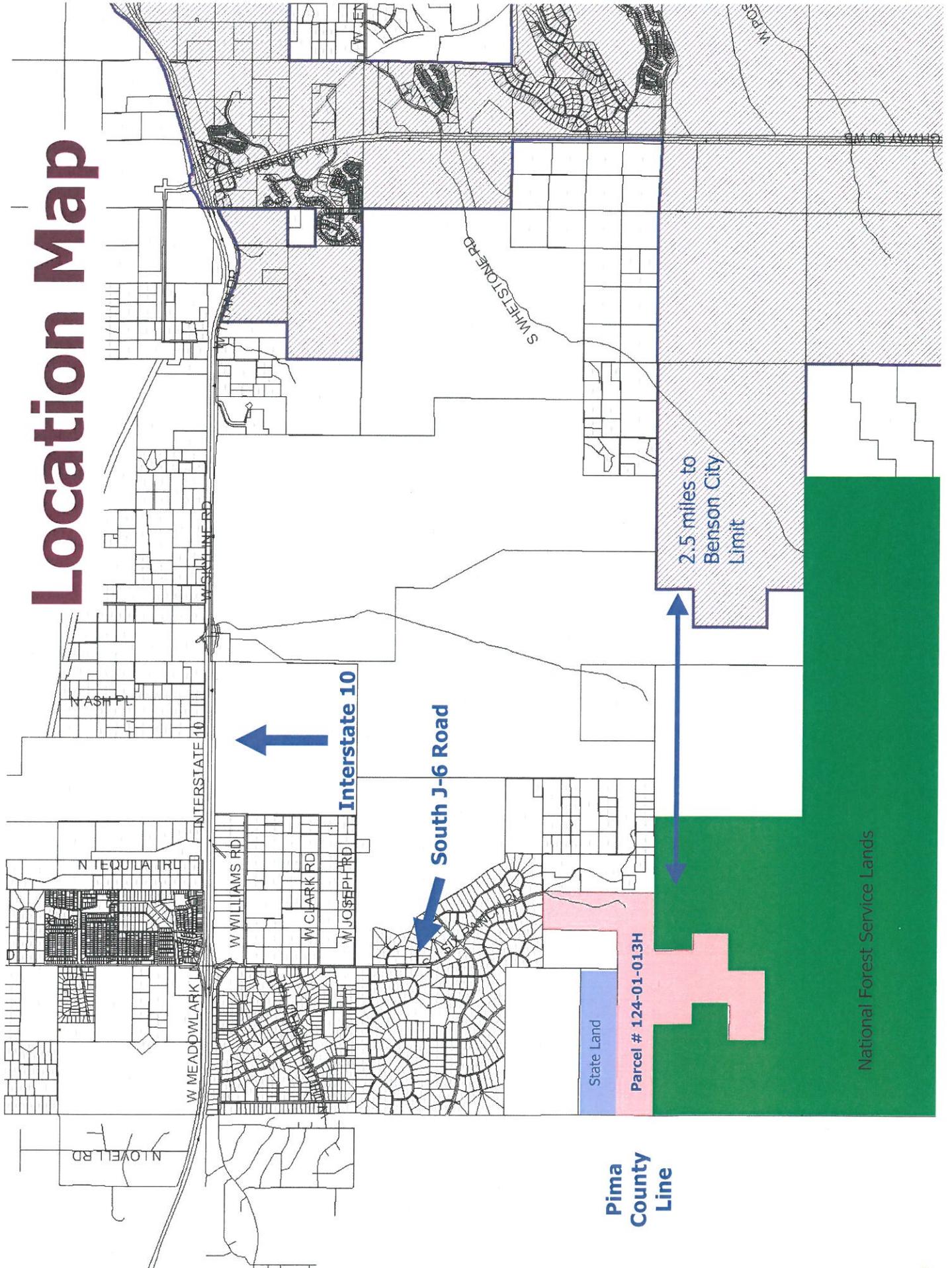
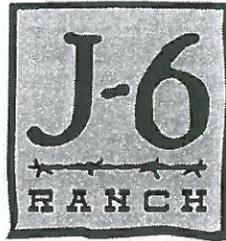


Location Map





April 8, 2011

Dear Neighbor,

We have continued to work diligently on our proposed community at J-6 Ranch. Given what is the "new normal" for our economy, we have waited longer than we originally anticipated to submit an application for rezoning of our property. As we prepare to submit this application, we would like to invite you to a meeting which will be held at 9:00 a.m. on May 7, 2011, at Cochise College, Benson Campus at 1025 State Highway 90, Benson, Arizona. In addition, we invite you to submit written comments or questions to us with respect to our proposed community.

Community Location:

Approximately two miles south of Interstate 10 on J-Six Ranch Road. See the attached regional context map showing the property in relation the City of Benson.

Community Description:

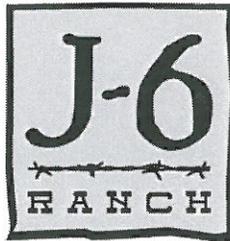
A five hundred fifty-six acre parcel surrounded by the Coronado National Forest on the south, State land to the north and residences on large lots to the east. The community will include the preservation of one-half of the property as open space and contains an average density of one home per one and one-half acres (a little less dense than the nearby J-Six Ranchettes). See the attached concept plan showing the proposed land uses within the community.

Owner's Vision:

Our goal is to preserve the rich history and the wonderful habitat for plants and wildlife so that others, like you, will want to own a home in J-6 Ranch. See attached "Owner's Vision."

Community Summary:

- The J-6 Ranch plan fully conforms to the Cochise County Comprehensive Plan.
- The average lot size in the J-6 Ranch will be larger than the typical lot in the J-Six Ranchettes.
- Fifty percent or more of the site will be preserved as natural open space. A biologist spent six days on the property so as to assist in the identification and preservation of plant species and wildlife.



- After decades of being closed off, we will open access to the forest for pedestrian and equestrian users. We will also provide vehicular access for the fire department.
- As for the historic ranch house...We've all heard about its rich history, which includes former President John F. Kennedy and his brother Joe working the ranch as teenagers. There is much more that has been discovered in the research done by Duff's son and some J-6 Ranch neighbors. The ranch house will be an important part of our new community.

Sustainability Plan:

Following almost five years of planning and receiving input from our neighbors in the J-6 Ranch area, we have put together a Sustainability Plan that will set the J-6 Ranch apart from other communities. The Sustainability Plan provides specific standards relating to the conservation of water, the vegetative and wildlife resources, preservation of the historic ranch house, creation of trails, dedication of open space, strict "dark skies" requirements governing lighting, and many other matters which we believe are important to the first-class community which will be J-6 Ranch. We will involve several persons having expertise in the areas covered by our Sustainability Plan to be on our Sustainability Committee to monitor the rules and to update our Sustainability Plan to reflect new technology and evolving community standards. The Sustainability Committee will include persons with expertise in solar energy, water conservation, biological resources, green-building and other expertises important to our Sustainability Plan.

Meeting:

We look forward to seeing you at our meeting at Cochise College, Benson Campus, at 9:00 a.m. on May 7, 2011. Whether you are able to attend the meeting or not, please feel free to submit your questions and comments to us by email (slenihan@usa.net) or U.S. Mail (J-6 Ranch c/o Easter Mountain Ranch, L.L.C., 1050 E. River Road, Suite 300, Tucson, AZ 85718).

Sincerely,

Steve Lenihan

Duff C. Hearon

D2

OWNER'S VISION

J-6 Ranch, with its natural beauty and rich history, felt like home the first moment we experienced it. This feeling was accompanied by our desire to preserve this pristine natural setting and its abundant plant and animal life. That preservation has become our commitment.

J-6 Ranch is the 556 acres where the historic pink ranch house stands with the Whetstones as its backdrop, on J-Six Ranch Road, south of Interstate 10 and Red Hawk. Our design for its development has progressed at a pace that has allowed us to carefully research and thoughtfully plan. It's been said, "All good things take time." We wholeheartedly agree.

Meeting with numerous neighbors in group settings, as well as in their homes – so as to listen, learn and share our plans – has been a valuable experience. We understand this beautiful setting has been cherished by many for years.

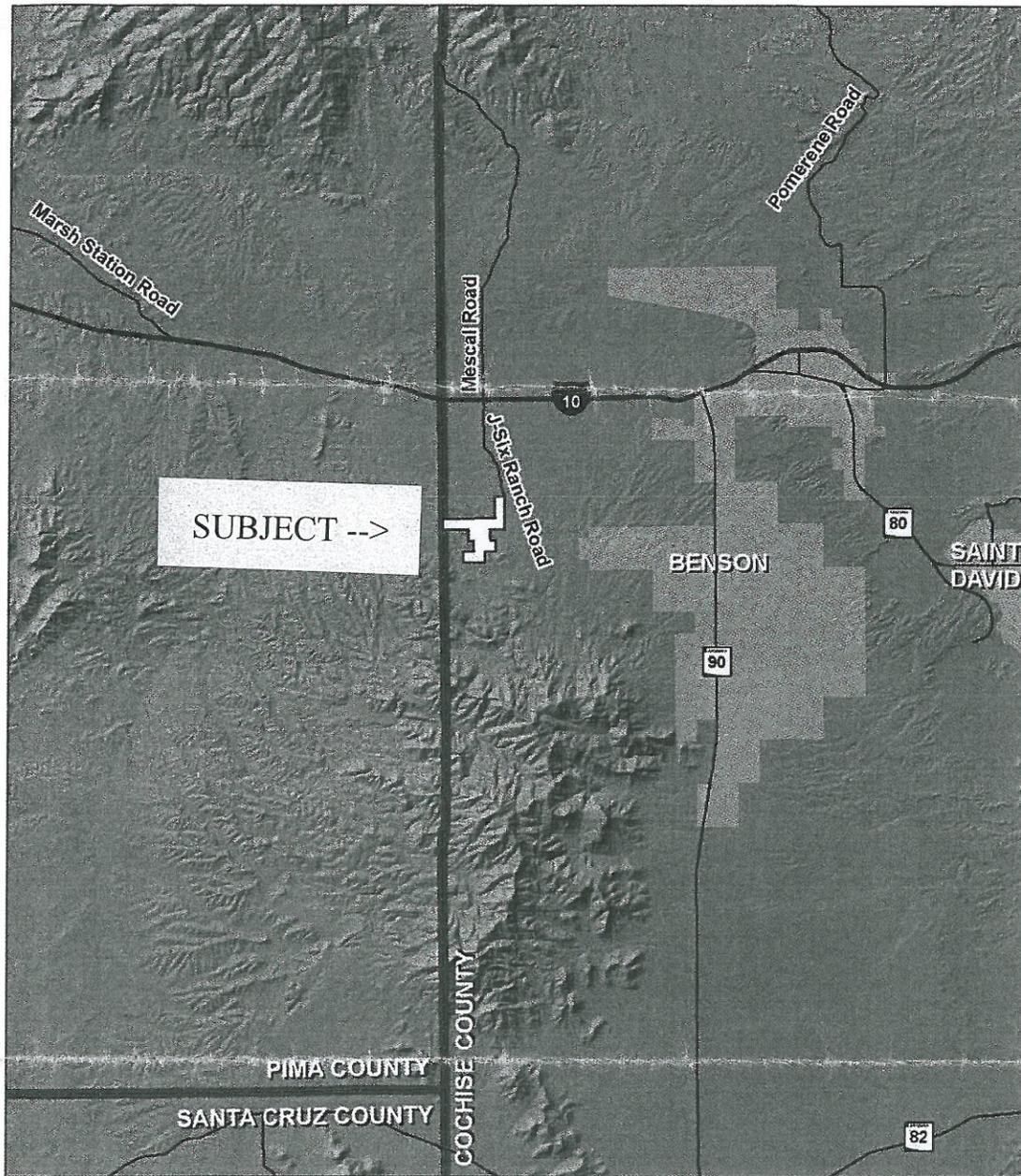
The majority of the **J-6 Ranch** site will be preserved as natural open space. A biologist spent six days on the property to assist in the identification and preservation of plant species and wildlife.

Welcoming those folks who choose to enjoy our pedestrian and equestrian trails will be the tranquil rolling foothills with its majestic mesquites and scrub oaks. After decades of being closed off, we will open pedestrian and equestrian access to the Coronado National Forest.

The rich history of the ranch house that has served as a landmark all these years will hold a prominent place in our plans. The stories of President John F. Kennedy and his brother Joe working **J-6 Ranch** as teenagers will continue to be enjoyed by many.

We are confident **J-6 Ranch** will be a model for all of Cochise County – increasing home values for all neighbors. Folks will be drawn to this area by its beauty, rural feel and history – and the desire to preserve them. That is the goal we share at **J-6 Ranch**.

Regional Context



Legend

- Interstate 10
- Major Roadways
- Site Boundary
- Incorporated City/Community
- County Boundary

NORTH

THE PLANNING CENTER

0 2.0 4 Miles

Location: EMR-02\exhibits\regional_location



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BEFORE THE ARIZONA CORPORATION COMMISSION

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MIKE GLEASON
Chairman
WILLIAM A. MUNDELL
Commissioner
JEFF HATCH-MILLER
Commissioner
KRISTIN K. MAYES
Commissioner
GARY PIERCE
Commissioner

Arizona Corporation Commission

DOCKETED

SEP - 3 2008

DOCKETED BY *mm*

IN THE MATTER OF THE APPLICATION)
OF EMPIRITA WATER COMPANY, LLC)
FOR AN EXTENSION OF ITS)
CERTIFICATE OF CONVENIENCE AND)
NECESSITY)

DOCKET NO. W-03948A-06-0490

DECISION NO. 70476

ORDER

Open Meeting
August 26 and 27, 2008
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

1. On July 28, 2006, Empirita Water Company, LLC ("Empirita" or "Company") filed an application requesting the Arizona Corporation Commission ("Commission") approval for an extension of its existing Certificate of Convenience and Necessity ("CC&N") to provide public water service to include an additional 1,651 acres to its existing certificated service area.

2. On March 29, 2007, the Commission issued Decision No. 69399 which issued an Order Preliminary to the issuance of the CC&N to Empirita upon completion of the following compliance items.

- a) That the Company be required to file with the Commission's Docket Control, as a compliance item in this matter, documentation showing full compliance with Arizona Department of Environmental Quality ("ADEQ") requirements and delivering safe water that meets water quality standards.
- b) That the Company be required to file, within two years of the effective date of this Decision, with the Commission's Docket Control, as a compliance item in

Et

1 this docket, copies of the Approval to Construct issued by ADEQ for the water
2 plant additions needed to serve the Redhawk II development.

