

ARIZONA WATER PROTECTION FUND COMMISSION

Business Meeting – November 28, 2023

Arizona Department of Water Resources

Thunder River Conference Room

1110 W. Washington St., Ste. 310

Phoenix, AZ 85007

&

Virtual Meeting via Cisco Webex

Meeting Number (Access Code): 2532 800 5404

Meeting Password: BTySrCCp783

1-415-655-0001 US Toll

Final Meeting Minutes

ATTENDANCE

Commission Voting Members Present

Pat Jacobs – Chairman

Stephen Turcotte – Vice-Chairman

Brian Biesemeyer

Shelley Blackmore

Rodney Held

John Ladd

Frank Krentz

Tina Thompson

Arizona Water Protection Fund Staff

Lizette Fuentes

Reuben Teran

Commission Voting Members Absent

None

Commission Non-Voting Ex-Officio Members Present

None

CALL TO ORDER

Chairman Pat Jacobs called the meeting of the Arizona Water Protection Fund (AWPF) Commission to order at 10:00 a.m.

COMMISSIONER MEMBER ROLL CALL

Mr. Reuben Teran called the roll of the AWPF Commission. Commissioners present at the time of roll call included Chairman Pat Jacobs, Vice-Chairman Stephen Turcotte, Commissioner Brian Biesemeyer, Commissioner Shelley Blackmore, Commissioner Rodney Held (via Webex), Commissioner John Ladd (via telephone) Commissioner Frank Krentz (via Webex), and Commissioner Tina Thompson. A quorum of voting Commission members was present.

Mr. Teran also called the role for non-voting, ex-officio members of the Commission. None were present.

CALL TO THE PUBLIC

Chairman Jacobs made a call to the public. Mr. Michael Curtis identified himself as a member of the public and stated his affiliations but did not wish to make any comments during this call to the public.

AWPF GRANT 23-218WPF: PROJECT TITLE: PROTECTING AND RESTORING HABITAT AND SURFACE FLOW IN TANQUE VERDE CREEK

Mr. Teran introduced Catlow Shipek with the Watershed Management Group who provided an update on the status of the project and requested an expansion of the original project area to include property owned by the Lakes at Castle Rock Homeowners Association. Commissioner Krentz made a motion to approve the requested expansion of the project area, with a second from Vice-Chairman Turcotte. Chairman Jacobs called for a discussion on the motion. No comments were made. Chairman Jacobs called for a vote on the motion:

Pat Jacobs – Chairman	Aye
Stephen Turcotte –Vice-Chairman	Aye
Brian Biesemeyer	Aye
Shelley Blackmore	Aye
Rodney Held	Aye
John Ladd	Aye
Frank Krentz	Aye
Tina Thompson	Aye

The motion passed unanimously.

AWPF GRANT 20-204WPF: WINKELMAN NATURAL RESOURCES CONSERVATION DISTRICT RIPARIAN RESTORATION

Mr. Teran introduced Kyle Thompson with the Winkelman Natural Resource Conservation District who provided a brief update on the project status and requested an extension of the grant award contract to September 30, 2024. Vice-Chairman Turcotte stated that he is the Vice-Chair of the Winkelman Natural Resources Conservation District and recused himself from the discussion and vote. Commissioner Biesemeyer made a motion to approve the grant award contract extension to September 30, 2024, with a second from Commissioner Blackmore. Chairman Jacobs called for vote on motion:

Pat Jacobs – Chairman	Aye
Stephen Turcotte –Vice-Chairman	Recused
Brian Biesemeyer	Aye
Shelley Blackmore	Aye
Rodney Held	Aye
John Ladd	Aye
Frank Krentz	Aye
Tina Thompson	Aye

The motion passed with one 7 Aye votes and 1 recusal.

AWPF GRANT 22-215WPF: RAVENNA & PAMPAS GRASS CONTROL ALONG THE COLORADO RIVER FROM GLEN CANYON DAM TO DIAMOND CREEK

Mr. Teran introduced Amy Prince with Mariposa Consulting who is partnering with RiversEdge West. Ms. Prince provided a brief update on the status of the project and requested a grant award contact extension to December 31, 2024. Mr. Teran recommended the grant award contract be extended to April 30, 2025 to facilitate the review of the final grant deliverables and closeout of the project. Vice-Chairman Turcotte

made a motion to extend the grant award contract to April 30, 2025, with a second from Commissioner Thompson. Chairman Jacobs called for a vote on the motion:

Pat Jacobs – Chairman	Aye
Stephen Turcotte –Vice-Chairman	Aye
Brian Biesemeyer	Aye
Shelley Blackmore	Aye
Rodney Held	Aye
John Ladd	Aye
Frank Krentz	Aye
Tina Thompson	Aye

The motion passed unanimously.

ARIZONA WATER PROTECTION FUND PROGRAM UPDATES – EXECUTIVE DIRECTOR

Commissioner Conflict of Interest Notice

Mr. Teran reminded Commission members to submit a Commissioner Conflict of Interest form if they feel they may have a conflict of interest in any of the grant applications that would be discussed later this meeting. Mr. Teran stated that Commissioner Biesemeyer has submitted a Commissioner Conflict of Interest form for grant application WPF2403 – Pine Canyon Watershed Protection and Restoration project.

Financial Update

Mr. Teran presented a table that projected the available Arizona Water Protection Fund balance out to June 30, 2024, that was intended to be used as a reference for the upcoming grant cycle awards agenda item. AWP staff's recommendation of funds available to grant for the fiscal year 2024 grant cycle was \$1,808,132.

FISCAL YEAR 2024 GRANT CYCLE AWARDS

Chairman requested each Commission member to provide an individual project ranking of the applications from 1 to 7 to help establish an overall priority list of the Commission's support for each application. With no objections from the Commission Chairman Jacobs directed Mr. Teran to proceed with tracking each Commission member's individual application support ranking. The results of the ranking identified the applications in the following priority order:

- WPF2403 - Pine Canyon Restoration and Watershed Protection Project
- WPF2408 - West Turkey Creek Watershed Resiliency Project
- WPF2401 - Big Sandy NRCD Improving Watersheds Through Restoration Projects
- WPF2406 - Verde River Access Point Restoration
- WPF2402 - Christopher Creek Restoration Project
- WPF2405- Restoring Riparian Health of Sonoita Creek and Patagonia Lake
- WPF2404 - Preservation and Protection of Concho Springs, Concho Creek and Concho Lake

Commissioner Thompson made a motion to not exceed the projected funds available to grant budget of \$1,808,132, with a second from Commissioner Biesemeyer. Chairman Jacobs called for a vote on the motion:

Pat Jacobs – Chairman	Aye
Stephen Turcotte –Vice-Chairman	Aye

Brian Biesemeyer	Aye
Shelley Blackmore	Aye
Rodney Held	Aye
John Ladd	Aye
Frank Krentz	Aye
Tina Thompson	Aye

The motion passed unanimously.

WPF2403 - Pine Canyon Restoration and Watershed Protection Project

Vice-Chairman Turcotte made a motion to approve WPF2403 - Pine Canyon Restoration and Watershed Protection Project, with a second from Commissioner Thompson.

Chairman Jacobs called for a discussion on the motion. Commissioner Held requested that each Commissioner be able to provide comments and a roll call vote on each application. Mr. Teran requested clarification if contract conditions recommended as part of the staff review are to be incorporated into the grant award contract if the project is selected for funding. Chairman Jacobs stated that it is standard policy that the Commission adopts those recommendations unless there is something made in the motion that changes it. Chairman Jacobs called for a vote on the motion:

Tina Thompson	Aye
John Ladd	Aye
Frank Krentz	Aye
Rodney Held	Aye
Shelley Blackmore	Aye
Brian Biesemeyer	Recused
Stephen Turcotte –Vice-Chairman	Aye
Pat Jacobs – Chairman	Aye

The motion passed with 7 Aye votes and 1 recusal.

WPF2408 - West Turkey Creek Watershed Resiliency Project

Commissioner Blackmore made a motion to approve WPF2408 - West Turkey Creek Watershed Resiliency Project, with a second from Commissioner Biesemeyer. Chairman Jacobs called for questions or comments from the Commission. Commissioner Held stated that he thinks this a great feasibility type project, but expressed concerns about funding a project where they currently don't have staff to manage the project; the request for funding to hire someone whom the Commission does not have any knowledge what their qualifications are going to be; and the training of other project staff with no guarantee that there will be funding to implement the actual on-the-ground project in the future. Vice-Chairman Turcotte stated that he agrees with Commissioner Held, but stated that the Commission would be providing the seed money to get the project started and that the US Forest Service was going to provide some oversight. Commissioner Thompson commented that she understands Mr. Jeremiah Liebowitz was going to be managing the project and has experience in this type of work, and Cuenca Los Ojos will be in charge of the project. Chairman Jacobs asked if staff had any recommendations and Mr. Teran responded with the recommended contract conditions from the AWPf staff review.

Commissioner Thompson recommended as part of the approval the applicant provide clarification on the organizational structure of the proposed AWPf project and provide clarification on the training to be provided. Chairman Jacobs called for a vote on the motion:

Tina Thompson	Aye
John Ladd	Aye
Frank Krentz	Aye
Rodney Held	Aye
Shelley Blackmore	Aye
Brian Biesemeyer	Aye
Stephen Turcotte –Vice-Chairman	Aye
Pat Jacobs – Chairman	Aye

The motion passed unanimously.

WPF2401 - Big Sandy NRCD Improving Watersheds Through Restoration Projects

Vice-Chairman Turcotte made a motion to approve WPF2401 - Big Sandy NRCD Improving Watersheds Through Restoration Projects, with a second from Commissioner Thompson.

Chairman Jacobs called for a discussion on the motion. Commissioner Held stated that the concept of this project is very valuable, but expressed concern that this project gets away from the Commission's mission and statutory mandate to maintain, enhance, and restore rivers and riparian resources, and fish and wildlife dependent on the riparian habitat resources being restored. Commissioner Blackmore stated that all water in Arizona should be a priority and the proposed tanks will conserve water. Commissioner Blackmore also stated that it does not appear that the partnering ranchers would not have any input or be providing any resources for the project, and recommended the applicant look into other options that would allow them to do more tanks instead of only 10. Commissioner Blackmore further commented that while the project is stretching the mission it is still a good project. Commissioner Krentz stated that he supports this project since it will help to recharge the local groundwater basin and will support a larger effort and other fundraising opportunities. Vice-Chairman Turcotte stated that he supports the water conservation project and preserving sub flow associated with leaking storage tanks near streams. Commissioner Biesemeyer stated that he agrees that is a great project, but does have the same concerns as Commissioner Held. Commissioner Thompson stated that by conserving water along streambeds and conserving sub flow that this project could help to raise the water table along the streams and benefit the riparian habitat. Commissioner Thompson also suggested that the applicant look into the option of using plastic, rubber, or fiberglass tanks as a cost saving measure on materials and labor. Commissioner Biesemeyer stated that he would be more comfortable if the applicant identify the 10 project sites and justify their connection to water, washes, riparian areas, or wildlife before a grant award contract is executed. Chairman Jacobs suggested coordination with the Water Infrastructure Finance Authority to help fund the other tanks that need to be replaced. Vice-Chairman Turcotte stated that this is a landscape project with lots of interested parties, and the replacement of tanks is a maintenance issue to conserve water on the landscape and not an effort to add more storage tanks.

Chairman Jacobs supported Commissioner Biesemeyer's suggestion to have the applicant identify the 10 sites and justify how tank replacements at those 10 sites support the mission of the Arizona Water Protection Fund before a grant award contract is executed, and further stated that the matter be brought back before the Commission if staff has concerns or is not able to support the justifications provided. Commissioner Held again expressed concerns that the grant application does not have any components that would monitor

or evaluate the benefits to sub flow, rivers, streams, or riparian habitat, and feels that it does not meet the Commission's statutory mission.

Commissioner Thompson inquired if an amendment to the motion to approve the project is necessary based on the Commission's discussion. Chairman Jacobs stated that the Commission's discussion on this application has included the caveats to be considered as part of the motion, and provided direction to the Executive Director to follow up with the applicant on the points discussed and if any issues come up to bring them to the Commission at the next meeting. Chairman Jacobs called for a vote on the motion:

John Ladd	Aye
Frank Krentz	Aye
Rodney Held	Nay
Shelley Blackmore	Aye
Brian Biesemeyer	Nay
Stephen Turcotte –Vice-Chairman	Aye
Tina Thompson	Aye
Pat Jacobs – Chairman	Nay

The motion with caveats passed with 5 Aye votes and 3 Nay votes.

WPF2406 - Verde River Access Point Restoration

Commissioner Held made a motion to approve WPF2406 - Verde River Access Point Restoration, with a second from Commissioner Thompson

Chairman Jacobs called for a discussion on the motion. Vice-Chairman Turcotte stated that this was a good project, but expressed concerns about the stability of the rock mats during high flows. He also stated that those concerns can probably be addressed if the mats are engineered correctly. Chairman Jacobs called for a vote on the motion:

Frank Krentz	Aye
Rodney Held	Aye
Shelley Blackmore	Aye
Brian Biesemeyer	Aye
Tina Thompson	Aye
John Ladd	Aye
Stephen Turcotte –Vice-Chairman	Aye
Pat Jacobs – Chairman	Aye

The motion passed unanimously.

WPF2402 - Christopher Creek Restoration Project

Commissioner Blackmore made a motion to approve WPF2402 - Christopher Creek Restoration Project, with a second from Vice-Chairman Turcotte.

Chairman Jacobs called for a discussion on the motion. Commissioner Biesemeyer requested clarification on the funding amount for the project. Mr. Teran clarified that the original fund request of \$242,960 has changed based on grant application presentation, and the applicant's statements that Tasks #3 (Springbox Reconstruction = \$10,930.71) and #4 (Pond Pipeline Reconstruction = \$57,105.72) have already been

completed and they have requested a reduced funding amount. Commissioner Blackmore expressed concern about why the applicant allowed the project site to get to the current condition. As part of the contract conditions Commissioner Held requested staff to inquire if the spring box was on the Boy Scouts of America property or US Forest Service lands. Chairman Jacobs called for a vote on the motion:

Rodney Held	Aye
Shelley Blackmore	Aye
Brian Biesemeyer	Aye
Tina Thompson	Aye
John Ladd	Nay
Frank Krentz	Aye
Stephen Turcotte –Vice-Chairman	Aye
Pat Jacobs – Chairman	Aye

The motion passed with 7 Aye votes and 1 Nay vote.

Vice-Chairman Turcotte requested to make a point of order and stated that the Commission passed a motion that they will not exceed the funding amount of \$1,808,132, and made a motion to stop the proceeding at this point so the Commission does not violate that order. Chairman Jacob accepted the point of order that applications WPF2404 - Preservation and Protection of Concho Springs, Concho Creek and Concho Lake and WPF2405- Restoring Riparian Health of Sonoita Creek and Patagonia Lake will not be considered for funding and requested any comments from the Commission. No comments were made.

AWPF PROGRAM GRANT APPLICATION GUIDELINES TRIENNIAL REVIEW PROCESS

Chairman Jacobs requested to have two Commission subcommittees created with at least three members each. One subcommittee to review the current AWPf application guidelines and policies, and the other subcommittee to review current AWPf statutes with the purpose of reviewing the available information and make recommendations to the full Commission for discussion and action. Chairman Jacobs asked Commission members to think about this and respond to the Executive Director if they were interested in participating in a Commission subcommittee.

Commissioner Thompson made a motion to table this agenda item until the next meeting, with a second from Commissioner Biesemeyer. Chairman Jacobs called for a vote on the motion:

Tina Thompson	Aye
John Ladd	Aye
Frank Krentz	Aye
Rodney Held	Aye
Shelley Blackmore	Aye
Brian Biesemeyer	Aye
Stephen Turcotte –Vice-Chairman	Aye
Pat Jacobs – Chairman	Aye

The motion passed unanimously.

USE OF DIGITAL SIGNATURES BY COMMISSION MEMBERS FOR AWPf GRANT AWARD CONTRACTS AND OTHER ADMINISTRATIVE PURPOSES

Commissioner Thompson made a motion for the Commission to accept digital signatures under Arizona Department of Water Resources protocols, with a second from Commissioner Blackmore. Chairman Jacobs called for a discussion on the motion. No comments were made. Chairman Jacobs called for a vote on the motion:

Tina Thompson	Aye
John Ladd	Aye
Frank Krentz	Aye
Rodney Held	Aye
Shelley Blackmore	Aye
Brian Biesemeyer	Aye
Stephen Turcotte –Vice-Chairman	Aye
Pat Jacobs – Chairman	Aye

The motion passed unanimously.

CALL FOR FUTURE AGENDA ITEMS

Chairman Jacobs called for future agenda items. Agenda items requested included the Grant Application Guidelines Triennial Review Process, an update on all active grant award contracts, and reports from the Commission subcommittees.

