



BUCKELEW FARMS

2004 Conservation Acquisition Program



PIMA COUNTY BOARD OF SUPERVISORS
Richard Elías, Chairman, District 5; Ann Day, District 1
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COUNTY ADMINISTRATOR
C.H. Huckelberry





MEMORANDUM

Date: August 2, 2006

To: Conservation Acquisition Commission

From: C.H. Huckelberry
County Administrator

Re: **Acquisition of Buckelew Farms Property**

Background

On the County's behalf, the Arizona Open Land Trust (AOLT) has entered into two purchase agreements for the Buckelew Farms property. The property is located west of Robles Junction, along the Ajo Highway. The area immediately to the east is being developed at a rapid pace. Even with the floodprone nature of this property, the Buckelew's have been inundated with offers to sell for development. Under this conservation acquisition proposal, farming would continue in the areas currently farmed, grazing would continue on a seasonal basis, and the popular annual pumpkin festival would continue. However, these activities would continue under a management agreement whereby the County and the Buckelew's would work together to enhance opportunities for wildlife habitat on the farmlands, on land adjacent to the Brawley Wash, and on the grazing lands. The County and the City of Tucson now own a considerable amount of land along the Brawley Wash. This would add to those holdings, and could play an important role in the restoration of the Brawley Wash throughout the Altar and Avra Valleys.

The proposal is as follows:

- AOLT would assign two acquisition agreements and a right of first refusal to the County.
- Acquisition of 420 acres, including 1,000 acre-feet of grandfathered irrigation water rights, for \$4,116,000 (\$9,800 an acre).
- Acquisition of 85 acres, including 2,000 acre state grazing lease and 200 acre BLM grazing permit, for \$957,000 (\$11,259 an acre).
- Right of first refusal on 10 acres that contain the farm headquarters.

The attached report provides more details of this proposed acquisition. Since the majority of the property is identified for acquisition in the 2004 bond ordinance, it is recommended that the purchase be funded with 2004 conservation bond funds.

Conservation Acquisition Commission
Acquisition of Buckelew Farms Property
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Recommendation

I respectfully recommend that the Conservation Acquisition Commission approve this acquisition with 2004 conservation bond funds, and recommend the acquisition to the Board of Supervisors.

CHH/dr

Attachment

c: The Honorable Chairman and Members, Pima County Board of Supervisors

Buckelew Farms and Pima County's 2004 Conservation Bond Program

Background

Over the past few years, Pima County, the Flood Control District, and the City of Tucson have been active in acquiring land along the Brawley Wash in Altar and Avra Valleys, west of metro Tucson. Much of this land has significant water rights associated with it due to the area's farming history. Tucson Water and the City of Tucson have acquired numerous farmland properties and retired the water rights in order to conserve water to serve a growing urban population. On one such property, the City leases the property to Tucson Audubon to manage for conservation. The County and the Flood Control District have acquired properties along the Brawley Wash for several reasons, including preserving natural floodplain functions, conserving significant habitat for vulnerable species, and also conserving water resources. The County in 2005, acquired the King 98 property, approximately 1,000 acres in fee, containing water rights appurtenant to farm fields no longer in use. This property was included in the 2004 conservation bond program approved by voters in 2004, and was therefore acquired with such funds. Prior to this, in 2004, the County also acquired 160 acres along the Brawley Wash, known as the Bee and Mordka properties, adjacent to Tohono O'odham farmland along the Garcia Strip, west of Tucson Mountain Park. These two properties were also acquired with 2004 conservation bond funds. Prior to these 2004 bond program acquisitions, the County and the Flood Control District jointly acquired 500 acres owned by the Buckelew family in 2002, via funds appropriated from the Open Space Special Revenue Fund and the Floodprone Land Acquisition Program. While previously used for farming, the water rights associated with the Buckelew 500 property had been retired by the City of Tucson prior to the County purchase.

Both the King 98, Bee/Mordka, and Buckelew 500 properties were acquired by the County for more than just retiring water rights. The properties contain habitat for several of the County's Priority Vulnerable Species as part of the County's Sonoran Desert Conservation Plan. The King 98 and Buckelew 500 properties contain habitat for the federally listed Pima Pineapple Cactus (Endangered) and then federally listed Cactus Ferruginous Pygmy Owl. The acquisition of these properties by the County also assists in defining the urban edge, by preventing further development, planned or unplanned, from occurring in an area not suitable for development. Acquisition of both properties keeps development out of floodprone areas associated with the Brawley Wash, conserving natural floodplain functions, a goal also shared by the Regional Flood Control District as it continues to acquire lands in Avra Valley along the Brawley Wash via the Floodprone Land Acquisition Program. Lot splitting occurs frequently in this area as an affordable housing option, but creates many negative impacts not only to the conservation values, but also from a public health and tax base perspective. With fewer and fewer large vacant private properties remaining in Pima County, the few that do exist in this area have been targeted intensely for acquisition for the development of residential subdivisions.

Much of the land along the Brawley Wash between the King 98 and the Bee/Mordka properties to the north are owned by public agencies. One property in particular that remains privately owned is the Buckelew Farms property, located north and south of Ajo Highway, west of Three Points. With the area southwest of Tucson currently experiencing so much growth, this property is under threat of development.

Proposed Acquisition of Buckelew Farms Property

The Arizona Open Land Trust (AOLT), on behalf of the County, entered into two acquisition agreements and a right of first refusal on May 26, 2006, for the Buckelew Farms property. AOLT intends to assign the acquisition agreements and the right of first refusal to the County for the County to purchase the land and maintain the property as a conservation area. Both of the acquisition properties are located east of the County's 2002 Buckelew purchase, northeast of the County's 2005 King 98 purchase, and are surrounded to the north, west and south by land owned by City of Tucson, the State, and BLM. Land directly to the north and east is a combination of unregulated lot splits.

One acquisition agreement is between AOLT and Bucks-Kin Farm for acquisition of the 429 acres of land north of Ajo Highway, for \$4,204,200 (\$9,800 an acre) (see location map). The seller was given the right to identify up to 9 acres around the headquarters to retain. The seller has decided to retain approximately 9 acres, which reduces the price by \$88,200 (9 acres x \$9,800 an acre), for a purchase price of \$4,116,000. AOLT secured a Right of First Refusal on these retained acres. The acquisition agreement includes 1,092 acre feet of grandfathered irrigation water rights associated with two wells with the right to irrigate 324 acres of farmland. The agreement also includes a Type II non-irrigation water right of 8 acre feet a year. The Buckelew's currently use just over half of their water allotment. About 350 acres (80 percent) of the land is still actively farmed. The other 80 acres (or 20 percent) is in natural condition, partly along the Brawley Wash, partly as vacant undisturbed uplands on the southeast corner of the property, and partly as a small riparian area of 5 acres in the northeast corner of the property. All mineral rights are reserved to the Federal government and will therefore not be acquired by the County in this transaction.

The second acquisition agreement is between AOLT and Nick and Laurie Buckelew for the acquisition of 85 acres of vacant, relatively undisturbed land, south of Ajo Highway, south of the active farmland, and east of Brawley Wash, for \$957,000 (\$11,259 an acre). The acquisition includes a state grazing lease of 2,000 acres and a BLM grazing permit of 200 acres. The property does not contain any water rights, and the mineral rights are reserved to the Federal government. The Buckelew's run cattle on the 85 acres, the state grazing lease land, and the BLM grazing permit land.

The total purchase price for both properties is \$5,073,000. Pending approval of the acquisition by the Conservation Acquisition Commission and the Board of Supervisors, the County will accept assignment of the two acquisition agreements and the right of first refusal, enter into a 10 year management agreement with the Buckelews, and close on the property. The proposed funding source for this acquisition is the County's 2004 Conservation Bond Program. The majority of the property is included in the County's 2004 Conservation Bond Program as a secondary priority private Habitat Protection Priority.

Bob Buckelew and his wife Clara Buckelew purchased this property back in the 1950's, after they had been leasing it for several years to farm cotton. Over the years, Bob and his wife gifted the property to their children (Nick Buckelew and his sisters). Portions of the original property have been sold to the City of Tucson, and the 429 acre farm remains under the ownership of Nick Buckelew and his sisters). Nick and his wife Laurie

purchased the 85 acre property during the 1980's, along with the 500 acre property sold to the County in 2002.

The following items are included in this report:

- Map showing the location of the two Buckelew properties in respect to other public lands in the area
- Conservation Lands System map
- Habitat Protection Priorities map
- Ortho photo
- Two acquisition agreements
- Right of first refusal
- Management Agreement
- Biological Assessment
- Affidavit of Disclosure
- Ownership Disclosure, including date acquired by seller and seller donation
- Assessors maps of parcels

Appraisal

The property was appraised as of April 14, 2006, by an appraiser regularly retained by the County. The Buckelew appraisal takes into account the property's floodprone characteristics and the offers made for purchase by land investors. It appraises land only and excludes approximately 8 acres on which the building improvements are located. Most of the sales were floodprone to the same degree or more, and the three offers made by land investors to purchase ranged from \$12,000 to \$15,000 per acre with contingencies. The appraisal has a value for approximately 429 acres on the north side of Ajo Highway (excludes approximately 9 acres on which residence headquarters and other building improvements are located). The appraisal has a value for the approximately 85 acres on the south side of Ajo Highway. There is a value for the 24 animal unit State Lease and a 2 animal unit BLM lease. There is a value for 8 acre-feet of Type 2 water rights associated with the 420 acre property. The value of the 1,074 acre-feet of Type 1 water rights are included in 420 acre property's land value.

The values are summarized below:

- 420 acre parcel: \$2,525,000 to \$3,788,000 (\$6,000 to \$9,000 per acre).
- 85 acre parcel: \$638,000 to \$851,000 (\$7,500 to \$10,000 per acre).
- Grazing leases: \$26,000 (\$1,000 per animal unit for the State Lease at 24 animal units, and \$2,000 for the BLM lease 2 animal units at \$1,000 per a.u.).
- Type 1 water rights: Approximately 1,074 acre-feet included in the land value of the 420 acre parcel.
- Type 2 water rights: \$16,000 to \$24,000 for 8 acre feet (\$2,000 to \$3,000 per Type 2 acre foot associated with the 420 acre parcel).

The appraised values for the two properties, including the values attributed to the water and grazing leases, compared to the purchase price is summarized below:

	Total Appraised Value	Appraised Value per Acre	Total Purchase Price	Purchase Price per Acre	Percent above Appraised Value
420 acre property	\$2,541,000 to \$3,812,000	\$6,000 to \$9,000	\$4,116,000	\$9,800	8 percent
85 acre property	\$666,000 to \$879,000	\$7,800 to \$10,300	\$957,000	\$11,259	9 percent

Biological Values

Conservation Lands System: According to the County's Conservation Lands System (CLS), the majority of the northern 429 acre property is identified as an agricultural inholding within the CLS, with the western portion along the Brawley Wash and the northeastern 5 acres identified as an Important Riparian Area. The 85 acre southern property is identified as Multiple-Use. The land affiliated with the State grazing lease and BLM grazing permits are identified as a mix of Multiple-Use and Important Riparian Area. All of the area falls within the Special Species Management Area designation for the Cactus Ferruginous Pygmy-Owl.

Habitat Protection Priorities: The majority of the deeded acreage is identified as secondary priority private (328 acres).

Biological Assessment: A biological assessment of the property was conducted by EPG biological consultants in June, 2006. The fee property and grazing leases lie within an area that has experienced historic grazing and farming activities over the span of many years. However, over the past decade, those activities have been greatly reduced in scope and intensity throughout the immediate area of the property. The land package now includes a mix of active agricultural lands and natural habitats, some of which are still being grazed on a short-term and seasonal basis only.

The portions of the property not under active cultivation are generally made up of a Semidesert grassland habitat type. Due primarily to historic grazing practices and climatic changes, the grassland is now dominated by a more woody phase made up of shrubs, cacti and short-lived perennial and annual grasses. Plants like velvet mesquite, Desert broom, burroweed, snakeweed, chain-fruit cholla, and greythorn have invaded the more pure grassland type. Perennial bunch grasses are less present and have been replaced by more common Three-awn grass species. The area has been invaded by Bermuda grass and lovegrass in some small locations.

The Brawley wash is a dominant feature crossing the property generally from south to north. The main wash and the associated small feeder tributaries are generally lined with a mix of Sonoran Desert Riparian Scrub and Sonoran Interior Strand plant communities. Along the wash complex, plant species like velvet mesquite, whitethorn, catclaw and desert hackberry are more prominent.

The property falls within the Priority Conservation Area models of 14 of the 55 Priority Vulnerable Species identified within the SDCP. The species models range from low to high quality habitat depending on the specific point in the property. Species like the Swainson's hawk, Bell's vireo, Cactus Ferruginous pygmy owl, Western yellow-billed

cuckoo, Western yellow bat Pima Pineapple cactus and Tucson shovel nosed snake all have identified high quality model points on or close to the subject property. The presence of the Brawley Wash greatly enhances the potential presence of the Priority Vulnerable Species. Also, the zone between the active agricultural activity, along Brawley wash and the adjacent open space lands offer suitable habitat for the Western Burrowing owl.

On the northeast corner of the farm property, a small riparian area has been created from drainage from the farming irrigation operation. This area is maintained by an almost year round water supply and attracts a diverse array of native and migratory wildlife. The site is dominated by large mesquite trees, diverse understory plants and has excellent structural diversity.

Management

The property will be managed for the county under a third-party management Agreement. The previous owner will stay on to continue actively farming the existing fields and grazing the state and BLM leases on a seasonal basis, consistent with the conservation goals under the SDCP and 2004 Bond program. The County and the manager will develop a resource management plan for the property and work cooperatively to establish the annual crop selection, rotation and grazing plan. Special attention will be placed on enhancing opportunities within the current farming activities to improve wildlife habitat on and adjacent to the farm proper. This may include development of permanent water sources for wildlife, specialty plantings for resident and migratory wildlife, reintroductions of vulnerable wildlife such as the Western burrowing owl and enhancement of native grassland plant species. The small riparian area on the northeast corner of the property will be maintained specifically for wildlife. The grazing leases will be transferred to the County and subleased back to the property manager under the management agreement. These lands will be managed to encourage increased perennial grass cover and stabilization of soil resources.

The 85 acre parcel south of Ajo Highway borders some BLM lands being used for the local school complex to the east. Plans are currently under way to develop additional County recreational facilities adjacent to the school. Preliminary plans show a complex of nature trails that could be extended into the new property and expand opportunity for school based nature study, outdoor education and wildlife viewing opportunities for the community.

The presence of the Brawley Wash through the property presents a unique management opportunity. This property would complete a significant linkage on the north end of the Altar Valley of State, Federal, City of Tucson and County properties along the wash that stretches over 30 miles. The acquisition would build on the County's previous acquisitions at King 98 Ranch, Buckelew 500 and the Bee/Mordka properties. Because the Brawley Wash stretches from its head waters near the Buenos Aires Wildlife Refuge to where it connects to the Santa Cruz in Avra Valley thus linking the Altar and Avra Valleys, it is an important wildlife corridor and water system. Recent attention has been focused on the Brawley Wash complex by a group of private landowners, local, state and federal agencies and environmental organizations. Portions of the wash complex have been significantly degraded over time and are a prime location to bring together human and financial resources to improve the water movement characteristics, biological and recreational effectiveness of the wash. The impacts of periodic flooding

needs to be reduced and the agricultural lands taken out of production along the wash converted back into native grassland habitat. The Buckelew property is an important crossing point at Highway 86 for not only wildlife in this whole system and an important linkage for the overall project vision.

