

JOHN McCAIN  
ARIZONA

COMMITTEE ON COMMERCE,  
SCIENCE, AND TRANSPORTATION  
COMMITTEE ON ARMED SERVICES  
COMMITTEE ON INDIAN AFFAIRS

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4450 SOUTH RURAL ROAD  
SUITE B-130  
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BILTMORE CIRCLE  
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450 WEST PASEO REDONDO  
SUITE 200  
TUCSON, AZ 85701  
(520) 670-6334

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(202) 224-7132  
(602) 952-0170

# United States Senate

March 20, 2003

Ms Nancy Smith  
Legislative Affairs Group Manager  
Bureau of Land Management  
US Department of the Interior  
Mail Stop 401-LS  
1849 C Street, N.W.  
Washington, DC 20240-0001

Dear Ms. Wainman:

I wish to bring to your attention a matter concerning my constituents, Ex. 6, et. al., who have encountered a problem with the Bureau of Land Management.

Please investigate, within existing rules, regulations and ethical guidelines, the statements made in the enclosed letter and return the response to me with the enclosures. **MARK ALL CORRESPONDENCE TO:**

Attn: NICK MATIELLA  
Office of Senator John McCain  
4450 S. Rural Road  
Suite B-130  
Tempe, AZ 85282

The response you provide will be most appreciated and will be forwarded to my constituent. If you should have any questions in the meantime, you can reach my office at (480) 897-6289. I look forward to your reply at your earliest convenience.

Sincerely,



John McCain  
United States Senator

JM/xnm

CITIZENS FOR PUBLIC ACCESS TO PUBLIC LANDS (CPAL)  
HC 70, Box 3860 Ex. 6 Sahuarita, AZ 85629  
March 14, 2003

Senator John McCain  
2400 East Arizona Biltmore Circle  
Suite 1150  
Phoenix, AZ 85016

MAR 19 2003

ATTN: Nick Matiella  
RE: Roads closed by BLM

Dear Mr. Matiella:

We want to express our sincere appreciation to Senator McCain and to you for your response to our letter of January 28 in which we appealed for help in our ongoing efforts to get the BLM to re-open Dogtown and Indian Kitchen Roads on public land southwest of Tucson, AZ. In that letter we briefly outlined the situation. Over the past five years citizens have tried to address this situation in many ways. Some have met with BLM personnel, contacted newspapers, television and radio stations, and several have written numerous letters to various government officials, addressing many aspects of this situation in varying degrees of detail and from various points of view. It would take volumes to review all the details, but perhaps a listing of some of the questions we have about the actions taken by the Tucson Field Office of the BLM, as you requested in our meeting of February 26, will aid you in evaluating the situation and in determining what actions might be taken.

A few preliminary comments are needed to put the questions in context. On March 17, 1998 the BLM entered a notice in the Federal Register stating that several side roads branching from Indian Kitchen and Dogtown Roads (see map) had been temporarily closed because "The construction of new unauthorized roads and road grading of existing roads has damaged archaeological sites, native vegetation and existing roads." The notice stated that posted roads would be closed but that Indian Kitchen and Dogtown Roads would remain open. At this time the BLM also gave notice that the Indian Kitchen Archaeological Site would be off limits to vehicles and discharge of firearms. Then, three months later (June 16, 1998), with no additional road grading activity in the area, the BLM constructed three sets of barriers along the Indian Kitchen / Dogtown Road complex (see map). These barriers consisted of large, staggered mounds of dirt excavated from the road surface in addition to posts and cables (see photos included with the January 28 letter). Deep trenches dug along the sides of the road were excavated later. It was stated that this was done to "provide for public safety and to prevent unnecessary environmental degradation to archaeological sites, soil resources, native vegetation and wildlife". Further, the roads would remain closed until the BLM completed their trespass investigation. Subsequently they said that the roads would remain closed to "preserve evidence". Emergency vehicles were excluded from this ban and the Helmet Peak VFD, for example, was eventually given keys to the cables for emergency access.

At first read this could sound like reasonable actions to take. They used all the "right words" - environmental, archaeological, safety, wildlife, etc. Indeed, all these concepts are important to CPAL whose basic interest is having access to our very valuable public lands for the enjoyment of them. But when one looks under the surface, a different picture of the BLM emerges. Many of the 270 CPAL petitioners actually had to fight the BLM and Pima County to preserve these very lands from development by them (discussed below)! CPAL has no special interest in the trespass investigation other than as the precipitating cause of the road closures and for what it has shown about the way the BLM operates.

Below are questions which should be answered in regards to the actions of the BLM in the matter of the closures of Dogtown and Indian Kitchen Roads in Pima County, Arizona.

- 1) **Why are the roads still closed after five (5) years and counting merely for the BLM to investigate/prosecute two (2) people held responsible for the alleged trespass? Should the BLM be allowed to deprive so many citizens for so long for the accused actions of so few? What are the checks and balances on the activities of this government agency and its employees?**
- 2) **When the BLM made certain claims about the construction of new roads on public land but, after ordering an aerial survey of the area, subsequently found that the new roads were actually on private land, why did they not admit their error, publicize that fact and revise their trespass claims and their actions based on those claims?**
- 3) **While the destruction of any tree on public land is unacceptable, anyone familiar with the area would find it difficult to believe that a million dollars worth of damage could be done by grading pre-existing roads as was claimed by the BLM. Were the methods and assumptions used by BLM personnel (Tucson Field Office) for estimating damage done applied properly or were other errors (besides the errors in identifying the roads involved) made? Were these methods ever reviewed or questioned?**
- 4) **What archaeological site was damaged by road grading? The Indian Kitchen site, if that is what was being referred to, had been driven over, written on, shot at and dumped on for many years prior to the road grading at issue - before it was even known by most to be an "archaeological site". The road merely passes by it. (See question 5).**
- 5) **Why was the BLM not concerned about the "Indian Kitchen Archaeological Site" in the summer of 1997 when several people (CPAL petitioners) familiar with the area requested that the site be made into a small park to protect it?**
- 6) **If the BLM had such concern for this land as they express, why were they simultaneously agreeing to a deal with Pima County to construct a massive "Southwest Regional Shooting Facility" which would have surrounded the Indian Kitchen Archaeological Site with bullets, paved roads, housing, parking lots, office and storage buildings, a lounge and classrooms, toilets, lights and PA systems?**
- 7) **Would not construction of the Southwest Regional Shooting Facility have destroyed any evidence the BLM was trying to preserve by blockading the roads? Why was this means of destroying evidence not prohibited?**
- 8) **What evidence would be preserved by the road blockades after five years of wind, rain, monsoon runoff, vegetation changes, open grazing, horse traffic, bicycle traffic, "illegal" vehicular traffic and target shooters? Would not existing aerial photographs and surface photos and videos taken by the BLM shortly after the road grading contain and preserve what evidence there was? Would blockading Dogtown road at a single point preserve any evidence at all?**
- 9) **With the main roads closed, traffic within the area has been diverted onto other, previously seldom-used back roads in the vicinity. Is enhanced use of those back roads a desirable consequence of the closure of the main roads? Does this satisfy the BLM's stated purposes of preventing "unnecessary environmental degradation to archaeological sites, soil resources, native vegetation and wildlife"? Are the BLM's purposes other than what they stated?**
- 10) **Would not the Indian Kitchen Site actually be better protected with the road opened so that the locals who trained as stewards (CPAL petitioners), and other concerned citizens, could have better access to monitor activities there? As it is, some less responsible people slip in from back roads and wreak whatever havoc they choose in complete privacy. The BLM told the trained stewards that they (the BLM) could not restrict such activity - yet they can restrict responsible citizens from reasonable access to their public lands! Is this reasonable?**

**11) Is the BLM aware that blocking these roads also blocks the time-honored access route to other recreational (State Land), leased and private lands to the west?** Remember, Dogtown Road, the west end of which was officially named as Indian Kitchen Road by the County in 1998, is shown and labeled on many old maps, including the 1975 General Highway Map from the Arizona Department of Transportation and the 1997 Pima County Roadway System Map. This is a continuous road over the Sierrita Mountains and has been used as such for many, many years. Such traffic now tends to be diverted through a residential area to the north and thence onto private roads which did not exist prior to 1996; thus this alternate route would fail were it not for cooperation of the private land owners. It also adds five extra miles to the round trip from I-19.

**12) Did the BLM not realize that users of a rare, major route (relative to the area) would not all be stopped by the sudden appearance of barriers to these roads and that some would destroy or go around the barriers, thus causing even more damage? Perhaps a different approach should have been taken in this situation. Did the BLM use its power wisely in this case?**

**13) Why did the BLM give keys for the barrier cables to the Helmet Peak VFD when fire trucks could not possibly get through the mounds of dirt the BLM piled up as barriers (and the keys did not work!)?** (After the public meeting of July 14, 1998, held by the BLM and Pima County, citizens were assured that, for safety reasons, emergency vehicle access would be maintained on these roads because they provided the most direct route to all locations south and west of Ocotillo Ranches.)