- 3 c) That the Company file with Docket Control, as a compliance item in this
4 docket, a copy of ADWR's Physical Availability Determination, stating that
5 there is adequate water, no later than 2 years of the Decision granting the Order
6 Preliminary.
- 7 d) That the Company file, within 45 days of the effective date of the Order
8 Preliminary, a Curtailment Tariff.
- 9 e) That the Company file with Docket Control, as a compliance item in this
10 docket, a copy of the franchise agreement from Pima County for that portion of
11 the extension area in Pima County, within two years of the Decision granting
12 the Order Preliminary.

13 3. On July 25, 2008, and as required by Decision No. 69399, Empirita filed a Motion
14 for the issuance of a Certificate of Convenience and Necessity because it had complied with the
15 above requirements as follows:

- 16 a) On July 17, 2008, the Company filed a copy of the ADEQ Drinking Water
17 Compliance Status Report dated June 25, 2008. Staff has reviewed the
18 document and has found that it meets the requirements of Decision No. 69399.
- 19 b) On June 25, 2008, the Company filed a copy of the ADEQ Certificate of
20 Approval to Construct covering the construction of the water plant additions
21 necessary to begin service to the extension area. Staff has reviewed the
22 document and has found that it meets the requirements of Decision No. 69399.
- 23 c) On March 29, 2007, the Company filed a copy of a Physical Availability
24 Determination from ADEQ which demonstrates that there is a 100 year water
25 supply physically available for the Empirita Water Company. Staff has
26 reviewed the filing and has found that it meets the requirements of Decision
27 No. 69399.
- 28 d) On May 2, 2007, the Company filed an approved Curtailment tariff with the
Commission.
- e) On June 24, 2008, the Company filed a Pima County Public Utility License
Agreement between the Company and Pima County. Staff has reviewed the
document and has found that it meets the requirements of Decision No. 69399.

4. Based on its analysis, Staff has concluded that Empirita Water Company, LLC has
complied with all requirements set forth in the above. Staff therefore recommends

...

1 that the Commission issue a decision approving the extension of the Company's CC&N to provide
2 water service in Cochise County and Pima County, Arizona.

3 5. Staff's recommendations are reasonable and shall be adopted.

4 CONCLUSIONS OF LAW

5 1. Empirita is a public service corporation within the meaning of Article XV of the
6 Arizona Constitution and Arizona Revised Statutes §§ 40-252, 40-281 and 40-282.

7 2. The Commission has jurisdiction over Empirita and of the subject matter of the
8 application.

9 3. In accordance with the Order Preliminary issued pursuant to A.R.S. § 40-282(D),
10 Empirita has complied with all required conditions set forth therein.

11 4. Pursuant to A.R.S. § 40-282(D), it is appropriate to issue a decision approving the
12 Company's CC&N extension request as discussed herein.

13 ORDER

14 IT IS THEREFORE ORDERED that Empirita Water Company, LLC's application for
15 issuance of a Certificate of Convenience and Necessity to provide water service to the public in the
16 area more fully described in Exhibit A be and hereby is approved as discussed herein.

17 IT IS FURTHER ORDERED that Empirita Water Company, LLC shall charge water
18 customers in the area described in Exhibit A its existing rates and charges in the extension area
19 until further Order by the Commission.

20 IT IS FURTHER ORDERED that Empirita Water Company, LLC shall file all remaining
21 compliance items in Decision No. 69399 in the times specified and if Empirita fails to do so, the
22 CC&N extension described by Exhibit A shall be considered null and void, after due process.

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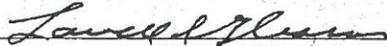
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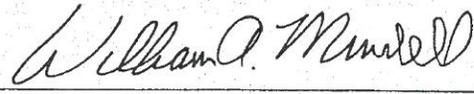
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1 IT IS FURTHER ORDERED that Empirita Water Company, LLC shall file, as part of its
2 annual report, an affidavit with the Utilities Division attesting that the Company is current on
3 paying the property taxes in Arizona.

4 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

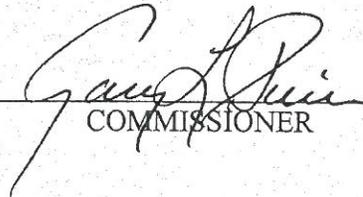
6 BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION

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CHAIRMAN

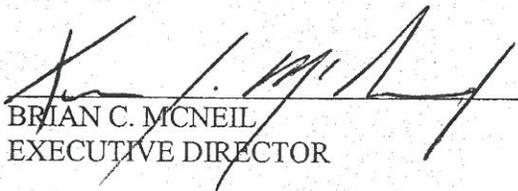

COMMISSIONER

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COMMISSIONER

COMMISSIONER


COMMISSIONER

13 IN WITNESS WHEREOF, I, Brian C. McNeil, Executive
14 Director of the Arizona Corporation Commission, have
15 hereunto, set my hand and caused the official seal of this
16 Commission to be affixed at the Capitol, in the City of
17 Phoenix, this 3rd day of September, 2008.

18 
19 BRIAN C. MCNEIL
20 EXECUTIVE DIRECTOR

21 DISSENT: 
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23 DISSENT: _____

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SERVICE LIST FOR: EMPIRITA WATER COMPANY, LLC
DOCKET NO.: W-03948A-06-0490

Mr. Lawrence V. Robertson, Jr.
Post Office Box 1448
Tubac, Arizona 85646
Attorney for Empirita Water Company

Mr. Jim Vermilyea
Manager
Empirita Water Company, LLC
2090 North Kolb Road, Suite 120
Tucson, Arizona 85715

Ms. Mary McCool
3111 West Clark Road
Benson, Arizona 85602

Mr. Ernest G. Johnson
Director, Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Ms. Janice M. Alward
Chief, Legal Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

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EXHIBIT A

EMPIRITA WATER COMPANY
DOCKET NO. W-03948A-06-0490
AMENDED LEGAL DESCRIPTION

Thunder Ranch Estates

UNIT I

The North 1/2 of Section 19, Township 17 South, Range 19 East, of the Gila and Salt River Base and Meridian, Cochise County, Arizona (CURRENT CC&N)

UNIT II

The South 1/2 of Section 19, Township 17 South, Range 19 East, of the Gila and Salt River Base and Meridian, Cochise County, Arizona

UNIT III

The North 1/2 of Section 30, Township 17 South, Range 19 East, of the Gila and Salt River Base and Meridian, Cochise County, Arizona

SIMONSON PROPERTY - 80 ACRES

The East 1/2 of the Northeast 1/4 of Section 24, Township 17 South, Range 18 East, of the Gila and Salt River Base and Meridian, Pima County, Arizona

Redhawk II

A portion of Sections 20 and 29, Township 17 South, Range 19 East, of the Gila and Salt River Base and Meridian, Cochise County, Arizona, more particularly described as follows:

COMMENCING at the Northwest corner of Section 20;

THENCE North 89° 29' 59" East, along the North line of said Section 20, a distance of 1,074.53 feet;

THENCE South 23° 44' 53" East, a distance of 480.75 feet;

THENCE South 19° 10' 38" East, a distance of 167.07 feet to the POINT OF BEGINNING;

THENCE South 19° 10' 38" East, a distance of 126.25 feet;

THENCE South 16° 57' 38" West, a distance of 426.47 feet;

THENCE South 23° 34' 28" West, a distance of 382.36 feet;

THENCE South 18° 23' 40" East, a distance of 515.59 feet;

THENCE South 67° 48' 56" East, a distance of 521.72 feet;

THENCE South 33° 43' 25" East, a distance of 525.27 feet;

THENCE South 30° 43' 02" East, a distance of 545.56 feet;

THENCE South 30° 53' 48" East, a distance of 770.32 feet;

THENCE South 30° 55' 53" East, a distance of 433.65 feet;

THENCE South 40° 40' 51" East, a distance of 634.90 feet;

THENCE South 30° 03' 35" East, a distance of 479.36 feet;

THENCE South 17° 44' 20" East, a distance of 294.40 feet;

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THENCE North 88° 59' 44" East, a distance of 319.91 feet to a point on the South line of said Section 20, said point being ACP, RLS 7599;
THENCE South 00° 00' 20" East, a distance of 1,324.43 feet to a point in the North half of said Section 29, said point being ACP, RLS 7599;
THENCE South 89° 03' 17" West, a distance of 651.02 feet to a point;
THENCE South 89° 04' 10" West, a distance of 668.53 feet to a point;
THENCE South 88° 54' 45" West, a distance of 2,650.46 feet to a point on the West line of the Northwest Quarter of said Section 29;
THENCE North 00° 20' 53" East, along said West line of Section 29, a distance of 1,326.91 feet to the Northwest corner of Section 29;
THENCE North 00° 30' 47" East, a distance of 2,656.94 feet to a found stone with a mound of rocks marking the West Quarter corner of said Section 20;
THENCE North 01° 01' 27" West, a distance of 2,075.34 feet;
THENCE North 89° 29' 49" East, a distance of 1,312.30 feet to the POINT OF BEGINNING.

Containing 359.50 acres ±

Except all oil, gas and minerals as reserved in Book 105 of Deeds, Page 492, records of Cochise County, Arizona.

Easter Mountain Ranch
(555 Acres ±)

PARCEL I

The Southeast Quarter of the Northwest Quarter, and
The East Half of the Southwest Quarter, and
The Southwest Quarter of the Southwest Quarter,
All being found in Section 29, Township 17 South, Range 19 East, of the Gila and Salt River Base and Meridian, Cochise County, Arizona;
EXCEPT all coal and other minerals as reserved in the Patent from the United States of America.

PARCEL II

The South Half of the South Half of Section 30, Township 17 South, Range 19 East, of the Gila and Salt River Base and Meridian, Cochise County, Arizona;
EXCEPT all coal and other minerals as reserved in the Patent from the United States of America.

PARCEL III

The North Half of the Southeast Quarter, and
The East Half of the Northeast Quarter, and
The East Half of the Northwest Quarter of the Northeast Quarter,
All being found in Section 31, Township 17 South, Range 19 East, of the Gila and Salt River Base and Meridian, Cochise County, Arizona;
EXCEPT all coal and other minerals as reserved in the Patent from the United States of America.

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PARCEL IV

The West Half of the Northwest Quarter of the Northwest Quarter, and
The Southwest Quarter of the Northwest Quarter of Section 32, Township 17 South, Range 19 East,
of the Gila and Salt River Base and Meridian, Cochise County, Arizona;

EXCEPT all coal and other minerals as reserved in the Patent from the United States of America.

Easter Mountain Ranch, L.L.C.

(Legal Description for Approximate 16 Acre Parcel)

A portion of Section 20, Township 17 South, Range 19 East, of the Gila and Salt River Base and
Meridian, Cochise County, Arizona, more particularly described as follows:

COMMENCING at the Northwest corner of Section 20;

THENCE North $89^{\circ} 29' 59''$ East, a distance of 1,074.53 feet, along the North line of said
Section 20;

THENCE South $23^{\circ} 44' 53''$ East, a distance of 480.75 feet;

THENCE South $19^{\circ} 10' 38''$ East, a distance of 167.07 feet;

THENCE South $89^{\circ} 29' 49''$ West, a distance of 1,312.30 feet;

THENCE North $01^{\circ} 01' 27''$ West, a distance of 600.00 feet to the POINT OF BEGINNING.

EXCEPT all oil, gas and minerals as reserved in Book 105 of Deeds of Real Estate at Page 492,
records of Cochise County, Arizona.

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DEPARTMENT OF WATER RESOURCES

BEFORE THE DIRECTOR

IN THE MATTER OF THE APPLICATION)	AWS No. 2008-009
OF THE EMPIRITA WATER COMPANY, LLC)	
FOR A DESIGNATION AS HAVING AN)	
ADEQUATE WATER SUPPLY)	DECISION AND ORDER
)	
)	ADWR No. 41-401435.0001

I. INTRODUCTION

On July 28, 2006, the Department of Water Resources (Department) received an application from Empirita Water Company, LLC ("Empirita") requesting that the Department modify Empirita's designation of adequate water supply pursuant to A.R.S. § 45-108 and A.A.C. R12-15-715 *et seq.* On October 8, 2008 and October 15, 2008, the Department gave public notice of the application pursuant to A.R.S. § 45-108.01, made applicable to Empirita as a result of Cochise County adopting Resolution 08-20, which became effective on April 8, 2008. No objections to the application were filed with the Department.

After receiving Empirita's application to modify its designation of adequate water supply, the Department reviewed relevant information regarding the designation request, including: 1) the hydrologic study submitted with the application, Physical Availability Determination No. 52-700268.0000 and other information on file with the Department for the proposed source of groundwater supply; and 2) information regarding Empirita's financial capability to construct the necessary delivery system, treatment works and storage facilities. Based on that information the Department makes the following Findings of Fact, Conclusions of Law, and Order of Designation and Conditions of Designation:

II. FINDINGS OF FACT

A. General

1. Empirita is a private water company subject to the jurisdiction of the Arizona Corporation Commission ("ACC").

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- 2. Empirita provides domestic water services within the boundaries of its certificate of convenience and necessity ("CC&N"), as approved by the ACC.
- 3. Empirita currently serves water through its distribution system to its customers.

B. Water Demands

- 4. Empirita's current demand as of calendar year 2007 is 14.09 acre-feet per year ("current demand").
- 5. Empirita's committed demand as of calendar year 2007 is 188.38 acre-feet per year ("committed demand").
- 6. Empirita's projected demand in 2024 is 225.00 acre-feet ("2024 projected demand"). The 2024 projected demand does not include the current demand or the committed demand, but does include the annual demand at build-out of plats reasonably projected to be added through calendar year 2024.
- 7. Empirita's annual estimated water demand in 2024, which is the sum of its current demand, committed demand and 2024 projected demand, is 427.47 acre-feet per year ("2024 annual estimated water demand").

C. Groundwater: Physical, Continuous and legal Availability

- 8. Empirita has the right to withdraw and deliver groundwater to its customers pursuant to A.R.S. § 45-453.
- 9. Historic hydrologic information demonstrates that depth-to-static water levels within the Empirita service area currently range from approximately 184 to 262 feet below land surface.
- 10. Empirita has demonstrated that after withdrawing 427.47 acre-feet per year of groundwater for 100 years, the depth-to-static water level within Empirita's service area is not expected to exceed 1,200 feet below land surface.