Because of the property's long history as a working farm, special events will be conducted on the farm for the public. They will include celebrations of the importance of farming in the history of the area and Pima County. The popular annual Pumpkin Festival held for the past 18 years will be allowed to continue under the management agreement. The festival runs for three weeks in October, and includes a corn maze, horse drawn wagon rides, arts and crafts, a petting zoo, children's games, fresh produce and food booths. According to Nick Buckelew, they get about 35,000 visitors during the Pumpkin Festival. Other events, conservation demonstrations and programs related to conservation agriculture may be developed over time and incorporated into the site management.

Summary

In summary, purchase of the Buckelew Farms properties by the County will: expand upon a reserve system along the Brawley Wash of thousands of acres owned and managed by several public agencies; provide the opportunity to work cooperatively with these agencies and private land owners to restore the biological integrity and natural flood plain functions of the Brawley Wash; prevent planned and unplanned development from occurring on property in an area that is experiencing high development pressures; provide an opportunity to work with the Buckelews to enhance habitat for wildlife on the farm and on adjacent land; provide significant water rights for habitat restoration opportunities; expand the possibilities for school based nature study, outdoor education and wildlife viewing opportunities on lands adjacent to a school and County recreation facility; conserve a long time family farm; and continue a popular community fall festival.

Bucklew Farm, Conservation Lands System

Streets

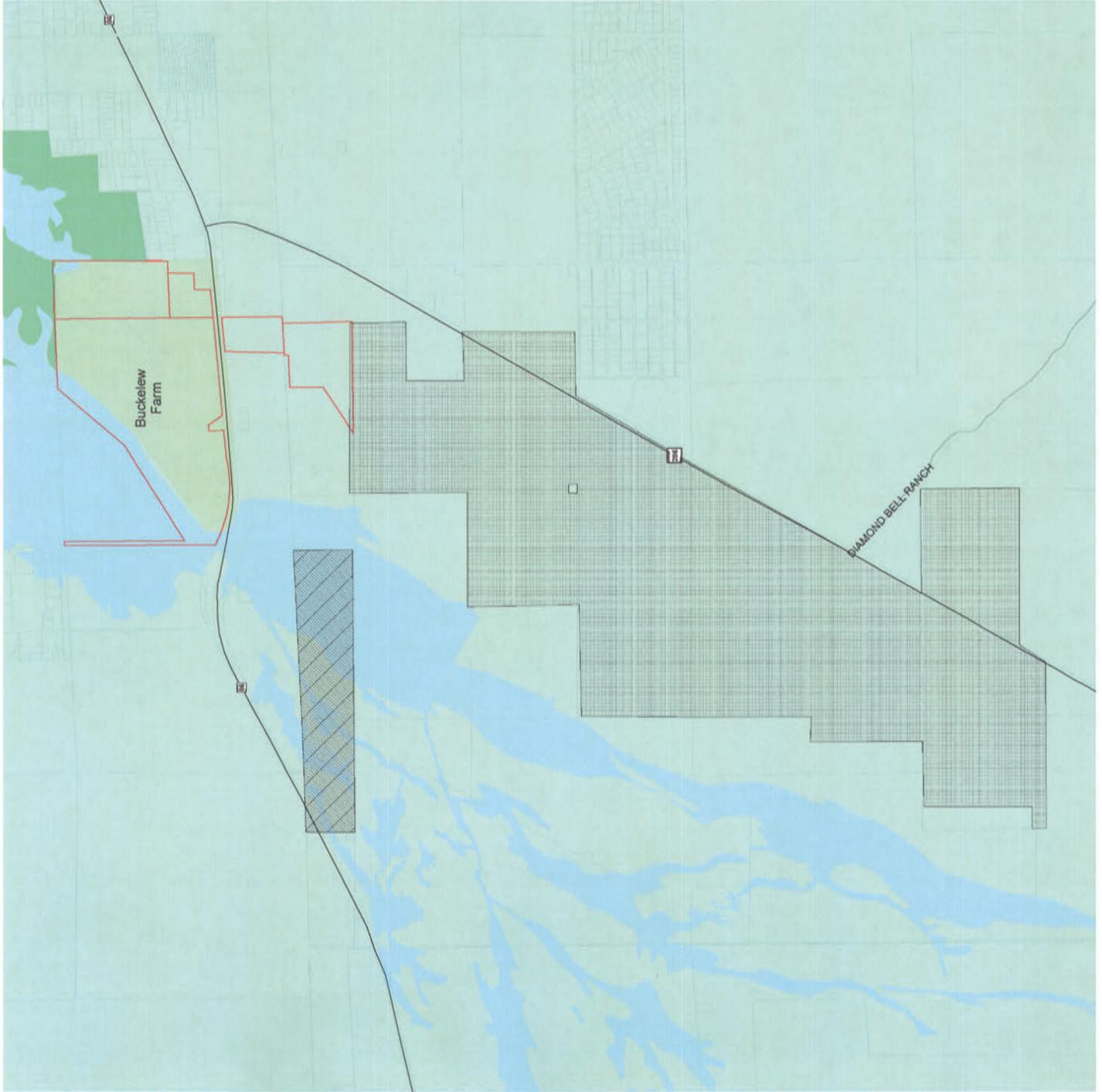
- Major Street
- State Highway
- Parcels

Recommended County Acquisitions

- Bucklew Farms Fee Lands
- ▨ BLM Lease
- ▨ State Grazing Lease

Conservation Lands System

- Agriculture Inholdings Within CLS
- Biological Core Management Areas
- Important Riparian Areas
- Multiple Use Management Areas
- Areas Outside CLS



Prima County Index Map



Index Map Scale: 1:500,000



Scale 1:50,000

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Bucklew Farm, Habitat Protection Priorities

Streets

- Major Street
- State Highway
- Parcels

Recommended County Fee Lands

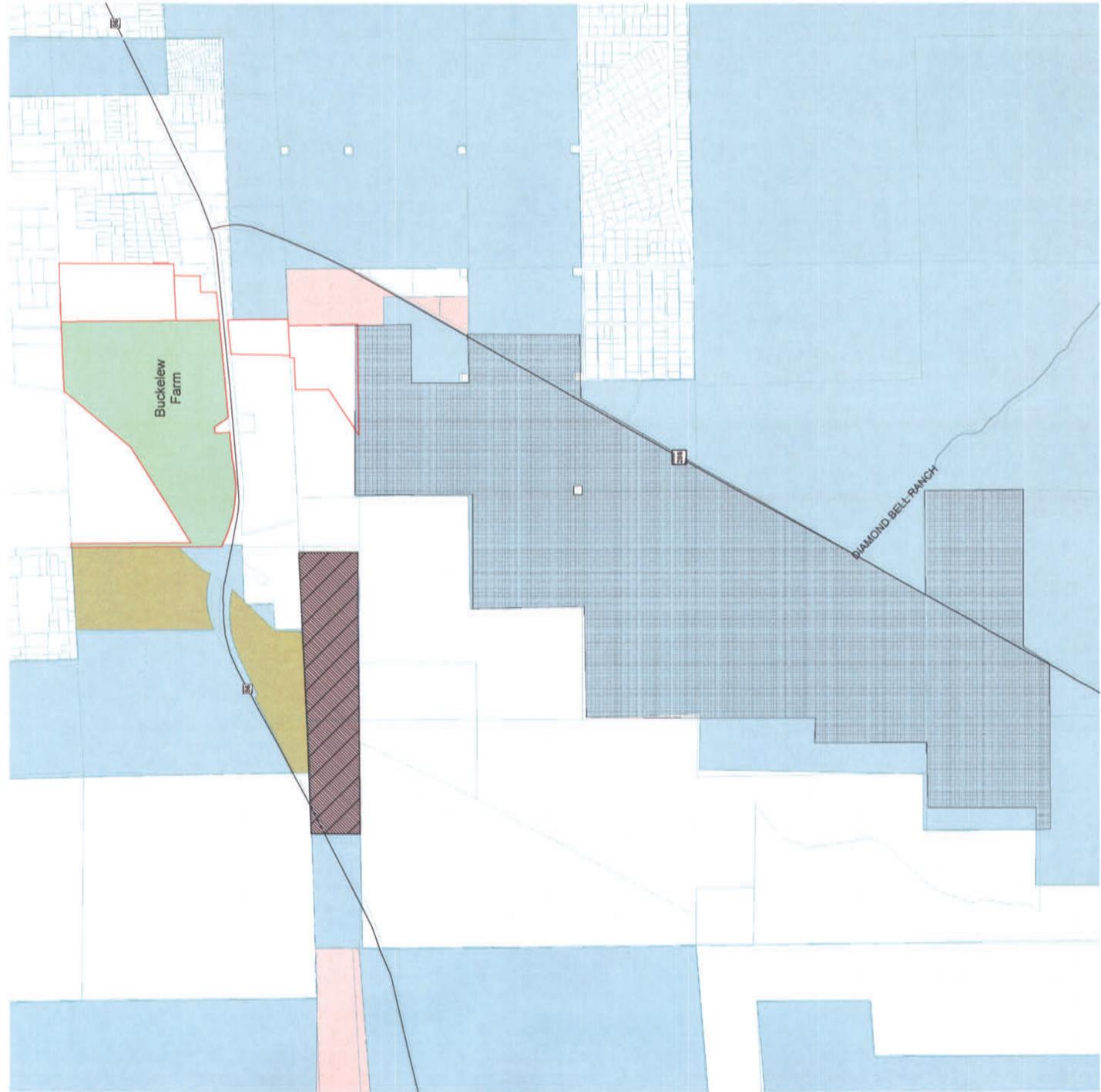
- Bucklew Farms Fee Lands
- State Grazing Lease
- BLM Lease

HPP Categories

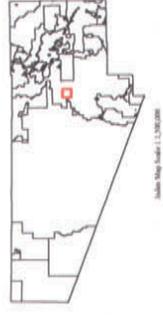
- Secondary Priority State
- Secondary Priority Private

Land Ownership

- BLM
- State Trust



Prima County Index Map



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Scale: 1:9,000

PURCHASE AGREEMENT

This Purchase Agreement (the "Agreement") is made between the following parties (the "Parties"):

- i. Arizona Open Land Trust, an Arizona corporation or its assigns ("AOLT" or "Buyer"); and,
- ii. BUCKS-KIN FARM LIMITED PARTNERSHIP, an Arizona limited partnership ("Seller")

For good and valuable consideration, including the mutual promises hereafter set forth, the adequacy of which the Parties hereby acknowledge, and intending to be legally bound thereby, the Parties agree as follows:

1. **Property; Acquisition Amount.** Seller is the sole owner, in fee simple, of that certain property more particularly described on **Exhibit A** attached hereto (the "Property"). The Property consists of approximately four hundred and twenty nine acres (429) of land which is part of a farm known as the Buckelew Farm, as well as all mineral and water rights appurtenant to the Property in which Seller has an interest. Seller agrees to sell the Property, and Buyer agrees to purchase the Property. The purpose of this Agreement is to set forth the terms and conditions upon which Buyer shall purchase, and Seller shall sell the Property together with improvements thereon and all mineral and water rights appurtenant thereto (the "Purchase"). AOLT intends to assign this Agreement to a third party to purchase and maintain the Property as a conservation area subject to Paragraph 2. The purchase price shall be Four Million Two Hundred and Four Thousand Two Hundred Dollars (\$4,204,200.00) (the "Acquisition Amount") payable in cash at close of escrow.
2. **Property Further Defined.** As used herein the Property shall include all improvements located on the Property but shall not include any personal property, including, without limitation, livestock, farming supplies and equipment used in Seller's farming operation, located on or used in connection with the Property. Seller, by written notice to Buyer and Escrow Agent, within 45 days following the date of this Agreement, may identify up to nine (9) contiguous acres upon which the farm improvements are located (the "Headquarters Area"), title to which shall be retained by Seller. Seller shall, with such notice, provide Buyer and the Escrow Agent with a survey under the seal of a licensed surveyor containing a legal description of the Headquarters Area and a statement of its acreage, rounded to

the nearest one-tenth of an acre. The Headquarters Area together with an easement (the "Easement") for ingress, egress and utilities thereto, which shall be reserved by Seller over the Property along alignments of existing dirt roads, are referred to as the "Excluded Property", and shall not be part of the Property.

Seller shall also convey to Buyer at closing, a perpetual easement for ingress and egress over the Headquarters Area along alignments of existing dirt roads for the benefit of the Property.

The Acquisition Amount shall be reduced by an amount equal to the product of \$9,800 multiplied by the size in acres of the Headquarters Area.

3. **Buyer's Right of First Refusal on Designated Property.** Seller shall grant to Buyer at Closing a right of first refusal ("Buyer's Right of First Refusal") to purchase the Headquarters Area depicted on **Exhibit B** attached hereto and a right of first refusal to purchase the two acre parcel, including the main farm house, (the "Farmstead") depicted on **Exhibit C**, on the same terms offered to a third party purchaser or transferee. Said Buyer's Right of First Refusal shall be in a recordable form agreed to by Seller and Buyer prior to Closing.
4. **Assignment by AOLT.** The Parties understand and agree that AOLT is unable, without the assistance of another party, to purchase the Property and that to accomplish the Purchase it intends to assign the Agreement to a third party who shall, upon such assignment, become the Buyer for all purposes under this Agreement. Therefore, Seller acknowledges that "Buyer's" obligation to close escrow is contingent and conditioned upon all of the following: (a) approval of AOLT's Board of Directors; (b) an executed assignment of all of AOLT's rights and obligations in this Agreement to such a Buyer, and (c) an executed acceptance of said assignment by the assignee. The Parties acknowledge their intent that the assignee will be Pima County, Arizona. Such contingencies must be completed within ninety (90) days of the date of this Agreement or Seller shall have the option to cancel this Agreement.
5. **Contingencies.** Buyer's obligation to close is contingent and conditioned upon its approval, or waiver of approval, of all conditions on the Property subject to inspection as described below under Inspection and Access, and all other inspection provisions in this Agreement, and approval, or waiver of approval of the condition of title to the Property. After assignment by AOLT to Pima County, this Agreement shall be contingent upon final approval by the Pima County Board of Supervisors which must be obtained within ninety (90) days of the date of this Agreement. Finally, the Parties acknowledge that AOLT, as buyer, is currently involved in negotiations with Nick and Laurie Buckelew, as seller, for the purchase of an 85 acre parcel located on the South side of Ajo Way, across from

the Property, and legally described on **Exhibit D** attached hereto (the “Contingent Property”). The Parties agree that this Agreement shall not be binding and enforceable unless and until a Purchase Agreement for the 85 acre parcel is fully executed, and Buyer shall not be obligated to close on this Agreement unless the closing on the 85 acre parcel occurs simultaneously therewith.