**14) Is it OK for the barriers (mounds of dirt) constructed by the BLM to act as dams to the natural drainage of the region without an environmental impact study?** (One barrier causes sand and crud to back up towards private land as dammed water accumulates.)

**15) What penalty should be bestowed on the BLM for initially constructing one of their surface-destructive, obnoxious barriers on private land? Is this a case of trespass?**

**16) Does the BLM realize that the destruction they committed on these roads (not just the two roads at issue here but other roads in the area as well) competes in severity with actions they are prosecuting?**

**17) Since charges of grading damage and safety concerns were all in reference to Indian Kitchen Road, why was a single barricade constructed across Dogtown Road?** Anyone can drive on Dogtown Road southwestward from Mission Road for about two miles; then, very near the western boundary of BLM land there is a barricade! **Why?? If it is OK to drive two miles on this road, why is it not OK to drive a few more yards?** This single barricade does nothing except block thru traffic. It seems that there is only one explanation for this - the BLM wanted to block this access to private land. In doing so they also blocked the time-honored route westward for everybody. **What justification can there be for this? Is this good policy when at the same time elsewhere in the state the US Forest Service is struggling to get access over private land into forest land? Is it the business of the US Bureau of Land Management to arbitrarily block access to private land?** A BLM pamphlet states that "traveling on existing roads to private property" is a legitimate use of roads on public land. Dogtown Road is certainly an "existing road"! It (as well as Indian Kitchen Road) existed before the BLM did!

**18) Why is it that every time someone asks to have these roads re-opened and access to our public lands restored, the BLM's response is that the requester can apply for a "right-of-way grant" at great expense?** (This includes, they say, conducting environmental impact studies, etc., and bringing the road up to "county standards", possibly paving it!) *This is an inappropriate, even ludicrous, response!* It is probably made for "intimidation value" *and it side-steps answering the legitimate questions asked of them.* [The county roads that provide "legal access" to the private property to the west, and the (now) alternate route for other travelers, are narrow and rutted dirt roads; one is even designated by the county as "primitive".] **And WHO would be expected to pay for this? WHY?** Most CPAL petitioners are not homeowners just west of these roads, if that was the "who" they had in mind. No, we do not want to "buy" a road that already belongs to all citizens! We citizens just want to use the road to enjoy the land as we have done and as we have a legitimate right to do and as we and others do on many miles of other roads

on public land throughout the west. Primitive road status is quite as appropriate here as it is over much of our public lands.

**19) Would not acting on a right-of-way grant destroy any evidence the BLM claimed they were trying to preserve by blockading the roads?**

**20) Was the BLM anticipating the Southwest Regional Shooting Facility when, in 1998, they blocked the Pima County Addressing department from officially naming Dogtown and Indian Kitchen Roads? ("Dogtown Road" was already a term used in defining property locations in county records.) The BLM explained in an internal memo that "this land could be sold or leased; the future users or owners may not want to have this road opened or named". (The plans for the shooting facility included re-routing the roads and blocking the west end.) Thus, are the reasons for closing the roads other than those stated in the public notices? Since the shooting facility is no longer an option, is this reason for keeping the roads closed now moot?**

#### *Additional comments-*

In a news release dated June 16, 1998, the Tucson Field Office manager stated that the grading made Indian Kitchen Road "unsafe". Such unsubstantiated, self-serving value judgments may sound good to the press, but are easily refuted (and should not go unchallenged) by comparison with thousands of miles of other roads on public lands and with many county roads. Indeed, during the time Indian Kitchen Road was blocked, a man died in a car crash on the paved, county road (the alternate route, Ocotillo Ranch Road; see map) one mile north of Indian Kitchen Road. (Usually it is the driver who is "unsafe"!)

Also remember question 17- Dogtown Road was not claimed to be any more unsafe now than before. What, again, are the reasons for blocking this road at a single point?

In that same news release, Pima County Supervisor Bronson was quoted as saying that ". . . unregulated wildcat development caused these adverse impacts . . ." Well, actually, no. Whatever impacts there were were caused by two people. For perspective, keep in mind the plans of Pima County to construct the massive shooting range discussed in questions 6 & 20 above. Also, on the day of the road closures, one of us was told by a BLM field officer that wildcat development must be stopped. Is this really the business of the BLM? The local residents get permits and inspections, pay fees and obey the laws for home construction. They take care of most things themselves (private roads, water and sewer systems, trash removal, fire protection and medical emergency services, etc.) They get little from and ask little of the county, while paying significant taxes. The local residents here are victims of this whole ordeal, as are all the other citizens who have used and rightfully expect to use their public lands.

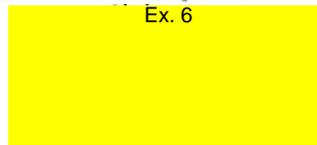
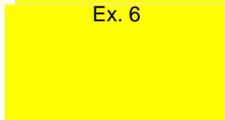
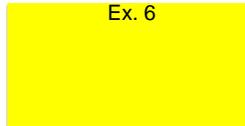
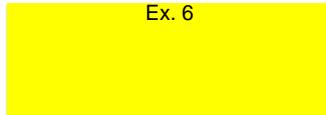
#### *Conclusion-*

If all the above questions are answered truthfully, it becomes apparent that the reasons given by the BLM for closing and keeping these roads closed are flawed. The answers will show that the reasons for the road closures cannot be that the BLM (in this case) was trying to protect the environment, vegetation or archaeological sites since they were agreeing to a project with Pima County which would involve massive degradation to the entire area and, in addition, their own actions contributed to degradation. The reasons also cannot include that they are trying to preserve evidence for their trespass investigation - five years have passed (and aerial and surface photos remain available) and they were willing to forego their "evidence" if anyone would purchase a right-of-way grant or build a massive shooting facility. Nor can the "public safety" statement be justified. Furthermore, placing a single barrier near the west end of Dogtown Road never met *any* of the stated criteria. And so *the inescapable conclusion is that there is no justifiable reason to keep these roads closed to the public.* Therefore they should be re-opened without further delay.

Five years is long enough for the innocent citizens to be penalized for the alleged wrongs of others. Many CPAL petitioners have spent MUCH time and effort trying to resolve this in some reasonable way. The alleged offenders are being prosecuted (at significant expense to taxpayers). It appears that the BLM has nothing further to gain by maintaining these road closures. Thus we ask you, and the other members of congress, to do what is necessary to restore these public lands, and the roads that service them, to the citizens.

Sincerely,

CPAL Officers:



