

# Arizona Daily Star

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## U.S. seeks to delist Arizona's pygmy owl

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Federal officials took the first step Monday to remove the endangered status of Arizona's pygmy owls, whose protection sparked a tightening of development rules and a change in environmental consciousness in Pima County.

Removal of federal protection may make it easier for some developments to be built on Tucson's fast-growing Northwest Side. The old-growth saguaro and ironwood forests there are considered prime owl habitat.

But it won't roll back the tide of tougher development standards that local governments have pushed through in recent years, a top Pima County official and a leading homebuilders' spokesman said.

Where an owl "delisting" is more likely to matter is for projects in owl habitat that have won local approval, but would otherwise need federal clearance. Such projects may be built more quickly and with less regulation now.

The U.S. Fish and Wildlife Service announced Monday that it will formally propose Wednesday to reverse its 1997 decision to list the nearly 7-inch-long bird as endangered. Surveyors found just 20 adult pygmy owls in Arizona this year, but there are hundreds or more in northern Mexico.

The service said in a press conference

that its scientists have not proved to the agency's satisfaction that the owls' presence in Arizona is significant to ensuring survival of the entire cactus ferruginous pygmy owl subspecies, whose population dips well into Mexico.

The proposal comes nearly two years after the 9th Circuit Court of Appeals ruled that the service had failed to properly justify the listing.

The deadline for a final decision on the bird's status is a year away. The service will gather public comment for the next 60 days.

On Monday, developers and a property rights activist supported and welcomed the proposal to delist the owl.

Environmentalists, however, disagreed strongly with the service's reasoning. The Center for Biological Diversity, the Tucson-based group that originally got the owl listed, said it will file suit if necessary to overturn a decision to remove the listing.

Since 1997, Pima County officials in particular have tightened zoning restrictions and planning standards and required much more detailed analyses of new development plans as a result of the owl. The most prominent change, the Sonoran Desert Conservation Plan, led to a 65percent-35 percent voter approval in May 2004 of \$174 million in open-space bonds. The bonds will buy important land for the owl and 53 other vulnerable spe-

cies.

County Administrator Chuck Huckelberry said he foresees no roll-backs of the region's tighter local development rules as a result of the service's proposal.

"It has no effect at all on the conservation plan," Huckelberry said. "We didn't look at a single species plan. We looked at multispecies. I don't think we'll relook at anything in our rules. None was specifically targeted at the owl."

The Southern Arizona Home Builders Association, which sued to try to take the owl off the endangered species list, plans no effort to roll back any local rules approved since 1997, said Ed Taczanowsky, its executive vice president.

"Listing is a federal regulation. It has nothing to do with the county," Taczanowsky said. "The development community has adapted to development (rules) in Pima County. It's more difficult but they've adapted."

On a federal level, the owl listing led to many delays of projects - including the Dove Mountain housing/golf course development and Ironwood Ridge High School - while wildlife service officials reviewed their potential effects on the bird.

The delays drew complaints from developers that they cost the industry time and

money. While few if any projects were actually vetoed by the service, some were scaled back. In recent years, the restrictions loosened after the homebuilders won a 2001 court ruling tossing out federal designation of the owl's best habitat.

Larry Bell, the wildlife service's acting Southwest deputy regional director, predicted "very little" decrease in protection for the owls because they will still be covered by the Migratory Bird Treaty Act. The 1918 federal law outlaws the killing of certain birds and possession or trade of their parts, nests and eggs.

But while the Endangered Species Act can protect areas that a listed species calls home, courts have ruled the Migratory Bird Treaty Act doesn't forbid damage to habitat, such as blading desert for new subdivisions. The distinction is key: in Northwest Tucson, the owl versus development conflict has centered on modification of the owl's habitat, rather than direct killing of birds by bulldozers and other construction activities.