6. **Inspection and Access.** For a period of ninety (90) days after execution of this Agreement by Seller and AOLT (the “Inspection Period”), Buyer (and its employees, agents, representatives and contractors) shall have the right to enter upon the Property at reasonable times and from time to time, upon 48 hours notice by telephone to Seller, for the purpose of viewing, inspecting, testing, appraising, surveying and studying the Property (“Inspection”). The Buyer shall, promptly following any such Inspection, return the Property to the condition it was in immediately prior to such Inspection. The Buyer shall, and does hereby agree, to the extent permitted by law, to indemnify and defend the Seller against, and hold the Seller harmless from, all claims, damages, expenses, and actions arising from any negligence or wrongful misconduct of Buyer or Buyer’s employees or agents, as a result of such Inspection.

If environmental inspections do not specifically identify contamination but indicate a potential for contamination and recommend further testing or inspection, the Buyer may elect to extend the Inspection Period by up to 90 days to conduct further investigations. If the Inspection Period is extended, the term “Inspection Period” shall then include the additional period.

Buyer shall provide written notice to Seller, prior to expiration of the Inspection Period, of any items disapproved by Buyer as a result of Buyer’s inspections (including environmental conditions) (the “Objection Notice”). If Buyer sends an Objection Notice, Seller may, within five (5) business days of receipt of the Objection Notice, notify Buyer if Seller is willing to cure any of the items to which Buyer objected (the “Cure Notice”). If Seller elects not to send Buyer a Cure Notice or if Seller’s Cure Notice is not acceptable to Buyer, then Buyer may elect to terminate this Agreement in which case the Agreement shall be terminated and of no further force and effect. Buyer shall thereupon deliver to Seller copies of all studies or reports it obtained or performed during the Inspection Period.

Nothing in this Agreement shall preclude Buyer from electing to proceed to close escrow prior to the expiration of the Inspection Period.

7. **Risk of Loss for Damage to Improvements.** Seller shall be responsible for the risk of loss for any and all damage to improvements on the Property prior to Closing, except as described under Inspection and Access above.

8. **No Salvage.** The Seller shall not salvage or remove any fixtures, improvements, or vegetation, except for farm products, from the Property, but this shall not prohibit Seller from removing personal property prior to Closing.

9. **Escrow and Title.** The Title Agent and Escrow Company shall be Lawyers Title of Arizona, Inc. (Rhonda Draper, Escrow Agent) and this Agreement shall be used as escrow instructions. Escrow Agent will distribute to Buyer and Seller a Commitment for Standard Owner's Title Insurance (the "Commitment") together with complete and legible copies of all documents which will remain as exceptions (the "Exceptions") to Buyer's policy of title insurance. Buyer shall have thirty (30) days from the receipt of the Commitment and the Exceptions (the "Disapproval Period") within which to notify the Seller and the Escrow Agent in writing of Buyer's disapproval of any Exceptions shown thereon (the "Disapproval Notice"). In the event of such disapproval, Seller shall have ten (10) days from receipt of the Disapproval Notice in which to notify Buyer in writing whether Seller intends to eliminate each of the disapproved items or which items Seller will eliminate prior to Closing. If Seller shall fail to notify Buyer of its intent with respect to the disapproved items within that time or if Seller elects not to cure all disapproved items, Buyer may terminate this Agreement and the Escrow shall be canceled. The foregoing notwithstanding, if Buyer elects to waive any or all of its disapprovals, the Purchase shall proceed to Close with such Exceptions remaining as an encumbrance affecting title to the Property. In the event the title insurance company should issue an Amended Commitment for Title Insurance which discloses an Exception(s) not previously disclosed, Buyer shall have fifteen days within which to object to the new Exception(s). If the Amended Commitment is issued less than fifteen days prior to the Closing Date, then the Closing Date shall be deemed to be extended until the end of the new Disapproval Period. Notwithstanding the above, Buyer need not expressly object to any monetary liens and encumbrances on the Property, all of which shall be removed or prorated at or before closing, as provided herein.

Upon Closing, Seller shall furnish Buyer a Standard Owner's Title Insurance Policy for the Property, in the amount of the Acquisition Amount, which Policy shall be paid for by Seller. In the event Buyer desires an Extended Owners Title Policy, or any specific endorsements to the Standard Owner's Title Insurance Policy, Seller will pay that portion of the premium allocable to a Standard Owners Title Insurance Policy, and Buyer will pay that portion of the premium allocable to the additional coverage.

10. **Closing**. Close of Escrow (“Closing” or “Close”) of the Purchase shall take place at the offices of the Escrow Company on or before ten (10) days after the expiration of the Inspection Period, provided that if there has been an Objection Notice, Closing may be delayed as provided under Inspection and Access or under Escrow and Title.
11. **Payment Terms**. The Acquisition Amount shall be paid in full in cash at Closing in United States funds immediately available in Tucson, Arizona.
12. **Escrow and Prorations**. Property taxes, rents, annual payment of assessments with interest, if any, shall be prorated as of the Closing Date. If the Seller’s entire owned parcel is larger than the Property then the proration of taxes shall be for the proportion of taxes assessed against Seller’s entire parcel which is attributable to the Property.
13. **Security Interest**. Monies payable under this Agreement may be due holders (the “Lienholders”) of certain notes secured by mortgages or deeds of trusts, up to and including the total amount of unpaid principal, interest and penalty on the notes, if any, and shall be paid to the Lienholders at Closing.
14. **Delivery of Possession and Use**. Seller shall deliver possession of the Property at Closing. Seller shall, during the term of this Agreement, use the Property on a basis substantially comparable to Seller’s historical use thereof. Seller shall make no use of the Property other than the use being made of the Property as of the date this Agreement is signed by the parties. Seller shall maintain the Property in substantially the same condition as it is presently in, ordinary wear and tear excepted, and without liens or encumbrances.
15. **Retained Use and Property Management**. The Seller and Buyer intend that Nick and Laurie Buckelew as the “Manager,” and Buyer, as the “Owner”, enter into (and Closing is contingent upon the parties entering into) an agreement for post-closing management of the Property (the “Farm Management Agreement”), with the material terms as set forth herein. Should Seller wish to assign the Farm Management Agreement or any interest in the Farm Management Agreement, Seller must first obtain Buyer’s written consent to the assignment. Should Seller subsequently assign or otherwise transfer the rights under the Farm Management Agreement such assignee or transferee must be able to fully perform the obligations under the Farm Management Agreement and sign the Farm Management Agreement as an additional party thereto, otherwise the assignment

or transfer will be void and the Farm Management Agreement shall terminate. The Manager shall operate and manage the Property on a basis substantially comparable to the historical and current use thereof, at Manager's own expense, for ten years from the date of Closing. The right to continue utilizing the Property for farming purposes (in a manner consistent with Owner's conservation goals) shall be consideration for Manager's provision of management, security, and conservation services under the Farm Management Agreement. Owner shall have full access to the Property during the term of the Farm Management Agreement, and to all resources and facilities that the Manager employs in operation of the Property for farming and related purposes, for the purpose of viewing, inspecting, testing, and monitoring the Manager's use and operation of the Property in a manner consistent with the intent and purposes of the Farm Management Agreement. The Owner shall, however, give the Manager 48 hours prior notice by telephone regarding any entry or inspection that might impact Manager's operations, and shall coordinate such entry or inspection with Manager. Manager shall not have the right to assign, convey, give or devise, or in any other manner transfer, their rights and obligations under the Farm Management Agreement to anyone other than as described above, and no Manager shall have any right to encumber the Property or any interest therein, of whatever description, kind or manner, in any way, except to encumber the crops produced on the Property for the purpose of obtaining crop financing on an annual basis.

Manager, in connection therewith, shall not be entitled to and shall not encumber the Property or any physical facilities or equipment on or belonging to the Property. Manager shall make no use of the Property other than the use being made of the Property as of the date of this Agreement, and as specified in the Farm Management Agreement. Manager shall maintain the Property at its sole cost and expense, in substantially the same condition as it is presently maintained, ordinary wear and tear excepted. Manager shall maintain and repair existing improvements (except for the south well (Arizona Department of Water Resources Well Registration No. 55-603526 which Manager shall maintain at its option) using similar materials and maintaining a compatible design and appearance. All such improvements shall become the property of the Owner immediately upon construction or installation.

16. **Deliveries by Buyer at Closing.** At the Closing, Buyer shall deliver to Seller, the following:

16.1 The Acquisition Price.

16.2 Fully executed and acknowledged Farm Management Agreement.

- 16.3 Fully executed and acknowledged Easement on the Property benefiting the Headquarters Area as described above in Buyer's Right of First Refusal.
 - 16.4 Fully executed and acknowledged Grant of Easement with Covenant on the Headquarters Area and benefiting the Property.
 - 16.5 Such additional documents as Seller or Escrow Agent may reasonably require evidencing the Purchase.
17. **Deliveries by Seller at Closing.** At the Closing, Seller shall deliver to Buyer, the following:
- 17.1 One or more special warranty deeds (collectively, the "Deed") conveying fee simple title to the Property to Buyer, free and clear of all monetary liens and encumbrances, and free of any title exceptions, except as provided hereinafter, but *subject to* Seller's reservation of an easement for ingress and egress for the benefit of the Headquarters Area, as described above; *together with* an easement over the Headquarters Area, for the benefit of the Property as described above.
 - 17.2 One or more assignments in usual and customary form, approved by counsel to Seller and Buyer (provided such approvals are not unreasonably withheld, delayed or denied), of all mineral interests and water rights and any and all well registrations certificated or claimed appurtenant to the Property, if any. In addition to the foregoing Seller shall assign all Type 2 water rights in which it has an interest whether or not said rights are appurtenant to the fee property. The Type 2 water rights associated with the Property (ADWR Cert. No. 58-101144.0001) shall be conveyed to the County at closing, and appropriate documentation shall be filed with the Arizona Department of Water Resources.
 - 17.3 Buyer's Standard Owner's Title Insurance Policy on the Property insuring Buyer's title to the Property in the full amount of the Acquisition Amount.
 - 17.4 Fully executed and acknowledged Farm Management Agreement.
 - 17.5 Fully executed and acknowledged Buyer's Right of First Refusal.
 - 17.6 Such additional documents as Buyer may reasonably require evidencing the Purchase.

18. **Conservation Fee.** It is the intent of the Seller to preserve and protect the conservation values of the Property for all generations, present and future, by selling the Property to a Conservation Buyer. Seller acknowledges the advantage of working with AOLT to carry out this conservation purpose by engaging AOLT to identify and secure a suitable Buyer for the Property. Seller agrees to execute this Agreement with AOLT for purchase of the Property and to facilitate transfer of the Property to Pima County. A transfer by AOLT to any person or entity other than Pima County shall require the prior written approval of Seller, which transfer may be approved or denied in Seller's sole and absolute discretion. Seller agrees to pay AOLT a Conservation Assignment Fee of one percent of the Acquisition Amount, pursuant to a separate agreement between Seller and AOLT payable from Seller's proceeds as a closing cost at Closing for land conservation services rendered in protecting the conservation values of the Property. Seller shall be responsible for such costs if and only if the Closing occurs. AOLT makes no representation to Seller as to the tax characterization of this Fee and understands that this transaction contains no bargain-sale character but rather that the purchase price is considered by all Parties as the full fair market value of the property under the circumstances of this transaction. The Seller agrees that AOLT will not execute any representation or confirmation of any type relating to valuation of the Property being sold and acquired by the Parties.
19. **Closing Costs.** All escrow fees shall be equally divided between Seller and Buyer, and all recording and other costs related to Closing shall be allocated by Escrow Agent in a manner customary with Escrow Agent's procedures in Pima County, Arizona.
20. **Environmental Liabilities.** The Buyer and the Seller agree that neither party is assuming any obligation of the other party relating to any potential liability, if any, arising from the environmental condition of the Property, each party remaining responsible for its obligations as set forth by law.
21. **Seller's Warranties.** Seller hereby warrants that, except as disclosed in writing to Buyer within 10 days of execution of this Agreement: (i) it is aware of no environmental conditions on the Property that would constitute a violation of any environmental law of the United States or the State of Arizona and that there are no proceedings pending or threatened by any agency, court or other governmental entity related to environmental conditions on the Property; (ii) that except as used in the ordinary course of farming, there are no pollutants, contaminants, toxic or hazardous substances, and that no wastes or materials have been stored, used or are located on the Property, or within any surface or subsurface waters thereof; and that no underground storage tanks have been located on the Property; (iii) there are no pending or threatened administrative proceedings, arbitrations, lawsuits or other legal proceedings or claims by governmental agencies or third

parties concerning the Property which would in any way affect, encumber or limit Buyer's fee title ownership of the Property after closing; (iv) it has no knowledge of any notice of violations by any governmental agency of applicable local, state or federal ordinance, statutes, regulations or rules whether filed or threatened regarding the Property; and (v) Seller shall make available to Buyer all documents related to the Property that it has in its possession regarding the Property, except tax returns and other financial information, including any and all surveys, information regarding wells and water rights, and environmental reports. Except as set forth in this Agreement, Buyer is acquiring the Property in its AS-IS and WHERE-IS condition AND WITH ALL FAULTS, and not in reliance on any representations or warranties except for those which are expressly set forth in this Agreement or any instruments contemplated here to be executed and delivered by Seller to Buyer at the Closing.

22. **Leases.** Seller represents that except for those leases set forth on **Exhibit E**, there are no leases, rental agreements, or agreements permitting someone to use or occupy any portion of the Property.
23. **No Encumbrances.** Seller shall not encumber the Property before Closing, and Seller shall not be entitled to sell or exchange all or any portion of the Property before Closing.
24. **Survival of Representations and Warranties.** All representations and warranties contained herein shall survive the Closing, for the period of the Farm Management Agreement and any extension thereof.
25. **Broker's Commission.** No broker or finder has been used and Buyer owes no brokerage or finder's fees related to this transaction. Seller has sole responsibility to pay all brokerage or finder's fees to any agent employed.
26. **Default, Remedies, and Conditions Precedent.** In the event that either party shall default under this Agreement, the other party shall be entitled to pursue all rights and remedies available at law or in equity, except that to the extent a party seeks a recovery of damages, damages shall be limited to recovery of actual damages (including any losses or penalties suffered by Buyer as a result of any violation of federal arbitration rules caused by a wrongful failure of Seller to perform) and neither party shall be entitled to exemplary, punitive, special, indirect or consequential damages.
27. **Miscellaneous Provisions.** The following miscellaneous provisions shall apply to this Agreement:

27.1 All notices required or permitted to be given hereunder shall be in writing and may be given in person or by United States mail, by local or nationwide delivery/courier service or by electronic transmission (for instance, telecopy/fax to the telecopies/fax numbers indicated below or e-mail to the e-mail addresses indicated below). Such notices and other communications shall be deemed to be given and received as follows: (a) upon actual receipt, if delivered personally; (b) upon actual receipt, if transmitted by facsimile on a business day before 5:00 p.m. (Tucson time); (c) upon the next business day following transmission if transmitted by facsimile on a day which is not a business day or if transmitted after 5:00 p.m. (Tucson time) on a business day; (d) upon actual receipt, if transmitted by e-mail on a business day before 5:00 p.m. (Tucson time); (e) upon the next business day following transmission if transmitted by e-mail on a day which is not a business day or if transmitted after 5:00 p.m. (Tucson time) on a business day; (f) the next business day, if delivered by overnight courier; or (g) three (3) days following deposit in the mail, if delivered by mail postage prepaid, addressed to that party at his/her/their/its designated address. The designated address of a party shall be the address of that party shown below or such other address within the United States of America that any party from time to time may specify by written notice to the other parties at least fifteen (15) days prior to the effective date of such change, but no such notice of change shall be effective unless and until received by the other parties. Rejection or refusal to accept, or inability to deliver because of changed address or because no notice of changed address is given, shall be deemed to be receipt of any such notice. Any notice to an entity shall be deemed to be given on the date specified in this Paragraph without regard to when such notice is delivered by the entity to the individual to whose attention it is directed and without regard to the fact that proper delivery may be refused by someone other than the individual to whose attention it is directed. If a notice is received by an entity, the fact that the individual to whose attention it is directed is no longer at such address or associated with such entity shall not affect the effectiveness of such notice. Seller and Buyer agree that any notice sent on their behalf by their attorney, if listed below, shall serve as notice by the Seller or Buyer, as the case may be, to the other.