FUTURE MEETING DATE(S)

Commissioner Blackmore made a motion to schedule the next Commission meeting for Tuesday, March 5, 2024 at 10:00 a.m. in Phoenix, AZ, with a second from Commissioner Biesemeyer. Chairman Jacobs asked for a discussion on the motion. No comments were made. Chairman Jacobs called for a vote on the motion:

Tina Thompson	Aye
John Ladd	Aye
Frank Krentz	Aye
Rodney Held	Aye
Shelley Blackmore	Aye
Brian Biesemeyer	Aye
Stephen Turcotte –Vice-Chairman	Aye
Pat Jacobs – Chairman	Aye

The motion passed unanimously.

CALL TO THE PUBLIC

Chairman Jacobs made a call to the public. Alan Davis from Arizona Trout Unlimited addressed the Commission by 1)thanking the Commission on behalf of Arizona Trout Unlimited and the Boy Scouts of America Grant Canyon Council for approving application WPF2402 - Christopher Creek Restoration Project; 2) responding to the question asked by the Commission during the discussion on this application

regarding the location of the spring box by clarifying that the spring box is located on Boy Scouts of America Grand Canyon Council property, and not on US Forest Service lands; and 3) stating that the water rights Statement of Claimant is currently being processed.

ADJOURN

Chairman Jacobs adjourned the meeting at 12:32 p.m.

Commission Members

Pat Jacobs, Chairman
 Stephen Turcotte, Vice Chairman
 Brian Biesemeyer
 Shelley Blackmore
 Rodney Held
 John Ladd
 Frank Krentz
 Tina Thompson

Arizona Water Protection Fund Commission

1110 West Washington, Suite 310, Phoenix, AZ 85007

Phone: (602) 771-8528

www.azwpf.gov

**Ex-Officio Members**

Thomas Buschatzke
 Director
 AZ Department of Water Resources

Robyn Sahid
 State Land Commissioner
 AZ State Land Department

Advisory Members

The Honorable Sine Kerr
 AZ State Senate

The Honorable David L. Cook
 AZ House of Representatives

Executive Director

Reuben Teran

NOTICE OF PUBLIC MEETING

Pursuant to A.R.S. § 38-431.02, notice is hereby given that there will be a meeting of the Arizona Water Protection Fund (AWPF) Commission on **Tuesday, November 28, 2023 at 10:00 a.m.** This meeting is open to the public, and in person or virtual attendance options are available. The meeting location and agenda are described below.

Meeting Location

Arizona Department of Water Resources Thunder River Conference Room 1110 W. Washington St., Ste. 310 Phoenix, AZ 85007	To ensure appropriate meeting space, please RSVP to lfuentes@azwater.gov if you would like to attend in person.
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Cisco Webex Meeting Information

Link: https://azwater.webex.com/azwater/j.php?MTID=me4897da52007b55161feb2cad3576318 Meeting Number (Access Code): 2532 800 5404 Meeting Password: BTySrCCp783

or

Join by Phone

1-415-655-0001 US Toll	Access Code: 2532 800 5404
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Dated this 21st day of November 2023

ARIZONA WATER PROTECTION FUND COMMISSION
MEETING AGENDA

- I. Call to Order –Chairman Pat Jacobs
- II. Commission Member Roll Call – Executive Director
- III. Call to the Public – Chairman Jacobs
 - Comments from the public will be limited to 3 minutes per speaker.

Arizona Water Protection Fund Commission
Notice of Public Meeting and November 28, 2023 Meeting Agenda (continued)

- IV. AWPf Grant 23-218WPF: Project Title: Protecting and Restoring Habitat and Surface Flow in Tanque Verde Creek – Watershed Management Group / AWPf Executive Director
- The Commission will be updated on the status of the project and potential expansion of the original project area, and may take action or provide direction to staff.
- V. AWPf Grant 20-204WPF: Winkelman Natural Resources Conservation District Riparian Restoration – Winkelman Natural Resource Conservation District
- The Commission will discuss and may take action to approve a grant award contract extension.
- VI. AWPf Grant 22-215WPF: Ravenna & Pampas Grass Control Along the Colorado River from Glen Canyon Dam to Diamond Creek – RiversEdge West
- The Commission will discuss and may take action to approve a grant award contract extension.
- VII. Arizona Water Protection Fund Program Updates – Executive Director
- Commissioner Conflict of Interest Notice
 - Financial Update

Informational updates only. No action will be taken.

- VIII. Fiscal Year 2024 Grant Cycle Awards
- The Commission will discuss and may take action on funding awards for the following grant applications:
 - WPF2401 - Big Sandy NRCD Improving Watersheds Through Restoration Projects
 - WPF2402 - Christopher Creek Restoration Project
 - WPF2403 - Pine Canyon Restoration and Watershed Protection Project
 - WPF2404 - Preservation and Protection of Concho Springs, Concho Creek and Concho Lake
 - WPF2405- Restoring Riparian Health of Sonoita Creek and Patagonia Lake
 - WPF2406 - Verde River Access Point Restoration
 - WPF2408 - West Turkey Creek Watershed Resiliency Project
- IX. AWPf Program Grant Application Guidelines Triennial Review Process – Chairman Jacobs
- The Commission may discuss and take action to update Arizona Water Protection Fund program future grant application guidelines and/or future grant application manuals. Discussions may include, but are not limited to:
 - Updates/changes suggested by the public during the Triennial review process.
 - The times that a grant cycle is announced and grant applications can be accepted, to the time that grant applications are due.
 - Fiscal Year 2024 grant cycle process
 - Other Commissioner suggestions
- X. Use of Digital Signatures by Commission Members for AWPf Grant Award Contracts and Other Administrative Purposes – All Commission Members

Arizona Water Protection Fund Commission
Notice of Public Meeting and November 28, 2023 Meeting Agenda (continued)

XI. Call for Future Agenda Items – All Commission Members

XII. Future Meeting Date(s) – Chairman Jacobs

XIII. Call to the Public – Chairman Jacobs

- Comments from the public will be limited to 3 minutes per speaker.

XIV. Adjourn – Chairman Jacobs

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- *The Arizona Water Protection Fund Commission may elect to go into Executive Session for the purposes of obtaining legal advice from its attorney on any of the listed agenda items pursuant to A.R.S. § 38-431.03(A)(3). Executive sessions are not open to the public.*
 - *Agenda items may be taken out of order. No action may be taken on items unless specifically noted on the agenda.*
 - *Members of the Arizona Water Protection Fund Commission may appear virtually or by telephone.*
 - *Agenda and backup/supporting documents can be obtained by contacting Lizette Fuentes at 602-771-8472 or lfuentes@azwater.gov.*
 - *People with disabilities may request reasonable accommodations such as interpreters, alternate formats, or assistant with physical accessibility. If you require accommodations, please contact Jennifer Marteniez at (602) 771-8426 or by e-mailing jkmarteniez@azwater.gov. Please make requests as soon as possible to allow time to arrange the accommodation.*

Arizona Water Protection Fund Commission Meeting
November 28, 2023
STAFF RECOMMENDATIONS

- I. Call to Order
 - No staff recommendations.
- II. Commission Member Roll Call
 - No staff recommendations.
- III. Call to the Public
 - No staff recommendations.
- IV. AWPf Grant 23-218WPF: Project Title: Protecting and Restoring Habitat and Surface Flow in Tanque Verde Creek – Watershed Management Group / AWPf Executive Director
 - Staff recommends the Commission add the new area to the project, and authorize a grant award contract amendment to include the new area in project description and scope of work.
- V. AWPf Grant 20-204WPF: Winkelman Natural Resources Conservation District Riparian Restoration – Winkelman Natural Resource Conservation District
 - Staff recommends the Commission approve a grant award contract extension to September 30, 2024.
- VI. AWPf Grant 22-215WPF: Ravenna & Pampas Grass Control Along the Colorado River from Glen Canyon Dam to Diamond Creek – RiversEdge West
 - Staff recommends the Commission approve a grant award contract extension to April 30, 2025.
- VII. Arizona Water Protection Fund Program Updates – Executive Director
 - No staff recommendations.
- VIII. Fiscal Year 2024 Grant Cycle Awards
 - No staff recommendations
- IX. AWPf Program Grant Application Guidelines Triennial Review Process – Chairman Jacobs
 - No staff recommendations.
- X. Use of Digital Signatures by Commission Members for AWPf Grant Award Contracts and Other Administrative Purposes – All Commission Members
 - No staff recommendations.
- XI. Call for Future Agenda Items
 - No staff recommendations.
- XII. Future Meeting Date(s)
 - No staff recommends.
- XIII. Call to the Public
 - No staff recommendations.
- XIV. Adjourn
 - No staff recommendations.

#23-218WPF: Stormwater project concept plan and location map

1 message

Catlow Shipek <catlow@watershedmg.org>

Tue, Oct 24, 2023 at 11:58 AM

To: Reuben Teran <rteran@azwater.gov>

Cc: Becky Fitzpatrick <rfitzpatrick@watershedmg.org>

Hi Reuben,

Thanks for your time this morning. Attached is a concept plan for additional stormwater projects associated with our Task #4. Page 1 of the pdf has a general location map in reference to our original project scope map.

A few notes:

- it is 1.5miles downstream from our original area of interest and still within the larger shallow groundwater area that supports intermittent creek flows and riparian forests.
- it will extend the beneficial impact length of creek (Tanque Verde Creek) and floodplain habitat acreage originally proposed.
- this is private land that has a conservation easement by the County. Both the private landowner and the County are in support of this concept plan.
- we will share this plan with ADWR and SHPO for review and compliance

Let me know if you have any questions or concerns.

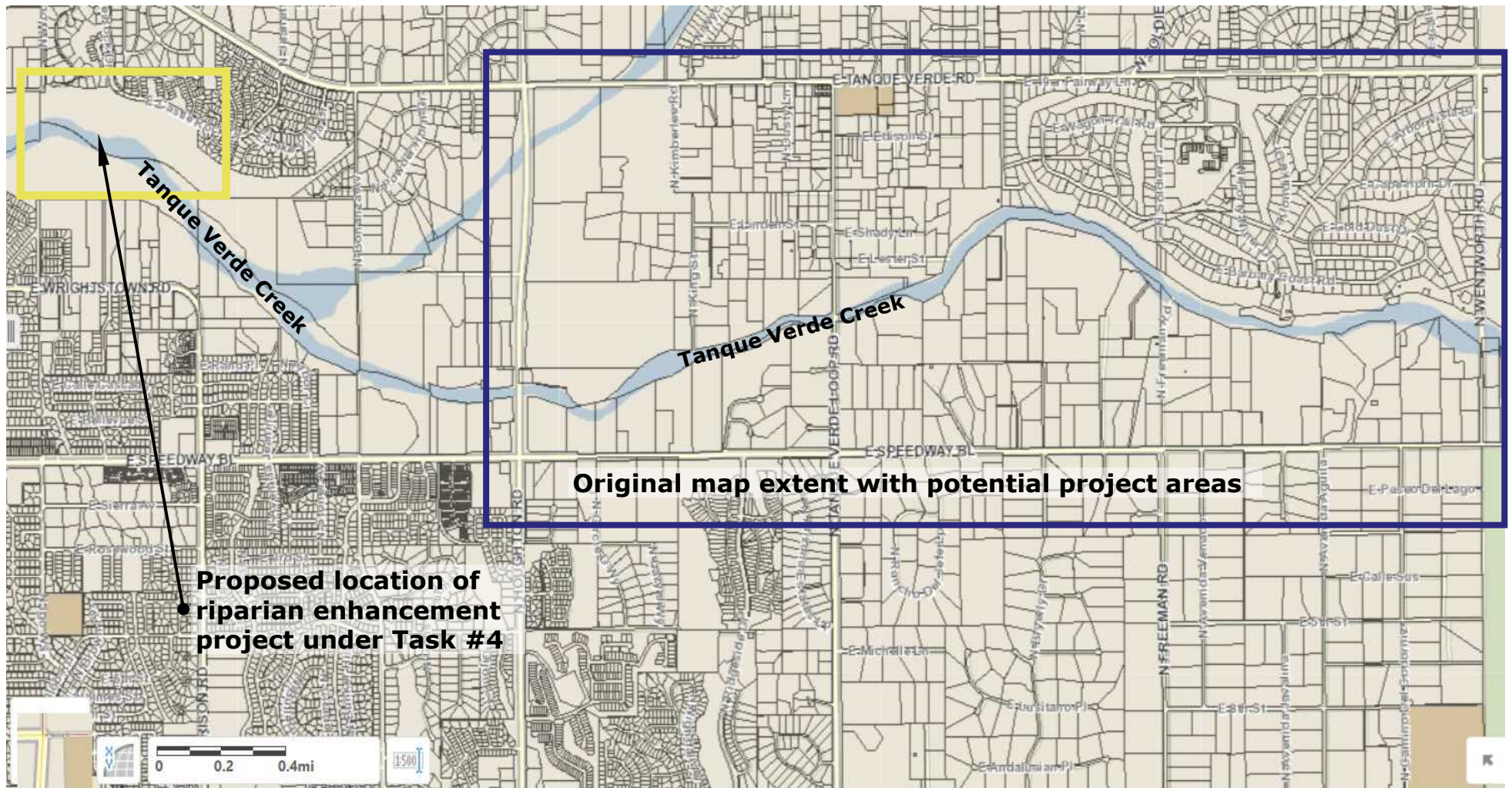
Thanks,
Catlow

--

Catlow Shipek (he/him) | Sr. Program Director
Watershed Management Group
520.396.3266 x 4 | watershedmg.org



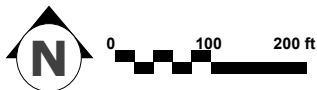
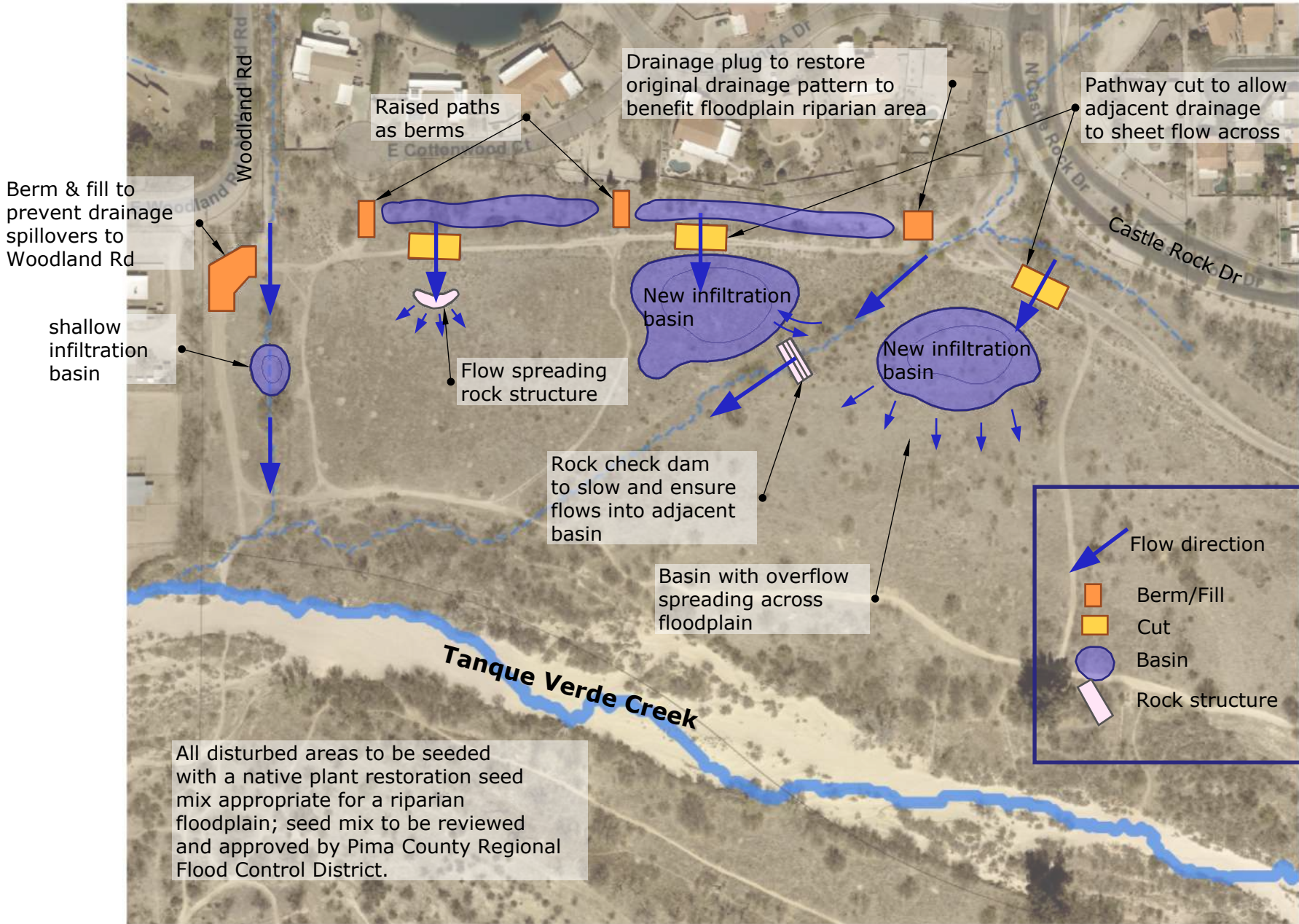
LACR_TVC_floodplain_20Sept2023_draft_concept.pdf
388K



Lakes At Castle Rock: Location Map

DRAFT: 20 September 2023





Lakes At Castle Rock: Floodplain Easement Concept

DRAFT: 20 September 2023





Reuben Teran <rteran@azwater.gov>

Re: Extension Request for Winkelman NRCD Riparian Restoration Project

1 message

Kyle Thompson [REDACTED]

Wed, Nov 8, 2023 at 4:01 PM

To: Reuben Teran <rteran@azwater.gov>

Cc: Bill Dunn [REDACTED], Chris Postel [REDACTED], Steve Turcotte [REDACTED]

September 30 is good. Thank you.

