

JOHN McCAIN
ARIZONA

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

United States Senate

April 12, 2007

241 RUSSELL SENATE OFFICE BUILDING
WASHINGTON, DC 20510-0303
(202) 224-2235

5353 NORTH 16TH STREET
SUITE 105
PHOENIX, AZ 85016
(602) 952-2410

4703 SOUTH LAKESHORE DRIVE
SUITE 1
TEMPE, AZ 85282
(480) 897-6289

407 WEST CONGRESS STREET
SUITE 103
TUCSON, AZ 85701
(520) 670-6334

TELEPHONE FOR HEARING IMPAIRED
(602) 952-0170

Ms. Elaine Zielinski
Arizona State Director
Department of the Interior
222 North Central Avenue
Phoenix, AZ 85004

Dear Ms. Zielinski:

I wish to bring to your attention a matter concerning **Ex. 6** who has encountered a problem with securing a Right-of-Way of Necessity to a parcel of Arizona land.

Because the situation is under your jurisdiction, I am respectfully referring this matter to you for consideration. I feel that this issue would be better addressed by you and request that you respond directly to **Ex. 6**.

Thank you.

Sincerely,



John McCain
United States Senator

JM/tgs
Enclosure(s)

Bureau of Land Management

APR 17 2007

910	_____	930	_____
911	_____	950	_____
912	_____	Field Office	_____
913	_____	Central Files	_____
914	_____	FOIA	OK 4-17-07
915	_____	Action	_____

March 29, 2006

APR 09 2007

Honorable Senator McCain
407 West Congress Street, Suite 103
Tucson, Arizona 85701

Private

Dear Senator McCain:

This is a request for assistance in securing a Right-of-Way of Necessity to a 17+ acres land-bound parcel of AZ land that my wife and I inherited. The land is located in a designated Riparian Area along the San Pedro River near Palominas in Cochise County, Arizona. *Parcel 02, Blk 104, MP 48, Parcel 018 - 3.*

We are asking for your help, because: 1) the land is in Arizona; 2) your interest in preserving environmental lands; and, 3) we believe we're faced by organizations and private parties whose actions are detrimental to the public interest and which might be rectified by an inquiry. We are hopeful that an inquiry by your staff asking whether they are in practice complying with their stated policies; 1) to buy environmental properties and 2) to pay a reasonable fair-market value, would be helpful and might result in a more fair administration of the public funds provided to them, directly and indirectly by the Government.

We think we are not being treated fairly by Conservation organizations (i.e. BLM, TLC, Arizona Open Land, etc.).

We have asked these organizations and surrounding land owners for a grant of "right-of-way" over their properties to no avail. Each has said no and/or they weren't interested *in buying,* unless at a very low price* - a practice which would be inconsistent with these organizations policy statements "reasonably knowledgeable Buyer and Seller at a fair-market value" - not buy on the cheap

Aside from price, and actually more fundamental, we wonder why these organizations (BLM, TLC, AZ Open Land) haven't made any offer to purchase. It is one of the last properties needed to complete the preservation in this area and to protect a public water source (aquifer). We think the only intelligent explanation appears to be that an effort is being made to set-up an insider deal to secure benefit for a private party's privacy and/or taxable income. We believe we're faced with a complicity that is detrimental to the public interest and into which we hope you will inquire.

We would like to sell our property at a reasonable market price to an environmental

organization based on the assumption that the property has legal access - which is a reasonable assumption since they own the Right-of-Way - and which they should grant to us under the Arizona State Law - Right-of-Necessity (A.R.S. §12-1202). We believe the placing and removing of easements by the Conservancy and other organizations is a common practice, and in fact one practiced by them and used in acquiring adjacent properties which resulted in the land locking of our property and diminution of its value.

We believe the practice of these organizations and private owners (in their own common interest) has been to buy surrounding properties via negotiated understandings concerning the placement and/or removal of easement restrictions beneficial to the final owners which practice results in the land locking and diminution of other properties - a practice which doesn't seem to be ethical nor a fair public policy, when public funds are involved (BLM, TLC).

Our second preference (if the Conservancy doesn't want to buy the property) is to have it grant us the Right-of-Way of Necessity from the West side of the property which is buildable because the elevations are above FEMA Flood Plain minimal elevation requirements and we would then proceed to sell to a private property

We appreciate that our problem is a small matter and that you are very busy, but we need help.

