trees growing along watercourses;
- Sonoran desertscrub: particularly areas containing saguaro cactus or other columnar cactus (8 feet or taller) with ironwood, mesquites, palo verde or other trees in association with at least some shrubs (acacia, prickly pear, desert hackberry, greythorn, etc.), and ground cover (triangle leaf bursage, burro weed, grasses, etc.); or
- Semidesert grassland: with drainages containing mesquite, hackberry, cottonwood, willow, ash, etc.

Any of these three areas without saguaros, but which contain the appropriate trees and lower level cover, are considered suitable if there are individual trees with a trunk diameter of 6 inches or greater measured at 4.5 ft above the ground. Areas of low-density development are considered suitable habitat if one or more of the above vegetation communities are present. All areas of suitable habitat as defined above should be surveyed. However, urban areas (Tucson urban area defined later in this document) and areas currently devoid of saguaros, other columnar cactus, or large trees (e.g., agricultural fields) are excluded.

Furthermore, this guidance only applies to actions on private lands that do not involve Federal funds, actions or permits. Federal agencies have additional responsibilities under the Endangered Species Act (ESA), Section 7, and this may require the private landowner seeking Federal funds or permits for an action on private lands to take additional steps to address possible effects to the CFPO.

The following recommendations apply to all areas that meet the suitable habitat criteria regardless of whether the activity is occurring within, or outside of, the designated Critical Habitat boundary for the CFPO.

USFWS recommends conducting surveys when private actions without a Federal nexus removes CFPO habitat in Zones 1 and 2. In Zone 3, no surveys are

recommended for strictly private actions. Contact USFWS for specific guidance if an action has a Federal nexus and is located in Zones 1, 2 or 3 or for actions that do not disturb habitat but may affect a pygmy-owl.

Zone 1 Areas Within the Current Range of the CFPO with a High Potential for Occupancy

Currently, this zone is located within portions of Pima and southern Pinal Counties and encompasses all recent CFPO locations (current maps are available from AGFD, USFWS or local planning and zoning departments).

USFWS recommends that all private landowners in this zone that are planning to remove any of the vegetation components of suitable habitat choose one of the following three options:

1. Coordinate with USFWS to develop your property in a manner that avoids any negative effects to the CFPO; or
2. Proceed as if CFPO's are present and develop a Habitat Conservation Plan (HCP) so your activity can proceed with any modifications necessary to minimize and mitigate effects or taking of a CFPO. USFWS is responsible for approving these plans and issuing an incidental take permit for proposed activities. Contact USFWS for assistance in developing an HCP; or
3. Survey your property to determine if an owl is present.

If you choose to survey your property, it is recommended three surveys be conducted each year for two consecutive years before any vegetation suitable for CFPO's is disturbed. Surveys should be conducted between January 1 and June 30 in accordance with approved protocol by a person permitted by USFWS. After the last survey of the second year, there is a window of time until January 1st of the next year for vegetation clearing to be completed. Failure to complete vegetation clearing in that time frame may result in additional surveys being necessary before any further land clearing occurs. If during the process of clearing a CFPO is located, contact USFWS immediately for guidance.

Zone 2 Areas Within the Current Range of the CFPO with a Moderate Potential for Occupancy

This zone includes the currently known range of the CFPO within Pima and southern Pinal Counties, excluding those areas designated as Zone 1. It is

expected that CFPO's from Zone 1 may disperse into suitable habitat in Zone 2 and there is a greater likelihood of documenting new CFPO locations in Zone 2 than in Zone 3. USFWS recommends that all private landowners in this zone that are planning to remove any of the vegetation components of suitable habitat choose one of the following three options:

1. Coordinate with USFWS to develop your property in a manner that avoids any negative effects to the CFPO; or
2. Proceed as if CFPOs are present and develop a Habitat Conservation Plan (HCP) so your activity can proceed with any modifications necessary to minimize and mitigate effects or taking of a CFPO. USFWS is responsible for approving these plans and issuing an incidental take permit for proposed activities. Contact USFWS for assistance in developing an HCP; or
3. Survey your property to determine if an owl is present. If you choose this option, one of the two following survey options are recommended:
 - a) A single family residence: it is recommended three to five surveys be conducted within a one calendar year period depending on land clearing activities. Three surveys are recommended between January 1 and June 30 and, if land clearing is not completed between the time the third spring survey is completed and September 14, two additional surveys are recommended between September 15 and October 31. If land clearing is not completed between the last fall survey and December 31, it is recommended initiating the one year survey protocol again.
 - b) All other development (two or more residential developments, commercial developments, public works, etc.): it is recommended the two year survey protocol identified for Zone 1 be completed.

