

Endangered Species Act Section 7

- Promoting Species Recovery
and
- Easing Concerns/Removing Objections

Arizona Section International Society for
Range Management
WINTER MEETING
Prescott Resort, Prescott, AZ
January 18-20, 2010

Section 7 Benefiting Non-Feds?

Section 7

- If an action is funded, authorized, or carried out by a Federal agency (known as a Federal “nexus”)
- 135-day consultation period
- Provides ESA compliance/Incidental Take Statement

Section 10

- Non-federal individuals
- HCPs, Safe Harbor Agreements, Candidate Conserv. Agreements, etc.
- Lengthy process, can be expensive
- Provides ESA compliance/Incidental Take Statement

Altar Valley

The Challenge:

- Altar Valley Conservation Alliance wanted to bring fire back to the landscape to reduce shrub invasion and restore a healthy grassland.
- Fire, while good for the ecosystem, would have short-term adverse effects on listed species – the then-listed pygmy-owl and Pima pineapple cactus.



- AVCA received non-traditional section 6 grant for an HCP, but they couldn't meet the mitigation requirements for permit issuance.
- There were concerns about liability with prescribed fire.

The Solution:

- NRCS stepped forward and took lead for fire on private and State grazing leases and therefore established a Federal nexus.
- NRCS in coordination with NRCS and AVCA completed NEPA on the fire management plan.
- The Nature Conservancy will provide the insurance necessary to address the liability.
- **Section 7** consultation on fire management plan addressed the short-term effects of fire management on listed species.



The Benefits:

- Ecosystem returning to a healthy grassland.
- Short term impacts to species addressed
- Productive partnerships (win-win-win)
- Ecosystem approach – managing across boundaries



Bonita Creek

The Challenge:



Native Fish Restoration Project

- Bureau of Reclamation fish barrier to protect native fish populations
- Chemical renovation to remove nonnative predatory fish
- Stocking of Endangered Species Act-listed fish species



City of Safford Concerns

- Effects of piscicide on water quality of main Safford water supply
- Effects of ESA-listed fish on maintaining Safford water supply (infiltration gallery and pipeline)
- How can project move forward with land owner assurance?

Bonita Creek

The Solution:

Section 7 Biological Opinion

- Provided coverage for City of Safford actions: using an MOU between BLM and the City of Safford as Federal nexus
- Provided coverage for take of listed species pursuant to maintaining water supply (vegetation clearing, well, pipelines, pump, and road maintenance)
- Federal actions: also covered effects of BLM livestock grazing, recreation, etc. and BR fish barrier construction and maintenance