My wife and I are **Ex. 6**. We've asked our daughter, **Ex. 6** to handle this for us. If you have any questions, please contact her at **Ex. 6** or at **Ex. 6**

We would like to be treated fairly and would like to sell this property to an environmental organization at a reasonable market price.

Thank you for any help you can extend. Good Luck in your Presidential Campaign.

Sincerely,

Ex. 6

*They have verbally referred to a 2001 (land-bound) valuation of \$24,000 for 17+ acres which appears very low when compared to the attached Real Estate Ad of \$65,000 for a 4-acre adjoining property (we assume with Right-of-Way). Assuming under AZ Law we're entitled to a Right-of-Way, \$24,000 seems ridiculous.

c.c.



Cochise County Real Estate

Jackie Collins
Hereford Realty
520-378-4444
Email Me

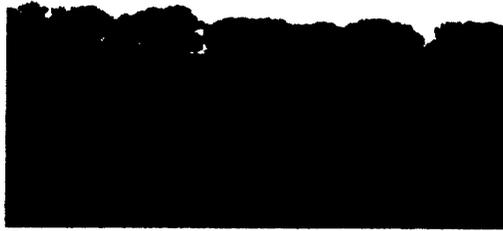
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- [Your Home's Value](#)
- [School Reports](#)
- [Community Reports](#)
- [Listings](#)
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- [Market News](#)
- [Real Estate Tips](#)
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UNIQUE RIVER PROPERTY

MLS #: 120849
 Price: \$65,000 ✓
 Status: JUST LISTED
 [Request more photos!](#)

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[Driving Directions](#)
[Print this listing](#)
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Great level site with awesome views

Address:
 o Hwy 92
 Hereford, AZ 85615
Type: Vacant Land

Description:

This is one of only two four acre parcels with access to the San Pedro River on the market right now. Enjoy the birds, the quiet and the serene setting of this land. Restricted to site built homes only. Includes well share. Owners are licensed to sell real estate in AZ

LOCATION: Just off Hwy 92 and E of the San Pedro River
TERRAIN: LEVEL
VIEW: Trees along the San Pedro and Mnts beyon

B-2514
Johnnie 5/4/07
William
5/4/07
Cotts 5/4/07
4/6
5/4

MAY 04 2007

In Reply Refer To:
1781/2100 (AZ-931)

Ex. 6

Dear Ex. 6

Thank you for your inquiry to Senator John McCain dated March 29, 2007, regarding the circumstances associated with your property located near the San Pedro River in Cochise County, Arizona.

The letter describes your ownership interest in a 17-acre tract that is surrounded by other private ownerships. You cited the following two general options for optimizing and negotiating the future of your ownership status: 1) Actions involving the acquisition of a rights-of-way for the property and 2) Bureau of Land Management (BLM) fee purchase of your ownership.

Your letter states that you have no legal access to your property. Legal access would have to be secured across privately owned lands. In your prior conversations with our Realty Lead, Ex. 6, she explained the BLM's rights-of-way process. In an email dated January 30, 2007, Ex. 6 cited the background and guidance for acquiring a rights-of-way via the R.S. 2477 process. However, as she stated, R.S. 2477 pertains only to rights-of-ways across federally managed lands. Unfortunately, the access provision in question does not involve BLM-administered lands. The BLM does not have the authority to make rights-of-way determinations on private land located adjacent to your property.

I also do not have positive news to report about the prospects for BLM's acquisition of your property. Currently, the BLM does not have the capability to purchase your property. The property happens to be landlocked and is an island amidst other private lands. It is not a practice of the BLM to purchase isolated lands that may present difficult management issues. The property does not meet the BLM's criteria for acquisition priority.

I believe your best option may be to work with a realtor to sell your property. If you have any further questions or wish for further direction, please contact **Ex. 6** Realty Specialist, at 602-417-9561.

Sincerely,

/s/ Michael A. Taylor

Michael A. Taylor
Acting State Director

cc: The Honorable John McCain
United States Senator
407 West Congress Street, Suite 103
Tucson, Arizona 85701

bc: WO-615, 401 LS
AZ-912, 420

Ex. 6 djj:05/01/07