

# Lee Valley Disposal Environmental Assessment Apache County, Arizona

Decision Relating to  
Wildlife and Sportfish Restoration Grant  
FW-13-L

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Prepared by  
Arizona Game and Fish Department and  
Wildlife and Sportfish Restoration Program  
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## Contents

1	Purpose and Need.....	3
1.1	Introduction .....	3
1.2	Background .....	3
1.3	Proposed Action.....	4
1.4	Purpose and Need.....	5
1.5	Decision to be Made .....	5
2	Alternatives, Including No Action Alternative.....	5
3	Affected Environment and Environmental Consequences.....	6
3.1	Aquatic and Terrestrial Habitat and Biota .....	6
3.2	Water Resources and Water Quality .....	6
3.3	Special Status Species .....	7
3.4	Cultural Resources .....	7
3.5	Local Socioeconomic Factors .....	8
3.6	Wilderness, Recreation, and Scenery .....	8
3.7	Cumulative Impacts .....	8
4	Public Involvement and Scoping .....	9
5	Environmental Commitments.....	9
6	Summary .....	9
7	List of Preparers .....	9

# 1 Purpose and Need

## 1.1 Introduction

The U.S. Fish and Wildlife Service (FWS) has authorities under the Federal Aid in Sport Fish Restoration Act (16 U.S.C.777-777k, 64 SStat.430) as amended to provide Federal aid to States for the management and restoration of fish having “material value in connection with sport or recreation in the marine and/or fresh waters of the United States.” The FWS also has authorities under the Federal Aid in Wildlife Restoration Act (16 U.S.C. 669-669j; 50 Stat. 917) to provide Federal aid to States for management and restoration of wildlife. The FWS proposes to fund the Arizona Game and Fish Department (AGFD) Commission’s transfer of the 71.524 Lee Valley Property to The Archaeological Conservancy.

This Environmental Assessment (EA) has been prepared by the AGFD to assess the potential effects to physical, biological, and social and community conditions that may result from the disposal of 71.524 acres known as Lee Valley Property, Apache County, Arizona.

This EA will be used by the FWS to determine if the disposal of Amity, as proposed, is likely to result in significant impacts to the human environment. If it is determined that the proposed action does not have significant impacts and is approved as described herein, or with minimal changes, and no further analyses are needed, FWS will issue a Finding of No Significant Impact (FONSI). If it is determined, conversely, that significant impacts might occur, the FWS would be required to prepare an Environmental Impact Statement.

This EA has been prepared pursuant to the requirements of the National Environmental Policy Act of 1969 (NEPA) as implemented by the Council on Environmental Quality regulations (40 CFR. 1500-1508), Department of Interior NEPA procedures, and the U.S. Fish and Wildlife Service NEPA Handbook 516 DM 8. The EA also incorporates other federal and state environmental policies and regulations.