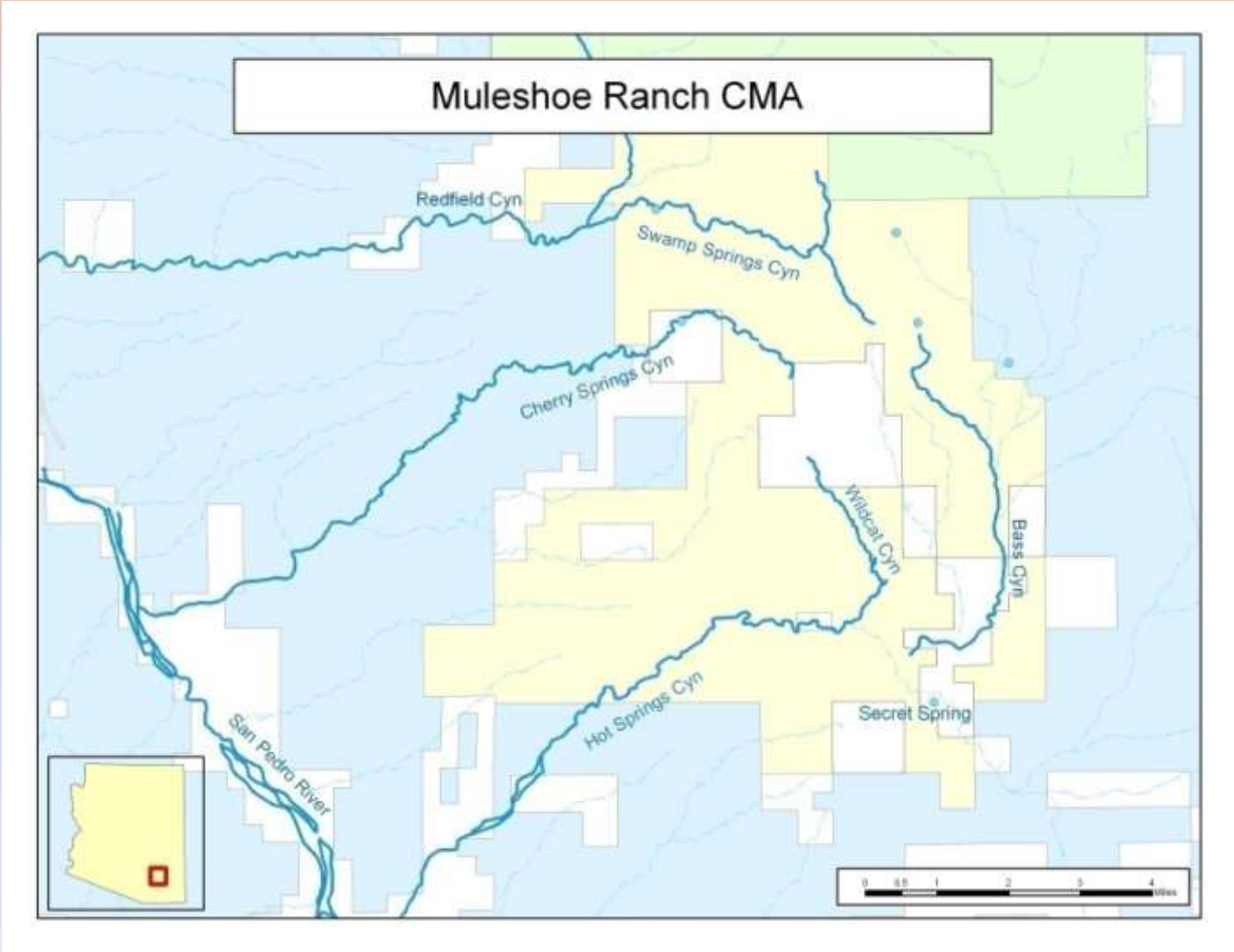


Bonita Creek and Gila chub



Native Species Recovery at the Muleshoe Ranch Conservation Management Area (CMA)

Muleshoe



Muleshoe

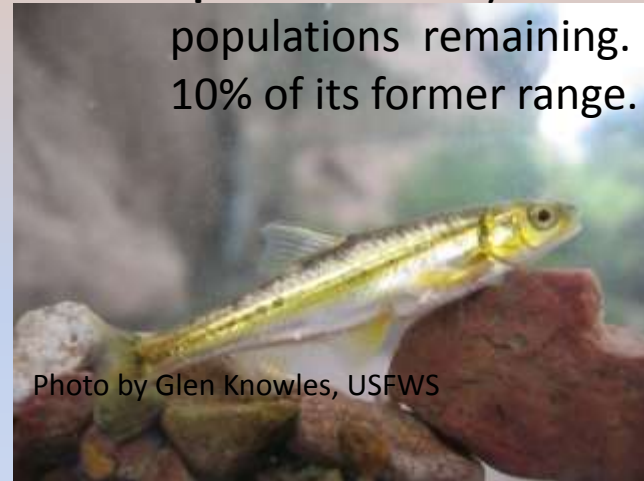
The Challenge:

The Muleshoe Project involved conservation efforts on behalf of four native fishes:

Loach minnow – Three stable populations remaining. Occurs on only 10-15% of former range.



