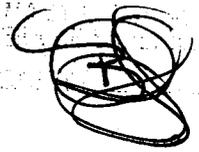


1 **WILLIAMS MELO, PLC**  
2107B Paseo San Luis, Suite C  
Sierra Vista, Arizona 85635  
2 520-458-2022  
3 Paul@WilliamsMeloLaw.com

FILED

2015 MAR -4 PM 4:13

§  3/6/2015

4 Paul W. Melo, 027705  
5 Attorney for: Defendants Ronald Klump, Dayla Heap, and Roy Klump

6 IN AND FOR THE SUPERIOR COURT OF THE COUNTY OF COCHISE

7  
8 DANNY R. HATCH, JR. and DENICE R.  
9 HATCH, husband and wife,

CASE NO. CV 2014 00128

10 Plaintiffs,

11 vs.

**MOTION FOR SUMMARY  
JUDGMENT**

12 RONALD J. KLUMP and JANE DOE KLUMP,  
13 husband and wife, ROY J. KLUMP and JANE  
14 DOE KLUMP, husband and wife, and DAYLA  
15 HEAP and JOHN DOE HEAP, wife and  
husband,

16 Defendants.

17  
18  
19 Defendants, Ronald J. Klump, Dayla Heap, and Roy J. Klump, (“Klumps”) by and  
20 through undersigned counsel, and pursuant to Rule 56, Ariz.R.Civ.P., hereby move for summary  
21 judgment. This Motion is supported by the following Memorandum of Points and Authorities,  
22 and by each of the defendants’ Separate Statement of Facts and Exhibits attached thereto.  
23  
24  
25

RECEIVED

MAR - 6 2015

COURT ADMINISTRATION

1 Memorandum of Points and Authorities

2 **I. Facts.**

3 Plaintiffs, Danny R. Hatch, Jr. and Denice R. Hatch, ("Hatches"), own real estate located in  
4 Cochise County located at 3983 North Shepard Road, Wilcox, Arizona 85644. The Hatches  
5 purchased this property on or around August 28<sup>th</sup>, 2003. *Warranty Deed, Exhibit 1.*

6 A Right-Of-Way Easement was conveyed to the public for ingress and egress and public  
7 utilities by Continental Service Corporation on December 8, 1976. *Right-of-Way Easement,*  
8 *Exhibit 2.* The seventh page (recorded as page 462) of the Right-Of-Way Easements reads, in  
9 pertinent part, as follows:

10 The following described easements for ingress and egress  
11 and public utilities refer to parcel numbers as recorded on a  
12 report of survey filed in Survey Book 1, Pages 56 and 56A  
in the Offices of the Cochise County Recorder.

13 5. The easement is on the North 30 feet, East 60 feet and  
14 South 60 feet of Parcel 32.  
*Right-of-Way Easement, Exhibit 2.*

15 When the Hatches purchased property at 3983 North Shepard Road, their interest was  
16 SUBJECT TO: Current taxes and other assessments, reservations in patents and all easements,  
17 rights of way, encumbrances, liens, covenants, conditions, restrictions, obligations, and liabilities  
18 as may appear of record. *Warranty Deed, Exhibit 1.*

19 Defendant, Roy Klump, was granted a Treasurer's Deed recorded on June 18, 1999,  
20 granting his interest in the land south of Parcel 32. *Treasurer's Deed, Exhibit 3.* Roy Klump and  
21 Ronald Klump have a verbal agreement allowing Ronald Klump to reside on the land south of  
22 Parcel 32. *Ronald Klump Statement of Facts no. 18. (RonKSOF)*

23 Defendant Ronald Klump began residing at 3840 N Johnson Saddle Road on or about  
24 April 2010. *RonKSOF No. 4.* Ronald Klump traveled on the easement on Parcel 32 for several  
25 years leading up to the end of 2004 in order to check for water for cattle at a well site on the

1 Klump land. *RonKSOF No. 2*. Every few days someone would have to check on the water.

2 *RonKSOF No.2*.

3 Near the end of 2004, Ronald Klump moved away from the area and no longer needed  
4 the easement on a regular basis. *RonKSOF No.2*. In April of 2010, Ronald Klump returned to  
5 the Willcox area and decided to live on the land to the south of Plaintiff's land, Parcel 32.