On Wed, Nov 8, 2023 at 3:57 PM Reuben Teran <rteran@azwater.gov> wrote:

Kyle,

I will place this item on the AWPf Commission agenda for November 28, 2023. Given that the requested dates for the final report and the final termination (agreement expiration) are both on June 30, 2024, I would suggest requesting the contact expiration date to September 30, 2024 to allow sufficient time for reviewing the final report, processing the final reimbursement request, and closing out the project before the agreement expires. Let me know if this would be an acceptable option, or if you have another suggested agreement expiration date that can be presented to the Commission. Thank you.

Reuben

Reuben Terán | Executive Director

Arizona Water Protection Fund

Arizona Department of Water Resources

1110 W. Washington Street, Suite #310 | Phoenix, AZ 85007

602-771-8528 | rteran@azwater.gov | www.azwpf.gov

On Wed, Nov 8, 2023 at 2:18 PM Kyle Thompson [REDACTED] wrote:

Hi Rueben,

We would like to request an extension for our project.

Requested extension dates:

Final Project termination:

June 30, 2024

Task #5: Purchase Plant Material and Implement Revegetation Activities

May 31, 2024

Task #6: Post-Treatment Project Site Maintenance and Monitoring

May 31, 2024

Task #7: Final Report and Oral Presentation

June 30, 2024

We are asking for this extension to allow the best practices possible for planting of native plant materials. Currently we have purchased approximately 600 native plants. We need to ensure conditions for their survival which includes planting close to rain events this winter. Additionally we would like to round out our planting with pole cuttings. These could be completed this time of year, however best success rates occur during dormancy in the winter. We are also looking at the best methods for excluding cows on the site that would surely impact the success of planting seedlings.

Thank You,

Kyle



Reuben Teran <rteran@azwater.gov>

Extension of RiversEdge West Grant

1 message

Melissa McMaster <melissa@mariposaeco.com>

Mon, Nov 20, 2023 at 11:47 AM

To: Reuben Teran <rteran@azwater.gov>

Cc: Rusty Lloyd <rlloyd@riversedgewest.org>, Shannon Wadas <swadas@riversedgewest.org>

Hello Reuben,

I am writing to request an extension of the RiversEdge West AWPf grant. We have been able to acquire another grant that has helped in supporting this project and so right now we have about \$10,000 remaining from the AWPf grant, and we are hoping that we would be able to extend the grant for another year and be able to do another year's worth of work. We would like to request for the trip report from the Oct. 2024 trip due date be Nov. 1, 2024, the final report due date be Nov. 14, 2024 and for the grant to be closed out by Dec. 31, 2024.

If it is possible to present this to the Commission next week and request approval, we would greatly appreciate it.

Thank you so much for your consideration. Please reach out if you have any questions.

All the best,

Melissa

—

Melissa McMaster

Plant Ecologist

Mariposa Botanical and Ecological Consulting, LLC



www.mariposaeco.com

MEMORANDUM

To: Reuben Teran, Executive Director
Arizona Water Protection Fund

From: Arizona Water Protection Fund Commissioner

Subject: **Commissioner Conflict of Interest**

I hereby state that my relatives or I may have a “substantial interest” within the meaning of Arizona Revised Statutes §38-501, et seq., or other cause to refrain from participation in the Water Protection Fund Application(s) listed below. I will refrain from voting on or participating in any manner on the application(s) identified below.

Note: Attorneys who are members of the Water Protection Fund Commission are also bound by the Rules of Professional Conduct, Rules of the Supreme Court, 17A A.R.S., Rule 42.

Application Number(s)

Date

Printed name

Signature

Arizona Department of Water Resources
Water Protection Fund
PROJECTED MONIES AVAILABLE TO GRANT
For the period July 1, 2023, projected through June 30, 2024

Description	1302-WPF Grants	1303-WPF Administration	Total
Beginning Fund Balance - 7/1/2023	\$3,866,735	\$96,926	\$3,963,661
Revenues:			
Projected Interest Income		\$120,000	\$120,000
In-Lieu Fee Deposit	\$0	\$0	\$0
General Fund Appropriation	\$1,250,000	\$0	\$1,250,000
Transfers - Administrative Expenses	(\$216,800)	\$216,800	\$0
Total - Projected Revenues	\$1,033,200	\$336,800	\$1,370,000
Expenditures:			
FY 2024 Projected Salary Expense	\$0	\$213,800	\$213,800
Grantee Payments (through 10/31/2023)	\$236,534	\$0	\$236,534
Projected Travel	\$0	\$500	\$500
Projected Operating Expenses	\$0	\$2,500	\$2,500
Total - Projected Expenditures	\$236,534	\$216,800	\$453,334
Projected Fund Balance - as of June 30, 2024	\$4,663,401	\$216,926	\$4,880,327
Less: Existing Grant Obligations	(2,421,795)		(2,421,795)
Uncommitted Balance	\$2,241,606	\$216,926	\$2,458,532

Less: Projected Admin Support (3 years: FY 2025-2027)	(\$650,400)
Projected Funds Available to Grant	\$1,808,132

**FY 2024
ARIZONA WATER PROTECTION FUND
STAFF REVIEW**

Review Date: October 30, 2023	Application Number: WPF2401	Project Type: Water Conservation
Title: Big Sandy NRCD Improving Watersheds Through Restoration Projects		
Applicant Name: Big Sandy Natural Resource Conservation District		Requested Amount: \$229,698
AWPF Reviewer: Reuben Teran		Matching Funds: \$13,000

SUMMARY:

A total of 123 open groundwater storage tanks under the control of 20 local producers have been identified to be removed and replaced within the watershed. The applicant proposes to address water quantity loss from local groundwater basins via evaporation from open concrete groundwater storage tanks by replacing 10 of the 123 open concrete water storage tanks with closed galvanized steel water storage tanks.

APPLICATION SCREENING FOR COMPLETENESS AND CONSISTENCY WITH COMMISSION POLICIES:

- Potential issues are described under sections Project Will Enhance, Maintain and/or Restore River, Stream and Riparian Resources ([page 1](#)) & ADMINISTRATIVE, POLICY, INSTITUTIONAL FACTORS ([page 4](#)).

APPLICATION EVALUATION CRITERIA:

Overall assessment of the how the application demonstrates that the proposed project positively meets the evaluation criteria and purpose of the program:

- ☐ High
- ☒ Medium
- ☐ Low

Project Will Enhance, Maintain and/or Restore River, Stream and Riparian Resources

While the AWPf Commission does support water conservation projects outside of the 6 Arizona Department of Water Resources Active management areas, the Water Conservation project category description in the grant application manual states that “...*projects under this category include measures that develop, promote, or implement programs designed to conserve water for a purpose related to maintaining, enhancing, and restoring Arizona’s river and riparian resources, including fish and wildlife that are dependent on these important resources. ...*”

It was not clear if any proposed open tank replacement actions would directly or indirectly protect or restore native riparian vegetation and habitat, stream hydrologic functions or stream geomorphology, or wetlands. Although the 10 specific project locations have not yet been identified, the conservation of groundwater resources may provide an indirect benefit to riparian resources if there are project areas where the groundwater basin(s) and surface waters have a hydrologic connection. However, potential areas where this may be occurring were not described in the application.

Project Will Benefit Fish and Wildlife Resources Dependent on River, Stream and Riparian Resources

The project does not propose any restoration actions that would directly benefit riparian dependent wildlife habitat needs; however, the project would help to provide and maintain a clean, reliable water source for local upland wildlife resources.

Feasibility (Measures appropriate to address issues of concern identified above)

Methodologies and designs clearly presented, appropriate and adequate

The methodologies proposed for groundwater storage tank replacements were clearly presented and adequate for those actions, but did not clearly demonstrate or describe how those actions would benefit river, stream and riparian resources, or dependent fish and wildlife resources. Overall, the project intends to support groundwater conservation measures and support overall groundwater water supply availability across the Big Sandy Natural Resource Conservation District.

Clarity and adequacy of the scope of work and deliverables

A significant part of Task #1 in the scope of work includes identifying the 10 project partners to commit to and implement the proposed tank replacement activities. While general letters of support from various entities have been included in the application, the grant application manual states that applicants need to obtain cooperative agreements to document control and tenure of the project area prior to grant award. Funding was budgeted for this type of work to complete Task #1 as part of the scope of work, but may not be able to be reimbursed if it needs to be completed prior to a grant award contract being executed if the project was selected for funding.

Other aspects of the scope of work appear adequate to implement the project as proposed.

Cost/Benefit compared to similar applications submitted

There were no other similar project applications submitted, but costs generally appear reasonable for the proposed actions.

Expertise of applicant/personnel/subcontractors appropriate

The applicant and project personnel identified to manage the project are appropriate. At this time, the project area landowners and/or land managers have not been fully identified. It is also not clear if project subcontractors will be hired to implement each tank replacement project, or if the project partners themselves will be implementing some of the tank replacements. The AWPf fund request includes costs for the replacement activities but did not specifically identify costs for labor or subcontractors (which may already be included).

Description of the relationship between any existing plans, reports and/or information relevant to the proposed project

The proposed project actions tie to the Big Sandy NRCD Resource Needs Assessment and Conservation Action Plan, 2023.

Monitoring

Objectives clearly identified

The applicant is proposing to implement pre-conversion and post-conversion storage tank monitoring to help depict the water conservation measures and evaporation loss reductions occurring due to project work, and to assess the success of the project.

Methods clearly presented, appropriate and adequate to evaluate benefits to rivers, streams and riparian resources and/or dependent fish and wildlife resources

Monitoring methods proposed were not specifically to evaluate benefits to riparian related resources. Proposed monitoring will include photo monitoring of pre and post tank conversions to illustrate individual tanks open surface challenges, and any leakage from aging infrastructure. Follow up reports are to include descriptions of water conservation measures, approximate annual water savings per tank from evaporation loss, and any seepage mitigation descriptions for the sites.

Other Considerations

Coordinated effort with state or watershed restoration programs

The proposed project appears to be a coordinated effort with local landowners, state, and federal land management agencies at a watershed scale.

Public outreach

The application did not specifically include a public outreach component, but the overall project activities are intended to reach and coordinate with members of the public who are participating in the 123 water storage tank sites identified for replacement.

Project will support local businesses

The project has a high potential to support local businesses through material purchases and possible subcontracting opportunities.

If the applicant is proposing to use out of state consultants, there is adequate justification for their use and associated travel costs

The use of out-of-state consultants was not described in the application.

Broad-based public involvement and support

Letters of support included with the grant application:

- US Department of the Interior – Bureau of Land Management – Kingman Field Office – Law Enforcement Program
- Arizona Game and Fish Department
- Mohave Farm & Livestock Bureau
- Mohave County Board of Supervisors – District 1
- Arizona Association of Conservation Districts

Letters received during the 45-day public comment period:

- None

Matching Funds

A memo from the Arizona Association of Conservation Districts stated that the Big Sandy Natural Resource Conservation District has received \$10,000 from Freeport McMoRan and \$3,000 from Mohave County for the proposed restoration project. These amounts were not able to be verified any further. Based on the budget for matching funds, it appears that the \$13,000 will be used for the monitoring, data collection, and reporting components of the project.

GENERAL COMMENTS:

- The application proposes 10 sites for tank replacements. Although the 10 locations were not specifically identified, the application did include documentation from various landowners/managers/lessees, their respective tank names and locations, and support of the replacement activities. Formal project and access agreements will be necessary for all 10 project participants prior to the execution of an AWPf agreement if the project is selected for funding.
- The project is currently planned to be implemented within 2 years. Depending on the need for any Arizona State Land Department or federal agency permits, staff recommends adding a minimum of one additional year to the overall project timeline and project expiration date to accommodate for any potential permitting delays.

TECHNICAL (project design, hydrology, biology):

- In the project location information page, several streams were listed as part of the project location areas, but it was not clear if any of the proposed storage tanks are currently storing diverted surface water, or if any surface water will be diverted for storage to the tanks. If surface water is being used, an Application for Permit to Appropriate Public Water of the State of Arizona may be needed. If water is appropriated from the Colorado River, consultation with the Arizona Department of Water Resources Colorado River program will be necessary.

ADMINISTRATIVE, POLICY, INSTITUTIONAL FACTORS:

- AWPf statutes state the funds can be used for the implementation of measures to increase water availability. While the proposed project appears to fall within that general category, it also appears to be generally associated as a man-made water resources project. AWPf statutes state that the Commission may provide funding to develop and protect riparian habitats in conjunction with a man-made water resource project if the man-made water resource water project directly or indirectly benefits a river or stream and includes or creates a riparian habitat. The application did not clearly describe how replacing open storage tanks with closed storage water tanks would directly or indirectly benefit a river or stream, or include or create riparian habitat. There were references to improved surface water quality, but it was not clearly explained or described.
- There is the potential that some project actions may take place on State Trust Land. The application contained a letter from the Arizona State Land office indicating several land leases are currently in good standing, and that any modifications to infrastructure will require each individual lessee to submit an application to place an improvement on State Trust Lands with Arizona State Land Department and will need approval. This may add delays to the overall project timeline if extensive permitting is required. In addition, the grant application manual states the grant application must include a letter of support from the State Trust Land lessee that indicates an application for the permit(s) has been submitted for the proposed AWPf project. Since the specific project areas have not yet been determined, it does not appear that this action has taken place yet.

CONTRACT CONDITIONS THAT WILL NEED TO BE ADDED:

- Finalized project implementation agreements between the applicant and 10 project cooperators submitted to AWPf prior to the execution of a grant award contract if the project is selected for funding. It appears that initial control and tenure of the 10 project areas has been demonstrated, and

given that this was originally stated to be completed as part of the scope of work, direction from the Commission on how to proceed will be needed if the project is selected for funding.

- A letter from any State Trust Land lessee participating in this project that verifies an application for the applicable Arizona State Land Department permit(s) has been submitted for the proposed AWPf project. Since the 10 specific project locations have not yet been determined, it does not appear that this action has taken place yet. However, this action would support the bullet above since any projects on State Trust Land would need to go through a typical permitting process as part of the scope of work.
- Adding at least one additional year to the overall project term if the application is selected for funding to accommodate any potential unforeseen and/or lengthy permitting processes, if necessary.

**FY 2023
ARIZONA WATER PROTECTION FUND
STAFF REVIEW**

Review Date: November 1, 2023	Application Number: WPF2402	Project Type: Capital
Title: Christopher Creek Restoration Project		
Applicant Name: Arizona Council of Trout Unlimited	Requested Amount: \$208,302 as listed on application cover page OR \$242,690 based on detailed budget documents.	
AWPF Reviewer: Reuben Teran	Matching Funds: \$79,299 listed on application cover page OR *\$17,102 (partially verified)	

SUMMARY:

The applicant proposes to revitalize and preserve aquatic ecosystems, enhancing recreational fishing opportunities, and provide conservation education at the Grand Canyon Council Boy Scouts of America's R-C Scout Ranch in Gila County, near Payson, AZ. Proposed project actions include: 1) enhance and create six-geomorphic areas for stream enhancements; 2) install a water pipeline upstream of the existing spring, to create an additional 240-feet of stream riffle and aquaculture habitat during summer dry periods; 3) construct a new spring box around the existing spring box, and ultimately remove the old spring box infrastructure; 4) install a water pipeline from the spring box to the pond to replace the aging, leaking, and failing circa 1946 metal and PVC aerial pipeline with a new underground pipeline; 5) implement habitat improvements to the banks of the existing pond and on the hillside next to the pond, in addition to implementing walkway improvements to reduce erosion into the pond and Christopher Creek; and 5) regrade 830-ft of roadway and clean or create ditch along a very steep 14% grade, create seven bars, and add one water crossing along a stretch of dirt road to the property roadway.

