

URGENT MEMORANDUM

March 30, 2011

TO: Cochise County Planning Department

SUBJECT: Permit for Ash Canyon Bed & Breakfast, Parcel No. 104-21-022

FROM: Charles L. Bell, member, board of directors, American Birding Association

I urge you to reflect very carefully on the economic and political significance of the Ash Canyon Bed & Breakfast as you consider continuing the operating permit for this nationally-known establishment.

Mary Jo Ballator has become a major force for promoting the extraordinary natural heritage of Cochise County and indeed all of southeastern Arizona. Birders from around the nation, and indeed the world, know her B&B as a place to see some very unique birds in a very unique habitat, and in so doing they bring significant economic benefit to your county and to all of Arizona. At a time when Arizona's image in the nation needs all the help it can get, she is a wonderful ambassador for you and your state. It would be very much counter to your interests to allow a couple of curmudgeons to spoil such a positive attribute.

I trust that wisdom will prevail and you will assure that her operating permit will be maintained.

Thank you for your consideration.

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March 30, 2011

Via E-mail
Cochise County Board of Supervisors
Bisbee, Arizona

Re: Ash Canyon Bread and Breakfast
APN 104-21-022

Dear Members of the Board of Supervisors,

I am writing this letter in support of continuing public access to the bird feeding station at Ms. Ballator's bed and breakfast in three capacities. First, as an individual citizen, attorney, and birder, second, as a consumer of an eco-tourism related services and third, as President of the Prescott (Arizona) Audubon Society. I have no other tie, economic or professional, to Ms Ballator, other than contributing to the sugar fund, whenever I visit her property.

Before making any decisions on this matter, I hope that the board takes the time to become fully aware of the value of this bird feeding station to the birding community, and the economic importance of that station to the economy of Sierra Vista and Cochise County.

This parcel of real property is situated in a unique location, politically and biogeographically, so as to provide access to a group of birds that is not readily available anywhere else in the United States. (While access to this type of habitat may be available in 3-4 other locations, safety concerns and/or difficulty of access make those locations unavailable to the average citizen). In fact, this is the premier location in North America to see two species of hummingbird. (LUCIFER HUMMINGBIRD and PLAIN-CAPPED STARTRHOAT). I have spent many happy hours over the last decade in this refuge, observing these and other birds, in this easily accessible piece of the Arizona uplands habitat.

As repeated studies have shown, birders, like myself, represent a group of the general population that have an above average disposable income. They also travel to where the birds can be most easily seen. Not having any studies readily available that are directly on point, I can only make generalizations based on my actions, and the expressed preference of those I bird with, but those generalizations lead me to the conclusion that public access to this property has a significant economic impact on Cochise County

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Prior to the opening of this property to the public, my average personal birding trip involved two nights and two 1/2 days birding in the Sierra Vista area (Miller Canyon, Ft. Huachuca, the Sewage Treatment Plant and the San Pedro). With the availability of Ash Canyon, and the birds it offered, one full day and one additional night has been added to my trips. Based on personal conversations with many other birders, both from Arizona, as well as nationally and internationally, I find that there has been a similar effect on many other individual birders. Making the very basic, and extremely conservative, assumption that 7,500 individuals visit Cochise County to bird in a calendar year (I believe recent studies put this number much higher), leads me to the conclusion that the public availability of the Ash Canyon B&B is directly responsible for 7,500 additional annual tourist days in Cochise county which would not otherwise have been spent. Using, once again, a very conservative estimate of \$100 per day for meals, food, lodging, transportation, and other expenditures for each tourist day, yields expenditures in the County directly attributable to this property, of $\frac{3}{4}$ of a million dollars per year, all of it taxable. When you apply the multiplier effect, posited by most economists as between 2 and 4 times the directly generated revenue, the true economic effect of this B&B on the community is increased economic activity in excess of 2 million dollars per year. The board should think very carefully before jeopardizing this contribution to the local economy. If there is no access to the birds birders seek, the tourists will not come, or will not stay as long.

In addition to the economic benefit of being a draw for non-local business, having this natural history opportunity available adds to the livability and attractiveness of living in Cochise County. Cochise County markets itself as a location that encourages interaction with the environment. That is what this venue does. Having this B&B feeding station available to the public adds a quality venue for outdoor activities that are available to the residents of Cochise County., Making the governmental decisions necessary to keep this resource available to the community will fit in well with the marketing focus of the County.