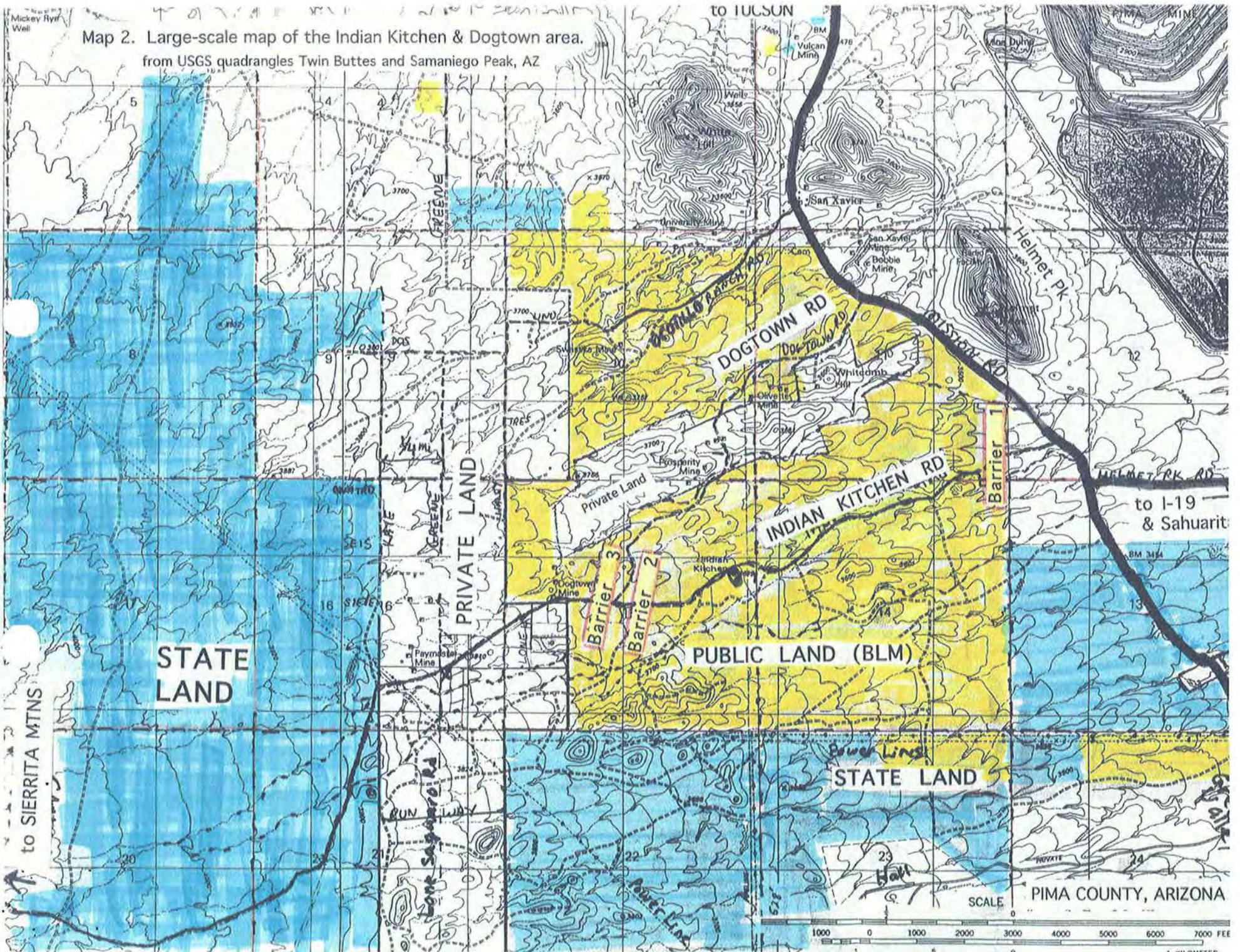
PS to Nick Matiella-

We want to assure you that documentation is available for all claims made in this letter. Since you have not seen previous, more fully documented letters that some of us have written, since you have not yet seen the area for yourself, and since you had at least one question inadequately answered during our meeting, we are enclosing a few more photos for you to view.

First there are two more pictures of Indian Kitchen Road after it was graded and a couple of photos of Dogtown Road. Then there are aerial photos taken over the Indian Kitchen area in three different years, pre- and post-grading. In the 1974 photo the roads appear more distinct than in 1994. Usage and maintenance have varied throughout the years. The 1994 and 1998 photos show that no trees, which are quite visible on the photos, were destroyed by the grading. There is also a photo of a recently constructed private road which demonstrates how the appearance of a road can change after a relatively short time of limited use- subsequent grading of such a road would have no effect on trees but the road would look quite different in aerial photos. We have also included some photos of the county roads that run through residential areas to the northwest and which now provide the alternate route to recreational travelers. We invite you to come see this all for yourself if that would help you understand the situation better.

Finally, we attached a copy of the "response" we recently got from the Arizona State Office of the BLM to our letter of January 28 (the one you responded to). Again, they simply did not respond to any of the issues we raised. The letter was merely a formality. Is this all we can expect from our public servants? Can you begin to understand our frustration? We hope that the questions presented here will help you get some real answers.

Map 2. Large-scale map of the Indian Kitchen & Dogtown area.  
from USGS quadrangles Twin Buttes and Samaniego Peak, AZ





2003 March 8 View NE to Helmet Peak on Dogtown Road  
Sat. 16:30 MST Pima County, AZ



2003 March 8 View SW to Sierrita Mountains on Dogtown Road  
Sat. 17:00 MST Pima County, AZ

Avenida Kaye: County-maintained, legal access road after heavy rain.



1999 Jul 28  
09:20 mst

3a. View south on Ave. Kaye; Pima County, AZ.  
Photo taken one week after county graded road.



1999 Jul 28

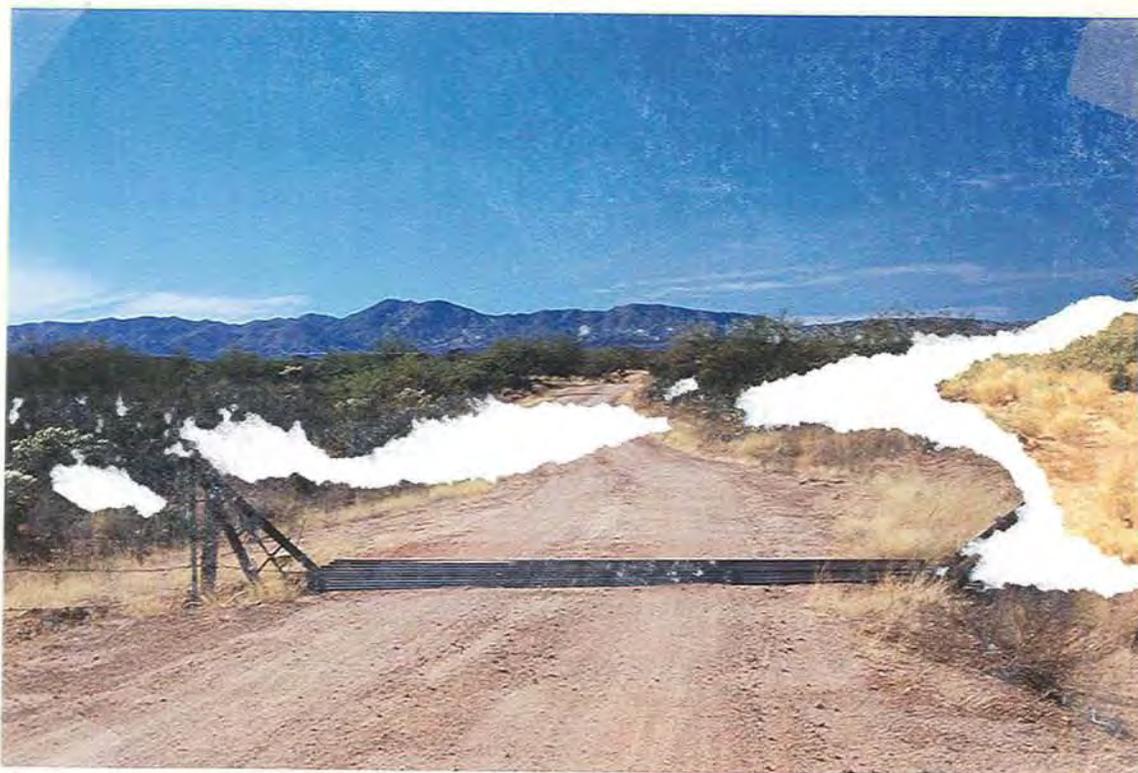
3b. Close-up of washed-out roadside shown in Fig. 9a.



3b

1999 Jan 16  
~13:28 mst

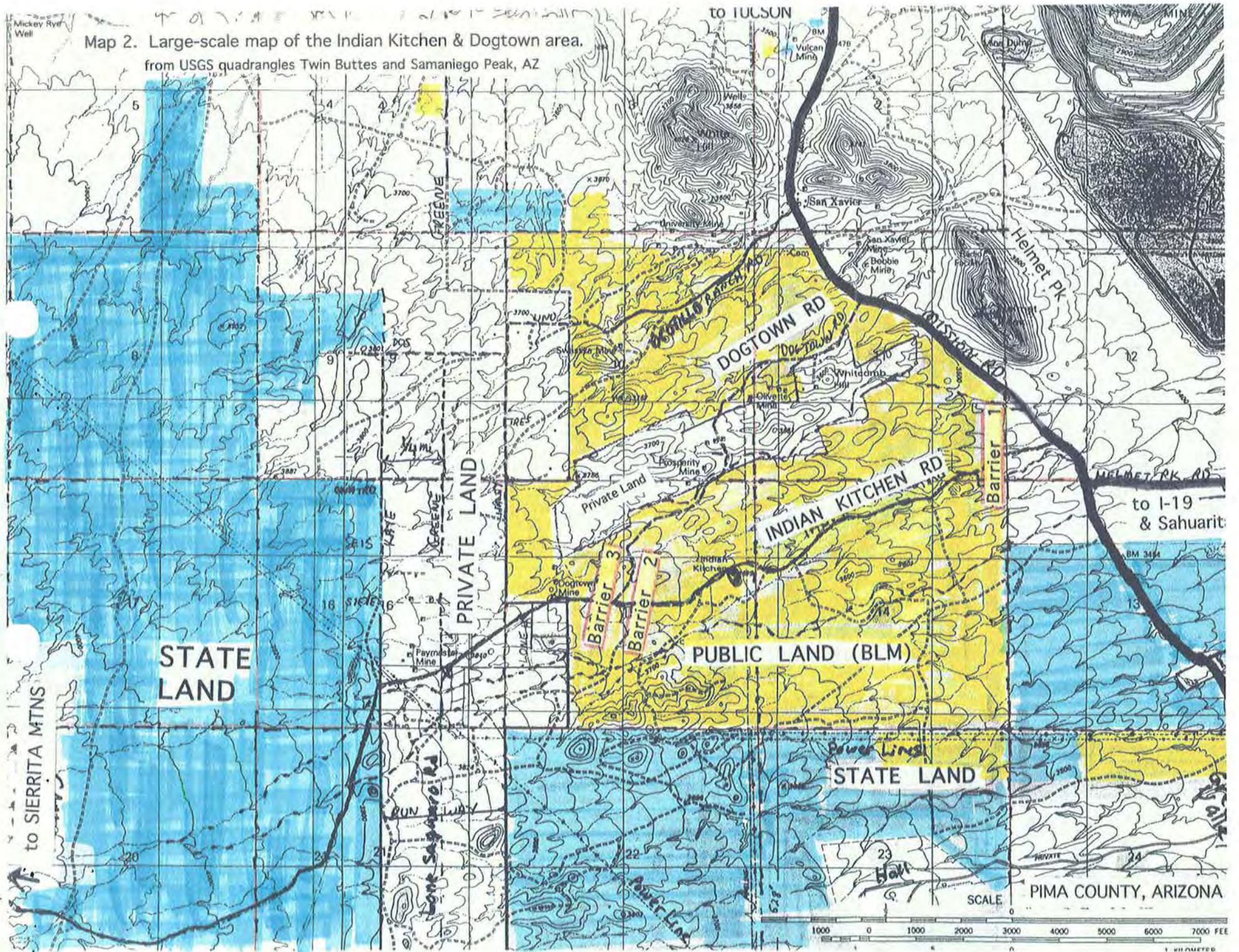
Crossing a small wash on Indian Kitchen Road  
View west-southwest to Sierrita Mountains, Pima County, AZ