APPLICATION SCREENING FOR COMPLETENESS AND CONSISTENCY WITH COMMISSION POLICIES:

- As of the date of this review, evidence of the physical and legal availability of water has not been clearly demonstrated. See the ADMINISTRATIVE, POLICY, INSTITUTIONAL FACTORS section on [page 4](#) below. The grant application manual states “*Projects failing to document evidence of control and tenure of land and/or evidence of physical and legal availability of water are ineligible for funding.*”.

APPLICATION EVALUATION CRITERIA:

Overall assessment of the how the application demonstrates that the proposed project positively meets the evaluation criteria and purpose of the program:

- ☐ High
☒ Medium
☐ Low

Project Will Enhance, Maintain and/or Restore River, Stream and Riparian Resources

The project clearly identifies and demonstrates direct benefits to Christopher Creek and associated riparian resources. The project proposes to enhance stream geomorphology and channel characteristics, and enhance native riparian vegetation and habitat.

Project Will Benefit Fish and Wildlife Resources Dependent on River, Stream and Riparian Resources

The project proposes to restore and enhance aquatic habitat to benefit threatened and endangered fish, reptile, and amphibian species, and enhance habitat for invertebrate species. The project also proposes to enhance aquatic habitat to create a blue-ribbon reach of Christopher Creek providing a year-round recreational trout fishery for native Gila trout.

Feasibility (Measures appropriate to address issues of concern identified above)

Methodologies and designs clearly presented, appropriate and adequate

Project objectives and methodologies were clearly identified, and demonstrate benefits to Christopher Creek and associated riparian, fish and wildlife resources.

Clarity and adequacy of the scope of work and deliverables

Overall, the scope of work proposed was adequate, but deliverables and deliverable due dates will need to be further developed if the project is selected for funding. Additional Tasks will also need to be added to the scope of work for permitting/authorizations/agreement requirements and the submittal of a project final report.

Cost/Benefit compared to similar applications submitted

There was a similar spring enhancement, additional pipeline, and stream restoration project proposed for fiscal year 2024. It should be noted that the other project was very different in the scope of work, equipment, and labor needs. For reference purposes, the other project's fund request was \$983,540 and the proposed cost for this project is \$242,690.

Expertise of applicant/personnel/subcontractors appropriate

The applicant and project personnel appear appropriate to administer and implement the project as proposed. Given the items described in the project budget it appears that subcontractors would also need to be hired as part of the project.

Description of the relationship between any existing plans, reports and/or information relevant to the proposed project

The application states that this project has been a multi-phased approach to the restoration of the R-C Pond, and the proposed scope of work will help to complete the overall restoration goals of enhancing Christopher Creek and upgrading the spring box system and pipelines to provide for a long-term recreational and aquatic habitat management opportunities.

The application did contain a Conceptual Design Assessment for Christopher Creek at R-C Scout Ranch and appears to be the initial guiding document for the proposed project.

Monitoring

Objectives clearly identified

N/A. Project monitoring activities were not proposed as part of the scope of work.

Methods clearly presented, appropriate and adequate to evaluate benefits to rivers, streams and riparian resources and/or dependent fish and wildlife resources

N/A. Project monitoring activities were not proposed as part of the scope of work.

Other Considerations:

Coordinated effort with state or watershed restoration programs

This project does not appear to be a coordinated effort with state or watershed restoration programs.

Public outreach

A specific public outreach component was not included in the scope of work; however, one of the primary benefits that would result from implementing would be the ability to provide the public with extensive educational and recreational opportunities since the property is a Boy Scout camp. In addition, the application does make reference to the use of volunteer labor to help with project implementation.

Project will support local businesses

The project has a high potential to support local businesses through contracting opportunities and materials/supplies purchases.

If the applicant is proposing to use out of state consultants, there is adequate justification for their use and associated travel costs

The use of out of State consultants was not identified in the application.

Broad-based public involvement and support

Letters of support included with the grant application:

- Boy Scouts of America - Grand Canyon Council
- Arizona Game and Fish Department
 - The letter of support from the Arizona Game and Fish Department was not on official letter head and was not signed.

Letters received during the 45-day public comment period: *(attached below)*

- Arizona Sportsmen for Wildlife Conservation

***Matching Funds**

Grant application cover page stated \$79,299 in matching fund. However, there were no letters of support for the project from several entities identified as providing matching funds.

Stated financial donations from the applicant =	\$ 9,979
Stated volunteer labor from the applicant =	\$ 4,833
Stated volunteer labor from the Boy Scouts of America = +	<u>\$ 2,290</u>
	\$17,102 (partially verified)

NOTES:

- These amounts were only identified on the budget matching fund breakdown, but not supported or verified in writing via a formal letter of support for the project. The application states that matching funds will be provided by various entities; however, letters of support from these entities committing funding to the project were not included, and these totals were not identified above or on the table at the beginning of this document.

- The application matching funds budget noted that the applicant is providing \$9,979.06 in financial donations and \$4,833.60 in in-kind volunteer hours. However, the application cover page only identifies the applicant is providing \$9,500 total in matching funds.

GENERAL COMMENTS:

- Grant application cover page funding amount requested \$208,302. However, the detailed budget documents show the fund request as \$242,690. Clarification is needed on what the applicant is requesting for funding.

TECHNICAL (project design, hydrology, biology):

- None at this time.

ADMINISTRATIVE, POLICY, INSTITUTIONAL FACTORS:

- The application states that a pipeline would be installed upstream from the existing spring and be used to create an additional 240-ft of aquaculture habitat and bedrock pools during the summer dry periods. The application also states that the existing spring box will be re-constructed. The applicant is not the owner of the property, and more clarification is needed from the applicant and/or property owner regarding the water right(s) status and how it relates to the infrastructure that is proposed to be re-developed for this project.
- Documentation of a water right for proposed project actions was not provided nor clearly demonstrated in the application. Review of the surface water rights in the general project vicinity identified that Christopher Creek does have a certificated instream flow water right associated with it. Several other water rights also exist in the project vicinities township / range / section; however, the applicant or property owner (Boy Scouts of America – Grand Canyon Council) name(s) do not correspond with any of the known Arizona Department of Water Resources surface water rights/permit authorities for Christopher Creek, which all currently appear to be associated with the Tonto National Forest.

CONTRACT CONDITIONS THAT WILL NEED TO BE ADDED:

- Documentation that the applicant and/or landowner (Boy Scouts of America – Grand Canyon Council) has the legal authority and appropriate surface water right to implement the project as proposed, prior to the execution of an AWPf grant award contract if the project is selected for funding.
- A letter of support from the landowner was submitted with the application, but a formal project agreement will be necessary between the applicant and landowner prior to execution of an AWPf agreement if the project is selected for funding.
- Determination from the AWPf Commission on the amount of a potential grant award (refer to page 1 of this document) if the project is selected for funding.
- Add a Task to the scope of work for obtaining any additional permits, authorizations, and clearances needed to implement the rest of the Tasks in the scope of work. This should include, but is not

limited to, any applicable surface water rights permits or use requirements, Clean Water Act Section 404 permit(s), consultation with the Gila County Flood Control District to determine if a Flood Use Permit will be necessary, ongoing consultations for any impacts to threatened and endangered species, and copies of subcontracts for any subcontractors that will be hired as part of the project.

- Add a Task to the scope of work for the submittal of a project final report.
- The application did contain documentation of State Historic Preservation Office (SHPO) review for the proposed activities; however, it did not include the standard form necessary for the AWPf to initiate consultation with the SHPO as a funding source for the project. The applicant will need to submit this completed form prior to the development of a grant award contract if the project is selected for funding.



October 26, 2023

Arizona Department of Water Resources
Arizona Water Protection Fund
Attn: Reuben Teran
1802 W Jackson St. Box #79
Phoenix, AZ 85007

Sent via email: rteran@azwater.gov

RE: AZTU FY2024 Arizona Water Protection Fund Grant Application

Arizona Sportsmen for Wildlife Conservation (AZSFWC) appreciates the opportunity to express its continued support of the Arizona Council of Trout Unlimited (AZTU) and landowner Grand Canyon Council BSA's (GCC) application for funding of the Christopher Creek Restoration Project (Project) from the FY2024 Arizona Water Protection Fund (AWPF). This Project is the third and final phase of the restoration work.

AZSFWC is the leading 501c-3 non-profit organization dedicated to wildlife conservation, habitat improvement, youth recruitment and retention, as well as providing educational opportunities for outdoor enthusiasts on issues important to their passions. AZSFWC consists of 39 member, affiliate, and associate groups that reach across the spectrum of hunting, angling, shooting, outdoor recreation, and businesses from across Arizona. Our member groups represent well over 28,500 people from Arizona.

AZTU and GCC have partnered to create a model desert fish habitat and refuge populations of native roundtail chub and longfin dace, in an effort to restore youth fishing to the R-C Scout Ranch Pond, and to reestablish a .53-mile reach of Christopher Creek into perennial trout habitat. AZSFWC has supported and provided some funding for this Project since its inception and is excited to see the work completed!

The final phase of the Project is a pipeline extension to create a perennial flow into 240-foot riffle section upstream of the spring, as well as restoration and conservation work to Christopher Creek. The creek is generally very shallow on a solid rock base. Consequently, the creek does not have significant habitat for holdover water. The pipeline extension and habitat restoration proposal will help mitigate the intermittent reach by directing water upstream into a pool ideal for sustaining a year-round trout population.

AZSFWC Support for AZTU-GCC FY2024 Arizona Water Protection Fund Grant – 10-26-23

Arizona Sportsmen for Wildlife Conservation
PO Box 75731 New River, AZ 85087

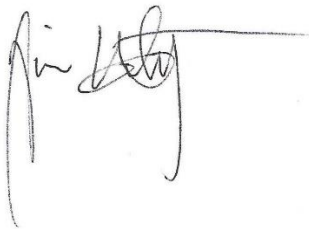
When the work is completed, the pond will be a valuable outreach tool for AZTU, GCC, schools, and youth groups, providing insight and educational opportunities about the importance of native fish conservation in Arizona. Another benefit of the pond will be the creation of a refuge for roundtail chub and longfin dace in the Tonto Creek watershed which is important for these native fish.

In addition, this multi-year project will include:

- restoration of an existing, over-grown fishing pond;
- road grading and pond bank erosion control measures;
- replacement and repair of the aging pipeline and spring box;
- restoration and conservation work on a portion of Christopher Creek which will support a sustainable, year-round trout population; and
- continued collaboration with the Arizona Game and Fish Department to enhance and restore native fish habitat.

AZSFWC endorses the AZTU-GCC plan and requests their AWPf grant be approved for FY2024.

Thank you!

A handwritten signature in dark ink, appearing to read "Jim Unmacht", with a long horizontal line extending to the right.

Jim Unmacht
Executive Director

CC: Alan Davis, AZTU Chair

**FY 2024
ARIZONA WATER PROTECTION FUND
STAFF REVIEW**

Review Date: October 30, 2023	Application Number: WPF2403	Project Type: Capital
Title: Pine Canyon Restoration and Watershed Protection Project		
Applicant Name: National Forest Foundation		Requested Amount: \$350,000
AWPF Reviewer: Reuben Teran		Matching Funds: \$337,050

SUMMARY:

The purpose of the Pine Canyon Restoration and Watershed Protection Project is to protect the Pine Canyon/Upper Verde watershed and municipal water supplies for the downstream communities including the Towns of Pine and Strawberry by reducing the risk of high-severity wildfire. The National Forest Foundation (NFF) proposes to work with the Tonto National Forest (TNF) and local partners to restore approximately 177 acres within a total project area of approximately 473 acres in steep sections of Pine Canyon. Priority hazardous fuel treatments and reductions are planned to be accomplished through mechanical thinning, biomass removal, and/or mastication. Implementation of the project aims at helping to restore the forest to a balanced structure, increasing its overall health, protecting the primary watershed, and aiding in the prevention of high severity post-wildfire flooding and/or erosion that could jeopardize hydrologic functions and the future safety of drinking water supplies. The Pine Canyon Restoration and Watershed Protection Project is a multi-phased project, and this proposed AWPF project aligns with Phase 2 of the activities being undertaken by the TNF and NFF to address critical restoration needs in Pine Canyon:

- Phase 1: Build a temporary road system (in progress)
- Phase 2: Multi-year hazardous fuels reduction, mechanical harvesting, slash and biomass removal
- Phase 3: Prescribed burn and maintenance by the Tonto National Forest

APPLICATION SCREENING FOR COMPLETENESS AND CONSISTENCY WITH COMMISSION POLICIES:

- No potential issues have been identified.

APPLICATION EVALUATION CRITERIA:

Overall assessment of the how the application demonstrates that the proposed project positively meets the evaluation criteria and purpose of the program:

☒ High

☐ Medium

☐ Low

Project Will Enhance, Maintain and/or Restore River, Stream and Riparian Resources

The intent of this project is to reduce high-severity fire risk and improve watershed health and functions in the Pine Canyon watershed. This project will have direct benefits to the upland watershed, and indirect benefits to Pine Creek and its associated riparian resources by restoring proper hydrologic conditions and functions within the upper watershed.

Project Will Benefit Fish and Wildlife Resources Dependent on River, Stream and Riparian Resources

This project will have direct benefits to terrestrial wildlife resources that inhabit the Pine Creek watershed. Indirect benefits are anticipated for riparian obligate/dependent species associated with Pine Creek as watershed and riparian habitat conditions remain intact and improve over time.

Feasibility (Measures appropriate to address issues of concern identified above)

Methodologies and designs clearly presented, appropriate and adequate

The methodologies and strategies proposed for steep canyon hazardous fuel reductions appear appropriate and adequate to help meet the desired conditions of the Pine Canyon watershed.

Clarity and adequacy of the scope of work and deliverables

A brief discussion on proposed actions was described. No formal plans were included in the application, but implementation/work plans will be developed as part of the Scope of Work.

Overall, the scope of work of work appears to be adequate. Staff would recommend adding additional language to Task #1 for the submittal of copies of any additional permits, clearances, and authorizations that may be necessary to complete the scope of work. Staff would also recommend adding in additional deliverable reporting due dates for the Tasks associated with the fuel reduction activities to accommodate for additional project tracking and reimbursement request opportunities.

Cost/Benefit compared to similar applications submitted

No similar projects were submitted during the grant cycle, but the costs appear to be reasonable for the scope of work and restoration activities proposed.

Expertise of applicant/personnel/subcontractors appropriate

The applicant is a past and current AWPf grantee in good standing, and the project personnel have the expertise and project management related experience to implement the project as proposed. Most of the on-the-ground activities will be implemented by subcontractors that are proposed to be procured as part of the scope of work.

Description of the relationship between any existing plans, reports and/or information relevant to the proposed project

The proposed project falls within the Four Forest Restoration Initiative (4FRI), and the application included a copy of the 4FRI Restoration Strategy and Four Forest Restoration Initiative Rim Country Environmental Impact Statement Water and Riparian Resources Specialist Report. The application also included the Stewardship Agreement Supplemental Project Agreement between the Tonto National Forest and National Forest Foundation (grant applicant) which described the components and expectations necessary to implement the proposed AWPf project.

Monitoring

Objectives clearly identified

No monitoring has been proposed as part of the scope of work.

Methods clearly presented, appropriate and adequate to evaluate benefits to rivers, streams and riparian resources and/or dependent fish and wildlife resources

No monitoring has been proposed as part of the scope of work.

Other Considerations:

Coordinated effort with state or watershed restoration programs

The proposed project is a coordinated effort with the Tonto National Forest for watershed restoration actions within the Pine Canyon watershed and 4FRI.

Public outreach

The application does not specifically propose any public outreach efforts as part of the project.

Project will support local businesses

The project has a high potential to support local businesses through subcontracting the forest thinning and wood processing activities, and associated support through the purchase of supplies, lodging, fuel, etc.

If the applicant is proposing to use out-of-state consultants, there is adequate justification for their use and associated travel costs

The use of out-of-state consultants was not identified in the application. Although the applicant's organization is based out of the State of Montana, the project personnel implanting the project are based in Arizona.

Broad-based public involvement and support

Letters of support included with the grant application:

- USDA Forest Service – Tonto National Forest – Payson/Pleasant Valley Ranger Districts
- Pine Strawberry Fuel Reduction, Inc.

Letters received during the 45-day public comment period:

- None

Matching Funds

- Applicant = \$30,800
- USFS – Tonto National Forest = \$19,896.50, and anticipation of an additional \$306,205 through the Stewardship Agreement Supplemental Project Agreement with applicant.

