

# *Southern Arizona Hiking Club*

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James Terlep

Access Trail Coordinator, Southern Arizona Hiking Club

520-743-9664

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25 September 2011

Beverly Wilson  
Planning and Zoning Commission, Cochise County  
1415 Melody Lane, Building E  
Bisbee, Arizona 85603

Board of Supervisors public hearing, October 11th, re: Easter Mountain Ranch, LLC Docket Z-11-06.

Dear Ms. Wilson:

I am the Access Trail Coordinator for the Southern Arizona Hiking Club (SAHC) and request that the following comments be submitted to the Board of Supervisors for consideration at their October 11<sup>th</sup> board meeting.

The Southern Arizona Hiking Club is a Tucson based organization which sponsors daily hikes throughout southern Arizona and has done so for over fifty years. While the majority of our almost 1,000 members are residents of Pima County, we do routinely hike and camp in Cochise County. Hundreds of our members hike the various Cochise County mountain ranges and the Whetstone Mountains in particular. While hiking we regularly patronize businesses within the county as we drive, eat and sleep in Benson, Sierra Vista, Wilcox, Douglas, Bisbee, Tombstone, St. David and other cities and towns within Cochise County.

We have a vital interest in public vehicular access from I-10 to the northern Whetstone Mountains along the eastern boundary of the proposed J-6 Ranch subdivision including an area for a trailhead parking lot. Historically the South J-6 Ranch Road, South Watson Road and Whetstone Road were used as the main arterial routes to access NFS lands in the Whetstone Mountains from Interstate 10. SAHC has hiked northern Whetstone peaks such as Twin Buttes, Haystack and Easter Mountain. We hiked Cornfield, Anderson and Cherry and Wakefield Canyons. Vehicular routes into the northern Whetstone Mountains are currently blocked, gated and signed, or gated and locked denying access to NFS lands 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. These areas have been closed to the public and our club has been denied access and prevented from hiking this area for years.

Mr. Stephan Lenihan contends that Empirita Ranch is an alternative access point to the CNF in the northern Whetstone Mountains.

■ Pima County purchased Empirita Ranch lands bordering the Whetstone Mountain unit, Sierra Vista Ranger District, CNF. However, public access to the Empirita Ranch is open on a restricted basis by Pima County permit only and permits must be secured in advance. Empirita Ranch has limited and

unreliable access, and is not a substitute for non-restrictive, permanent, legal and safe public access to the northern boundary of the Whetstone Mountains.

Note the following excerpt from the Pima County web site regarding public access on and around its open space acquisitions:

*“The rules and regulations of the actual agency land owner always take precedent on their lands. As a visitor to any of the properties, it is **YOUR** responsibility to know the land status at any point within the ranch boundary and the applicable rules and regulations for those lands near or within a Pima County ranch boundary. Access to Pima County lands on roads across another agency’s lands within a ranch is not always guaranteed to the public. Always follow posted regulations and road closure notices.”*

Mr. Stephan Lenihan, of the Easter Mountain Ranch, L.L.C., “declines to provide vehicular access due to fears of possible resource damage from illegal, off road ATV use.”

■ The CNF has been managing illegal and irresponsible ATV use throughout the forest. They recognize the damage this minority can cause and have taken concerted efforts to control illegal use. CNF has recently issued a Motor Vehicle Use Map which clearly defines the designated forest road system. Public motor vehicle use off the designated forest road system is prohibited.

■ The Arizona Game and Fish Department has added enforcement officers as part of the OHV Decal program. Note the following excerpt from the AZG&F Department web site:

*“Revenues generated from the new OHV Decal user fee will be used to help ensure sustainable opportunities and natural resource protection by bolstering funding and grant programs that pay for trail maintenance, signage, maps, facility development, habitat damage mitigation, education, and enforcement.”* (note AZG&F OHV enforcement is additionally funded from dedicated OHV decal money)

Mr. Stephan Lenihan proposes to permanently block public vehicular access in the name of controlling assumed OHV abuse problems. His proposal would unnecessarily reduce recreational opportunities in Cochise County with the unintended consequence of reducing recreational dollars spent at local businesses. In addition, the proposal may create conflict between public land users and private landowners. Restricted and blocked access promotes creation of unauthorized (user-created) roads on private, state trust, and other public lands as recreational users seek routes to NFS land.

■ A better alternative to the developer’s proposal would be to dedicate and grant a road right-of-way easement to the USFS, AGFD, or Cochise County for a ±0.75 miles extension of the J-6 Ranch Road along the eastern boundary of the proposed subdivision to the National Forest.

■ An extension of the J-6 Ranch Road along the eastern boundary of the proposed subdivision could be connected to the existing forest road system on NFS lands at the northern end of the Whetstone Mountains where public land users could be easily disperse to locations where their impacts on the proposed subdivision would be minimized.

■ If public vehicular access is restored to the NFS lands at the northern end of the Whetstone Mountains, Forest Service and other agencies will be able to resume routine patrols promoting safe and responsible motor vehicle use. Open vehicular access facilitates federal, state, and local law enforcement of illegal OHV use.

The Southern Arizona Hiking Club does not oppose development. We respect private property and the right of private property owners to use and develop their own land. We do believe that the Board of Supervisors has the unique opportunity to insure public access as well as allow residential development. These two goals can and do coexist in other developments throughout southern Arizona.

The Southern Arizona Hiking Club formally requests that the Board of Supervisors require Easter Mountain Ranch, L.L.C. to grant a permanent, public, vehicular access route along the eastern boundary of the proposed subdivision to the NFS land at the northern end of the Whetstone Mountains.

Restoring permanent legal public vehicular access to the NFS lands at the northern end of the Whetstone Mountains would be a significant benefit to the residents of Cochise County as well as all other public land users.

There can be no hiking without access.

Jim Terlep  
Access Trail coordinator  
Southern Arizona Hiking Club

Cc: Mr. Richard Searle  
Mr. Pat Call  
Ms. Ann English

Dear Sirs:

I respectfully request that the Board of Supervisors make public vehicular access to the national forest, in a manner consistent with what is being proposed by Coronado National Forest, a firm condition for approval of the Easter Mountain Ranch Subdivision.

This subdivision request offers a rare opportunity for Cochise County to restore access to a portion of public lands without imposing a hardship on private property owners. (I do not regard denial of exclusive public lands access for certain individuals as an imposition of hardship.)

As you know, the public's access to national forest and BLM lands in Cochise County is highly restricted. This is a growing problem throughout Western states and has now gained the attention of national lobbying groups and the U.S. Congress. In southern Arizona the problem is sufficiently acute as to make our region the poster child for policy initiatives aimed at correcting it. (See attached file from this web site): [www.wildlifepartners.org/files/AWCP\\_Flyer.pdf](http://www.wildlifepartners.org/files/AWCP_Flyer.pdf)

More can be seen at the following web sites:

Congressional Sportsmen's Foundation

<http://www.sportsmenslink.org/legislation/Federal%20Issues/MakingPublicLandsPublic>

National Rifle Association

<http://www.nrahuntersrights.org/Article.aspx?id=5059>

At the Cochise County Planning and Zoning session of July 26, one of the commissioners remarked that she did not see how access to Coronado National Forest is the county's responsibility as opposed to the federal government's. I would ask the board of supervisors to carefully consider whether it wishes to relinquish road authority on non-federal lands to the federal government. Currently the federal government assumes responsibility for roads inside the boundaries of federal lands, but roads on non-federal lands are considered the responsibility of state and local government. Should Cochise County declare itself

unable, unwilling or simply disinterested in providing reasonable vehicular access to federal lands for the general citizenry?

As the Forest Service has made clear, this could be the last opportunity to provide public vehicular access to a significant portion of the Whetstones. This opportunity should not be lost forever.

Sincerely,

Larry Audsley

Southern Arizona Director  
Arizona Wildlife Federation

# Making Public Lands Public



Enhancing Hunting, Fishing & Other Recreational Access to Federal Public Lands

OVERVIEW



► *These are typical scenes when trying to access Federal public lands.*

## SUMMARY

The non-governmental organizations (NGOs) comprising the American Wildlife Conservation Partners (AWCP) request that no less than \$15,000,000 be made available annually as a new Access category within the Land and Water Conservation Fund (LWCF) to be divided among USFS (\$6.75M), BLM (\$6.75M) and FWS (\$1.5M). This will improve hunting, fishing and other recreational access to hundreds of thousands of acres of Federal land annually.

## THE ROUNDTABLE

The Federal Lands Hunting and Shooting Sports Roundtable (Roundtable) was created through a Memorandum of Understanding signed by the U.S. Forest Service (USFS), the Bureau of Land Management (BLM), the U.S. Fish and Wildlife Service (FWS), and 40 national hunting, fishing and shooting sports organizations. The Roundtable was created to improve partnership efforts between these Federal agencies and these non-governmental organizations (NGOs) to address issues impacting access to Federal lands for hunting and shooting sports activities.

## THE ISSUE

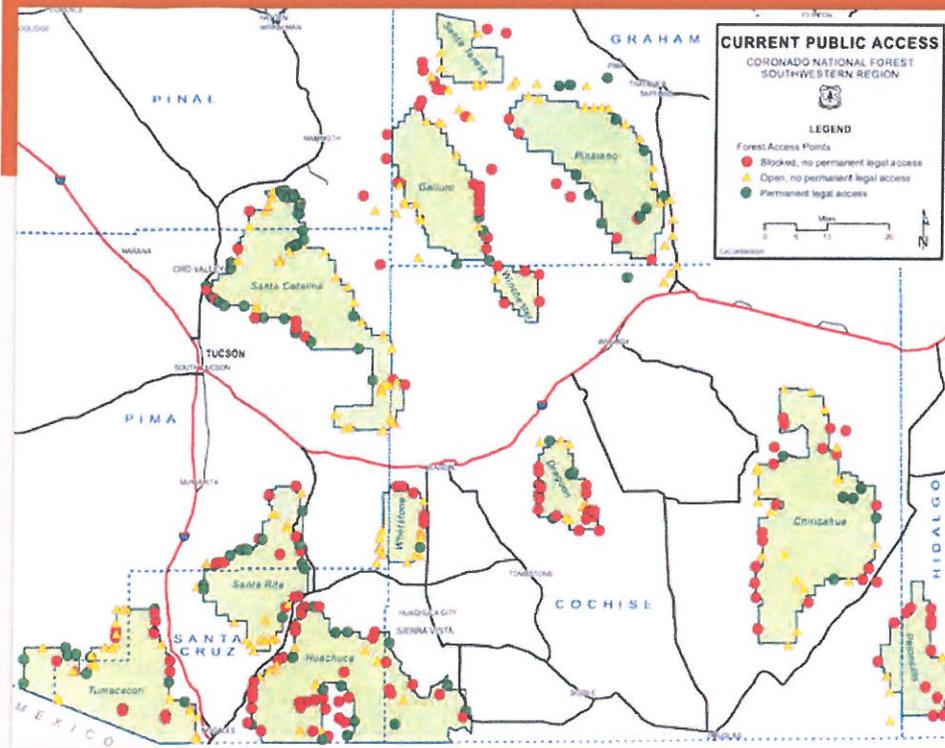
Federal public lands are an important destination for many Americans, including hunters and anglers. Nearly half of all hunters conduct a portion of their hunting activity on these lands. However, numerous reports verify access to Federal land is problematic in a number of areas. In fact, a 2004 report to the House Appropriations Committee concluded that more than 35 million acres of BLM and USFS land have inadequate access. Lack of access is cited as a primary reason that hunters and anglers stop participating in these traditional sports.

## THE PROCESS

Each year, in partnership with the Roundtable, the USFS, BLM, and FWS should issue a Request for Proposals (RFP) to all agency field offices, NGOs, private landowners and to state fish and wildlife agencies for projects that significantly improve public access to Federal lands for hunting, fishing and other recreational activities. The Roundtable will consult and coordinate with the Wildlife and Hunting Heritage Conservation Council (WHHCC) and the Sport Fishing & Boating Partnership Council (SFBPC), Federal advisory committees established by DOI and USDA, at all stages of the RFP process. Thereafter, the Secretaries shall select projects from the recommendations forwarded by the aforementioned RFP process.

## Making Public Lands Public

### Enhancing Hunting, Fishing & Other Recreational Access to Federal Public Lands



#### CONTACTS

##### Joel Pedersen

National Wild Turkey Federation  
803-637-3106  
jpedersen@nwtf.net

##### Gary Kania

Congressional Sportsmen's  
Foundation  
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##### Susan Recce

National Rifle Association  
(703) 267-1541  
SRecce@nrahq.org

► Blocked access to Federal lands as illustrated by the Coronado National Forest, Arizona.

#### PROJECT SELECTION

Proposals should be reviewed by the Roundtable, in coordination with the WHHCC, the SFBPC and LWCF program staff to identify quality projects that can be completed quickly once funding is secured.

*The proposals should be evaluated to determine priority projects based on the following guidelines:*

- Willing landowners
- Significant acreage of improved access
- State fish and wildlife agency priorities
- Access to quality hunting and fishing areas
- Provides additional recreational opportunities
- Good relative value (cost/acre accessed)
- Relatively simple transaction

#### PRIORITY PROJECTS

Projects should include easements, rights-of-way and fee acquisition. If a state has a task force or working group that is assisting with project identification, those access projects should be considered priority projects.

A 2008 Request for Proposals, from the Roundtable, resulted in 51 project submissions from the USFS and the BLM. Combined, the top 5 projects for each agency would improve access to 155,780 acres of Federal land at a cost of only \$9.03 per acre. This is a tremendous bargain considering the cost of acquiring new public lands is hundreds to thousands of dollars per acre.

#### THE GROUP



Archery Trade Association  
Association of Fish and Wildlife Agencies  
Bear Trust International  
Boone and Crockett Club  
Bowhunting Preservation Alliance  
Buckmasters American Deer Foundation  
Camp Fire Club of America  
Catch a Dream Foundation  
Congressional Sportsmen's Foundation  
Conservation Force  
Dallas Safari Club  
Delta Waterfowl Foundation  
Ducks Unlimited

Houston Safari Club  
International Hunter Education Association  
Izaak Walton League of America  
Masters of Foxhounds Association of America  
Mule Deer Foundation  
National Assembly of Sportsmen's Caucuses  
National Rifle Association  
National Shooting Sports Foundation  
National Trappers Association  
National Wild Turkey Federation  
North American Bear Foundation  
North American Grouse Partnership  
Pheasants Forever  
Pope and Young Club  
Public Lands Foundation  
Quail Forever

Quail Unlimited  
Quality Deer Management Association  
Rocky Mountain Elk Foundation  
Ruffed Grouse Society  
Safari Club International  
Sand County Foundation  
Shikar Safari Club  
Texas Wildlife Association  
The Wildlife Society  
Theodore Roosevelt Conservation Partnership  
U.S. Sportsmen's Alliance  
Whitetails Unlimited  
Wild Sheep Foundation  
Wildlife Forever  
Wildlife Habitat Council  
Wildlife Management Institute

September 26, 2011

Huachuca Hiking Club  
P.O. Box 3555  
Sierra Vista, AZ 85636-3555

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

Re: Easter Mountain Ranch LLC, Docket Z-11-06

Dear Supervisors:

On behalf of the Huachuca Hiking Club, I wish to provide comments regarding the proposed rezoning of property located at 1670 South J-6 Road, Benson, AZ, which is scheduled for the October 11, 2011 Board of Supervisors meeting (Docket Z-11-06).

I urge the Supervisors not to approve the rezoning unless the applicant provides public vehicular access to the Coronado National Forest.

My reasons are as follows:

1. The applicant stands to receive a substantial financial benefit by the proposed rezoning. The property is located at the north end of the Forest boundary and is partially surrounded on three sides by the National Forest. The strategic location of this property provides the County a rare and invaluable opportunity to assure the general public has legal, vehicular access to the National Forest at the north end of the Whetstone Mountains. This public benefit would not require any additional cost to the applicant, because as I understand it, the Forest Service and Arizona Game and Fish Department are willing to defray the costs of extending the J-6 Ranch Road along the eastern boundary of the proposed subdivision to the National Forest in a dedicated public road right-of-way easement that has been granted to the Forest Service, Arizona Game and Fish Department, and/or Cochise County.

2. The Whetstone Mountains Unit of the Coronado National Forest is the most access-restricted unit in the Forest. There are no permanent legal public access routes to the entire Whetstone Mountains Unit except for Dry Canyon Road on the southeast side. Most of the Whetstone Mountains is land-locked by private property with locked gates. Our club and other forest users have grown increasingly frustrated over the years by the lack of public vehicular access to these mountains. Traditional access routes have not only been blocked by private-property owners, but also by the development of Kartchner Caverns State Park, which resulted in closure of routes on the east side of the mountain range.

3. The ability of forest visitors to enjoy the National Forest (e.g., to hunt, camp, hike, ride, or view wildlife) depends on public vehicular access to the forest road system where visitors can disperse and travel to various destinations within the National Forest. A non-motorized access point as proposed by the applicant does not enable the public to enjoy the National Forest by traveling there in their vehicles. Forest users need their vehicles to access more remote destinations and to bring their family members, camping gear, etc. Without vehicular access, the public is essentially denied the ability to enjoy their favorite outdoor recreational activities in the National Forest even though their taxes are paying to sustain the National Forest System. As avid hikers, our club would like to gain access to destinations such as Wakefield Canyon or Cottonwood Saddle which cannot be reached by simply day-hiking from a non-motorized access point at the northern boundary of the Forest.

4. By requiring public vehicular access to the National Forest, the Board would further affirm policies recently adopted regarding Federal Government Lands, i.e., paragraph D1, which states: "Access across and to public lands is critical to the use, management, and development of those lands and adjoining private lands." It should be noted that the Forest Service will not grant exclusive access to the applicant. Thus, property owners within the proposed subdivision will also lack public vehicular access to the National Forest unless this is provided to the general public as a dedicated easement.

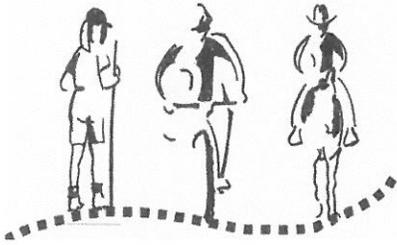
In summary, from our perspective as a Cochise County based club that enjoys hiking and camping in the National Forest, the Board has a great opportunity here to lay the foundation for a permanent and legal, public vehicular access to the National Forest at the north end of the Whetstone Mountains. This would give County residents a critically needed access to outdoor recreational opportunities in the National Forest, while potentially boosting eco-tourism revenues for the County. The Whetstone Mountains have largely been out of reach for the general public due to blocked access. Our club would love the opportunity to hike and camp there and enjoy this beautiful area in northwestern Cochise County. We urge the Board to give this access to the National Forest their full support.

