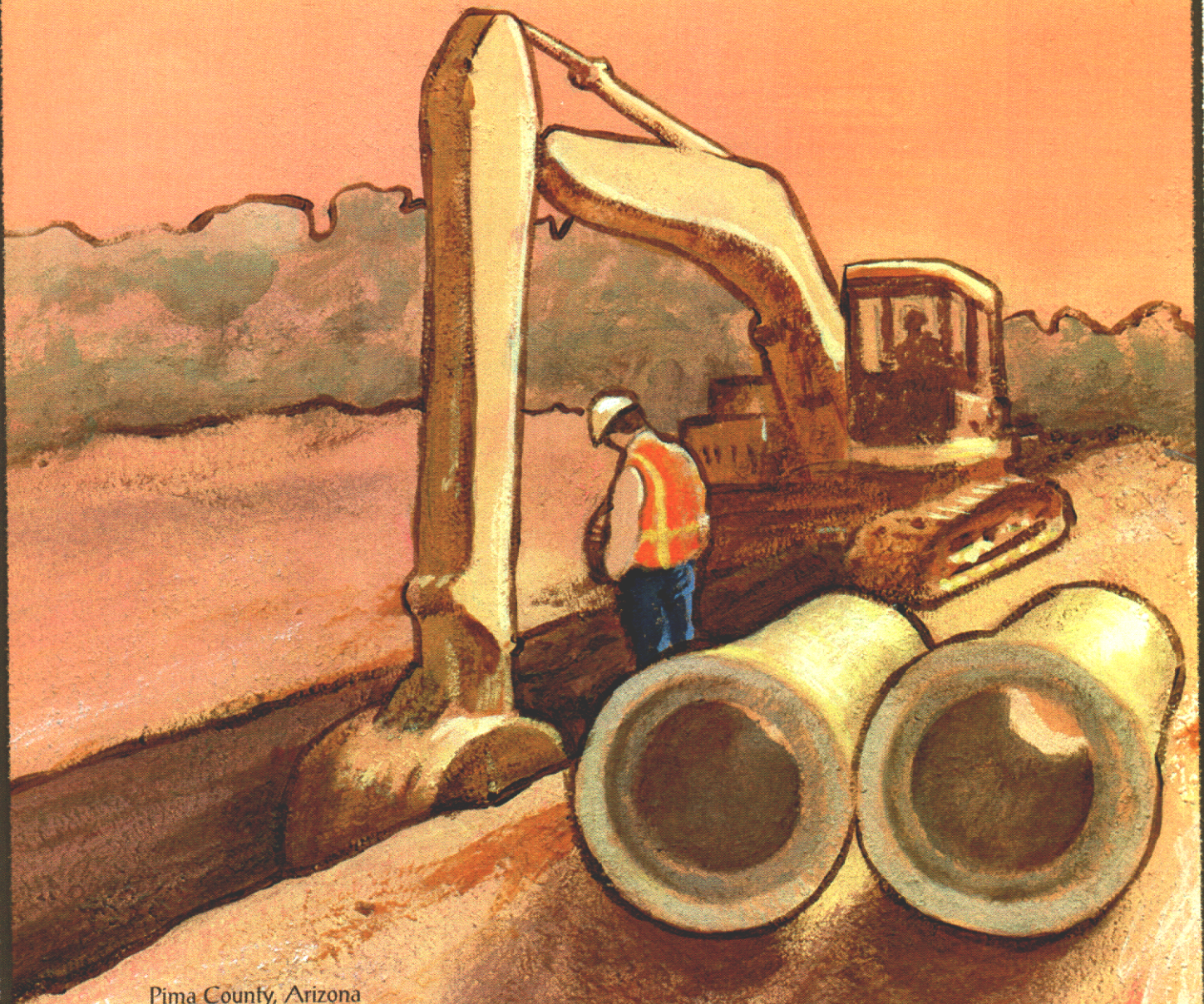


# Utility and Right Of Way E.I.S. Issue Paper

Sonoran Desert Conservation Plan

2002



Pima County, Arizona  
Board of Supervisors  
Ann Day, District 1  
Dan Eckstrom, District 2  
Sharon Bronson, Chair, District 3  
Raymond J. Carroll, District 4  
Richard Elías, District 5

County Administrator  
Chuck Huckelberry





# **Board of Supervisors Memorandum**

Date: August 7, 2002

To: The Honorable Chair and Members  
Pima County Board of Supervisors

From: C.H. Huckelberry  
County Administrator *CH*

Re: **Utility Rights of Way Issue Paper**

## **I. Background**

In May of 2002, a cost model described future impacts and assessed costs for unincorporated Pima County's compliance with the Endangered Species Act. Four alternatives relative to the cost of implementing the Section 10 permit were presented: ranch conservation; mountain park expansion; high conservation value land on the northwest side; and riparian protection and restoration. This fall the Steering Committee for the Sonoran Desert Conservation Plan will recommend the approach they would like to see Pima County take in applying for a Section 10 permit. A combination of these alternatives might be recommended. To facilitate development of the Environmental Impact Statement (EIS) which must accompany the Section 10 multi-species conservation proposal, a series of issue papers is being published. This paper discusses utility rights-of-way in the context of the alternatives being considered to date.