6 *RonKSOF No.4*. Ronald Klump received permission to access the land from the gas company  
7 for the purpose of placing a manufactured home on the land. The gas line has fewer sharp turns  
8 and was more accessible for a large trailer. *RonKSOF No.7*. Ronald Klump continued to use the  
9 gas line for access to his residence until the condition of the gas line deteriorated and the gas  
10 company would not permit upgrades to the gas line and withdrew the permission to use the gas  
11 line. *RonKSOF No.9-10*. In December 2013, Ronald Klump attempted to use the easement on  
12 Parcel 32 and found a locked gate. *RonKSOF No.12*. In one instance, a sheriff was called to the  
13 location and after reviewing documents provided by Mr. Klump, the sheriff permitted Mr.  
14 Klump access to the easement. *RonKSOF No.12*. Ronald Klump continues to use the easement  
15 for ingress and egress to his residence, located on the Klump land south of Parcel 32. *RonKSOF*  
16 *No.19*. The Complaint in this case was filed in February, less than two months after the Hatches  
17 attempted to deny access to Ronald Klump. *Complaint and RonKSOF No.12*.

18 Dennis Bodtke, owner of Cochise County Parcel I.D. # 202 81 1685 also  
19 known as Parcel 51 of Bellflower Ranch, Willcox, Arizona, also has used the  
20 Easement described above. See filed Affidavit of Dennis Bodtke.

## 21 **II. Standard of review.**

### 22 a. Summary Judgment

23 Summary judgment should be granted by the court where the record indicates that  
24 "there is no genuine dispute as to any material fact and the moving party is entitled to judgment  
25 as a matter of law." Ariz.R.Civ.P. 56(a); *see also Parkway Bank and Trust Co. v Zivkovic*, 232  
Ariz. 286, 304 P.3d 1109 (Ariz. App. 2013). Summary judgment under Rule 56 serves the  
purpose of removing meritless claims from the civil justice system, *see generally Orme School*

1 v. *Reeves*, 166 Ariz. 301, 802 P.2d 1000 (1990), and while summary judgment proceedings  
2 should not be used as a substitute for jury trials, the motion should be granted if the facts  
3 produced in support of the defense have so little probative value, given the quantum of  
4 evidence required, that reasonable people could not disagree with the conclusions advanced by  
5 the proponent of the defense. See e.g. *Andrews v. Blake*, 205 Ariz. 236, 69 P.3d 7 (2003).

6 b. Termination of Easement by Adverse Possession

7 When considering termination of an easement by adverse possession, mere non-use of the  
8 easement for motor vehicle ingress or egress does not establish adverse possession. *Sabino Town*  
9 & *Country Estates Ass'n v. Carr*, 920 P.2d 26, 186 Ariz. 146 at 150 (Ariz. App. Div. 2, 1996)  
10 See *Kolouch v. Kramer*, 120 Idaho 65, 67, 813 P.2d 876, 878 (1991). See also *Squaw Peak*  
11 *Community Covenant Church v. Anozira Dev., Inc.*, 149 Ariz. 409, 414, 719 P.2d 295, 300  
12 (App.1986) ("The law is well-settled that the owner of an easement created by express grant is  
under no duty to make use of the easement in order to retain his entitlement.").

13 Several courts have held that "where an easement has been created but no occasion has  
14 arisen for its use, the owner of the servient tenement may fence the land and this will not be  
15 deemed adverse until such time as the need for the right-of-way arises and the owner of the  
16 dominant tenement demands that the easement be opened and the servient tenement owner  
17 refuses to do so." *Halverson v. Turner*, 268 Mont. 168, 175, 885 P.2d 1285, 1290 (1994). See  
18 also *Kolouch*, 120 Idaho at 68, 813 P.2d at 879; *Castle Assoc. v. Schwartz*, 63 A.D.2d 481, 487,  
19 407 N.Y.S.2d 717, 723 (1978); *Beebe v. Swerda*, 58 Wash.App. 375, 384, 793 P.2d 442, 446  
20 (1990); *City of Edmonds v. Williams*, 54 Wash.App. 632, 636, 774 P.2d 1241, 1244 (1989);  
21 *Mueller*, 887 P.2d at 509.