Thank you for your consideration.

Sincerely,

//signed//

Steve Scheumann  
HHC Secretary/Treasurer



# COCHISE TRAILS ASSOCIATION

Phone: (520) 609-2738 Email: CTrailsAssoc@aol.com

## Hiking Biking Equestrian

Re: J-6 Ranch/Easter Mountain Ranch, LLC  
Docket: Z-11-06 August 10, 2011 Planning and Zoning Hearing

P & Z Commission Members:

In the 1960's the general public enjoyed vehicular access to the Northern Whetstone Mountain's public lands by generally accepted routes through privately owned lands. Over the years, we have lost all access and are now locked out of those public lands in Cochise County.

The only viable opportunity to gain legal access is through developing partnerships with the land developers. We have that opportunity now. Regardless of the size subdivision that is finally approved, the future home owners in J-6 Ranch will join us as the "public" needing legal public access - they should not be allowed to have exclusive entry.

We are asking for permanent legal public vehicular access to the National Forest through or around the perimeter of the Easter Mountain/ J-6 Ranch development. This access would include:

- a. A continuous public road from the J-6 Ranch road to the point of access in perpetuity (present plans require access across State Trust Lands where no roadway or right of legal public access exist - obviously not a viable solution)
- b. Legal assurance that no future entity such as a Home Owners Association, could change or limit such access.
- c. The public access should be such that hikers, bird watchers, and hunters, among others, could gain access to the existing road system within the Forest, allowing for dispersed camping and other activities.

We direct your attention to the recently approved Cochise County Policies Regarding Federal Government Lands, wherein the following is extracted from the Policy:

*2. Other Federal Lands, Para D. Public Access, RS 2477 Roads:*

*"1. Access across and to public lands is critical to the use, management, and development of those lands and adjoining private lands.*

*2. No roads, trails, rights-of-way, easements or other traditional access for the transportation of people, products, recreation, energy or livestock may be closed, abandoned, withdrawn, or have a change of use without full public disclosure and analysis."*

Now is the time to secure access to our Federal Public Lands. Note that the economic impact of hunting and birdwatching, as well as other recreational activities are a very important component of the economy of Cochise County. Please help us to restore public access to our mountains!

Cochise Trails Association Board of Directors

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THE STATE OF ARIZONA  
**GAME AND FISH DEPARTMENT**

5000 W. CAREFREE HIGHWAY  
PHOENIX, AZ 85086-5000  
(602) 942-3000 • WWW.AZGFD.GOV

REGION V, 555 N. GREASEWOOD ROAD, TUCSON, AZ 85745

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**DEPUTY DIRECTORS**

GARY R. HOVATTER

BOB BROSCHEID



September 23, 2011

Cochise County Board of Supervisors  
1415 West Melody Lane  
Bisbee, Arizona 85603

Re: Easter Mountain Development: Potential for Motorized Public Access to National Forest

Honorable Cochise County Supervisors:

You are probably aware that I'm well acquainted with Cochise County, and I was a resident raising my family there, and serving as a law enforcement officer for the Arizona Game and Fish Department (Department) in Game Management Unit 30A for three years, before taking on my current position at the Tucson Regional Office. During this time in Douglas and the surrounding communities, I was able to work with area ranchers and outdoor recreation groups on many projects to improve wildlife habitat and benefit ranch operations, all the time building relationships and working to serve the public, as you do in your service to the County.

The purpose of this letter is to express our concerns about the proposed Easter Mountain Ranch (EMR) development, planned for a ~550-acre parcel of private property surrounded on three sides by U.S. Forest Service lands, on the north side of the Whetstone Mountains.

The Department submitted a letter in 2007 to the Cochise County Planning Department expressing similar concerns. Regardless, I would like to elaborate upon why we support vehicular access through a small strip of private lands along the east side of EMR property.

It has been several decades since there was reasonable public access into the north end of the Whetstone Mountains. The Department purchased the only permanent right-of-way for vehicle access to the USFS lands there in 2003. In partnership with the Cochise County Highways and Floodplains Division and the USFS, we secured access for motorized uses on Dry Canyon Road, near the southeast portion of the Whetstone Mountains and other areas in Cochise County. Nonetheless, there is currently very limited motor vehicle access to the Coronado National Forest in the Whetstone Mountains, and those access points should be secured for public use.

Often overlooked is the economic importance of these access points, and how recreational access stimulates the economies of rural communities, as detailed by the U.S. Fish & Wildlife Service in their *2007 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation*. I think you would be impressed by the positive economic impact to your county from hunting and

outdoor recreation activities. Conversely, those dollars go to other areas of the state, and neighboring states, when public access is denied in your county. The key is to enhance access for all types of recreational uses, which invites new dollars from outside the current local economy. There are literally hundreds of dollars infused into the County's economy each time hunters, hikers, four-wheel drive enthusiasts, or bird watchers decide Cochise County is their destination. These recreators eat at your restaurants, buy products at stores, fuel at gas stations, and sleep at hotels in your communities, supporting jobs for all kinds of sales of goods and services. These revenues generated through outdoor recreation add millions of dollars to rural economies annually.

The entire recreational community is rallying behind the idea that access for all benefits all; indeed, you may have already heard from them on this topic. Meantime, approximately 50% of the Whetstone Mountains are under a "Roadless Rule" designation that was declared over much of the nations' public lands in the west, proclaimed by *Executive Order* by our exiting President in 2000. The Forest is not able to simply change this "Roadless Area" designation and connect roads wherever they see a potential; their hands are tied. This is not an easy mountain range to create new road access around closed areas to restore access. We need to make the most of this opportunity to secure motorized access into the Whetstone Mountains.

Some say there is ample access to the northern Whetstones, but they confuse the types of access. There is some access by walking several miles across State Trust Land (STL) around posted private property. Access for those wanting to camp within the Forest and hike and hunt currently exists, but *only for a privileged few*. Occasionally, a landowner will let someone through a locked gate, for a fee, or if that individual is a friend, a relative, or for another reason.

We dispute that the access route sought by the Department, USFS and recreational community seeks will open the whole mountain range to excessive use by ATV's and "undesirable uses," as some contest. The existing roads essentially provide access to several discrete canyons, where there are no connecting roads allowing vehicle access into the western, central, or eastern sections of the Whetstones.

There have been arguments made by some landowners that public access exists already on the north end of the Whetstones, by way of the new Pima County Empirita Ranch property. These 2,400 acres are designated by Pima County as "open spaces," and were purchased with bond funding to focus development closer to county services. The Pima County Natural Resources, Parks and Recreation Department controls the number and amount of vehicles crossing through their lands. Specifically, there are limited numbers of passes that can be issued. When one requests access onto or across the property, it takes a 48 hour period to obtain the permit. This permit provides the combination code to a lock that will let three people drive through this open space property and sign-in. A maximum of 15 permits may be issued for any given period, over ten days. Entry is provided via a road that crosses a wide wash requiring 4X4 capability and leads to the northwest edge of the Forest, with parking near Haystack Mountain.

***But, at this location, there is no road connecting Pima County's property with the Forest's road system in the north end of the Whetstone Mountains.*** In addition, Pima County has explained that they are not able to grant an easement across this property, because it was purchased to be protected with funding for protecting natural resources. This access through

Pima County on the Northwest side of the Whetstones, already provides the same type of access for foot, horseback and mountain bike access that the developer offered.

**The best solution is to secure a road easement along the eastern boundary of Easter Mountain Ranch.** It would allow access into the central area of the northern Whetstones, providing for entry into the forest as well as dispersal for several miles east and west on existing USFS roads. Then, those recreationalists could camp on the forest, away from this development, and hike southward into the interior.

We need your direction and the County's continued commitment in developing a partnership with EMR to benefit all the people who want to recreate on their national forest "Multiple Use" lands. These public lands were set aside in federal ownership to benefit the many citizens of this country, as a *Public Trust*, for multiple uses. It does not serve the public interest to allow an outside developer to act as the authority to manage our public lands, beyond their property boundaries. Developers with this "*exclusive access*" approach to limit user-type, essentially turn our public lands into *de facto wilderness areas*.

This proposed development is expected to add thousands of vehicle trips across the J-6 Road, a county road from I-10 that tax payers pay to maintain. If this developer is permitted to build their development please require that EMR provide this easement for motorized access that the public needs to access their lands, using this road to reach the Forest. The developer should be willing to sell or dedicate an easement for a small roadway that will be un-paved and be suited only for high clearance vehicles, not passenger cars. The Department could pay for that road easement at *fair market value*. If proposed zoning modifications were made to the developer's plans that allowed the developer to sell more home sites, then everyone would benefit, including the local home-building industry. This has been the approach the County Planning and Zoning staff, as well as the past Planning and Zoning Commission (2007), since this development was proposed.

In 2007, Department staff addressed the Planning and Zoning Commission regarding this proposed development. Your Planning and Zoning Commission stated that unless certain changes were included the development plat, including dedicating legal vehicular access to the forest, they would not pass the developer's plat on to your Board. That night in 2007, their vote was a unanimous vote, against the Easter Mountain Development plat, as presented. The plat never reached your board, because the developer would not allow motorized access into the forest, stating that he "would rather be a good neighbor than a good citizen." Now is the opportunity to direct them to be good neighbors and good citizens by providing legal motorized access to benefit all those that would like to obtain access to public lands.

In August 2011, the developer returned to the Cochise County Planning and Zoning Commission with nearly the identical offer for public access as they proposed in 2007. EMR suggests they would provide a ¼ acre parcel of private property as a parking area and a trail leading through their property to the forest for foot, horseback, and mountain bike access. However, this is not much improvement over the current available access. The idea of creating this parking area is not a good solution. Who would assume liability for the parking area? Homeowners in the neighborhood would not approve of covering liability, nor would they like people stopping and off-loading horses and equipment when the neighbor's trails cross through the same area, or at

odd hours. There would be an opportunity for conflict when someone walking their dog met a person carrying a deer back to the parking area. This would also be true of a homeowner pushing a baby carriage on a trail and meeting up with hunters unloading firearms or dogs from their vehicles. Outdoor recreators should not be forced to park and leave their vehicles one mile from the Forest and face interactions with the public that are not likely to endear mutual understanding. This type of condensed access at a parking area is not a feasible answer to provide a broad opportunity to the recreating public. The best way to diffuse potential conflict is to provide a motorized route onto the public lands, designed for slow travel, and allow users to find locations to park and disperse themselves, rather than concentrate them into a small parking area that provides the potential for conflicts to arise, from one group trying to tell the other the lawful permitted use for that area.

The Department is vested in providing recreational access opportunities to public lands. Our Public Access Program is funded through the Heritage Fund, funded by Arizona Lottery dollars. We are thus willing to purchase a public right-of-way through this property, and then develop a small road, in cooperation with the USFS to improve public access to Coronado National Forest. We are confident that this will provide the most benefit to Cochise County and the public as a whole. Our agency has hired several Off-Highway Vehicle officers specifically to address off-road violations, and we will be working in the Whetstones to enforce these laws.

In closing, thank you for this opportunity to make our concerns know to you as you deliberate on the Easter Mountain Ranch project. We know that you will make a decision that is in the best public interest. Please contact me at one of the numbers below if you have any questions or suggestions.

Sincerely,



Raul A. Vega  
Regional Supervisor  
Arizona Game and Fish Department  
555 North Greasewood Road  
Tucson, AZ 85745  
520-388-4440 office  
[RVega@azgfd.gov](mailto:RVega@azgfd.gov)

RAV:mgw

**Wilson, Beverly**

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**From:** SusanandPeter [susanandpeter@powerc.net]  
**Sent:** Monday, September 26, 2011 7:44 PM  
**To:** Wilson, Beverly  
**Subject:** Easter Mountain Ranch LLC, Docket Z-11-06

Dear Supervisors:

I wish to provide comments on the proposed rezoning of property located at 1670 South J-6 Road, Benson, AZ which is scheduled for the October 11, 2011, Board of Supervisors meeting (Docket Z-11-06)

I urge the Supervisors to require that the applicant provides public vehicular access to the Coronado National Forest.

Because:

1. The applicant will receive substantial financial benefit from the proposed rezoning. It is located at the north end of the Forest boundary and is partially surrounded on three sides by the National Forest. The strategic location of this property provides the County a rare and invaluable opportunity to assure the general public has legal, vehicular access to the National Forest at the north end of the Whetstone Mountains. This public benefit would not require any additional cost to the applicant, because the Forest Service and Arizona Game and Fish Department will defray the costs of extending the J-6 Ranch Road along the eastern boundary of the proposed subdivision to the National Forest in a dedicated public road right-of-way easement that has been granted to the Forest Service Arizona Game and Fish Department and or Cochise County.
2. There are no permanent legal public access routes to the entire Whetstone Mountains except for Dry Canyon Road on the southeast side. Most of the Whetstone Mountains is land-locked by private property with locked gates.
3. The ability of forest visitors to enjoy the National Forest depends on public vehicular access to the forest road system where visitors can disperse and travel to various destinations within the National Forest. A non-motorized access point as proposed by the applicant does not enable the public to enjoy the National Forest by traveling there in their vehicles. Without vehicular access, the public is essentially denied the ability to enjoy their favorite outdoor recreational activities in the National Forest even though **their taxes** are paying to sustain the National Forest System.
4. By requiring public vehicular access to the National Forest, the Board

I 15

would further affirm policies recently adopted regarding Federal Government Lands, ie, paragraph D1, which states: "Access across and to public lands is critical to the use, management, and development of those lands and adjoining private lands." It should be noted that the Forest Service will NOT grant exclusive access to the applicant.

5. I hike and horseback ride and I look forward to having legal access on the North side of the Whetstone Mountains. I urge the Board to give the public their support on this issue and access.

Thank you for your consideration.

Sincerely,

Susan Moran  
P O. Box 661  
Saint David , AZ

September 26, 2011

533 Suffolk Drive  
Sierra Vista, AZ 85635

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

Re: Easter Mountain Ranch LLC, Docket Z-11-06

Dear Supervisors:

I wish to provide comments on the proposed rezoning of property located at 1670 South J-6 Road, Benson, AZ, which is scheduled for the October 11, 2011 Board of Supervisors meeting (Docket Z-11-06).

I urge the Supervisors not to approve the rezoning unless the applicant provides public vehicular access to the Coronado National Forest.

My reasons are as follows:

1. The applicant stands to receive a substantial financial benefit by the proposed rezoning. The property is located at the north end of the Forest boundary and is partially surrounded on three sides by the National Forest. The strategic location of this property provides the County a rare and invaluable opportunity to assure the general public has legal, vehicular access to the National Forest at the north end of the Whetstone Mountains. This public benefit would not require any additional cost to the applicant, because as I understand it, the Forest Service and Arizona Game and Fish Department are willing to defray the costs of extending the J-6 Ranch Road along the eastern boundary of the proposed subdivision to the National Forest in a dedicated public road right-of-way easement that has been granted to the Forest Service, Arizona Game and Fish Department, and/or Cochise County.
2. The Whetstone Mountains Unit of the Coronado National Forest is the most access-restricted unit in the Forest. There are no permanent legal public access routes to the entire Whetstone Mountains Unit except for Dry Canyon Road on the southeast side. Most of the Whetstone Mountains is land-locked by private property with locked gates. A diverse range of forest users have grown increasingly frustrated over the years by the lack of public vehicular access to these mountains. Traditional access routes have not only been blocked by private-property owners, but also by the development of Kartchner Caverns State Park, which resulted in closure of routes on the east side of the mountain range.

3. The ability of forest visitors to enjoy the National Forest (e.g., to hunt, camp, hike, ride, or view wildlife) depends on public vehicular access to the forest road system where visitors can disperse and travel to various destinations within the National Forest. A non-motorized access point as proposed by the applicant does not enable the public to enjoy the National Forest by traveling there in their vehicles. Forest users need their vehicles to access more remote destinations and to bring their family members, camping gear, etc. Without vehicular access, the public is essentially denied the ability to enjoy their favorite outdoor recreational activities in the National Forest even though their taxes are paying to sustain the National Forest System. As an avid hiker, I would like to gain access to destinations such as Wakefield Canyon or Cottonwood Saddle which cannot be reached by simply day-hiking from a non-motorized access point at the northern boundary of the Forest.

4. By requiring public vehicular access to the National Forest, the Board would further affirm policies recently adopted regarding Federal Government Lands, i.e., paragraph D1, which states: "Access across and to public lands is critical to the use, management, and development of those lands and adjoining private lands." It should be noted that the Forest Service will not grant exclusive access to the applicant. Thus, property owners within the proposed subdivision will also lack public vehicular access to the National Forest unless this is provided to the general public as a dedicated easement.

In summary, from my perspective as a resident of Cochise County and someone who enjoys hiking and camping in the National Forest, the Board has a great opportunity here to lay the foundation for a permanent and legal, public vehicular access to the National Forest at the north end of the Whetstone Mountains. In my view, this would give County residents a critically needed access to outdoor recreational opportunities in the National Forest, while potentially boosting eco-tourism revenues for the County. The Whetstone Mountains have largely been out of reach for the general public due to blocked access. I would love the opportunity to hike and camp there and enjoy this beautiful area in northwestern Cochise County. I urge the Board to give this access to the National Forest their full support.

Thank you for your consideration.

Sincerely,

//signed//

Steve Saway

1776 West Patton Street  
Saint David, AZ 85630  
October 9, 2011

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

Subject: Request for public vehicular and equestrian access to Whetstone Mountains Unit of the Coronado National Forest as a required condition of rezoning of Easter Mountain Ranch, LLC, property, 1670 South J-6 Road, Benson, AZ, Docket Z-11-06

Dear Supervisors of Cochise County:

I request that you refuse to approve the subject rezoning application unless it legally requires the applicant to provide public vehicular and equestrian access to the Coronado National Forest.

#### Background

The Whetstone Mountains Unit of the Coronado National Forest is the most access-restricted unit of the many contiguous areas of this Forest. There are presently no permanent legal public access routes to the entire Whetstone Mountains Unit except for Dry Canyon Road on the southeast side. Most of the Whetstone Mountains Unit is land-locked by private property with locked gates. Historical access routes have, over the years, been legally blocked by private-property owners, and also by the development of Kartchner Caverns State Park, which resulted in closure of access routes on the east side of the Whetstone Mountains Unit. A diverse range of forest users have grown increasingly frustrated over the years by the lack of public vehicular access to these mountains.