Zone 3 Areas Within the Historic Range of the CFPO with a Low Potential of Occupancy

This zone includes portions of Santa Cruz, Gila, Graham, Maricopa, Cochise and Pinal Counties. No surveys are recommended for private actions that have no Federal nexus in Zone 3.

For any land clearing activities in Zone 3 affecting suitable CFPO habitat involving private landowner actions that have a Federal nexus, consultation under Section 7 of the ESA may be required. Contact USFWS for further guidance.

Tucson Urban Area Excluded from Survey Recommendation for the CFPO

The urban area as described is excluded from survey recommendations due to the lack of suitable habitat and high degree of development:

East of Interstate 10 at Curtis Road (just south of the Rillito River), south to the intersection of Interstate 19, south to Valencia Road, east to Alvernon Way, north to Golf Links Road, east to Kolb Road, north to Grant Road, west to Craycroft Road, north to River Road, west to LaCholla Boulevard, south to Curtis Road and west back to Interstate 10.

Contact USFWS for information regarding the Phoenix urban area.

CFPO Survey Zones

ZONE 1

Southern Pinal Northern Pima County

Townships:

8 South	Range 11 East	
9 South	Range 11 East	
10 South	Range 11 East	
10 South	Range 12 East	
11 South	Range 11 East	East of I-10 only
11 South	Range 12 East	
11 South	Range 13 East	Sections 25-36
12 South	Range 12 East	
12 South	Range 13 East	

East of Tucson:

Townships:

14 South	Range 16 East	Sections 25-28, 33-36
14 South	Range 17 East	Sections 30, 31
15 South	Range 16 East	Sections 1-4, 9-16, 21-28, 33-36
15 South	Range 17 East	Sections 6, 7, 18, 19, 25-36

Avra Valley

Townships:

16 South	Range 9 East	Sections 25-36
16 South	Range 8 East	Sections 25-28, 33-36

17 South	Range 8 East	Sections 1-4, 9-16, 21-24*
17 South	Range 9 East	
18 South	Range 9 East	
18 South	Range 10 East	
19 South	Range 9 East	
19 South	Range 10 East	
20 South	Range 7 East*	
20 South	Range 8 East	
20 South	Range 9 East	
21 South	Range 7 East*	
21 South	Range 8 East	
21 South	Range 9 East	
22 South	Range 7 East*	
22 South	Range 8 East	
22 South	Range 9 East	

*except Tribal Lands

Organ Pipe Cactus National Monument

Townships:	14 South	Range 4 West
	14 South	Range 5 West
	14 South	Range 6 West
	14 South	Range 7 West
	15 South	Range 4 West
	15 South	Range 5 West
	15 South	Range 6 West
	15 South	Range 7 West
	16 South	Range 4 West
	16 South	Range 5 West
	17 South	Range 4 West
	17 South	Range 5 West

ZONE 2

All of **Pima County** and southern **Pinal County** south of Township 7 South/8 South boundary excluding areas within Zone 1.

ZONE 3

- All of **Santa Cruz County**
- Northern portion of **Pinal County** (excluding areas within Zones 1 and 2)
- All of **Maricopa County** (except north of I-10 [west of Phoenix] and west of I-17 [north of Phoenix])
- Extreme southern **Gila County**, consisting of 5 mile buffer of the Gila River
- Extreme SW corner of **Graham County**, encompassing a 5 mile buffer of the San Pedro River
- Extreme NW corner of **Cochise County**, encompassing a 5 mile buffer of the San Pedro River from county line south to Casscabel AZ

CONTACT INFORMATION

U. S. Fish & Wildlife Service

Phoenix Office (for guidance questions or specific parcel information) 602/640-2720

Tucson Office (for maps, complete copy of Landowner Guidance) 520/670-4860

or USFWS website: <http://ifw2es.fws.gov/Arizona/>

Arizona Game & Fish

Tucson Office (for maps, complete copy of Landowner Guidance) 520/628-5376

Maps may also be viewed at local planning and zoning departments (according to USFWS)

