

**MEMORANDUM OF UNDERSTANDING
BY AND BETWEEN
the
TOWN OF ORO VALLEY
and
PIMA COUNTY**

TO ESTABLISH A PROGRAM FOR COOPERATIVE CONSERVATION PLANNING IN THE TOWN OF ORO VALLEY AND PIMA COUNTY.

This Memorandum of Understanding ("Memorandum") is made and entered into this _____ day of _____ 2002, by and between the Town of Oro Valley and Pima County (collectively, "Public Agencies").

WITNESSETH:

WHEREAS, page H6527 of the October 11, 2001 Congressional Record states that funds are allocated to Pima County for the regional multi-species habitat conservation planning effort developed in cooperation with agencies including the Town of Oro Valley through a cooperative agreement that is based on the United States Fish and Wildlife Service's Habitat Conservation Planning Handbook sample Memorandum of Understanding, and this Agreement is so modeled, and

WHEREAS, the Public Agencies are among the local agencies that have regulatory authority or responsibility under certain statutes, and

WHEREAS, the multiple sources of authority under which the Public Agencies operate do not provide any individual agency with the authority to implement a comprehensive program, enlisting the efforts of all levels of government, to provide for the regulatory management of habitat related to threatened and/or listed endangered species in Pima County, and

WHEREAS, because of the overlap and concurrent jurisdiction of federal and Public Agencies, the private sector lacks assurances that compliance with requirements imposed by any one Public Agency will be timely and will satisfy requirements that may be imposed by any other agency, and

WHEREAS, the Town of Oro Valley has specific plans to annex certain lands in unincorporated Pima County and the Town of Oro Valley will become the regulatory authority for those lands upon annexation, and

WHEREAS, the Public Agencies desire that their respective concerns and responsibilities with regard to threatened and/or listed endangered species be integrated and coordinated in such a manner as to ensure effectively, timely, and mutually beneficial resolution of such issues within Pima County, and

WHEREAS, the Town of Oro Valley has taken steps necessary to begin conservation planning, and

WHEREAS, Pima County will provide technical assistance to the Town of Oro Valley along with available geographic information service based data and research published in the study series of the Sonoran Desert Conservation Plan, and

WHEREAS, the Public Agencies are desirous that their local land use regulations and development decisions comply with State and Federal environmental and endangered species statutes and regulations, and along with local industry, that planning provides for continued economic growth and development and ensures a healthy economic environment for its citizens and industries,

THEREFORE, it is mutually agreed and understood that:

1.0 PURPOSE OF MEMORANDUM

1.1 The Public Agencies have entered into this Memorandum to define relationships and agencies with permit or regulatory authority over habitat to threatened and/or listed endangered species and to develop a cooperative program which will ensure that the activities of private parties will comply with applicable laws and regulations concerning the habitat related to threatened and/or listed endangered species in Pima County, and which will provide long-term protection of such species.

1.2 Protection of Threatened and/or Listed Endangered Species. To conserve and protect threatened and/or listed endangered species and their habitats within the Town of Oro Valley and Pima County to the extent each jurisdiction seeks permit coverage for such species. Each jurisdiction will decide as part of their Section 10 proposal which species in addition to the threatened and/or federally listed endangered species will be included as part of the jurisdiction's permit.

1.3 Assurances to Private Sector. To provide a means to standardize and integrate mitigation/compensation measures for the threatened and/or listed endangered species so that public and private development actions together with mitigation/compensation measures established by the Program for such action's will satisfy concurrently without duplication or unnecessary delay applicable provisions of Federal and State laws and applicable local ordinances and regulations.

1.4 Cumulative Effects. To specify mitigation measures needed to lessen or avoid the cumulative effects of development activities on threatened and/or listed endangered species and eliminate, where possible, the requirement of case-by-case review of all such effects that will be mitigated by the specific measures.

The foregoing shall be accomplished through certain procedural components of the Program, as described below, including, but not limited to, (a) a Town of Oro Valley Habitat Conservation Plan to be adopted by the Town Council that addresses the conservation of threatened and/or listed endangered species in the Town of Oro Valley and Oro Valley-owned lands, (b) a Multi-Species Habitat Conservation Plan as an aspect of the Sonoran Desert Conservation Plan to be adopted by the Board of Supervisors of Pima County that addresses the conservation in unincorporated Pima County, (c) an implementing agreement to ensure execution of the conservation plans, and (d) Section 10(a) permits pursuant to the ESA to authorize incidental taking of federally listed species.

1.5 Equitable Distribution of Mitigation/Compensation Obligations. To ensure that the costs of mitigation/compensation measures apply equitably to all agencies and private sector groups conducting activities affecting threatened and/or listed endangered species within the boundaries of the Town.

2.0 COMPONENTS OF THE PROGRAM

The program will include the following components:

2.1 Endangered Species Element: The Endangered Species Element will establish goals, policies, and implementation programs for addressing issues affecting threatened and/or listed endangered species and their habitats. The Element will provide a comprehensive policy framework that links species conservation programs with local land use planning to ensure coordinated, effective, and timely resolution of conflicts between development and the conservation of threatened and/or listed endangered species.