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D. Water Quality

11. Empirita will be regulated by the Arizona Department of Environmental Quality ("ADEQ") as a public water system pursuant to A.R.S. §§ 49-351, *et seq.*

E. Financial Capability

12. Empirita has demonstrated that it has constructed some of the necessary delivery system to satisfy its estimated water demand.

13. Empirita has received approval from the ACC for financing the construction of additional delivery, storage and treatment works in its Order, Decision Number 70476, dated September 3, 2008.

III. CONCLUSIONS OF LAW

Having reviewed the Findings of Fact, the Department makes the following Conclusions of Law:

1. Empirita has demonstrated that 427.47 acre-feet per year of groundwater will be physically available, continuously available and legally available for at least 100 years. This volume is sufficient to meet its 2024 annual estimated water demand.
2. For purposes of A.A.C. R12-15-716(B)(3)(c)(ii), Empirita's annual estimated water demand that will be met with groundwater is 427.47 acre-feet per year.
3. The water supply served by Empirita will be of adequate quality pursuant to A.A.C. R12-15-719.
4. Empirita has satisfied the financial capability criteria prescribed in A.A.C. R12-15-720.
5. Empirita has satisfied all the requirements for a designation of adequate water supply.

IV. ORDER OF DESIGNATION AND CONDITIONS OF DESIGNATION

Having reviewed the Findings of Fact and Conclusions of Law, the Department hereby issues this Decision and Order designating Empirita as having an adequate water supply, subject to the following conditions:

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- 1 1. The Director reserves the right under A.A.C. R12-15-715(C) to periodically review and
2 modify the designation for good cause as conditions warrant.
- 3 2. Pursuant to A.A.C. R12-15-715, the Director may revoke this designation at any time if
4 the findings of fact or the conclusions of law upon which the designation is based change
5 or are invalid, or if an adequate water supply no longer exists.
- 6 3. The Director's determination that an adequate water supply exists for Empirita is based
7 on its review of the water supply pledged by Empirita.
- 8 4. Empirita shall submit an application to modify this decision and order designating
9 Empirita as having an adequate water supply to increase the term of the designation
10 when the sum of Empirita's current demand, committed demand and two-year projected
11 demand exceeds 427.47 acre-feet, or by December 31, 2022, whichever is earlier.
- 12 5. Pursuant to A.A.C. R12-15-719, Empirita shall satisfy any state water quality
13 requirements established for its proposed use after the date of this designation.
- 14 6. Empirita shall annually provide to the Department the following information in the manner
15 prescribed in A.A.C. R12-15-715:
 - 16 a. An estimate of the demand at build-out for customers with which Empirita has
17 entered into a notice of intent to serve agreement in the previous calendar year.
 - 18 b. An estimate of the demand of platted, undeveloped lots located in Empirita's
19 service area.
 - 20 c. A report regarding Empirita's compliance with water quality requirements.
 - 21 d. The depth-to-static water level of all wells from which Empirita withdrew water
22 during the previous calendar year.
 - 23 e. The total quantity of water from any source, withdrawn, diverted, or received by
24 Empirita for its customers' residential and non-residential use during the previous
25 calendar year.

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f. Any other information requested by the Director to determine whether Empirita is continuing to meet all the requirements necessary to maintain its designation of adequate water supply.

IT IS HEREBY ORDERED THAT EMPIRITA WATER COMPANY, LLC BE DESIGNATED AS HAVING AN ADEQUATE WATER SUPPLY UNTIL DECEMBER 31, 2024.

DATED this 10th day of DECEMBER, 2008


HERBERT R. GUENTHER
Director

A copy of the foregoing **Decision and Order** mailed by certified mail this 10th day of December, 2008 to the following:

James Vermilyea
Empirita Water Company
2090 N. Kolb Rd., Suite 120
Tucson, Arizona 85715

Certified Mail No. 7006 2710 0002 4885 866

A copy of the foregoing **Decision and Order** mailed by first class mail this 10th day of December, 2008 to:

Mr. Lawrence Robertson
Attorney at Law
P.O. Box 1448
Tubac, Arizona 85646

Ms. Cindy Ferrin
Arizona Department of Real Estate
2910 N. 44th Street
Phoenix, Arizona 85018

By: Norma J. Coupan

JANICE K. BREWER

Governor



SANDRA A. FABRITZ-WHITNEY

Director

ARIZONA DEPARTMENT OF WATER RESOURCES

3550 North Central Avenue, Second Floor
PHOENIX, ARIZONA 85012-2105
(602) 771-8500

LIST OF MUNICIPAL WATER PROVIDERS DESIGNATED AS HAVING AN ASSURED OR ADEQUATE WATER SUPPLY

May 25, 2011

The list on the reverse side of this page specifies the municipal water providers in the State of Arizona, which are currently designated by the Department of Water Resources as having an assured or adequate water supply. The terms "assured" and "adequate," although somewhat different in their legal implications, mean that sufficient water of suitable quality will be continuously available to meet the anticipated water needs for at least one hundred years.

Please note that assured and adequate water supply designations do not necessarily coincide with a city or town's corporate limits, nor with a private water company's franchised area. Also, since this listing is subject to change at any time, the Department of Water Resources should be contacted to obtain the most up-to-date information regarding the status of a water provider's assured or adequate water supply designation. In order for a new development to make use of a water provider's designation, there must exist a written commitment of service from the water provider. Pursuant to A.R.S. § 45-576 (Assured program), or A.R.S. § 45-108 (Adequacy program) it is the responsibility of the platting entity to review this service agreement as evidence that the platted development will receive service from the designated provider.

Please address questions to the Arizona Department of Water Resources Office of Assured and Adequate Water Supply at (602) 771-8599.

**SERVICE AREAS DESIGNATED AS HAVING AN ASSURED WATER SUPPLY
Within Active Management Areas**

Phoenix AMA

City of Avondale, DWR 86-002003.0002
City of Chandler, DWR 86-002009.0001
City of El Mirage, DWR 86-400054.0001
Town of Gilbert, DWR 86-402208.0001
City of Glendale, DWR 86-002018.0001
City of Goodyear, DWR 86-002019.0001
City of Mesa, DWR 86-002023.0001
City of Peoria, DWR 86-400679.0001
City of Phoenix, DWR 86-002030.0001
City of Scottsdale, DWR 86-400619.0001
City of Surprise, DWR 86-002344.0001
City of Tempe, DWR 86-002043.0001
Chaparral City Water Company, DWR 26-002011.0000
Johnson Utilities, Inc.-Phoenix, DWR 86-400665.0001
Water Utilities Community Facility District, DBA "Apache Junction Water Company", DWR 86-002025.0001

Prescott AMA

City of Prescott, DWR 86-401501.0001

Pinal AMA

Town of Florence, DWR 26-401284.0000
City of Eloy, DWR 26-402148.0000
Santa Cruz Water Company, DWR 26-402008.0000
City of Casa Grande (Copper Mountain CFD), DWR 26-400728.0000
Johnson Utilities, Inc.-Pinal, DWR 86-401382.0001

**SERVICE AREAS DESIGNATED AS HAVING ADEQUATE WATER SUPPLIES
Outside of Active Management Areas**

Mohave County

Beaver Dam Water Company, DWR 40-700494.0000
Cerberat Water Company, DWR 40-30016.0000
Golden Valley County Improvement District #1, DWR 40-900004.0000
Joshua Valley Utility Company, DWR 40-900006.0000
City of Kingman, DWR 40-900007.0000
Lake Havasu City, DWR 40-900008.0000
City of Bullhead City, DWR 41-400649.0001
(Arizona-American Water Works, Bermuda Water Company, North Mohave Valley Corporation)
Walnut Creek Water Company, DWR 40-401425.0000
Havasus Heights Domestic Water Improvement District, DWR 40-700420.0000

Yavapai County

Little Park Water Company, DWR 41-400324.0001
Big Park Water Company, DWR 41-400325.0001
American Ranch Domestic Water Improvement District, DWR 40-400437.0000
Wickenburg Ranch Water, LLC, DWR 41-700417.0001
Camp Verde Water System, Inc., DWR 40-700446.0000
City of Cottonwood, DWR 40-700578.0000
Town of Clarkdale, DWR 40-700666.0000

Cochise County

City of Benson, DWR 41-401803.0001
City of Douglas, DWR 40-900001.0000
City of Willcox, DWR 41-900017.0001
Empirita Water Company, DWR 41-401435.0001
Bachmann Springs Utility Company, DWR 40-401893.0000

Maricopa County

Town of Wickenburg, DWR 40-900016.0000

SERVICE AREAS DESIGNATED AS HAVING AN ASSURED WATER SUPPLY

Within Active Management Areas

Tucson AMA

Sahuarita Water Company, LLC, DWR 86-401203.0001
City of Tucson, DWR 26-400957.0000
Town of Oro Valley, DWR 26-400765.0000
Metropolitan Domestic Water Imp. District- Main, DWR 26-401062.0000
Metropolitan Domestic Water Imp. District – West, DWR 26-401922.0000
Town of Marana, DWR 26-402254.0000
Spanish Trail Water Company, DWR 86-700205.0000
Vail Water Company, DWR 26-401752.0000
Flowing Wells Irrigation District, DWR 26-700470.0000
Willow Springs Utilities, LLC, DWR 26-402225.0000

Santa Cruz AMA

City of Nogales, DWR 86-401358.0001
Baca Float Water Company, DWR 26-400800.0000
Tubac Water Company, DWR 26-700409.0000
Sopori Domestic Water Improvement District (North), DWR 26-700558.0000

SERVICE AREAS DESIGNATED AS HAVING ADEQUATE WATER SUPPLIES

Outside of Active Management Areas

Navajo County

City of Holbrook, DWR 40-900005.0000
City of Show Low, DWR 41-300412.0001
Town of Taylor, DWR 40-900014.0000
City of Winslow, DWR 40-900018.0000
Arizona Water Company, Lakeside and Pinetop, DWR 40-900000.0000
Town of Snowflake, DWR 40-401841.0000
Fools Hollow Water Company & Park Valley Water Company, DWR 40-402065.0000
Pineview Water Company, DWR 40-402066.0000
Voyager at White Mountain Lakes Water Co., DWR 40-700359.0000

La Paz County

Town of Parker, DWR 40-900010.0000
Town of Quartzsite, DWR 40-500041.0000

Gila County

City of Globe, DWR 40-900003.0000

Yuma County

City of Yuma, DWR 40-900019.0000
City of San Luis, DWR 40-700671.0000

Apache County

Town of Springerville, DWR 40-900013.0000
City of St. Johns, DWR 40-900012.0000
Livco Water Company, DWR 40-700641.0000

Coconino County

City of Flagstaff, DWR 41-900002.0001
City of Page, DWR 40-900009.0000

Graham County

City of Safford, DWR 40-900011.0000



MESCAL - J6 FIRE DISTRICT

448 N. Warren Road, Benson, Arizona 85602

Chief Bernal: 520-221-1667 Secretary/Administration: 520-647-3585
cbernal@mescalj6fd.com secretary@mescalj6fd.com

July 15, 2011

Community Development Department
1415 Melody Lane
Bisbee, Arizona 85603

Attn: Beverly Wilson

Re: Transmittal Letter for Docket Z-11-06

As Fire Chief of Mescal-J6 Fire District, I appreciate the opportunity to review and comment regarding the rezoning application submitted by Easter Mountain Ranch LLC.

Our Governing Board has adopted the 2003 International Fire Code with Appendix A,B,C,D. Although fire protection provisions are primarily discussed during the tentative plat process, it is important for the District to know that both the developer and the County are considering the financial assurances for the following if the rezoning is to be approved. In addition, the District is requesting that the subdivision be annexed into our service area.

I have listed the following requirements that heavily contribute to life-safety and property conservation within and adjacent to the Mescal-J6 Fire District.

1. Emergency Access:

- A. Fire apparatus access roads shall be unobstructed width of not less than 20 feet.
- B. Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus (75,000 lbs) and shall be surfaced so as to provide all-weather driving capabilities.
- C. Cul-de-sacs shall have a 96' diameter.
- D. Minimum width of subdivision gates: one entry/exit gate - minimum of 20'; if one gate for entry and second gate for exit - each gate a minimum of 12'
- E. Gate controls must include a combination of several of the following: a key pad, an opening device that responds to a siren or yelp audio signal, and a Knox Box Rapid Entry System.
- F. A secondary entrance/exit road even if it is restricted to emergency use.
- G. Access to the forest to support wildland-urban interface fire suppression.

2. Water Availability/ Hydrants:

- A. A water source that will provide a fire flow of 1,000 gallons per minute (gpm) for 2 hours.
- B. Street signs and significant water storage reservoir in place before combustible material arrives on site.
- C. Hydrants preferably spaced 500' apart with lines to be inspected before covered.

As with all future subdivision submittals within the J-6/Mescal/Skyline areas, please keep me advised of all opportunities to review plans and the associated hearing dates.

Respectfully submitted,
Chris Bernal, Fire Chief

FI



COMMUNITY DEVELOPMENT DEPARTMENT

Planning, Zoning and Building Safety
1415 Melody Lane, Bisbee, Arizona 85603

(520) 432-9240
Fax 432-9278

Carlos de la Torre, P.E. Community Development Director

MEMORANDUM

TO: Beverly Wilson, Interim Planning Manager

FROM: Karen L. Lamberton, County Transportation Planner

SUBJECT: Easter Mountain Ranch, LLC Z-11-06\Parcel #124-01-013H

DATE: July 18, 2011

The applicant is applying for a rezoning of a 550 acre parcel from RU-4 to SR-2 in order to move fully develop a subdivision plan for the area. In 2007 the applicants brought forward a conceptual plan for this parcel, known then as the J-Six Ranch Project/Easter Mountain Ranch, LLC, with a proposal of a maximum of 371 residential units. A Traffic Impact Analysis Report was submitted at that time in July of 2007; however, this report was never revised to reflect the Transportation Planner comments (dated October 15, 2007) and approved by Cochise County and/or ADOT. This previous TIA analysis is now dated by four years and a revised version was not submitted by the applicant with their re-zoning application. (Specific issues related to peak hour counts for the interchange on-ramps and ADOT conditions were noted in the County's previous review). Full-build out had been proposed for 2015. The applicants now expect to apply for the first phase of development in 2012. A phasing plan was not included in either the 2007 TIA or in the 2011 conceptual rezoning plan.

