



Report to the Board of Supervisors



Prepared by the Maricopa County Department of Transportation

Case #/Title: PAB0007 Federal Patent Easement Abandonment

Meeting Date: October 22, 2014 to set the hearing date.

Supervisor District Effected: 2

Applicant: Department of Transportation

Request: Approve the abandonment of that portion of the Patent easement as proposed by the owner of the property located at 37703 N. 26th Street and being identified as Assessor Parcel No. 211-67-010C.

Support/Opposition: Request for comment has been circulated to all affected parties pursuant to County Ordinance P-34, Section 2d.
No comments in opposition have been received.

Discussion: Laws 2013, Chapter 46 amended Arizona Revised Statutes, Section 11-251.16 to allow a county, at the request of a property owner, to abandon a federal patent easement established by the Small Tract Act of 1938. On May 7, 2014 the Maricopa County Board of Supervisors (BOS) approved Ordinance No. P-34, adopting procedures for the abandonment of federal patent easements. The Maricopa County Department of Transportation (MCDOT) has considered and processed this request for abandonment in strict accordance with A.R.S. Section 11-251.16 and Ordinance No. P-34.

Department Recommendation:

Having no known opposition and having not received any written comments in opposition from other County departments, other agencies, any utility or the public, the Department of Transportation (MCDOT), in accordance with Ordinance P-34, is recommending that the BOS approve the abandonment as requested.

Presented by: John B. Hauskins, P.E., Director

Attachments: Application / Proof of ownership / Application response checklist
Aerial Exhibit / Patent Easement
Initial Determination request / letter to requestor / Initial response checklist

**APPLICATION
PROOF OF OWNERSHIP
APPLICATION RESPONSE CHECKLIST**



Engineering Division

2901 West Durango Street • Phoenix, AZ 85009
Phone: (602) 506-8609 • Fax: (602) 506-4009

PATENT EASEMENT ABANDONMENT APPLICATION

Applicant Name: Maria D. Cope-Dismuke/Steve Dismuke Tracking NO: PAB-0007
Mailing Address: 37703 N. 26th St
City: Cave Creek STATE: AZ ZIP: 85331
Telephone: 602-568-1057
Email: danielledismuke1966@gmail.com Fax No:

PARCEL DETAIL

Assessor's Parcel Number: 211-67-010C formerly 211-67-010 B

1. Location of Request: (ex: 3200 W. Dove Valley Road, Phoenix)
37703 N. 26th St., Cave Creek AZ 85331

2. Description of Request: (ex: Abandon Easement bordering the south side of parcel 123-45-067A)

Abandon Patent Easement bordering the north side of parcel 211-67-010C (formerly 211-67-010 B)

- 3. Applicant is REQUIRED to be the current owner of the described property. A copy of your property deed must be attached to the application.
4. If you have a mortgage, deed of trust, upon your property you are REQUIRED to provide a letter from the lender approving your request to abandon a patent easement. Applications submitted without lender approval will not be processed.
5. If you don't have a mortgage or deed of trust on the subject property, you will need to sign, before a notary, the affidavit below attesting to that status.

I, _____ attest that I own the subject property and that it is not encumbered by mortgage or deed of trust.

SUBSCRIBED AND SWORN to before me this

My Commission Expires:

_____ day of _____, 20____

NOTARY PUBLIC

SIGNATURE

Maria D. Cope-Dismuke Digitally signed by Maria D. Cope-Dismuke
DN: cn=Maria D. Cope-Dismuke, o=, email=danielledismuke1966@gmail.com, c=US
Date: 2014.06.30 17:23:05 -0700

June 30, 2014

Signature of Applicant

Date

NOTE: The application fee is NOT refundable.

THIS PORTION TO BE COMPLETED BY MCDOT

Application Fee: \$1,600.00*

Total Received: 4,350.00

Received By:

Check #: 10606

Date: 8/19/14

Make check payable to: MCDOT
2901 West Durango Street
Phoenix, AZ 85009

* Application Fee will be \$1,050 (\$4,000 less \$2,950) if you have provided a notarized letter to provide documentation on behalf of the applicant.

From: **Davis, Natalie D** natalie.d.davis@citi.com
Subject: RE: Patent Easement Abandonment
Date: July 7, 2014 at 7:52 AM
To: Danielle Dismuke danielledismuke1966@gmail.com

Good Morning,

I have reviewed information online in regards to what a patent easement details. Attached is a signed letter advising CitiMortgage consents to the abandonment of the patent easement. The original document has been mailed. Please advise if you need anything additional to assist with your application for abandonment.