#### Public Use and Need

Recreational activities such as hiking, camping, biking, horseback riding, birding, hunting, etc. are now effectively available in the north half of the Whetstone Mountains only to those persons who are able to obtain permission from owners of property bordering the boundaries of this unit of the Coronado National Forest. The general public is now EXCLUDED from use of the forest in this location in opposition to the Congress's intent in establishing our system of National Forests.

The ability of forest visitors to enjoy the National Forest (e.g., to hunt, camp, hike, ride, or view wildlife) depends on public vehicular access to the forest road system where visitors can disperse and travel to various destinations within the National Forest. A non-motorized access point as proposed by the applicant prohibits the public from enjoying the National Forest by traveling there in their vehicles. Forest users need their vehicles to access more remote destinations and to bring their family members, camping gear, horses, etc. Without vehicular access, the public is essentially denied the ability to enjoy their favorite outdoor recreational activities in the National Forest even though their taxes are paying to sustain the National Forest System. As an avid

equestrian, I would like to gain access to destinations such as Wakefield Canyon or Cottonwood Saddle which cannot be reached by simply day-hiking from a non-motorized access point at the northern boundary of the Forest.

By requiring public vehicular and equestrian access to the National Forest, the Board would further affirm policies recently adopted regarding Federal Government Lands, which state in part, "Access across and to public lands is critical to the use, management, and development of those lands and adjoining private lands." It should be noted that the Forest Service will not grant exclusive access to the applicant. Thus, property owners within the proposed subdivision will also lack public vehicular access to the National Forest unless this is provided to the general public as a dedicated easement.

#### Impact on Easter Mountain Ranch, LLC

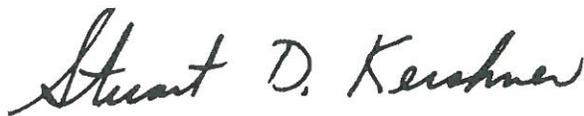
The applicant is expected to receive a substantial financial benefit by the proposed rezoning. Their property is located at the north end of the Forest boundary and is partially surrounded on three sides by the National Forest. The strategic location of this property provides the County a rare and invaluable opportunity to assure the general public has legal, vehicular and equestrian access to the National Forest at the north end of the Whetstone Mountains. This public benefit would not require any additional cost to the applicant, because it is reported that the Forest Service and Arizona Game and Fish Department are willing to defray the costs of extending the J-6 Ranch Road along the eastern boundary of the proposed subdivision to the National Forest in a dedicated public road right-of-way easement that has been granted to the Forest Service, Arizona Game and Fish Department, and/or Cochise County.

#### Benefits to the Public

In summary, from my perspective as a resident of Cochise County and someone who enjoys trail riding in the National Forest, the Board has a great opportunity here to lay the foundation for a permanent and legal, public vehicular and equestrian access to the National Forest at the north end of the Whetstone Mountains. It is my view, this would give County residents a critically needed access to outdoor recreational opportunities in the National Forest, while potentially boosting eco-tourism revenues for the County.

Thank you for your consideration.

Sincerely,



Stuart D Kershner

1776 West Patton Street  
Saint David, AZ 85630  
October 10, 2011

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

Subject: Request for public vehicular and equestrian access to Whetstone Mountains Unit of the Coronado National Forest as a required condition of rezoning of Easter Mountain Ranch, LLC, property, 1670 South J-6 Road, Benson, AZ, Docket Z-11-06

Dear Supervisors of Cochise County:

I request that you refuse to approve the subject rezoning application unless it legally requires the applicant to provide public vehicular and equestrian access to the Coronado National Forest.

#### Background

The Whetstone Mountains Unit of the Coronado National Forest is the most access-restricted unit of the many contiguous areas of this Forest. There are presently no permanent legal public access routes to the entire Whetstone Mountains Unit except for Dry Canyon Road on the southeast side. Most of the Whetstone Mountains Unit is land-locked by private property with locked gates. Historical access routes have, over the years, been legally blocked by private-property owners, and also by the development of Kartchner Caverns State Park, which resulted in closure of access routes on the east side of the Whetstone Mountains Unit. A diverse range of forest users have grown increasingly frustrated over the years by the lack of public vehicular access to these mountains.

#### Public Use and Need

Recreational activities such as hiking, camping, biking, horseback riding, birding, hunting, etc. are now effectively available in the north half of the Whetstone Mountains only to those persons who are able to obtain permission from owners of property bordering the boundaries of this unit of the Coronado National Forest. The general public is now EXCLUDED from use of the forest in this location in opposition to the Congress's intent in establishing our system of National Forests.

The ability of forest visitors to enjoy the National Forest (e.g., to hunt, camp, hike, ride, or view wildlife) depends on public vehicular access to the forest road system where visitors can disperse and travel to various destinations within the National Forest. A non-motorized access point as proposed by the applicant prohibits the public from enjoying the National Forest by traveling there in their vehicles. Forest users need their vehicles to access more remote destinations and to bring their family members, camping gear, horses, etc. Without vehicular access, the public is essentially denied the ability to enjoy their favorite outdoor recreational activities in the National Forest even though their taxes are paying to sustain the National Forest System. As an avid equestrian, I would like to gain access to destinations such as Wakefield Canyon or Cottonwood Saddle which cannot be reached by simply day-hiking from a non-motorized access point at the northern boundary of the Forest.

By requiring public vehicular and equestrian access to the National Forest, the Board would further affirm policies recently adopted regarding Federal Government Lands, which state in part, "Access across and to public lands is critical to the use, management, and development of those lands and adjoining private lands." It should be noted that the Forest Service will not grant exclusive access to the applicant. Thus, property owners within the proposed subdivision will also lack public vehicular access to the National Forest unless this is provided to the general public as a dedicated easement.

#### Impact on Easter Mountain Ranch, LLC

The applicant is expected to receive a substantial financial benefit by the proposed rezoning. Their property is located at the north end of the Forest boundary and is partially surrounded on three sides by the National Forest. The strategic location of this property provides the County a rare and invaluable opportunity to assure the general public has legal, vehicular and equestrian access to the National Forest at the north end of the Whetstone Mountains. This public benefit would not require any additional cost to the applicant, because it is reported that the Forest Service and Arizona Game and Fish Department are willing to defray the costs of extending the J-6 Ranch Road along the eastern boundary of the proposed subdivision to the National Forest in a dedicated public road right-of-way easement that has been granted to the Forest Service, Arizona Game and Fish Department, and/or Cochise County.

#### Benefits to the Public

In summary, from my perspective as a resident of Cochise County and someone who enjoys trail riding in the National Forest, the Board has a great opportunity here to lay the foundation for a permanent and legal, public vehicular and equestrian access to the National Forest at the north end of the Whetstone Mountains. It is my view, this would give County residents a critically needed access to outdoor recreational opportunities in the National Forest, while potentially boosting eco-tourism revenues for the County.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Cheryl L. Johnston". The signature is written in a cursive, flowing style.

Cheryl L Johnston

**Wilson, Beverly**

---

**From:** De La Torre, Carlos  
**Sent:** Thursday, October 06, 2011 10:59 AM  
**To:** Wilson, Beverly  
**Subject:** FW: Vehicular access by Easter Mountain LLC

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**From:** KJEANNE57@aol.com [mailto:KJEANNE57@aol.com]  
**Sent:** Thursday, October 06, 2011 9:34 AM  
**To:** Board  
**Subject:** Vehicular access by Easter Mountain LLC

Dear Board Members

Please rezone to provide vehicular access by Easter Mountain development to the National Forest.

Providing access will benefit our economy by drawing families to purchase homes in an area where there is good public access to recreational activity.

Public vehicular access is important to facilitate travel to dispersed camping areas within the forest boundaries, and to facilitate access to more remote areas in the Whetstone Mountains.

Sincerely,  
Jeanne and Doug Koepfel  
2585 W. Ringtail Rd.  
St. David, AZ 85630

SOUTHEAST ARIZONA ECONOMIC DEVELOPMENT GROUP

PO BOX 1312

BENSON, ARIZONA 85602

[www.saedg.org](http://www.saedg.org)

7/22/11

Cochise County Planning and Zoning Commission  
Attn: Beverly Wilson, Interim Planning Director  
1415 Melody Lane  
Bisbee, AZ 85603

PLANNING  
JUL 25 2011  
COCHISE COUNTY

Re: Easter Mountain Ranch, L.L.C.  
Docket: Z-11-06/124-01-013H

Dear P/Z Commissioners;

As Director of the Southeast Arizona Economic Development Group in Benson, AZ. Our organization would like to offer our support for the above-referenced rezoning request of Easter Mountain Ranch, LLC.

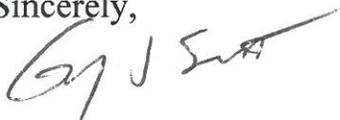
We know that the quality of this project will be a factor in increasing home values for all neighbors in this section of Cochise County.

The J-6 Ranch with all its natural beauty and rich history will be preserved with this plan. A majority of the project will remain as natural open space.

We are confident that the J-6 Easter Mountain Ranch Project will be a model for all of Cochise County. This project will also provide upper end residential choices for the high tech industries located just 25 miles to the West on Interstate 10 at the UA Tech Park.

Thank you for your support of this project.

Sincerely,



George J Scott  
Director/SAEDG

J-1 1

**JAY-SIX RANCH, LTD.**

P.O. Box 31087  
Tucson, AZ 85751

July 22, 2011

Cochise County Planning and Zoning Commission  
Attn: Beverly Wilson, Interim Planning Manager  
1415 Melody Lane, Building E  
Bisbee, AZ 85603

Re: Easter Mountain Ranch, L.L.C.  
Rezoning Request RU-4 to SR-2  
Docket Z-11-06 (Easter Mountain)

Dear Sirs:

As a nearby owner of approximately **80 acres** of land (**Pima County Tax Parcel #306-18-008C**) (adjacent to Redhawk Phase I), I am writing in support of the above-referenced rezoning request of Easter Mountain Ranch, L.L.C.

The plan they have proposed is an excellent plan. I am especially impressed by their extensive water conservation and recharge plan. This will certainly minimize any impact of their development on the water table in Cienega Basin, where our property is located.

Sincerely,

JAY-SIX RANCH, LTD.

By: Jay-Six, Inc., general partner

By: Neal Simonson  
Neal Simonson, President

COCHISE COUNTY

JUL 26 2011

PLANNING

JZ

**JAY-SIX RANCH, LTD.**

P.O. Box 31087  
Tucson, AZ 85751

July 22, 2011

Cochise County Planning and Zoning Commission  
Attn: Beverly Wilson, Interim Planning Manager  
1415 Melody Lane, Building E  
Bisbee, AZ 85603

Re: Easter Mountain Ranch, L.L.C.  
Rezoning Request RU-4 to SR-2  
Docket Z-11-06 (Easter Mountain)

Dear Sirs:

As a nearby owner of approximately **556 acres** of land (**Cochise County Tax Parcel #124-01-013G**) (part of Sections 20 & 21, T17S, R19E), I am writing in support of the above-referenced rezoning request of Easter Mountain Ranch, L.L.C. The plan they have proposed is an excellent plan. I am especially impressed by their extensive water conservation and recharge plan.

Sincerely,

JAY-SIX RANCH, LTD.

By: Jay-Six, Inc., general partner

By:   
Neal Simonson, President

**COCHISE COUNTY**

**JUL 26 2011**

**PLANNING**

J3

# SPECIAL USE: Docket Z-11-06 (Easter Mountain Ranch, LLC)

X YES, I SUPPORT THIS REQUEST

Please state your reasons: FROM OUR OWN EXPERIENCE, THE CLIENTELE, EASTER MOUNTIAN WILL ATTRACT, WILL HAVE LESS IMPACT ON THE COUNTY IN TERMS OF UTILITIES, TRAFFIC, AND MAINTENANCE. HOUSEHOLD POPULATIONS WILL BE SMALLER THEN AVERAGE, AND BECAUSE OF AGE, LESS MOVEMENT AS FAR AS TRAFFIC IN THE AREA.

NO, I DO NOT SUPPORT THIS REQUEST:

Please state your reasons: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Attach additional sheets, if necessary)

PRINT NAME(S): JAMES VERMILYEA

SIGNATURE(S): James Vermyea

PROJECT MANAGER FOR RED HAWK  
388 LOTS TO THE NORTH

YOUR TAX PARCEL NUMBER: 124-01-013 F (the eight-digit identification number found on the tax statement from the Assessor's Office) APPROX 315 AC.

YOUR ADDRESS 7373 E. PLACITA DE LA INTRIGA, TUCSON AZ. 85715

Upon submission of this form or any other correspondence, it becomes part of the public record and is available for review by the Applicant or other members of the public. **Written comments must be received by our Department no later than 4 PM on August 2, 2011 if you wish the Commission to consider them before the meeting. We can not make exceptions to this deadline, however, if you miss the written comment deadline you may still make a statement at the pubic hearing listed above. NOTE: Please do not ask the Commissioners to accept written comments or petitions at the meeting, as they do not have sufficient time to read materials at that time. Your cooperation is greatly appreciated.**

RETURN TO: Beverly Wilson  
Cochise County Planning Department  
1415 Melody Lane, Building E  
Bisbee, AZ 85603  
Email: [bjwilson@cochise.az.gov](mailto:bjwilson@cochise.az.gov)  
Fax: (520) 432-9278

COCHISE COUNTY  
JUL 27 2011  
PLANNING

24

# SPECIAL USE: Docket Z-11-06 (Easter Mountain Ranch, LLC)

X YES, I SUPPORT THIS REQUEST

Please state your reasons: THE SUBDIVISION WILL PROVIDE A HIGH END ALTERNATIVE HOUSING PROJECT WHICH WILL BE A BOON TO THE COUNTY, BECAUSE OF SELF MAINTAINED ROADS THE COUNTY WILL RECEIVE MUCH NEEDED REVENUE AND AT THE SAME TIME HAVE LITTLE EXPENSE FOR MAINTINANCE.

\_\_\_\_\_ NO, I DO NOT SUPPORT THIS REQUEST:

Please state your reasons: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Attach additional sheets, if necessary)

PRINT NAME(S): JAMES VERMILYEA

SIGNATURE(S): James Vermilyea

PROJECT MANAGER FOR RED HAWK SUBDIVISION - ~~383~~ 383 LOTS TO THE N

YOUR TAX PARCEL NUMBER: \_\_\_\_\_ (the eight-digit identification number found on the tax statement from the Assessor's Office)

YOUR ADDRESS 7373 E PLACITA DE LA INTRIGA, TULSON AZ. 85715

Upon submission of this form or any other correspondence, it becomes part of the public record and is available for review by the Applicant or other members of the public. **Written comments must be received by our Department no later than 4 PM on August 2, 2011 if you wish the Commission to consider them before the meeting. We can not make exceptions to this deadline, however, if you miss the written comment deadline you may still make a statement at the pubic hearing listed above. NOTE: Please do not ask the Commissioners to accept written comments or petitions at the meeting, as they do not have sufficient time to read materials at that time. Your cooperation is greatly appreciated.**

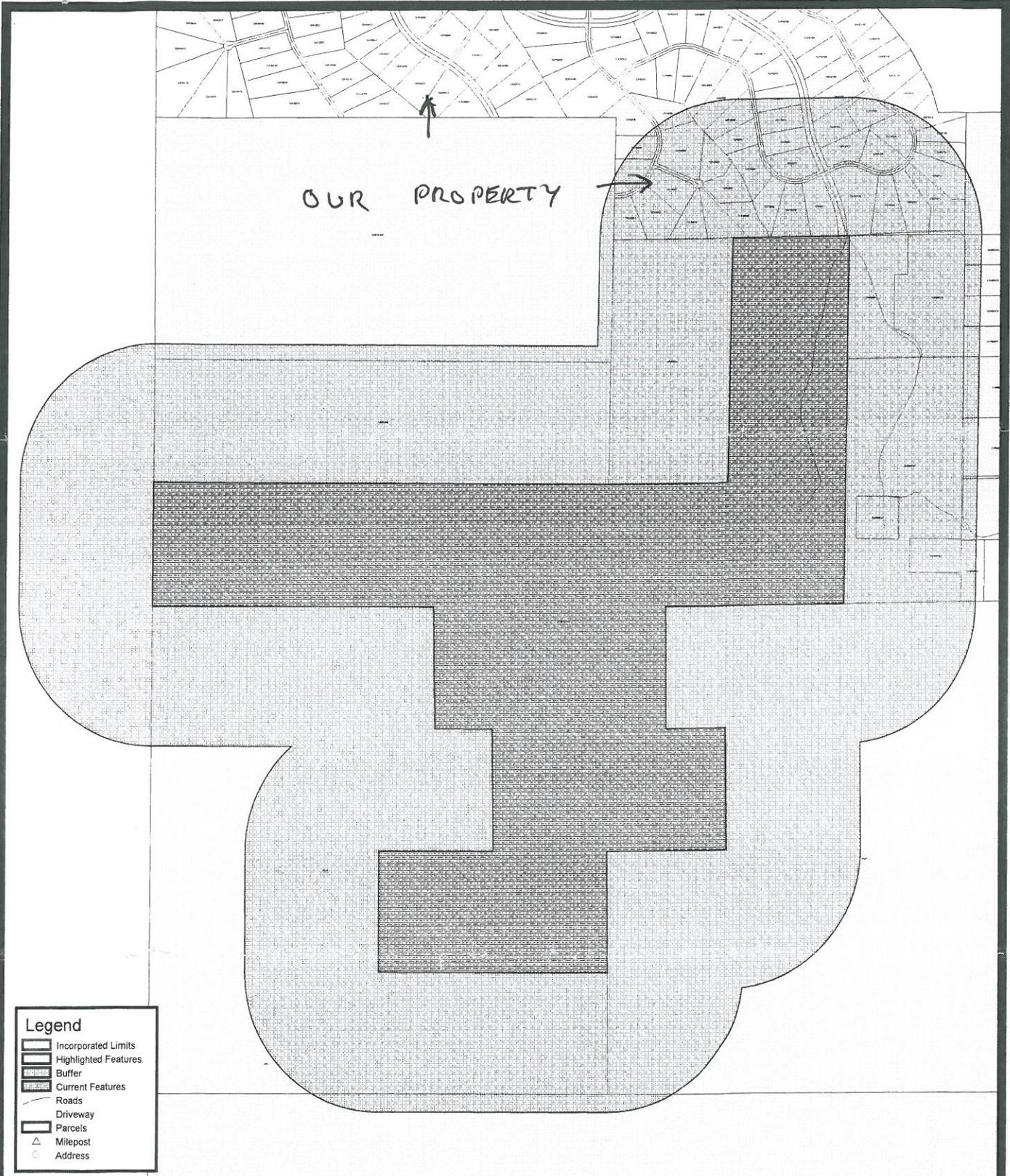
**RETURN TO:** Beverly Wilson  
Cochise County Planning Department  
1415 Melody Lane, Building E  
Bisbee, AZ 85603  
Email: [bjwilson@cochise.az.gov](mailto:bjwilson@cochise.az.gov)  
Fax: (520) 432-9278

**COCHISE COUNTY**

**JUL 27 2011**

**PLANNING**

*J5*



**Legend**

- Incorporated Limits
- Highlighted Features
- Buffer
- Current Features
- Roads
- Driveway
- Parcels
- Milepost
- Address



Z-11-04  
 Easter Mountain Ranch, LLC  
 124-01-013H  
 1500' Buffer

This map is a product of the Cochise County GIS




56

**COCHISE COUNTY**

JUL 22 2011

**PLANNING**

July 21, 2011

Beverly Wilson  
Interim Planning Manager  
1415 Melody Lane  
Bisbee, AZ 85603

RE: Easter Mountain Ranch, L.L.C.  
Docket: Z-11-06/124-01-013H

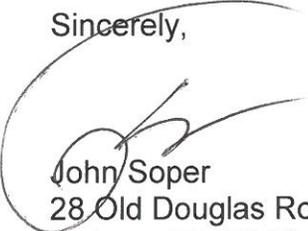
Dear Sirs:

As a nearby property owner (Cochise County Parcel #103-72-036B), I am writing in support of the above referenced rezoning request of Easter Mountain Ranch, L.L.C.