Finally, as a real estate attorney with 20 years experience, having handled a variety of easement issues in Yavapai County, it is my opinion that the usage Ms. Ballator has made of her easement is an appropriate use of the easement, which does not unduly burden the adjoining property owners. Denying Ms. Ballator the use of her property, for the use she wishes to make of it, is inappropriate under the circumstances, and may even constitute a "taking". There being no basis, arising from the deed, to deny usage of the easement to Ms. Ballator's guests, the remaining argument in favor of restricting access, that of a "community nuisance" is far outweighed by the benefit to the County as a whole in having this property remain open to the public at large.

I strongly request that the board permit Ms. Ballator to continue to serve the citizens of Cochise County, and larger birding community as a whole, by making her property, and its unique wildlife, available to the general public.

Sincerely

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31 March, 2011

Mr. Keith Dennis
Cochise County Planning Department,
1415 Melody Lane,
Bisbee, Arizona 85603

By email to: kdennis@cochise.az.gov

Dear Mr. Dennis:

RE: Ash Canyon B&B and parcel number 104-21-022

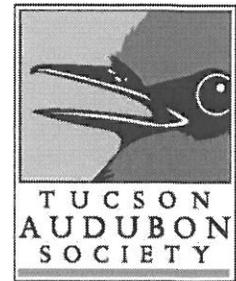
I write to you today regarding the appeal against the Planning and Zoning Commission's decision to grant a Conditional Use Permit to Mary Jo Ballator, and ask that you uphold the original decision of the Planning and Zoning Commission. This would be in the best interests of the economy of Cochise County.

Tucson Audubon asks that the Board of Supervisors grant the applicant a Special Use authorization for a Cultural, Nature or Historic Exhibit, per Section 607.31 of the Zoning Regulations to legitimize the use of the property by Ms. Ballator's invited guests, whether they are B&B guests or bird watchers who are not staying at the B&B.

Tucson Audubon represents the interests of 4000 member households, the majority of whom live in southern Arizona, although a good proportion live in other places throughout the United States, and some overseas. One of our goals is to promote, and educate the public about, the economic benefits of watchable wildlife, especially those benefits derived from traveling birdwatchers, and to inform those in government and business of information that is relevant to their region and their activities.

In 2003, the Arizona Game and Fish Department analyzed the economic importance of wildlife viewing in Arizona, based on data related to recreationists' expenditures obtained from the *National Survey* (which is conducted approximately every 5 years by the U.S. Fish and Wildlife Service and the U.S. Bureau of the Census). The analysis found the value of watchable wildlife to be approximately \$1.5 billion to the state each year. The annual value to Cochise County alone was \$25.88 million, including \$13.72 million in retail sales, \$7.1 million in salaries and wages, and approximately 273 jobs. About one third of this income was generated from out of state visitors, and about one quarter from residents of other counties within our state. In other words, well over half of the \$25.88 million in "total economic impact" to Cochise County was provided by visitors from outside of Cochise County.

The purchases made by wildlife watchers generate a cascade of additional spending throughout the economy, leading to many direct, indirect, and induced impacts. The sum of these impacts is the "total economic impact" resulting from the original expenditures. Greatest expenditures for traveling wildlife watchers are food, lodging, and transportation. Other important categories include guide fees, land access fees, and equipment rental.



*Leaders in conservation
and education since 1949*

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The nature of this economic activity for Cochise County is important for several reasons. First, it is growing rapidly (by 100% in the ten years preceding the *National Survey* report). Second, it is dispersed throughout both the county's rural and urban communities. Mary Jo Ballator's wildlife viewing station is a vital part of this growing economic base. Birding is the fastest growing recreational activity in the United States, and in Arizona it dwarfs other recreational activities in its economic importance. Wildlife viewing generates 50 percent more income than the golfing industry in Arizona, and more than fishing and hunting combined. And it is only growing in importance.

The Pima Association of Governments (PAG) in December 2010 acknowledged the importance of these activities by approving a resolution to support the development of tourism related activities for watching wildlife in southern Arizona, see :

<http://www.pagnet.org/documents/committees/REGIONALCOUNCIL/2010/RegionalCouncil-2010-12-09-WatchableWildlifeResolution.pdf>.

It is with this information in hand that the Cochise County Board of Supervisors should consider Mary Jo Ballator's wildlife viewing facility and application.