GENERAL COMMENTS:

- None at this time.

TECHNICAL (project design, hydrology, biology):

- None at this time.

ADMINISTRATIVE, POLICY, INSTITUTIONAL FACTORS:

- The application included a Temporary Road Use permit between the US Forest Service and the Church of Jesus Christ Latter-day Saints which allows the US Forest Service access to Pine Canyon through private property. The permit is set to expire on March 1, 2026, but language in the permit states that it may be renewed by mutual agreement annually.

CONTRACT CONDITIONS THAT WILL NEED TO BE ADDED:

- Adding additional language to Task #1 for the submittal of copies of any additional permits, clearances, and authorizations that may be necessary to complete the scope of work, including but not limited to, State Historic Preservation office compliance, and copies of any external contracts or agreements with project cooperators for implementation of activities throughout the project term.
- Adding additional deliverable reporting due dates for the Tasks associated with the fuel reduction activities to accommodate for additional project tracking and reimbursement request opportunities, if applicable.

**FY 2024
ARIZONA WATER PROTECTION FUND
STAFF REVIEW**

Review Date: November 1, 2023	Application Number: WPF2404	Project Type: Capital
Title: Preservation and Protection of Concho Springs, Concho Creek, and Concho Lake		
Applicant Name: Concho Water Company		Requested Amount: \$983,540*
AWPF Reviewer: Reuben Teran		Matching Funds: \$0

SUMMARY:

The applicant proposes to maximize the water generated by the Concho Springs by excavating the earth around the springs on privately owned land and construct a French drainage system over them to protect Concho Springs from getting plugged by debris caused by erosion run-off. The project also proposes to construct a pipe on privately owned lands alongside Concho Creek from the springs through an old golf course, +/- 2,450 feet, then from the old golf course to the reservoir known as Concho Lake, +/- 900 feet. The applicant intends to run water through the pipe during the dormant months conserving water currently lost to leaching and evaporation. While the water runs through pipes, the applicant plans to dewater the privately owned stretch of creek from Concho Springs to Concho Reservoir, restore the streambed, and reconstruct the creek bed so it flows unencumbered and flows continuously. The applicant also proposes constructing a pipeline on privately owned lands to bypass the lake, +/- 5,100 feet, which would allow serviceable shareholders of the Concho Water Company to irrigate without drawing down the lake significantly.

APPLICATION SCREENING FOR COMPLETENESS AND CONSISTENCY WITH COMMISSION POLICIES:

- As of the date of this review, evidence of control and tenure of the project area has not been clearly demonstrated. See the ADMINISTRATIVE, POLICY, INSTITUTIONAL FACTORS section on [page 5](#) below. The grant application manual states “*Projects failing to document evidence of control and tenure of land and/or evidence of physical and legal availability of water are ineligible for funding.*”.
- The use of surface water for the intended purposes of this project may need to be evaluated further. See the ADMINISTRATIVE, POLICY, INSTITUTIONAL FACTORS section on [page 5](#) below.

APPLICATION EVALUATION CRITERIA:

Overall assessment of the how the application demonstrates that the proposed project positively meets the evaluation criteria and purpose of the program:

- ☐ High
- ☐ Medium
- ☒ Low

Project Will Enhance, Maintain and/or Restore River, Stream and Riparian Resources

The project proposes to improve hydrologic conditions of Concho Springs by excavating the springs to maximize water output and then installing a French Drain system and improve stream channel characteristics within Concho Creek through regrading the stream channel to promote perennial stream flows. It was not clear if the associated riparian habitats would be re-vegetated with native riparian species once the grading and heavy equipment work was completed, or how a sufficient perennial flow would be maintained in the creek if the water is also going to be diverted through a pipeline.

Project Will Benefit Fish and Wildlife Resources Dependent on River, Stream and Riparian Resources

The project has a high potential to benefit riparian dependent wildlife resources through creating a more perennial stream system along Concho Creek and keeping Concho Lake reservoir filled. The application states that there may also be opportunities for additional fish stockings and recreational fishing within Concho Lake. However, it does not appear this action will be part of this project. As stated above, it was not clear how a sufficient perennial flow would be maintained in the creek if the water is also going to be diverted through a pipeline.

Feasibility (Measures appropriate to address issues of concern identified above)

Methodologies and designs clearly presented, appropriate and adequate

The methodologies and general implementation strategies were briefly described in the scope of work, and the application did contain maps of the overall conceptual plan. The application did not contain any specific designs or plans for review, but it appears that an engineering subcontractor will be hired as part of the scope of work to install a French Drain system over Concho Spring. The application budget contained a funding request to hire a civil engineer; however, the scope of stream channel modifications or how pipe would be constructed or placed alongside Concho Creek and Concho Reservoir were not fully described. Proposed work activities as described may need additional consultation and/or permits from the State Historic Preservation Office, Army Corp of Engineers, Arizona Department of Environmental Quality, and Apache County Flood Control District. There is also a potential that some preferred project designs or implementation timeframes may need to accommodate environmental permitting requirements.

Clarity and adequacy of the scope of work and deliverables

Overall, the scope of work generally appears to describe the proposed activities to be implemented, but specific deliverables were not clearly identified or only described the anticipated product. Specific deliverables such as Task completion reports, as-built drawings, and/or photos of the completed work are recommended to be included in the scope of work if the project is selected for funding. In addition, staff recommends the following also be included in the scope of work:

- Adding additional language to Task #1 for the submittal of copies of any additional permits, clearances, and authorizations that may be necessary to complete the scope of work.
- Adding a task for the development and submittal of project implementation plans for engineering work.
- Adding additional progress report deliverable and reporting due dates for the Tasks associated with the construction and restoration activities to accommodate for additional project tracking and reimbursement request opportunities.
- Adding an additional task for the development and submittal of a project final report.
- However, please note that there was no funding identified or budgeted in the application for these recommendations.

Cost/Benefit compared to similar applications submitted

There was a similar spring enhancement, additional pipeline, and stream restoration project proposed for fiscal year 2024. It should be noted that the other project was very different in the scope of work, equipment, and labor needs. For reference purposes, the other project's fund request was \$242,690 and the proposed cost for this project is \$983,540.

Expertise of applicant/personnel/subcontractors appropriate

The applicant appears appropriate for the project management and administration needs of the project. Based on the budget request it appears that most, if not all the project activities would be contracted out to local companies or subcontractors. It is not clear if the engineering firm(s) or subcontractor(s) would have experience in hydrology or stream restoration experience.

Description of the relationship between any existing plans, reports and/or information relevant to the proposed project

The application did not contain any additional plans or information relevant to the proposed project.

Monitoring

Objectives clearly identified

Not applicable. Monitoring activities were not proposed as part of the project.

Methods clearly presented, appropriate and adequate to evaluate benefits to rivers, streams and riparian resources and/or dependent fish and wildlife resources

Not applicable. Monitoring activities were not proposed as part of the project.

Other Considerations

Coordinated effort with state or watershed restoration programs

The proposed project does not appear to be associated with a coordinated effort of state or watershed restoration programs.

Public outreach

The proposed project does not propose any public outreach or associated activities.

Project will support local businesses

The project has a high potential to support local businesses through subcontracting for labor, heavy equipment use, and engineering services, and through material and supply purchases.

If the applicant is proposing to use out of state consultants, there is adequate justification for their use and associated travel costs

The use of out-of-state consultants was not described in the application.

Broad-based public involvement and support

Letters of support included with the grant application:

- Concho Water Company (applicant)
- Sharp Creek Contracting, Inc.

Letters received during the 45-day public comment period: *(attached below)*

- Kelly Meixler

Matching Funds

No matching or cost share funds have been identified for this project. A letter in the application from Sharp Creek Construction, Inc. stated that matching in-kind funds could be provided, but no specific amount was indicated.

GENERAL COMMENTS:

- *The application cover page stated \$1,000,000 requested. However, the detailed budget breakdown provided in the application calculated to \$983,540, as listed on the cover page of this document.
- The application was submitted under the Water Conservation category. However, actions to increase spring water output and re-grading the stream channel to maintain a constant water flow within Concho Creek appear to fall more appropriately under the Capital project category and is noted as such on the cover page of this document. Some water conservation benefits may be realized through the construction of the proposed pipelines, but it is not clear how much water may be conserved.
- It was not clear if the cost for creek side pipeline (~\$278,800) would be short term investment if it is only going to be used to dewater the creek for restoration and re-grading. The restoration intent of the project is to have the creek flow year-round once again and it is not clear if the pipeline would be needed for dewatering activities again, or just be used solely for Concho Water Company costumers' future water delivery and permitted uses. If the spring feeds Concho Creek it was not clear how bypassing Concho Creek with a pipeline will assist in maintaining its water flows and could have negative effects to the aquatic habitat.
- It was not clear if the cost for the Concho Lake bypass pipeline (~\$369,165) would be short term or long-term investment. If the spring feeds Concho Lake it was not clear how bypassing Concho Lake with a pipeline will assist in maintaining its water level elevation and could have negative effects to the aquatic habitat.
- The applicant is requesting funds for equipment storage fees and landowner access fees totaling approximately \$17,400 and for approximately 87 days.
- Direct labor costs in the proposed AWPf fund request includes 26% added burden. It was not clear what burden costs consist of for this project.

TECHNICAL (project design, hydrology, biology):

- The proposed scope of work anticipates that work will be implemented within very short timeframes, and the total project completed in approximately 2 months. However, it should be noted that various environmental permitting or consultation requirements may be necessary, including, but not limited to, State Historic Preservation Office surveys and compliance for ground disturbing activities, Army Corp of Engineers Clean Water Act permit for dredge and fill activities, a floodplain permit from Apache County, stormwater pollution prevention permits from the Arizona Department of Environmental Quality, possible endangered species consultations for riparian obligate species, and consultation with the Arizona Department of Water Resources that any surface water diversions and/or points of use of the water are legal and applicable under the current water rights. The project timeline would need to be extended considerably to accommodate for any necessary consultations

or permitting processes, and a separate Task for environmental compliance and permitting requirements would need to be added to the scope of work. However, there is no funding currently requested or budgeted for this type of work.

- External review noted that Concho Lake is formed by a jurisdictional dam. Based on the information provided in the application it does not appear that the project will impact the dam. However, if any activities involve the dam or its appurtenant structures, the applicant/owner will need to go through the application process with the Arizona Department of Water Resources Dam Safety program prior to start of construction.

ADMINISTRATIVE, POLICY, INSTITUTIONAL FACTORS:

- Evidence of control and tenure was not clearly demonstrated.
 - The application stated that the applicant does not own the land, but it did contain statements in various locations that the property owner where Concho Springs is located was supportive of the project and that the landowner fully supports the applicant's operation as long as they leave the property clean. The application also stated that AGFD and ANRCS are in full cooperation with building a pipeline to bypass Concho Lake. However, no letters of support from the private landowner or any acronym/name related entities were included in the application, or received during the public comment period. The application did contain a letter of support stating, "*The Concho Water Company, its Board Members, and shareholders fully support efforts to obtain grants from the state of Arizona that will help us preserve and protect Concho Springs, Concho Creek, and Concho Lake*". However, the application did not contain any further evidence or letters of support from specific landowners for the project that clearly demonstrated control and tenure within the project area for activities to be completed on any privately owned land or other properties that may be involved with the project.
 - A comment submitted via the AWPf website contact page during the public comment period indicates that a local landowner is not supportive of the applicant's plan and requested information on how to comment on the application. Staff responded to the email address noted on the contact submission and provided information on how the person could provide additional written comments. However, no additional comments were received by the public comment period deadline.
- Comments pertaining to surface water rights:
 - The application states that the waters in Concho Creek are subject to a water Decree, and the application did contain a copy of the Concho Water Decree documents and Concho Water Company Articles of Incorporation, which were included in the Evidence of Physical and Legal Availability of Water application section. It was not clear if the digging into the spring location or potential diversion of surface water via pipelines would be appropriating the water in a manner different than described in the Decree, inadvertently affecting downstream existing surface water filings. Any changes to this water right would necessitate the involvement of the Adjudication Court, which has continuing jurisdiction over decreed rights, and may affect the scope of work or prolong the anticipated project implementation timeline presented in the application if additional consultations or permitting requirements are necessary.
 - Currently, it appears the water right to Concho Springs or any other surface water filings for the spring do not exist in the Arizona Department of Water Resources registry. As mentioned

above, any changes to the existing water right Decree would need to be reviewed and assessed under the stream Adjudications process, and could involve the Apache County courts or other courts, as the Decree is cited in the Zuni Water Rights Settlement. The Arizona Department of Water Resources would also need additional information to understand the impacts on water rights, and whether surface water or groundwater may be appropriated.

- Overall, there may be feasibility issues with implementing and maintaining the constructed project features if control and tenure of the project area is not able to be clarified and/or secured, or if it is determined that the existing surface water rights may need to be modified to accommodate the proposed project actions.

CONTRACT CONDITIONS THAT WILL NEED TO BE ADDED:

- Project access and implementation agreement(s) between the applicant and all landowners and/or land managers associated with the Concho Springs, Concho Creek, and Concho Lake for the implementation and long-term maintenance for of this project, prior to the execution of a grant award contract if the application is selected for funding.
- Coordination and consultation the Arizona Department of Water Resources regarding the current water right Decree and any potential diversion of surface water that would involve a change in that Decree, to ensure that the proposed action is legal for the intended use of the water for this, prior to the execution of a grant award contract if the project is selected for funding.
- Adding additional language to Task #1 for the submittal of copies of any additional permits, clearances, and authorizations that may be necessary to complete the scope of work, including but not limited to: State Historic Preservation Office surveys and compliance for ground disturbing activities coordination with the Apache County Flood Control District to determine if the project will require a floodplain permit, Army Corp of Engineers for dredge and fill permits, Arizona Department of Environmental Quality for stormwater pollution prevention permits, possible endangered species consultations with the US Fish and Wildlife Service for riparian obligate species, and consultation with the Arizona Department of Water Resources to determine if the potential surface water diversions and/or points of use are applicable under the current surface water right(s).
- Specific deliverables such as Task completion reports, as-built drawings, and photos of the completed work added to the scope of work.
- Adding a task for the development and submittal of project implementation plans for engineering work.
- Adding additional progress report deliverable and reporting due dates for the Tasks associated with the construction and restoration activities to accommodate for additional project tracking and reimbursement request opportunities.
- Adding an additional task for the development and submittal of a project final report.
- Please note that there was no funding identified or budgeted in the application for the project deliverable recommendations noted above.



Reuben Teran <rteran@azwater.gov>

Arizona Water Protection Fund | Contact Submission

1 message

Arizona Water Protection Fund <noreply.webmaster@azwater.gov>

Tue, Oct 10, 2023 at 7:12 AM

Reply-To: noreply.webmaster@azwater.gov

To: rteran@azwater.gov

Caution: The following message contains information provided by an anonymous user through an online form. Please treat the below message with caution, avoid clicking links, downloading attachments, or replying with personal information.

Name: Kelly Meixler

Email: [REDACTED]

Phone: [REDACTED]

A grant proposal on your list is planned for my property and I do not consent to their plan. I actually feel they will destroy a natural riparian area that has been around for thousands of years. How do I comment on it's application?

**FY 2024
ARIZONA WATER PROTECTION FUND
STAFF REVIEW**

Review Date: October 31, 2023	Application Number: WPF2405	Project Type: Capital
Title: Restoring Riparian Health of Sonoita Creek and Patagonia Lake		
Applicant Name: Tucson Audubon Society		Requested Amount: \$427,117
AWPF Reviewer: Reuben Teran		Matching Funds: \$128,934

SUMMARY:

The proposed project aims to enhance water quality and availability, as well as overall riparian health, along a significant stretch of Sonoita Creek, by reducing erosion-induced dewatering of the floodplain, excess nutrients, biological contaminants including E. coli bacteria, sedimentation, and high-water-use invasive plants along the creek. The applicant proposes to 1) complete installation of roughly 4 miles of wildlife-friendly fencing along the eastern boundary of Patagonia Lake State Park, the portion upstream of the lake, to protect the riparian corridor from trespass cattle and comply with Arizona's open range laws; 2) complete mapping and treatment of invasive plants within the project area to reduce both fire risk and inappropriate water use by non-native plants, leading to increased canopy cover that will in turn reduce water temperatures and improve overall habitat value; and 3) complete a full assessment of erosional issues along the creek within the project area and create a prioritized plan for addressing each issue.

APPLICATION SCREENING FOR COMPLETENESS AND CONSISTENCY WITH COMMISSION POLICIES:

- No potential issues have been identified.