## **II. Utility Rights of Way Issues**

Important consideration should be given to the location of existing utility rights-of-way, and planned locations of future utility rights-of-way, with regard to mitigation lands to be acquired by Pima County. Questions about whether a utility right-of-way exists or is planned on potential mitigation land, and the type of impacts that existing or planned utilities would have on covered species and their habitats, will need to be assessed to determine which lands are more or less suitable for inclusion in the reserve. Conservation easements cannot guarantee that mitigation lands will be protected from future utility rights-of-way, because certain public agencies and utilities may, under some circumstances, be able to use the power of condemnation to place a utility right-of-way on mitigation land.

Currently, two major transmission line projects are being proposed in Eastern Pima County. One proposal, the Sonora-Arizona Interconnection Project sponsored by the Public Service Company of New Mexico (PNM), is to build a two 345 kilovolt (kV) transmission lines that start near the Palo Verde Nuclear Generating Station in Maricopa County, and end at the Santa Ana Substation in Sonora, Mexico. A second project, the Citizen's Transmission Line Project proposed by Tucson Electric Power Company, involves building one 345 kilovolt transmission line from Tucson Electric Power Company's substation in Sahuarita, to a new substation in Nogales, Arizona.



#### **A. Utility and Utility Rights-of-Way Characteristics**

Pima County authorizes utility rights-of-way for a variety of utilities, including electric, gas, and water, and forms of telecommunications such as telephone, fiber optics, cellular, and cable. Utilities are similar in that they often need a right-of-way for lines, pipes, plants, or substations, in order to produce, transmit, and provide the public with a particular service. These rights-of-way may occur in the form of an encroachment in public rights-of-way or road rights-of-way, or may be an easement through a property or several properties. Furthermore, encroachments or easements may be subsurface, surface, or aerial. Utilities differ in how they are regulated, if at all, and in their power to acquire or encroach upon the land in which they need rights-of-way. As stated under Title 12 of the Arizona Revised Statutes, Public agencies and utility companies have the ability to acquire land through the power of condemnation for electric, power, and gas lines, and all transportation, transmission, and intercommunication facilities of public service agencies.

#### **B. Pima County Agreements with Utility Companies**

Pima County typically authorizes utilities to serve the public through franchises and licenses. Agreements between Pima County and utility companies differ depending on, among other factors, the utility company and the type of utility. For example, Southwest Gas and Tucson Electric Power Company do not have franchises because these utility companies existed at statehood and are authorized to use any public right-of-way for their facilities. A City/County Intergovernmental Agreement authorizes Tucson Water to use County rights-of-way. Cable companies differ in that they provide a convenience service and are for-profit, private corporations. Therefore, they are licensed by the County and pay fees to the County.

Pima County's Development Services Department has a Board approved Procedures Requirement Book, which requires all new and existing easements to be shown on subdivision plats and development plans. Utility companies review the plats and plans and have the right to require these easements at the time of platting or development.

#### **C. Provision of Easements for Utility Rights-of-Way on County Owned Land**

While Pima County may actually own the land on which a utility right-of-way may be requested, Pima County may not always be able to provide an easement for a particular use. It depends on how the property was acquired. If the property was acquired by the County from a the Federal or State government certain rights may have been reserved. For example, several of Pima County's parks were acquired from the Bureau of Land Management under a Recreation and Public Purposes Permit, which restricts uses that the County can allow on the property. As a result, if a utility company requested an easement through these park lands, the utility may have to get prior permission from the Bureau of Land Management, not the County. This situation has come up regarding communication towers - a commercial use. This is the reason why every site is looked at individually, and the full title history is reviewed, whether the request is for an easement or an encroachment into an existing right-of-way.



If the County owns the land, with no reservations, then under Title 11 of the Arizona Revised Statutes, the County can sell or lease land, or convey rights to the land. The County negotiates requirements for rights-of-way with each utility. A value for the easement is determined through a County appraisal. The appraised value, along with the project plans, are reviewed by staff, and go before the Board of Supervisors for approval.

### **III. Alternatives**

In the following text, each alternative, plus a no action alternative, is briefly described in relation to utility right-of-way considerations. The conclusions drawn for purposes of this discussion paper are of a general and comparative nature. When specific recommendations are forwarded by the Steering Committee or interested members of the community, the merits of each specific proposal can be weighed.

No Action Alternative: With the No Action Alternative there is a continuation of present growth and development patterns which leads to open spaces fragmented by urbanizing areas. This alternative would have the greatest negative impact on utility right-of-way planning efforts since a sprawling or patch work growth pattern would increase the frequency with which utility impacts would come into conflict with natural resource protection plans.

Ranch Alternative: Under the Ranch Alternative, Pima County would establish a reserve of 20,400 acres of high resource value ranch land. Since utility right-of-way work is generally more intense near urbanized areas, the Ranch Conservation Alternative presents less likelihood for conflict than alternatives which involve land that is within or closer to urban areas.

Mountain Park Expansion: Under this alternative, Pima County would expand natural resource lands, particularly parks, by a total of 20,400 acres. While, Mountain Park expansion efforts might reduce the level of future conflict between right-of-way planning/implementation efforts and conservation goals, significant residential development exists within the buffer zones of parks, therefore right-of-way impacts will continue to take place with some frequency.

Riparian Protection and Restoration: In the area of riparian protection, outlying watershed riparian areas hold the most promise while riparian areas closer to urbanizing areas are more likely to have residential land uses and therefore right-of-way impacts will continue to take place with some frequency.