Natalie D. Davis
CitiMortgage, Inc.
Partial Release Dept.
14700 Citicorp Dr. MS 0251
Hagerstown, MD 21742
Office: 301-714-5421
Fax: 1-866-989-2095
Email: natalie.d.davis@citi.com
Office Hours: M-F 8:30-5:00, EST

Make It A Great Day :o)

CitiMortgage



July 7, 2014

MARIA D COPE-DISMUKE
STEPHEN W DISMUKE
PO BOX 8118
CAVE CREEK AZ 85327-8118

Dear CitiMortgage Client(s):

This letter is in response to your request for CitiMortgage to consent to the abandonment of a Patent Easement over, under and across a portion of your property.

CitiMortgage will consent to the abandonment of the Patent Easement.

If you need further assistance regarding your loan, our Automated Account Information Line is accessible 24 hours a day at 1-800-283-7918*. Customer Service Associates are also available at this number Monday through Friday 7:00 a.m. to 12:00 a.m., and Saturday from 8:00 a.m. to 8:00 p.m., ET and Sunday from 10:00 a.m. to 10:00 p.m., ET. TTY Services available: Dial 711 from the United States; Dial 1-866-280-2050 from Puerto Rico. When you contact us, please refer to the mortgage account number 1123822876. Thank you.

Sincerely,

Recording Requested by:
First American Title Insurance Company

When recorded mail to:
Stephen W. Dismuke and Maria D. Cope-Dismuke
37703 North 26th Street
Cave Creek, AZ 85331

2/16



OFFICIAL RECORDS OF
MARICOPA COUNTY RECORDER
HELEN PURCELL
2002-0364652 04/09/02 16:32
89 OF 96
BLOCKNUMBERS

WARRANTY DEED

Escrow No. **207--4001484 (jkc)**
A.P.N./Tax ID: **211-67-010 7**

For the consideration of TEN AND NO/100 DOLLARS, and other valuable considerations, I or we,

A
Patricia Henson, an unmarried woman the GRANTOR does hereby convey to

Stephen W. Dismuke and Maria D. Cope-Dismuke, husband and wife , the GRANTEE

The following described real property situate in **Maricopa County, AZ** with the title being conveyed to the grantee as set forth in the attached acceptance by the grantee:

Parcel No. 1:

That part of the West half of the Northwest quarter of the Northeast quarter of the Northwest quarter of Section 35, Township 6 North, Range 3 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, more particularly described as follows:

COMMENCING at the G.L.O. Brass Cap monument at the North quarter corner of said Section 35;

THENCE along the North line of said Section 35, said line also being the basis of bearings for this description, North 89 degrees, 59 minutes, 41 seconds West, 1323.57 feet to the POINT OF BEGINNING of this description;

THENCE South 89 degrees, 59 minutes, 41 seconds East, 330.89 feet;

THENCE South 00 degrees, 03 minutes, 29 seconds East, 222.12 feet;

THENCE North 89 degrees, 59 minutes, 41 seconds West, 330.90 feet;

THENCE North 00 degrees, 03 minutes, 18 seconds West, 222.12 feet to POINT OF BEGINNING;

EXCEPT all coal, oil, gas, and other mineral deposits as reserved in the Patent.

Parcel No. 2:

That part of the West half of the Northwest quarter of the Northeast quarter of the Northwest quarter of Section 35, Township 6 North, Range 3 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona, more particularly described as follows:

COMMENCING at the G.L.O. Brass Cap monument at the North quarter corner of said Section 35;

THENCE along the North line of said Section 35, said line also being the basis of bearings for this description, North 89 degrees 59 minutes, 41 seconds West, 1323.57 feet;

THENCE South 00 degrees, 03 minutes, 18 seconds East 222.12 feet to the POINT OF BEGINNING of this description;

THENCE South 89 degrees, 59 minutes, 41 seconds East, 330.90 feet;

THENCE South 00 degrees, 03 minutes, 29 seconds East, 290.85 feet;

THENCE South 89 degrees, 56 minutes, 40 seconds West, 330.92 feet;

THENCE North 00 degrees, 03 minutes, 18 seconds West, 290.99 feet to the POINT OF BEGINNING of this description;

EXCEPT all coal, oil, gas, and other mineral deposits as reserved in the Patent.

Subject To: Existing taxes, assessments, covenants, conditions, restrictions, rights of way and easements of record.

And the GRANTOR binds itself and its successors to warrant the title as against its acts and none other, subject to the matters set forth.

DATED: April 08, 2002

SEE ACCEPTANCE ATTACHED HERETO

AND BY REFERENCE MADE A PART HEREOF.