1999 Jan 16  
~13:41 mst

Onto Indian Kitchen Road from Mission Road  
View west-southwest to Sierrita Mountains, Pima County, AZ

Map 2. Large-scale map of the Indian Kitchen & Dogtown area.  
from USGS quadrangles Twin Buttes and Samaniego Peak, AZ





2003 March 8 View NE To Helmet Peak on Dogtown Road  
Sat. 16:30 MST Pima County, AZ



2003 March 8 View SW to Sierrita Mountains on Dogtown Road  
Sat. 17:00 MST Pima County, AZ

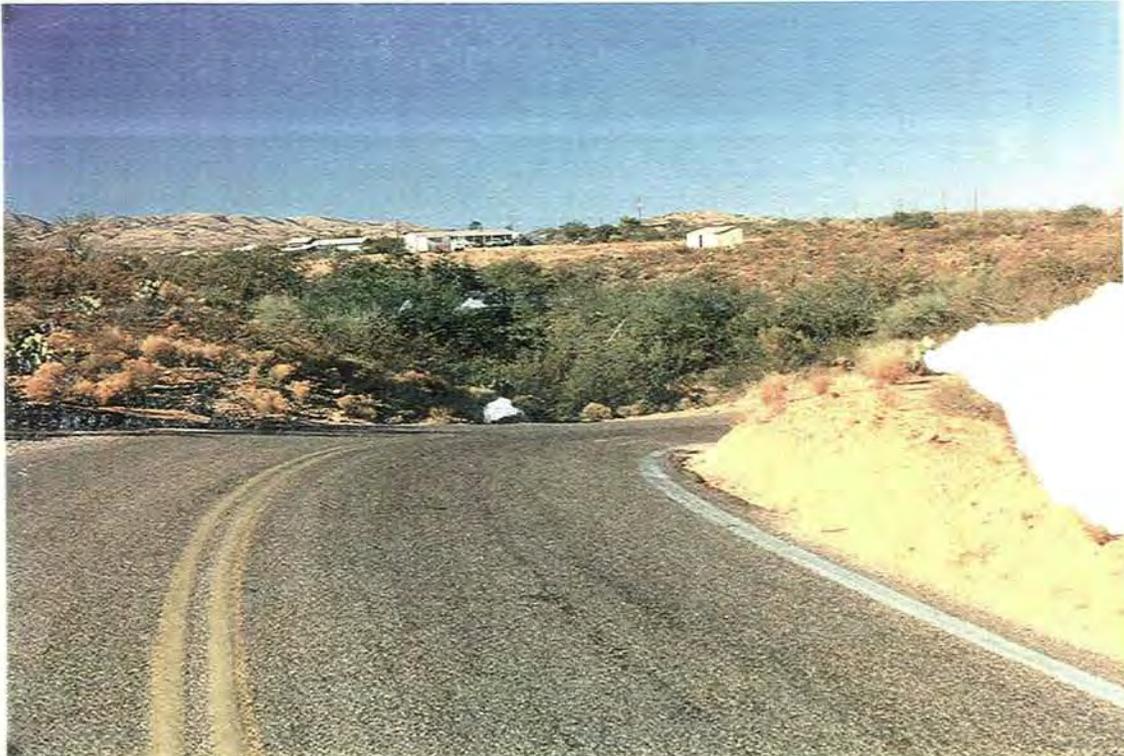
Photo 7



1999 Aug 22  
12:50 mst

Private road ("Ave. Haley", S. extension, to N; Pima County, AZ)  
graded bare to 20-ft width in Spring 1998  
now appears as "2-track" due to growing grass.

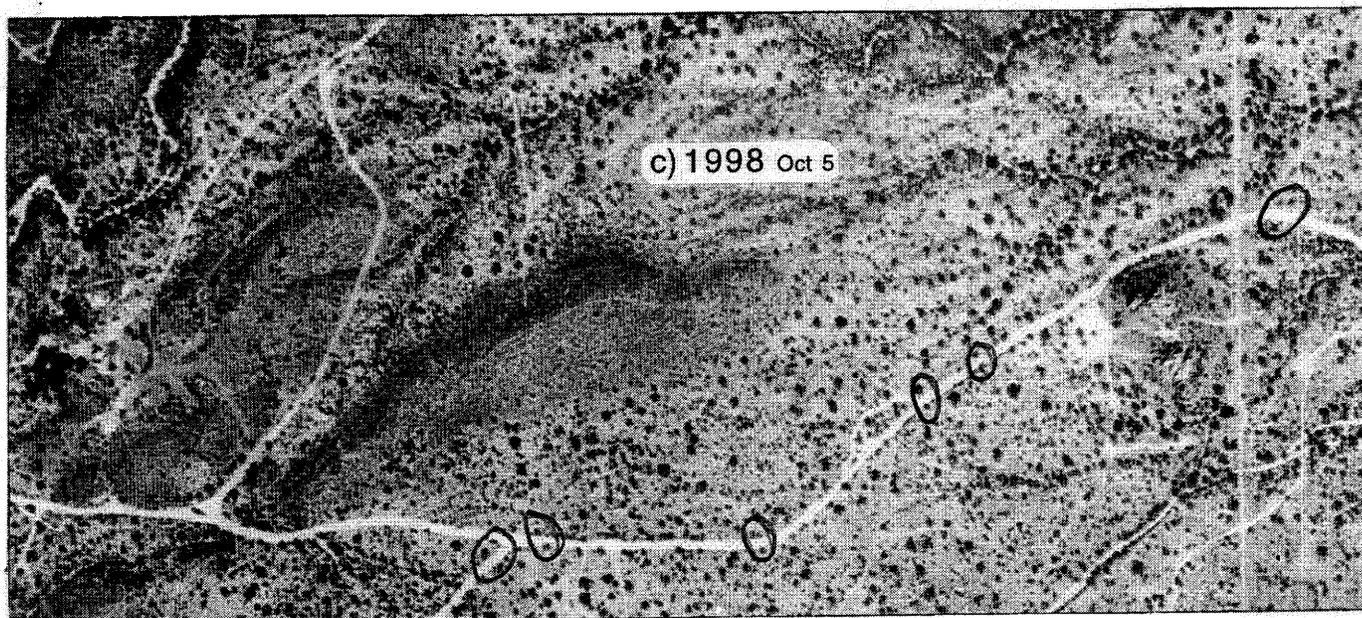
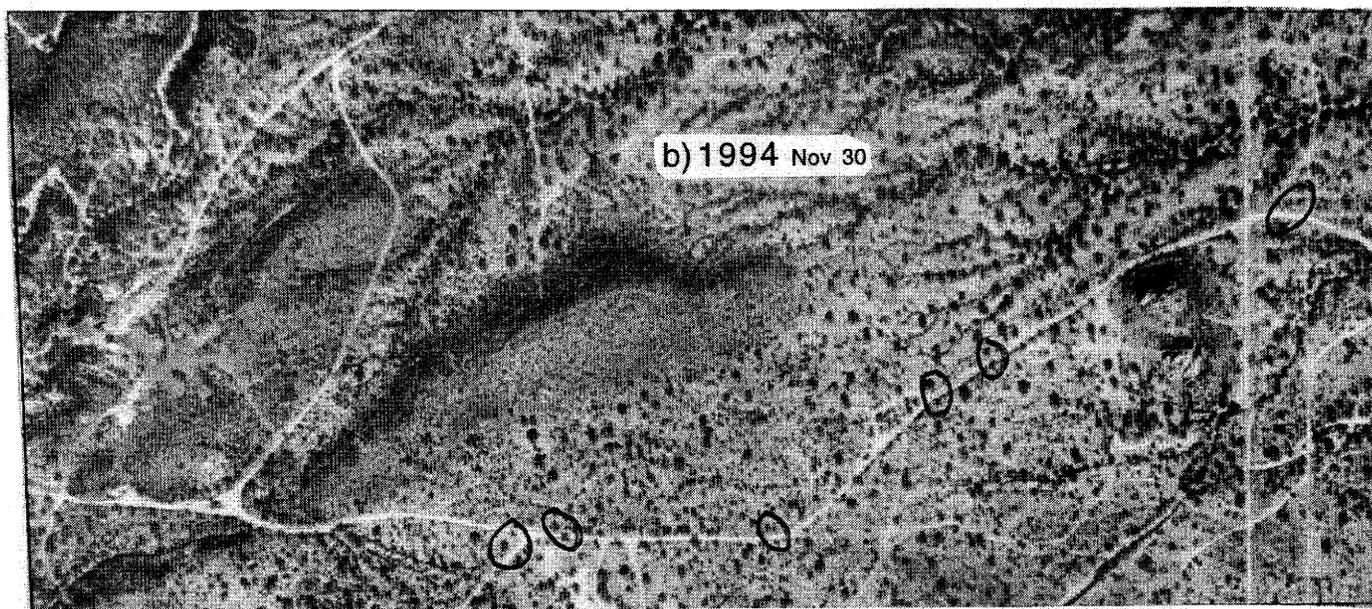
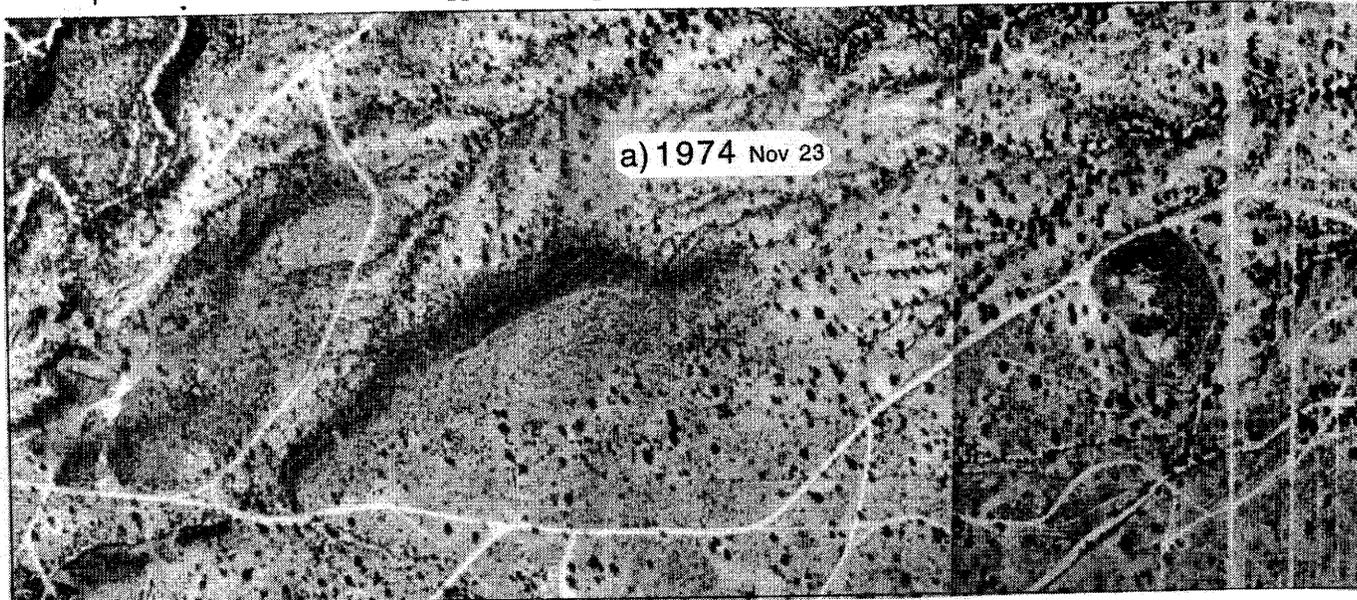
Photo 8