To support and grow this valuable industry, communities need to do three things: Protect and enhance the habitats upon which we and the wildlife depend, provide information to help people find and enjoy opportunities to observe wildlife, and finally we need to provide facilities for these visitors who are spending money in our counties. This is what Mary Jo Ballator is attempting to do via her application for a conditional use permit.

Southeast Arizona is host to more than 525 of the 914 species of birds that occur in North America. Almost half of all the birds of the United States and Canada combined occur in an area that occupies less than one percent of the land area of North America. Only Texas and California play host to more species, and that is because they have a coastline to host seabirds. Naturally our area attracts large numbers of people from all over the world who want to see those birds.

Berylline Hummingbird, Elegant Trogon, Sulphur-bellied Flycatcher, Rufous-capped Warbler, and Flame-colored Tanager are just some of the tropical gems that birders travel hundreds or thousands of miles to view in Cochise County. The Ash Canyon wildlife viewing site has played host to 165 species, including 15 species of hummingbird, and is currently the best location in the world to reliably see Lucifer Hummingbird. It is also a great destination for seeing a host of other sought-after species such as Montezuma Quail, Arizona Woodpecker and Rufous-backed Robin.

Government and business need to be working with non-profits to promote, maintain, and develop our biologic and economic resources. Cochise County can start right here by enabling Ms. Ballator to continue to operate her wildlife viewing area.

It is our understanding that the applicant is doing everything she can to remain open to the birding public, while also trying to respect her neighbor's wishes. Tucson Audubon has taken the lead in raising volunteers to help implement the compliance work that the Planning and Zoning Commission requested. It is also our understanding that without the additional income from the visiting birders, the applicant will be forced to sell her home and move away. This outcome would be deleterious not only to the wildlife watching community, but to the Cochise County economy.

The substance of the appeal against the applicant appears to relate to a few cars using the road at varying rates on a seasonal basis. We would hope that you would balance the economic importance of the applicant's activities, and the good will your county extends to visiting watchers of wildlife, against this addressable concern.

Thank you for your consideration of our comments. We remain willing to assist the applicant to comply with the recommendations of the Planning and Zoning Commission and serve the best interests of Cochise County.

Respectfully,



Dr. Paul Green | Executive Director



Chris McVie | Conservation Chair

CC: Ms M J Ballator 2mjb@mindspring.com

James F. Hays
3381 W. Foxes Den Drive
Tucson, Arizona 85745-5107
(520) 903-1634

March 28, 2011

Re: Ash Canyon B&B, Parcel 104-21-022

Cochise County Board of Supervisors
1415 Melody Lane
Bisbee AZ 85603

Greetings:

For about ten years I have been bringing Tucson Audubon Society field trips and other birding groups to Cochise County to enjoy the extraordinary bird life to be found there. The trips are usually a mix of Tucson, Phoenix, and out-of-state birders.

For much of that time, one of the primary destinations has been the Ash Canyon B&B, operated by Mary Jo Ballator. Ash Canyon B&B provides a quiet place where a group of a dozen or so birders can sit quietly and watch a wonderful array of bird species that come to the habitat and bird feeders provided by Ms. Ballator. The groups are almost always very quiet, and the only neighborhood impact is the necessity to drive in and drive out of the property. Since our drivers always drive slowly and carefully down the access roads, I do not believe there is any significant negative impact. There is no other place in Arizona that has the same variety of bird species and equally comfortable hospitality.

Birding and birders are a significant part of the Cochise County economy. I hope that you can find a way to keep open a place that is very important to that community.

Thank you,

James F. Hays
Tucson Audubon Volunteer Field Trip Leader

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Jeremy Medina
6930 S. Blueeyes Dr.
Tucson, AZ 85756

March 28, 2011

To Whom It May Concern:

I was very dismayed to learn that one of my favorite birding sites might be forced to close its yard to the public. I have been enjoying Mary Jo Ballator's hospitality and wonderful yard at the Ash Canyon B&B (parcel # 104-21-022) since 2007. It is one of the best places to see hummingbirds in Arizona and the only reliable place in the country to see the rare Lucifer Hummingbird. Every time I have visited the yard, I have met birders from other states. When I recommend places for birders to go in southeastern Arizona, I tell them that Mary Jo's place is a must see. It would be a tragedy if it was forced to close to the public after 9 years of operation.

Sincerely,
Jeremy Medina

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