APPLICATION EVALUATION CRITERIA:

Overall assessment of the how the application demonstrates that the proposed project positively meets the evaluation criteria and purpose of the program:

- ☒ High
☐ Medium
☐ Low

Project Will Enhance, Maintain and/or Restore River, Stream and Riparian Resources

This project has a high potential to directly protect native riparian vegetation and habitat through the construction of fencing around the riparian corridor, non-native invasive species removal, and developing a plan to identify erosion issues within the project area for future remediation.

Project Will Benefit Fish and Wildlife Resources Dependent on River, Stream and Riparian Resources

The project has a high potential to enhance habitat for riparian dependent wildlife resources through non-native invasive species removal and protection of Sonoita Creek's native riparian habitat from trespass livestock.

Feasibility (Measures appropriate to address issues of concern identified above)

Methodologies and designs clearly presented, appropriate and adequate

The methodologies proposed are clearly presented and adequate to meet the applicant's objectives to protect and enhance Sonoita Creek and the associated riparian habitat.

Clarity and adequacy of the scope of work and deliverables

The scope of work was clearly presented, but staff recommends adding written progress report deliverables to all fence construction and invasive species removal tasks to supplement the proposed deliverables of photographic report documentation of completed work.

Cost/Benefit compared to similar applications submitted

There were no similar applications submitted this grant cycle, but the costs appear reasonable for the scope of work described. The project should have a high benefit to Sonoita Creek and its associated riparian habitat if the project is successfully implemented.

Expertise of applicant/personnel/subcontractors appropriate

The applicant and project personnel appear highly qualified with applicable experience to implement the project as proposed. The installation of the boundary fence is proposed to be completed by subcontractors specialized backcountry fence construction, which will be procured as part of the scope of work. The project also proposes the use of volunteers to help support invasive species removal activities, and a volunteer group has offered to assist with minor fence repairs.

Description of the relationship between any existing plans, reports and/or information relevant to the proposed project

The application included a copy of the Sonoita Creek Watershed Conservation Plan. Although this proposed project did not appear to be specifically derived from within the plan, issues such as non-native invasive species and erosion were identified as factors affecting the overall health of the watershed.

Monitoring

Objectives clearly identified

Monitoring objectives were not clearly identified in the application. The Project Implementation Plan section of the application included references to Geographic Information System (GIS) invasive plant monitoring, project photo points, and a Riparian Stream Rapid Assessment; however, none of these components were specifically identified in the application's scope of work or proposed project budget.

Methods clearly presented, appropriate and adequate to evaluate benefits to rivers, streams and riparian resources and/or dependent fish and wildlife resources

Not applicable. See previous section.

Other Considerations:

Coordinated effort with state or watershed restoration programs

The proposed project is a coordinated effort with Patagonia Lake State Park, and generally supports needed restoration efforts identified for the Sonoita Creek Watershed Conservation Plan.

Public outreach

The application did not specifically include a public outreach component; however, the project does propose to extensively incorporate the use of public volunteers in the invasive species removal efforts. A letter of support submitted during the public comment period from a volunteer group also proposed to help monitor

and make minor repairs to the boundary fence.

Project will support local businesses

This project has a high potential to support local businesses through material purchases and subcontracting to implement project activities. Given the proximity to Patagonia Lake State Park, enhancement of the project area also has a high potential to maintain high quality recreational opportunities that would also indirectly support local business.

If the applicant is proposing to use out of state consultants, there is adequate justification for their use and associated travel costs

The use of out-of-state consultants was not described in the application.

Broad-based public involvement and support

Letters of support included with the grant application:

- The Nature Conservancy - Arizona Chapter
- Friends of Sonoita Creek

Letters received during the 45-day public comment period: *(attached below)*

- Arizona State Parks and Trails
- Arizona Land and Water Trust
- Audubon Southwest
- Southern Arizona Quail Forever
- Dirtbag Group

Matching Funds

- | | |
|---------------------------------|-------------------|
| • Applicant | \$101,127 |
| • Volunteers | \$ 12,825 |
| • Arizona State Park and Trails | <u>+\$ 14,982</u> |
| | \$128,934 (total) |

GENERAL COMMENTS:

- Boundary fence construction will be implemented through a contractor. Budget contains a line item for a 25% lump sum downpayment for procuring the wildland/backcountry fence contractor. Additional ¼ lump sum payments will be made for each mile of fence constructed (4 miles total). The applicant should be aware that any subcontractors being paid by AWPf funds are also limited to a maximum of 5% overhead/administration costs.
- As noted above, project area monitoring components were briefly mentioned, but did not appear to ultimately be included as part of the scope of work, and no funding was budgeted for those activities.

TECHNICAL (project design, hydrology, biology):

- None at this time.

ADMINISTRATIVE, POLICY, INSTITUTIONAL FACTORS:

- Upon initial review of the application, all sections of the application were populated to complete the application; however, the associated document for evidence of control and tenure in the application

stated that control and tenure of the project area was not applicable to the project. The application did include the following statement: *“Arizona State Parks and Trails Patagonia Lake State Park is a major partner on this proposed project and has agreed to provide Tucson Audubon, subcontractors, additional project partners, and volunteers with a Right of Entry agreement allowing execution of this project.”*

- A letter of support from Arizona State Parks & Trails (landowner/manager of the project area) dated 9/15/2023 (and attached below) was received during the public comment period documenting full support of the project, access to the project area to the applicant and associated contractors, and funding support for the project.
- The letter of support from the Arizona State Parks & Trails indicated that they would be responsible for the operation and maintenance of the fence in perpetuity. Under the current AWPf grant award contract general provisions, the operation maintenance period identified for an AWPf grantee is 20 years.

CONTRACT CONDITIONS THAT WILL NEED TO BE ADDED:

- Right of Entry permit, formal project access and implementation agreement, and/or other appropriate instrument between the applicant and Arizona State Parks and Trails submitted to AWPf prior to the execution of an AWPf grant award contract if the project is selected for funding.
- Including necessary language for any other applicable permits or authorizations that may be needed for the project including, but not limited to, a general pesticide use permit from the Arizona Department of Environmental Quality for the use of herbicides.
- Written progress report deliverables for all fence construction and invasive species removal tasks to supplement the proposed deliverables of photographic report documentation of completed work.



Katie Hobbs
Governor

ARIZONA STATE PARKS & TRAILS

Bob Broscheid
Executive Director



Arizona Water Protection Fund
Arizona Department of Water Resources
Attn: Reuben Teran
1802 W. Jackson St. Box #79
Phoenix, AZ 85007

September 15, 2023

RE: Support for Tucson Audubon's, "Restoring Riparian Health of Sonoita Creek and Patagonia Lake" WPF2405

Dear Arizona Water Protection Fund Commissioners,

Arizona State Parks and Trails strongly supports Tucson Audubon's collaborative proposal for the project, "Restoring Riparian Health of Sonoita Creek and Patagonia Lake." Completion of wildlife-friendly perimeter fencing is essential for protecting the site's water resources from trespass cattle, and for preventing encounters between cattle and some of the 200,000 annual visitors to Patagonia Lake State Park. In conjunction with fencing, invasive-plant control and riparian restoration are integral to reversing damage to park habitats and water resources.

Arizona State Parks and Trails and the staff of Patagonia Lake State Park have been working to develop solutions to ongoing issues of trespass cattle, bank erosion, and invasive plant problems for years, partnering with Tucson Audubon and other local groups focused on the health of Sonoita Creek. The installation and maintenance of appropriate legal fencing is an action that would go far to protect the quality and quantity of the State's water resources upstream and down.

State Parks will facilitate the cultural resource compliance needed through our close connections with the State Historic Preservation Office. Parks will provide site access to all project partners and contractors for completing project tasks.

In 2022, park staff and volunteers invested 372 hours in removing invasive plants along trails through the park, and have already secured bids for fencing construction from wildland fence builders equipped for taking on this fencing project. Staff and volunteers at Patagonia Lake State Park will provide long-term stewardship and management of the fence line, making repairs as necessary for the lifetime of the fence, into perpetuity



Katie Hobbs
Governor

ARIZONA STATE PARKS & TRAILS

Bob Broscheid
Executive Director



specific match listed in budget (over the full 3 year grant window):

- Working on permits, cultural clearance, access agreements, etc. **(20 hours)**
- Finalization of detailed implementation plans e.g. fencing, invasive control, and erosion mapping **(20 hours)**
- Fence construction e.g. reviewing contractor work and 5 hours/mile **(20 hours)**
- Watergap fence review **(5 hours)**
- Year 1: Cocklebur removal **(128 hours)**
- Year 2: Cocklebur removal **(128 hours)**
- Year 3: Cocklebur removal **(128 hours)**
- Erosion hazard review **(5 hours)**

This project will protect the important waters of Sonoita Creek and the unique ecosystem of Patagonia Lake State Park to ensure the enjoyment of the resource by both visitors and upstream and downstream stakeholders who rely on a healthy Sonoita Creek.

Sincerely,

Mark Weise

Mark Weise

Assistant Director - Operations/Development

Arizona State Parks & Trails

1110 W. Washington Street, Suite 100

Phoenix, AZ 85007

602.542.7157 (o)

[REDACTED] (c)

mweise@azstateparks.gov

1-877-MY-Parks|AZStateParks.com



Southern Arizona Quail Forever
11491 N Civano Pl Oro Valley, AZ 85737

September 21, 2023

Dear Arizona Water Protection Fund Commissioners,

RE: Support for Tucson Audubon's, "Restoring Riparian Health of Sonoita Creek and Patagonia Lake" | WPF2405

Southern Arizona Quail Forever (SAQF) supports Tucson Audubon and Arizona State Parks and Trails proposed project, "Restoring Riparian Health of Sonoita Creek and Patagonia Lake" – proposal WPF2405. Intact perimeter fencing, controlling invasive plants, and restoring the riparian area are integral to safeguarding the intact functioning of the Sonoita Creek and positively impacting the watershed for all its stakeholders – people and wildlife alike.

SAQF has successfully worked with Tucson Audubon on previous projects in the Patagonia area. Both of our organizations are fully committed to improving habitat in the area.

Sonoita Creek is an important water resource that needs to be effectively protected from adverse impacts. We support building a wildlife-friendly fence around Patagonia Lake to protect the site's water resources from illegal trespass cattle and their ongoing conflicts with site users. Addressing the proliferation of invasive species within the park is also a critical endeavor to maintain water quality and quantity flowing into the lake and to the state and private lands further downstream, and to protect surrounding ranches and hunting lands upstream from habitat degradation. These invasive plants impact both the wildlife and site visitors, and increase the risk of wildfires that could spread onto adjacent state, federal, and private lands thereby significantly damaging water quality/quantity and leading to increased sedimentation, erosion, and flooding.

This project will protect the unique ecosystem of Patagonia Lake State Park and ensure the continued enjoyment of this treasure by both visitors and the local community.

Sincerely,

Zack May
Chapter Treasurer, Past President
520.301.813



October 13, 2023

Arizona Water Protection Fund Commission
C/o Reuben Teran
Executive Director
Arizona Water Protection Fund
Via email transmission: rteran@azwater.gov

RE: Support for Tucson Audubon's, "Restoring Riparian Health of Sonoita Creek and Patagonia Lake" | WPF2405

President
Diana Freshwater

Vice President
Ben Brophy

Secretary
George Ruyle

Treasurer
Britton Simmons

*Laura Brown
Les Corey
Charlotte Hanson
Pat Lopez, III
Clint Mabie
Nanette Pageau
Chuck Pettis
Karen Riggs
Bill Roe
Peggy Rowley
Bill Shaw*

Executive Director
Michael McDonald

Dear Arizona Water Protection Fund Commissioners:

The Arizona Land and Water Trust supports Tucson Audubon's proposed project, "Restoring Riparian Health of Sonoita Creek and Patagonia Lake" (proposal WPF2405).

Completing perimeter fencing, invasive plant control, and riparian restoration are integral to safeguarding the intact functioning of the Sonoita Creek for all its various stakeholders.

Sonoita Creek is an important water resource for a wide range of stakeholders - from recreational visitors to Patagonia Lake State Park, to ecotourists in Patagonia, to ranchers upstream and down, and to the communities of Patagonia and Rio Rico.

Given our conservation mission to find common-ground to protect open spaces, native habitat and biodiversity, as well as agricultural ways of life that are economically, environmentally, and culturally important and sustainable, we at the Arizona Land and Water Trust support building a wildlife-friendly fence around Patagonia Lake to protect the site's water resources from illegal trespass cattle and their unfortunate conflicts with diverse site users. Addressing the proliferation of invasive plant species within the park is also a critical endeavor to maintain water quality and quantity flowing into the lake and to the state and private lands further downstream. These invasive plants adversely impact both wildlife and site visitors by increasing the risk of wildfires that could spread onto adjacent state, federal, and private lands, thereby significantly damaging water quality/quantity and leading to increased sedimentation, erosion, flooding, and the potential for catastrophic property damage.

We believe that Tucson Audubon's project will protect the unique ecosystem of Patagonia Lake State Park and ensure the continued enjoyment of this treasured place by both visitors and diverse members of this area's local communities.

Sincerely,

Michael McDonald
Executive Director
Email: mmcdonald@alwt.org
Cell: [REDACTED]





3131 S. Central Ave.
Phoenix, AZ 85040
602.468.6470

Arizona Department of Water Resources rtoran@azwater.gov
Arizona Water Protection Fund
Attn: Reuben Teran
1802 W Jackson St. Box #79 Phoenix, AZ 85007

September 11, 2023

RE: WPF2405 Restoring Riparian Health of Sonoita Creek and Patagonia Lake

Dear Review Committee:

Audubon Southwest is the regional; office of the National Audubon Society serving Arizona and New Mexico. Tucson Audubon Society is an independent non-profit affiliate. Sonoita Creek and Patagonia Lake is a state recognized Audubon Important Bird Area (IBA). A formal dedication event happened in 2007. The Audubon conservation plan for this IBA identifies trespass livestock as a conservation threat to the riparian vegetation. Repair and/or rebuilding of the fence is a recommended action in this plan. (https://aziba.org/wp-content/uploads/2022/01/MiniPlan_IBA_SonoitaCreekSNAPatagoniaLake.pdf).

The incursion of unmanaged trespass livestock into Patagonia Lake State Park and the Sonoita Creek Natural Area has been a problem for many years. Investment in a perimeter fence with a plan for fence maintenance will resolve this problem. In addition to the fence excluding trespass livestock from sensitive riparian and marsh vegetation, the visiting public will also be protected. Unlike managed livestock, trespass animals are often wild in behavior and unpredictable. The fence will therefore serve two purposes: habitat protection and public safety.

Sonoita Creek and Patagonia Lake IBA has been identified because of its importance to riparian obligate avian species in southern Arizona. Most noteworthy are the regionally significant breeding populations of Arizona Game and Fish Department species of conservation concern including Gray Hawk, the federally threatened Western Yellow-billed Cuckoo, Elegant Trogon, Bell's Vireo, Lucy's Warbler, Black-capped Gnatcatcher, Abert's Towhee, and Broad-billed Hummingbird.

Audubon Arizona strongly supports WPF2405 Restoring Riparian Health of Sonoita Creek and Patagonia Lake.

Yours in Conservation

Tice Supplee
Director of Bird Conservation
tice.supplee@audubon.org



Reuben Teran <rteran@azwater.gov>

Fence monitoring by Dirtbag group. Application number: WPF2405

1 message

Joe Watkins [REDACTED] >
To: rteran@azwater.gov
Cc: Howard Buchanan <[REDACTED]>

Sun, Oct 22, 2023 at 3:04 PM

Dear Mr. Tehran,

I represent the Dirtbags, an all volunteer group involved with trail building and trail maintenance in Santa Cruz County. This informal group has a work history of about 20 years and I have been associated with it for 15 years. I am currently the group's leader. We have performed extensive trail maintenance work in the Patagonia Lake State Park on all major trails which includes the Birding Trail above the lake. That area was the focus of a letter writing campaign two years ago to State Officials to rid the riparian area above the lake of livestock. The Dirtbags initiated that campaign.

We welcome a secure and well positioned fence around this portion of PLSP and would assume responsibilities to help monitor and make minor repairs to the fence. We have no group resources, except for our labor and time, and would depend upon the State Park's personnel and materials for major repairs.

I hope this letter clarifies our position and capabilities. We sincerely hope that this project comes to fruition.