From what I have learned about the proposal, this appears to be a prime opportunity to spark much needed economic development in Cochise County. Please approve the rezoning request.

Thank you for your consideration.

Sincerely,



John Soper  
28 Old Douglas Road  
Bisbee, AZ 85603

COCHISE COUNTY  
JUL 18 2011  
PLANNING

[INSERT YOUR NAME AND ADDRESS]

Cochise County Planning and Zoning Commission  
Attn: Beverly Wilson, Interim Planning Director  
1415 Melody Lane  
Bisbee, AZ 85603

Re: Easter Mountain Ranch, L.L.C.  
Docket: Z-11-06/124-01-013H

Dear Sirs:

As a nearby property [or home] owner (**Cochise County Tax Parcel**  
#\_\_\_\_-\_\_\_\_-\_\_\_\_), I am writing in support of the above-referenced rezoning  
request of Easter Mountain Ranch, L.L.C.

[OPTIONAL – ADD ANY COMMENTS YOU DESIRE]

Sincerely,

#124-14-0010

Trust



Yes!

From: JX Ranch, LLC PO Box 544 Benson, Az., 85602

Cochise County Planning and Zoning Commission  
Attn: Beverly Wilson, Interim Planning Director  
1415 Melody Lane  
Bisbee, AZ 85603  
[bjwilson@cochise.az.gov](mailto:bjwilson@cochise.az.gov)

Re: Easter Mountain Ranch, L.L.C.  
Docket: Z-11-06/124-01-013H

Dear Sirs:

As a nearby home and property owner (**Cochise County Tax Parcel #124\_\_\_-001\_\_\_-002A\_\_\_**), I am writing in support of the above-referenced rezoning request of Easter Mountain Ranch, L.L.C.

I think this proposed development has many improvements over any others anywhere close to it. The biggest one I see is use of commercial water company instead of private wells.

Sincerely, Don Smith; JX Ranch, LLC

# SPECIAL USE: Docket Z-11-06 (Easter Mountain Ranch, LLC)

YES, I SUPPORT THIS REQUEST

Please state your reasons: If, Easter Mountain / J-Six Ranch, LLC has  
Complied with all Cochise County regulations for rezoning,  
then we support the rezoning.  
Private property rights are guaranteed by our U.S.  
Constitution

NO, I DO NOT SUPPORT THIS REQUEST:

Please state your reasons: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Attach additional sheets, if necessary)

PRINT NAME(S): Thomas R. Fischer Patricia L. Fischer  
SIGNATURE(S): Thomas R. Fischer 7/29/11 Patricia L. Fischer 07.29.11

YOUR TAX PARCEL NUMBER: 124-46-010 (the eight-digit identification number found on the tax statement from the Assessor's Office)

YOUR ADDRESS 1720 S. Circle Bar Rd. Benson AZ. 85602

Upon submission of this form or any other correspondence, it becomes part of the public record and is available for review by the Applicant or other members of the public. **Written comments must be received by our Department no later than 4 PM on August 2, 2011 if you wish the Commission to consider them before the meeting. We can not make exceptions to this deadline, however, if you miss the written comment deadline you may still make a statement at the public hearing listed above. NOTE: Please do not ask the Commissioners to accept written comments or petitions at the meeting, as they do not have sufficient time to read materials at that time. Your cooperation is greatly appreciated.**

RETURN TO: Beverly Wilson  
Cochise County Planning Department  
1415 Melody Lane, Building E  
Bisbee, AZ 85603  
Email: bjwilson@cochise.az.gov  
Fax: (520) 432-9278

**COCHISE COUNTY**  
AUG 01 2011  
**PLANNING**  
110

August 31, 2011

Cochise County Planning and Zoning Commission  
Attn: Beverly Wilson, Interim Planning Manager  
1415 Melody Lane  
Bisbee, AZ 85603  
[bjwilson@cochise.az.gov](mailto:bjwilson@cochise.az.gov)

Re: Easter Mountain Ranch, L.L.C.  
Docket: Z-11-06/124-01-013H

Dear Sirs:

As an interested homeowner (Cochise County Tax Parcel # 123-34-006), I am writing in support of the above-referenced rezoning request of Easter Mountain Ranch, L.L.C. I believe their project is very well-planned and will be an attribute to the area.

Sincerely,



Alain Hartmann  
1449 E Old Airport Road  
Benson, AZ 85602

COCHISE COUNTY

SEP 01 2011

PLANNING

J11

*Dave Harlan*

August 8, 2011

Email Transmittal Only: [bjwilson@cochise.az.gov](mailto:bjwilson@cochise.az.gov)

Cochise County Planning and Zoning Commission Members  
c/o: Beverly Wilson, Interim Cochise County Planning Director  
1415 Melody Lane, Building E  
Bisbee, AZ 85603

**Re: Easter Mountain Ranch's J-6 Ranch Rezoning - Z-11-06/124-01-013H**

Dear Commissioners,

I am writing you in support of the rezoning application requested by Easter Mountain Ranch, LLC, referenced above.

After investing a considerable amount of time reviewing this project, I have concluded this to be a model of balance between progress and preservation. Further, I believe it is a shining example of state-of-the-art upscale rural development for this county.

Particularly impressive is the incorporation of a myriad of advanced conservation and environmentally sensitive practices, not least of which are the innovative open space and storm water management/water conservation methodologies, all interwoven into a symbiotic relationship with nature. The well thought-out design/theme elements, along with features like vista and lighting protections combined with proper home orientation and shading are also exemplary components. Once it is understood that all these highly desirable and beneficial elements cannot be feasibly integrated into a marketable larger-lot project, it becomes obvious that the requested rezoning is the sole means of achieving them.

As a multi-generational member of this area of Cochise County, I too spent time on this ranch and have many fond memories of it. I am pleased to support the above rezoning request that carefully treats the area with a high degree of respect. I look forward to seeing this become a development that our neighbors and the entire county can be proud of.

Sincerely,

Dave Harlan

*Post Office Box 843 – Benson, Arizona 85602 - (520) 586-2613 – [raindanz@theriver.com](mailto:raindanz@theriver.com)*

J12

**Southern Arizona Land and Cattle**

Cochise County Planning and Zoning Commission  
Attn: Beverly Wilson, Interim Planning Director  
1415 Melody Lane  
Bisbee, AZ 85603  
[bjwilson@cochise.az.gov](mailto:bjwilson@cochise.az.gov)

Re: Easter Mountain Ranch, L.L.C.  
Docket: Z-11-06/124-01-013H

Dear Sirs:

As lessee of a nearby property (Cochise County Tax Parcel (#123-11-001T), I am writing in support of the above-referenced rezoning request of Easter Mountain Ranch, L.L.C.

I have reviewed the plans and supporting documents and find them to be meritorious in all aspects. I believe this rezoning will benefit all properties and Cochise County in general.

Sincerely,

M. J. Manemann  
Southern Arizona Land and Cattle

Cochise P4Z  
1415 Melody Ln  
Beahee, Az 85603  
FAX- 520-452-9278

re: Easter Mtu LLC  
Z-11-06/124-01-013 H

As a property owner in Cochise Co I  
am totally in support of Easter Mtu's  
request before you - They will do a good  
job and will bring jobs to the area as  
they do their improvements - No more  
"wild cat" growth Please -

Sincerely

Elto Barter

1196 Mill Iron

St DAVID, Az

85630

Cochise Co Planning & Zoning  
Att: Beverly Wilson  
1415 Muddy Ln  
Bisbee, Az 85603

8/4/11

re docket #

Z-11-06/124-01-013H

Eastern Mountain

Ranch LLC

Please support the re-zoning for Eastern Mtn  
LHC - Too many times only the opposition is heard  
and the happy supports are not vocal because  
the right seems so obvious. I appreciate the  
job you folks do and thank you. I will not  
be the silent support from here on out -  
Please consider granting this application  
in order to create order and minimize  
the wild cat growth -

171 Shady Ln  
Benson Az 85602

Sincerely

Verda Wright  
Home Owner

Bar T Performance  
Horses

Cochise Co P+2 Com,  
Attn: Beverly Wilson  
1415 Melody Ln  
Bisbee, Az  
85603  
Fax-520-452-9278

8/5/11

re:  
Docket#  
Z-11-06 f124-01-013H  
Easter Mtn Ranch LLC

As a resident of the Benson area I  
Am writing in support of the Above referenced  
rezoning request for Easter Mt Ranch - My  
property is on Hwy 80 a couple of miles South  
of Benson and I am not in the city limits but  
what Benson does affects all of the immediate  
Areas - Thank you for your considerations -

Sincerely

My parcel # 12423008C

Sharon Reid

August 8, 2011

Cochise County Planning Department  
Attn: Beverly Wilson, Interim Planning Manager  
1415 Melody Lane  
Bisbee, AZ 85603  
Em: [BJWilson@cochise.az.gov](mailto:BJWilson@cochise.az.gov)

Re: J-6 Ranch Rezoning

Dear Sirs:

The University of Arizona Science and Technology Park (UA Tech Park) is located at Rita Road and Interstate 10 in southeastern Tucson. The Park is a major center of technology innovation and commercialization. It is also home to 50 companies and organizations employing more than 7,000 people. The average wages at the Tech Park is approximately \$85,000, more than double the average wage in Pima County.

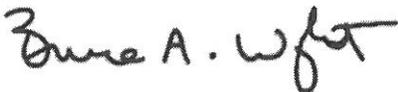
We having been working with economic development organizations in northern Cochise County in an effort to expand and improve the regional economy. A key part of our strategy is to attract a highly skilled workforce into the area.

A key issue for our employees is the lack of high quality middle to upper end housing within a reasonable commuting distance to Tech Park. Many of the employees live in the Catalina Foothills and have a forty minute or greater one-way commute each day.

We believe J-6 Ranch is a first-class project which provides a wonderful place to live in a beautiful setting at the foot of the Whetstone Mountains. The commute time from J-6 Ranch to the Tech Park is only about twenty to twenty-five minutes, making it an ideal location for our company's employees to live. Also, as we partner with Cochise County on other projects, this housing will also be an attractive asset.

For these reasons, we are pleased to support the J-6 Ranch rezoning proposal.

Sincerely,



Bruce A. Wright  
Chief Executive Officer  
UA Tech Park

# Cibola Ventures, LLC

---

15935 E. Jericho Dr.  
Fountain Hills, Arizona 85268

Phone: 480-861-9460

August 3, 2011

Cochise County Planning and Zoning Commission  
Attn: Beverly Wilson, Interim Planning Director  
1415 Melody Ln.  
Bisbee, AZ 85603  
[bjwilson@cochise.az.gov](mailto:bjwilson@cochise.az.gov)

CC: Stephen J. Lenihan, Esq.  
1050 E. River Road, Suite 300  
Tucson, AZ 85718

**RE: Easter Mountain Ranch, L.L.C. - Docket: Z-11-06/124-01-013H**

Dear Ms. Wilson,

I am writing in support of the zoning request for the J6 Ranch area submitted by Easter Mountain Ranch, LLC. I am the owner of a 28 acre parcel in the vicinity of the project (124-46-006B). I have reviewed the plans for the proposed J6 Ranch development and feel it has been professionally done in a way that supports the proper stewardship of this historical and beautiful area. The alternative could easily be a much higher impact series of MLD's instead of a well thought out and master planned community. I believe the J6 Ranch as proposed will be an asset to Cochise County and the Benson area. Please approve the zoning request these gentlemen have petitioned for.

Kindest Regards,



David Wm. Feldbaumer

Cibola Ventures, LLC

**COCHISE COUNTY**

AUG 04 2011

**PLANNING**

J18

August 3, 2011

Cochise County Planning and Zoning Commission  
Attn: Beverly Wilson, Interim Planning Director  
1415 Melody Lane  
Bisbee, AZ 85603  
[bjwilson@cochise.az.gov](mailto:bjwilson@cochise.az.gov)

Re: Rezoning  
Easter Mountain Ranch, L.L.C.  
Docket: Z-11-06/124-01-013H

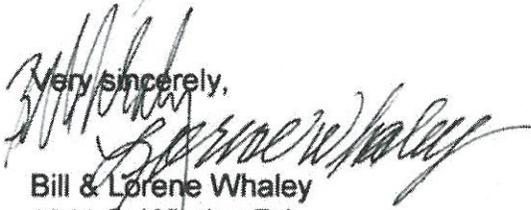
Dear Sirs:

We live on a large parcel of land to the east of the proposed rezoning and we are writing in support of the above-referenced rezoning request of Easter Mountain Ranch, L.L.C. for the following reasons:

1. We don't want our neighborhood looking like the old J-Six Ranchettes subdivision, no control.
2. We believe that a water company is a much better control of water than 4-acre parcels with each household drilling a well, which is what could happen in that location.
3. As it stands now the owners could split into 40-acre parcels, sell them & new owners split until we end up with wildcat developing. In our opinion, that kind of growth benefits no one, especially not the environment.
4. With developers being held to a higher standard we can end up with attractive homesites, custom homes & an upscale neighborhood that we can all be proud of.
5. For some reason, it seems to us, that some residents in the J-Six Ranchettes do not support upscale neighborhoods. Those people do not speak for us nor do we believe that they speak for the neighborhood around Easter Mountain Ranch's J-6 Ranch project.

Please base your decision heavily on the opinions of the neighbors adjacent to & close to the project.

Very sincerely,

  
Bill & Lorene Whaley  
1641 S. Whaley Rd.  
Benson, AZ 85602

Cell phone # (520) 221-0124 Bill Whaley or

(520) 221-0128 Lorene Whaley  
Cochise County tax parcel #124-46-008B

**Wilson, Beverly**

---

**From:** Steve Lenihan [slenihan@usa.net]  
**Sent:** Friday, August 05, 2011 4:20 PM  
**To:** Wilson, Beverly  
**Cc:** Duff Hearon  
**Subject:** Fw: Jay Six Ranch rezoning

Beverly,

Ken and Suzanne Wagner are within 1500 feet with one or two of their parcels.

Steve

**From:** Ken Wagner  
**Sent:** Friday, August 05, 2011 3:30 PM  
**To:** Steve Lenihan  
**Cc:** [bjwilson@cochise.az.gov](mailto:bjwilson@cochise.az.gov)  
**Subject:** Re: Jay Six Ranch rezoning

Steve Lenihan

Thanks for the telephone message. Yes, we are both in support of the rezoning request that is being considered by the Cochise Planning and Zoning dept.

We are the owners of tax parcels 124-46-007F, 007G, 002A and 007A.

We are of the opinion that this development would be a tremendous asset to this area of the County and would be a significant enhancement to the beautiful foothills of the Whetstone Mountains.

It is apparent to us that your firm has fully satisfied all of the negative concerns raised by those opposed to the project.

Thanks for the opportunity to let us voice our opinions and support.

Ken D. and Suzanne J. Wagner  
PO Box 950  
Carefree, AZ 85377

---

**From:** Steve Lenihan <slenihan@usa.net>  
**To:** Ken & Suzanne Wagner <whetstone.retreat@yahoo.com>  
**Cc:** Duff Hearon <dhearon@ashlandgroup.net>  
**Sent:** Friday, August 5, 2011 2:19 PM  
**Subject:** Fw: Jay Six Ranch rezoning

Ken,

Thanks for your support once again. As I mentioned in my telephone message to you, it would be helpful if we could tell the Cochise County Planning Department of your support.

8/8/2011

J20

**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](mailto:slenihan@usa.net)

August 9, 2011

Cochise County Planning and Zoning Commission  
Attn: Beverly Wilson, Interim Planning Manager  
1415 Melody Lane  
Bisbee, AZ 85603  
[bjwilson@cochise.az.gov](mailto:bjwilson@cochise.az.gov)

Re: Easter Mountain Ranch, L.L.C.  
Docket: Z-11-06/124-01-013H

Dear Beverly:

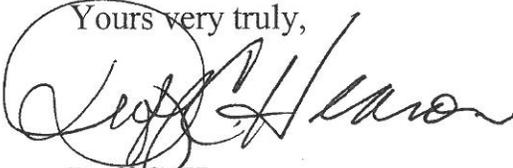
Monday morning, August 8, 2011, I was able to speak with Dave Nebel about our rezoning. The Nebels own the old Williams home near our eastern property line, and, are neighbors and close friends of the Fischers who own the neighboring property to them. Dave and Mary Nebel's tax code is #124-46-09A. We have given Dave and Mary Nebel updates of the project for some time.