High Conservation Value Land on the Northwest Side: Efforts to conserve lands in the northwest urban area would not significantly reduce conflicts between urban infrastructure goals and conservation, given the extent to which the area is built out.

### **IV. Conclusion**

For utility right-of-way planning and implementation strategies, the Section 10 alternatives that preserve land farther from existing infrastructure and residential settings offer the most benefits. These are the protection of ranch lands and outlying riparian areas. Emphasis on expanding existing parks has limited benefit, given the amount of urban encroachment near



many parklands. Emphasis on the northwest area and continuation of the present growth patterns offer the least benefit given the frequency with which utility impacts would come into conflict with natural resource protection plans.

Draft issue papers have been forwarded on the topics of cultural resources, ranching, recreation, water resources, invasive species, environmental justice, and fire management. Alternatives are discussed from most beneficial to least beneficial in light of goals of those particular resources. While the conclusions drawn for purposes of this discussion paper are of a general and comparative nature, the studies supported initial rankings of alternatives as follows:

Ranch Conservation Alternatives Analysis

Rank	Alternative
1	Ranch Conservation
2	Riparian Conservation
3	Mountain Park Expansion
4	High Conservation Value Land in Northwest Tucson
5	No Action

Cultural Resources Alternatives Analysis

Rank	Alternative
1	Ranch Conservation
2	Mountain park Expansion
3	Riparian Conservation
4	High Conservation Value Land in Northwest Tucson
5	No Action

Recreation Alternatives Analysis: The study of recreation resources indicates that mountain park expansion and ranch land protection seem to hold the most promise for recreation goals, depending on the particular areas protected, the needs of the species in that area, and the level of impact associated with the recreation activity.

Water Resources Alternatives Analysis: The water resources issue paper concludes: "The riparian area and ranch land protection alternatives offer the greatest positive impacts to both water supplies for riparian purposes and water quality. The no action and emphasis on the northwest side [proposals] have the least positive impact."



Invasive Species Alternatives Analysis: Findings are that "no matter which alternative is chosen, Pima County will benefit from adopting policies and increasing coordination with government and non-profit groups to deal effectively with invasive species. The alternatives that preserve the greatest amount of undisturbed land offer the most benefits. These are the expansion of preserves and riparian protection. Emphasis on the northwest area and continuation of the present growth patterns offer the least benefit. Emphasis on ranch conservation has great potential, depending on management techniques."

Environmental Justice Alternatives Analysis: Findings are that: (1) Of the alternatives, the no action approach "is the least beneficial to environmental justice;" (2) The conservation plan will not create any new air or water pollution or hazardous materials problems for anyone in the community, including low income/minority community members; and (3) The conservation plan may reduce the costs of subsidies to new growth in outlying areas and thus have an economic benefit for residents.

Fire Management Alternatives Analysis: Alternatives that preserve the greatest amount of unfragmented landscape offer the most benefits. These are the protection of ranch lands and riparian areas. Emphasis on expanding existing parks has limited benefit, given the amount of urban encroachment near many parklands. Emphasis on the northwest area and continuation of the present growth patterns offer the least benefit since the ability to implement fire strategies on large landscapes is limited, and the risk to urbanizing areas is potentially great.

The final recommendation for land to be included in the Section 10 permit will likely include a combination of lands from the ranch, mountain park, riparian and northwest areas. When a specific recommendation is forwarded by the Steering Committee or by interested members of the community, the merits of each specific proposal will be reviewed and published in light of considerations in this issue paper, and additional information that might be provided as part of future discussions.

Attached Maps:

1. Sonora-Arizona Interconnection Project and the Conservation Land System
2. Citizen's Transmission Line Project and the Conservation Land System
3. Private Ranch Land in Unincorporated Eastern Pima County
4. Vacant Land Adjacent to Mountain Parks
5. Vacant Land in Recovery Area 3 for the Pygmy Owl
6. Vacant Land in Important Riparian Areas