The proposed number of units (maximum of 371 with a conservation subdivision) remains the same as previously proposed. Trip generation, at full build-out, could potentially average 3,550 trips per day per the ITE Manual, 8th edition. Morning peak hour trips are expected to average 254 vehicles and evening peak hour trips are expected to average 378 vehicles. Access to the site would be via the existing J-Six Ranch Rd., currently a county-maintained rural minor collector with a 24-foot cross-section. The site is proposed as a gated community, with privately maintained roadways with public access to hiking and equestrian pathways to the Coronado National Forest.

Although the basic structure of the proposed plan is the same as was previously analyzed in the 2007 TIA the surrounding land uses and relevant studies are not. The impacts on the state system, in particular, in the interstate access ramps at the J-Six/Mescal interchange, will require mitigation to accommodate this potential development. Since the 2007 TIA ADOT has also adopted new policies governing access onto the state system that may impact what type and the timing of mitigation. The recommendations on page 19 of the 2007 TIA are inadequate to indicate what improvements are needed and how those improvements are intended to be phased in. The applicant is also advised that the Cochise County Road Design & Construction Standards & Specifications will be required to be followed for subdivision roadways even if the applicant does not anticipate dedicating those roadways to the County for maintenance.

Specific transportation issues that need to be fully articulated within the revised TIA include:

- ✚ Integrate the revised pedestrian and equestrian access concepts into the proposed rezoning into the TIA;

- ✚ Dedicate or otherwise convey to the Forest Service requested perpetual access through the development to lands south of the site;
- ✚ Resolve access issues to properties east of the site which may include dedicating sufficient right-of-way and constructing to county design standards a short portion of the J-Six Ranch Rd. extension so that currently existing private access roads are not restricted;
- ✚ Include narrative, modeling and diagrams, as appropriate, to meet the current TIA requirements within the subdivision regulations.

Recommendation

Land use changes do not, in and of themselves, change traffic patterns; however, they do create conditions for future transportation impacts. This re-zoning proposal is compatible with development north of the site and we have no objection to the requested re-zoning with the condition that the TIA be revised to reflect the proposed conceptual plan, current conditions and updated transportation studies and modeling in the area. The revised TIA will be submitted by the County to ADOT for their review and agreement regarding impacts and mitigation on the J-Six/Mescal interchange. A draft version should be submitted with the tentative plat with a final version completed and accepted by the County prior to final plat.

This site was only analyzed for the proposed use and not for the full range of potential SR-2 uses. Should this proposal change to more intensive uses resulting in heavier impacts on county-maintained roads mitigation may be required at the tentative/final plat or permitting stage appropriate to the final site development plans.

cc: Docket Z-11-06

G2

Wilson, Beverly

From: McKay, George [gmckay@fs.fed.us]
Sent: Monday, October 10, 2011 11:09 AM
To: Lenihan, Steve (slenihan@usa.net); Duff Hearon; Pat & Russ Fischer (rnpranches@msn.com)
Cc: Wilson, Beverly; mwalton@azgfd.gov; Bennett, Duane
Subject: USFS/Agfd Access Proposal to the public lands at the northern end of the Whetstone Mountains.

Attachments: usfs_agfd_access_proposal.pdf; Final Coronado Reserve Access Easement.pdf

First, I want to thank you for meeting with representatives from the Forest Service (Duane Bennett, Walt Keyes, and I) and Arizona Game and Fish Department (Matt Walton) on Thursday October 6, 2011 regarding our agencies desire to secure public vehicular access from the end of the J-6 Ranch Road to National Forest System (NFS) lands at the northern end of the Whetstone Mountains. Although no agreement was reached in regards to perpetual public vehicular access to the NFS lands adjoining you're the J-6 Ranch property, we do appreciate your continued dialogue on this matter. I have also attached a copy of the USFS/AGFD proposal to ensure perpetual legal public vehicular access to NFS lands at the northern end of the Whetstone Mountains.

There were several issues discussed on Thursday I would like to clarify, they are as follows:

1. Prior to Road 212 (a combination of J-Six Ranch, Watson, and Whetstone Roads) being gated and locked by private landowners in the early 1980's just north of the old Williams Ranch Headquarters, said Road 212 was the main route used by the general public to access NFS lands and the existing Forest road system at the northern end of the Whetstone Mountains. The owners of the old Williams Ranch property prior to the 1980's had informally allowed public land users vehicular access through their property to the National Forest via Road 212 for decades.
2. The Forest Service and the AGFD have attempted unsuccessfully on numerous occasions since the early 1980's to negotiate with several different landowners at the northern end of the Whetstone Mountains starting with Tenneco West (Road 4012), Wally Armer (Road 212), Jay-Six Ranch Inc (Road 212), the Post Family et al (Road 4595), Whetstone Springs LLC (Road 209), Whetstone Development Company (Roads 209 and 4012), Pima County (Road from the Emperita Interchange), and other entities to secure permanent legal public vehicular access to the National Forest and the existing forest road system at the northern end of the Whetstone Mountains.
3. The non-federal (State, County, and private) landowners adjacent to the National Forest have either been non-responsive or unreceptive in regards to Forest Service and AGFD attempts to even gage whether or not there may have been any interest in granting a perpetual right of public vehicle access to cross their lands. Reasons given regarding their unwillingness to even discuss granting a perpetual right of public vehicular access include litter and vandalism, off-highway vehicle use, privacy issues, perceived potential liability, and in some cases, a desire for exclusive use and control of the adjoining public land. Note: Arizona Revised Statute (ARS) 33-1551 limits a private landowner's liability when providing recreational and educational users access across their land.
4. During our discussions regarding public vehicular access to other parts of the National Forest, I failed to mention other public vehicular access cases where we worked with the public entity responsible for rezoning and/or subdivision approval in regards to public vehicular access.

City of Benson: Prior to the discovery of Kartchner Caverns in the early 1970's, past owners of the property had informally permitted public land users vehicular access via Roads 208, 209, and 4017 from State Route 90 to the National Forest in the Rickets Mine, Guindani and Middle Canyon areas on the eastern side of the Whetstone Mountains. After discovery, the roads were gated and locked at State Route 90. Kartchner Caverns was granted State Park status in 1988 and limited vehicular access was allowed until several years ago. In 2001, Whetstone Springs requested ± 180-acres north of the State Park be rezoned for a proposed luxury resort. Although the City of Benson did not condition approval of the Whetstone Springs rezoning, they encouraged the applicant to work with the USFS and AGFD regarding our need to reestablish public vehicular access to the National Forest via Roads 209 and 4017 from State Route 90. During discussion with the applicant's representative, indemnification clauses unacceptable to the United States were added to the road right-of-way, although ARS 33-1551 limits a landowner's liability when they allow recreational and educational access across their private land (see note below). Because providing public vehicular access to the National Forest was not a condition of approval, this issue was not resolved before the City of Benson

approved the rezoning. It is my understanding the property is in the process of being acquired or has been acquired by the State of Arizona for addition to Kartchner Caverns State Parks.

Note: The Forest Service cannot agree to any language in a road right-of-way deed which attempts to make the United States responsible for any liability due to use of the road by others. The United States cannot assume such responsibility, and no agent or employee of the United States can commit the United States to such responsibility [Forest Service Manual (FSM) 5462 (6) and FSH 5409.17, 14.55 - (Release of Grantor's Liability)]. However, the United States may be liable under the Federal Tort Claims Act (28 U.S.C. 2671) for injury or damage to any persons or property incidental to or that may arise during and in consequence of the exercising of its rights under the terms of the deed.

Pinal County: In 2005, Oracle Highlands LLC, which was represented by Diamond Ventures, Inc., submitted a tentative plat to Pinal County in 2005 for a phased 260-lot gated subdivision for custom homes adjacent to the Town of Oracle entitled the "Coronado Reserve" at the northern end of the Santa Catalina Mountain near the unincorporated Town of Oracle. Past owners of the property had also informally permitted public land users vehicular access through their property via the Charouleau Gap Road (NFSR 736), which is also recognized as one of the premier four-wheel drive routes within the United States, to the adjoining National Forest System (NFS) lands for decades. One of Pinal County conditions for subdivision approval required Oracle Highlands LLC, to dedicate and grant a perpetual non-exclusive easement for vehicular and pedestrian ingress and egress via a separate right-of-way easement instrument referenced on the face of the plat to ensure continued access by the general public to the adjacent National Forest System (NFS) lands and NFS Road 736. After several starts and stops in the subdivision process over several years, a separate right-of-way easement instrument to dedicate and grant vehicular and pedestrian ingress and egress to general public was prepared and the final plat, which referenced the said separate right-of-way easement instrument had been completed and were ready final approval and recording in 2009. However, the real estate market collapsed prior to the execution, acknowledgement, and recording of the separate right-of-way easement instrument and final approval and recording of the plat by the Pinal County Board of Supervisors. The subdivision proposal has since been withdrawn. Although the case is somewhat different because they were granting access to use the paved roads within the development to the general public and not to the USFS or AGFD, I have attached a copy of the proposed right-of-way easement deed for this case. Steve, I can send you the copy of the final plat in another email.

5. You also offered to contact the current owners of Whetstone Ranch to gage whether their stance had changed regarding the granting of a perpetual right of public vehicle access across their property via the Whetstone Road (Road 4012) from State Route 90 to the National Forest in the Cottonwood Springs area. However, even if the current owners of the Whetstone Ranch were willing to grant a perpetual right of public vehicle access across their property for the current alignment of Whetstone Road (Road 4012), the road currently crosses properties owned by several different landowners in the Canary Springs Road area, a natural gas pipeline, and a block of State Trust lands. In addition to the complexity of acquiring a road right-of-way across multiple landowners and a natural gas pipeline, due to impasses between the Forest Service and the Arizona State Land Department (ASLD) regarding differences in federal and state right-of-way acquisition processes it is almost impossible for the Forest Service to acquire a perpetual right-of-way from the ASLD.

USFS/AGFD PUBLIC ROAD ACCESS PROPOSAL

From the J-6 Ranch Road south to National Forest System (NFS) lands at the northern end of the Whetstone Mountains, Sierra Vista Ranger District, Coronado National Forest.

Background: Currently, there are no permanent legal public vehicular access routes to the existing forest road system within the National Forest at the northern end of the Whetstone Mountains. The road across Pima County's Empirita Ranch is not a dedicated county public road, its use is limited and by permit only, can be closed at any time without notice and does not connect to the existing forest road system at the northern end of the Whetstone Mountains.

Although the Arizona Game and Fish Department (AGFD) has road right-of-way easements for the portions of the roadway across Arizona State Trust (ASTL) and Bureau of Land Management (BLM) public lands adjacent to the Empirita Ranch, Pima County is unwilling to grant a perpetual road right-of-way easement to either the AGFD or the United States Forest Service (USFS) for the portion of roadway across their property. It does not make fiscal sense to expend public funds to construct a forest road that can be blocked by another interest at anytime without notice.

For decades, until it was gated and locked in the early 1980's north of the National Forest boundary by private landowners, Road 212 (J-Six Ranch and Whetstone Roads) was the main arterial route used by the general public from the Mescal/J-Six Ranch interchange on Interstate 10 south to NFS lands and the existing forest road system at the northern end of the Whetstone Mountains. The USFS and AGFD have both attempted unsuccessfully on numerous occasions since the 1980's to negotiate acquisition of a road right-of-way easement across federal and non-federal (private, state, and county) lands to provide permanent legal public vehicular access to the National Forest.

Easter Mountain Ranch LLC's (EMR) has offered to provide public pedestrian, equestrian, and non-motorized bicycle trail access to the adjoining NFS lands at the northern end of the Whetstone Mountains along the western boundary of their J-6 Ranch property (Refer to Map 1-4). EMR's proposal also includes a trailhead parking area to be located somewhere along said western boundary and the non-motorized trail within the J-6 Ranch property.

EMR's current public access proposal appears to route public land users away from the J-6 Ranch Road, the major dedicated county road into the area, onto collector streets through various neighborhoods in Red Hawk II and Red Hawk III and across Arizona State Trust lands to a non-motorized trail and trailhead parking area along the western boundary of the proposed J-6 Ranch subdivision (Refer to Maps 3 & 4). The proposal does not meet Forest Service and AGFD objectives to provide permanent legal public vehicular access to adjoining NFS lands and is not a viable option, especially when you take into consideration the following:

- To date, other than J-6 Ranch Road realignment, most of the paved public streets to be built to county standards shown within a dedicated public right-of-way easement on the Final Plat for the 196 lot Red Hawk II subdivision (Phases I—IV) have not be constructed or accepted by Cochise County and will be built in phases;
- Although the 99 lot Red Hawk III Tentative Plat was approved by the BOS on March 24, 2009, the proposed paved public streets shown on the tentative plat are subject to change and will not be dedicated or built until the final plat for the proposed subdivision is approved by the BOS;
- There are no existing roads or a legal right of public vehicular access through the Arizona State Trust lands between the proposed Red Hawk III subdivision and the J-6 Ranch property; and
- There are no existing roads or non-motorized trails located on the adjacent National Forest near the proposed public pedestrian and equestrian trail and trailhead parking area along the western boundary of EMR's J-6 Ranch property.

Public land users have become extremely frustrated with government agencies at all levels (local, state, and federal) with their inability to restore public vehicular access routes to NFS lands that had existed for decades and have been blocked, gated, and locked and vehicular access for the general public denied. There is nothing more

exasperating to public land users than to pack (foot, horse, or bicycle) into an area and find a camp already set up with vehicles, camp trailers, off-highway vehicles, and guide dogs because their friends with the adjoining landowner and were allowed to drive into the National Forest (perceived exclusive use).

On August 11, 2011, the Cochise County Planning and Zoning Commission voted 5-1 to forward a recommendation of conditional approval for the proposed rezoning of the J-6 Ranch property. Conditional approval of the proposed rezoning is subject to EMR working with the USFS and AGFD to develop public vehicular access through the J-6 Ranch to the public lands at the northern end of the Whetstone Mountains to be reflected on all future subdivision plats.

USFS/AGFD Public Road Access Proposal:

Currently, it appears the best option to establish a dedicated perpetual public vehicular access route to the NFS lands and the forest road system at the northern end of the Whetstone Mountains may be to construct a low-speed low-maintenance unpaved roadway within the 50-foot wide open space buffer along the eastern boundary of the EMR's property from the end of the paved J-6 Ranch Road. The J-6 Ranch Road is a dedicated Cochise County maintained road that provides permanent legal public vehicular access to the proposed entrance of the J-6 Ranch subdivision (Refer to Map 5-10). Our proposed option would disperse public land users to locations on NFS lands beyond the proposed subdivision and other private lands adjoining the National Forest were impacts from public vehicular access, if any, may be minimized.