Dave authorizes me on his behalf to forward this email to you in **support of the rezoning of our J-6 Ranch Property**. He does so knowing that:

- Our written restrictions contain the type of light restrictions that we previously provided to you, the Nebels and others in written site restrictions.
- Our property has the fifty foot buffer and one row of two acre lots along our eastern property line and bordering the Nebel's home as set forth in our updated plan.

Ms. Beverly Wilson  
August 9, 2011  
Page 2

In summary, based on Mr. Nebel's view of our written materials and our phone discussion, he **supports the rezoning.**

Yours very truly,  
  
Duff C. Hearon

DCH:mkg

Cc: Dave and Mary Nebel (U.S. Mail)  
Stephen J. Lenihan (via email)

# DIAMOND VENTURES

---

August 8, 2011

Cochise County Planning and Zoning Commission  
Attn: Beverly Wilson, Interim Planning Director  
1415 Melody Lane  
Bisbee, AZ 85603  
[bjwilson@cochise.az.gov](mailto:bjwilson@cochise.az.gov)

Re: SR-2 Rezoning of 555 Acres RU-4 Easter Mountain Ranch, L.L.C., J-6 Ranch  
Docket Z-11-06/124-01-013H

Dear Ms. Wilson:

As an adjacent property owner, Cochise County Tax Parcel #124-01-002B, we are writing in support of the rezoning requested by Easter Mountain Ranch, LLC. The past development patterns of low-density residential in the area were developed without the full benefit of planned and integrated infrastructure. We believe the rezoning of Easter Mountain, LLC/J-6 Ranch will allow for improved residential development coordinated with utilities, drainage and transportation planning.

While the densities requested under SR-2 are very low; greater intensity of land use in proximity to the I-10 corridor is appropriate, is consistent with adjacent Growth Area "B" policies, and integrates Smart Growth philosophies mandated by the State. This incremental increase in density can help move Cochise County toward greater sustainability.

Please feel free to contact me if you have any questions. Thank you for the opportunity to comment.

Sincerely,

BENSON LAND INVESTORS, L.L.C.

By: Diamond Ventures, Inc., Manager



David Goldstein, President

DG.1422/dl

cc: Duff Hearon  
Steve Lenihan

**Wilson, Beverly**

**From:** Steve Lenihan [slenihan@usa.net]  
**Sent:** Monday, August 08, 2011 1:20 PM  
**To:** Wilson, Beverly  
**Cc:** Duff Hearon  
**Subject:** Fw: Easter Mountain Ranch, L.L.C. - J-6 Ranch Project  
**Importance:** High

Beverly,

Below is the **support** email from **Caren and Steve Oberstein**. Their property is adjacent to and east of our project's entrance. Their tax parcel # is 124-46-001A. **They are within 1500 feet.**

Steve

----- Original Message -----

From: "Caren Oberstein" <cjtennis413@aol.com>  
 To: "Steve Lenihan" <slenihan@usa.net>  
 Sent: Monday, August 08, 2011 8:23 AM  
 Subject: Re: Easter Mountain Ranch, L.L.C. - J-6 Ranch Project

Yes this sounds fine to us, Caren and Steven Oberstien  
 On Aug 3, 2011, at 2:49 PM, Steve Lenihan wrote:

> Steve,  
 >  
 > You may recall that we communicated a few years back regarding our rezoning of the 556 acres surrounding the J-6 Ranch House, which is adjacent to your property. At that time you were kind enough to support our rezoning efforts. As we have restarted our rezoning process, we again ask for your support.  
 >  
 > We have spent the past few years modifying our Concept Plan, a copy of which is attached. It now provides for lower density (1 house per 2 or more acres) adjacent to your property. In the valley to the west the maximum density is about 1 house per 1 1/4 acres. The overall density will be the same or less than what we proposed four years ago. We have also established a Sustainability Plan to assure our residents and our neighbors that the natural vegetation, wildlife, views, dark skies and many other things will be preserved in perpetuity.  
 >  
 > In terms of development restrictions, they are more restrictive than what we presented to you three years ago.  
 >  
 > I have attached a copy of our new Concept Plan, new Sustainability Plan and a map identifying your property. If you should have any questions, please do not hesitate to call me at (520) 271-2284.  
 >  
 > If you will again support our rezoning, please so indicate in your reply and I will forward it to the Cochise County Planning Department. Our rezoning hearing before the Cochise County Planning and Zoning Commission is next Wednesday, August 10, 2011.  
 >  
 > (I have taken the liberty of sending this message to both of your email addresses I had in our files in case one had changed.)  
 >  
 > Thanks very much.  
 >  
 >  
 >  
 > Stephen J. Lenihan  
 > 1050 E. River Road, Suite 300  
 > Tucson, AZ 85718  
 > Phone: (520) 293-1702

Steve Lenihan  
 (520) 271-2284

8/8/2011

J24

> Fax: (520) 293-0539  
> ----- Original Message ----- From: "Steve Lenihan" <[slenihan@usa.net](mailto:slenihan@usa.net)>  
> To: "Steven Oberstein" <[Steve.Oberstein@flir.com](mailto:Steve.Oberstein@flir.com)>  
> Cc: "DHearon" <[dhearon@ashlandgroup.net](mailto:dhearon@ashlandgroup.net)>  
> Sent: Wednesday, November 28, 2007 4:10 PM  
> Subject: Easter Mountain Ranch, L.L.C. - J-6 Ranch Project  
>  
>  
>> Steve,  
>>  
>>  
>>  
>> It was nice talking with you yesterday about our project and your land  
>> adjacent to us. You will see that I have sketched-in the location of your  
>> property on a copy of our Concept Map. You are adjacent to and east of the  
>> entrance portion of our property (Block 1).  
>>  
>>  
>>  
>> As I mentioned, our goal is to make this a first-class project that will be  
>> very attractive to home and lot buyers. We believe the best way to do this  
>> is to preserve the natural beauty that currently exists. Therefore, we will  
>> be preserving at least fifty percent of the property as natural open space.  
>> Each of the lots will contain a building envelope (not more than 15,000  
>> square feet for a one-acre lot or 25,000 square feet for a two-acre lot).  
>> This will mean that not more than approximately one-third of the lot may be  
>> developed with a home and patio/yard. The balance of each lot will be  
>> required to be maintained in its natural state. Another issue that is very  
>> important to us in developing a high-end project is strict architectural  
>> control. There is nothing worse than having ugly homes that stick out  
>> rather than blend in to a neighborhood. Our design guidelines will be quite  
>> comprehensive and, among other things, will limit the colors allowable on  
>> the exterior of a home.  
>>  
>>  
>>  
>> Early on in our process, we engaged a biologist with JKE Bio-Consulting (Jay  
>> Esler) to assist us in identifying and preserving plant species and wildlife  
>> on the property. At the outset, Mr. Esler spent six full days on the  
>> property. With his assistance, we will be able to better preserve what is  
>> there. We are also interested in preserving the historic Jay-Six Ranch  
>> house. The ranch house has quite a lot of history, including the fact that,  
>> as a young man, President John Kennedy spent nearly a year at the ranch,  
>> part of it with his brother, Joe. We are told the to-be President built an  
>> addition to the ranch house. The ranch house also claims as its guests  
>> numerous Arizona and national political figures as well as movie stars.  
>> While the ranch house is in disrepair at this time, we have old pictures of  
>> the exterior of the ranch house which will assist us in its preservation.  
>> Also, our neighbors, Russ and Pat Fischer, have old brochures for the ranch  
>> house, which show pictures of the inside of some of the rooms. This will  
>> also be helpful in our renovation. We anticipate using the ranch house  
>> initially as a sales office and later as a community center for our buyers.  
>>  
>>  
>>  
>> I am attaching a copy of our Concept Plan, and copies of proposed lot  
>> layouts for Block 2 which is near your property, and Block 8, which is  
>> further to the south adjacent to the Coronado National Forest. You will see  
>> that each of the blocks contains a building envelope. The building  
>> envelopes are shown merely to demonstrate what we will be doing. At the  
>> platting stage, we will determine actual building envelopes in the field so

>> that the building envelopes will, to the extent possible, be located in the  
>> portion of each lot that has the least vegetation.

>>  
>>  
>>

>> I have also attached a copy of our Development Regulations. The Development  
>> Regulations have been redlined to show changes since our August 2007  
>> Neighborhood meeting, including the inclusion of our water conservation  
>> measures. We believe our water conservation plan will be more complete than  
>> any projects to date in Cochise County.

>>  
>>  
>>

>> You indicated in our telephone conversation that perhaps the most important  
>> issue to you is the impact our project would have on the value of your  
>> property. As we discussed, I believe our property will significantly raise  
>> the bar for developments in Cochise County. Perhaps confirming our feeling  
>> that values will be enhanced by our project is the fact that we have  
>> received support letters for our rezoning from the following nearby  
>> neighbors: Don Diamond, who is the largest developer in southern Arizona;  
>> Neal Simonson, one of the original founders of Fairfield Communities; and  
>> Jim Vermilyea, the developer of the adjacent Redhawk project.

>>  
>>  
>>

>> In our telephone conversation, I mentioned that while our concept plan for  
>> Blocks 1 and 2 presumes that one-acre lots will be adjacent to your  
>> property, our more recent inclination is to have our larger (almost two  
>> acre) lots immediately adjacent to your property and Fischer's property to  
>> your south. The one-acre lots would then be west of our entrance road on  
>> Blocks 1 and 2. If you would rather have us retain one-acre lots adjacent  
>> to you, we can do that. Having one-acre lots next to you might be better  
>> for you should you desire to rezone your property in the future. On the  
>> other hand, the larger lots would be more expensive and may be better for  
>> you for that reason.

>>  
>>  
>>

>> Steve, after your attorney and you have reviewed this information, please  
>> call with any questions you may have.

>>  
>>  
>>

>> Steve Lenihan

>>  
>>  
>>  
>>  
>>

>> Stephen J. Lenihan, Esq.  
>> 1050 E. River Road, Suite 300  
>> Tucson, AZ 85718  
>> Phone: (520) 293-1702  
>> Fax: (520) 293-0539

>>  
>> \*\*\*\*\*  
>>

>> This electronic mail transmission and any attachment may contain  
>> confidential and/or legally privileged information intended for the named  
>> recipient(s) only. Any review, use, disclosure, distribution, copying or  
>> other action regarding the information contained in this transmission and

>> any attachment by an unnamed recipient is strictly prohibited. Also, if you  
>> are not the named recipient, please immediately call me at (520) 293-1702  
>> and then delete and purge this transmission and any attachment from your  
>> computer system. Thank you.

>>

> <sustainability Plan (SJL) 10-15-10 CL.doc><Concept Plan (6-14-11).pdf><Oberstein Property depicted on  
Concept Plan (11-28-07).pdf>



**PIMA COUNTY BOARD OF SUPERVISORS**  
 130 WEST CONGRESS, 11th FLOOR  
 TUCSON, ARIZONA 85701-1317  
 (520) 740-8094  
 (520) 740-2721 FAX

**RAY CARROLL**  
 COUNTY SUPERVISOR  
 DISTRICT 4

September 30, 2011

Cochise County  
 Board of Supervisors  
 Attn: Clerk of the Board  
 1415 Melody Lane, Building G.  
 Bisbee, Arizona 85603

BOS  
 MO  
 JV  
 CD  
 MT

RECEIVED  
 COCHISE COUNTY  
 BOARD OF SUPERVISORS  
 2011 OCT -4 P 1:01

**Re: Cochise County Rezoning Site Analysis Case Z-07-23 Easter Mountain Ranch**

To the Cochise County Board of Supervisors:

I have been contacted by a number of constituents in my district regarding the above referenced rezoning and the impact that the increased development density would have on potable water supply and storm water run-off. Specifically, the concern is regarding the additional potable water demand due to the increased number of lots, the resulting impact to the aquifer and the resulting viability of local domestic wells.

I have reviewed the information provided to me by your Planning Department and find that the zoning applicant's concessions contained in the written Sustainability Plan and CC&Rs answer these concerns. On behalf of your constituents and my Pima County constituents, I ask you adopt these concessions as part of this rezoning ordinance, and, be attentive that their enforcement is maintained.

Thank you for asking my input into this mutually important matter.

Sincerely,

Ray Carroll

K1

August 1, 2011

Beverly Wilson, Interim Planning Manager  
Cochise County Community Development Department  
Planning, Zoning and Building Safety  
1415 Melody Land, Building E  
Bisbee, Arizona 85603  
[bwilson@cochise.az.gov](mailto:bwilson@cochise.az.gov)

**Subject: Docket Z-11-06 (J-6 Ranch / Easter Mountain) Rezoning Application**

Dear Ms. Wilson,

Pima County has compiled the following comments regarding the above referenced application. Among significant items are recommendations for increasing interconnected, dedicated open space corridors and relying less on providing open space on individual residential lots; prohibition of using pumped Empirita Water Company water for ponds on private lots; providing more specificity of and enforceability for proposed development guidelines; maintaining sensitivity to drainage issues downstream into the Cienega Creek watershed; and support for establishing public access to Coronado National Forest.

#### PIMA COUNTY REGIONAL FLOOD CONTROL DISTRICT

1. During review of the prior case on this site the District requested the opportunity to review a drainage report when it becomes available and this request is still relevant. The analyses references a preliminary report completed by Psomas and the District requests the opportunity to review it when it is being finalized.
2. The site is upstream of the Empirita Ranch, purchased and managed by Pima County as open space as well as residential areas in which drainage complaints are common.
3. Drainage and habitat connectivity are important issues to the County as they bear on our efforts to protect public safety, recharge potential, wildlife movement and a rural ranching that supports our economy and lifestyle. Preservation of washes and habitat especially where it is contiguous with Pima County Regulated Riparian Habitat is encouraged and this is reflected in the conceptual conservation plan. These maps are available from the District as may be needed to enhance the analysis.

#### Water Supply/Conservation Comments from Water Resources Division

1. This proposed rezoning will increase water demand by approximately 116 acre feet per year (AF/yr) from about 70 AF/yr to 186 AF/yr with water conservation requirements in place. This is based upon an estimated water demand of 1/2 AF/yr for larger lots. Will this added amount still be within the ADWR Adequate Water Supply determination of 321 AF/yr for the provider, Empirita Water Company, since they provide water for other development in the area? In

KZ

addition, what water-level impacts will this have on exempt wells? A previous internal evaluation at RFCD indicated that pumping 550 AF/yr in the Empirita well area could affect water levels after 20 years of pumping as much as 20 feet 4000 feet away. The qualitative statement of "no-significant impact" on page V-4, paragraph 1, should be quantified in number of feet of resulting drawdown to nearby exempt wells, and discuss what the additive effects of the additional pumping could be regarding additional water-level decline.

2. The sustainability plan on pp. IV-7-8, section d, Water Resources for some items is not specific enough. We suggest "Water conserving plumbing fixtures **are required** to meet EPA Watersense criteria for lavatory faucets, shower heads, toilets and appliances." Some of the items sound like suggestions instead of requirements. Our experience is that prior to building, the required elements can be implemented at a low cost to the owner.
3. Regarding the sustainability plan on pp. IV-7-8, section d, Water Resources, who will promote resident awareness of water conservation methods? This needs to be specified and the methods of doing it needs to be elaborated upon. Will they be in informational flyers provided by Empirita Water Company? Will there be seminars? Again, more specification is needed, especially who will implement the program.

#### CULTURAL RESOURCES OFFICE

No report.

#### OFFICE OF SUSTAINABILITY AND CONSERVATION

Pima County has acquired the 2660 acres to the west from the developer subject to allowing the use of water wells to supply the subject property with water. We support the prohibition of individual wells on lots, and the water conservation measures proposed in the documents. We request further restrictions for the benefit of the aquifer and wildlife. Please include lot prohibitions for ponds that would use water derived from Empirita Water Company on individual lots. This would reduce water pumped from the wells on Pima County property, and it would diminish the potential for non-native fish or frogs to be placed in ponds on the individual properties. This provision is not intended to prohibit ponds which use stormwater runoff or rainwater harvested from rooftops.

We support the provision of pedestrian/equestrian public access to the Coronado National Forest through J6 Ranch.

We encourage additional grouping or clustering of building envelopes and/or reduction of minimum lot sizes such that larger dedicated open-space corridors would be created to allow movement of wildlife through the project, especially from the Coronado National Forest which surrounds the southern part of the project and the Pima County Empirita Ranch Preserve immediately west of the project. At a landscape scale, interconnected open space preserved in larger, dedicated blocks is generally more valuable than open space preserved on individual residential lots.

#### REGIONAL WASTEWATER RECLAMATION DISTRICT

The PCRWRD has no comment on or objection to the proposed rezoning.

#### NATURAL RESOURCES AND PARKS AND RECREATION DEPARTMENT

1. Trail 487 SE Whetstone Stage Line Trail as identified on the Pima Regional Trail System Master Plan is near the project.
2. This project shall provide access to the national forest.
3. Monitor for any ground water pollution that might get into the Cienega Creek watershed.
4. The developer shall be responsible for monitoring and eradicating any invasive species.

September 1, 2011

Page 3 of 3

5. Roadways should be constructed, improved and maintained using sustainable techniques that will minimize erosion effects on plants, habitat and cultural resources.

DEPARTMENT OF TRANSPORTATION

Access to the proposed rezoning is via roads within Cochise County that connect with Interstate 10. No roadway connections are shown as continuing west to Pima County directly from this site into Empirita Ranch Preserve. The Traffic Impact Study was not submitted with this request and there is very little transportation information.

Empirita Ranch Preserve is located immediately west which is under Pima County ownership. If there is any roadway connection west of the county line, please contact me at Maggie.Shaw@pima.gov. Otherwise, there are no other comments.

DEPARTMENT OF ENVIRONMENTAL QUALITY

No report.

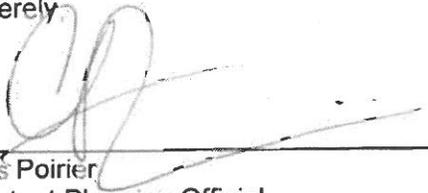
DEVELOPMENT SERVICES DEPARTMENT – PLANNING DIVISION

The Development Capability report looks much like a Specific Plan rezoning proposal but absent some of the enforceability of a Specific Plan. For example, the Design Guidelines and Sustainability Plan development standards appear structured more as policy than as conditions of rezoning; many of the items are optional or suggested rather than required, and the county would appear to have a minor role in enforceability. Many of the best practices presented might not be implemented if not required; the more important items should be translated into conditions of approval.