2.1.1 The Element will provide broad based policy, foundation, and direction for the preparation of conservation plans and other related programs in the County. The Sonoran Desert Conservation Plan will be broader in scope and more comprehensive than the area-specific conservation plans.

2.1.2 Pima County will provide the Town of Oro Valley all available geographic information service-based data, and other data, and research, and reports published in the study series of the Sonoran Desert Conservation Plan in all available formats, electronic and paper, and all raw data which is available but has not yet been published, within one week of request by the Town at nocost to the Town, along with technical assistance. Pima County will designate a County employee with the responsibility for responding to information requests from the Town of Oro Valley.

2.1.3 Pima County will support the Town of Oro Valley's efforts to obtain separate grant funding from the United States Fish and Wildlife Service to fund the Town's Endangered Species Act compliance efforts.

2.1.4 The Element will address the full range of land use issues, including urban, mineral and agricultural development. The State requirement for consistency between general plan elements will afford the opportunity to conform land use planning programs, including the land use and environmental elements of the general plan, with the Element, and to provide for the necessary linkage with local permit, zoning, and subdivision ordinances. The Town of Oro Valley and Pima County will cooperate and coordinate planning efforts to achieve consistency in planning designations so uses are compatible along the jurisdictions boundaries.

2.2 Conservation Plan: A Section 10(a) conservation plan will be prepared by each Public Agency for those threatened and/or listed endangered species which each jurisdiction would like covered under the permit.

Section 10(a) permits will authorize the Public Agencies and private parties operating under the authority of the permit, to carry out activities that result in the incidental take of threatened and/or listed endangered species.

2.2.1 It is the intent of the parties to eliminate project-by-project review of the effect of development activities on the threatened and/or federally listed endangered species to the full extent authorized by law, and to ensure that federal mitigation/compensation measures are not imposed beyond those detailed in the conservation plan(s) for such development activities provide conditions under which the conservation plan was formulated have not significantly changed. Such a conservation plan will satisfy the participating Federal agencies with respect to the protection of the threatened and/or listed endangered species by, among other possible mechanisms, providing uniform and biologically viable mitigation/compensation measures for application to development activities. Such mitigation measures will be developed subject to the approval of participating Federal agencies.

2.2.2 Individual landowners, groups of landowners, or development interests may choose to comply with the terms and conditions of an applicable and approved conservation plan affecting their proposed activities. Alternately, they may choose to prepare and submit their own conservation plan and Section 10(a) permit application when their activities may result in incidental take of federally listed species, and, if State or local agency approval is required, they may choose to submit their proposal outside the existing conservation plan umbrella.

2.3 Implementing Agreement. The Town of Oro Valley Conservation Plan and the Sonoran Desert Conservation Plan shall be implemented through enforceable agreements. The agreements shall specify the operating parameters of the conservation plans. The agreements specify the obligations, authorities, responsibilities, liabilities, benefits, rights, and privileges of all parties or signatories to the subject conservation plans to be prepared and submitted with the Section 10(a) permit applications. The agreements will provide specific mitigation commitments for private parties and Public Agencies conducting development activities, and assurances by the Public Agencies to prevent the imposition of inconsistent or overlapping mitigation/compensation requirements under any Federal, State, or local law.

3.0 STEERING COMMITTEES

The Town and County will participate in Steering Committee activities of each jurisdiction.

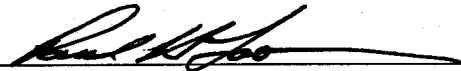
4.0 PUBLIC INVOLVEMENT

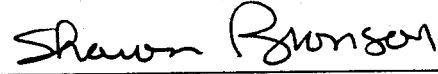
It is the intent of the parties to this agreement that the public will be afforded sufficient opportunity to provide input, not only during the required NEPA review process, but during the scoping and planning process, as well.

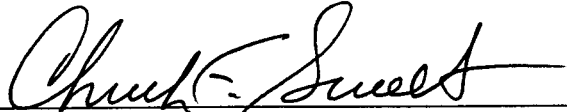
5.0 TERM

This Memorandum of Understanding is effective from the date of signature until a Party to the Agreement withdraws from participation and memorializes that intent to withdraw in writing.

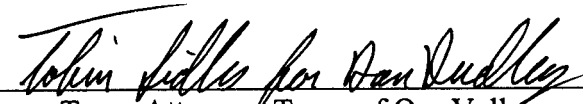
IN WITNESS WHEREOF, THE PARTIES HERETO have executed this memorandum, on the date(s) set forth below, as of the day and year first above written.


By 
Mayor, Town of Oro Valley

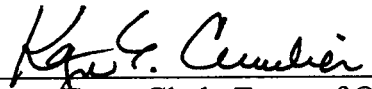
By 
Chair, Pima County Board of Supervisors
JAN 14 2003

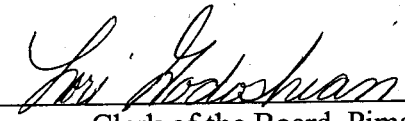

Town Manager, Town of Oro Valley

 1/22/03
County Administrator, Pima County


Town Attorney, Town of Oro Valley

 1-15-03
County Attorney, Pima County


Town Clerk, Town of Oro Valley


Clerk of the Board, Pima County

JAN 14 2003