1999 Nov 23  
09:30 mst

Curve on County road Calle Uno (view W); Ocotillo Ranches, Pima County, AZ.  
Location at which a pickup truck ran off the road on Nov 21.

←----- approximately 1/2 mile ----->





# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

Arizona State Office  
222 North Central Avenue  
Phoenix, AZ 85004-2203

In reply refer to:

2800 (AZ-931)

March 6, 2003

Citizens for Public Access to Public Lands (CPAL)  
HC 70 Box 3860  
Sahuarita, Arizona 85629

Dear CPAL:

We have received your petition concerning reopening the routes commonly referred to as Indian Kitchen and Dog Town roads.

A number of unauthorized roads, including the one commonly referred to as Indian Kitchen Road, were closed in June 1998, for public safety and to prevent further environmental harm caused by unauthorized blading. At this time there is an action before the U.S. Attorney's Office relating to this unauthorized activity. The current trial date for that action is July 28, 2003. While litigation is pending, the unauthorized routes will remain closed.

The Tucson Field Office Manager would consider a right-of-way grant under the Federal Land Policy and Management Act (FLPMA) should any qualified applicant file an application.

If additional questions or concerns arise, please contact Shela McFarlin, Tucson Field Office Manager at (520) 258-7200.

Sincerely,

for

Elaine Y. Zielinski  
State Director

cc: Tucson Field Office – 060  
AZ-912

OFFICIAL COPIES:

CF

SD

AUTHOR

GROUP

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TAM 5/30/03  
grosacced 5/30/03

~~1781~~/9230 (AZ-931)

May 30, 2003

Honorable John McCain  
United States Senate  
Attn: Nick Matiella  
4450 South Rural Road, Suite B-130  
Tempe, Arizona 85282

Dear Senator McCain:

This letter is in response to your inquiry dated March 20, 2003, on behalf of your constituent Ex. 6 et.al. (CPAL), regarding the Bureau of Land Management's (BLM) road closures in the area known as Indian Kitchen located in Tucson, Arizona. We have discussed these issues many times with, and responded to numerous letters from, CPAL since 1998.

To bring you up to date on the situation, I will summarize the history of this issue. In January 1998, the BLM Tucson Field Office began investigating unauthorized road construction on public lands in the Indian Kitchen area. Our investigation documented the destruction of native vegetation, damage to archaeological sites, and unauthorized construction of new roads. In March 1998, BLM's Tucson Field Office decided to close some of the trespass roads and an archaeological site that had been disturbed by these unauthorized activities. Notice of these closures was published in the Federal Register on March 17, 1998. Subsequently on June 22, 1998, BLM closed the remaining roads in trespass through publication of another Notice in the Federal Register. Enclosed are copies of the Notices for your information.

A federal grand jury indicted Ex. 6 and Ex. 6 on February 3, 2000, on criminal charges pertaining to the destruction of desert habitat, trespass, unlawful road construction, and destruction of archaeological sites and artifacts on public lands known as the Indian Kitchen area. This case, *United States v Timothy Blowers, et al*, CR No. 00-161-TUC-JMR, is scheduled to go to trial in the United States District Court on July 28, 2003.

All closures are in compliance with Federal regulations at 43 CFR 8364.1 and Federal law enforcement standards. The closures were necessary to cease repeated unauthorized road grading, protect public resources from further damage, and ensure public safety. At this time the trespass roads shall remain closed. However, the BLM would consider a right-of-way grant pursuant to the Federal Land Policy and Management Act (FLPMA), as implemented by Federal regulations at 43 CFR 2800, should any qualified applicant file an application.

If I can be of further assistance, please feel free to contact me at (602) 417-9500.

Sincerely

/s/ Michael Taylor

Elaine Y. Zielinski  
State Director

Enclosures

- 1 - Federal Register Notices dated March 17, 1998 (2 pp.)
- 2 - Federal Register Notice dated June 22, 1998 (1 p.)
- 3 - Response to Questions Posed by CPAL (6 pp.)

cc: WO 615, MS 406C LS  
Tucson Field Manager  
AZ-912

## DEPARTMENT OF THE INTERIOR

## Bureau of Land Management

[AZ-060-1430-00]

## Temporary Closure of Selected Public Lands and Roads in Pima County, AZ

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of temporary closure of selected public lands and roads.

**SUMMARY:** This notice is to inform the public of the Bureau of Land Management's (BLM) decision by the Tucson Field Office Manager of the Tucson Field Office of the temporary road closure of selected public lands under the Field Office's administration. The selected public land roads are located in: T. 17 S., R. 12 E., sections 3, 10, 11, 14 and 15. This action is being taken to provide for public safety and to prevent unnecessary environmental degradation to archaeological sites, soil resources, native vegetation and wildlife.

**DATES:** This closure is effective February 1, 1998.

**ADDRESSES:** 12661 E. Broadway Blvd., Tucson, AZ 85748.

**FOR FURTHER INFORMATION CONTACT:** Bureau of Land Management, Tucson Field Office, 12661 E. Broadway Blvd., Tucson, Arizona 85748, (520) 722-4289.