If to Seller:

The Buckelew Family
Attn: Nick Buckelew
HC 2 Box 6910
Tucson, Arizona 85741

Additional Copy to Seller:

John Brady, Esq.
Chandler & Udall, LLC
33 N. Stone Avenue, Suite 2100
Tucson, AZ 85701-
520-623-4353- Telephone
520-792-3426- Facsimile
jbrady@chandlerudall.com

If to AOLT:

Diana B. Freshwater
Arizona Open Land Trust, Inc.
3127 N. Cherry Ave.
Tucson, Arizona 85718
520.577.8564 - Telephone
520.577.8574 – Facsimile
dbfreshwater@aolt.org - E-mail

Copy to AOLT's Attorney:

K. Alexander Hobson, Esq.
Duffield, Young, Adamson, P.C.
3430 E. Sunrise Dr., Suite 200
Tucson, Arizona 85718
520.792.1181 – Telephone
520.792.2859 – Facsimile
ahobson@duffieldlaw.com - E-mail

If to Pima County:

Christina Biggs, Manager
Pima County Real Property Services
201 North Stone Avenue, 6th Floor
Tucson, Arizona 85701
(520) 740-6313 - Telephone
(520) 740-6763 - Facsimile
Christina.biggs@pw.pima.gov - E-mail

If to Escrow Agent:

Rhonda Draper
Lawyer's Title Agency, Inc.
6760 N. Oracle Rd., #100
Tucson, AZ 85704
520.498-1121 - Telephone
520.219.6450 – Facsimile
Rhonda.draper@ltaz.com - E-mail

- 27.2 This Agreement is made and executed in Pima County, Arizona.
- 27.3 This Agreement shall be subject to, and interpreted by and in accordance with, the laws (excluding conflict of law provisions) of the State of Arizona.
- 27.4 This Agreement is the entire Agreement of the parties respecting the subject matter hereof. There are no other agreements, representations or warranties, whether oral or written, respecting the subject matter hereof.
- 27.5 This Agreement, and all the provisions of this Agreement, shall be deemed drafted by all of the parties hereto.
- 27.6 This Agreement shall not be interpreted strictly for or against any party, but solely in accordance with the fair meaning of the provisions hereof to effectuate the purposes and intent of this Agreement.
- 27.7 Each party hereto has entered into this Agreement based solely upon the agreements, representations and warranties expressly set forth herein and upon his own knowledge and investigation. Neither party has relied upon any representation or warranty of any other party hereto except any such representations or warranties as are expressly set forth herein.
- 27.8 Each of the persons signing below on behalf of a party hereto represents and warrants that he or she has full requisite power and authority to execute and deliver this Agreement on behalf of the party for whom he or she is signing and to bind such party to the terms and conditions of this Agreement.
- 27.9 This Agreement may be executed in counterparts, each of which shall be deemed an original. This Agreement shall become effective only when all of the parties hereto shall have executed the original or counterpart hereof. This Agreement may be executed and delivered by a facsimile transmission of a counterpart signature page hereof.
- 27.10 In any action brought by a party hereto to enforce the obligations of any other party hereto, the prevailing party shall be entitled to collect from the opposing party to such action such party's reasonable litigation costs and attorneys fees and expenses, including court costs, reasonable fees of accountants and experts, and other expenses incidental to the litigation in addition to all other relief, all of which shall be set by the judge and not by jury, to which the prevailing party may be entitled.

- 27.11 This Agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors and assigns.
- 27.12 This is not a third party beneficiary contract. No person or entity other than a party signing this Agreement shall have any rights under this Agreement.
- 27.13 This Agreement may be amended or modified only in a writing signed by the parties, which specifically references this Agreement.
- 27.14 This Agreement may be assigned by Buyer to Pima County but may not be assigned to any other person or entity by Buyer or Seller without the prior written consent of the other party hereto, which consent may be granted or denied in the sole and absolute discretion of the other party hereto.
- 27.15 Nothing in this Agreement shall be construed to create a partnership or joint venture, or to authorize any party hereto to act as agent for or representative of any other party hereto. Each party hereto shall be deemed an independent contractor and no party hereto shall act as, or hold itself out as acting as, agent for any other party hereto.
- 27.16 A party to this Agreement may decide or fail to require full or timely performance of any obligation arising under this Agreement. The decision or failure of a party hereto to require full or timely performance of any obligation arising under this Agreement (whether on a single occasion or on multiple occasions) shall not be deemed a waiver of any such obligation. No such decisions or failures shall give rise to any claim of estoppel, laches, course of dealing, amendment of this Agreement by course of dealing, or other defense of any nature to any obligation arising hereunder.
- 27.17 The repudiation, breach, or failure to perform any obligation arising under this Agreement by a party after reasonable notice thereof shall be deemed a repudiation, breach, and failure to perform all of such party's obligations arising under this Agreement.
- 27.18 Time is of the essence with respect to each obligation arising under this Agreement. The failure to timely perform an obligation arising hereunder shall be deemed a failure to perform the obligation.

BUYER:

ARIZONA OPEN LAND TRUST, INC.,
an Arizona nonprofit corporation

By: _____

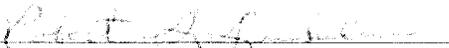
Its: _____

Date: _____

SELLER:

BUCKS-KIN FARM LIMITED PARTNERSHIP,
an Arizona limited partnership

By: Buckelew Living Trust, dated August 25, 1980
Robert G. Buckelew and Clara V. Buckelew, Co-Trustees


By: Robert G. Buckelew, Co-Trustee


By: Clara V. Buckelew, Co-Trustee

L. Nick Buckelew

Its: General Partners

EXHIBIT "A"

Parcel 1

The North half and a portion of the North half of the South half lying North of the Ajo Road of Section 33, Township 15 South, Range 10 East, Gila and Salt River Base and Meridian, Pima County, Arizona.

EXCEPT the following:

BEGINNING at the Northeast corner of said Section 33;

THENCE South 88 degrees 53 minutes 22 seconds West a distance of 1682.0 feet to a point, said point being the True Point of Beginning;

THENCE South 40 degrees 43 minutes 23 seconds West a distance of 1972.81 feet to a point;

THENCE South 58 degrees 09 minutes 43 seconds West a distance of 2602.33 feet to a point;

THENCE North 0 degrees 03 minutes 10 seconds East a distance of 2800 feet to a point;

THENCE North 88 degrees 53 minutes 22 seconds East a distance of 3496.1 feet to a point, said point being the True Point of Beginning.

ALSO EXCEPT the following:

BEGINNING at the Northeast corner of said Section 33;

THENCE South 35 degrees 25 minutes 26 seconds West a distance of 4354.17 feet to a point, said point being the True Point of Beginning;

THENCE South 35 degrees 16 minutes 03 seconds East a distance of 421.98 feet to a point on the North right-of-way line of the Tucson-Ajo Highway;

THENCE South 84 degrees 47 minutes 50 seconds West a distance of 363.0 feet along said North right-of-way line, to a point;

THENCE North 3 degrees 38 minutes 49 seconds West a distance of 363.52 feet to a point from which the Northeast corner of said Section 33 bears North 36 degrees 49 minutes 09 seconds East at a distance of 4446.83 feet;

EXHIBIT "A"
(Continued)

THENCE North 85 degrees 16 minutes 28 seconds East a distance of 141.65 feet to a point, said point being the True Point of Beginning.

(JV Arb 13 and 19)

Parcel 2

The West half of the Northwest Quarter of Section 34, Township 15 South, Range 10 East, Gila and Salt River Base and Meridian, Pima County, Arizona.

(JV Arb 3)

Parcel 3

A portion of the Northwest Quarter of Section 34, Township 15 South, Range 10 East, Gila and Salt River Base and Meridian, Pima County, Arizona, more particularly described as follows:

BEGINNING at the West quarter corner of said Section 34;

THENCE North 88 degrees 45 minutes 11 seconds East a distance of 1324.30 feet to a brass pipe marked "w.1/16" 1953;

THENCE North 2 degrees 02 minutes 16 seconds East a distance of 102.57 feet to a point, said point being the True Point of Beginning;

THENCE North 01 degrees 48 minutes 06 seconds East a distance of 333.42 feet to a point;

THENCE North 86 degrees 54 minutes 31 seconds East a distance of 16.67 feet to a point at an old existing fence line running North and South;

THENCE continue along said old fence, South 01 degrees 29 minutes 20 seconds West a distance of 336.15 feet to a point;

THENCE North 84 degrees 09 minutes 25 seconds West a distance of 18.49 feet to a point, said point being the True Point of Beginning.

(JV Arb 111)

Parcel 4

EXHIBIT "A"
(Continued)

A portion of the Northwest Quarter of the Southwest Quarter of Section 34, Township 15 South, Range 10 East, Gila and Salt River Base and Meridian, Pima County, Arizona, more particularly described as follows:

BEGINNING at the interior (center) quarter corner of said Section 34;

THENCE South 88 degrees 45 minutes 11 seconds West a distance of 1614.39 feet to a point, said point being the True Point of Beginning;

THENCE South 0 degrees 15 minutes 11 seconds West a distance of 606.7 feet to a point;

THENCE South 85 degrees 14 minutes 26 seconds West a distance of 391.0 feet to a point;

THENCE South 0 degrees 15 minutes 11 seconds West a distance of 368.7 feet to a point, said point being on the North right-of-way line of the Tucson-Ajo Highway;

THENCE Westerly along the North right-of-way line of Tucson-Ajo Highway a distance of 646.39 feet to a point on the West line of said Section 34;

THENCE North 0 degrees 15 minutes 11 seconds East a distance of 1036 feet to a point;

THENCE North 88 degrees 45 minutes 11 seconds East a distance of 1034.3 feet to a point, said point being the True Point of Beginning.

(JV Arb 77)

EXHIBIT B
LEGAL DESCRIPTION
HEADQUARTERS AREA

EXHIBIT C
FARMSTEAD

EXHIBIT D
CONTINGENT PROPERTY

EXHIBIT E
LEASES

PURCHASE AGREEMENT

This Purchase Agreement (the "Agreement") is made between the following parties (the "Parties"):

- i. Arizona Open Land Trust, an Arizona corporation or its assigns ("AOLT" or "Buyer"); and,
- ii. L. Nick and Laurie Buckelew, as husband and wife ("Seller").

For good and valuable consideration, including the mutual promises hereafter set forth, the adequacy of which the Parties hereby acknowledge, and intending to be legally bound thereby, the Parties agree as follows:

1. **Property; Acquisition Amount.** Seller is the sole owner, in fee simple, of that certain property more particularly described on **Exhibit A** attached hereto (the "Fee Property"). The Fee Property consists of approximately eighty five (85) acres of land as well as all mineral and water rights appurtenant to the Fee Property in which Seller has an interest. Seller leases additional land, appurtenant to the Fee Property, from the State of Arizona (ASLD Grazing Lease No. 05-3361) (the "State Lease") and from the Bureau of Land Management (BLM Authorization Number 0202801) (the "BLM Permit"). The land that is subject to the State Lease and the BLM Permit is referred to herein as the "Leased Property", and the Leased Property together with the Fee Property is referred to herein as the "Property". Seller agrees to sell the Fee Property, and assign the State Lease and BLM Permit, and Buyer desires to purchase the Fee Property, and acquire the Seller's rights under the State Lease (including assignment of all of Seller's improvements on the Leased Property) and the BLM Permit. The purpose of this Agreement is to set forth the terms and conditions upon which Buyer shall purchase, and Seller shall sell the Property together with improvements thereon and all mineral and water rights appurtenant thereto (the "Purchase"). AOLT intends to assign this Agreement to a third party to purchase and maintain the Property as a conservation area subject to Paragraph 2. The purchase price for the Property shall be Nine Hundred and Fifty Seven Thousand Dollars (\$957,000.00) (the "Acquisition Amount") payable in cash at close of escrow.
2. **Property Further Defined.** As used herein the Property shall include all improvements located on the Property but shall not include any personal property.

3. **Assignment by AOLT.** The Parties understand and agree that AOLT is unable, without the assistance of another party, to purchase the Property and that to accomplish the Purchase it intends to assign the Agreement to a third party who shall, upon such assignment, become the Buyer for all purposes under this Agreement. Therefore, Seller acknowledges that “Buyer’s” obligation to close escrow is contingent and conditioned upon all of the following: (a) approval of AOLT’s Board of Directors; (b) an executed assignment of all of AOLT’s rights and obligations in this Agreement to such a Buyer, and (c) an executed acceptance of said assignment by the assignee. The Parties acknowledge their intent that the assignee will be Pima County, Arizona. Such contingencies must be completed within ninety (90) days of the date of this Agreement or Seller shall have the option to cancel this Agreement.

4. **Contingencies.** Buyer’s obligation to close is contingent and conditioned upon its approval, or waiver of approval, of all conditions on the Property subject to inspection as described below under Inspection and Access, and all other inspection provisions in this Agreement, and approval, or waiver of approval of the condition of title to the Property. After assignment by AOLT to Pima County, this Agreement shall be contingent upon final approval by the Pima County Board of Supervisors which must be obtained within ninety (90) days of the date of this Agreement. Finally, the Parties acknowledge that AOLT, as buyer, is currently involved in negotiations with Bucks-Kin Farm Ltd., as seller, for the purchase of approximately 429 acres located on the North side of Ajo Way, across from the Property, and legally described on **Exhibit B** attached hereto (the “Contingent Property”). The Parties agree that this Agreement shall not be binding and enforceable unless and until a Purchase Agreement for the 429 acre parcel is fully executed, and Buyer shall not be obligated to close on this Agreement unless the closing on the 429 acre parcel occurs simultaneously therewith.

5. **Inspection and Access.** For a period of ninety (90) days after execution of this Agreement by Seller and AOLT (the “Inspection Period”), Buyer (and its employees, agents, representatives and contractors) shall have the right to enter upon the Property at reasonable times and from time to time, upon 48 hours notice by telephone to Seller, for the purpose of viewing, inspecting, testing, appraising, surveying and studying the Property (“Inspection”). The Buyer shall, promptly following any such Inspection, return the Property to the condition it was in immediately prior to such Inspection. The Buyer shall, and does hereby agree, to the extent permitted by law, to indemnify and defend the Seller against, and hold the Seller harmless from, all claims, damages, expenses, and actions arising from any negligence or wrongful misconduct of Buyer or Buyer’s employees or agents, as a result of such Inspection.