22 **III. Application**

23 In this case, there is a deeded easement to the public for ingress and egress as well as for  
24 utilities. *Right-of-Way Easement Exhibit 2*. Hatches in their Complaint claim they have used the  
25 easement on Parcel 32 exclusively, openly, notoriously since they purchased their property in

1 August 2003. *Complaint paragraph XII*. However, “[t]he law is well-settled that the owner of an  
2 easement created by express grant is under no duty to make use of the easement in order to retain  
3 his entitlement. *Squaw Peak Community Covenant Church of Phoenix v. Anozira Development,*  
4 *Inc.*, 719 P.2d 295, 149 Ariz. 409 (Ariz. App., 1986) See generally 25 Am.Jur.2d Easements and  
5 Licenses § 105 at 109 (1966); Annot., 25 A.L.R.2d 1265 (1952); 3 Powell Real Property, § 423 at  
6 34-248 (1975).

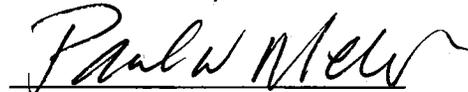
7  
8 **IV. Conclusion**

9 There are no material facts in dispute and the law is well settled that non-use of  
10 an easement does not establish adverse possession. The Klumps are entitled to  
11 judgment in their favor for unrestricted use and access to the easement.

12 Finally, the Klumps are entitled to an award of their attorney’s fees and costs  
13 pursuant to A.R.S. §12-341.01 and A.R.S. §12-349.

14  
15  
16  
17  
18 **DATED** this March 4, 2015

19 Williams Melo, PLC

20 

21 Paul W. Melo

22 2107B Paseo San Luis, Suite C

23 Sierra Vista, Arizona 85635

24 520-458-2022

25 Paul@WilliamsMeloLaw.com



FEE # 030931359  
 OFFICIAL RECORDS  
 COCHISE COUNTY  
 DATE HOUR  
 09/02/03 3

REQUEST OF  
 PIONEER TITLE AGENCY  
 CHRISTINE RHODES-RECORDER  
 FEE : 12.00 PAGES : 4

at the request of Pioneer Title Agency, Inc.

When recorded mail to  
 DANNY D. HATCH JR.  
 PO BOX 66  
 WILLCOX, AZ. 85644

00808899-SH

Tax Code: 202-55-007

## Warranty Deed Community Property with Right of Survivorship

For the consideration of Ten Dollars, and other valuable considerations,

**SANDRA ERHARDT, A single woman**

do/does hereby convey to

**DANNY D. HATCH JR. and DENICE R. HATCH, Husband and Wife**

not as tenants in common nor as a community property estate nor as joint tenants with right of survivorship, but as community property with right of survivorship, the following real property situated in Cochise County, Arizona, together with all rights and privileges appurtenant thereto:

Parcel 32, as shown on Report of Survey, filed in Book 1 of Surveys, pages 56 and 56A, records of Cochise County, Arizona, being a portion of the Northwest quarter of Section 14, Township 13 South, Range 25 East of the Gila and Salt River Base and Meridian, Cochise County, Arizona;

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

POWER OF ATTORNEY IS BEING RECORDED CONCURRENTLY HEREWITH  
 SUBJECT TO: Current taxes and other assessments, reservations in patents and all easements, rights of way, encumbrances, liens, covenants, conditions, restrictions, obligations, and liabilities as may appear of record.

The Grantor warrants the title against all persons whomsoever.

The Grantees by signing the acceptance below evidence their intention to acquire said premises *as community property with right of survivorship.*

Dated this 18th day of August, 2003

Accepted and approved:

Grantees  
*Danny D. Hatch, Jr.*  
*Denice R. Hatch by P.O.A.*  
 DANNY D. HATCH JR.