## 1.2 Background

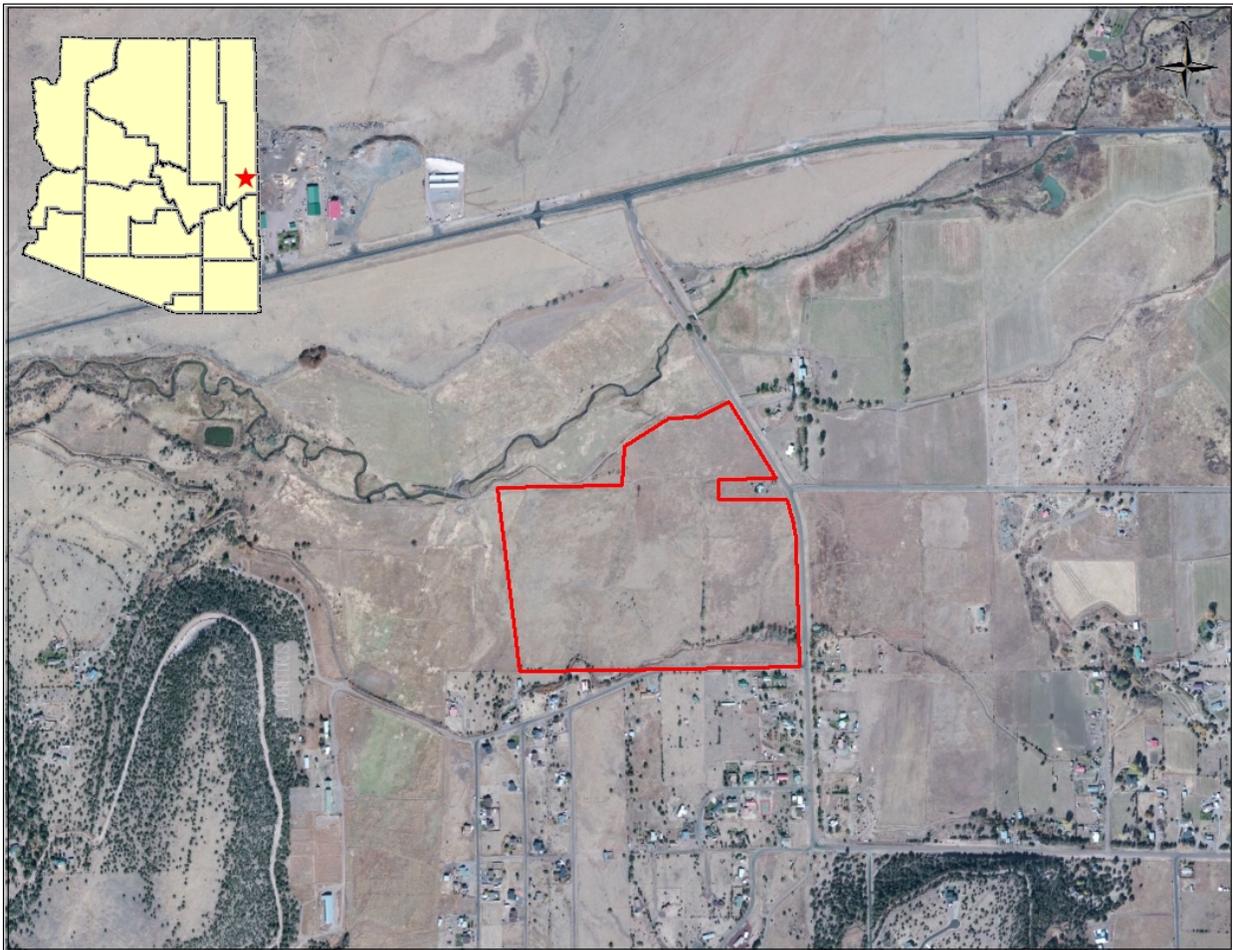
Lee Valley is located in the southwestern portion of the Town of Eagar adjacent to the 26 Bar Ranch headquarters in Apache County (*Figure 1*).

In 1960, the Commission purchased the 73.524 acre property using Wildlife and Sportfish Restoration Funds. Included in the acquisition were Norviel Decree irrigation rights on the parcel and 463.95 acre feet of storage rights in Lee Valley Reservoir, a 45 surface-acre lake.

In 1970, two acres on the eastern boundary of the property were condemned by Apache County for the purposes of widening a public road known as School Bus Road.

In 1989, the water rights were severed and transferred to the Lee Valley Reservoir and changed from irrigation use to permanent storage for recreational and wildlife purposes. The Department currently manages the lake for sportfish.

The current acreage of the parcel for disposal is 71.524 acres as identified in a 2014 recorded survey by Tetra Tech.



**Figure 1.** Lee Valley Property.

### 1.3 Proposed Action

The proposed action is the disposal of Amity to The Archaeology Conservancy (TAC), a non-profit organization dedicated to acquiring and preserving archaeological sites. A restrictive covenant (Exhibit 1), a covenant imposing restrictions on the use of Amity to protect the cultural resources on the property, will be recorded with the transfer of the property. The restrictive covenant includes a limitation on development and other uses inconsistent with the protections of the cultural resources including but not limited to dumping, construction, and commercial activities while allowing for research and educational opportunities related to the cultural resources found on the property. The AGFD will be responsible for handling all aspects of the disposal with appropriate approvals from the FWS. The disposal will be conducted following state defined disposal procedures (Arizona Revised Statutes §§ 17-241 and 32-803) and funding requirements.

## 1.4 Purpose and Need

The AGFD began construction of a pond on Amity on April 27 and ceased on May 6, 2011 (note construction did not occur on all ten days), which resulted in the unintended damage to human remains and artifacts within approximately nine acres immediately adjacent to Amity Pueblo, a cultural historic property. Amity Pueblo is a late Pueblo III to early Pueblo IV masonry pueblo containing at least 60 rooms plus numerous ancillary activity areas.

The AGFD has undertaken mitigation measures to address damages at the Amity Pueblo, which had resulted from the pond construction activities, per the terms and conditions of the Memorandum of Agreement (MOA) among U.S. Fish and Wildlife Service, The Advisory Council on Historic Preservation, The Arizona Game and Fish Department, The Arizona State Museum, the Pueblo of Zuni, The Acoma Pueblo, The Hopi Tribe, The Navajo Nation, The Archaeological Conservancy, and the Society for American Archaeology. Once these mitigation measures are completed, the AGFD intends to transfer the property with a recorded restrictive covenant to TAC. The restrictive covenant will protect in perpetuity the site for the purposes of cultural resources while at the same time allowing for research and educational opportunities related to archaeological resources found on the property.