If environmental inspections do not specifically identify contamination but indicate a potential for contamination and recommend further testing or

inspection, the Buyer may elect to extend the Inspection Period by up to 90 days to conduct further investigations. If the Inspection Period is extended, the term "Inspection Period" shall then include the additional period.

Buyer shall provide written notice to Seller, prior to expiration of the Inspection Period, of any items disapproved by Buyer as a result of Buyer's inspections (including environmental conditions) (the "Objection Notice"). If Buyer sends an Objection Notice, Seller may, within five (5) business days of receipt of the Objection Notice, notify Buyer if Seller is willing to cure any of the items to which Buyer objected (the "Cure Notice"). If Seller elects not to send Buyer a Cure Notice or if Seller's Cure Notice is not acceptable to Buyer, then Buyer may elect to terminate this Agreement in which case the Agreement shall be terminated and of no further force and effect. Buyer shall thereupon deliver to Seller copies of all studies or reports it obtained or performed during the Inspection Period.

Nothing in this Agreement shall preclude Buyer from electing to proceed to close escrow prior to the expiration of the Inspection Period.

6. **Risk of Loss for Damage to Improvements.** Seller shall be responsible for the risk of loss for any and all damage to improvements on the Property prior to Closing, except as described under Inspection and Access above.
7. **No Salvage.** The Seller shall not salvage or remove any fixtures, improvements, or vegetation from the Property, but this shall not prohibit Seller from removing personal property prior to Closing.
8. **Escrow and Title.** The Title Agent and Escrow Company shall be Lawyers Title of Arizona, Inc. (Rhonda Draper, Escrow Agent) and this Agreement shall be used as escrow instructions. Escrow Agent will distribute to Buyer and Seller a Commitment for Standard Owner's Title Insurance (the "Commitment") together with complete and legible copies of all documents which will remain as exceptions (the "Exceptions") to Buyer's policy of title insurance. Buyer shall have thirty (30) days from the receipt of the Commitment and the Exceptions (the "Disapproval Period") within which to notify the Seller and the Escrow Agent in writing of Buyer's disapproval of any Exceptions shown thereon (the "Disapproval Notice"). In the event of such disapproval, Seller shall have ten (10) days from receipt of the Disapproval Notice in which to notify Buyer in writing whether Seller intends to eliminate each of the disapproved items or which items Seller will eliminate prior to Closing. If Seller shall fail to notify Buyer of its intent with respect to the disapproved items within that time or if Seller elects not to cure all disapproved items, Buyer may terminate this Agreement and the Escrow shall be canceled. The foregoing notwithstanding, if Buyer elects to waive any or all of its disapprovals, the Purchase shall proceed to

Close with such Exceptions remaining as an encumbrance affecting title to the Property. In the event the title insurance company should issue an Amended Commitment for Title Insurance which discloses an Exception(s) not previously disclosed, Buyer shall have fifteen days within which to object to the new Exception(s). If the Amended Commitment is issued less than fifteen days prior to the Closing Date, then the Closing Date shall be deemed to be extended until the end of the new Disapproval Period. Notwithstanding the above, Buyer need not expressly object to any monetary liens and encumbrances on the Property, all of which shall be removed or prorated at or before closing, as provided herein.

Upon Closing, Seller shall furnish Buyer a Standard Owner's Title Insurance Policy for the Property, in the amount of the Acquisition Amount, which Policy shall be paid for by Seller. In the event Buyer desires an Extended Owners Title Policy, or any specific endorsements to the Standard Owner's Title Insurance Policy, Seller will pay that portion of the premium allocable to a Standard Owners Title Insurance Policy, and Buyer will pay that portion of the premium allocable to the additional coverage.

9. **Closing**. Close of Escrow (“Closing” or “Close”) of the Purchase shall take place at the offices of the Escrow Company on or before ten (10) days after the expiration of the Inspection Period, provided that if there has been an Objection Notice, Closing may be delayed as provided under Inspection and Access or under Escrow and Title.
10. **Payment Terms**. The Acquisition Amount shall be paid in full in cash at Closing in United States funds immediately available in Tucson, Arizona.
11. **Escrow and Prorations**. Property taxes, rents, annual payment of assessments with interest, if any, shall be prorated as of the Closing Date. If the Seller’s entire owned parcel is larger than the Property then the proration of taxes shall be for the proportion of taxes assessed against Seller’s entire parcel which is attributable to the Property.
12. **Security Interest**. Monies payable under this Agreement may be due holders (the “Lienholders”) of certain notes secured by mortgages or deeds of trusts, up to and including the total amount of unpaid principal, interest and penalty on the notes, if any, and shall be paid to the Lienholders at Closing.
13. **Delivery of Possession and Use**. Seller shall deliver possession of the Property at Closing. Seller shall, during the term of this Agreement, use the Property on a basis substantially comparable to Seller’s historical use thereof. Seller shall make no use of the Property other than the use being made of the Property as of the date this Agreement is signed by the parties. Seller shall maintain the Property in

substantially the same condition as it is presently in, ordinary wear and tear excepted, and without liens or encumbrances.

14. **Retained Use and Property Management**. The Seller and Buyer intend that Nick and Laurie Buckelew as the “Manager,” and Buyer, as the “Owner”, enter into (and Closing is contingent upon the parties entering into) an agreement for post-closing management of the Property (the “Farm Management Agreement”), with the material terms as set forth herein. Should Seller wish to assign the Farm Management Agreement or any interest in the Farm Management Agreement, Seller must first obtain Buyer’s written consent to the assignment. Should Seller subsequently assign or otherwise transfer the rights under the Farm Management Agreement such assignee or transferee must be able to fully perform the obligations under the Farm Management Agreement and sign the Farm Management Agreement as an additional party thereto, otherwise the assignment or transfer will be void and the Farm Management Agreement shall terminate. The Manager shall operate and manage the Property on a basis substantially comparable to the historical and current use thereof, at Manager’s own expense, for ten years from the date of Closing. The right to continue utilizing the Property for farming purposes (in a manner consistent with Owner’s conservation goals) shall be consideration for Manager’s provision of management, security, and conservation services under the Farm Management Agreement. Owner shall have full access to the Property during the term of the Farm Management Agreement, and to all resources and facilities that the Manager employs in operation of the Property for farming and related purposes, for the purpose of viewing, inspecting, testing, and monitoring the Manager’s use and operation of the Property in a manner consistent with the intent and purposes of the Farm Management Agreement. The Owner shall, however, give the Manager 48 hours prior notice by telephone regarding any entry or inspection that might impact Manager’s operations, and shall coordinate such entry or inspection with Manager. Manager shall not have the right to assign, convey, give or devise, or in any other manner transfer, their rights and obligations under the Farm Management Agreement to anyone other than as described above, and no Manager shall have any right to encumber the Property or any interest therein, of whatever description, kind or manner, in any way, except to encumber the crops produced on the Property for the purpose of obtaining crop financing on an annual basis.

Manager, in connection therewith, shall not be entitled to and shall not encumber the Property or any physical facilities or equipment on or belonging to the Property. Manager shall make no use of the Property other than the use being made of the Property as of the date of this Agreement, and as specified in the Farm Management Agreement. Manager shall maintain the Property at its sole cost and expense, in substantially the same condition as it is presently maintained, ordinary wear and tear excepted. Manager shall maintain and repair existing improvements using similar materials and maintaining a compatible design and

appearance. All such improvements shall become the property of the Owner immediately upon construction or installation.

15. **Deliveries by Buyer at Closing.** At the Closing, Buyer shall deliver to Seller, the following:

15.1 Acquisition Price.

15.2 Fully executed and acknowledged Farm Management Agreement.

15.3 Such additional documents as Seller or Escrow Agent may reasonably require evidencing the Purchase.

16. **Deliveries by Seller at Closing.** At the Closing, Seller shall deliver to Buyer, the following:

16.1 One or more special warranty deeds (collectively, the “Deed”) conveying fee simple title to the Property to Buyer, free and clear of all monetary liens and encumbrances, and free of any title exceptions, except as provided hereinafter.

16.2 One or more assignments in usual and customary form, approved by counsel to Seller and Buyer (provided such approvals are not unreasonably withheld, delayed or denied), of all mineral interests and water rights and any and all well registrations certificated or claimed appurtenant to the Property, if any.

16.3 Fully executed and acknowledged Farm Management Agreement.

16.4 Assignments in usual and customary form, of the State Lease and Bureau of Land Management Permit together with assignment of all improvements located on the Leased Property.

16.5 Buyer’s Standard Owner’s Title Insurance Policy on the Property insuring Buyer’s title to the Property in the full amount of the Acquisition Amount.

16.6 Such additional documents as Buyer may reasonably require evidencing the Purchase.

17. **Conservation Fee.** It is the intent of the Seller to preserve and protect the conservation values of the Property for all generations, present and future, by selling the Property to a Conservation Buyer. Seller acknowledges the advantage of working with AOLT to carry out this conservation purpose by engaging AOLT

to identify and secure a suitable Buyer for the Property. Seller agrees to execute this Agreement with AOLT for purchase of the Property and to facilitate transfer of the Property to Pima County. A transfer by AOLT to any person or entity other than Pima County shall require the prior written approval of Seller, which transfer may be approved or denied in Seller's sole and absolute discretion. Seller agrees to pay AOLT a Conservation Assignment Fee of one percent of the Acquisition Amount, pursuant to a separate agreement between Seller and AOLT payable from Seller's proceeds as a closing cost at Closing for land conservation services rendered in protecting the conservation values of the Property. Seller shall be responsible for such costs if and only if the Closing occurs. AOLT makes no representation to Seller as to the tax characterization of this Fee and understands that this transaction contains no bargain-sale character but rather that the purchase price is considered by all Parties as the full fair market value of the property under the circumstances of this transaction. The Seller agrees that AOLT will not execute any representation or confirmation of any type relating to valuation of the Property being sold and acquired by the Parties.

18. **Closing Costs.** All escrow fees shall be equally divided between Seller and Buyer, and all recording and other costs related to Closing shall be allocated by Escrow Agent in a manner customary with Escrow Agent's procedures in Pima County, Arizona.
19. **Environmental Liabilities.** The Buyer and the Seller agree that neither party is assuming any obligation of the other party relating to any potential liability, if any, arising from the environmental condition of the Property, each party remaining responsible for its obligations as set forth by law.
20. **Seller's Warranties.** Seller hereby warrants that, except as disclosed in writing to Buyer within 10 days of execution of this Agreement: (i) it is aware of no environmental conditions on the Property that would constitute a violation of any environmental law of the United States or the State of Arizona and that there are no proceedings pending or threatened by any agency, court or other governmental entity related to environmental conditions on the Property; (ii) there are no pollutants, contaminants, toxic or hazardous substances, and that no wastes or materials have been stored, used or are located on the Property, or within any surface or subsurface waters thereof, and that no underground storage tanks have been located on the Property; (iii) there are no pending or threatened administrative proceedings, arbitrations, lawsuits or other legal proceedings or claims by governmental agencies or third parties concerning the Property which would in any way affect, encumber or limit Buyer's fee title ownership of the Property after closing; (iv) it has no knowledge of any notice of violations by any governmental agency of applicable local, state or federal ordinance, statutes, regulations or rules whether filed or threatened regarding the Property; and (v) Seller shall make available to Buyer all documents related to the Property that it

has in its possession regarding the Property, except tax returns and other financial information, including any and all surveys, information regarding wells and water rights, and environmental reports. Except as set forth in this Agreement, Buyer is acquiring the Property in its AS-IS and WHERE-IS condition AND WITH ALL FAULTS, and not in reliance on any representations or warranties except for those which are expressly set forth in this Agreement or any instruments contemplated here to be executed and delivered by Seller to Buyer at the Closing.

21. **Leases.** Seller represents that there are no leases, rental agreements, or agreements permitting someone to use or occupy any portion of the Fee Property.
22. **No Encumbrances.** Seller shall not encumber the Property before Closing, and Seller shall not be entitled to sell or exchange all or any portion of the Property before Closing.
23. **Survival of Representations and Warranties.** All representations and warranties contained herein shall survive the Closing.
24. **Broker's Commission.** No broker or finder has been used and Buyer owes no brokerage or finder's fees related to this transaction. Seller has sole responsibility to pay all brokerage or finder's fees to any agent employed.
25. **Default, Remedies, and Conditions Precedent.** In the event that either party shall default under this Agreement, the other party shall be entitled to pursue all rights and remedies available at law or in equity, except that to the extent a party seeks a recovery of damages, damages shall be limited to recovery of actual damages (including any losses or penalties suffered by Buyer as a result of any violation of federal arbitrage violations caused by a wrongful failure of Seller to perform) and neither party shall be entitled to exemplary, punitive, special, indirect or consequential damages.
26. **Miscellaneous Provisions.** The following miscellaneous provisions shall apply to this Agreement:
 - 26.1 All notices required or permitted to be given hereunder shall be in writing and may be given in person or by United States mail, by local or nationwide delivery/courier service or by electronic transmission (for instance, telecopy/fax to the telecopies/fax numbers indicated below or e-mail to the e-mail addresses indicated below). Such notices and other communications shall be deemed to be given and received as follows: (a) upon actual receipt, if delivered personally; (b) upon actual receipt, if transmitted by facsimile on a business day before 5:00 p.m. (Tucson time); (c) upon the next business day following transmission if transmitted by facsimile on a day which is not a business day or if transmitted after 5:00

p.m. (Tucson time) on a business day; (d) upon actual receipt, if transmitted by e-mail on a business day before 5:00 p.m. (Tucson time); (e) upon the next business day following transmission if transmitted by e-mail on a day which is not a business day or if transmitted after 5:00 p.m. (Tucson time) on a business day; (f) the next business day, if delivered by overnight courier; or (g) three (3) days following deposit in the mail, if delivered by mail postage prepaid, addressed to that party at his/her/their/its designated address. The designated address of a party shall be the address of that party shown below or such other address within the United States of America that any party from time to time may specify by written notice to the other parties at least fifteen (15) days prior to the effective date of such change, but no such notice of change shall be effective unless and until received by the other parties. Rejection or refusal to accept, or inability to deliver because of changed address or because no notice of changed address is given, shall be deemed to be receipt of any such notice. Any notice to an entity shall be deemed to be given on the date specified in this Paragraph without regard to when such notice is delivered by the entity to the individual to whose attention it is directed and without regard to the fact that proper delivery may be refused by someone other than the individual to whose attention it is directed. If a notice is received by an entity, the fact that the individual to whose attention it is directed is no longer at such address or associated with such entity shall not affect the effectiveness of such notice. Seller and Buyer agree that any notice sent on their behalf by their attorney, if listed below, shall serve as notice by the Seller or Buyer, as the case may be, to the other.