**SUPPLEMENTARY INFORMATION:** The construction of new unauthorized roads and road grading of existing roads has damaged archaeological sites, native vegetation and existing roads. Authority for this action is contained in 43 Code of Federal Regulations 8364-1. Violations are punishable as a Class A misdemeanor. This action is taken to protect life and property and allow for safe public land use. The following are supplemental rules for the area described above and apply to all persons using Public Lands. The special rules are in addition to existing rules and regulations previously established under 43 Code of Federal Regulations (CFR) as well as other Federal laws applicable to the use of Public Land.

Specific restrictions and closure are as follows:

1. All posted roads shall be closed to all vehicular use except for "Indian Kitchen" Road and "Dog Town" Road.
2. The Indian Kitchen Archaeological site shall be closed to all vehicular use.
3. All roads described above shall be open to BLM authorized and permitted activities on an event specific basis as authorized by the Tucson Field Office Manager or his designee.

4. Casual use of these lands such as hiking, and vehicular use on existing two track trails are permitted.

The above restrictions do not apply to emergency vehicles and vehicles owned by the United States, the State of Arizona, or Pima County. Persons who violate this closure order are subject to arrest and, upon conviction, may be fined up to \$100,000.00 and/or imprisoned for not more than 12 months as amended by 18 USC 3571 and 18 USC 3581. This closure shall stay enforced until a resolution of the unauthorized use is reached, terminated or modified by the Bureau of Land Management.

Dated: March 5, 1998.

Bill Childress,

Acting Field Manager.

[FR Doc. 98-6833 Filed 3-16-98; 8:45 am]

BILLING CODE 4310-32-M

## DEPARTMENT OF THE INTERIOR

## Bureau of Land Management

[CA-360-1220-00]

## Closure and Restriction Orders

AGENCY: Bureau of Land Management (BLM), Interior.

**ACTION:** Emergency closure of certain public lands to motorized vehicle use and target shooting in Shasta County, California.

**SUMMARY:** The BLM is prohibiting persons, for an indefinite period, from target shooting and operating motorized vehicles in certain areas around, and within, the Swasey Drive—Area of Critical Environmental Concern (ACEC). These closures will protect sensitive cultural resources on BLM lands and adjoining residential land until BLM has prepared a detailed ACEC Management Plan.

**DATES:** This emergency motorized vehicle closure will take effect March 17, 1998.

**FOR FURTHER INFORMATION CONTACT:** Charles M. Schultz, Field Manager, Bureau of Land Management, 355 Hemsted Drive, Redding, CA. 96002.

**SUPPLEMENTARY INFORMATION:** The BLM designated the Swasey Drive area as an ACEC in 1993 with approval of the Redding Resource Management Plan. Public lands located in T. 31 N., R. 6 W., sections 1 and 12, and T. 31 N., R. 5 W., sections 6 and 7 are plagued by illegal garbage dumping and contain sensitive cultural resources which are vulnerable to looting. The BLM land is surrounded by privately owned residential development and unrestricted target

shooting is a safety concern; therefore, target shooting is restricted to one area located at the end of the main access road. To reduce cultural resources damage and garbage dumping, motor vehicles are restricted to a series of roadways that are depicted on a map available at the BLM office in Redding. Exceptions to the motor vehicle closure include: emergency vehicles, fire suppression and rescue vehicles, BLM operation and maintenance vehicles, law enforcement vehicles, and other motorized vehicles specifically approved by an authorized officer of the BLM.

The authority for this closure and rule making is 43 CFR 8364.1. Any person who fails to comply with a closure order or rule making is subject to arrest and fines of up to \$100,000 and/or imprisonment not to exceed 12 months.

Charles M. Schultz,

Redding Area Manager.

[FR Doc. 98-6801 Filed 3-16-98; 8:45 am]

BILLING CODE 4310-40-P

## DEPARTMENT OF THE INTERIOR

## Bureau of Land Management

[MT-921-08-1320-01-P; MTM 87910]

## Notice of Invitation—Coal Exploration License Application MTM 87910

AGENCY: Bureau of Land Management, Montana State Office, Interior.

**ACTION:** Notice of invitation—Coal Exploration License Application MTM 87910.

**SUMMARY:** Members of the public are hereby invited to participate with Spring Creek Coal Company in a program for the exploration of coal deposits owned by the United States of America in the lands described below located in Big Horn County, Montana:

T. 8 S., R. 39 E., P.M.M.  
 Sec. 13: SW $\frac{1}{4}$ NW $\frac{1}{4}$ , W $\frac{1}{2}$ SW $\frac{1}{4}$   
 Sec. 14: NE $\frac{1}{4}$ , NE $\frac{1}{4}$ NW $\frac{1}{4}$ , E $\frac{1}{2}$ SE $\frac{1}{2}$   
 Sec. 15: N $\frac{1}{2}$ NE $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ , W $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$   
 Sec. 22: NE $\frac{1}{4}$ , NE $\frac{1}{4}$ NW $\frac{1}{4}$   
 Sec. 23: NE $\frac{1}{4}$ NE $\frac{1}{4}$ , E $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ N $\frac{1}{2}$ NW $\frac{1}{4}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$   
 Sec. 24: NW $\frac{1}{4}$ NW $\frac{1}{4}$   
 1120.00 acres.

**SUPPLEMENTARY INFORMATION:** Any party electing to participate in this exploration program shall notify, in writing, both the State Director, Bureau of Land Management, P.O. Box 36800, Billings, Montana 59107-6800; and Spring Creek Coal Company, P.O. Box 67, Decker, Montana 59025. Such written notice must refer to serial

applicable law. Appropriation of any of the land described in paragraph 2 of this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (1994), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: March 5, 1998.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 98-6844 Filed 3-16-98; 8:45 am]

BILLING CODE 4310-33-P

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[AZ-060-1430-00]

#### Notice of Public Land Use Restriction: Discharge of Firearms Prohibited

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public land use restriction: Discharge of firearms prohibited.

**SUMMARY:** This notice is to inform the public of the Bureau of Land Management's (BLM) decision by the Tucson Field Office Manager of the Tucson Field Office to prohibit the discharge of firearms on public land at Indian Kitchen archaeological site as posted, located in T. 17 S., R. 12., sec. 15, Pima County, Arizona, in order to protect persons, property and public land and resources. No person shall be exempt from this restriction except certified law enforcement personnel acting in the line of duty to enforce local, state or federal laws. This is a permanent restriction.

**DATES:** Effective February 1, 1998.

**FOR FURTHER INFORMATION CONTACT:** Bureau of Land Management, Tucson Field Office, (520) 722-4289, 12661 E. Broadway Blvd., Tucson, AZ 85748.

**SUPPLEMENTARY INFORMATION:** Authority for this action is contained in 43 Code of Federal Regulations 8364-1. Violations are punishable as a Class A misdemeanor. This action is taken to protect life and property and allow for safe public land use. Discharge of firearms at Indian Kitchen has resulted

in significant damage to this important archaeological site.

The following are supplemental rules for the area described above and apply to all persons using Public Lands. The special rules are in addition to existing rules and regulations previously established under 43 Code of Federal Regulations (CFR) as well as other Federal laws applicable to the use of Public Land.

Specific restrictions and closure are as follows:

1. The discharge of firearms is prohibited at the Indian Kitchen archaeological site.
2. The Indian Kitchen site shall be closed to all vehicular use.
3. The Indian Kitchen site shall be open for day use only.
4. Ground fires and overnight camping are prohibited at the Indian Kitchen site.

Emergency vehicles and vehicles owned by the United States, the State of Arizona, or Pima County are permitted on the Indian Kitchen site. Persons who violate this closure order are subject to arrest and, upon conviction, may be fined up to \$100,000.00 and/or imprisoned for not more than 12 months as amended by 18 U.S.C. 3571 and 18 U.S.C. 3581.

Dated: March 5, 1998.

Bill Childress,

Acting Field Manager.

[FR Doc. 98-6832 Filed 3-16-98; 8:45 am]

BILLING CODE 4310-32-M

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[ID-933-1430-00; IDI-31741]

#### Opening of Land in a Proposed Withdrawal; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

**SUMMARY:** The temporary 2-year segregation of a proposed withdrawal of 21,256.58 acres of public lands for the Department of Air Force's Mountain Home Air Force Base Enhanced Training in Idaho (ETI) site expires April 7, 1998, after which the lands will be open to surface entry, mining and mineral leasing.

**EFFECTIVE DATE:** April 7, 1998.

**FOR FURTHER INFORMATION CONTACT:** Jon Foster, BLM Idaho State Office, 1387 S. Vinnell Way, Boise, Idaho 83709, 208-373-3813.