Open space buffers and/or lower density development as described for the northern and eastern project boundaries of the northern neighborhood (Hidden Valley Estates) to transition to existing development should also extend to the western boundary to buffer the Pima County Empirita Ranch Preserve.

The irregular shape of the project would appear to make it easier to provide wider dedicated drainage-based open space corridors which would extend all the way through the built areas, enhancing wildlife and landscape values.

Sincerely,



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Chris Poirier  
Assistant Planning Official  
Pima County Development Services Department

CC: C. H. Huckleberry, County Administrator  
Diana Durazo, Special Staff Assistant to the County Administrator

K4

Cochise County Planning and Zoning  
1415 Melody Lane, Building E  
Bisbee, Arizona

Re: Information to be included in packet for Planning Zoning Commissioners regarding Docket Z-11-06

Ms. Wilson:

Please incorporate this letter and the attached documents in the Planning and Zoning Commissioners' preparation packet tentatively schedule for August 10 or at which time the above Docket is actually calendared. The J-6/ Mescal Community Development Organization Board (CDO) continues to have significant concerns/questions related to the rezoning application made by Easter Mtn. Ranch, now know as J-6 Ranch.

**STATEMENT THAT PROPOSED ZONING DISTRICT IS EXTENSION OF EXISTING SR-2 IS MISLEADING:**

CDO has reviewed rezoning and subdivision plans in our rural area for more than nine years. The original purpose of introducing the concept of 2-acre lots into the development discussion for our area was to allow for the continued development on 3-acre parcels. Our area's historical track record for supporting RU-4 and large acreage lots is consistent and is evident with the Smith Ranch Referendum and results of the Envisioning Process.

Comment from July 6, 2005 Transmittal Cover Sheet by Mark Apel.

“When the first phase of Red Hawk was developed as a subdivision, the applicant was afforded an automatic density bonus that allowed him to develop on 3-acre parcels. With the adoption of new subdivision regulations last year, the automatic density bonus and 3-acre lot sizes were eliminated, unless someone proposes a conservation subdivision. The applicant wishes to maintain the same lot sizes and densities that he developed in Red Hawk 1 without having to set aside 50% open space, which is the reason for the rezoning request. Although the SR-87 zoning district would allow 2-acre lot sizes, The applicant is proposing 3-acre lot sizes.”

The community supported this decision since residents were pleased with how Red Hawk I was developing. Two-acre zoning was to allow Red Hawk to continue to develop its additional phases with primarily 3-acre parcels. It was a fix to correct the zoning regulations that were changed so as to no longer provide the developer with a density bonus for utilizing the subdivision process.

Support of the above was never intended to be used to encourage rezoning to support a subdivision that will be primarily 1-acre lots -- essentially doubling the number of homes that is currently allowed.

**SITE ANALYSIS/REGIONAL CONTEXT DOES NOT SUFFICIENTLY HIGHLIGHT ACTIONS TAKEN TO PROTECT ADJACENT LANDS:**

Excerpt from Pima County Development Services Memo to Cochise County - Nov. 6, 2007

“The site is adjacent to areas designated for low residential density under the Pima County Comprehensive Plan: Resource Transition and Low Intensity Rural, both with a maximum residential density of 0.3 RAC” with 80% open space. “The site is also immediately adjacent to areas designated as Important Riparian Area and Biological Core under the Conservation Lands System.”

Pima County downplanned the adjacent lands in 2003 in an attempt to decrease the amount of groundwater pumping if this land were to be developed. This action was necessary to achieve the level of protection needed under the Sonoran Desert Conservation Plan.

21

**THE JUNE 17, 2011 TRANSMITTAL INVITATION DOES NOT INDICATE REQUEST TO PIMA COUNTY FOR REVIEW OR COMMENT - POTENTIAL IMPACTS ARE SIGNIFICANT:**

In 2007, Pima County contacted Cochise County to explain potential impacts to be considered with such a rezoning and indicated willingness to participate in future reviews. Were they contacted by either Cochise County Planning and Zoning or by the applicant for this rezoning submittal? Has Pima County reviewed both the hydrologic information and drainage report prepared for the development?

In a November 6, 2007 Memorandum to Cochise County, "there are notable water supply concerns related to the development as outlined in the PCRFCO Water Resources Division comments. Water supply issues could potentially affect riparian habitat resources, both within the development and downstream within Pima County." "Staff has previously commented at length on the Empirita Water Company's Certificate of Convenience and Necessity. Likely effects of groundwater pumping will include depletion of existing Pima County residential wells. The lowering of the water table may affect springs along Wakefield Canyon as well."

The importance of having Pima County as a collaborator can not be emphasized enough. Pima County understands the importance of "County Jurisdiction" in mitigating impacts and that ACC, ADWR, and ADEQ have limited authorities. Pima County notes ADWR's limitations, "ADWR regulatory system is not able to consider a number of concurrent impacts that long-term groundwater pumping causes and it does not require sufficient analysis of these impacts."

The wells for this development are in Pima County. There are three larger watercourses that cross the proposed property, along with several smaller washes. All of these water courses drain into Pima County and then into the Cienega Creek watershed.

Pima County's Development Services Department has experience conducting water resource impact assessments that include the following when making land use decisions.

- Access to renewable water
- Proximity to groundwater-dependent ecosystems,
- Impacts to the water supply of existing residents,
- The ability to effectively recharge water and the potential for land subsidence.

Cochise County should make every effort to include Pima County technical input in this land use decision.

**IMPACTS TO ADJACENT WELLS:**

The applicant has paid Chuck Dickins and Montgomery and Associates to conduct studies that indicate there will be no impacts to adjacent wells. We are most interested if these results have been duplicated by an independent third party.

We are attaching an ADWR data analysis memorandum commenting on Dickins' findings that was reviewed by Pima County and the ACC as well as a Feb. 25th, 2008 letter from the Director of ADWR that neither impeaches or contradicts Mr. Kurtz' expressed professional opinion with regard to the expected depletion of possibly 75 domestic wells. In fact, Director Guenther expressed circumstances that validate the Kurtz' Memo opinion. However, he does point out that the opinion was not based on a "formal analysis of well impacts at locations of the nearby domestic wells".

The "Physical Availability" acknowledged by ADWR is no guarantee of future water resources which was made apparent at the 2007 Public Hearing cited on the following page.

During the 2007 Rezoning Hearing Scott Miller, ADWR Office of Assured and Adequate Water Supply, reported to the P & Z Commissioners that “no studies” had been conducted. It is not within their department’s authorities to do studies outside an Active Management Area to determine impacts to neighboring wells. Their sole responsibility is to determine if the proposed subdivision and surround demands will drawdown the water table to 1200 feet below ground surface during a 100 year period. The comment from the data analysis related to impacts to neighboring wells was not submitted in the Final Adequacy Report to the ACC since it was not applicable to the 1200’ rule. When asked by P & Z Chairperson Corey if his office knows if the concerns mentioned in the data analysis memorandum won’t occur, Scott Miller replied, “No”.

The letter in the application from ADWR indicating Physical Availability is little assurance to our community that a number of our wells will not be impacted. Doubling the number of homes also provides little assurance.\*

### **SUSTAINABILITY PLAN GUIDES RATHER THAN REQUIRES IMPORTANT COMPONENTS:**

Over the years, CDO has watched ADWR Hydrological Maps show the groundwater table in many of our wells dropping approximately a foot a year. Tritium testing shows that precipitation within the last fifty years has not reached our groundwater. Isotope testing tells us the groundwater we are using is thousands of years old. Limiting extraction and requiring re-use are important practices; recharge is not likely to be a benefit.

Mandatory conservation versus voluntary conservation is necessary. Water harvesting practices beyond passive landscape features need to be required, cisterns and water storage should be incorporated, mandatory rather than elective use of graywater should be considered. Requiring versus encouraging or “offering as an option” is more applicable in a “conservation” subdivision. Swimming pools should not be allowed even though they may be limited in size in the future. Prohibiting new private wells on the lots is a moot point since original deed to land restricts drilling.

### **TRAFFIC IMPACT ANALYSIS USES INCORRECT SPEED LIMITS/ ARE RESULTS VALID?**

We reviewed Traffic Impact Analysis for the J-6 Ranch Projected dated July 2007. This analysis used faster speed limits than what are currently posted on Mescal Road, the Frontage Road, and J-6 Ranch Road. Faster speeds may allow greater volumes of traffic to be accommodated in the analysis. Since existing conditions vary considerably from those listed in the study, realistic impacts may not have been identified.

It is also unclear as to what assumptions were used to indicate the majority of travelers would be headed East during AM PEAK hours and returning on the West Ramp to J-6 Ranch Road from the Benson/Skyline area. If in fact the majority of traffic were headed to Tucson instead of Benson or Sierra Vista (U of A Solar or Science Parks, etc.), congestion on the interchange might be far more serious than the study reports.

The Rezoning has the potential to add 1,870 more trips per day on J-6 Ranch Road. The design of the new bridge did not include any improvements for increased traffic.

### **ACCESS TO NATIONAL FOREST:**

Public Access to the Forest is critical. It would be irresponsible to allow the subdivision to have exclusive use of the public lands. The preferred access is off J-6 Ranch Road, not as proposed.

By placing the access on the west boundary of the subdivision, the applicant has reduced usability significantly. This proposed route has inherent problems:

- 1) There is no road crossing state lands or across J-6 Ranch to get to the forest boundary. Access across state land is not guaranteed and requires a permit.
- 2) There is no parking for rigs, vehicles except along the roads in Red Hawk which is problematic. Motorized access must be allowed into the forest to reach a parking/staging area.
- 3) Motorized access must exist further into the forest for emergency responders and resource managers.

**In Summary:**

The J-6/Mescal Community Development Organization Board respectfully requests the Commissioners proceed cautiously in advancing this application for rezoning. The Commission is our first line of protection against significant impacts to our safety, welfare, and natural resources.

In brief, the following are of critical concern:

- 1) Proposal changes previous use of SR-87 to develop 3-acre lots. If approved, a precedent will be set for 1-acre lots which is contrary to the consistent message from the community.
- 2) Proposal is not congruent with Pima County Plans for adjacent lands - preservation of open space, water management, etc.
- 3) Joint planning efforts not apparent between managing entities impacted by proposal - Pima County, Arizona Game and Fish, Forest Service, Mescal-J6 Fire District, Benson School District.
- 4) Existing documents indicate likely potential to impact significant number of neighboring wells and only minimal mandatory conservation practices are required in application.
- 5) Inaccuracies in Traffic Analysis report which may affect identification of true impacts.

As always, we appreciate the opportunity to comment.

Mary McCool, Chair  
J-6/Mescal Community Development Organization  
(520) 647-3585  
kenmccool@aol.com

Attachments: Office of Assured and Adequate Water Supply Hydrology Review  
ADWR Hydrology Division Data Analysis Memorandum, Aug. 28, 2006  
Dissent to Decision # 69399 by Commissioner Kris Mayes  
ADWR Director Guenther Letter

ORIGINAL



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



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ARIZONA CORPORATION COMMISSION

Direct Line: (602) 542-4143  
Fax: (602) 542-0765  
E-mail: kmayes@azcc.gov

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2007 APR -3 P 4: 53

April 3, 2007

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Commissioner William A. Mundell  
Commissioner Jeff Hatch-Miller  
Commissioner Gary Pierce  
Parties to the Docket

DOCKETED BY  
nr

Re: Dissent to Decision No. 69399, Empirita Water Company CC&N Extension; Docket No. W-03948A-06-0490

Dear Colleagues and Parties to the Docket:

Today, I respectfully file this dissent on Decision No. 69399. In my view, the Commission's decision to grant Empirita Water Company's ("Empirita") request for an extension of its Certificate for Convenience and Necessity ("CC&N") falls well short of sound public policy as it has the potential to dramatically impact up to 75 private wells in the surrounding area, was made in the face of a state hydrologist's memorandum questioning the findings of the Company hydrologist, lacks adequate water conservation requirements and could have a deleterious effect on the Cienega Creek Basin.<sup>1</sup>

While the Arizona Department of Water Resources ("ADWR") ultimately determined that the Company has proven up adequate physical availability of water supplies for its proposed build-out, totaling 321 ac-ft/yr,<sup>2</sup> a hydrologist for DWR who reviewed the Company's hydrological study also determined that the proposed new development and associated water company expansion would "probably capture a majority of the groundwater flux in the area" and dramatically impact a number of nearby wells. Specifically in this regard, a DWR Memorandum introduced into the record in this case states the following:

Impacts to the domestic wells (upwards of 75 wells) found in the vicinity (about one mile) of the well field for the Empirita water Company will likely experience large

<sup>1</sup> I take judicial notice that the Cienega Creek Basin has been described as a biologically diverse watershed that acts as a source of groundwater recharge for the City of Tucson. Portions of the Basin lie in both Cochise and Pima Counties. See DWR Fact Sheet on Cienega Creek Basin, at [http://www.water.az.gov/dwr/Content/Find\\_by\\_Program/Rural\\_Programs/OutsideAMAs\\_PDFs\\_for\\_web/Southeastern\\_Arizona\\_Planning\\_Area/Cienega\\_Creek\\_Basin.pdf](http://www.water.az.gov/dwr/Content/Find_by_Program/Rural_Programs/OutsideAMAs_PDFs_for_web/Southeastern_Arizona_Planning_Area/Cienega_Creek_Basin.pdf); see also Sonoran Institute Fact Sheet on the Cienega Creek Watershed at [www. http://www.sonoran.org/index.php?option=com\\_content&task=view&id=62&Itemid=158](http://www.sonoran.org/index.php?option=com_content&task=view&id=62&Itemid=158).

<sup>2</sup> See DWR letter to Larry Robertson, attorney for Empirita Water Company, dated March 27, 2007, a Physical Availability Determination for the Company of 321 acre-feet per year for 100 years. The PAD determination letter was presented to the Commissioners at the Commission's Open Meeting prior to the vote on this matter.

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impacts due to declines in the groundwater table. Many domestic wells will probably need to be deepened, or will go dry.<sup>3</sup>

The DWR memorandum also appears to question whether groundwater levels in the area of the Empirita Water Company's proposed expansion will remain steady, noting that "the flux appears to be driven by flow from the Cienega Creek area. It is unclear if this flow could be maintained as the groundwater levels decline over time. Where the flow enters the zone of the production wells, there appears to be a bounding fault, such that the groundwater must maintain an elevation that exceeds the upthrown elevation of this faulted strata where the production wells are found."<sup>4</sup>

There also appears to be a disagreement between the DWR and Company hydrologists over the very nature of the aquifer, with the Company's hydrologist taking the position that the aquifer is a "basin fill type aquifer system"<sup>5</sup> and the DWR hydrologist concluding that the aquifer could be a confined or fractured system.<sup>6</sup>

Perhaps most disturbing is the DWR hydrologist's prediction that the Company's proposed new wells will "intercept" water coursing northward toward approximately 75 private wells, leaving them susceptible to being dewatered.<sup>7</sup>

Intervenor McCool, the owner of one of the wells DWR predicts will be negatively impacted by the Company, requested in her testimony before the Administrative Law Judge that the Commission adopt measures designed to mitigate the predicted drawdown of water on the aquifer. Specifically, she asked that the Commission attempt to require that all developers adopt deed restrictions to prevent individual wells from being drilled and impose CC&R's restricting swimming pools and water features; require Empirita to extend its CC&N to include the affected well-owners; and mandate that the Company monitor the wells of its neighbors if requested.<sup>8</sup>

In response to this evidence I offered three amendments designed to promote water conservation and assist neighboring well owners should their wells be dewatered by the Company's operations. Only one of those three amendments was approved.

Mayes #4 would have ordered Empirita to monitor water levels in the surrounding area, and if large impacts on these private wells were detected, would have required the Company to make a filing to incorporate these affected well-owners within its certificated area. I believe the Commission has the authority to order a public service corporation to monitor surrounding wells for the impact that a CC&N extension has on those wells, as a necessary step toward the eventual

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<sup>3</sup> See attached ADWR Memorandum, August 28, 2006, Page 11. The Memorandum was introduced by Intervenor Mary McCool.

<sup>4</sup> Id at Page 7.

<sup>5</sup> See Exhibit A-19 at page 3.

<sup>6</sup> Id at Page 5.

<sup>7</sup> See DWR Memorandum, at page 6-8, 10.

<sup>8</sup> See Transcript of the hearing at 169 and Recommended Opinion and Order at page 6.

L-6

inclusion of those customers in the CC&N. I withdrew Mayes #4 from consideration when it became clear that it did not have the support of a majority of Commissioners.

As concerning as the negative impact on surrounding private wells is the effect this decision could have on the Cienega Creek Basin and, as a result, on the Company's own customers. Those customers live within five miles of the Cienega Creek<sup>9</sup> and will soon rely on the basin's aquifer. Indeed, the Order spoke to the need for conservation measures in this case: "...[the Commission] does have authority over the water public service corporation and *can order the water company to implement water conservation measures that are in the public interest.*"<sup>10</sup> The Commission could have ordered Empirita to implement conservation measures for its customers, but chose not to.

Mayes Proposed Amendment #2 would have required Empirita to file a conservation tariff within 150 days. This proposed conservation tariff was predicated upon the Best Management Practices ("BMPs") that DWR is promulgating in its conservation rulemaking.<sup>11</sup> Had it passed, Mayes #2 would have required Empirita to file a conservation tariff that would have included, but was not limited to, low water use landscaping requirements, limitations on water intensive landscaping and turf, requirements for car wash water recycling and landscape watering restrictions. The amendment would have also required Empirita to condition the provision of new service upon the implementation of low-flush toilets and low-pressure showerheads by customers. This amendment failed.

Mayes Proposed Amendment #3 requires the Company to file with the Commission within 150 days a new rate application in order to implement tiered rates that more effectively encourage conservation by the Company's customers. The Company's current rates have only two tiers, with the first tier set at 10,000 gallons, a high initial break-over point that is unlikely to spur much conservation. The amendment, which passed, mandates that the Company file a three tiered rate with the first tier less than 10,000 gallons.

Several Commissioners expressed the view that the Commission was barred from adopting the Mayes Amendments because they fell outside the Commission's jurisdiction. I simply disagree with this assessment. The Commission has the power to act in the broad public interest, and has specific Constitutional authority to take actions to protect the health and safety of the patrons and employees of public service corporations<sup>12</sup> and statutory authority to act where it determines that the provision of service by a public service corporation is "unjust, unreasonable, unsafe,

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<sup>9</sup> A Company representative stated during the Open Meeting on this matter that the proposed extension are is within five miles of Cienega Creek.