If to Seller:

L. Nick and Laurie Buckelew
HC 2 Box 6910
Tucson, Arizona 85741

Additional Copy to Seller:

John Brady, Esq.
Chandler & Udall, LLC
33 N. Stone Avenue, Suite 2100
Tucson, AZ 85701-
520-623-4353- Telephone
520-792-3426- Facsimile
jbrady@chandlerudall.com

If to AOLT:

Diana B. Freshwater
Arizona Open Land Trust, Inc.
3127 N. Cherry Ave.
Tucson, Arizona 85718
520.577.8564 - Telephone
520.577.8574 – Facsimile
dbfreshwater@aolt.org - E-mail

Copy to AOLT's Attorney:

K. Alexander Hobson, Esq.
Duffield, Young, Adamson, P.C.
3430 E. Sunrise Dr., Suite 200
Tucson, Arizona 85718
520.792.1181 – Telephone
520.792.2859 – Facsimile
ahobson@duffieldlaw.com - E-mail

If to Pima County:

Christina Biggs, Manager
Pima County Real Property Services
201 North Stone Avenue, 6th Floor
Tucson, Arizona 85701
(520) 740-6313 - Telephone
(520) 740-6763 - Facsimile
Christina.biggs@pw.pima.gov - E-mail

If to Escrow Agent:

Rhonda Draper
Lawyer's Title Agency, Inc.
6760 N. Oracle Rd., #100
Tucson, AZ 85704
520.498-1121 - Telephone
520.219.6450 – Facsimile
Rhonda.draper@ltaz.com - E-mail

26.2 This Agreement is made and executed in Pima County, Arizona.

26.3 This Agreement shall be subject to, and interpreted by and in accordance with, the laws (excluding conflict of law provisions) of the State of Arizona.

- 26.4 This Agreement is the entire Agreement of the parties respecting the subject matter hereof. There are no other agreements, representations or warranties, whether oral or written, respecting the subject matter hereof.
- 26.5 This Agreement, and all the provisions of this Agreement, shall be deemed drafted by all of the parties hereto.
- 26.6 This Agreement shall not be interpreted strictly for or against any party, but solely in accordance with the fair meaning of the provisions hereof to effectuate the purposes and intent of this Agreement.
- 26.7 Each party hereto has entered into this Agreement based solely upon the agreements, representations and warranties expressly set forth herein and upon his own knowledge and investigation. Neither party has relied upon any representation or warranty of any other party hereto except any such representations or warranties as are expressly set forth herein.
- 26.8 Each of the persons signing below on behalf of a party hereto represents and warrants that he or she has full requisite power and authority to execute and deliver this Agreement on behalf of the party for whom he or she is signing and to bind such party to the terms and conditions of this Agreement.
- 26.9 This Agreement may be executed in counterparts, each of which shall be deemed an original. This Agreement shall become effective only when all of the parties hereto shall have executed the original or counterpart hereof. This Agreement may be executed and delivered by a facsimile transmission of a counterpart signature page hereof.
- 26.10 In any action brought by a party hereto to enforce the obligations of any other party hereto, the prevailing party shall be entitled to collect from the opposing party to such action such party's reasonable litigation costs and attorneys fees and expenses, including court costs, reasonable fees of accountants and experts, and other expenses incidental to the litigation in addition to all other relief, all of which shall be set by the judge and not by jury, to which the prevailing party may be entitled.
- 26.11 This Agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors and assigns.
- 26.12 This is not a third party beneficiary contract. No person or entity other than a party signing this Agreement shall have any rights under this Agreement.

- 26.13 This Agreement may be amended or modified only in a writing signed by the parties, which specifically references this Agreement.
- 26.14 This Agreement may be assigned by Buyer to Pima County but may not be assigned to any other person or entity by Buyer or Seller without the prior written consent of the other party hereto, which consent may be granted or denied in the sole and absolute discretion of the other party hereto.
- 26.15 Nothing in this Agreement shall be construed to create a partnership or joint venture, or to authorize any party hereto to act as agent for or representative of any other party hereto. Each party hereto shall be deemed an independent contractor and no party hereto shall act as, or hold itself out as acting as, agent for any other party hereto.
- 26.16 A party to this Agreement may decide or fail to require full or timely performance of any obligation arising under this Agreement. The decision or failure of a party hereto to require full or timely performance of any obligation arising under this Agreement (whether on a single occasion or on multiple occasions) shall not be deemed a waiver of any such obligation. No such decisions or failures shall give rise to any claim of estoppel, laches, course of dealing, amendment of this Agreement by course of dealing, or other defense of any nature to any obligation arising hereunder.
- 26.17 The repudiation, breach, or failure to perform any obligation arising under this Agreement by a party after reasonable notice thereof shall be deemed a repudiation, breach, and failure to perform all of such party's obligations arising under this Agreement.
- 26.18 Time is of the essence with respect to each obligation arising under this Agreement. The failure to timely perform an obligation arising hereunder shall be deemed a failure to perform the obligation.

**Arizona Open Land Trust, an Arizona nonprofit corporation
("Buyer")**

By: _____ Date: _____

Its: _____

**L. Nick and Laurie Buckelew,
("Seller")**

By: _____ Date: _____
Seller Name

By: Laurie Buckelew Date: 5/26/06
Seller Name

EXHIBIT "A"

Parcel 1

A portion of the Southeast Quarter of Section 33, Township 15 South, Range 10 East, and Lots 2 and 3 of Section 4, Township 16 South, Range 10 East, Gila and Salt River Base and Meridian, Pima County, Arizona, more particularly described as follows:

BEGINNING at the Southeast corner of said Section 33, said corner being the True Point of Beginning;

THENCE South 87 degrees 32 minutes West a distance of 152.26 feet to a point;

THENCE South 0 degrees 02 minutes West a distance of 1604.46 feet to a point;

Thence South 89 degrees 22 minutes West a distance of 2520.96 feet to a point;

THENCE North 58 degrees 26 minutes 10 seconds East a distance of 1241.40 feet to a point;

THENCE North 0 degrees 13 minutes 10 seconds East a distance of 821.49 feet to a point;

THENCE North 87 degrees 57 minutes 52 seconds East a distance of 752.43 feet to a point;

THENCE North 5 degrees 59 minutes 25 seconds East a distance of 104.81 feet to a point;

THENCE North 2 degrees 08 minutes 17 seconds East a distance of 1332.93 feet to a point, on the South right-of-way line of the Ajo-Tucson Highway;

THENCE, continue North 81 degrees 44 minutes 53 seconds East along said right-of-way a distance of 815.02 feet to a point;

THENCE South 0 degrees 15 minutes 11 seconds West a distance of 1412.37 feet to a point, said point being the True Point of Beginning.

EXHIBIT "A"
(Continued)

(JV Arb Section 33=17, Section 4=7 and 8)

EXHIBIT B
LEGAL DESCRIPTION
CONTINGENT PROPERTY

RIGHT OF FIRST REFUSAL

This Agreement is entered into by and between BUCKS-KIN FARM LIMITED PARTNERSHIP, an Arizona limited partnership (“Bucks-Kin”), and PIMA COUNTY, a political subdivision of the State of Arizona (“County”) (collectively, the “Parties”).

Recitals

- A. Bucks-Kin has in the past carried on farming operations on certain real property (traditionally known as the Buckelew Farm) located in Pima County, Arizona.
- B. In a transaction of even date herewith, Bucks-Kin has conveyed to County portions of the fee-owned farm property, while retaining the property described on Exhibit “A” attached hereto (the “Designated Property”). Bucks-Kin and the County have entered into a Farm Management Agreement pursuant to which Bucks-Kin will continue to manage the property conveyed to County.
- C. Bucks-Kin Farm Ltd. has agreed to grant to County a right of first refusal to purchase the Designated Property.

Agreement

NOW THEREFORE, in consideration of the above premises, and the mutual promises and obligations contained herein, the Parties agree as follows:

- 1. Scope/Term. For purposes of this Agreement, “Bucks-Kin” shall mean (i) Bucks-Kin Farm, Ltd., (ii) any member or partner of Bucks-Kin, (iii) any immediate family member (meaning sibling, parent or direct descendent) of such members or partners, and (iv) any successor entity to Bucks-Kin, which has as members or partners those individuals described under (ii) and (iii) of this paragraph, to which the assets of Bucks-Kin, including the Designated Property, are transferred. Transfers among any of these entities or individuals, which are made with nominal or no consideration, shall not be sales that are subject to the right of first refusal set forth herein.

This Agreement shall be effective on the date signed by the Parties, and shall continue for so long as Bucks-Kin owns any portion of the Designated Property. Upon request by Bucks-Kin, County shall execute a recordable document releasing from the scope of this Agreement any portion of the Designated

Property which County has elected not to purchase, after being offered the right to purchase such portion pursuant to this Agreement.

2. Right of First Refusal. Bucks-Kin hereby grants to County a right of first refusal to purchase all or any portion of the Designated Property (together with any and all appurtenant water rights and all improvements and fixtures thereon), under the terms and conditions set forth herein.
3. Offer; Notice Procedure. If Bucks-Kin receives a bona fide offer to purchase any portion of the Designated Property, which offer Bucks-Kin wishes to accept, Bucks-Kin shall give written notice of the offer to County, together with a copy of the offer, either prior to the acceptance of the offer or after such acceptance (in which latter case, the closing of the sale to the third party shall be subject to County's rights hereunder). A "bona fide" offer, as used herein, shall mean an offer that is made in writing, which is legally binding on the offeror upon acceptance by Bucks-Kin (or an agreement already executed by Bucks-Kin, which is subject to County's rights hereunder), which sets forth the material terms of the proposed sale (such as price, contingencies, timing, and financing), and which contains the offeror's notarized signature.

County shall, within ten (10) working days after receipt of this notice, notify Bucks-Kin in writing regarding whether the County is interested in purchasing the portion of the Designated Property that is the subject of the offer under the same terms and conditions as in the offer. If the County is interested, the purchase shall be placed on the next available Board of Supervisor's agenda (based on the normal deadline for submittal of agenda items) for consideration and possible approval.

If County notifies Bucks-Kin that it is not interested in the acquisition, or if it fails to notify Bucks-Kin within such ten day period of its interest in the acquisition, or if the Board of Supervisors does not act to authorize the acquisition after considering it, County will be deemed to have elected not to exercise its right to purchase the portion of the Designated Property that was the subject of the offer. If Bucks-Kin does not close the sale to the third party offeror, within one hundred twenty (120) days after the date of the offer, or if the terms of the offer are materially modified, then Bucks-Kin shall so notify County, which shall once again have a right to purchase the portion of the Designated Property that was the subject of the offer, in accordance with this Agreement.

If County elects to purchase the property subject to the offer, Bucks-Kin shall be obligated to convey such property to County, under the terms and conditions set forth in the offer.

4. Assignment. County may assign its rights under this Agreement to a qualified, public, charitable nonprofit environmental organization, or another governmental entity, if such organization or entity agrees that it would purchase the property for

conservation purposes only; no other assignment of County's rights hereunder shall be permitted without the prior consent of Bucks-Kin.

5. Suspension/Termination of Right of First Refusal. From and after the date that is ten (10) years after the date of recordation of this Agreement, Bucks-Kin shall have the right to market and sell the Designated Property or any portion thereof without extending to County a right of first refusal, as set forth above, provided that Bucks-Kin, prior to marketing the property, first offers to sell it to the County for a stated price, and County elects not to purchase the property. The offer shall be in writing, and shall specifically reference this provision of this Agreement. County shall have ninety (90) days to consider the offer from Bucks-Kin and accept or reject it. If County rejects the offer, Bucks-Kin may thereafter market the property that was offered to County, and may sell it, or portions of it, without giving County a right of first refusal, provided that the sale is for a price no less than that offered to County. Notwithstanding the above, the right of first refusal *shall* apply to any offer for a price less than that which was offered to County.

PIMA COUNTY, ARIZONA

Richard Elias
Chairman, Board of Supervisors

ATTEST:

APPROVED AS TO FORM:

Lori Godoshian
Clerk, Board of Supervisors

Deputy County Attorney

BUCKS-KIN FARM LIMITED PARTNERSHIP,
an Arizona limited partnership

By: Buckelew Living Trust, dated August 25, 1980
Robert G. Buckelew and Clara V. Buckelew, Co-Trustees

Robert G. Buckelew
By: Robert G. Buckelew, Co-Trustee

Clara V. Buckelew
By: Clara V. Buckelew, Co-Trustee

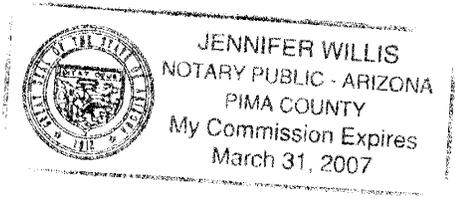
L. Nick Buckelew
L. Nick Buckelew

Its: General Partners

Date: _____

STATE OF ARIZONA)
) ss.
County of Pima)

The foregoing instrument was acknowledged before me this _____ day of _____, 2006, by L. Nick Buckelew, the general partner and authorized representative of BUCKS-KIN FARM LIMITED PARTNERSHIP, an Arizona limited partnership.



Notary Public

My Commission Expires:

June 7, 2006

Mr. Kerry Baldwin
Pima County Natural Resources
3500 West River Road
Tucson, AZ 85741

Re: Biological Resources Summary for Five Buckelew Parcels

Dear Kerry:

Below is the Biological Resources Summary for Buckelew Parcels, 208-54136A, 208-63-0050, 208-66-0010, 208-63-0290, 208-54-134A, and 301-19-002D.

Introduction

This letter report provides a brief biological evaluation of five Buckelew Parcels located at Three Points (also Robles Junction) in Pima County, Arizona. Two parcels (208-54-134A and 301-19-002D) are located south of Ajo Highway, just west of State Highway 286, and four parcels (208-54136A, 208-63-0050, 208-66-0010, and 208-63-0290) are located north of Ajo Highway just west of State Highway 286, at an elevation averaging 2,530 feet above sea level. Legal descriptions include Township 15 South, Range 10 East, portions of Sections 33 and 34; Township 16 South, Range 10 East, portions of Section 33 and 04 on the Three Points, AZ 7.5 Minute USGS Quadrangle Map. All six parcels total 458.09 acres.

Plant community, vegetation and wildlife observations reported herein were made during one site visit conducted by EPG Senior Biologist Barbara A. Garrison on June 6, 2006.

Biotic Communities

The five parcels are located in Semidesert Grasslands as described by D.E. Brown (1982). In lower elevations of grasslands (between 1,500- 5,000 ft), there have been shifts from grass dominance to shrub and subshrub dominance. The vegetation at any given site is probably dependent on its recent history. Characteristic traits of woody phase grasslands include, annual or short-lived perennial grasses, subshrubs coexisting with grasses, where relative abundance often shifts in response to changes in seasonal rainfall and surface soils, succulents are conspicuous in the area, like *Opuntia* spp., and grass species are distributed in a patchy manner, which is most obvious in flat, low depressions called swales.

In most places, including Avra Valley, Semidesert Grasslands, because of their rich diversity and abundance of palatable grasses and their accessibility, were favored for several centuries for ranching. Such activities have not been sufficiently carefully managed until recently and the result has been a reduction or elimination of perennial bunch grasses and a consequent increase in dry tropic shrubs and cacti. Changes in climate have also contributed to the shift from grasslands to the grassland-shrub community. Plants like mesquite, burroweed, snakeweed, and graythorn, have invaded in areas once characterized as a pure native grassland community (McClaran and Van Devender 1995).