Spikedace – Only two stable populations remaining. Occur on 10% of its former range.



Gila Topminnow – Endangered and occurring in Arizona and Mexico.



Desert Pupfish – Endangered and consisting of a few restricted populations.



The Challenge:

Landowner's Concerns

- Ongoing cattle operation (private, State, Federal ownership).
- Presence of listed species would complicate management, invoke restrictions.
- Section 7 addressed Federal lease; state lease and private land not covered.
- Fish would disperse downstream to the San Pedro River and onto other private lands of concern.



The Muleshoe Preserve
Photo by M. Richardson, USFWS

Muleshoe



The Muleshoe Preserve
Photo by M. Richardson, USFWS

Project Development

- Planning began in 2003 and took 4 years.
- The process involved multiple private, State, and Federal entities.
- The primary landowner, The Nature Conservancy, was one of those willing partners.
- Because endangered species were involved, the project required Endangered Species Act and the National Environmental Policy Act compliance.
- For NEPA, the project was distributed for public review.
- An appeal was received from a local cattle operator with concerns for his grazing operation.

The Solution:

- Appeals process moved forward through BLM, but was causing delay in project implementation.
- Concern about litigation.
- Staff from the Arizona Ecological Services Office met with the landowner and his attorney.
- Through discussion, determined **Section 7** biological opinion could be modified to address landowner's concerns.



The Solution (continued):

- Addressed private and state lands as interrelated/interdependent.
- Fish dispersing out of project area “doomed.”
- Biological Opinion modified.
- Project moved forward.



Photo by M. Richardson, USFWS

Project Implementation:

In October 2007, a 35-person crew captured and transported 2,800 Gila topminnow, desert pupfish, spikedace, and loach minnow via helicopter from source populations...

Muleshoe



Aravaipa Creek
Photos by Bureau of Land Management



Photo by Abe Karam, Arizona State University

Muleshoe

...and reintroduced them into streams and springs on the Muleshoe Conservation Management Area.



The Benefit:

This was the first reintroduction effort for spikedace and loach minnow in 27 years.



Cattle grazing at the Muleshoe CMA continues as before the species reintroduction.

Muleshoe

Chilton Pond



The Challenge:

- Rancher wanted to help recover Chiricahua leopard frogs, using a state-wide safe harbor agreement held by Arizona Game and Fish Department.
- Concerned that frogs not covered on nearby Federal allotments.
- Potential to be adversely restricted by section 7 or potentially sued.

Chilton Pond

The Solution:

- We worked with the Forest Service and the BLM to develop guidelines for future **Section 7** consultations on effects of livestock grazing on Chiricahua leopard frogs.
- These guidelines were consistent with the safe harbor agreement and recovery plan for the Chiricahua leopard frog.



The Benefit:

- The Chiricahua leopard frog benefits from a state-of-the-art grow-out facility built by the rancher.
- Rancher has assurance regarding his operation on Federal lands.

Lessons Learned:

- We need to continue to find reasonable solutions to private landowner concerns of recovery affecting neighboring lands, including Federal lands.

Blue River

...and In the Future:



The Challenge:

Native Fish Restoration Project

- Bureau of Reclamation fish barrier to protect native fish populations
- Mechanical renovation to remove nonnative predatory fish
- Stocking of Endangered Species Act (ESA)-listed fish species
- Private land owner concerns (community of Blue)
 - Effects of ESA on maintaining water use and land use: livestock grazing, private wells, ditch diversions, river crossings, road work
- How can project move forward with land owner assurance?

The Solution:

Section 7 Biological Opinion

- Working on MOU with the Upper Eagle Creek Watershed Association
- Working on Watershed Management Plan with U.S. Forest Service
- When complete: all private actions will be covered with one biological opinion on MOU and Watershed Management Plan



Using Section 7

**...to Promote Species Recovery
and
Provide Land Owner Comfort**



- Lessons we've learned
- Are there risks?