# Sonora-Arizona Interconnection Project and The Conservation Lands System in Eastern Pima County

## LEGEND

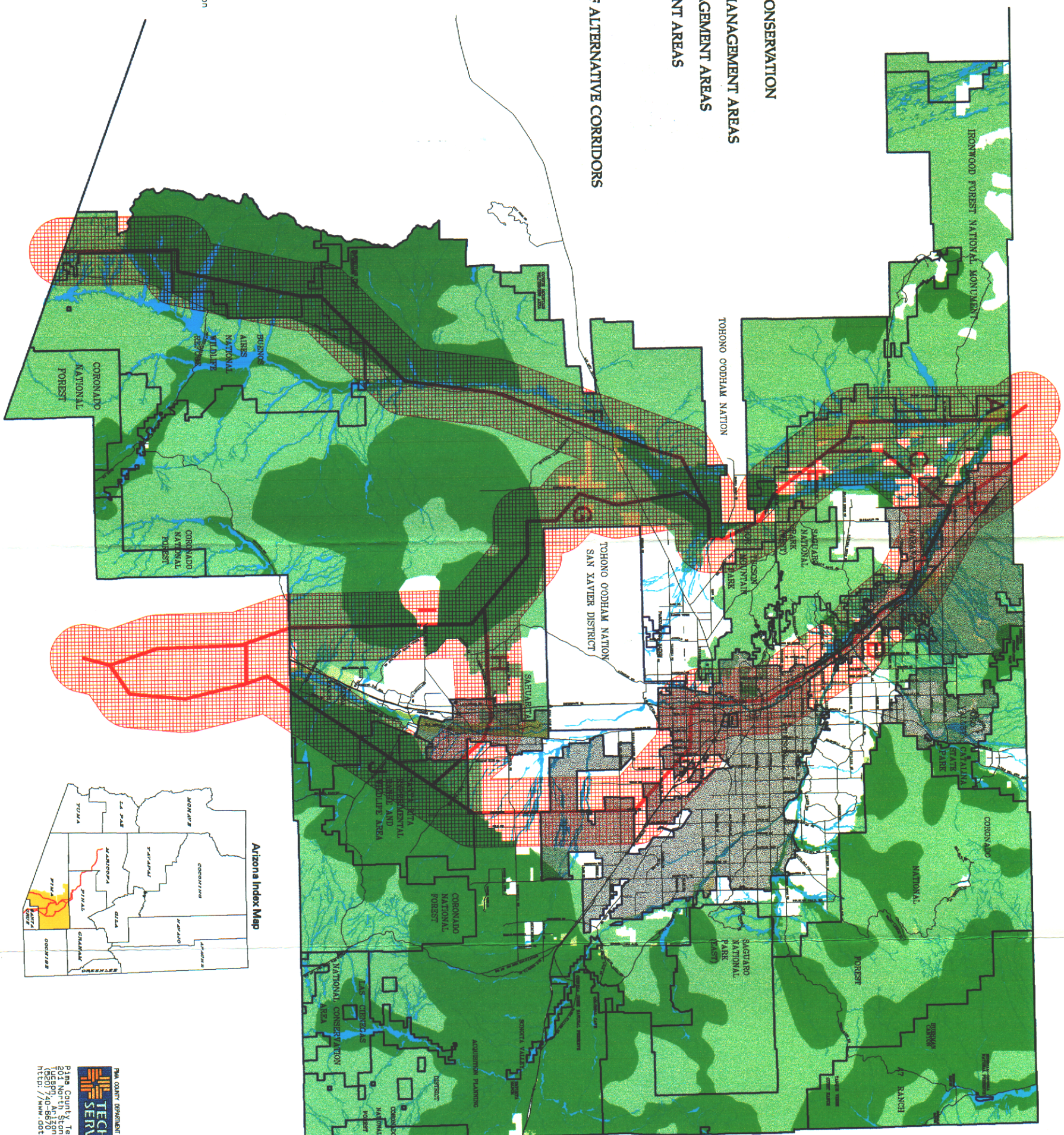
- IMPORTANT RIPARIAN AREAS
- EXISTING DEVELOPMENT WITHIN CONSERVATION LANDS SYSTEM
- AGRICULTURE WITHIN RECOVERY MANAGEMENT AREAS
- MULTIPLE USE OR RECOVERY MANAGEMENT AREAS
- SCIENTIFIC RESEARCH MANAGEMENT AREAS
- BIOLOGICAL CORE
- INCORPORATED AREAS
- 2.5 MILE BUFFER ON EITHER SIDE OF ALTERNATIVE CORRIDORS
- MAJOR STREETS
- ADMINISTRATIVE BOUNDARIES
- ALTERNATIVE STUDY CORRIDORS

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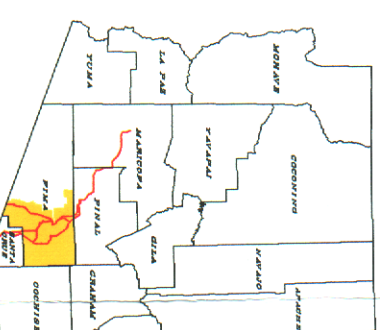