Generally, within the Sonoran Desert, agriculture is found nowhere else except along the valley floor, because water availability together with the fine-textured soils capable of retaining water are requirements that are found only on the valley floor (Robichaux 1999). Because of this singling out of lowland vegetation types, moisture regimes, and soils for agriculture, it had ecological consequences in the Sonoran Desert Valley, mainly from the increases in groundwater pumping. Historically, Three Points was a rural ranching community, but also with an agricultural component because of the area's topography, soil properties, and their ability to retain water, all important requirements in cultivating crops in arid regions.

On the north side of Ajo Highway, parcels 208-66-0010, 208-63-0050, and 208-63-0290 are characterized as shrub-scrub Disclimax Series of Semidesert Grassland Biome. Parcel 208-54-136A is cultivated farmland. All is currently being farmed except the western portion of the parcel from the farmhouse west to a large berm, which is fallow. The berm, which marks the boundary of the parcel, is completely vegetated with creosotebush. Velvet Ash lines a portion of the southern boundary of the parcel east of the farmhouse. These trees were probably planted there for aesthetic value only.

On the south side of Ajo Highway, Parcels 208-54-134A and 301-19-002D are exclusively Shrub-Scrub Disclimax Series of Semidesert Grassland Biome. In general, wetland biomes may occupy narrow strips along many of the margins and bottoms of ravines, washes, and rivers that traverse the uplands. These are the Sonoran Riparian Scrub Biome along the margins of washes and the Sonoran Interior Strand Biome along sandy/gravelly wash bottoms. These biomes are comprised of species or growth forms different from those of adjacent uplands and require more moisture than is provided by precipitation alone. Within these two parcels, wetland biomes are not the result of perennial surface waters or high water tables. Instead, they are the result of short-term increases in soil moisture of wash margins and bottoms infiltrated with water from runoff or uncommon floods.

Within the shrub-scrub plant community, observed dominant plant species included, velvet mesquite (*Prosopis velutina*) intermixed with open stands of chain-fruit cholla (*Opuntia fulgida*), staghorn (*O. versicolor*), occasional catclaw (*Acacia greggii*), whitethorn (*A. constricta*), broom snakeweed (*Gutierrezia sarothrae*), burroweed (*Isocoma tenuisecta*), Desert broom (*Baccharis sarothroides*), four-wing saltbush (*Atriplex canescens*), burro weed (*Isocoma tenuisecta*), rabbitbrush (*Chrysanthamus* sp.), creosotebush (*Larrea tridentata*), gray thorn (*Zizaphus obtusifolia*), amaranthus sp., and wolfberry (*Lycium* sp.). Perennial grasses are uncommon and mostly restricted to the interior of spiny shrubs and clumps of cacti that provide some protection from grazing cattle. Three-awns (*Aristida* sp.) are the most common of the annual grasses in addition to Bermuda grass (*Cynodon dactylon*) and lovegrass (*Eragrostis* sp.). Along the washes, dominant species included velvet mesquite, whitethorn, catclaw, desert hackberry (*Celtis spinos*), and gray thorn.

WILDLIFE

Federally-Listed Species

A list of federally listed species for Pima County was reviewed by EPG senior biologist, Barb Garrison, and it was determined that Pima Pineapple Cactus, listed endangered by the U.S. Fish and Wildlife Service, has a high potential of occurring on the Buckelew Parcels. This determination was based on suitable habitat present and known locations of the species in the area.

Pima County Priority Vulnerable Species

A list of 55 of the most vulnerable animals and plant species was developed by Pima County's Sonoran Desert Conservation Plan (PCBS 2001). Of this total, it was determined that 14 special status species needed further evaluation based on habitat suitability, elevational and geographic ranges.

After evaluating the potential of occurrence for the above priority vulnerable species, it was determined that the Western Burrowing Owl has a moderate potential of occurring in the project area. The areas most suitable for this species include the agricultural fields, in particular, the fields left fallow and relatively undisturbed. The berm on the western boundary of Parcel 208-54-136A is especially promising.

Summary and Recommendations

The agricultural fields provide suitable habitat for the Western Burrowing Owl, so preserving these areas would aid in the conservation and protection of the owl. The shrub-scrub plant communities provide excellent habitat for the federally protected Pima Pineapple Cactus. The author surveyed for the plant in the Three Points area during the spring of 2003, and approximately 53 plants were found. During the site reconnaissance for this project on June 6, 2006, one plant was seen in the area of State Highway 286. At a minimum, acquisition of these parcels will assure the continued protection of these two species.

References

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Arizona Game and Fish Department (AGFD). 2006. Heritage Data Management System Website available at: www.azgfd.gov/w_c/edits/documents/countyallspecies_006.pdf. Data updated April 2006. Accessed April 17, 2006.

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Hendricks, D. M. 1985. Arizona Soils. A Centennial Publication of the College of Agriculture, University of Arizona, Tucson, Arizona. 244 pp.

McClaran, M. P. and T. R. Van Devender. Eds. 1995. The Desert Grassland. The University of Arizona Press, Tucson, Arizona. pp 31-67.

Pima County Board of Supervisors. 2001. Priority Vulnerable Species: Analysis and Review of Species Proposed for Coverage by the Multi-Species Conservation Plan. 384 pp. with appendix.

If you have any questions, feel free to contact me at 520-795-2001.

Sincerely,

EPG Environmental Planning Group

A handwritten signature in cursive script, appearing to read "Barb Garrison".

Barb Garrison
Senior Biologist

Appendix A

Photos taken during field reconnaissance on June 6, 2006



Photo 1. Looking north from Ajo Highway towards Parcel 208-66-0010.



Photo 2. Looking north from Ajo Highway towards farmland on Parcel 208-54-136A. Velvet Ash is present in the foreground



Photo 3. Looking north from Ajo Highway at the western boundary of Parcel 208-54-136A. Note the berm on the left side of the photo.



Photo 4. Looking northeast from Ajo Highway towards Parcel 208-54-136A.



Photo 5. Looking south from Ajo Highway towards the north-south flowing wash at Parcel 208-54-134A.



Photo 6. General habitat photo looking north from Ajo Highway towards Parcel 208-54-134A

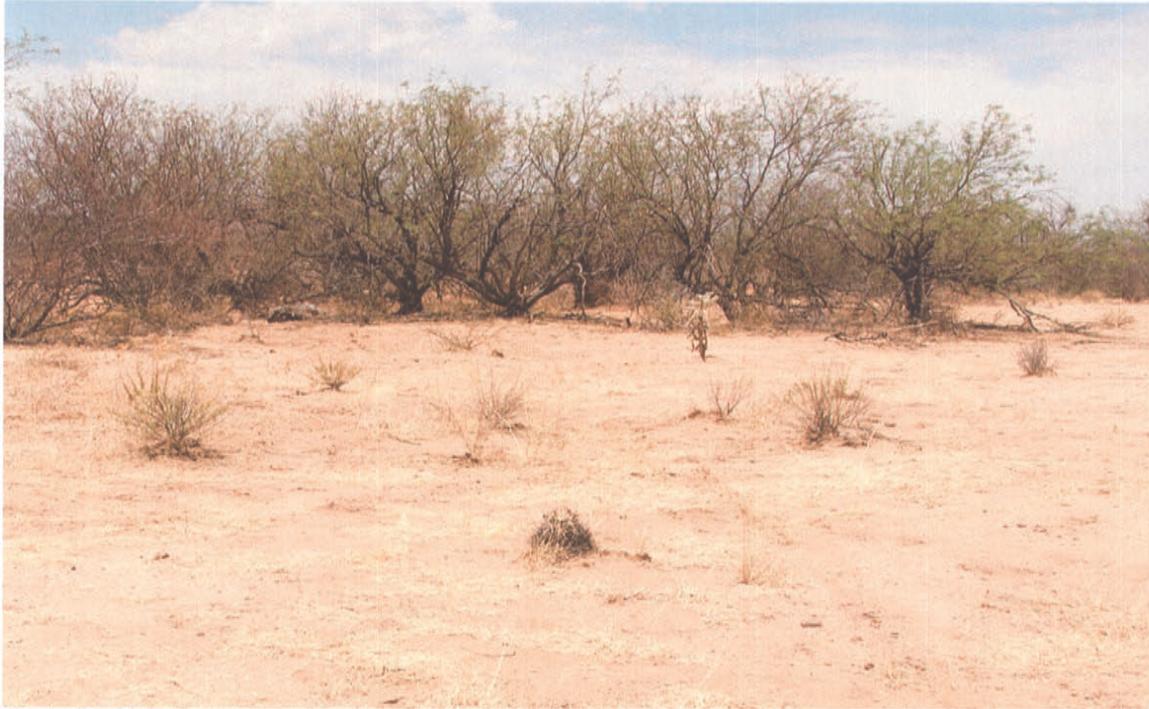


Photo 7. Habitat just outside Parcel 301-19-002D. Pima Pineapple Cactus is in the foreground.



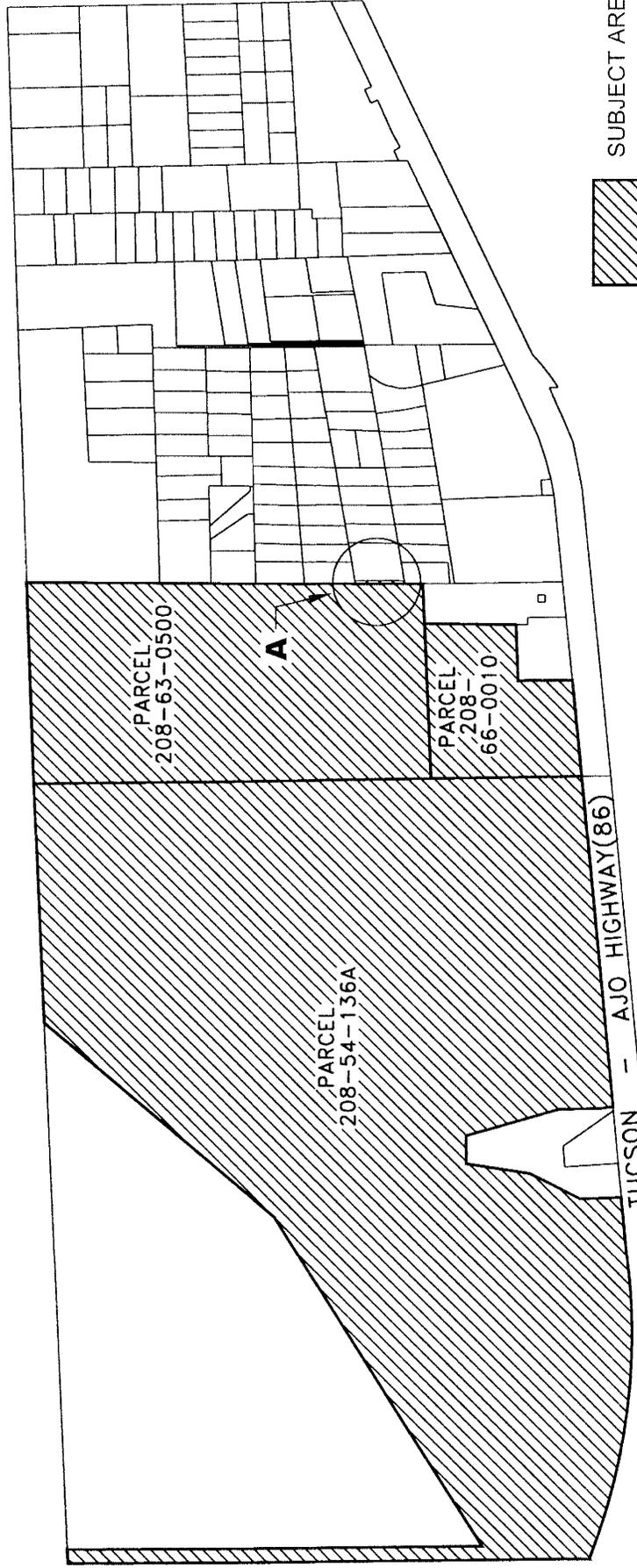
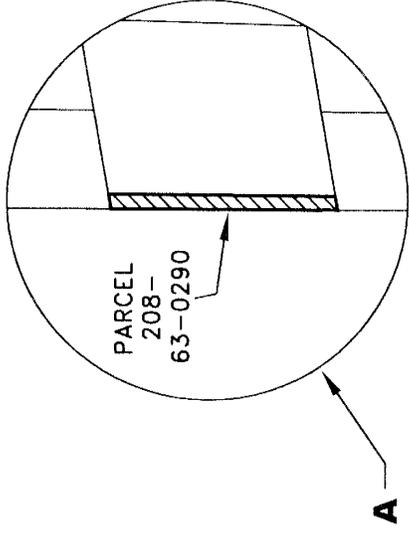
Photo 8. Closeup view of Pima Pineapple Cactus (*Coryphantha scheeri* var. *robustispina*)

Management Agreement
will be provided at the
August 3rd
Conservation Acquisition Commission
Meeting

**Affidavit of Disclosure
will be provided at the
August 3rd
Conservation Acquisition Commission
Meeting**

Ownership Disclosure and Seller Donation
will be provided at the
August 3rd
Conservation Acquisition Commission
Meeting

SECTIONS 33 & 34
TOWNSHIP 15 SOUTH
RANGE 10 EAST



PIMA COUNTY DEPARTMENT OF TRANSPORTATION
GIS DIVISION

DRAWING NOT TO SCALE

DRAWN BY: J. ZALUSKY

DATE: JULY 2006

ASSESSOR'S RECORD MAP

208-63 SECTION 34, TOWNSHIP 15 SOUTH, RANGE 10 EAST (NW/4)