Grantors  
*Sandra Erhardt*  
 SANDRA ERHARDT

*Denice R. Hatch*  
 DENICE R. HATCH

STATE OF ARIZONA } SS  
 County of Cochise

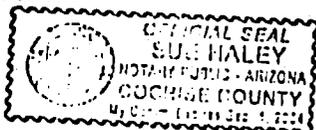


This instrument was acknowledged before me this 18 day of August, 2003 by DENISE RENE HATCH as Attorney in Fact for DANNY D. HATCH, JR. and DENISE R. HATCH

*Sue Haley*  
 Notary Public

My commission will expire \_\_\_\_\_

STATE OF ARIZONA } SS  
 County of Cochise



This instrument was acknowledged before me this 20 day of August, 2003 by SANDRA ERHARDT

*Sue Haley*  
 Notary Public

My commission will expire \_\_\_\_\_

WHEN RECORDED MAIL TO:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**AFFIDAVIT OF DISCLOSURE**  
**PURSUANT TO A.R.S. § 11-806.03**

I, Jadea Egan ("Seller(s)") being duly sworn, hereby makes this Affidavit of Disclosure relating to the real property situated in the County of \_\_\_\_\_, State of Arizona, located at \_\_\_\_\_ and legally described as:

(Legal Description attached hereto as Exhibit "A")

("Property").

1. There  is  is not legal access to the Property. (Explain) Road upto House in front
2. There  is  is not physical access to the Property. (Explain) \_\_\_\_\_
3. The legal and physical access to the Property  is  is not the same. (Explain) \_\_\_\_\_
4. The road(s) is/are  publicly maintained  privately maintained  not maintained  not applicable. If applicable, there  is  is not a road maintenance agreement. If the roads are not publicly maintained, it is the responsibility of the Property owner(s) to maintain the roads and roads that are not improved to county standards and accepted for maintenance are not the county's responsibility.
5. A portion of the Property  is  is not located in a regulatory floodplain. (Explain) \_\_\_\_\_
6. The Seller  knows  does not know if the Property has ever been flooded. (Explain) \_\_\_\_\_
7. The following services are currently provided to the Property:  water  sewer  electric  natural gas  single party telephone  cable television services. (Explain) Septic
8. The Property will be served by:  a private well  a shared well  no well. If served by a shared well, the shared well  is  is not a public water system, as defined by the Safe Drinking Water Act (42 United States Code § 300f). (Explain) \_\_\_\_\_
9. The Property  has a septic tank  does not have a septic tank. If applicable, the Property  will  will not require installation of a septic system. (Explain) \_\_\_\_\_
10. The Property  has been  has not been subject to a percolation test.

030931359

11. Emergency Vehicles  have access  do not have access to the Property to provide emergency service.  
(Explain) \_\_\_\_\_

If access to the parcel is not traversable by emergency vehicles, neither the county nor emergency service providers may be held liable for any damages resulting from the inability to traverse the access to provide needed services.

12. The sale of the Property  meets  does not meet the requirements of A.R.S. §11-809(B) regarding land divisions. If those requirements are not met, each of the deficiencies are as follows: \_\_\_\_\_

This Affidavit of Disclosure supercedes any previously recorded Affidavit of Disclosure.

Dated this 6<sup>th</sup> day of May 2002 by Sandra Edwardt

Sandra Edwardt  
(Seller)

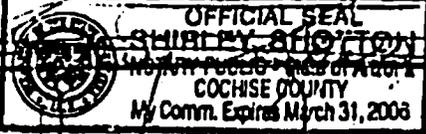
(Seller)

STATE OF ARIZONA )

County of Cochise )

ss.

SUBSCRIBED AND SWORN before me this 6<sup>th</sup> day of May, 2002

by Sandra Edwardt  
  
Shirley Stouton  
Notary Public

My commission expires:  
\_\_\_\_\_

030931359

Buyer(s) hereby acknowledges receipt of a copy of this Affidavit of Disclosure this  
this 27 day of Aug, 2003

Danny D. Hatch, Jr. / Denise Rene Hatch by P.O.A.

(Buyer)

Denise R. Hatch

(Buyer)

STATE OF ARIZONA )

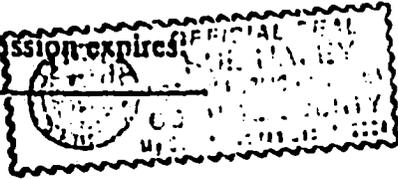
County of Cochise )

ss.