The USFS and AGFD are willing to purchase a 50-foot wide perpetual public road right-of-way easement at appraised fair market value within the proposed 50-foot wide open space buffer along the eastern boundary of EMR's J-6 Ranch property. In addition, the AGFD has offered to construct a ±12' wide by 0.75 mile long low-speed low-maintenance unpaved road within the 50-foot wide buffer for use by high-clearance two-wheel drive vehicles; passenger car use will be discouraged. The USFS and AGFD will also be responsible for compliance with all applicable federal, state, and local requirements and permitting processes regarding construction of the low-speed low-maintenance unpaved road to the National Forest.

Construction of the road to NFS lands would include some minor cut and fill work, lead-off ditches and rip-rap protection in some areas, fencing and signing along the public road right-of-way easement sidelines, and cattle guards and equestrian pass-through gates at the northern and southern ends of the road. The project will also require construction of ±50-foot of roadway across NFS land to connect the new public access route to existing NFSR's 212 and 4598.

A sign would also be placed at the northern entrance to the perpetual public road right-of-way easement informing users the ±0.75 mile road is for "Forest Access Only" and not to stop along the roadway until after they have entered the National Forest. The sign will also discourage passenger car use (high-clearance two-wheel drive vehicles only) and inform them that road maintenance is intermittent.

If a dedicated perpetual public vehicular access route to the forest road system and NFS lands at the northern end of the Whetstone Mountains is established, to further reduce impacts to the proposed subdivision and other private lands adjoining the National Forest from public vehicular access, several National Forest System Roads (NFSR), or portions thereof, will be proposed for decommissioning and removal from the Motor Vehicle Use Maps (MVUM).

The USFS and AGFD are looking forward to working in cooperation and partnership with Cochise County and EMR to establish a dedicated perpetual public vehicular access route to the forest road system and NFS lands at the northern end of the Whetstone Mountains.

Map 1

USFS/AGFD Proposed Public Vehicular Route through J-6 Ranch To National Forest System (NFS) Lands within 50' Open Space Buffer.

T. 17 S., R. 20 E.

T. 17 S., R. 18 E.

T. 18 S., R. 18 E.

T. 18 S., R. 19 E.

T. 18 S., R. 20 E.

Inventoried Roadless Area
No Road Maintenance or New Road Construction Allowed

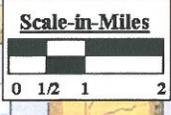
Dry Canyon Road (NFSR 4014) is currently the only legal public access route to the entire Whetstone Mountain Unit.

T. 19 S., R. 18 E.

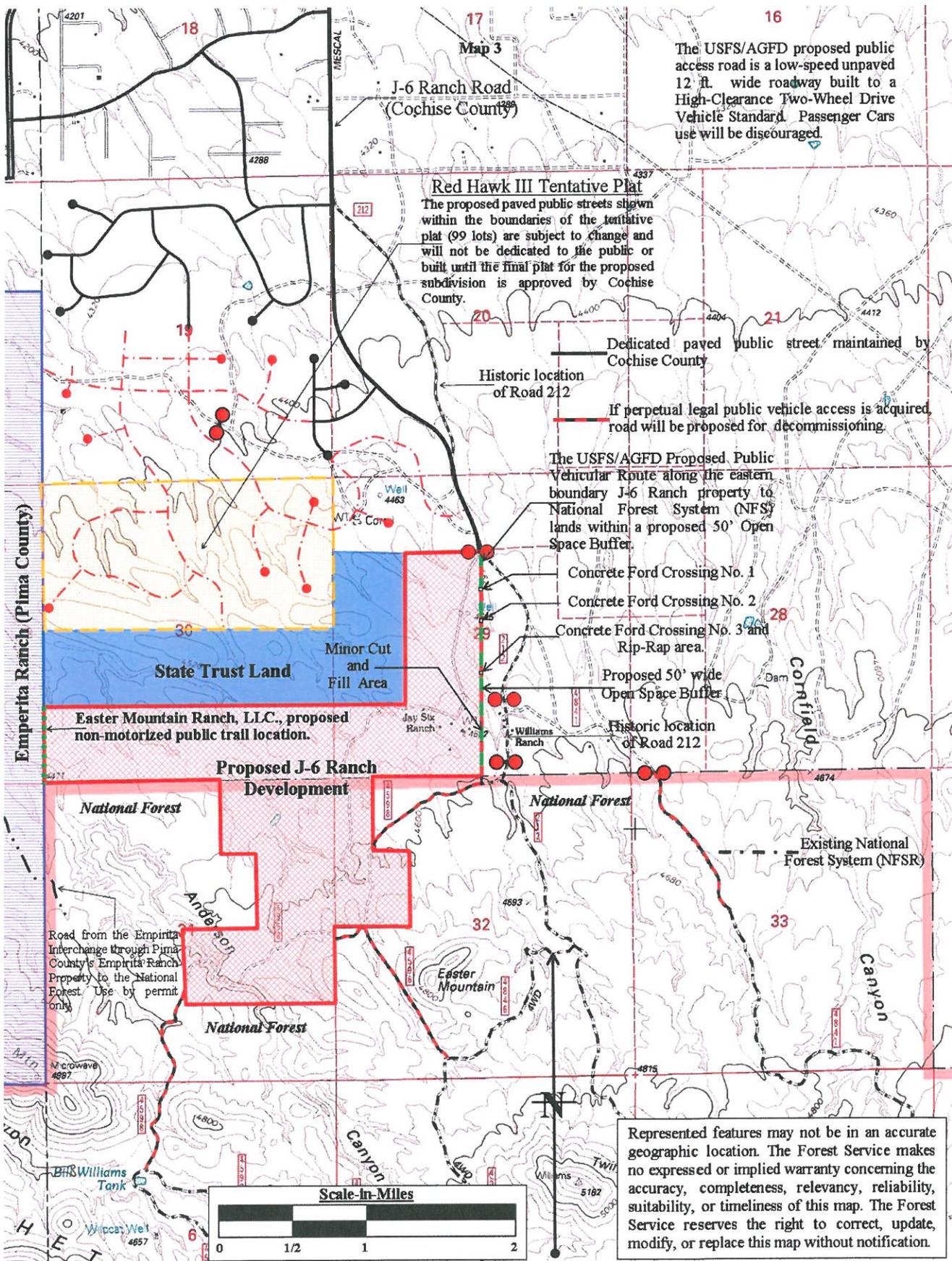
T. 19 S., R. 19 E.

T. 19 S., R. 20 E.

Represented features may not be in an accurate geographic location. The Forest Service makes no expressed or implied warranty concerning the accuracy, completeness, relevancy, reliability, suitability, or timeliness of this map. The Forest Service reserves the right to correct, update, modify, or replace this map without notification.



- J-6 Ranch Road Extension to National Forest and NFSR 4598
- Roads Proposed to be Decommissioned
- - - Proposed Conversion of the Road to a Trail
- Dry Canyon Road (NFSR 4014)
- - - Restricted Access Route from the Emperita Interchange to the National Forest (By Pima County Permit Only)
- Locked Gate
- Emperita, Sands, and Clyne Ranches (Pima County)



- Roads Currently Paved within dedicated Cochise County ROW
- Planned Roads within dedicated Cochise County ROW
- Proposed Roads and ROW dedications shown on the Redhawk III Tentative Plat
- Red Hawk III Tentative Plat Boundary
- Existing National Forest System Roads (NFSR)
- Forest Service/AGFD proposed extension of the J-6 Ranch Road within the 50' Open Space Buffer
- Road from the Empirita Interchange through Pima County's Empirita Ranch Property to the National Forest
- Roads proposed to be Decommissioned
- Easter Mountain Ranch, LLC., proposed non-motorized public trail location.
- Locked Gate

Note: Many of the paved public streets to be built to county standards shown within a dedicated public right-of-way easement on the approved Final Plat for Red Hawk II (Phases I-IV) have not been constructed or accepted by Cochise County.

Note: The paved public streets shown within the boundaries of the Red Hawk III Tentative Plat (99 lots) will not be dedicated to the public or built until the final plat for the proposed subdivision is approved by Cochise County and are subject to change.

USFS / AGFD Proposed Public Vehicular Route through J-6 Ranch To National Forest System (NFS) Lands within 50' Open Space Buffer. Said road is a low-speed low-maintenance unpaved 12 ft wide roadway built to a high-clearance two-wheel drive vehicle standard. Passenger cars use will be discouraged.

State Trust Land
No roads or right of public access exists

Easter Mountain Ranch, LLC., proposed non-motorized public trail location.

J-6 Ranch Hidden Valley Estates

J-6 Ranch Mountain Estates

Empirita Ranch (Pima County)

Road from the Empirita Interchange through Pima County's Empirita Ranch Property to the National Forest. Use is limited and by permits only.

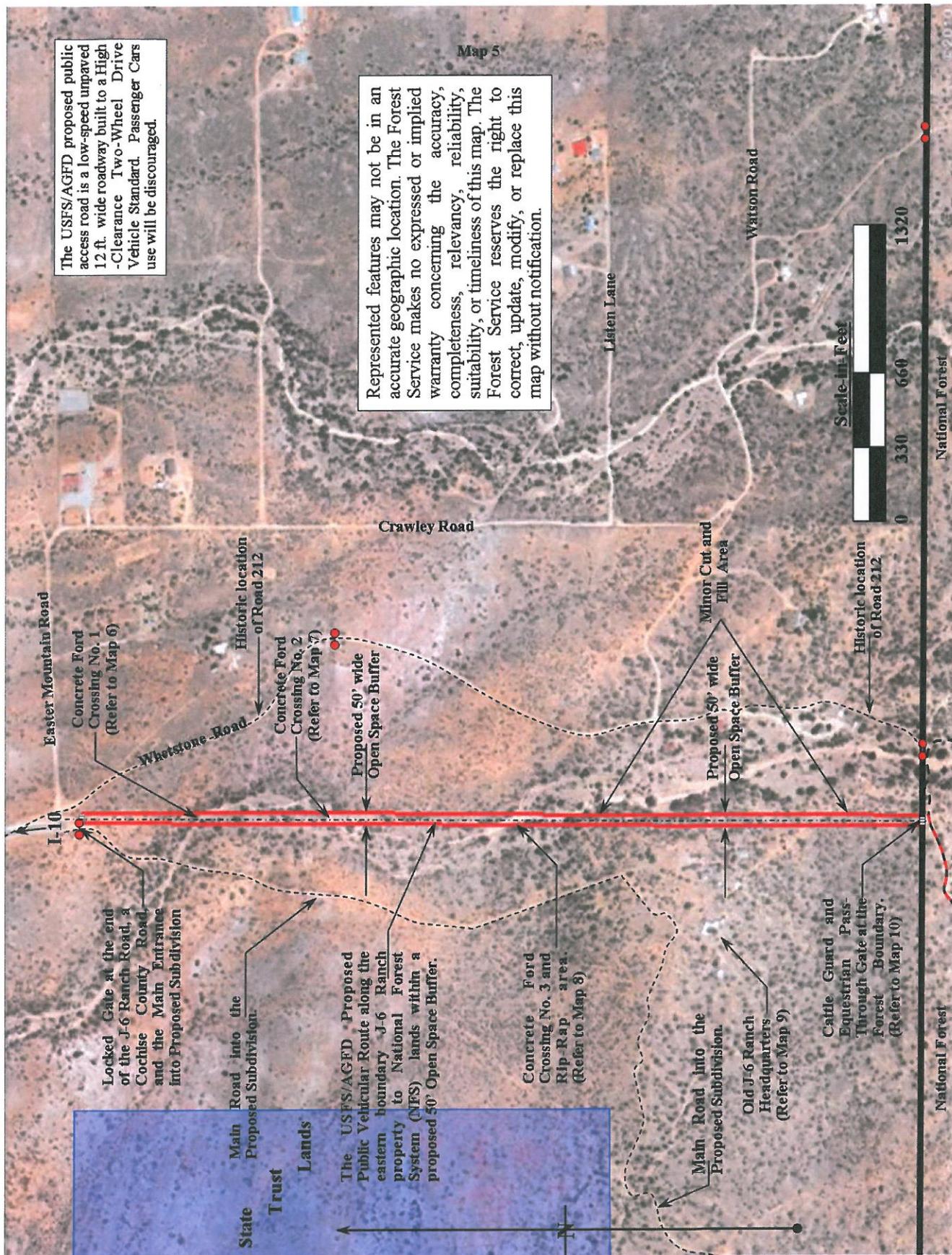


QUICKMAP, MADE BY 2005

H8

The USFS/AGFD proposed public access road is a low-speed unpaved 12-ft. wide roadway built to a High-Clearance Two-Wheel Drive Vehicle Standard. Passenger Cars use will be discouraged.

Map 5
 Represented features may not be in an accurate geographic location. The Forest Service makes no expressed or implied warranty concerning the accuracy, completeness, relevancy, reliability, suitability, or timeliness of this map. The Forest Service reserves the right to correct, update, modify, or replace this map without notification.



Easter Mountain Road

Concrete Ford Crossing No. 1 (Refer to Map 6)

Whetstone Road
 Historic location of Road 212

Concrete Ford Crossing No. 2 (Refer to Map 7)

Proposed 50' wide Open Space Buffer

Crawley Road

Latten Lane

Watson Road

Minor Cut and Fill Area

Proposed 50' wide Open Space Buffer

Historic location of Road 212

Scale in Feet

0 330 660 1320

National Forest

Locked Gate at the end of the J-6 Ranch Road, a Cochise County Road, and the Main Entrance into Proposed Subdivision

State Trust Lands
 Main Road into the Proposed Subdivision

The USFS/AGFD Proposed Public Vehicular Route along the eastern boundary J-6 Ranch property to National Forest System (NFS) lands within a proposed 50' Open Space Buffer.