Patricia Henson

STATE OF AZ)
)ss.
County of YAVAPAI)

On 4-8-02, before me, the undersigned Notary Public, personally appeared **Patricia Henson**, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

My Commission Expires: 1-1-2005

Julie Chapman
Notary Public

ACCEPTANCE OF COMMUNITY PROPERTY WITH RIGHT OF SURVIVORSHIP

This Acceptance is to be attached to: Warranty Deed dated 04/08/2002 by and between Patricia Henson and Stephen W Dismuke and Maria D Cope-Dismuke

That each of the undersigned individually and jointly as such Grantees hereby declare that it is their intention to accept this conveyance as community property with right of survivorship and not as joint tenants with right of survivorship and not as tenants in common, and to acquire any interest in said real property under said deed as community property with right of survivorship, and not as joint tenants with right of survivorship and not as tenants in common.

That by the execution and delivery to the Escrow Agent of this "Acceptance of Community Property with Right of Survivorship" the undersigned intend to evidence their acceptance of said deed as community property with right of survivorship, and hereby direct and authorize the Escrow Agent to attach this "Acceptance of Community Property with Right of Survivorship" to such deed upon its execution and delivery and to record this "Acceptance of Community Property with Right of Survivorship" together with such deed.

Date: **04/08/2002**

Stephen W. Dismuke
Stephen W. Dismuke

Maria D. Cope-Dismuke
Maria D. Cope-Dismuke

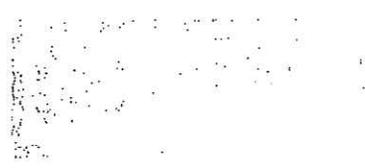
STATE OF AZ)
County of MARICOPA)ss.

On A-8-02, before me, the undersigned Notary Public, personally appeared **Stephen W. Dismuke and Maria D. Cope-Dismuke**, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

My Commission Expires: 1-1-2005

Julie C. [Signature]
Notary Public



PATENT EASEMENT ABANDONMENT
APPLICATION
CHECKLIST

Application ID: PAB0007

A "YES" checked on any item on this list shall result in the letter of Initial Determination stating that pursuant to Section 5 of County ordinance (P-34) certain criteria do not meet abandonment requirements.

Disqualification Criteria	YES	NO
Road alignment has been Declared (Sect 5a)		X
Road alignment is maintained by MCDOT		X
Road alignment is needed for future r/w		X
Prop abandon shares border and is parallel to row dedicated to County or public (Sect 5b)		X
Objection from any affected utility, Arizona State land, BLM or BOR (Sect 5d)		X
Objection from any Municipality or Tribe, (Sect 5e)		X

Statement of fact and Documentation for Items identified as not meeting abandonment requirements:

		REVIEWER	COMMENT	DISQUALIFYING CRITERIA
	MCDOT	Bob Woodring	No Objection	
		Denise Lacey	NR	
		Ed Williams	NR	
		Jack Lorbeer	NR	
		Jeff Kramer	No Objection	
		Jamie Winterstein	NR	
		Gerald Toscano	No Objection	
		Nicolaas Swart	No Objection	
		Paul Driver	NR	
		Tricia Brown	No Objection	
b	COUNTY	P&D	No Objection	
		RE Services	No Objection	
		Parks	No Objection	
		FCD	No Objection	
c	UTILITIES	APS	No Objection	
		Century Link	No Objection	
		Cox	NA	
		SRP	NA	
		SWG	NA	
		Scottsdale Water	NA	
		Town of Cave Creek water	NR	
d	GOV AGENCIES	State Land	No Objection	
e	MUNICIPALITIES / TRIBES	Town of Queen Creek	NR	

DATE: 9/22/2014

INIT: KG

CAVE CREEK
O2009-08
6/17/2009

State Trust Land

PAB-0007
N50' of W2NW4NE4NW4
EXCEPT the W30'

50' Exist
Patent
Easement

EXIST 30'
County
Easement

State Trust Land

UNINCORPORATED MARICOPA COUNTY

35
T6N
R3E

26th St

211
67
004G

211
67
004E

211
67
010C

211
67
004C

211
67
004B

211
67
010A

211
67
008A

211
67
009

211
67

Arizona 014775

The United States of America,

To all whom these presents shall come, Greeting:

WHEREAS, a Certificate of the Land Office at **Phoenix, Arizona,** has been issued showing that full payment has been made by the claimant

William F. Mahan

pursuant to the provisions of the Act of Congress approved June 1, 1938 (52 Stat. 609), entitled "An Act to provide for the purchase of public lands for home and other sites," and the acts supplemental thereto, for the following-described land:

Gila and Salt River Meridian, Arizona.