This instrument hereby acknowledged before me this 27 day of Aug, 2003  
DENISE RENE HATCH, as Attorney In Fact for DANNY D. HATCH, JR. and DENISE R. HATCH INDIVIDUALLY

Dee Holly  
Notary Public

My commission expires



030931359

202-55-002-1  
84865

### Treasurer's Deed



FEE # 990619194  
OFFICIAL RECORDS  
COCHISE COUNTY  
DATE 6/18/99 HOUR 1

COUNTY OF COCHISE  
STATE OF ARIZONA

GRANTEE Roy J. Klump  
ADDRESS P.O. Box 896  
WILLCOX, AZ 85644

REQUEST OF  
COCHISE COUNTY TREASURER  
CHRISTINE RHODES-RECORDER  
FEE 9.00 PAGES 1

On February 25, 1999, a tax lien was sold. Notice according to law was published in a newspaper circulated in the County of Cochise, State of Arizona, that application for a treasurer's deed had been made by the grantee named herein and that unless the tax lien was redeemed in the time and manner required by law a treasurer's deed would be issued to the said grantee.

Said property tax lien was not redeemed from such sale, I therefore, pursuant to said notice and in conformity with law do hereby foreclose the right to redeem and convey to Roy J. Klump

the following described property located in the County of Cochise, State of Arizona:

**Lots 5,6,7,8 and the SW 1/4 Section 14, Township 13 South, Range 25 East of the Gila and Salt River Base and Meridian, according to records of Cochise County, Arizona.**

Subject to any easements, rights of reservation, and all conditions and restrictions that may be of record.

IN WITNESS WHEREOF, I, Mariann Fletcher, <sup>Deputy</sup> Treasurer of the County of Cochise, State of Arizona, by virtue of law, have hereunto set my hand and seal this day June 3, 1999.



*Mariann Fletcher*  
Deputy Treasurer

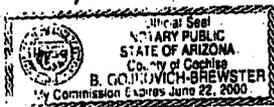
(Seal)  
STATE OF ARIZONA ) ss:  
County of Cochise )

This instrument was acknowledged before me this day June 3, 1999, by Mariann Fletcher as Deputy Treasurer of the County of Cochise, State of Arizona, who then and there stated to me that she executed the same for the purpose and consideration therein expressed.

My Commission will expire June 22, 2000

*[Signature]*  
Notary Public

BT302



990619194

COCHISE COUNTY RECORDER  
PLEASE MAIL TO:

WHEN RECORDED RETURN TO:  
CONTINENTAL SERVICE CORPORATION  
P.O. BOX 500  
PHOENIX, ARIZONA 85001  
Attn: Dan Robledo  
Trust No. 99383

RIGHT-OF-WAY EASEMENT

KNOW ALL MEN BY THESE PRESENT, that the undersigned, CONTINENTAL SERVICE CORPORATION, as Trustee under Number 99383, does hereby grant and convey to the public for ingress and egress and public utilities, an easement to construct, operate and maintain utilities and appurtenances across, over and under the surface of the premises hereinafter described.

Said easement is situate in Cochise County, Arizona and is more particularly described as follows, to wit:

SEE ATTACHED EXHIBIT "A"

Together with the said easement is granted the right to operate, repair, replace, maintain and use said easement; to add to or alter any improvements and/or facilities at any reasonable time, with access to said easement and egress therefrom to permit normal operations of public utilities in connection with said easement.

Grantor shall not erect or construct or permit to be erected or constructed any building or other structure in the above described easement.

It is further understood that, whenever necessary, words used in this instrument in the singular shall be construed to read in the plural and that words used in the masculine gender shall be construed to read in the feminine.

IN WITNESS WHEREOF, the CONTINENTAL SERVICE CORPORATION, as Trustee has caused its corporate name to be signed and its corporate seal to be affixed by the undersigned officer thereunto duly authorized this 8th day of December, 1976, A.D.

CONTINENTAL SERVICE CORPORATION  
As Trustee *and not personally*

By *Dan Robledo*  
Trust Officer

STATE OF ARIZONA )  
County of Maricopa )

Before me this 8th day of December, 1976 personally appeared DAN ROBLEDO who acknowledged himself to be a Trust Officer of the CONTINENTAL SERVICE CORPORATION, and that he as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the Corporation as Trustee, by himself as such officer.