<sup>10</sup> Decision No. 69399 at 6, line 26.

<sup>11</sup> See Draft Program Framework: Modified Non-Per Capita Conservation Program, Oct. 5, 2006, Arizona Department of Water Resources.

<sup>12</sup> See Article 15, Section 3 of the Arizona Constitution.

ACC Commissioners  
Parties to the Docket  
April 3, 2007  
Page 4

improper, inadequate or insufficient".<sup>13</sup> We have relied on this authority before, most recently when we began prohibiting the sale of groundwater for use on golf courses and ornamental water features.<sup>14</sup>

The record in this case indicates that at build-out Empirita will serve 972 connections, 881 of which will come from the new service area. While the passage of Mayes Amendment #3 may ameliorate some of the impact on the aquifer associated with this growth, the absence of strict conservation measures or monitoring requirements leaves both nearby well-owners and the customers of the Company without necessary insurance against future water shortages. The Commission has a panoply of safeguards available to it to address situations like this one, where water supplies and impacts on an aquifer are clearly at issue. Unfortunately, we failed to adopt those safeguards in this case.

It is for the abovementioned reasons that I respectfully file this dissent.

Sincerely,



Kris Mayes  
Commissioner

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<sup>13</sup> See ARS § 40-321 (A), which provides, "When the commission finds that the equipment, appliances, facilities or service of any public service corporation, or the methods of manufacture, distribution, transmission, storage or supply employed by it are unjust, unreasonable, unsafe, improper, inadequate or insufficient, the commission shall determine what is just, reasonable, safe, proper, adequate or sufficient, and shall enforce its determination by order or regulation."

<sup>14</sup> Most new CC&N's and CC&N extensions now carry this prohibition.

ARIZONA DEPARTMENT OF WATER RESOURCES  
HYDROLOGY DIVISION

MEMORANDUM

TO: File  
THRU: Karen Modesto  
FROM: Andy Kurtz  
DATE: December 5, 2000  
October 18, 2004 (modified)  
August 28, 2006 (most recent modification)

RE: Empirita Water Company (21-402251.0000)  
Application for modification of Designation

Other assoc. files:

Empirita Water Company (formerly Anderson Water Co.) (21-401435.0000)  
Empirita Highlands @ the J-6 Ranch (22-400432), Section 19, T 17 S, R 19 E.  
Redhawk subdivision (91 lots)

Introduction:

The above referenced water provider is located at the east edge of the Empire Ranch, known as the J-6 Ranch. This ranch (J-6) occupies portions of Sections 14, 23, 24, 25, 26, and 36 Township 17 South Range 18 East, as well as portions of Sections 19, 20, 21, 29, 30, 31, and 32 Township 17 South Range 19 East. Of this, the Empirita Water Company's CC&N occupies T17S R19E, sec. 20 (all), portions of sections 19, 21, 29, and 30. The water company's wells are located in the CC&N of the adjacent Anderson Water Company.

Originally, a study was provided to aid in the determination of available groundwater supplies ONLY for the subdivision identified above found in section 19. However, on September 24, 2004, ADWR received an application for Designation of an Adequate Water Supply (21-401435.0000). A supplemental hydrologic report was submitted in support of the application that was prepared by Chuck Dickens (a consultant).

On August 3, 2006, the ADWR Hydrology Division received a copy of the application for modification of the designation. Previously, the water provider was designated for 117.6 ac-ft/yr needed to meet their current and projected demands through the year 2015. In addition, it was determined that about 185 ac-ft/yr was reasonably proven available. The modification is requesting to be designated for 321 ac-ft/yr.

L-9

**Water Provider:** Empirita Water Company

current demands :	0.00	ac-ft/yr	
committed demands:	NED	ac-ft/yr.....	Redhawk subdivision??
<u>future demands:</u>	NED	ac-ft/yr	
TOTAL:	NED	ac-ft/yr	

**ADWR Comments & Concerns:**

- This will be a separate service system from that associated with the "Empire Ranch". No ongoing demands are known.
- The proposed service/production wells are not located within the CC&N of the water provider, but instead are located about 1 mile to the west.

**Water Company wells:**

The wells listed below were the "original wells" to provide water needed to meet the expected demands.

<u>location</u>	<u>DWR #</u>	<u>TD</u>	<u>DTW</u>	<u>Year Drilled</u>
D(17-18) 24 bdc - 1	632436	445	300	??? 2000
D(17-18) 24 bbc - 2	509703	425	300	??? 2000

The following wells were listed in the 2006 hydrologic study as the "service area wells"

<u>Location</u>	<u>DWR #</u>	<u>TD</u>	<u>DTW</u>	<u>Yr drilled</u>	<u>Pumpsized</u> <u>GPM</u>	<u>Tested</u> <u>Rate (gpm)</u>
D(17-18) 24bdc (#1)	579078	445	263	2000	60	42
D(17-18) 24bbc (#2)	580933	425	263	2000	60	44
D(17-18) 23adb (#3)	580934	460	248	2006	100	103
D(17-18) 23cca (#4)	203721	800	184	2004	250	275

**ADWR Comments & Concerns:**

- The total GPM for all the wells is about 758 ac-ft/yr. However, the pump size does not necessarily reflect the characteristics of the aquifer.

**Water Supply Introduction:**

The water supply for the proposed subdivision is to be solely from available groundwater resources found in the area. Originally, water for the proposed development is from wells located outside the subdivision's boundaries, but within the CC&N of the Anderson Water Company. Recent data submitted does not indicate that the proposed production wells lie within the CC&N(?) of the Empirita Water Company.

Aquifer tests were performed on the proposed production wells. The consultant presented the data and their determinations of transmissivity and storage coefficient. (See aquifer parameter section).

**ADWR's Comments & Concerns:**

- The currently proposed production wells appear to lie outside the CC&N of the Empirita Water Company.

**Geology - Hydrology:**

The geology of the surrounding area near the water provider is composed of a blend of quartz monzonite, limestone, and some basin fill material. To the south and east of the Water Company's CC&N (Empirita), hydrologic bedrock outcrops and is flanked by an extensive fault complex. Beneath the property itself, it appears that there is basin fill alluvium composed of sands and clays, underlain by conglomerates and remnant volcanic strata.

The volcanics and some of the conglomerates appear to create a somewhat "confined(?)" aquifer system. This is recognized by the difference between the original depth to water determined at the time of drilling as compared to the static depth to water identified at a later time. It is unclear what the extent of this condition is, but it is believed to be limited in extent given the nature of the area.

**ADWR Concerns:**

- The consultant has failed to delineate the "confining" strata associated with the aquifer.
- Though the transmissivity values (ADWR's values) appear reasonable, the storage coefficient, .000013, is more representative of a confined system or of an unconfined fractured aquifer.

Aquifer Parameters

The consultant has conducted aquifer tests associated with the use of observation well. These tests were plotted and values of transmissivity were determined from the recovery tests only. ADWR recalculated the transmissivity estimates for verification. It was found that the consultant used very late recovery test data where ADWR used recovery data mid-range. Early test data is representative of the well bore refilling immediately after the pumping stops. Mid-range is the aquifer actively replenishing. Late range the water levels in the well has basically recovered and is achieving equilibrium.

In addition, values of specific capacity were reviewed by ADWR and values of transmissivity were estimated.

<u>Well site</u>	<u>Consultant</u>	<u>Transmissivity Value Estimates (gpd/ft)</u>		
		<u>ADWR</u>	<u>Test Length (days)</u>	<u>T (via Sp. Cap)</u>
# 1	8,000 - 10,000	5,544	3	1500 - 2000
# 2	10,500	4,646	2.8	3000 - 4000
#3	10,900	5,438	3	3,300 - 4,400
#4	18,500	5,186	2	2,625 - 3,500

The consultant has stated that an average T-value of 12,000 gpd/ft as a reasonable value. ADWR conducted additional research and found that though aquifer test data was not available, specific capacity data was that has allowed for the following transmissivity estimates:

Additional Transmissivity Estimates

Other Wells	DWR #	TD	DTBedrock	DTW (@time of drilling)	From Spec.Cap. (gpd/ft)
D(17-18) 13dda	55-557421	420	NDE-congl	360	1200
D(17-18) 13dda	55-523859	434	NDE-congl	355	1,600
D(17-18) 13dcb	55-532789	440	NDE-congl	273	2,000
D(17-18) 13dcb	55-522015	460	NDE-congl	380	500
D(17-18) 13dcb	55-520086	460	NDE-congl	280	1,000
D(17-18) 13cca	55-516511	350	NDE-congl	265	1,250
D(17-18) 14caa	55-534447	340	NDE-congl	175	880
D(17-18) 14cad	55-539509	370	NDE-alluv.	305	522
D(17-18) 14cbc	55-538336	355	NDE-congl	200	2,000
D(17-18) 14dcd	55-519694	355	NDE-granite	300	2,000
D(17-19) 17ddc	55-508387	300	300 - granite	230	500
D(17-19) 17ddd	55-535014	400	NDE-sandst	309	118
D(17-19) 18ccc	55-501663	550	NDE-congl	355	133
D(17-19) 18cdc	55-549670	640	610 - vole	580	172
D(17-19) 18dea	55-502816	630	200 schst	280	65
D(17-19) 18dcc	55-516644	400	NDE-congl	260	444
D(17-19) 18dcd	55-516450	420	NDE-congl	350	222
D(17-19) 18ddb	55-510089	465	60 granite	390	5,000
D(17-19) 18ddc	55-515372	720	600 granite	220	319
D(17-19) 18dde	55-515622	720	320 granite	240	422
D(17-19) 18ddd	55-502549	500	NDE-congl	400	272
D(17-19) 18ddd	55-536200	500	NDE-congl	165	225
D(17-19) 29dac	55-540330	320	0-320 granite	80	318

The consultant used the observation well to aid in the determination of storage coefficient. The value determined appears to be very small, typical of a confined system, or possibly of a fracture system.

**Specific Yield:** 10 % estimated as reasonable by consultant for impact analysis

**Storage Coefficient:** .000013 (confined????) data from consultant

Depth to Water.

A value of 184 feet below land surface was stated as being the current DTW in the area. Of interest is that the water in the wells is found at a much lower dept, indicating that the system may be confined in nature. The following data was collected from the GWSI database.

Wellsite:	DWR #	DTW	Elev.	Date	Comment
D(17-18) 13ddd	604602	348.2	3892	2005	
D(17-18) 13abd	NDA	248.8	3891	2005	
D(17-19) 29bba	NDA	142.4	4321	2005	edge of hard rock

The consultant has listed additional DTW/Elev. Data in Figure 2. It is unclear how this data was measured as well as the data of measurement. The values do not appear to be unreasonable but the DTW stated by the consultant of 184 ft bls does not correlate with the map provided where the DTW for the production wells ranges from 184 to 263. Three of the four wells have DTW ranging from 249 to 263 bls.

ADWR Comments & Concerns:

- If the depth to water is 184 ft bls, then the groundwater appears to have risen and may possibly be in a confined zone. A storage coef. value of .000013 may be more representative than a value of 10 % selected by the consultant.
- *To the east of the property a dry hole was found.* Nearby wells indicated that this area is not very productive. DRY HOLE D(17-19) 17ddd encountered volcanics @ 280 ft bls. This well is located about 2 ½ miles east of the proposed production wells.
- The future proposed production well has been "spotted" to be drilled within ½ mile of this Dry Hole, D(17-19) 17ddd.
- REFER TO THE CONSULTANT'S STUDY FOR DETAILED INFORMATION

Depth to Bedrock

The consultant has provided a map with depth to bedrock listed. At the production well sites it appears that the bedrock is found at about 420 feet below land surface.  
(See figure 4, Haley & Aldrich)

REFER TO THE CONSULTANT'S STUDY FOR DETAILED INFORMATION

Saturated Thickness

Current DTW: 184- 263 ft bls  
DT Bedrock: 420 -> 800 feet bls  
  
Saturated thickness (locally): 236 - 616 feet via piezometric surface (confined)

ADWR comments & Concerns:

Three of the four wells of the water provider were drilled to a depth that ranges from 425 - 460 ft. Only one well was drilled to about 800 feet. Review of the cross-section prepared by the consultant (Figure 4) suggest that a conservative value of saturated thickness be used if the system is to be considered to be unconfined.

Groundwater In Storage

This was not addressed by the applicant or ADWR

Flux

The applicant did address this item. ADWR's re-evaluation is as follows:

	<u>Consultant</u>	<u>ADWR</u>	<u>ADWR</u>
Q = TiL	T = 12,000 gpd/ft	2,000	5000
	I = .02 ft/ft	.02	.02
	L = 6000	5280	5280
	Q = 1,613 ac-ft/yr	236.6 ac-ft/yr	591 ac-ft/yr

ADWR Comments & Concerns:

- The flux appears to be driven by flow from the Cienega Creek area. It is unclear if this flow could be maintained as the groundwater levels decline over time. Where the flow enters the zone of the production wells, there appears to be a bounding fault, such that the groundwater must maintain an elevation that exceeds the upthrown elevation of this faulted strata where the production wells are found.
- In addition, where the production wells are located, they will intercept flow moving north and directly impact groundwater supplies previously available to dry-lot developments found to the north of the Empirita Water Company.

Recharge:

*This item was not addressed by the applicant.* However there is about 14 inches of rain ever year with the majority falling during the summer monsoon season.

Other available information suggests that there is a groundwater inflow component, that appears to feed the well field, from the south. This component's source is from the Cienega Creek Basin. Estimates of inflow may be best portrayed through examination of the groundwater flux. Data suggests that the flux may vary from greater than 591 ac-ft/yr, at a maximum, to a minimum of 236 ac-ft/yr.

As the current well field is developed, thus capturing the groundwater flow, nearby wells to the north and east of the water company's well field will most likely be impacted. Groundwater levels in these nearby wells will most likely experience declines in their current depth-to-water.

Decline Rates

This item was not addressed by the applicant.

Review of the GWSI records does not allow a ready determination of the long-term groundwater level declines. The following is a summary of some nearby regional declines

<u>Wellsite</u>	<u>DWR #</u>	<u>TD</u>	<u>decline rate (ft/yr)</u>
D(17-18) sec. 13ddd	55-604602	434	.52 (1981 - 2005)
D(17-19) sec. 8bab	55-807250	300	.18 (1981 - 2001)
D(17-19) sec.12cbd	55-642581	550	.62 (1990 - 2001)
D(17-19) sec. 14aca	NDA	670	.54 (1982 - 2005)
D(17-19) sec.17bba	NDA	NDA	.34 (1981 - 2001)
D(17-19) sec.29bba	NDA	NDA	.81 (1990 - 2005)
D(17-19) sec.29cda	55-632434	190	1.29 (1987 - 2005)

ADWR Comments & Concerns:

- It appears that the ongoing decline rate ranges from about .5 to 1 ft/yr. It is suggested that a value of at least 1.0 ft/yr be used as being representative of the current demands of the area.

### Impact Analysis

The consultant conducted a well impact analysis using the Theis method.

For this new/revised application (for designation of AAWS), the consultant, Chuck Dickens, conducted an impact analysis. ADWR re-calculated the impact with what may be considered as more conservative aquifer parameters. The results are as follows:

	<u>Consul.</u>	<u>Consul</u>	<u>ADWR-1</u>	<u>ADWR-2</u>	<u>ADWR-3</u>
Hydrologic system					
Unconfined		X		X	X
Confined	X		X		
Transmissivity	12,000	12,000	2000/5000	5000	5000
Storage Coef./specific yield	.000013	10	.000013	.05	.05
Saturated Thickness	NA	NED	NA	216	616
# of Hydro. Boundaries	2	2	2	2	2
Number of Prod. wells	1	1	1	1	1
Number of Image wells	2	2	2	2	2
Discharge/ well (gpd)					
Current DTW	184	184	-----184-----		
Proj. decline rate (100 yrs.)	0	0	100	100	100
100 yr. Impact from wells	52.6	103.7	584-246	dewater-15	152
100 year Depth to Water	236.6	287.7	868-530	dewatered	436

Note: The value of specific yield in Runs ADWR.2 & 3 have been estimated at 5 % for a fractured conglomerate via the use of the Driller's Log Program.

### ADWR Comments & Concerns:



- The consultant has chosen to use a transmissivity value that is much greater than what ADWR has determined is reasonable and representative for the region (2000 – 5000 gpd/ft).
- General transmissivity estimations for the area are typically 2000 gpd/ft or below (via specific capacity data).
- The ADWR review determined that the 100 year DTW
- Impact from the pumping of the production wells are expected to capture what little groundwater flow there is toward the north where the dry-lot subdivisions are found. It is expected that many of the existing private wells may experience dramatic declines in their DTW.

Water Quality

There is no known poor groundwater quality issue known to exist in this area.

	mg/lit	MCL
Nitrate	1.7	10
Flouride	1.5	4
TDS	200	500

Conclusion:

- The production wells appear to lie outside the CC&N for the Empirita Water Company.
- ★ • Given the available information and data, there appears to be sufficient groundwater available for the water provider
- The best estimate of transmissivity ranges from 2,000 gpd/ft to a little over 5,000 gpd/ft.
- The designated amount of groundwater sought (321 ac-ft/yr) will probably capture the majority of the groundwater flux through the area (236 to 591 ac-ft/yr)
- The impact analysis results suggest that the aquifer groundwater levels will be drawdown to a depth ranging from about 436 to 530 feet below land surface.
- The depth-to-bedrock is not known at the production well.
- ★ • Impacts to the domestic wells (upwards of 75 wells) found in the vicinity (about 1 mile) of the well field for the Empirita water Company will likely experience large impacts due to declines in the groundwater table. Many domestic wells will probably need to be deepened, or will go dry.