The proposed action is to dispose of Amity to TAC with recorded restrictive covenants. The need for the proposed action is the parcel must be protected in perpetuity for cultural resources which would be better managed by TAC.

## 1.5 Decision to be Made

To provide protection of Amity Pueblo at Amity, the Department prefers to transfer Amity out of state ownership into TAC ownership. TAC has the expertise to protect Amity Pueblo and provide appropriate management of research and educational opportunities that may be appropriate at the site.

## 2 Alternatives, Including No Action Alternative

### Alternative 1: No Action

This alternative would be for the Arizona Game and Fish Commission (AGFC) to retain ownership of Amity with the responsibility to protect Amity Pueblo.

### Alternative 2: Proposed Action

The Proposed Action is to dispose of Amity to TAC. This alternative will allow for an organization which specializes in cultural site protection to manage the site specific to the cultural resources on the property. AGFD's mission is to manage wildlife in public trust for the benefit of the State of Arizona and its citizens. Cultural resource protection is a consideration in the management of wildlife, but is not AGFD primary mission and expertise.

The process of disposal would proceed following the state's disposal statute which includes two appraisals and thirty days' notice in a newspaper of general circulation in the county in which the property is located. The self-contained appraisal reports would comply with the provisions of both the

*Uniform Appraisal Standards for Federal Land Acquisitions* and the *Uniform Standards of Professional Appraisal Practice*. The appraisal report would be reviewed by an independent review appraiser. The AGFD would not transfer the property for less than the amount of the lowest appraisal.

### 3 Affected Environment and Environmental Consequences

#### 3.1 Aquatic and Terrestrial Habitat and Biota

The habitat on the property is primarily open meadow composed of wild rye and blue gramma grass with an approximately nine acre disturbance and mitigation site that has now been reseeded. Prior to Commission acquisition, the property was used primarily for agricultural purposes with remnant irrigation ditches and concrete headgates located across the property. Given the property's proximity to residential areas in Eagar, and the existence of a relatively homogenous meadow habitat, the property receives limited wildlife use. The cultural resource values exceed the wildlife values on the property.

##### No Action

The property would continue to be managed for the current habitat with limited wildlife values.

##### Proposed Action

The property would be managed for the cultural resource values found on the property. The restrictive covenant will restrict future development of the site in perpetuity to protect the cultural resources. This will provide a benefit to species and habitat.

#### 3.2 Water Resources and Water Quality

The Little Colorado River (LCR) is located approximately .016 miles at its closest point north of the property, but does not occur on the property. Amity Ditch transverses the southern portion of the property from west to east for approximately .25 miles. Amity Ditch is an irrigation ditch that brings LCR water to Norviel Decreed water rights holders in Round Valley. Downstream water users periodically maintain the Amity Ditch to better convey water to their irrigated fields. At one point, the Amity property had Norviel Decreed water rights for irrigation use. In 1989, these water rights were severed and transferred to the Lee Valley Reservoir and changed from irrigation use to permanent storage for recreational and wildlife purposes.

##### No Action

The no action alternative would have no impact on water resource and quality since there are no water rights appurtenant to the property.

##### Proposed Action

The proposed action would have no impact on water resources and quality since there are no water rights appurtenant to the property.

### 3.3 Special Status Species

Per Arizona's Online Environmental Review Tool Report dated July 19, 2016 (attached), listed species and/or critical habitat that occur within five miles of the property include Little Colorado River Spinedace, Mexican Gray Wolf, Mexican Spotted Owl and Southwestern Willow Flycatcher.

<b>Common Name</b>	<b>Scientific Name</b>	<b>Status</b>
Little Colorado Spinedace	<i>Lepidomeda vittata</i>	Threatened
Mexican Wolf	<i>Canis lupus baileyi</i>	Endangered
Mexican Spotted Owl	<i>Strix occidentalis lucida</i>	Threatened
Southwestern Willow Flycatcher	<i>Empidonax traillii extimus</i>	Endangered

Habitat for Mexican Gray Wolf, Mexican Spotted Owl and Southwestern Willow Flycatcher is limited on the property. With no natural water courses on the property, no habitat exists for Little Colorado River Spinedace.

#### No Action

There would be no habitat changes to the property resulting in no changes to special status species.