*Ematonia P. Pizarro*  
Notary Public



My Commission Expires:  
10-29-78

COURTESY RECORDING  
NO TITLE LIABILITY

## EXHIBIT A-1

LEGAL DESCRIPTION

AN EASEMENT for ingress, egress and utility purposes, in over and upon that certain strip of land, situate in the County of Cochise, State of Arizona, being located 30 feet on each side of the following described line:

BEGINNING at a USGLO brass disc marking the quarter corner common to Sections 11 and 14, T-13-S, R-25-E, G. & S. R. M.:

THENCE from said POINT OF BEGINNING, southerly along the centerline of said Section 14, S 0° 54' 25" E 1336.33 feet to an aluminum cap marking the 1/16 th. corner in said line;

THENCE leaving said centerline of said Section 14 and easterly along the 1/16th. line, N 89° 26' 17" E 1320.40 feet to an aluminum cap marking the center of the northeast quarter of said Section 14;

THENCE S 6° 22' 17" E 287.94 feet;

THENCE S 46° 28' 42" E 617.97 feet;

THENCE N 85° 01' 54" E 433.39 feet;

THENCE N 2° 38' 10" W 300.60 feet;

THENCE N 38° 51' 49" E 712.55 feet;

THENCE N 68° 59' 22" E 192.50 feet to a point, from which said point an aluminum cap marking the southeast corner of the northeast quarter of the northeast quarter of said Section 14 bears S 34° 02' 49" W 272.56 feet distant:

THENCE S 1° 46' 42" W 226.03 feet to a point, from which said point last said aluminum cap bears West 145.58 feet distant:

THENCE N 89° 36' 54" E 1073.79 feet;

THENCE S 32° 21' 58" E 384.29 feet;

THENCE N 53° 34' 45" E 420.02 feet;

THENCE N 20° 25' 33" E 245.43 feet;

THENCE N 58° 49' 46" E 102.54 feet;

THENCE S 79° 32' 29" E 389.64 feet;

THENCE S 16° 21' 15" E 269.97 feet;

THENCE S 54° 02' 39" E 249.52 feet;

THENCE S 0° 54' 58" W 249.60 feet;

THENCE N 79° 45' 41" E 257.52 feet;

Continued...Page 2

## EXHIBIT A-2



THENCE S 47° 45' 54" E 356.82 feet;  
 THENCE N 68° 02' 49" E 43.55 feet;  
 THENCE N 3° 52' 19" E 167.42 feet;  
 THENCE N 73° 10' 45" E 188.45 feet;  
 THENCE N 15° 09' 09" W 406.96 feet;  
 THENCE N 84° 44' 02" E 463.77 feet;  
 THENCE N 53° 47' 56" E 280.21 feet;  
 THENCE S 71° 42' 21" E 232.15 feet;  
 THENCE S 7° 52' 29" W 499.76 feet;  
 THENCE S 43° 10' 33" W 428.01 feet;  
 THENCE S 14° 21' 43" # 221.81 feet;  
 THENCE S 12° 42' 39" E 258.71 feet;  
 THENCE S 56° 52' 13" W 555.03 feet;  
 THENCE S 29° 51' 54" E 230.18 feet;  
 THENCE S 16° 25' 24" E 264.80 feet;  
 THENCE S 81° 58' 21" E 335.95 feet;  
 THENCE S 41° 43' 53" E 98.28 feet to a point, from which  
 said point a USOLO brass disc marking the south quarter corner  
 of Section 13, T-13-S, R-25-E, G. & S. R. M., bears  
 S 31° 39' 47" W 2147.11 feet distant;  
 THENCE S 41° 43' 53" E 49.44 feet;  
 THENCE S 46° 06' 38" W 203.28 feet;  
 THENCE S 20° 46' 43" W 180.48 feet;  
 THENCE S 25° 25' 03" E 265.98 feet;  
 THENCE S 35° 37' 42" # 99.68 feet;  
 THENCE S 9° 54' 29" E 158.14 feet;  
 THENCE S 39° 05' 57" E 231.60 feet;  
 THENCE S 26° 43' 32" W 81.89 feet;  
 THENCE N 87° 26' 33" W 328.06 feet;  
 THENCE S 78° 25' 06" W 235.18 feet;  
 THENCE S 46° 18' 40" W 208.29 feet;  
 THENCE S 67° 38' 54" W 219.70 feet;  
 THENCE S 26° 15' 18" E 339.39 feet;  
 THENCE S 58° 12' 02" # 373.19 feet to a point from which the  
 said south quarter corner of said Section 13 bears N 80° 58' 28" W  
 63.81 feet distant, said point being the terminal point of  
 the above described line.