FORMERLY
201-59

DETAIL 1

28,27
33,34

7155R10E

QUINLIN TRAIL

474.73



ASSESSOR'S

RECORD MAP

SECTION 34, TOWNSHIP 15 SOUTH, RANGE 10 EAST

208-63PTN NW
-64PTN NE

-65SE
-66SW

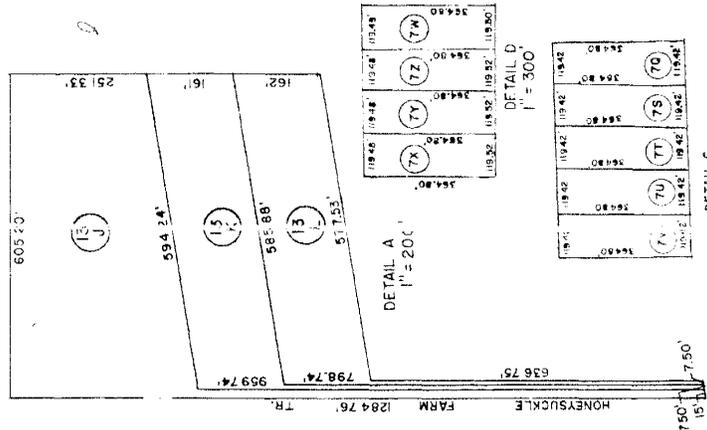
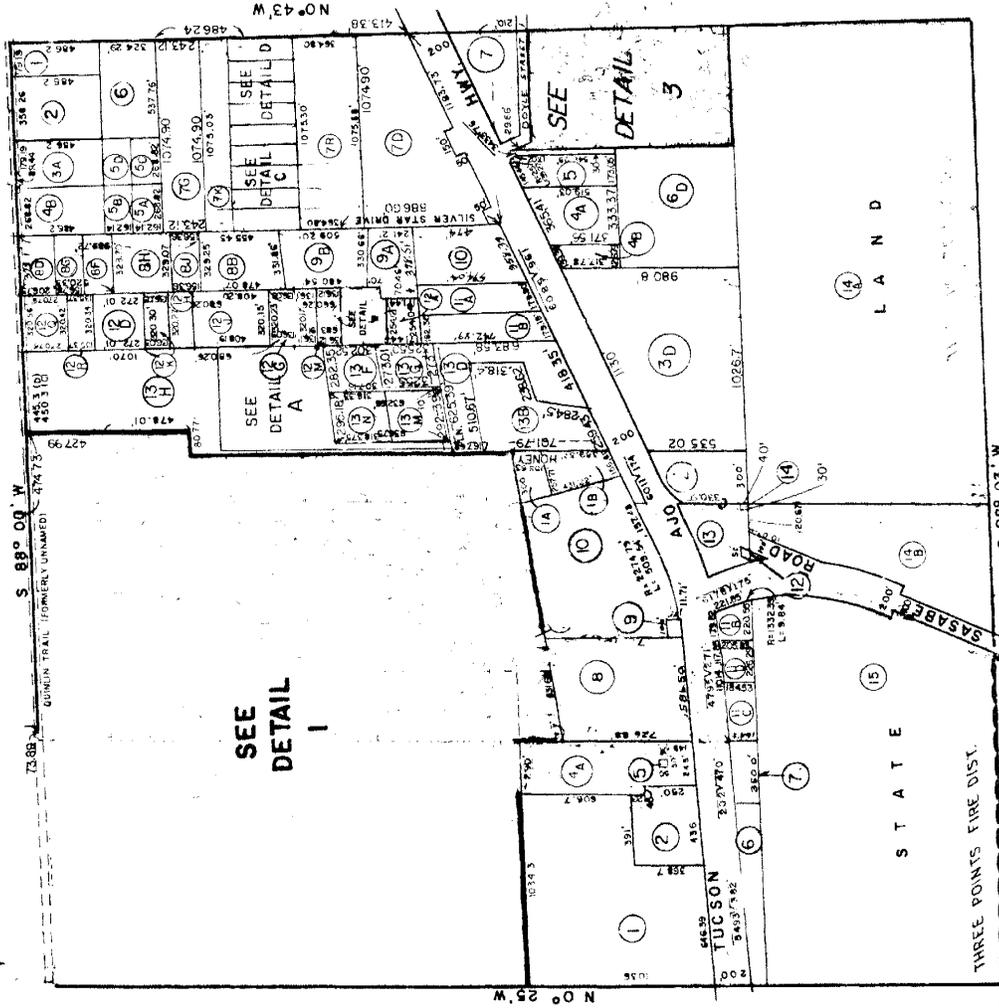
-FORMERLY-
201-59
-83
-84
-85
-86

65

65

320.14	320.11
253.17	253.17

DETAIL B



2005-3



C.O.T.
PROJECT

18 54 (2) 1834 (2)

151034

ASSESSOR'S RECORD MAP

208-63 SECTION 34, TOWNSHIP 15 SOUTH, RANGE 10 EAST (NW1/4)

FORMERLY
201-59

2827
3334

DETAIL 1

7155R10E



C.O.T.
PROJECT

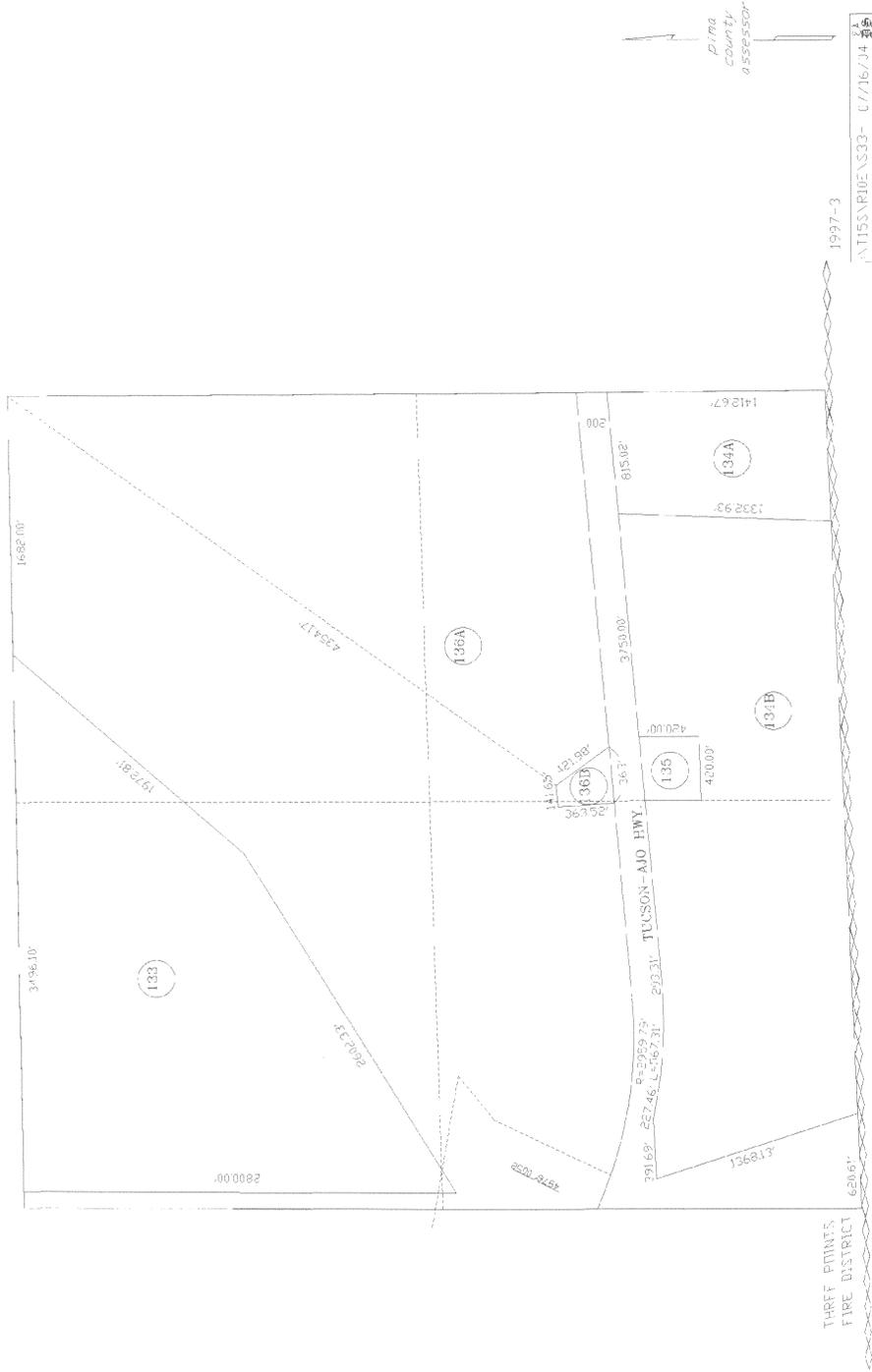
ASSESSOR'S RECORD MAP

208-54

SECTION 33, TOWNSHIP 15 SOUTH, RANGE 10 EAST

FORMERLY
201-58

AREA-CODE
5100



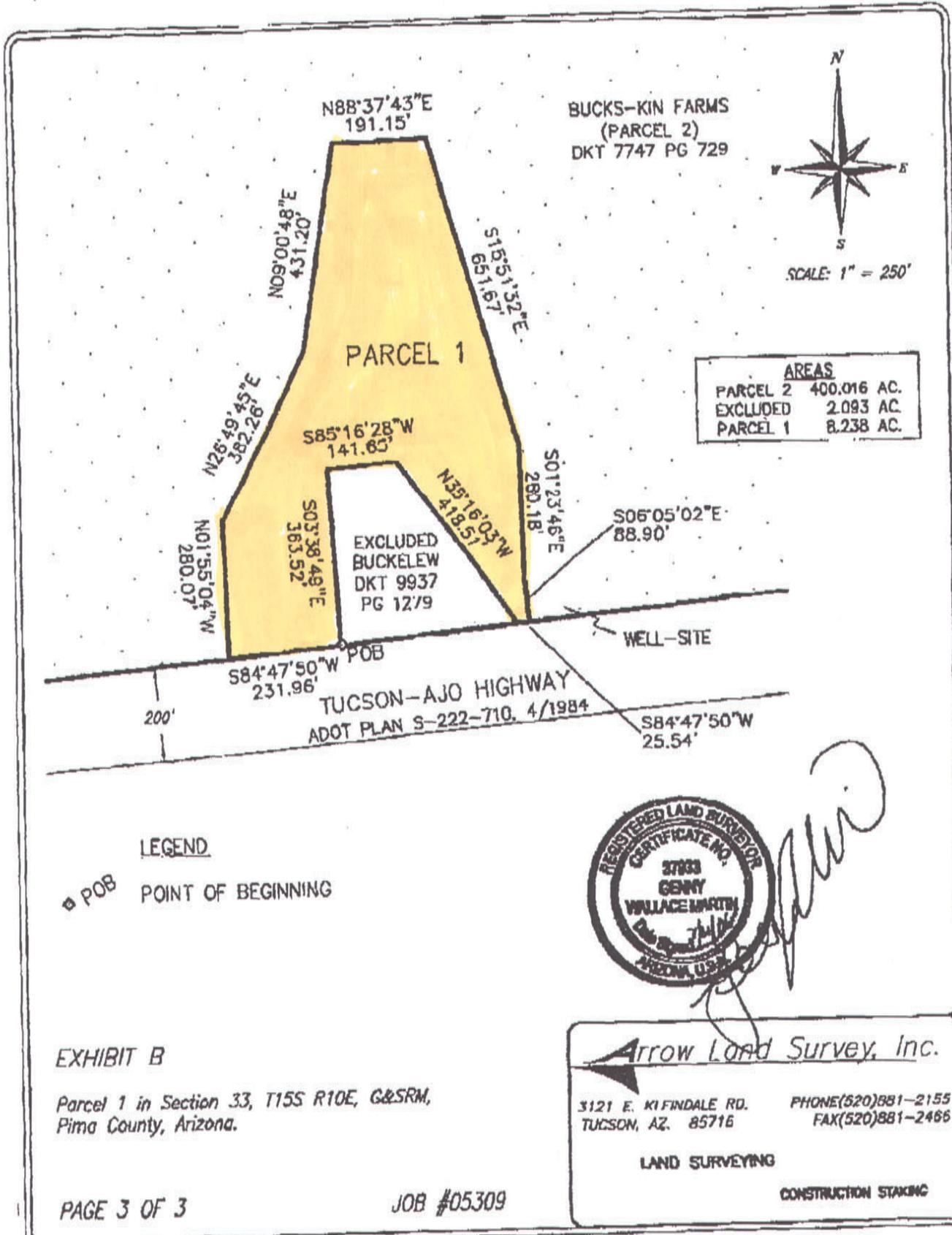
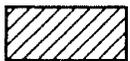
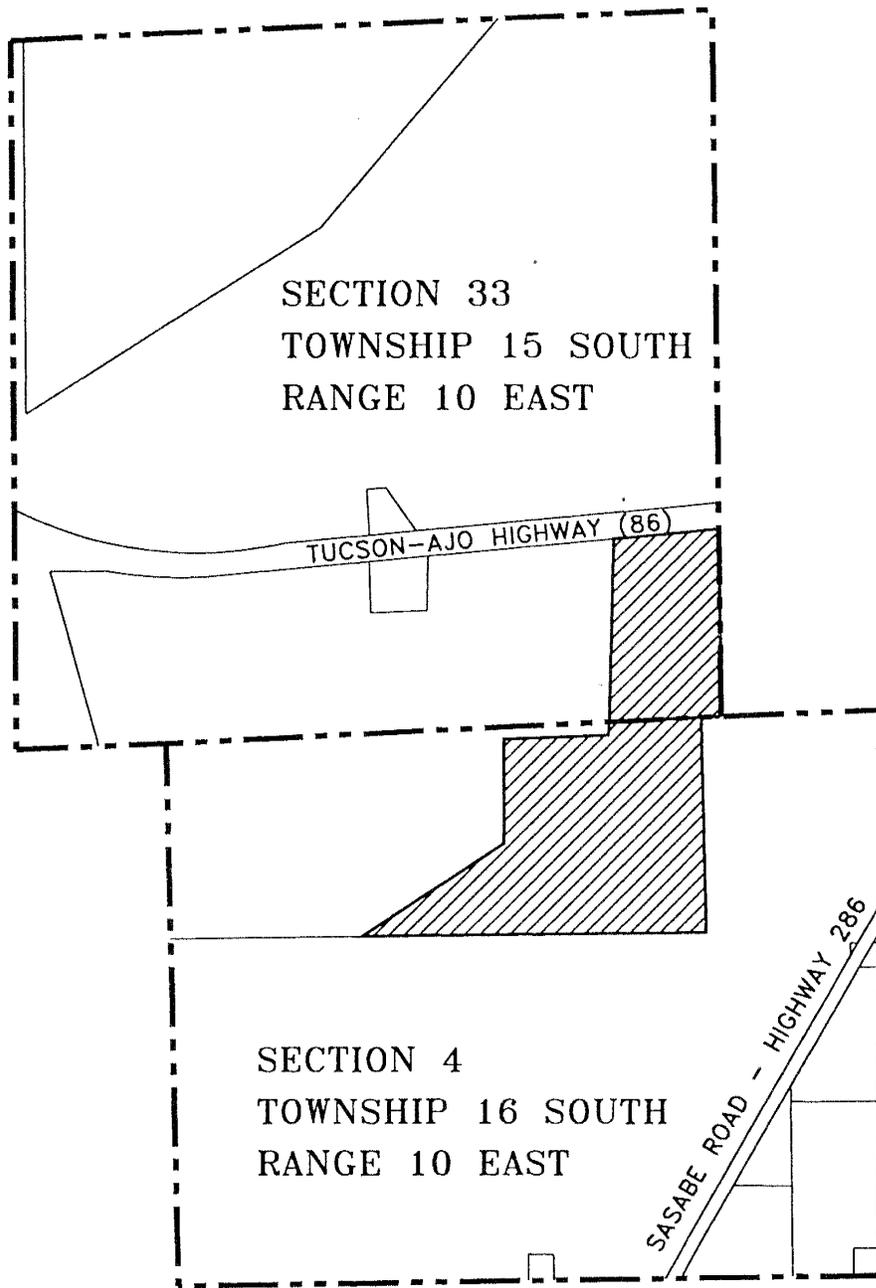


EXHIBIT B

Parcel 1 in Section 33, T15S R10E, G&SRM,
Pima County, Arizona.



BUCKELEW PARCELS 208-54-134A & 301-19-002D



PIMA COUNTY DEPARTMENT OF TRANSPORTATION
GIS DIVISION

ASSESSOR'S RECORD MAP

208-54

SECTION 33, TOWNSHIP 15 SOUTH, RANGE 10 EAST

FORMERLY
201-58

APR A-CODE
5100