Sincerely yours,
Joe Watkins, Dirtbag

**FY 2024
ARIZONA WATER PROTECTION FUND
STAFF REVIEW**

Review Date: October 31, 2023	Application Number: WPF2406	Project Type: Capital
Title: Verde River Access Point Restoration		
Applicant Name: Friends of the Verde River		Requested Amount: \$555,000
AWPF Reviewer: Reuben Teran		Matching Funds: \$70,789

SUMMARY:

The applicant proposes to improve four Verde River recreational access points (Skidmore Lane, Big Notti, Beasley Flat, and Homestead) on USDA Forest Service, Prescott National Forest lands. Improvement efforts proposed include installing rock mats at all four boating access sites, removing non-native invasive species around two boating access sites (Beasley Flat & Homestead) with re-treatments implemented if/when necessary, and revegetation with willow pole plantings and native seed. Rock mats are intended to build the durability of the access sites for boaters and reduce erosion into the river by holding soil, and indicating to users where they should enter and exit the river. Invasive plants treatments will focus on giant reed, tamarisk, and tree of heaven, as the applicant states these plants threaten the health and sustainability of riparian forests in the Verde Watershed. The applicant also proposes to implement a monitoring program to assess the effectiveness of the vegetation treatments; and to implement public outreach activities with two on-site events to educate recreationists about invasive species and the importance of the native riparian forest, using durable surfaces for recreational access points, and other Leave No Trace principles.

APPLICATION SCREENING FOR COMPLETENESS AND CONSISTENCY WITH COMMISSION POLICIES:

- No potential issues have been identified.

APPLICATION EVALUATION CRITERIA:

Overall assessment of the how the application demonstrates that the proposed project positively meets the evaluation criteria and purpose of the program:

- ☒ High
☐ Medium
☐ Low

Project Will Enhance, Maintain and/or Restore River, Stream and Riparian Resources

The project has a high potential to improve water quality by reducing sediment and bank erosion into the Verde River by installing rock mats at the four heavily used boating access sites along the Verde River. The project also has the high potential to further enhance the riparian habitat surrounding two recreational sites (Beasley Flat & Homestead) by removing non-native, invasive species and revegetation efforts with willows and native seed.

Project Will Benefit Fish and Wildlife Resources Dependent on River, Stream and Riparian Resources

The project has a high potential to improve water quality for aquatic species, and improve habitat resources for riparian dependent species, including potential habitat benefits for sensitive wildlife species.

Feasibility (Measures appropriate to address issues of concern identified above)

Methodologies and designs clearly presented, appropriate and adequate

The proposed methodologies and implementation strategies presented demonstrate direct benefits to the Verde River, riparian habitat, and dependent fish and wildlife resources. The application states that detailed project implementation plans (Invasive Plant Monitoring, Invasive Vegetation Treatment, Recreation Management / Erosion Reduction, and Volunteer) will be developed as part of the scope of work and will be developed and re-submitted each year of the project to guide the next year's activities.

Clarity and adequacy of the scope of work and deliverables

The scope of work and deliverables described in the application are very detailed and appear adequate to implement the project as proposed.

Cost/Benefit compared to similar applications submitted

There were no similar projects proposed this grant cycle, but overall, the budgeted costs appear reasonable for the activities proposed.

Expertise of applicant/personnel/subcontractors appropriate

The applicant is a past and current AWPf grantee in good standing, and the project personnel are appropriate to implement the project as proposed. The applications states that subcontractors will be used to implement various components of the project. The application further states that volunteers will also be trained and used to assist with invasive species removal and erosion control activities during public outreach events.

Description of the relationship between any existing plans, reports and/or information relevant to the proposed project

- Existing Plans provided with the application include the Verde Watershed Restoration Coalition Strategic Restoration Plan, 2019; Verde Watershed Restoration Coalition Cooperative Invasive Plan Management Plan, 2011; Verde Recreation Action Plan Final Environmental Assessment and Finding of No Significant Impact, 2022; Decision Notice Verde Recreation Action Plan Phase 1; Verde Watershed Restoration Coalition 2023 Monitoring Plan; and Project Area Vegetation Monitoring.
- The application states that the proposed rock mat installations are part of phase two of the Prescott National Forest Verde Recreation Action Plan, and the general invasive vegetation removal activities throughout the Verde River Watershed are identified in the Verde Watershed Restoration Coalition Strategic Restoration Plan. The scope of work indicates that the Verde River Action Plan developed by the Prescott National Forest will move into phase 2 once consultation with the US Fish and Wildlife Service (USFWS) is complete. This is anticipated to be complete by December of 2023.

Monitoring

Objectives clearly identified

The applicant proposes to gather data to evaluate whether actions are meeting management objectives, indicators of whether modifications need to be made (adaptive management) during the process, and plant community changes (native and invasive) within the riparian corridor. Sample plans were described for the following components: Monitoring and Maintenance, Revegetation, and Photo Monitoring. Invasive species removal and monitoring components will follow guidelines and management plans developed with Verde Watershed Restoration Coalition partners.

Methods clearly presented, appropriate and adequate to evaluate benefits to rivers, streams and riparian resources and/or dependent fish and wildlife resources

The applicant proposes to use protocols developed with input from Verde Watershed Restoration Coalition partners that are currently used to monitor the applicant's other projects across the watershed. The application states the project area will be monitored for invasive species and native plant regrowth, with native plant community surveys occurring during the growing season, prior to treatment activities, and after treatment is completed.

Other Considerations:

Coordinated effort with state or watershed restoration programs

The proposed project is a coordinated effort between the applicant and Prescott National Forest, and generally falls under the Verde Watershed Restoration Coalition Strategic Restoration Plan.

Public outreach

The project does include a volunteer and public outreach program that will implement two volunteer events within the project area. The goal would be to engage local citizens in riparian restoration through invasive plant removal, monitoring, and erosion control installations, and include an educational component about the importance of a healthy riparian area and the threat of invasive plants, the importance of using the rock mats, and practicing Leave No Trace principles.

Project will support local businesses

The proposed project has a high potential to support local businesses through material and supply purchases and contracted labor. The enhancement of recreational access sites also has a high potential to indirectly support local businesses and the community through increased customer engagements and goods purchases.

If the applicant is proposing to use out of state consultants, there is adequate justification for their use and associated travel costs

The use of out of state consultants was not described in the application.

Broad-based public involvement and support

Letters of support included with the grant application:

- USDA Forest Service – Prescott National Forest, Verde Ranger District
- The Nature Conservancy, Verde Project Manager

Letters received during the 45-day public comment period:

- None

Matching Funds

Matching funds appear to be in-kind contributions from the applicant - \$70,789

GENERAL COMMENTS:

- Some sections of the grant application refer to the project taking place on both Prescott National Forest and Coconino National Forest lands, where some sections only indicate the Prescott National Forest. Further review of the proposed project areas by staff appears to only be on Prescott National Forest lands. The project location form only indicates Prescott National Forest as the land manager, in addition the letter of support submitted by the Prescott National Forest identifies the 4 project locations for restoration as being on Prescott National Forest lands. Further clarification from the applicant may be necessary if Coconino National Forest lands are involved.
- There were brief statements about re-seeding the restoration areas with native seed and the use of willow plantings for revegetation efforts. However, the purchase of native seed or willow poles was not identified in the AWPf grant request or cost share budget details.
- All sections of the application were populated to complete the application, but the associated document for evidence of control and tenure in the application stated that control and tenure of the project area was not applicable to the project. However, the application did contain a letter of support provided by the land management agency (USDA Forest Service – Prescott National Forest) who is a project partner and fully supports the proposed project.

TECHNICAL (project design, hydrology, biology):

- The Statement of Solutions section in the application states that invasive plant monitoring and treatment will occur at the boating sites, and current invasive plant location maps for all four boating access sites were included at the very end of the Existing Plans, Reports and/or Information section of the application. However, it was not clear whether invasive plant treatments would occur at all four sites, or just the two sites specifically mentioned in the scope of work (Beasley Flat & Homestead).

ADMINISTRATIVE, POLICY, INSTITUTIONAL FACTORS:

- The applicant does have a participating agreement with the US Forest Service, Prescott National Forest for collaborating and implementing restoration actions within the Verde River Watershed on Prescott National Forest lands. The agreement is broad in scope, and the agreement provided between the applicant and Prescott National Forest **appears to have an expiration date of 4/23/2024**. Clarification is needed if there are plans for agreement to be extended to accommodate this proposed project's timeframe.

CONTRACT CONDITIONS THAT WILL NEED TO BE ADDED:

- A copy of an updated agreement between the applicant and the Prescott National Forest be submitted to account for this proposed project's timeline and restoration actions prior to executing an AWPf grant award contract if the project is selected for funding.

**FY 2024
ARIZONA WATER PROTECTION FUND
STAFF REVIEW**

Review Date: November 1, 2023	Application Number: WPF2408	Project Type: Capital
Title: West Turkey Creek Watershed Resiliency Project		
Applicant Name: Cuenca Los Ojos		Requested Amount: \$246,750**
AWPF Reviewer: Reuben Teran		Matching Funds: \$0*

SUMMARY:

The applicant is requesting funding to facilitate project planning that will lead to the eventual construction and installation of erosion control structures in uplands of the Coronado National Forest. The applicant proposes to conduct an archaeological resource survey, Lidar terrain analysis, and hydrologic modeling, followed by the identification, training and development of a trained watershed restoration labor force for work along West Turkey Creek. The proposed goal of this specific project is to complete a comprehensive West Turkey Creek watershed drainage assessment.

Although funds for actual on the ground restoration have not yet been identified, future goals of the applicant are to 1) bring together the support and resources of public agencies, nonprofit organizations, private landowners, the community, and local government to address watershed health and resiliency in West Turkey Creek and all the critical drainages within the Chiricahua Mountains; and 2) implement practical, cost-effective, nature-based solutions to make the Chiricahua Mountain ecosystem resilient to climate change.

APPLICATION SCREENING FOR COMPLETENESS AND CONSISTENCY WITH COMMISSION POLICIES:

- As of the date of this review, evidence of control and tenure of the project area has not been clearly demonstrated. See the ADMINISTRATIVE, POLICY, INSTITUTIONAL FACTORS section on [page 5](#) below. The grant application manual states “*Projects failing to document evidence of control and tenure of land and/or evidence of physical and legal availability of water are ineligible for funding.*”.
- The feasibility or intent of providing long-term funding for project staff as part of the scope of was not clear. See the ADMINISTRATIVE, POLICY, INSTITUTIONAL FACTORS section on [page 5](#) below.

APPLICATION EVALUATION CRITERIA:

Overall assessment of the how the application demonstrates that the proposed project positively meets the evaluation criteria and purpose of the program:

- ☐ High
☐ Medium
☒ Low

Project Will Enhance, Maintain and/or Restore River, Stream and Riparian Resources

The collection of Lidar terrain analysis data and assessing hydrologic flow within the Turkey Creek Watershed should assist in the development of a watershed restoration plan or model that could lead to the eventual improvement of watershed conditions in the future. The application briefly mentions the development of the watershed restoration plan or model as part of the project; however, this component was not described in the scope of work or the proposed budget. The application does not specifically propose any actions for the restoration of stream or riparian resources, but future installation of erosion control structures could have the potential to reduce soil erosion; facilitate passive groundwater recharge, and support improving overall watershed hydrology.

Project Will Benefit Fish and Wildlife Resources Dependent on River, Stream and Riparian Resources

The proposed project actions currently do not have any components that would directly benefit fish and wildlife resources in the project area. Future installation of erosion control structures has the potential to reduce soil erosion; facilitate passive groundwater recharge, and support improving overall watershed hydrology which could have indirect benefits to riparian and aquatic wildlife species in the future.

Feasibility (Measures appropriate to address issues of concern identified above)

Methodologies and designs clearly presented, appropriate and adequate

Project methodologies were only briefly described, but conducting an archaeological survey, Lidar terrain analysis, and watershed model should assist the applicant to begin collecting data components necessary to develop a watershed restoration plan.

However, one key component that appears to be left out of the project planning and implementation is coordination of this project and activities with the US Forest Service, Coronado National Forest. Since this project is intended to be implemented on federal lands, there may be other considerations that need to be identified and addressed to implement the proposed project. Typically, the land management agency would be directly involved in a project on their lands, but it is not clear if the Coronado National Forest was part of the coordination efforts as a letter of support was not included in the application and no comments were submitted by the Coronado National Forest during the public comment period.

Clarity and adequacy of the scope of work and deliverables

- The applicant states that the purpose of this grant to receive funds to help develop a specific implementation plan for this project, and they are concurrently applying to other funders to raise funds for the implementation. However, there are no deliverables proposed in the scope of work for the development of a watershed restoration plan.
- No official instrument for implementing data collection on USFS lands has been identified for this project. It would appear that the USFS needs to be involved at some level, however, their acknowledgment or participation on this project has not been identified or documented.
- There was no description of the training that would be required, or what type of training or curriculum would be offered for the watershed project manager or watershed crew (academic/university, or internal organizational training, etc.). The Key Personnel section of the application also already identifies a Watershed Restoration Program Coordinator and a Watershed Restoration Crew Leader from the Borderlands Restoration Network, so it is not clear why more staff would need to be hired in this capacity for the proposed project.

- There were no deliverables identified for the development of the future watershed restoration plan that appears to be the intended to be the key deliverable and product of this proposal, or for the development of a project final report for this proposed project.

Cost/Benefit compared to similar applications submitted

There were no similar applications submitted in this grant cycle. The costs proposed for hiring and training staff (\$170,000) under Tasks #4 & #5 were not clearly described, and it is not clear how the funds would be used. These costs appear very high for just hiring and training purposes.

Expertise of applicant/personnel/subcontractors appropriate

The applicant and Key Personnel listed in the application were only listed by name, and it was not clear what experience and expertise they may have regarding the planning and implementation of large-scale watershed restoration projects involving erosion control structures.

Description of the relationship between any existing plans, reports and/or information relevant to the proposed project

- The application included a National Environmental Policy Act document titled "Decision Memorandum, D1 Firescape, Tex Canyon Watershed Restoration, U.S. Forest Service, Coronado National Forest, Douglas Ranger District, Cochise County, Arizona" which the applicant provided to serve as a sample restoration plan for future work that this data gathering project would help support. The application also included the document titled "Ecosystem Repair by Headwater Erosion Control: West Turkey Creek, Chiricahua Mountains, Arizona."

Monitoring

Objectives clearly identified

Monitoring activities were not proposed for this project.

Methods clearly presented, appropriate and adequate to evaluate benefits to rivers, streams and riparian resources and/or dependent fish and wildlife resources

Monitoring activities were not proposed for this project.

Other Considerations:

Coordinated effort with state or watershed restoration programs

It was not clear if this project is a coordinated effort with other state or watershed restoration programs.

Public outreach

Public outreach activities were not proposed for this project.

Project will support local businesses

The project has the potential to support local businesses through the hiring of subcontractors for the archaeological survey, Lidar analysis, and watershed modeling activities.

If the applicant is proposing to use out of state consultants, there is adequate justification for their use and associated travel costs

The use of out of state consultants was not described in the application.

Broad-based public involvement and support

Letters of support included with the grant application:

- Fort Huachuca Sentinel Landscape Partnership

Letters received during the 45-day public comment period:

- None

*Matching Funds

- The application cover page stated matching / cost share funds obtained and secured totaled \$750,000. However, based on the application cover page and description matching /cost share section of the application it appears that there are concurrent grant applications in process with no funding secured at this time, and the applicant has not included those budgets in this application.
- The application did not contain any letters documenting vital partnerships or cost share funding for the project. The application did state that the applicant has applied for other funding sources that would be used to implement the on-the-ground work based on the information and data gathered through this project.

GENERAL COMMENTS:

- The project was identified as both Water Conservation & Research. While this project does propose to collect data and information necessary to implement future restoration actions, it does not appear to fall with the Water Conservation or Research criteria. Staff recommends categorizing this project under the Capital project category, as noted on the cover page of this document.
- The scope of work includes conducting an archaeological survey, conducting a Lidar analysis, conducting hydrologic modeling, hiring a watershed project manager, and training 4 crew leaders for project implementation. Given that no on-the-ground activities are taking place as part of the project, it is not clear what would result if hiring and training staff were completed but there are no guaranteed funds available for actual watershed restoration implementation activities.
- The application states that there is not a specific project implementation plan for this project, and the stated purpose of this project is to help develop that implementation plan. The scope of work for the proposed project also did not include a Task or funds that would tie together all components of the data collected under other tasks to develop a full scale on-the-ground implementation plan, or a Task for the development and submittal of a project final report and presentation to the AWPFC Commission at the conclusion of the project.

TECHNICAL (project design, hydrology, biology):

- Given that the project is taking place on federally managed lands and the overall scope of the project has been evaluated reviewed under the National Environmental Policy Act, the US Forest Service should be providing some type of input or guidance on land management actions. The application did not provide any information regarding the US Forest Service position on this specific application

and proposed actions.

- Future on-the-ground implementation, feasibility, design, and cost will depend on the data and information gathered through this proposed project. While the grant application does not necessarily fall under a feasibility of design type of project, the finding of this project should be shared or reviewed by the US Forest Service at some point for concurrence with any future project actions on lands they manage.
- For future planning, design and implementation purposes, it is recommended that the applicant consult with the Arizona Department of Water Resources Surface Water program regarding the final designs that may be used for the erosion control structures, as erosion control structures may require a surface water right if they are retaining surface water. If the structures would be designed to only detain water, a maintenance plan may also need to be developed to assure that water would not be retained in the future.