EXHIBIT A-3

LEGAL DESCRIPTION

AN EASEMENT for ingress, egress and utility purposes, in, over and upon that certain strip of land, situate in the County of Cochise, State of Arizona, being located 30 feet on each side of the following described line:

BEGINNING at a point, from which said point an aluminum cap marking the southwest corner of the northwest quarter of the northwest quarter of Section 13, T-13-S, R-25-E, G. & S. R. M., bears S 34° 02' 49" W 272.56 feet distant:

THENCE from said POINT OF BEGINNING, N 25° 55' 48" E 549.30 feet:

THENCE N 89° 33' 53" E 193.04 feet;

THENCE N 45° 20' 07" E 357.88 feet;

THENCE N 30° 20' 22" E 346.22 feet;

THENCE N 66° 31' 09" E 115.79 feet;

THENCE easterly parallel with and 30 feet south of the north line of said Section 13, N 89° 29' 43" E 1490.00 feet to a point from which a USGLO brass disc marking the north quarter corner of said Section 13 bears N 1° 05' 32" W 30.01 feet distant, said point being the terminal point of this description.



STATE OF ARIZONA }  
COUNTY OF COCHISE } SS.  
WITNESS MY HAND AND ORIGINAL SEAL  
SHERIFF COCHISE COUNTY  
*V. Chrymley*  
SHERIFF

I HEREBY CERTIFY THAT THE WITHIN INSTRUMENT WAS FILED AND RECORDED AT THE REQUEST OF: Transamerica Title Insurance Co., P. O. Box 1608, Sierra Vista, AZ. 85635  
300  
DEC 14 1976 - 8 00 AM  
1122  
462

EXHIBIT A-4

LEGAL DESCRIPTION

AN EASEMENT for ingress, egress and utility purposes in, over and upon that certain strip of land, situate in the County of Cochise, State of Arizona, being located 30 feet on each side of the following described line:

BEGINNING at a point from which said point an aluminum cap marking the southwest corner of the northwest quarter of the northwest quarter of Section 13, T-13-S, R-25-E, G. & S. R. M. bears West 145.58 feet distant:

THENCE from said POINT OF BEGINNING, S 21° 00' 29" E 471.31 feet;

THENCE S 56° 27' 22" E 423.30 feet;

THENCE S 3° 37' 58" E 239.24 feet;

THENCE S 59° 02' 40" E 767.56 feet to an aluminum cap marking the southeast corner of the southwest quarter of the northwest quarter of said Section 13 and the terminal point of this description.



## EXHIBIT A-5

LEGAL DESCRIPTION

AN EASEMENT for ingress, egress and utility purposes in, over and upon that certain strip of land, situate in the County of Cochise, State of Arizona, being located 30 feet on each side of the following described line:

BEGINNING at a point from which the south quarter corner of Section 13, T-13-S, R-25-E, G. & S. R. M. bears S 31° 39' 47" W 2147.11 feet distant;

THENCE from said POINT OF BEGINNING, S 86° 13' 49" E 296.13 feet:

THENCE S 58° 55' 09" E 585.82 feet:

THENCE N 46° 36' 46" E 331.55 feet:

THENCE S 80° 49' 45" E 229.73 feet:

THENCE S 80° 15' 31" E 507.54 feet:

THENCE S 8° 18' 55" W 188.64 feet to a point from which a scribed stone marking the southeast corner of said Section 13 bears S 10° 24' 03" W 1366.90 feet distant, said point being the terminal point of this description.



**EXHIBIT A-6**

The following described easements for ingress and egress and public utilities refer to parcel numbers as recorded on a report of survey filed in Survey Book I, Pages 56 and 56A in the Offices of the Cochise County Recorder.

1. The easement is on the South 60 feet of Parcels 24, 25 and 26.
2. The easement is on the South 50 feet and East 60' of Parcel 27.
3. The easement is on the North 50 feet, East 60 feet, and South 30 feet of Parcel 28.
4. The easement is on the North 50 feet and South 30 feet of Parcel 29.
5. The easement is on the North 30 feet, East 60 feet and South 60 feet of Parcel 32.
6. The easement is on the North 30 feet and South 60 feet of Parcel 33.