Item	Pass	Fail
Quantity	X	
Quality	X	
Dependability		X

## Office of Assured and Adequate Water Supply Hydrology Review

File Number **21-402251.0000** Subdivision **Empirita Water LLC**

SubBasin	CCK	Aquifer description	basin fill alluvium
Depth to Water, ft	184 - 262	Regional decline, ft/yr	1.0
T, g/d/ft	2000 - 5	Groundwater stored, af	0
SY, %	.05	Recharge, af/yr	
Sat Thickness, ft	216 - 616	Groundwater Flux, af/yr	236 - 591
		Method of Analysis	Theis - Thwells

### Impact

Projected water level decline, ft/yr	upwards of 5.3	Estimated Depth to Water After 100 Years:	
Within area of impact of a recharge facility?	<input type="checkbox"/>	min, ft	436      Location <b>D(17-18) sec</b>
If yes, is criteria met w/o considering stored water?	<input type="checkbox"/>	max, ft	530      Location <b>D(17-19) sec</b>

### Surface Water Supply Analysis

Source	not applicable	Firm yield, af/yr	0
SW Right No.	0	Median flow, af/yr	0.000
Type of Right	decree <input type="checkbox"/>	Cart. of Appropriation	<input checked="" type="checkbox"/>
	Pre-1919 Right <input type="checkbox"/>	Permit of Appropriation	<input type="checkbox"/>

### Demand

Applicant's projected demand, af/100 yrs	0
AMA's projected demand, af/100 yrs	32100
Demand served by service area wells, af/100 yrs	0

### Groundwater Supply

<b>Basis of Physical Availability</b>	<input checked="" type="checkbox"/> Study included w/ application
<input type="checkbox"/> Water Availability Letter/PAD	<input checked="" type="checkbox"/> Hydrologic data on file
<input type="checkbox"/> Analysis	Model used      Thwells
Year 2006	Original amount of physical availability, af/yr      321
File No.	Balance after this application, af/yr      321

Comments     The production wells appear to lie outside the CC&N for the Empirita Water Company.

Given the available information and data, there appears to be sufficient groundwater available for the water provider

Impacts to the domestic wells (upwards of 75 wells) found in the vicinity (about 1 mile) of the well field for the Empirita water Company will likely experience large impacts due to declines in the groundwater table. Many domestic wells will probably need to be deepened, or will go dry.

Hydrologist      A. Kurtz  
Section Manager

Approved  Not Approved  Date 8/29/2006  
Approved  Not Approved  Date 8/29/06

L-21



**Carmine DeBonis Jr.**  
Director

Office: 520.740.6506  
fax: 520.740.6878

November 6, 2007

Cochise County Planning Department  
Attn: Judy Anderson, Director  
1415 Melody Lane  
Bisbee, AZ 85603

**Subject: Z-07-23 EASTER MOUNTAIN RANCH LLC REZONING**

Dear Ms.  Anderson,

Pima County has compiled the following comments regarding the above-mentioned proposed rezoning:

**ENVIRONMENTAL PLANNING REPORT**

Environmental Planning has reviewed the above-referenced request to rezone 556 acres from RU-4 to SR-87 in Cochise County, Arizona.

**Project Description**

The rezoning site (site) is located in western Cochise County, just east of Pima County, immediately north of the Coronado National Forest Sierra Vista Ranger District, and about 3 miles south of Interstate 10, and is accessed by the J Six Ranch Road. The applicant proposes rezoning 556 acres from RU-4 zoning (4-acre lots) to SR-87 (2-acre lots), and a maximum of 371 dwellings (a density bonus is granted for preserving 50% of the parcel as open space); current RU-4 density would allow a maximum of about 140 dwellings. The development will have 0.5 residences per acre (RAC) in areas surrounded by National Forest, and higher 1 RAC density in other areas.

**Regional Landscape Context**

The site has vegetation characteristic of Semi-Desert Grassland, represented by a mix of perennial grasses and shrubs, with some oak and agave. The site is crossed by a number of drainages that originate in the Whetstone Mountains within the National Forest. Some of these flow northwest to Cienega Creek, an important riparian system in eastern Pima County with shallow groundwater and hydro- and meso-riparian areas.

The site is adjacent to areas designated for low residential density under the Pima County Comprehensive Plan: Resource Transition and Low Intensity Rural, both with a maximum residential density of 0.3 RAC. The site is also immediately adjacent to areas designated as Important Riparian

L-22

Area and Biological Core under the Conservation Lands System. The proposed residential density is higher than that within the county, but only a small portion of the site abuts Pima County.

#### **Site-Specific Resources**

The site is not adjacent to Priority Conservation Areas within Pima County for the cactus ferruginous pygmy-owl, western burrowing owl, or Pima pineapple cactus. The applicant states that during site surveys, no Threatened, Endangered or Sensitive Federally- or State-listed species were identified, (no list was provided). Open space on the site is proposed to be preserved through a combination of reduced building envelopes on individual sites, and wash corridors, hillsides with slopes greater than 30%, and significant stands of vegetation being kept in an undeveloped state. Some wash corridors traverse the entire site, but are crossed by proposed roads.

#### **Conclusion / Recommendations**

While the proposed development will have little effect upon off-site surface drainage, Pima County Environmental Planning requests that Cochise County Planning staff consider the source of potable water for this development, and gauge the potential impacts of any proposed groundwater pumping on subterranean flows into the Cienega Creek basin.

Environmental Planning also recommends a number of elements to improve the site quality for use by wildlife:

- The Neighborhood Lot Layout maps show building envelopes spread fairly evenly across the site – request additional clustering of building envelopes to create more wildlife-functional open space areas.
- Request limited use of fences and walls to allow wildlife more unrestricted movement across the site, using both washes and uplands.
- Request the installation of wildlife-functional culverts or bridges for roads at major wash crossings, and reduced speed limits and wildlife signage for low wash crossings.
- While no listed species were found on site, species of agave provide a seasonal food source for some regional listed species, such as bats – request preservation of as much agave on-site as possible.

#### **REGIONAL FLOOD CONTROL DEPARTMENT REPORT**

Pima County Regional Flood Control District (PCRFCDD) has reviewed the proposed development and offers the following comments. The development is within Cochise County immediately adjacent to the Pima County boundary. There are three larger watercourses that cross the property, along with several smaller washes. All of these watercourses drain into Pima County and then into the Cienega Creek watershed. Areas downstream within Pima County include undeveloped private holdings as well as several subdivisions. To avoid any possible impacts and to ensure public safety, it is recommended that the proposed development not alter, obstruct or increase natural drainage in any way. There are areas of regulated Important Riparian Habitat along two of the watercourses as they drain into Pima County. The applicant's Development Capability report submitted just a few days ago indicates that disturbance

of contiguous designated riparian areas within Cochise County would largely be avoided, as is recommended within Pima County. However, there are notable water supply concerns related to the development as outlined in the PCRFCDC Water Resources Division comments. Water supply issues could potentially affect riparian habitat resources, both within the development and downstream within Pima County. Finally, the applicant's representative has contacted the PCRFCDC offering the opportunity to review the drainage report that has been prepared for the development. The PCRFCDC looks forward to reviewing this report to ensure that there will be no downstream impacts within Pima County.

#### WATER RESOURCES DIVISION REPORT

Below are our comments on the proposed rezoning:

This proposed development is located in Cochise County just south of the Redhawk proposal. It is located in an area which is part of the Cienega groundwater basin, not part of the San Pedrobasin. As such it is not subject to the restrictions that Cochise County passed for the SierraVista groundwater basin to protect the San Pedro River. Neither Cochise County nor Pima County has adopted similar protections for the Cienega groundwater basin, but Pima County is in the process of deliberating water policies that would apply to new rezonings. The proposed development is a large one, but the full materials for the rezoning are not available to staff. The land entitlements already amount to 139 to 210 homes, and this rezoning would allow a maximum of 371 homes.

The brief says that the water provider will be Empirita Water Company. Empirita Water Company will be deriving the water supply for Cochise County developments from wells located in Pima County south of 16 ranchettes. Staff has previously commented at length on the Empirita Water Company's Certificate of Convenience and Necessity. Likely effects of groundwater pumping will include depletion of existing Pima County residential wells. The lowering of the water table may affect springs along Wakefield Canyon as well.

The Arizona Corporation Commission debated whether to impose certain restrictions upon the Empirita Water Company (Attached). In the end, the restrictions did not pass, in part because some commissioners did not think that the ACC has the authority.

The restrictions proposed by Commissioner Mayes are described more fully in the attached document. Staff requests that the restrictions of the Sierra Vista watershed be extended to those portions of the Cienega groundwater basin as defined by ADWR. Staff also requests that to the extent possible, the Mayes amendments be imposed upon the developer.

No detailed hydrologic information was provided in the application materials, however, the applicant has offered to provide them to staff for review. Pending a review, additional comments may be provided.

#### SUBDIVISION REVIEW SECTION REPORT

The Subdivision Review Section has the following proposed recommendations:

- Low water use native plants shall be required for re-vegetation and landscaping in order to conserve and minimize water use to the maximum extent possible.

- As much native vegetation shall be preserved through interconnected undisturbed open space as possible.
- Water harvesting techniques shall be required to retain as much storm water drainage on site as possible.
- Lots and buildings shall be sited to reduce the amount of disturbance required to minimize the total amount of impervious paving and rooftop surfaces.

**NATURAL RESOURCES, PARKS AND RECREATION DEPARTMENT REPORT**

The Natural Resources, Parks and Recreation Department has the following comments:

- Mescal Arroyo Trail #59 is identified on the Eastern Pima County Trail System Master Plan (EPCTSMP), which is near this project. This trail is located north of I-10.
- There is a trail plan for Cochise County that is being developed. This project shall provide for trails shown when this document is published.
- This project shall provide for public access to the national forest.
- Monitor for any ground and water pollution that might get into the Cienega Creek watershed.

**CULTURAL RESOURCES DEPARTMENT REPORT**

A search of Pima County records included review of our southern Arizona regional MapGuide Geographic Information Systems database, which includes recently updated Arizona State Museum cultural resources information (Figure 2). The records check revealed that one previous cultural resources survey has been conducted in the vicinity of the subject property, an east-west corridor survey by Bureau of Land Management through the middle portion of the property (Arizona State Museum project number recorded as T79-24.BLM). No other surveys have been done in the area. No previously recorded archaeological sites are known within or near the property.

The records search also indicated that although the subject property outside the Pima County Conservation Land System, MapGuide indicates that nearly the entire property is within an area of High Biological Significance. The subject property is adjacent to a unit of the Coronado National Forest on the east and south. State land is on the northeast. Geographic features include Anderson Canyon to southwest, Easter Mountain to southeast, and the Whetstone Mountains to the south. The 1990-1999 BLM imagery mosaic aerial photos show the land to be undeveloped bajada and upland zones, with ephemeral drainages generally trending to the northwest, ultimately draining into Cienega and Pantano Creeks, and on to Santa Cruz River. The USGS topographic map (scale 1:24000) shows named ranches within and near the property, including the "Jay Six Ranch" within the property and the "Williams Ranch" just to the east (portions of this ranch may be within the subject property). There is a "Grave" marked within the property as well, indicating a possible historic grave (see Figure 2).

The results of the records search suggests that although no archaeological or historic sites are known within the subject property, this is most likely because no archaeological survey has been done, with

only a narrow corridor covered by the previous BLM survey. The indications of ranches and the "Grave" marker on the USGS map suggest the possibility of historic resources related to ranching may be within the subject property and mining resources also may be present. The extensive distribution of the High Biological Significance zone within the subject property also potentially reflects a high probability that cultural resources are present.

If this proposed development were in Pima County, I would unhesitatingly recommend that prior to ground modifying activities, an on-the-ground archaeological and historic sites survey shall be conducted on the subject property. A cultural resources mitigation plan for any identified archaeological and historic sites on the subject property shall be submitted at the time of, or prior to, the submittal of any tentative plan or development plan. All work shall be conducted by an archaeologist permitted by the Arizona State Museum, or a registered architect, as appropriate.

TRANSPORTATION REPORT

No report.

WASTEWATER DEPARTMENT REPORT

No comments or objections.

Thank you for the opportunity to comment. If you have any questions do not hesitate to call me at (520) 740-6800.

Sincerely,



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Arlan M. Colton FAICP  
Planning Official, Pima County Development Services

Attach: Dissent Decision No 69399, Empirita Water Co. from Water Resources Division comments.  
Memorandum from Regional Flood Control Department comments.  
USGS Maps topographical maps from Cultural Resources Department comments.

CC: C. H. Huckleberry, County Administrator  
Diana Durazo, Special Staff Assistant to the County Administrator

**ARIZONA DEPARTMENT OF WATER RESOURCES**

3550 North Central Avenue, Phoenix, Arizona 85012

Telephone (602) 771-8426



February 25, 2008

**Janet Napolitano**  
Governor

**Herbert R. Guenther**  
Director  
hrguenther@azwater.gov

Ms. Judy Anderson, Director    janderson@co.cochise.az.us  
Planning and Zoning Department  
1415 Melody Lane, Building E  
Bisbee, Arizona 85603

Mr. Carmine DeBonis, Director    director@dsd.pima.gov  
Development Services  
201 N. Stone  
Tucson, Arizona 85701

Mr. Brian C. McNeil, Executive Director    bmcneil@azcc.gov  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

Dear Directors:

I am writing in response to various news articles and public statements made by individuals regarding Empirita Water Company's application for modification of the Designation of Adequate Water Supply. Over the past six months there has been an unfortunate focus on a statement made in an ADWR staff memo (modified August 28, 2006) regarding possible impacts to approximately 75 wells in the area where this application was made. Specifically, the statement was made by ADWR Hydrologist, Andy Kurtz, that, "Impacts to the domestic wells (upwards of 75 wells) found in the vicinity (about 1 mile) of the Empirita Water Company will likely experience large impacts due to declines in the groundwater table. Many deep wells will probably need to be deepened, or will go dry". As you may be aware this statement has generated considerable controversy and concern, and I am writing to clear up any questions that the Planning and Zoning Commissions of Pima and Cochise County, or the Arizona Corporation Commission may have related to the statement.

To preface my comments, I feel it is important to set the record straight that Andy Kurtz is considered by me, his supervisors and co-workers, to be a well-qualified and highly respected hydrologist in the Department of Water Resources. It is also important to let you know that the Department stands behind its analysis for the Empirita Water Company. However, with that said, I must acknowledge that the statements made concerning the potential impacts to nearby domestic wells are not criteria that can be considered for an application for Adequate Water Supply and should not have been included in the staff memo regarding the physical availability of the groundwater supply for this application.

L-27

February 25, 2008

Page 2 of 3

I think it is important to note that the observation that the wells in the area may need to be deepened was based on many factors that staff has considered and discussed with interested individuals, but unfortunately this information has not been conveyed to the public, which is the purpose of this letter. These factors included the combined, projected withdrawal of groundwater in the area from previously approved sub-divisions and the applicant's planned withdrawals. Additionally, the observation that nearby domestic wells may need to be deepened also took into consideration the on-going regional decline of groundwater levels caused by current pumping. Considering the projected effects of all current and proposed future pumping in the area, over a 100-year projection period, in relation to the current depths to water and total depths of nearby wells led to the opinion that nearby domestic wells may need to be deepened. However, it is important to state that this opinion was not based on a formal analysis of well impacts at locations of the nearby domestic wells. More importantly, the observation is clearly based on the assumption that future impacts to nearby wells will be caused by the combined effects of all pumping in the area, not just the pumping of Empirita Water Company.

The Department has attempted to convey the same message to all individuals and community leaders in regards to this matter. The Department follows a strict procedure when analyzing applications for Assured or Adequate Water Supply. Every applicant is required to demonstrate that water of adequate quality is physically, continuously, and legally available for 100 years. Every applicant must also demonstrate the financial capability to deliver the water. For applicants proposing to use groundwater, the Department reviews the physical availability of groundwater only on the basis of depth of water below land surface. In the case of areas located outside of the Active Management Areas, the depth limitation is generally 1200 feet below land surface (unless the applicant requests a consideration of a deeper level and that is usually only allowed in the regional aquifer system of the northeastern part of the state). In some areas, the aquifer may not extend to 1200 feet below land surface. In these areas, the depth limitation is restricted to the depth of the aquifer. In order to determine the physical availability, the Department must first consider the demands in the area. This includes the 100-year water demand for the application plus the existing water demands in the area including the demands of existing subdivisions and other water uses (not just residential) as well as known demands of future subdivisions that have been previously approved. Putting all this together, the Department then identifies only whether or not the pumping of the proposed application will be above the depth limitation after 100 years. As you may be aware, under existing State law if the Department determines that there is an inadequate water supply for the applicant, the lands may still be subdivided and offered for sale. The developer must advise the first home buyer of the Department's determination of an inadequate water supply. There is also a possibility that in a situation where the Department issues an adequate or inadequate water supply, that other wells in the area may be negatively impacted. However, the Department has no authority to consider impacts to other wells that do not reach the depth limitation when making the determination of water supply adequacy or inadequacy.

I understand that there has been a lot of misunderstanding that has resulted from the statement in the staff memo and I feel it is important to make you aware of the facts surrounding the review of the application for the Empirita Water Company. The results of the physical availability study that was submitted on behalf of this application demonstrated that there is a

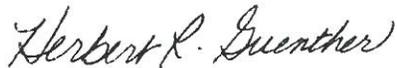
L-28

February 25, 2008

Page 3 of 3

100-year water supply physically available for the Empirita Water Company. That is the only conclusion that can be made at this time based on the information provided to the Department. If you or the members of the Commission have any questions regarding the hydrologic study and review or need technical assistance or review of the hydrologic conditions for this applicant, please call our Chief Hydrologist, Frank Corkhill, at 602-771-8537.

Sincerely,



Herbert R. Guenther c

HRG:TGC:ckl

The Honorable Sharon Bronson, Pima County Supervisor	<a href="mailto:district3@pima.gov">district3@pima.gov</a>
The Honorable Patrick Call, Cochise County Supervisor	<a href="mailto:pcall@co.cochise.az.us">pcall@co.cochise.az.us</a>
The Honorable Ray Carroll, Pima County Supervisor	<a href="mailto:dist4@azstarnet.com">dist4@azstarnet.com</a>
The Honorable Ann Day, Pima County Supervisor	<a href="mailto:aday@pima.gov">aday@pima.gov</a>
The Honorable Richard Elias, Pima County Supervisor	<a href="mailto:district5@pima.gov">district5@pima.gov</a>
The Honorable Paul Newman, Cochise County Supervisor	<a href="mailto:pnewman@co.cochise.az.us">pnewman@co.cochise.az.us</a>
The Honorable Richard Searle, Cochise County Supervisor	<a href="mailto:rsearle@co.cochise.az.us">rsearle@co.cochise.az.us</a>
The Honorable Ramon Valdez, Pima County Supervisor	<a href="mailto:dist2@pima.gov">dist2@pima.gov</a>
The Honorable Kristin Mayes, Arizona Corporation Commission	<a href="mailto:kmayes@azcc.gov">kmayes@azcc.gov</a>
The Honorable William Mundell, Arizona Corporation Commission	<a href="mailto:wmundell@azcc.gov">wmundell@azcc.gov</a>
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