#### Proposed Action

The intensity of use will be limited with management of the property primarily for education and research uses related to the cultural resources. There will be minimal if any disturbance to listed species. Covenants will protect the site from uses inconsistent with cultural resource protections, hence protecting the habitat at the site. This protection may possibly improve the habitat on site, but anticipate no changes to special status species.

### 3.4 Cultural Resources

Significant investigation has occurred into the cultural resources on the property. This includes a Class III cultural resource survey and archaeological monitoring during mitigation activities. A final report will be prepared detailing the mitigation efforts and the results of the artifact and osteological analyses. As an organization, TAC's primary focus is to identify, acquire, secure, and manage the archaeological site as part of a long-term preservation plan. Transfer of the property to TAC would allow TAC to manage the cultural resources with the cultural expertise they have on staff. In working with tribal and other interested parties, TAC will look at the specific elements and concerns on the site to create a plan to address all cultural issues and allow for appropriate site management.

#### No Action

The no action alternative would keep the property within the ownership of AGFC whose focus is for the management of wildlife. Management of the cultural resources would continue, but in a limited manner and without the necessary expertise to fully manage the site for the benefit of the cultural resources present.

Proposed Action

The proposed action would transfer the property to TAC whose focus is on the protection and future management of cultural resources. TAC has the expertise to manage the property specifically for the cultural resources. They also have the resources and relationships to work with interested parties in the management and future use of the site.

### 3.5 Local Socioeconomic Factors

The population of Eagar, Arizona, according to 2010 U. S. Census data, is 4,885. The median household income is \$33,295, and percentage of population below poverty level is 15.8%. Compared to Apache County, the median household income in Apache County (\$32,396) is lower, and the poverty level (33.1%) is higher. Compared with Arizona, the median household income (\$49,928) is lower, and the poverty level (18.2%) is lower.

	Arizona	Apache County	Eagar, AZ
<b>Population (2015 Estimates)</b>	6,828,065	71,474	4,885
<b>Median household income (2010-2014 Estimate)</b>	\$49,928	\$32,396	\$33,295
<b>Percentage of population below poverty level (2010-2015 Estimate)</b>	18.2%	33.1%	15.8%

**Table 1.** U. S. Census Bureau data estimates specific to the Town of Eagar, Arizona; Apache County; and the State of Arizona.

No Action

The no action alternative would not change current management activities on the property and would have no impact on the local economy. The property has been in AGFC ownership since 1960 and future management of the property will be similar to the current management.

Proposed Action

The proposed action could have an improved economic impact on the local community as the property would be showcased as a cultural protection site. Research and education activities linked to TAC organized events would bring in individuals outside of the vicinity who have an interest in cultural resources. Those visiting individuals would purchase local hotel stays, food and gasoline.

### 3.6 Wilderness, Recreation, and Scenery

This proposed action has no nexus with wilderness areas. The closest wilderness areas are Escudilla Wilderness and Mount Baldy Wilderness both approximately 14 miles away. Limited development of the site will take place leaving the site condition in relatively the same state.

### 3.7 Cumulative Impacts

Cumulative effects under NEPA are the direct and indirect effects of a proposed project alternative’s incremental effects, when they are added to other past, present, and reasonably foreseeable actions regardless of who carries out the action (40 CFR, Part 1508.7).

No cumulative effects on wildlife are expected from the transfer of this property. There is limited development in the area with a few surrounding houses. Management will remain essentially the same with a focus on cultural resource protections.

#### **4 Public Involvement and Scoping**

There has been substantial involvement from The Advisory Council on Historic Preservation, The Arizona Game and Fish Department, The Arizona State Museum, the Pueblo of Zuni, The Acoma Pueblo, The Hopi Tribe, and The Navajo Nation during the subsequent Memorandum of Agreement (MOA) negotiations.

#### **5 Environmental Commitments**

The MOA and restrictive covenant will protect cultural resources of the site and limit development of the site in perpetuity.

#### **6 Summary**

This EA has addressed Land Use, Water Resources, Water Quality, Vegetation, Fish and Wildlife, Threatened and Endangered Species, Socioeconomics, Environmental Justice, and Cultural Resources. No other resources are expected to be affected. With the implementation of environmental commitments, effects are largely beneficial and only minor and/or temporary impacts have been identified. Based on the analysis in this EA, implementing the entire Proposed Action would have no potentially significant direct, indirect, or cumulative effects on the quality of the natural or human environment. In accordance with the NEPA of 1969, as amended, and based on the analysis in this EA, The FWS has determined that implementing the proposed action would not result in a significant impact on the human environment and does not require preparation of an Environmental Impact Statement.

#### **7 List of Preparers**

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