ADMINISTRATIVE, POLICY, INSTITUTIONAL FACTORS:

- Evidence of control and tenure was not clearly demonstrated.
 - The application contained the following statement: *“This is U.S. Forest Service public land and we will be working under the authority of the Douglas Ranger District Decision Memorandum dated September 1, 2016 for the Chiricahua Watershed Restoration Project.”* While the data collected efforts proposed for this project are planned to be implemented on federal lands that would generally be accessible to any member of the public, there was not a letter of support or acknowledgement from the Coronado National Forest in the application or submitted during the public comment period about the project or proposed actions to be conducted on US Forest Service lands.
 - While there does not appear to be any ground disturbing activities as part of the proposed actions in the application, it is not clear if the applicant has the sole authority to implement this type of data collection under a federal decision notice without some type of special use permit or formal cooperative agreement with the Coronado National Forest
- **The application cover page stated the AWPf fund request as \$250,000. However, based on the detailed budget pages and staff calculations the requested amount totaled \$246,750. This amount has been identified on the cover page of this document.
- It was not clear if all funding for Tasks #4 & #5 will be used exclusively for hiring and training purposes (\$170,000), or if this funding is anticipated to be available in the future when on the ground activities actually begin. The application budget states AWPf funding will provide 2-years’ worth of seed funding to support the watershed project manager to support the initial project phases, future project implementation, and long-term management. However, if there are no secure funds for on-the-ground implementation activities, and this is not identified as part of the AWPf scope of work, it is not clear if this would be feasible under an AWPf reimbursable grant award contract.

CONTRACT CONDITIONS THAT WILL NEED TO BE ADDED:

- Submittal of a project access and implementation agreement, or other applicable document, between the applicant and the Coronado National Forest that authorizes the implementation of data collection on USFS lands, prior the execution of a grant award contract if the project is selected for funding.

- Addition of task to the scope of work for submittal of any other clearance, permits, or authorizations necessary to implement the proposed scope of work for the project.
- Clarification in the scope of work about what type of training would be conducted under Tasks #4 & #5, in addition to the educational curriculum that will be used included as a deliverable.
- Adding a task(s) to the scope of work for the development and submittal of a project final report, and presentation to the AWPf Commission.

Arizona Water Protection Fund Commission Fiscal Year 2024 Grant Application Commission Priority Ranking

Application #	Project Title	Staff Evaluation	Tina Thompson	John Ladd	Frank Krentz	Rodney Held	Shelley Blackmore	Brian Biesemeyer	Stephen Turcotte	Pat Jacobs	Overall Commission Priority (lower number = higher priority)
WPF2403	Pine Canyon Restoration and Watershed Protection Project	High	2	3	1	1	2		2	1	12
WPF2408	West Turkey Creek Watershed Resiliency Project	Low	1	1	2	6	1	1	3	6	21
WPF2401	Big Sandy NRCD Improving Watersheds Through Restoration Projects	Medium	4	2	3	7	3	3	1	4	27
WPF2406	Verde River Access Point Restoration	High	3	4	5	2	5	2	5	2	28
WPF2402	Christopher Creek Restoration Project	Medium	5	6	4	4	4	4	4	5	36
WPF2405	Restoring Riparian Health of Sonoita Creek and Patagonia Lake	High	7	7	7	3	7	6	6	3	46
WPF2404	Preservation and Protection of Concho Springs, Concho Creek and Concho Lake	Low	6	5	6	5	6	5	7	7	47
All cells should total 28			28	28	28	28	28	21	28	28	

Arizona Water Protection Fund Commission Fiscal Year 2024 Grant Application Voting Table

Application #	Project Title	Tina Thompson	John Ladd	Frank Krentz	Rodney Held	Shelley Blackmore	Brian Biesemeyer	Stephen Turcotte	Pat Jacobs	Yes Votes	Commission Majority Votes for Funding Consideration (Present for Voting)
WPF2401	Big Sandy NRCD Improving Watersheds Through Restoration Projects	1	1	1	0	1	0	1	0	5	Yes
WPF2402	Christopher Creek Restoration Project	1	0	1	1	1	1	1	1	7	Yes
WPF2403	Pine Canyon Restoration and Watershed Protection Project	1	1	1	1	1		1	1	7	Yes
WPF2404	Preservation and Protection of Concho Springs, Concho Creek and Concho Lake									0	No
WPF2405	Restoring Riparian Health of Sonoita Creek and Patagonia Lake									0	No
WPF2406	Verde River Access Point Restoration	1	1	1	1	1	1	1	1	8	Yes
WPF2408	West Turkey Creek Watershed Resiliency Project	1	1	1	1	1	1	1	1	8	Yes

1 = Yes Vote

0 = No Vote

Arizona Water Protection Fund Commission Projects Approved for Fiscal Year 2024 Funding

AWPF Grant Application Fiscal Year 2024 Grant Cycle Funds Tracking				\$1,808,132	Projected Uncommitted Funding Available To Grant
Application #	Project Title	Funding Requested	Amount Funded	Available Balance	Project Type
WPF2401	Big Sandy NRCD Improving Watersheds Through Restoration Projects	\$229,698	\$229,698	\$1,578,434	
WPF2402	Christopher Creek Restoration Project	\$174,924	\$174,924	\$1,403,510	Original fund request (\$242,960) has changed based on grant application presentation, and the applicant's statements that Tasks #3 (Springbox Reconstruction = \$10,930.71) and #4 (Pond Pipeline Reconstruction = \$57,105.72) has already been completed and they have requested a reduced funding amount.
WPF2403	Pine Canyon Restoration and Watershed Protection Project	\$350,000	350,000	\$1,053,510	
WPF2404	Preservation and Protection of Concho Springs, Concho Creek and Concho Lake	\$704,735		\$1,053,510	
WPF2405	Restoring Riparian Health of Sonoita Creek and Patagonia Lake	\$427,117		\$1,053,510	Original fund request (\$983,540) has changed based on grant application presentation, and the applicant's statements that Task #2 would be deleted from the project (-\$278,805 for Auxiliary Pipeline Along Concho Creek From Spring To Lake).
WPF2406	Verde River Access Point Restoration	\$555,000	555,000	\$498,510	
WPF2408	West Turkey Creek Watershed Resiliency Project	\$246,750	246,750	\$251,760	
		\$2,688,224	\$1,556,372		

\$62,500.00
(available for research)

Research Funds Balance	
Available Grant Funding Balance	\$251,760

**ARIZONA WATER PROTECTION FUND
GRANT APPLICATION GUIDELINES
2023**

Summary of Public Comments Received w/ AWPf Legal Opinions

Date	Sender	Doc#
02/07/2023	Wilcox-San Simon Natural Resource Conservation District	1
02/10/2023	Big Sandy Natural Resource Conservation District	2

Doc #1

The [grant application] process can be streamlined by implementing a pre-application phase followed by invitations to submit a final application.

AWPF Legal Opinion: Currently, the grant application guide does not indicate that a pre-application phase would be part of the process and that such process may result in some applicants not receiving an invitation to submit a final application. A.R.S. § 45-2105 sets forth the application guidelines and A.R.S. § 45-2106 details how the commission may amend the guidelines for applicants required by A.R.S. § 45-2105. Accordingly, should the commission wish to amend the guidelines to include a pre-application phase it must comply with requirements of A.R.S. § 45-2106.

Applicant presentations should not be part of the grant process. Presentations allow for human bias and a pre-application phase followed by a final application phase will allow for staff to ask questions and provide feedback for final submissions. Applications should be able to stand on their own merit without a presentation.

AWPF Legal Opinion: Same as above. The current grant application process informs applicants that a presentation will be part of the process. Should the commission wish to amend the guidelines to omit presentations it must comply with requirements set forth in A.R.S. § 45-2106.

Areas where landscape scale approaches to conservation are being implemented should be prioritized.

AWPF Legal Opinion: A.R.S. § 45-2113(A) details the priority for funding. Should the commission wish to have this type of project prioritized it would either need to fit within the current statutory requirements, or the commission would have to embark on a statutory change to include it.

**ARIZONA WATER PROTECTION FUND
GRANT APPLICATION GUIDELINES
2023**

Summary of Public Comments Received w/ AWPf Legal Opinions

The Arizona Water Protection Fund Commission should consider looking at areas of the State where broad partnerships exist to help protect large landscapes.

AWPF Legal Opinion: A.R.S. § 45-2113(A) details the priority for funding and the top priority is for projects with matching monies. It is possible this request could fit into this requirement. If not, and the commission would like to update the funding priority, it would have to embark on a statutory change to include it.

The Arizona Water Protection Fund Commission should consider broadening its application to include landscape scale land management practices like erosion control structures in upstream tributaries, wildfire mitigation and prevention measures, vegetation management, and recharge opportunities that can and do benefit and impact riparian ecosystems.

AWPF Legal Opinion: A.R.S. § 45-2105 sets forth the application guidelines and A.R.S. § 45-2106 details how the commission may amend the guidelines for applicants required by A.R.S. § 45-2105. Accordingly, should the commission wish to amend the guidelines to include consideration for these types of projects it must comply with requirements of A.R.S. § 45-2106.

Groundwater recharge projects and local, well documented science should be considered in designing and implementing effective projects, if the Arizona Water Protection Fund is to make a meaningful contribution to the State's riparian areas.

AWPF Legal Opinion: Same as above. A.R.S. § 45-2105 sets forth the application guidelines and A.R.S. § 45-2106 details how the commission may amend the guidelines for applicants required by A.R.S. § 45-2105. Accordingly, should the commission wish to amend the guidelines to include consideration for these types of projects it must comply with requirements of A.R.S. § 45-2106.

**ARIZONA WATER PROTECTION FUND
GRANT APPLICATION GUIDELINES
2023**

Summary of Public Comments Received w/ AWPf Legal Opinions

Doc #2

Landscape scale conservation measures should be considered as part of the Arizona Water Protection Fund priorities.

AWPF Legal Opinion: The policy and purpose of the WPF is to protect and restore the state's rivers and streams and associated riparia habitats, including fish and wildlife resources that are dependent on these important habitats. Landscape scale conservations are not considered. Additionally, A.R.S. § 45-2113(A) details the priority for funding. Should the commission wish to have this type of project prioritized it would either need to fit within the current statutory requirements, or the commission would have to embark on a statutory change to include it.

To enhance the application process, the Arizona Water Protection Fund Commission should consider management of riparian ecosystems. Landscapes that are managed holistically have a higher chance of success.

AWPF Legal Opinion: A.R.S. § 45-2133(A)(2) prioritizes funding for projects that provide continued maintenance of the portion of the river and streams and associated riparian habitat that are enhanced by the project. Management of a riparian ecosystem could possibly fit within these parameters if the river and/or stream is also maintained.

Groundwater recharge and recovery projects should be considered an eligible practice, if the Arizona Water Protection Fund is to make a meaningful contribution to the health and recovery of state's riparian areas.

AWPF Legal Opinion: A.R.S. § 45-2113(A) details the priority for funding. Should the commission wish to have this type of project prioritized it would either need to fit within the current statutory requirements, or the commission would have to embark on a statutory change to include it.

**ARIZONA WATER PROTECTION FUND
GRANT APPLICATION GUIDELINES
2023**

Summary of Public Comments Received w/ AWPf Legal Opinions

The use of grant application presentations to supplement the process allows for human bias and the practice is not typically used in other grant application processes. If there is concern that applicants need to adjust their applications per staff and public comment recommendations, then a pre-proposal and final proposal time period should be implemented similar to other grant processes.

AWPF Legal Opinion: The current grant application process informs applicants that a presentation will be part of the process. Should the commission wish to amend the guidelines to implement a pre-proposal and final proposal time period it must comply with requirements set forth in A.R.S. § 45-2106.

45-2105. Application guidelines

Before any monies are granted pursuant to section 45-2113, and by July 1, 1995, and every three years thereafter, the commission shall develop in conjunction with the department guidelines for applicants for funding. Guidelines shall include the following:

1. Delineation of geographic areas in this state where protection and restoration will be emphasized.
2. Identification of issues of concern.
3. Types of measures needed to address issues of concern.
4. A requirement that the applicant include a description of the relationship between the proposed project and existing plans, reports and information that are relevant to the proposed project.

45-2106. Public involvement

A. The commission is subject to the provisions of title 38, chapter 3, article 3.1 and title 39, chapter 1.

B. The commission shall develop and may amend the guidelines for applicants required by section 45-2105 after reviewing the recommendations submitted by the natural resource conservation districts developed pursuant to section 37-1054, subsections D and E and the information gathered during the public involvement process.

C. The commission shall gather information from the following:

1. The director of the department of water resources and the state land commissioner.
2. The federal and state fish, wildlife, recreation and natural resource agencies.
3. County and municipal entities.
4. The public.

D. The commission shall develop procedures to assure adequate public participation. At a minimum, public participation procedures shall prescribe public notice requirements including the content and publication of the notice, provide an opportunity for public hearings and specify the procedures governing the hearings and require the public availability of relevant documents. Public hearings shall be held at places and times which afford a reasonable opportunity to persons to participate.

E. The commission shall make available for viewing copies of the recommendations and supporting documents submitted pursuant to this section and may charge a reasonable fee for copying.

45-2113. Fund grants; applications

A. The commission shall grant monies from the fund consistent with the application guidelines developed pursuant to section 45-2105. The commission shall establish a procedure by which monies may be granted annually which shall include a maximum of six months between the receipt of the proposal by the commission and the disbursement of monies. The commission shall give priority in funding to the following:

1. Projects for which matching monies or assets of comparable value, including in-kind contributions, will be provided by other sources.
2. Projects that provide for the continued maintenance of the portion of the river and stream and associated riparian habitat that are enhanced by the project.
3. Projects that include broad based local involvement.
4. Projects that directly benefit perennial or intermittent rivers or streams or that otherwise increase the supply of water.

B. The commission shall require as a condition of approval of any proposal all of the following provisions:

1. Allowing access for inspection and evaluation of the project.
2. Controlling the expenditure of and accounting for any monies granted by the commission
3. Requiring that those persons responsible for the project submit all pertinent information and research gained from the project to the commission.
4. Requiring that any person receiving a grant spend no more than five percent of the grant on costs of administration.

C. The commission shall provide for public involvement regarding the applications submitted to the commission which shall include notice to any person who requests notice of applications and which shall provide a reasonable opportunity for comment on the application which shall not be less than forty-five days.

D. On receipt of an application the commission shall notify cities, towns, counties, natural resource conservation districts, special districts and Indian communities affected by the proposal and shall provide a reasonable opportunity for comment on the application which shall not be less than forty-five days.

E. Any person, state agency or political subdivision of this state may submit a request for funding from the fund for purposes prescribed by this section. A federal agency is not eligible for funding from the fund. Requests for funding shall be made to the commission. Requests for funding submitted to the commission may be accompanied by expressions of support from affected cities, towns, counties, natural resource conservation districts, special districts or Indian communities.

F. As a condition of approval by the commission, the applicant shall commit to work jointly with the affected cities, towns, counties, natural resource conservation districts, special districts and Indian communities that have contacted the commission pursuant to subsection D of this section on all aspects of the proposal's implementation and monitoring, unless the jurisdiction chooses not to participate.

G. Monies in the fund may only be spent to finance programs located in this state.

H. Monies in the fund may be spent for any of the following:

1. Granting monies to entities for the acquisition of central Arizona project water or effluent that will protect or restore rivers or streams consistent with state water law. No entity may exercise the right of eminent domain to

acquire water or water rights using monies derived from this fund.

2. Granting monies to assist in developing, promoting and implementing water conservation programs, directly related to the purposes of this chapter, outside of the active management areas.

3. Granting monies in support of research and data collection, compilation and analysis directly related to the purposes of this chapter except that no more than five percent of the monies deposited in the fund in any fiscal year may be spent for this purpose. Before the approval of any such project, the commission shall consult with the department of water resources and the state land department to determine whether any research of a similar nature has been or is in the process of being performed and is already available. The commission shall not approve a proposal if either department determines that sufficient data exists and notifies the commission in writing.

4. Granting monies for the development and implementation of capital projects or specific measures consistent with the purposes of this chapter.

I. Monies in the fund may not be spent for:

1. Any project that includes the planting of mesquite, tamarisk or other nonnative high water usage trees that consume water to a degree that is detrimental to water conservation efforts, but may be used for removal of mesquite, tamarisk or other nonnative high water usage trees that consume water to a degree that is detrimental to water conservation efforts.

2. Any remedial action purposes undertaken pursuant to the comprehensive environmental response, compensation, and liability act of 1980, as amended (P.L. 96-510; 94 Stat. 2767; 42 United States Code section 9601) or title 49, chapter 2, article 5.