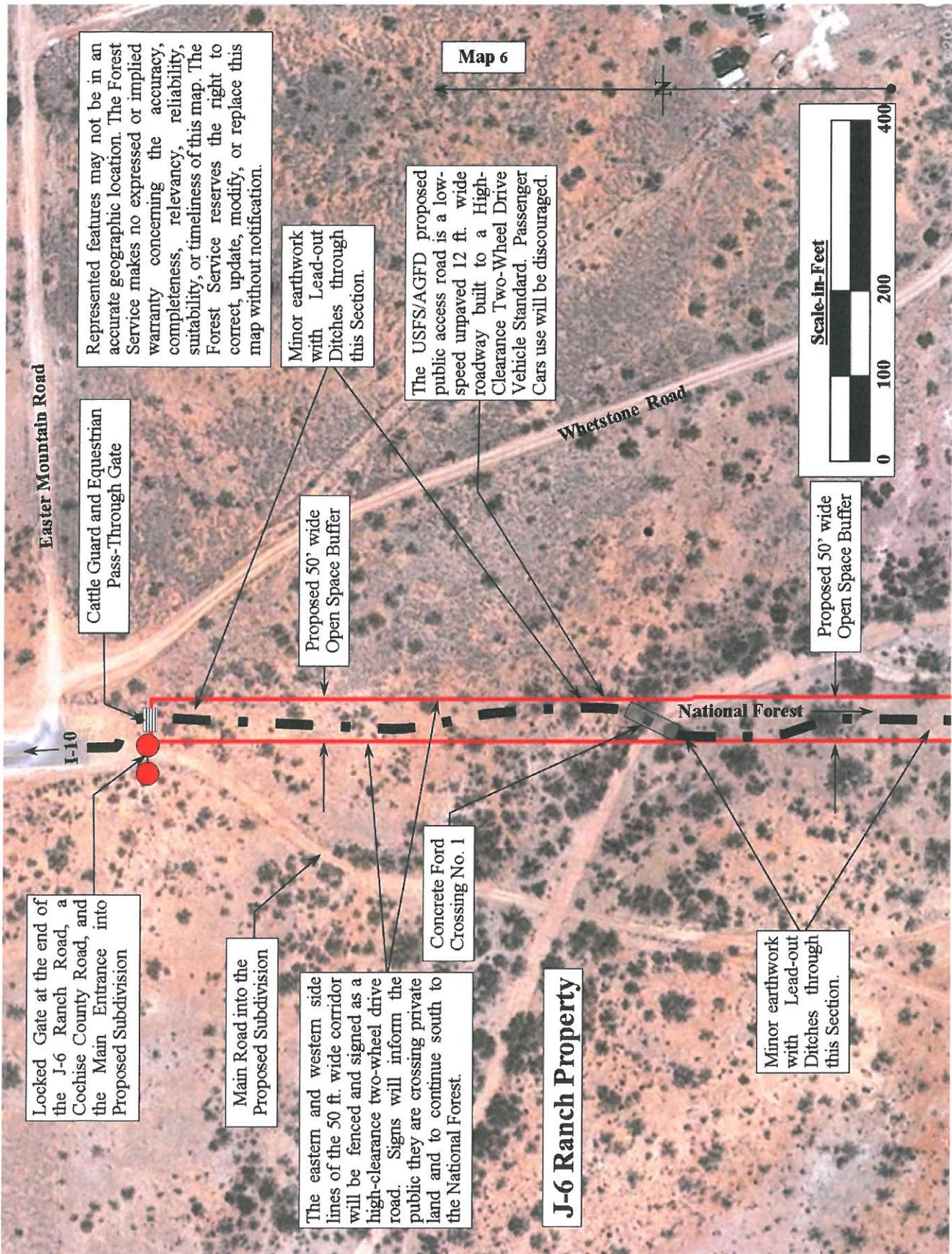
Concrete Ford Crossing No. 3 and Rip-Rap area. (Refer to Map 8)

Main Road into the Proposed Subdivision
 Old J-6 Ranch Headquarters (Refer to Map 9)

Cattle Guard and Equestrian Pass Through Gate at the Forest Boundary. (Refer to Map 10)

National Forest

49



Represented features may not be in an accurate geographic location. The Forest Service makes no expressed or implied warranty concerning the accuracy, completeness, relevancy, reliability, suitability, or timeliness of this map. The Forest Service reserves the right to correct, update, modify, or replace this map without notification.

Minor earthwork with Lead-out Ditches through this Section.

The USFS/AGFD proposed public access road is a low-speed unpaved 12 ft. wide roadway built to a High-Clearance Two-Wheel Drive Vehicle Standard. Passenger Cars use will be discouraged.

Easter Mountain Road

Cattle Guard and Equestrian Pass-Through Gate

Proposed 50' wide Open Space Buffer

Proposed 50' wide Open Space Buffer



Map 6

Whetstone Road

National Forest

Locked Gate at the end of the J-6 Ranch Road, a Cochise County Road, and the Main Entrance into Proposed Subdivision

Main Road into the Proposed Subdivision

The eastern and western side lines of the 50 ft. wide corridor will be fenced and signed as a high-clearance two-wheel drive road. Signs will inform the public they are crossing private land and to continue south to the National Forest.

Concrete Ford Crossing No. 1

J-6 Ranch Property

Minor earthwork with Lead-out Ditches through this Section.

H10

Represented features may not be in an accurate geographic location. The Forest Service makes no expressed or implied warranty concerning the accuracy, completeness, relevancy, reliability, suitability, or timeliness of this map. The Forest Service reserves the right to correct, update, modify, or replace this map without notification.

Map 7

Locked Gate

Whetstone Road

The eastern and western side lines of the 50 ft. wide corridor will be fenced and signed as a high-clearance two-wheel drive road. Signs will inform the public they are crossing private land and to continue south to the National Forest.

Proposed 50' wide Open Space Buffer

The USFS/AGFD proposed public access road is a low-speed unpaved 12 ft. wide roadway built to a High-Clearance Two-Wheel Drive Vehicle Standard. Passenger Cars use will be discouraged.



J-6 Ranch Road

National Forest

Minor earthwork with Lead-out Ditches through this Section.

Concrete Ford Crossing No. 2

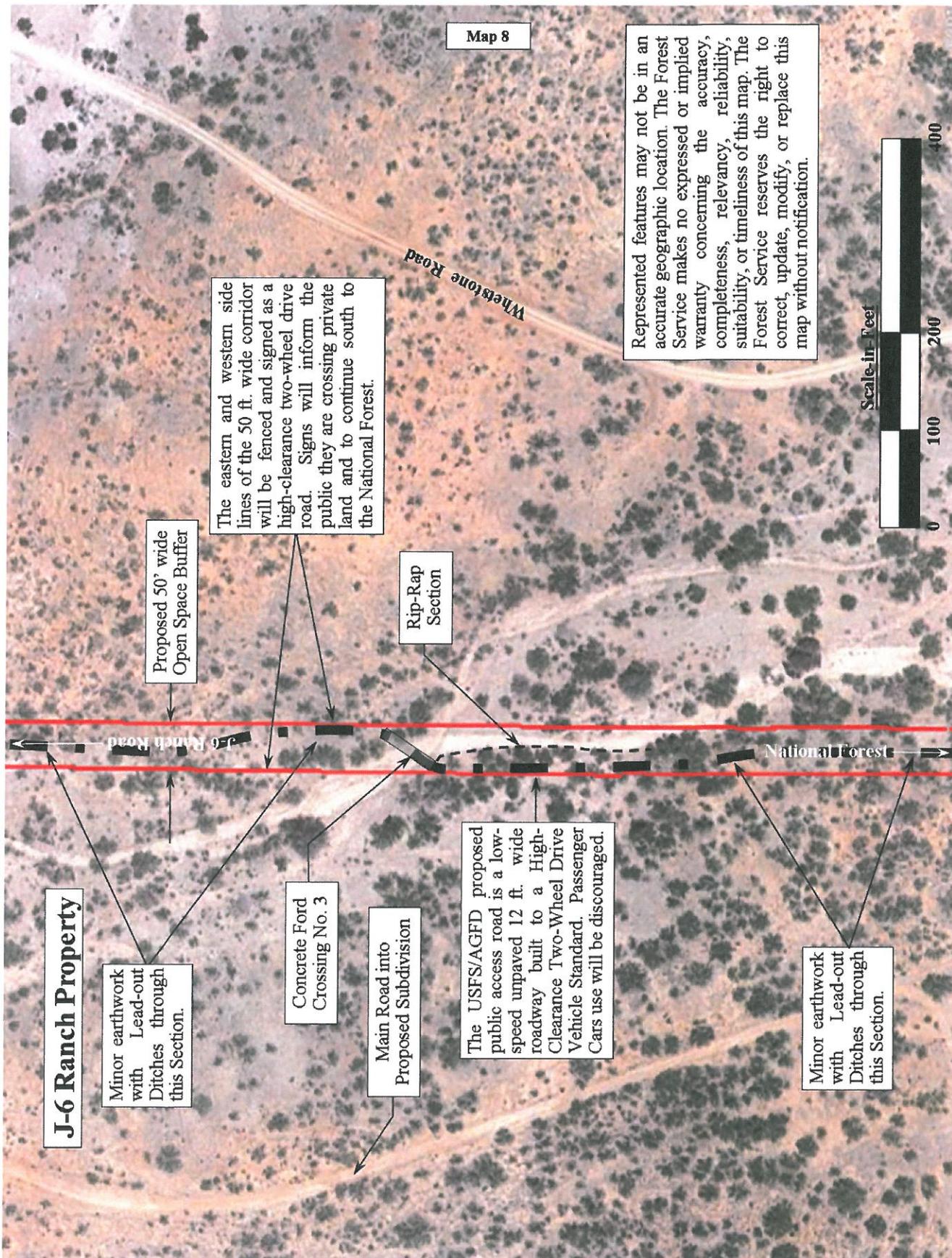
J-6 Ranch Property

Main Road into Proposed Subdivision

Minor earthwork with Lead-out Ditches through this Section.

H11

Map 8



J-6 Ranch Property

Minor earthwork with Lead-out Ditches through this Section.

Proposed 50' wide Open Space Buffer

The eastern and western side lines of the 50 ft. wide corridor will be fenced and signed as a high-clearance two-wheel drive road. Signs will inform the public they are crossing private land and to continue south to the National Forest.

Rip-Rap Section

Concrete Ford Crossing No. 3

Main Road into Proposed Subdivision

The USFS/AGFD proposed public access road is a low-speed unpaved 12 ft. wide roadway built to a High-Clearance Two-Wheel Drive Vehicle Standard. Passenger Cars use will be discouraged.

Minor earthwork with Lead-out Ditches through this Section.

Represented features may not be in an accurate geographic location. The Forest Service makes no expressed or implied warranty concerning the accuracy, completeness, relevancy, reliability, suitability, or timeliness of this map. The Forest Service reserves the right to correct, update, modify, or replace this map without notification.



Map 9

Watson Road

Whetstone Road

Historic location of Road 212

Historic location of Road 212

Proposed 50' wide Open Space Buffer

The eastern and western side lines of the 50 ft. wide corridor will be fenced and signed as a high-clearance two-wheel drive road. Signs will inform the public they are crossing private land and to continue south to the National Forest.

Represented features may not be in an accurate geographic location. The Forest Service makes no expressed or implied warranty concerning the accuracy, completeness, relevancy, reliability, suitability, or timeliness of this map. The Forest Service reserves the right to correct, update, modify, or replace this map without notification.

The USFS/AGFD proposed public access road is a low-speed unpaved 12 ft. wide roadway built to a High-Clearance Two-Wheel Drive Vehicle Standard. Passenger Cars use will be discouraged.

Main Road into Proposed Subdivision

Minor Cut and Fill Section

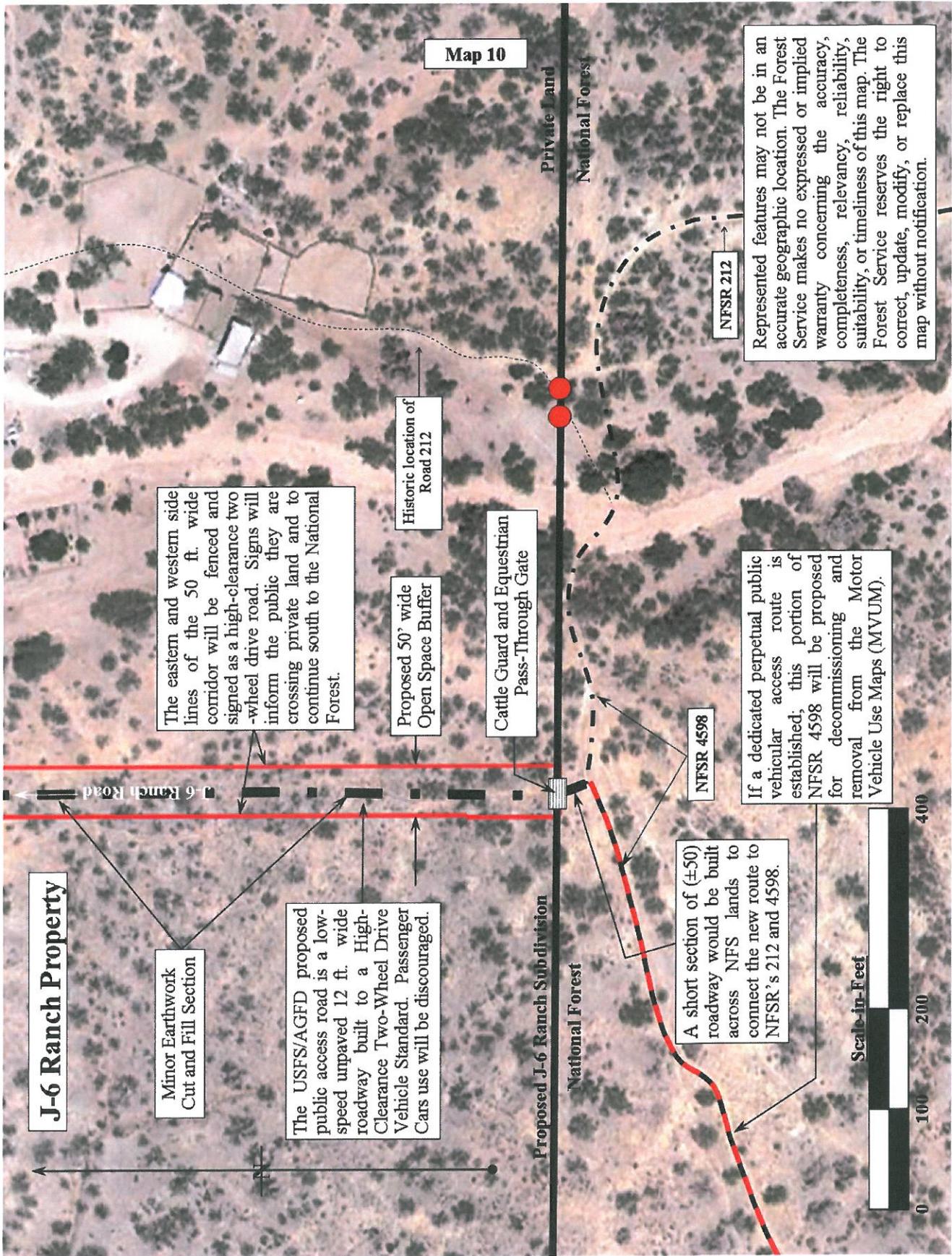
J-6 Ranch Property

Old J-6 Ranch Headquarters

J-6 Ranch Road National Forest



Map 10



H 14

When recorded return to:

Snell & Wilmer L.L.P.
1500 Unisource Tower
One South Church Avenue
Tucson, Arizona 85701-1630

For Recorder's Use

ACCESS EASEMENT

THIS ACCESS EASEMENT is executed this ____ day of _____, 2008 by ORACLE HIGHLANDS, LLC, an Arizona limited liability company, hereinafter referred to as "**Grantor.**"

WITNESSETH:

A. WHEREAS, Grantor is the owner in fee title of that certain real property in Pinal County, Arizona described as Lot 1, the Northwest Quarter of the Northeast Quarter, the South Half of the Northeast Quarter, the Northwest Quarter, and the South Half of Section 2, Township 10 South, Range 15 East, Gila and Salt River Meridian, Pinal County, Arizona; except the North Half of Northwest Quarter of said Section 2, except the East 330 feet thereof; and the Northeast Quarter of Section 3, Township 10 South, Range 15 East, Gila and Salt River Meridian (all hereinafter referred to as the "**Real Property**");

B. WHEREAS, the Grantor has planned a phased development of approximately 260 custom home lots, currently known as Coronado Reserve (marketed as Coronado Highlands), hereinafter referred to as the "**Phased Development**" within the Real Property described above;

C. WHEREAS, it is the desire and intent of the Grantor to donate, dedicate, grant, and convey to the general public, hereinafter referred to as "**Grantee**", a perpetual, non-exclusive easement for vehicular and pedestrian ingress and egress over and across certain lands within the Real Property to ensure continued access by the general public to adjacent National Forest System (NFS) lands and NFS Road (NFSR) 736, hereinafter referred to as "**NFSR 736**", in Sections 1 and 11, Township 10 South, Range 15 East, Gila and Salt River Meridian, Pinal County, Arizona;

D. WHEREAS, vehicular and pedestrian ingress and egress for the general public through the Phased Development and Real Property will be donated, dedicated, granted, and conveyed to the Grantee over and across that portion of the Real Property described in Exhibit A attached hereto (hereinafter the "**Access Routes to NFS Lands**"); and

E. WHEREAS, at such time as all or portions of the Access Routes to NFS Lands (comprising Coronado Highlands Drive, Charouleau Gap Road, and Tracts G and H, as set forth in said Exhibit A) are platted or replatted by the Grantor, the Access Routes to NFS Lands within the Real Property, to the extent provided within streets and roads shown upon such plats, shall be confined to the streets and roads so platted or replatted, all as provided herein.

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NOW, THEREFORE, subject to the terms, provisions, and conditions set forth herein, it is agreed as follows:

1. Grant of Easement. Grantor, does by these presents hereby donate, dedicate, grant, and convey to the general public a perpetual, non-exclusive easement for vehicular and pedestrian ingress and egress, hereinafter referred to as the “**Easement,**” over and across that portion of the Real Property described in Exhibit A attached hereto, being the Access Routes to NFS Lands, with maps depicting the easements described in said Exhibit A being attached as Exhibit B thereto. Said Easement shall be used by the general public solely for direct and immediate vehicular and pedestrian ingress and egress to and from adjacent NFS lands and NFSR 736, within the Coronado National Forest and Sections 1 and 11, Township 10 South, Range 15 East, Gila and Salt River Base & Meridian, Pinal County, Arizona and shall not be used to access other private lands. There shall be no stopping (other than to yield to vehicular and pedestrian traffic), parking, camping, picnicking or other activities permitted by the general public on the Access Routes to NFS Lands. Grantor, its successors and assigns, reserves the right to use the said Easement for all purposes not inconsistent with the purposes of the grant hereby made, including the right to use, construct, reconstruct, improve, repair, maintain, travel across, build or bore under or over, and otherwise to use, enjoy and gain access over, across and under the said lands.

2. Future Phases and Platting. As lands within the Access Routes to NFS Lands which are a part of the Phased Development are platted or replatted by the Grantor, the roads so platted or replatted, limited to the full width of the improved, paved surfaces of the roads so platted or replatted, shall be deemed to be a part of the Easement herein granted and shall be deemed a part of the Access Routes to NFS Lands. Should the location of the roads and improved, paved surfaces as platted or replatted deviate or change from those shown as the Access Routes to NFS Lands in Exhibit A hereto, then provided that the roads are substantially located as described in Exhibit A hereto, and provided that continuous access for the general public remains to NSF Lands as contemplated by the Access Route to NSF Lands, no further approval for such deviation or change shall be necessary. In such case, the roads so platted or replatted, including any deviations or changes from the precise alignment and bearings shall, to the extent of any inconsistency or realignment, supersede and replace those shown in said Exhibit A and shall be deemed accepted as a part of the Easement herein granted and as a part of the Access Route to NSF Lands.

Irrespective of any centerline or other descriptions of the widths of Coronado Highlands Drive, Charouleau Gap Road, and Tracts G and H of the Access Routes to NFS Lands, upon the platting or replatting of such roads the Easement shall in each case extend to the full width of the improved paved surface of the roads so platted or replatted, except that in the case of Tracts G and H, if such routes are unimproved or not paved, the Easement shall be limited to the unimproved surfaces.

3. Assurance of Continuous Access. If, for any reason, vehicular and pedestrian ingress and egress for the general public from the nearest public street, roadway, or highway to and from the northeast entrance to the Access Routes to NFS Lands as described on Exhibit A hereto (“**Tract H**”), should be closed or obstructed, then the northwest entrance from State Route 77 to Coronado Highlands Drive as shown in Exhibit A, shall be open and available to the general public for vehicular and pedestrian ingress and egress to and from NFS lands and NFSR 736. General public vehicular and pedestrian ingress and egress through said northwest entrance to Coronado Highlands Drive may be restricted any time the northeast entrance as described on said Exhibit A (“**Tract H**”) is open and available to the general public for vehicular and pedestrian ingress and egress from the nearest public street, roadway, or highway.

4. Recreational User Status. Any person entering upon the Access Routes to NFS Lands pursuant to the rights herein granted shall be deemed a recreational user pursuant to Arizona Revised Statutes Title 33-1551 and Grantor, its successors and assigns, shall not be liable to any such recreational user for any injury occurring on or arising out of the use of the Access Routes to NFS Lands, except upon showing that the Grantor, its successors and assigns, was guilty of willful, malicious or grossly negligent conduct.

5. Construction, Reconstruction, Improvement, Repair, and Maintenance of the Access Route to National Forest System Lands. The general public shall not be responsible for, nor be required to contribute to the construction, reconstruction, repair and maintenance of the Access Routes to NFS Lands. The Grantor, its successors and assigns, will accept the responsibility for construction, reconstruction, maintenance and repair of the Access Routes to NFS Lands. The Access Routes to NFS Lands shall be constructed, reconstructed, maintained and repaired, including the removal of road obstructions by the Grantor, its successors and assigns, at a level consistent with the use intended by the Easement. Grantor, its successors and assigns, may, but without obligation, enter into written agreements with one or more volunteer public land user groups or governing agencies desiring to maintain, repair, or reconstruct the Access Routes to NFS Lands, or portions thereof, including removal of road obstructions and trash, the installation of signs, and the control of traffic, all without expense to the public, and to a level consistent with the use intended by the Easement. Without limitation, any homeowners association governing the Real Property shall succeed to all such duty of maintenance and repair of the Access Routes to NFS Lands.

6. Alternative Route Within or Outside Real Property. In addition to changes in the course or precise location of roads within the Access Routes to NFS Lands which may occur in the platting or replatting process, as provided in Section 2 above, and which require no further approvals provided that the roads are substantially located as described in Exhibit A hereto and provide continuous access for the general public, Grantor or its successors and assigns, or any association of individual lot owners may at some future date relocate and construct an alternative public access route to NFS lands and NFSR 736 within or outside the boundaries of the Real Property, or a combination thereof, at a road standard and in a location satisfactory to the Forest Supervisor of the Coronado National Forest and Region V Supervisor of the Arizona Game and Fish Department, evidenced by a written statement in recordable form of such acceptance by both said Supervisors. In addition, any such relocation and construction of the alternative access route, either within or outside the boundaries of the Real Property, or a combination thereof, will require the appropriate permits and authorizations from the applicable local, state, and federal regulatory authorities prior to written acceptance by both Supervisors of the proposed relocation being constructed, except as provided in Section 2 above. Upon said written acceptance of such relocated and constructed public access route by both Supervisors and a grant and conveyance of a perpetual road easement for said relocated and constructed public access route to either the general public, the United States of America, acting by and through the Forest Service, United States Department of Agriculture, the State of Arizona, acting by and through the Arizona Game and Fish Department, or other local or state governmental agencies desiring jurisdiction and authority to maintain, repair, and reconstruct said relocated and constructed roadway or portions of the said roadway, the Easement granted and conveyed herein to the general public for the Access Routes to NFS Lands shall be deemed terminated.

7. Enforcement. Grantor shall have concurrent rights with Grantee to take action to enforce terms and provisions hereof and to prevent, by injunctive relief or otherwise, any violation of the terms and provisions hereof by any potential user of the Easement.

8. Amendments. This instrument and donation, dedication, grant, and conveyance to the general public for a perpetual, non-exclusive easement for vehicular and pedestrian ingress and egress to and from NFS lands and NFSR 736 may be amended by Grantor, its successors or assigns, with the written consent of the Forest Supervisor of the Coronado National Forest and Region V Supervisor of the Arizona Game and Fish Department. Any such amendment shall be recorded in the Official Records of Pinal County, Arizona.

9. Termination. If the Forest Supervisor of the Coronado National Forest and Region V Supervisor of the Arizona Game and Fish Department determine that the Easement, or any segment thereof, is no longer needed for vehicular and pedestrian ingress and egress to and from NFS lands and NFSR 736 for the general public, the easement traversed thereby shall terminate. The termination shall be evidenced by a written statement of such termination in recordable form executed by both said Supervisors and approved by the Grantor or his successors or assigns in interest.

IN WITNESS WHEREOF, the Grantor has hereunto set its name on the above written date.

ORACLE HIGHLANDS, LLC, an Arizona limited liability company

By: Diamond Ventures, Inc., an Arizona corporation, Managing Member

By: _____

Name: _____

Title: _____

ACKNOWLEDGMENT

STATE OF ARIZONA)
) ss.
County of Pinal)

The foregoing instrument was acknowledged before me this ____ day of _____, 2008 by _____, the _____ of Diamond Ventures, Inc., an Arizona corporation, Managing Member of ORACLE HIGHLANDS, LLC, an Arizona limited liability company, on behalf of the limited liability company.

Notary Public

My commission expires: _____

H18

EXHIBIT A

(SEE ATTACHED LEGAL DESCRIPTION INCLUDING MAP
DEPICTING EASEMENTS)

C:\N\Portbl\SWDMS\SIMONM\8598061_3-4.DOC

EASTER MOUNTAIN RANCH, L.L.C.

1050 E. RIVER ROAD, SUITE 300
TUCSON, ARIZONA 85718
(520)293-1702/FAX (520)293-0539
E-Mail: slenihan@usa.net

July 26, 2011

United States Department of Agriculture
Forest Service
Coronado National Forest
Attn: George W. McKay
Forest Lands Officers
300 W. Congress Street
Tucson, AZ 85701

Re: J-6 Ranch

Dear Sirs:

We understand that the Forest Service desires a vehicular easement through our community for the purpose of providing vehicular and other access to the Coronado National Forest - Whetstone Mountains (the "Forest"). Beverly Wilson, Interim Planning Manager for Cochise County, has indicated that the access you desire would be at the east boundary of our property adjacent to many of our neighbors who live on large lots or large parcels of land.

As you may recall, we met with you and with a representative from the Arizona Game and Fish Department approximately four years ago to discuss access through our community to the Coronado National Forest. At that time we offered to provide the Forest Service with a public pedestrian, equestrian and non-motorized bicycle easement along the western boundary of our property. This was offered to the Forest Service without charge of any kind. This would have opened up access to the northern portion of the Forest for the first time in at least over thirty years, and based upon our research, probably the first time ever. You will also recall that you rejected our offer to provide the Forest Service with this easement without charge to the Forest Service. As a result, the public has continued for the last four years to be without legal access of any kind to the northern portion of the Forest.

Many of our neighbors are extremely concerned over the possibility of vehicular access to the Forest for many reasons, not the least of which is the possibility of all-terrain vehicles ("ATVs") leaving existing trails to cut their own trails in the mountains. They have seen similar situations where such access to

United States Department of Agriculture
July 26, 2011
Page 2

ATVs has all but destroyed public lands. Vehicular access also presents a greater fire risk in this grassland area. For these reasons, we decline to provide vehicular access, but, after talking with Ms. Wilson, we have agreed that, in addition to our past offer, our proposal is hereby modified to provide the Forest Service with an easement to include parking on our property. As a result, not only would we provide, without charge, a public pedestrian equestrian and non-motorized bicycle easement across our property, but we would also provide a parking lot on our property, again without charge, so that users of the Forest would be able to park on our property and hike or ride into the Forest. We would also provide the Forest Service with emergency vehicular access through this easement and through the streets within our community.

We hope that this proposal will be acceptable to the Forest Service. Should you desire to discuss this matter further, please call me at (520) 293-1702 ext. 104.

Very truly yours,

Easter Mountain Ranch, L.L.C.



Stephen J. Lenihan

SJL:mkg

Cc: Mr. Duff C. Hearon (via email)

Ms. Beverly Wilson, Interim Planning Manager (via email)



United States
Department of
Agriculture

Forest
Service

Coronado National Forest
Supervisor's Office

300 W. Congress
Tucson, Arizona 85701
Phone (520) 388-8300
FAX (520) 388-8305
Deaf & Hearing Impaired 711

File Code: 5460

Date: August 9, 2011

Stephen J. Lenihan
Easter Mountain Ranch, L.L.C.
1050 E. River Road, Suite 300
Tucson, AZ 85718

Dear Mr. Lenihan:

I am writing in response to your July, 26, 2011 letter to George McKay, Forest Access, Lands, and Boundary Management, revising your offer to provide an easement for public pedestrian, equestrian and non-motorized bicycle access to the National Forest System (NFS) along the western boundary of your proposed J-6 Ranch subdivision to include an area for a trailhead parking lot.