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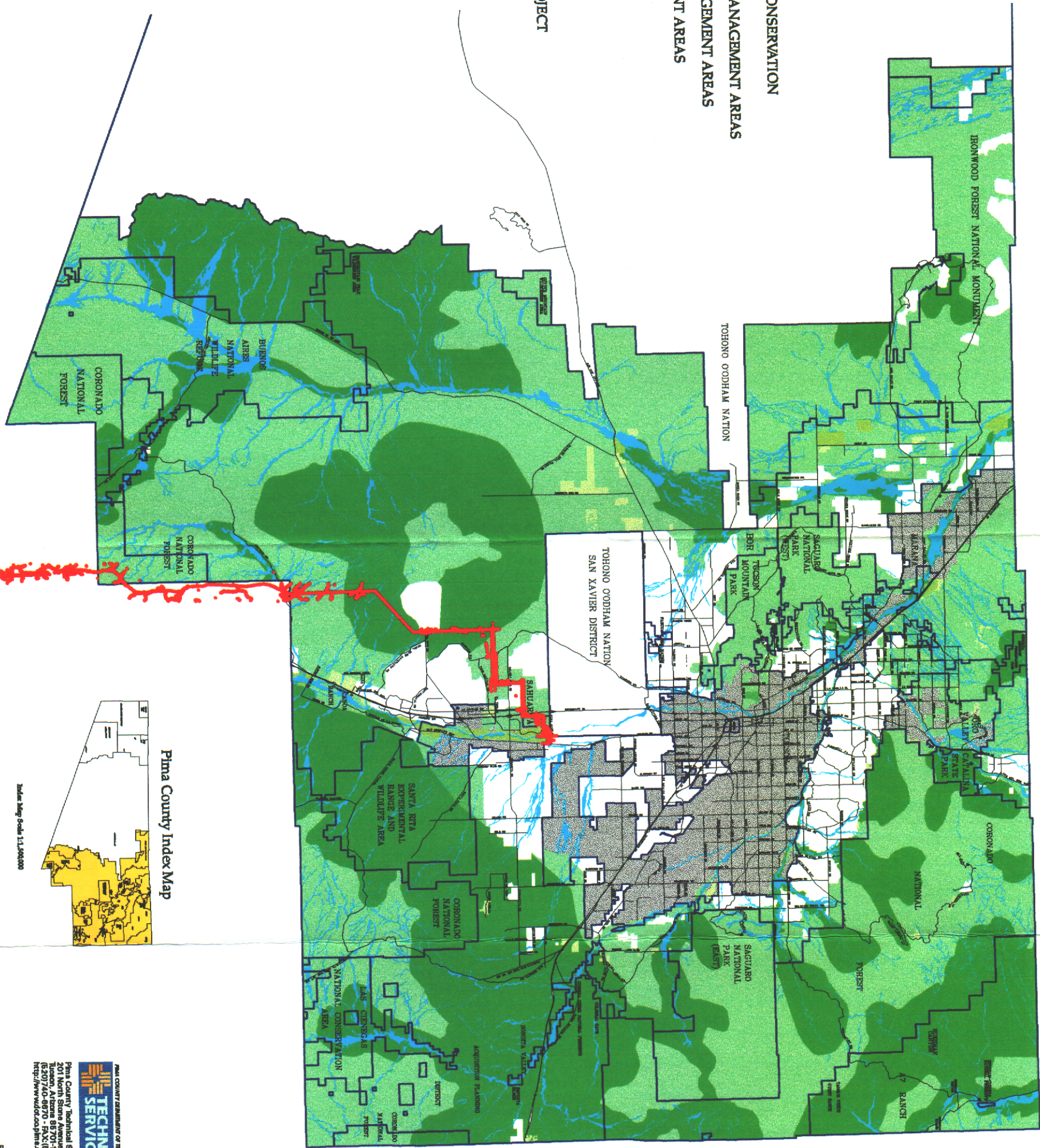


# Citizen's Transmission Line Project Tucson Electric Power Company

## LEGEND

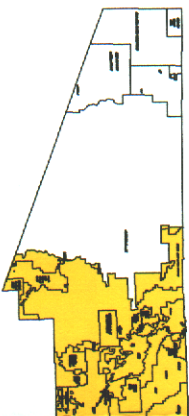
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- BIOLOGICAL CORE
- INCORPORATED AREAS
- MAJOR STREETS
- ADMINISTRATIVE BOUNDARIES
- CITIZEN'S TRANSMISSION LINE PROJECT
- TUCSON ELECTRIC POWER

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Pima County Index Map

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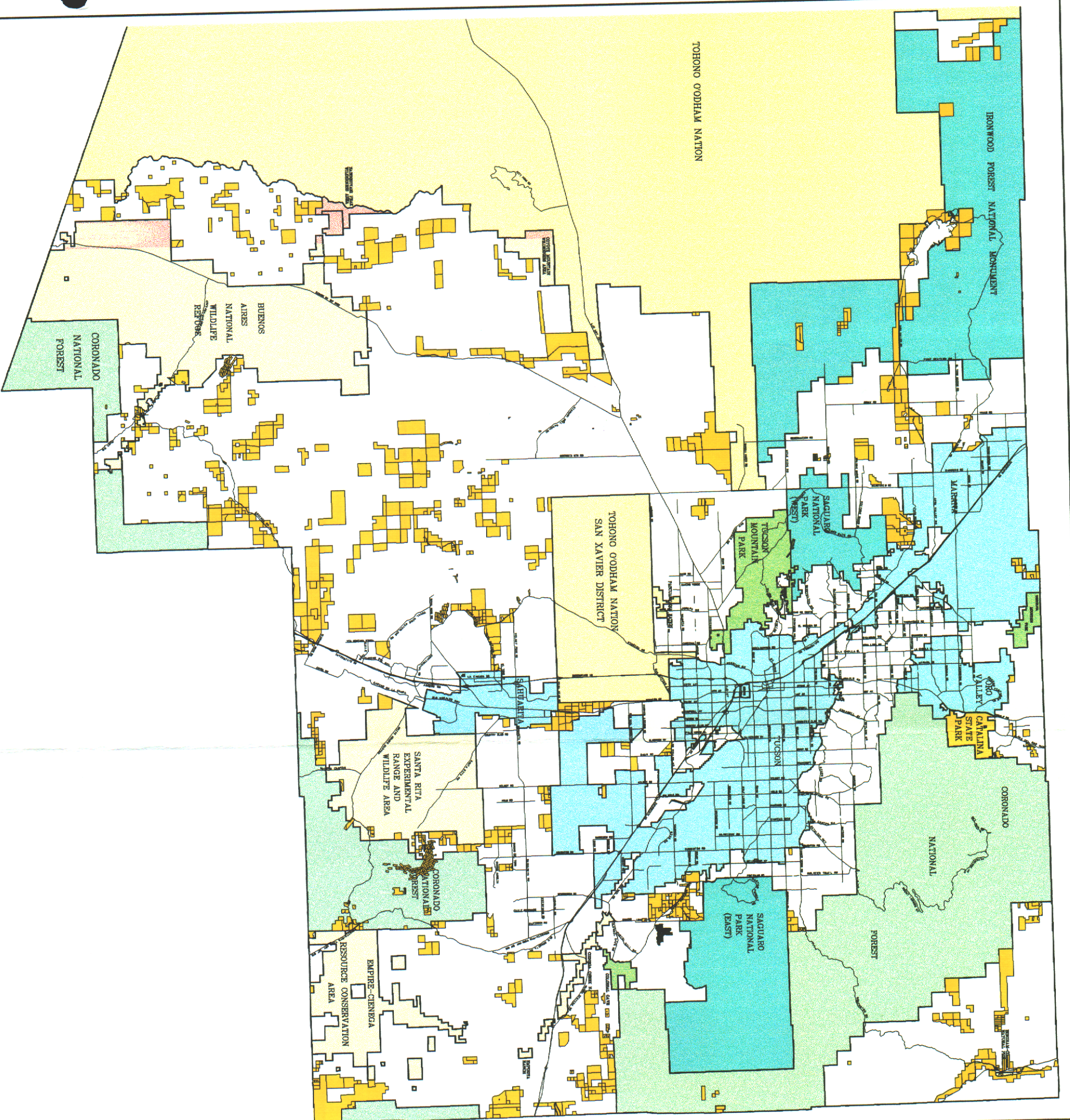