**SUPPLEMENTARY INFORMATION:** A Notice of Proposed Withdrawal was published

in the Federal Register (61 FR 15513, April 8, 1996), which segregated the lands described therein for up to 2 years from the land, mining and mineral leasing laws, subject to valid existing rights. The 2-year segregation expires April 7, 1998. The lands are described as follows:

#### Boise Meridian

(Alternative Site No. 1)—Proposal: Clover Butte Drop Zone

- T. 12 S., R. 8 E.,  
 Sec. 10, SE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Sec. 11, S $\frac{1}{2}$ S $\frac{1}{2}$ ;  
 Sec. 12, S $\frac{1}{2}$ S $\frac{1}{2}$ ;  
 Sec. 13;  
 Sec. 14;  
 Sec. 15, E $\frac{1}{2}$ E $\frac{1}{4}$ ;  
 Sec. 22, E $\frac{1}{2}$ E $\frac{1}{2}$ ;  
 Secs. 23 to 26 inclusive;  
 Sec. 27, E $\frac{1}{2}$ E $\frac{1}{2}$ ;  
 Sec. 34, E $\frac{1}{2}$ E $\frac{1}{2}$ ;  
 Sec. 35.  
 T. 12 S., R. 9 E.;  
 Sec. 7, lot 4, SE $\frac{1}{4}$ SW $\frac{1}{4}$  and S $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 8, S $\frac{1}{2}$ S $\frac{1}{2}$ ;  
 Secs. 17 to 20 inclusive;  
 Secs. 29 to 32 inclusive.

(No Drop Zone)

- T. 11 S., R. 4 E.,  
 Sec. 23, S $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ .  
 T. 9 S., R. 6 E.,  
 Sec. 21.  
 T. 13 S., R. 4 E.,  
 Sec. 4, N $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ .

(Emitters)

- T. 8 S., R. 9 E.,  
 Sec. 34, SE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ .  
 T. 9 S., R. 6 E.,  
 Sec. 15, NW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ .  
 T. 11 S., R. 4 E.,  
 Sec. 23, NE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ .  
 T. 11 S., R. 5 E.,  
 Sec. 17, SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ .  
 T. 12 S., R. 3 E.,  
 Sec. 26, NE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ .  
 T. 12 S., R. 10 E.,  
 Sec. 30, SW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$  within lot 4.  
 T. 13 S., R. 9 E.,  
 Sec. 10, NE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ .  
 The areas described aggregate 11,583.34 acres in Owyhee County.

(Alternative Site No. 2)—Proposal: Gasmere Drop Zone

- T. 11 S., R. 4 E.,  
 Secs. 25 to 27 inclusive;  
 Secs. 34, N $\frac{1}{2}$ , SE $\frac{1}{4}$  and E $\frac{1}{2}$ SW $\frac{1}{4}$ ;  
 Sec. 35.  
 T. 11 S., R. 5 E.,  
 Sec. 30, lots 1 to 4 inclusive;  
 Sec. 31, lots 1 to 4 inclusive.  
 T. 12 S., R. 4 E.,  
 Secs. 1 to 4 inclusive;  
 Sec. 9;  
 Sec. 10, NW $\frac{1}{4}$ , S $\frac{1}{2}$ , W $\frac{1}{2}$ NE $\frac{1}{4}$  and SE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 11, S $\frac{1}{2}$ , N $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$  and NE $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
 Sec. 12;

plans of Stonehedge subdivision, which portion is located within the definition of private settlement land of the Mashantucket Pequot Tribe as defined by 25 U.S.C. § 1752 and specifically excluding any portion of said lot outside the defined settlement area said tract is bounded and described as follows:

Beginning at a merestone at the northwesterly corner of the herein described tract, said point of beginning being in the easterly street line of Coachman Pike, so-called, at the southwesterly corner of Lot No. 48; thence along Lot No. 48, S. 63°03'30" E. 140.00 feet to an iron pipe; thence N. 83°14'05" E. 350.00 feet to an iron pipe, said point being the northeasterly corner of Lot No. 38; thence S. 06°38'01" E. 175.63 feet to an iron pipe and the southeasterly corner of the within described lot; thence S. 83°14'05" W. 364.53 feet to an iron pipe which is set at the intersection of said line with the settlement boundary; thence 312.00 feet more or less in a northwesterly direction along the settlement boundary to a point on the southerly side of Coachman Pike; thence in a northeasterly direction along said Coachman's Pike approximately 105.00 feet to the point and place of beginning.

Said lot contains 2 acres more or less and consists of that portion of Lot No. 38 as is located within the settlement area and specifically excludes any portion of said lot which is not within said settlement area.

Title to the land described above will be conveyed subject to any valid existing easements for public roads, highways, utilities, pipelines, and any other valid easements or rights-of-way now on record.

Dated: June 12, 1998.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 98-16420 Filed 6-19-98; 8:45 am]

BILLING CODE 4310-02-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ-060-1430-00]

Temporary Closure of Selected Public Lands and Roads in Pima County, AZ

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of temporary closure of selected public lands and Roads (route locally known as Indian Kitchen and Dogtown Roads).

SUMMARY: This notice is to inform the public of the Bureau of Land

Management's (BLM) decision by the Tucson Field Office Manager of the Tucson Field Office of the temporary road closure of selected public lands under the Field Office's administration. The selected public land roads are located in: T. 17 S., R. 12 E., sections 11, 14 and 15. This action is being taken to provide for public safety and to prevent unnecessary environmental degradation to archaeological sites; soil resources, native vegetation and wildlife.

DATES: This closure is effective May 26, 1998.

ADDRESSES: 12661 E. Broadway Blvd. Tucson, AZ 85748.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Tucson Field Office, 12661 E. Broadway Blvd., Tucson, Arizona 85748, (520) 722-4289.

SUPPLEMENTARY INFORMATION: The unauthorized construction, excavation and road grading of existing roads has damaged archaeological sites, native vegetation and existing roads. Authority for this action is contained in 43 Code of Federal Regulations 8364-1. Violations are punishable as a Class A misdemeanor. This action is taken to protect life and property and allow for safe public land use. The following are supplemental rules for the area described above and apply to all persons using public lands. The special rules are in addition to existing rules and regulations previously established under 43 Code of Federal Regulations (CFR) as well as other Federal laws applicable to the use of public land.

Specific restrictions and closures are as follows:

1. All posted roads shall be closed to all vehicular use.
2. All roads described above shall be open to BLM authorized and permitted activities on an event specific basis as authorized by the Tucson Field Office Manager or his designee.
3. Casual use of these lands such as hiking, and vehicular use on existing two track trails are permitted.

The above restrictions do not apply to emergency vehicles and vehicles owned by the United States, the State of Arizona, or Pima County. Persons who violate this closure order are subject to arrest and, upon conviction, may be fined up to \$100,000.00 and/or imprisoned for not more than 12 months as amended by 18 U.S.C. 3571 and 18 U.S.C. 3581. This closure shall stay enforced until a resolution of the unauthorized use is reached, terminated or modified by the Bureau of Land Management.

Dated: June 15, 1998

Jesse J. Juen,  
Field Manager.

[FR Doc. 98-16501 Filed 6-19-98; 8:45 am]

BILLING CODE 4310-32-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV-930-1430-01; N-61891]

Notice of Realty Action: Classification and Conveyance for Recreation and Public Purposes

AGENCY: Bureau of Land Management, Interior.

ACTION: Recreation and public purpose conveyance.

SUMMARY: The following described public land in Lincoln County, Nevada has been examined and found suitable for conveyance for recreational or public purposes under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). Lincoln County proposes to use the land for a Solid Waste Disposal Site.

Mount Diablo Meridian, Nevada

T. 3 S., R. 65 E.,  
Sec. 18, S2SW.

Containing 80 acres, more or less.

The land is not required for any federal purpose. The conveyance is consistent with current Bureau planning for this area and would be in the public interest. The patent, when issued, will be subject to the provisions of the Recreation and Public Purposes Act and applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe.

Detailed information concerning this action is available for review at the Office of the Bureau of Land Management, Ely District Field Office, 702 N. Industrial Way, Ely, Nevada. Upon publication of this notice in the Federal Register, the above described land will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for Conveyance under the Recreation and Public Purposes Act,

## Answers to Questions Posed by CPAL

1. *Why are the roads still closed after five (5) years...?*

The roads remain closed to stop unauthorized road construction, protect public resources, and ensure public safety.

*What are the checks and balances on the activities of this government agency and its employees?*

As with all federal agencies, BLM is required to operate within all appropriate federal laws and regulations in managing lands under its jurisdiction. The Office of the Inspector General and the General Services Administration routinely conduct audits of all federal agencies to ensure compliance with the laws and regulations under which each agency is mandated to operate. Additionally, the Interior Board of Land Appeals reviews certain BLM decisions to ascertain whether BLM operated within the scope of its regulations.

2. *...[W]hy did [BLM] not admit their error, publicize the fact and revise their trespass claims and their actions based on those claims?*

We are uncertain about what claims CPAL is referencing in this statement or to whom the claims were supposedly made. BLM conducted surveys to determine the extent to which public lands were affected by the unauthorized construction. Results of the surveys confirmed that extensive construction had occurred on public lands without authorization. The trespass actions taken by BLM are related solely to these unauthorized actions on public land. BLM has no jurisdiction over any activities which may or may not have occurred on private land.