Although we appreciate your continued dialogue on this matter, the revised offer does not meet our objective regarding the need for permanent legal public vehicular access to the NFS lands at the northern end of the Whetstone Mountains. Your proposal would require the public to cross State Trust lands, where no public roadway or right of legal public access exists. Your proposal would also require the public to drive through various neighborhoods in the Red Hawk Ranch at J-Six Ranch subdivision from the J-6 Ranch Road, which is the main arterial route from Interstate 10 into the J-6 Ranch area and to your proposed subdivision.

Routing public land users off the J-6 Ranch Road onto collector roads and local streets through the Red Hawk Ranch subdivision and then across State Trust lands does not meet our objectives for public access. We support the alternative to your proposal which would dedicate and grant a road right-of-way easement to the United States, Arizona Game and Fish Department (AGFD), or Cochise County for a ± 0.75 miles extension of the J-6 Ranch Road along the eastern boundary of your proposed subdivision to the National Forest.

An extension of the J-6 Ranch Road along the eastern boundary of your proposed subdivision can be easily connected to the existing forest road system where public land users could be dispersed to locations where there impacts on the proposed subdivision and other private lands adjoining the National Forest would be minimized. The AGFD has offered to construct the extension of the J-6 Ranch Road to the existing forest road system within the National Forest, which would include the fencing of the road right-of-way easement and signing of the road to further reduce impacts to the private lands crossed.

While I understand concerns about effects of OHV use on public lands, the Coronado National Forest is currently closed to cross-country travel by all motorized vehicles. Our recently released Motor Vehicle Use Maps (MVUM) describes these restrictions and limits motor vehicle use to only authorized routes.



H22

I believe that there is a solution that will meet your concerns while providing adequate public access to National Forest lands. We would be willing to meet with you to discuss these issues to arrive at a mutually agreeable solution. If you have any further questions regarding our need for permanent legal public vehicular access, please contact George McKay, Forest Access, Lands, and Boundary Management [(520) 388-8423 or gmckay@fs.fed.us], at this office.

Sincerely,



JIM UPCHURCH
Forest Supervisor

cc:

D3

Beverly Wilson, Cochise County Interim Planning Manager



United States
Department of
Agriculture

Forest
Service

Coronado National Forest
Supervisor's Office

300 W. Congress
Tucson, Arizona 85701
Phone (520) 388-8300
FAX (520) 388-8305
Deaf & Hearing Impaired 711

File Code:5460/7720

Date:September 27, 2011

Cochise County Board of Supervisors
1415 Melody Lane, Building G
Bisbee, AZ 85603

To the Board:

Enclosed is a copy of a October 30, 2007, letter from my predecessor, Jeanine Derby, to the Cochise County Board of Supervisors regarding Easter Mountain Ranch, L.L.C. (EMR) proposal to rezone and develop the ±556 acre J-6 Ranch property at a higher density level (RU-4 to SR-2) and the lack of permanent legal public vehicular access to the adjoining National Forest System (NFS) lands. Approximately 240 acres of the proposed J-6 Ranch development is within the proclaimed boundary of the Coronado National Forest and essentially surrounded by NFS lands at the northern end of the Whetstone Mountains.

During a December 12, 2007, Cochise County Planning and Zoning Commission meeting, EMR offered to provide public pedestrian and equestrian trail access along the western boundary of their proposed subdivision to the National Forest. EMR stated during the meeting that they were unwilling to allow public vehicular access because the neighboring landowners were against allowing public vehicular access to the adjoining National Forest. EMR further stated at the meeting that, *"they are more concerned with being good neighbors than good citizens"* in regards to allowing public vehicular access to the National Forest.

The Cochise County Planning and Zoning Commission voted unanimously at the December 12, 2007, meeting to recommend the Cochise County Board of Supervisors (BOS) deny the EMR's rezoning request because of several unresolved issues including the lack of permanent legal public vehicular access to the adjoining NFS lands. Several Commission members recommended EMR address the lack of permanent legal public vehicular access to the adjoining public lands before returning to the Planning and Zoning Commission.

Other than EMR revising their original offer regarding public pedestrian and equestrian trail access to include non-motorized bicycles and an area for a trailhead parking, the public access situation and need for public vehicular access at the northern end of the Whetstone Mountains has not changed since 2007 (refer to enclosures). EMR's current proposal does not meet the Forest Service and Arizona Game and Fish Department (AGFD) objectives to provide permanent legal public vehicular access to the adjoining NFS lands and is not a viable option (Refer to enclosed maps and the USFS/AGFD Public Road Access Proposal).

EMR is still unwilling to dedicate and grant a perpetual public road right-of-way easement through the J-6 Ranch property because of their concerns, as well as their neighbor's, regarding off-highway vehicle use on NFS lands adjoining the development. While I understand EMR's concerns about the effects of off-highway vehicle use on public lands, (except for 300' on each



side of an open road for dispersed camping) the Coronado National Forest has been closed to cross-country travel by motorized vehicles since 1986. Recently released Motor Vehicle Use Maps (MVUM) describes the cross-country travel restrictions and limits motor vehicle use to authorized routes only.

EMR returned to a new Cochise County Planning and Zoning Commission on August 11, 2011. The Planning and Zoning Commission voted 5-1 to forward a recommendation of conditional approval for the proposed rezoning of the J-6 Ranch property. Conditional approval of the proposed rezoning is subject to EMR with the USFS and AGFD to develop public vehicular access through said property to the public lands at the northern end of the Whetstone Mountains to be reflected on all future subdivision plats.

The USFS and AGFD are looking forward to working in cooperation and partnership with Cochise County and EMR to establish a perpetual public vehicular access route to the current forest road system and NFS lands at the northern end of the Whetstone Mountains. A dedicated perpetual public road right-of-way easement granted to the USFS and/or the AGFD has the potential to provide permanent legal public vehicular access to thousands of acres of public land within the National Forest in the area.

Currently, it appears the best public access option may be to construct a low-speed low-maintenance unpaved 12-foot wide roadway for use by high-clearance two-wheel drive vehicles (passenger car use would be discouraged) within the 50 foot open space buffer along the eastern boundary of the EMR's property from the end of the paved J-6 Ranch Road to the current forest road system and NFS lands at the northern end of the Whetstone Mountains. Public land users would then be dispersed to locations on NFS lands past the proposed subdivision and other private lands adjoining the National Forest where impacts from public vehicular access, if any, may be minimized (Refer to enclosed USFS and AGFD public access road proposal).

The USFS and AGFD are also willing to purchase a 50-foot wide perpetual public road right-of-way easement at appraised fair market value within the 50-foot open space buffer. In addition, the AGFD has offered to construct the unpaved low-speed road within the buffer, which would include the fencing of the public road right-of-way easement sidelines and signing of the road to further reduce impacts, if any, to the proposed J-6 Ranch subdivision and other private lands adjoining the National Forest.

In regards to fire control, the lack of public and administrative access to the northern end of the Whetstone Mountains has been a concern for years. In 2007, there was a fire on the National Forest south of the J6 Ranch. The fire occurred ahead of anticipated monsoon rains and required full suppression due to its proximity of homes to the north and northeast of the fire as well as the southwest prevailing winds. It took over an hour to identify a route to the fire through the private lands adjacent to the National Forest; then more time to locate the correct landowner and ask his permission to cross his private land into the Forest. Having a well-marked permanent legal administrative and public access route to the National Forest will greatly improve our ability to respond to fires on the National Forest at the northern end of the Whetstone Mountains.

Because of the current access situation at the northern end of the Whetstone Mountains, routine patrols by Forest Service protection officers and other personnel have become virtually non-existent. If public vehicular access is restored to the area, the Forest Service and other agencies with jurisdiction or authority (federal, state, and local) will be able to resume routine patrols again to promote safe and responsible use, including motor vehicle use, of NFS lands and enforce the appropriate federal, state, and local laws including the travel management rules and fire safety within their respective jurisdictions and authorities.

If you have any further questions regarding our need for permanent legal public vehicular access, please contact George McKay, Forest Access, Lands, and Boundary Management [(520) 388-8423 or gmckay@fs.fed.us], at this office.

Sincerely,


for JIM UPCHURCH
Forest Supervisor

cc:
D3, Beverly Wilson, Cochise County



United States
Department of
Agriculture

Forest
Service

Coronado National Forest
Supervisor's Office

300 W. Congress
Tucson, Arizona 85701
Phone (520) 388-8300
FAX (520) 388-8305
TTY (520) 388-8304

File Code: 5460

Date: October 30, 2007

Judy Anderson, Director
Cochise County Planning Department
1415 Melody Lane, Building E
Bisbee, AZ 85603

Dear Ms. Anderson:

The Coronado National Forest (CNF) would like to take this opportunity to comment on the proposed rezoning and development of the J-6 Ranch property, located in western Cochise County at the northern end of the Whetstone Mountains in Sections 29, 30, 31, and 32, Township 17 South, Range 19 East, Gila and Salt River Meridian (refer to enclosed map). Approximately 240 acres of the proposed \pm 556 acres J-6 Ranch development in sections 31 and 32 is essentially surrounded by National Forest System (NFS) lands within the proclaimed boundaries of the Whetstone Mountains unit, Sierra Vista Ranger District, CNF.

First, I want to apologize for not bringing these important issues to Cochise County or the developer sooner; my staff just recently learned of the proposed rezoning and development from members of the local community and the Arizona Game and Fish Department. While it is the policy of the Forest Service to not take a position concerning rezoning or development adjacent to NFS lands, it is agency policy to comment on issues that may directly affect current or future Forest management. Therefore, our comments are limited to two issues related to the development of the proposed subdivision that directly effect Forest management.

The first issue relates to one of the most serious problems facing the CNF and public land users in southeastern Arizona—permanent legal vehicular access to the National Forest. Over the past decade, the loss of traditional non-restrictive permanent legal public vehicular access to NFS lands in the Whetstone Mountains (\pm 45,000 acres); especially at the northern end of the range, has become a major concern to the CNF as well as the public land users who enjoy those lands.

The CNF has not closed, blocked, gated, or locked any routes into the National Forest in this area as implied by the developer at the neighborhood meeting held February 7, 2007, in Benson (Citizen Review Report V-1). In fact, we have actively worked in cooperation with the Arizona Game and Fish Department and others in our attempts to restore public access to this area since the roads were blocked.

All existing vehicular routes into the northern end of the Whetstone Mountains are currently blocked, gated and signed, or gated and locked denying access to NFS lands by the general public from Middle Canyon (Kartchner Caverns State Park) on the east side around to Apache Canyon (Las Cienegas National Conservation Area) on the west side of the range. For decades, until it was gated and signed "No Forest Access" (\pm 1/4 mile south of the proposed entrance to the J-6 Ranch development) by private landowners, National Forest System Road (NFSR) 212 (South J-6 Ranch Road, South Watson Road, and Whetstone Road) was the main arterial route the general public used to access NFS lands in the Whetstone Mountains from Interstate 10.

Landowners have been unwilling to grant rights-of-way for perpetual public access across their private lands for a variety of reasons including privacy issues, perceived potential liability, and in some cases a desire for exclusive use and control of the adjacent public lands. Although the access routes are now closed to the general public; the private landowners and their guests continue to have exclusive or private access to the adjacent NFS lands, resulting in National Forest "back yards" for the adjoining landowners and their guests, while providing little benefit to the general public.



It is not difficult to understand why private landowners would resist any change to the current situation regarding public access. However, while it is a private landowner's right and prerogative to block and control public access across their private land where no legal right exists; it is my belief that county and state governments as well as Federal agencies have a responsibility to either protect or provide reasonable access to public land for all its citizens, not just a privileged few.

We are more than willing and even eager to work in cooperation with Cochise County and the J-6 Ranch developer to reestablish a public vehicular access route from J-6 Ranch Road to the current road system within the National Forest in a location where the public's impact on the proposed subdivision may be minimized. A vehicular access route dedicated to the public (common-law) or the county (statutory), or an easement granted to the Forest Service, via the development planning and subdivision approval process has the potential to provide permanent public access to thousands of acres of NFS lands.

This may be the last opportunity to negotiate a reasonable permanent public vehicular access route to this area without resorting to either litigation or a condemnation action. Therefore, I strongly request Cochise County take into consideration requiring permanent legal vehicular access to the National Forest when considering the approval of this, or any future rezoning, development plan, or subdivision where traditional access routes to public lands exist, or previously existed but were blocked to public use, especially at the northern end of the Whetstone Mountains.

Restoring permanent legal public access to this area would be a significant benefit to the residents of Cochise County as well as all other public land users of the National Forest. As the owners of the Forests, citizens have the right to use those lands for hiking, camping, hunting, fishing, bird watching, or just plain enjoying the natural wonders of the treasure houses of the nation -- the National Forests.

Our second issue concerns the potential increase in fire risk to both public and private lands in the area of the proposed development. As recent events in California have highlighted, homes built in a wildland "urban interface" are extremely vulnerable to wildfires. The fire issue is two fold: fires spreading from adjacent NFS lands to private lands (balancing and prioritizing values at risk that may be at opposition and conflict with structure protection—Forest Service responsibilities may or may not be structure protection) as well as wildfire spreading from private lands to the NFS lands (associated financial and legal liability).

We would also be willing to work in cooperation with Cochise County, local fire agencies, and the developer to incorporate practices, such as "defensible space" and the use of "firewise" roof and exterior construction materials, which may help reduce the risk of wildfire in "urban interface" settings. "Defensible space" concepts and "firewise" construction materials have been used successfully in many areas with wild land interface concerns and have had a positive impact on reducing fire threat. I would strongly encourage the developer to include "defensible space" concepts as well as "firewise" construction materials in the subdivision's covenants, conditions, and restrictions.

Thank you for the opportunity to comment on the proposed J-6 Ranch Development. If you have any questions regarding permanent legal public access and potential fire risks, please contact George McKay, Access, Lands, and Minerals Staff Officer [(520) 388-8423], at this office.

Sincerely,
/s/ Jeanine A. Derby
JEANINE A. DERBY
Forest Supervisor

Enclosure

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