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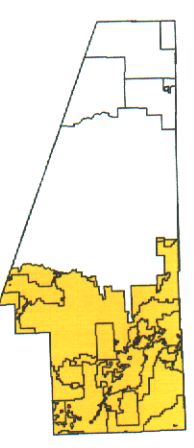


# Private Ranch Lands in Unincorporated Eastern Pima County

-  Administrative Boundaries
-  Major Streets
-  Private Ranch Lands in  
Unincorporated Eastern Pima County  
(180,054 acres, 1,450 parcels)



Pima County Index Map



Index Map Scale: 1:1,000,000

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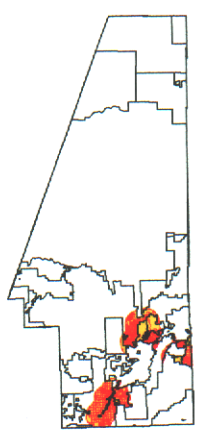
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# Existing Mountain Parks, 1 & 5 Mile Buffers and Private/State Vacant Lands

- Administrative Boundaries
- Major Streets
- Existing Mountain Park
- One Mile Buffer
- Five Mile Buffer
- Private Vacant Lands
- State Vacant Lands
- Board of Supervisors  
Designated Park Expansion Area



Pima County Index Map

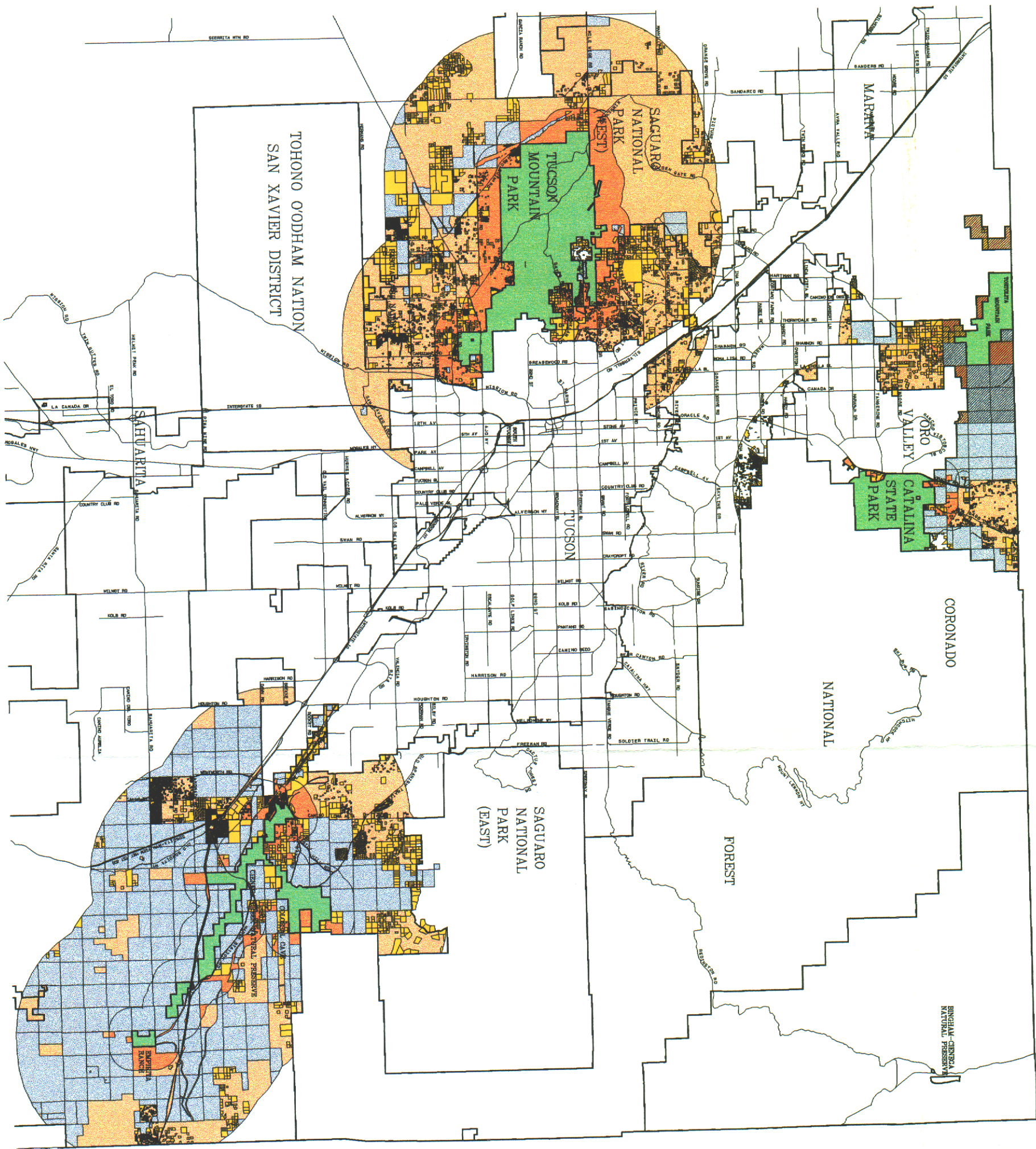
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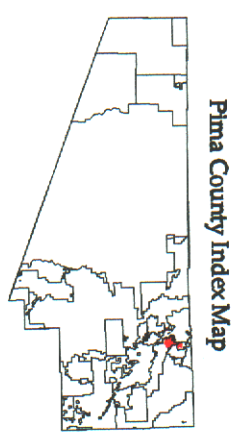
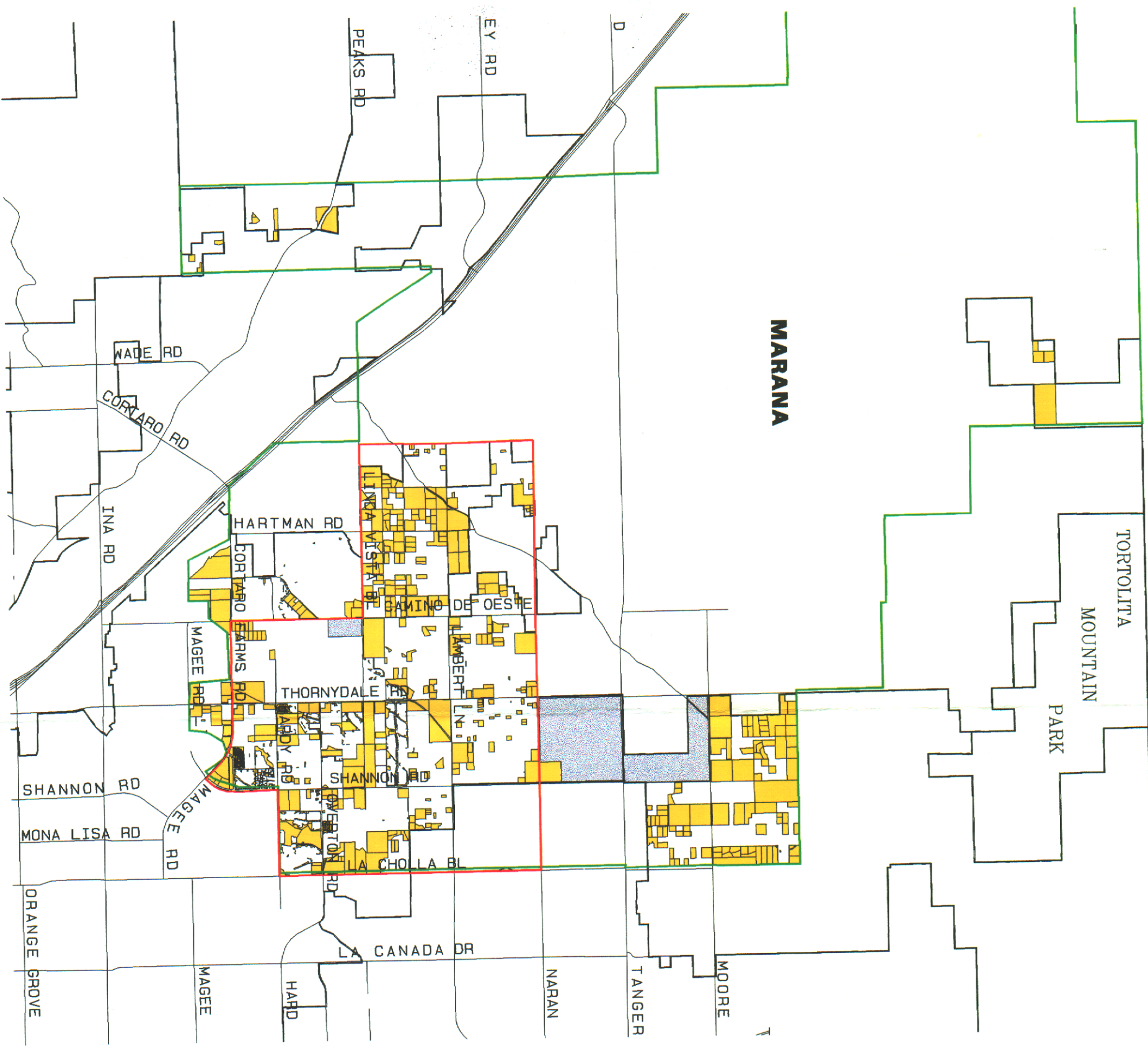
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# High Conservation Value Land in Unincorporated Northwestern East Pima County