3. *Were the methods and assumptions used by BLM personnel (Tucson Field Office) for estimating damage done applied properly or where other errors (besides the errors in identifying the roads involved) made? Were these methods ever reviewed or questioned?*

The surveys and assessments of the trespass area to determine the extent of lost and damaged resources were performed in accordance with current BLM management practices and policies and professional standards. The Tucson Field Office staff consulted with, and received assistance from, technical specialists at the Arizona State Office for conducting the assessments of lost and damaged resources.

4. *What archaeological site was damaged by road grading?*

Historic Hohokam evidence was uncovered and disturbed by the unauthorized road grading.

5. *Why was BLM not concerned about the “Indian Kitchen Archaeological Site” in the summer of 1997 when several people (CPAL petitioners)...requested that the site be made into a small park to protect it?*

The BLM is always concerned with any archaeological sites on public lands. The proposed park referenced did involve discussions with members of CPAL, Pima County Parks & Recreation, and BLM. Pima County elected not to pursue the park matter. Any land use proposals would be subject to compliance with the National Environmental Policy Act (NEPA) and the National Historic Preservation Act which would identify necessary actions to protect or mitigate impacts to the site.

6. *[W]hy [was BLM] simultaneously agreeing to a deal with Pima County to construct a massive “Southwest Regional Shooting Facility”...?*

In 1996 the County expressed an interest in using certain public lands in the Indian Kitchen area to develop a public shooting range. In 1999, the County filed an application pursuant to the Recreation and Public Purposes Act (R&PP) for their proposed project. However, before BLM could complete processing the application to determine whether or not the proposal could be approved, the County withdrew its application from further consideration. One of the many issues BLM would have considered while processing the County’s application would have been the impacts to the cultural resources in the Indian Kitchen area.

7. *Would not construction of the Southwest Regional Shooting Facility have destroyed any evidence the BLM was trying to preserve by blockading the roads? Why was this means of destroying evidence not prohibited?*

As stated in our response to Question #1 above, the reasons the closures remain in place are to stop unauthorized road construction, protect public resources, and ensure public safety -- not to “preserve evidence.” The investigations BLM conducted within the two years after discovery of the unauthorized construction provided the necessary evidence to pursue the trespass action.

8. *What evidence would be preserved by the road blockades after five years...?*

See response to Question #7 above.

9. *Is enhanced use of those back roads a desirable consequence of the closure of the main roads? Does this satisfy the BLM's stated purposes of preventing "unnecessary environmental degradation to archaeological sites, soil resources, native vegetation and wildlife? Are BLM's purposes other than what they stated?*

The Phoenix Resource Management Plan (RMP) prescribes how the public lands covered by the RMP will be managed. The RMP generally allows vehicular travel on public lands on a casual use basis, except in situations where the lands have been closed to vehicular use, as is the case here. Casual use is defined in the regulations at 43 CFR 2800 as "activities that involve practices which do not ordinarily cause any appreciable disturbance or damage to the public lands, and, therefore, do not require a right-of-way grant...." Occasional driving off-road for recreational enjoyment of the public lands would normally fall under the definition of casual use. Continued, regular use of the public lands to access private lands exceeds the concept of casual use and requires a right-of-way. If BLM determines that damage is occurring because of heavy, continued use of alternate public lands for access needs, additional closures may be necessary.

10. *Would not the Indian Kitchen site actually be better protected with the road opened so that the locals who trained as stewards (CPAL petitioners), and other concerned citizens, could have better access to monitor activities there?*

BLM believes the closures and fencing will provide the necessary extra protection for the area. The road and site closures do not preclude the general public from enjoying the public lands for non-motorized recreational activities nor does it preclude volunteers from accessing the area for monitoring purposes.

11. *Is the BLM aware that blocking these roads also blocks the time-honored access route to other recreational (State Land), leased and private lands to the west?*

The State of Arizona has stated, in writing, to BLM and members of CPAL that the closures do not restrict access to State lands since there are other reasonable access routes for public recreational uses. If a lessee or landowner needs access to his or her leased or private lands, a right-of-way grant is required.

12. *Did the BLM not realize that users of a rare, major route (relative to the area) would not all be stopped by the sudden appearance of barriers to these roads and that some would destroy or go around the barriers, thus causing even more damage?*

It is unfortunate that some members of the public will disregard the legal road closures and cause additional damage to the lands by driving around the barriers. BLM will continue to monitor the area and will issue legal citations to anyone found disregarding the closures.

13. *Why did BLM give keys for the barrier cables to the Helmet Peak VFD when fire trucks could not possibly get through the mounds of dirt the BLM piled up as barriers (and the keys did not work)?*

After the road barriers were in place, BLM and the Helmet Peak Volunteer Fire Department (VFD) met and discussed why the VFD might need to use the closed roads. The concern expressed by the VFD was that in the event the county roads were to become inaccessible, an alternate route would be available. The VFD was aware that the closed road would not enhance their response time and that the condition of the road would deteriorate over time, which would further impede their response time. After the discussions, BLM provided the VFD a set of keys with the understanding that the route would only be used to help BLM fight brush fires or when county roads were inaccessible. The VFD no longer has keys to the locks on the barriers because Pima County prohibits emergency vehicles from traveling on non-county approved roads.

14. *Is it OK for the barriers (mounds of dirt) constructed by the BLM to act as dams to the natural drainage of the region without an environmental impact study?*

Under an emergency closure, BLM notifies the Council on Environmental Quality in lieu of preparing an environmental analysis.

15. *What penalty should be bestowed on the BLM for initially constructing one of their...barriers on private land? Is this a case of trespass?*

We are aware of one incident where a road barrier consisting of 3 posts was inadvertently constructed within a private roadway. Upon discovery of the error, the posts were removed and the road was promptly repaired. When asked about this incident during a public meeting, BLM disclosed the error and responded to all questions relating to the incident. Use of private land is a matter between the BLM and the landowner.

16. *Does the BLM realize that the destruction they committed on these roads...competes in severity with actions they are prosecuting?*

It is unfortunate that those who were causing the damage did not stop the unauthorized activities as soon as they were made aware of the damage that was occurring. Had they done so, it would not have been necessary for BLM to construct the barriers. The barriers that BLM constructed are in areas that had already been damaged by the unauthorized construction.

17. *[W]hy was a single barricade constructed across Dog Town Road?*

The barrier placed at the far west end was installed there because that area was affected by repeated unauthorized road grading. The BLM considers that portion of the route as part of the Indian Kitchen road, not Dog Town road.

*Is it the business of the US Bureau of Land Management to arbitrarily block access to private land?*

As discussed previously, casual use of existing roads or trails on public land is acceptable, provided vehicular use is not prohibited by a closure order. Continued regular use of public lands to gain access to private lands exceeds the definition of casual use and requires a right-of-way grant.

18. *Why is it that every time someone asks to have these roads re-opened and access to our public lands restored, the BLM's response is that the requester can apply for a "right-of-way grant" at great expense?*

The Phoenix Resource Management Plan (RMP), which specifies how BLM manages lands in this area, does not identify a need for BLM roads in this area. Therefore, BLM cannot "re-open" these unauthorized roads. Although the roads remain closed to vehicular travel, the public lands in this area remain available for non-vehicular use.

If the members of CPAL want access their private lands, they will need to obtain a BLM right-of-way grant in accordance with the policies and procedures found in the regulations at 43 CFR 2800. BLM has explained to members of CPAL that a proposed road would be required to meet BLM, and possibly County, road standards; that a right-of-way holder would be required to maintain the road in accordance with the terms and conditions of a grant; that a full analysis of impacts associated with construction of a road must be disclosed, as required by the NEPA, and that mitigation measures to lessen such impacts may be required; that BLM is obligated to consider alternative routes in addition to the route requested by an applicant; and that an applicant must pay BLM costs for processing an application as required by the regulations at 43 CFR 2808. This is the same basic information that BLM provides to any potential applicant for a right-of-way crossing public lands.

19. *Would not acting on a right-of-way grant destroy any evidence the BLM claimed they were trying to preserve by blockading the roads?*

Please see our response to Question #7.

20. *Was the BLM anticipating the Southwest Regional Shooting Facility when, in 1998, they blocked the Pima County Addressing department from officially naming Dogtown [sic] and Indian Kitchen Roads?*

Roads on public lands cannot be assigned a formal street name by a local governmental agency unless that entity holds a right-of-way grant. There was no correlation between BLM's objection to the County's proposal to name the roads and the County's proposed shooting range.

*Since the shooting facility is no longer an option, is this reason for keeping the roads closed now moot?*

The closures remain in place as previously stated – to stop unauthorized road construction, protect public resources, and ensure public safety. The fact that the shooting facility is no longer an option has no bearing on the closures.