- Administrative Boundaries
- Recovery Area 3 Boundary
- High Conservation Value Area
- Major Streets
- Private Vacant Land
- State Vacant Land



Index Map Scale 1:1,000,000



Scale 1:25,000

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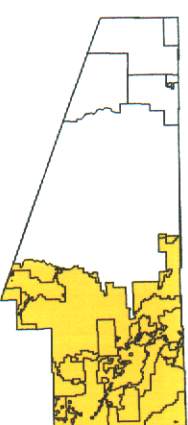
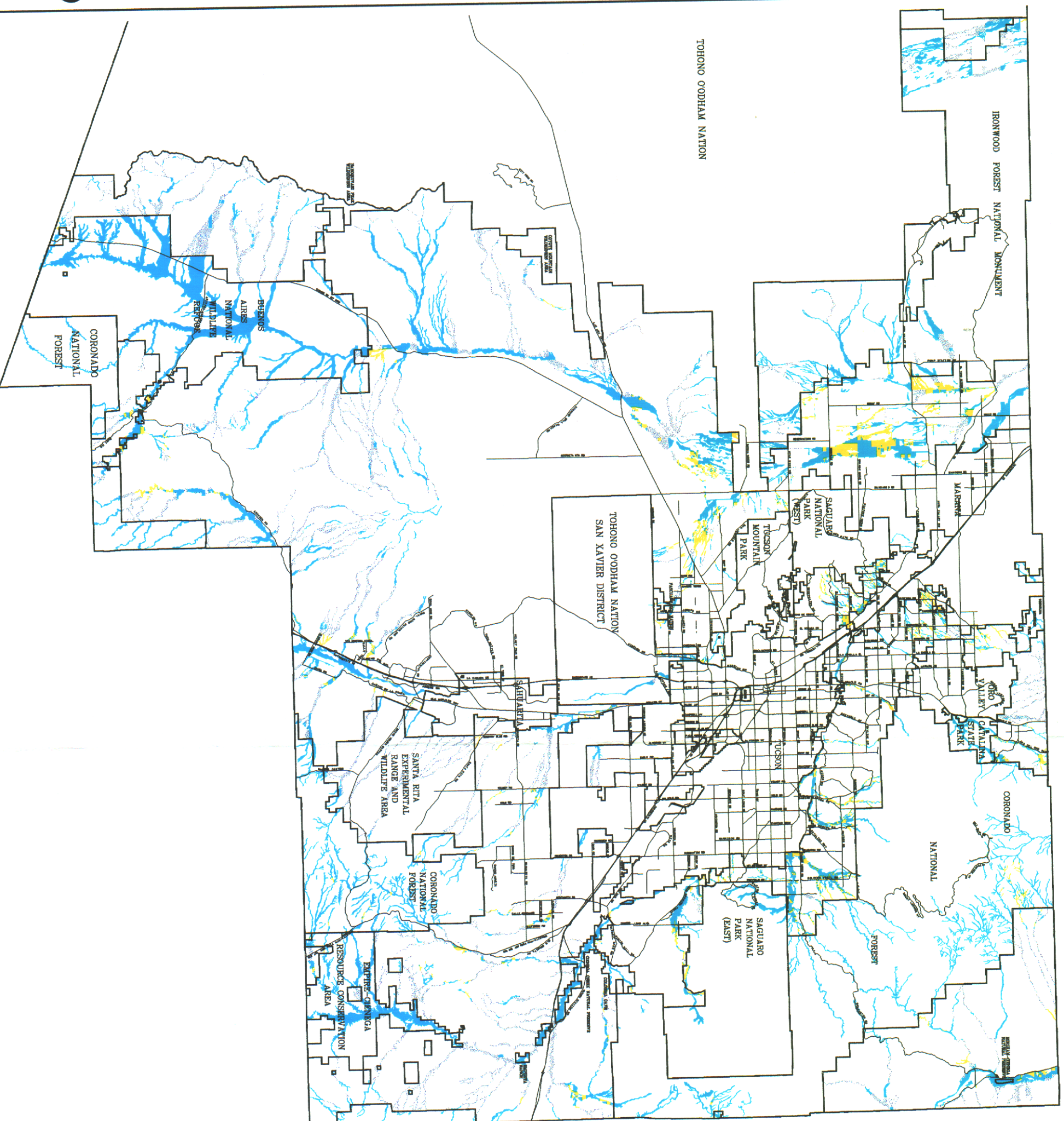
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Vacant Lands in  
Important Riparian Areas of  
Unincorporated E. Pima County

- Administrative Boundaries
- Major Streets
- Important Riparian Areas
- Private Vacant Land
- State vacant Land



Index Map Scale 1:1,000,000



Scale 1:144,000

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