T. 6 N., R. 3 E.,

Sec. 5, ~~W¹/₂ NW¹/₄ NE¹/₄ NW¹/₄.~~

The area described contains **5.00** acres, according to the Official Plat of the Survey of the said Land, on file in the Bureau of Land Management:

NOW KNOW YE, That the UNITED STATES OF AMERICA, in consideration of the premises, and in conformity with the several Acts of Congress in such case made and provided, HAS GIVEN AND GRANTED, and by these presents DOES GIVE AND GRANT unto the said claimant and to the heirs of the said claimant the Tract above described; TO HAVE AND TO HOLD the same, together with all the rights, privileges, immunities, and appurtenances, of whatsoever nature, thereunto belonging, unto the said claimant and to the heirs and assigns of the said claimant forever; subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws, and decisions of courts; and there is reserved from the lands hereby granted, a right-of-way thereon for ditches or canals constructed by the authority of the United States. Excepting and reserving, also, to the United States all oil, gas and other mineral deposits, in the land so patented, together with the right to prospect for, mine, and remove the same according to the provisions of said Act of June 1, 1938. This patent is subject to a right-of-way not exceeding **50** feet in width, for roadway and public utilities purposes, to be located **along the north and west boundaries of said land.**

IN TESTIMONY WHEREOF, the undersigned authorized officer of the Bureau of Land Management, in accordance with the provisions of the Act of June 17, 1948 (62 Stat., 476), has, in the name of the United States, caused these letters to be made Patent, and the Seal of the Bureau to be hereunto affixed.

GIVEN under my hand, in the District of Columbia, the **SECOND** day of **OCTOBER** in the year of our Lord one thousand nine hundred and **FIFTY-NINE** and of the Independence of the United States the one hundred and **EIGHTY-FOURTH.**

[SEAL]

For the Director, Bureau of Land Management.

By *Reith W. Tallon*
Acting Chief, Patents Section.

Patent Number **1199951**

**INITIAL DETERMINATION REQUEST
LETTER TO REQUESTOR
INITIAL RESPONSE CHECKLIST**



Maricopa County Department of Transportation

Engineering Division

2901 West Durango Street • Phoenix, AZ 85009
Phone: (602) 506-8609 • Fax: (602) 506-4009

PATENT EASEMENT ABANDONMENT INITIAL DETERMINATION REQUEST

Applicant Name: Maria D. Cope-Dismuke/Steve Dismuke Tracking NO: PAB-0007
 Mailing Address: 37703 N. 26th St.
 City: Cave Creek STATE: AZ ZIP: 85331
 Telephone: (602) 568-1057
 Email: danielledismuke1966@gmail.com Fax No: (623) 742-9941

PARCEL DETAIL

Assessor's Parcel Number: 211-67-010B *Now 010C*
 1. **Location of Request:** (ex: 3200 W. Dove Valley Road, Phoenix)
37703 N. 26th St., Cave Creek AZ 85331
 2. **Description of Request:** (ex: Abandon Easement bordering the south side of parcel 123-45-067A)
Abandon Patent Easement bordering the north side of 211-67-010B

SIGNATURE

Maria D. Cope-Dismuke Digitally signed by Maria D. Cope-Dismuke
 DN: cn=Maria D. Cope-Dismuke, o=, email=dismuke1966@gmail.com, c=US
 Date: 2014.06.30 17:01:28 -0700

June 30, 2014

Signature of Applicant*

Date

* Applicant is NOT required to be the current owner of the described property.

NOTE: The fee for this review is NOT refundable.

THIS PORTION TO BE COMPLETED BY MCDOT

Initial Determination Fee: \$250.00 Make check payable to: MCDOT 2901 West Durango Street Phoenix, AZ 85009	Total Received: <u>\$250.00</u>	Received By:
	Check #: <u>1535</u>	Date: <u>07-02-2014</u>



Maricopa County
Department of Transportation

2901 W. Durango St
Phoenix, AZ 85009
Phone: 602-506-8609
Fax: 602-506-4009
www.maricopa.gov

July 23, 2014

Steve and Maria Dismuke
37703 N. 26th Street
Cave Creek, AZ 85331

Attn: Steve Dismuke

Dear Mr. Dismuke.

The Maricopa County Department of Transportation (MCDOT) has completed the Initial Review request for possible abandonment of the Federal patent Easement on your property identified Assessor Parcel 211-67-010C (formerly 211-67-010B) and as PAB0007.

If your decision is to proceed, go to the MCDOT website and open up the Patent Easement Link at the left side of the page. Print the Abandonment Application and submit it as instructed in the application along with all documentation required in the application.

NOTE:

Be advised, that although no objections have been received, all reviewing entities reserve the right to change their original review position, which may affect the final recommendation to the Board of Supervisors to approve or deny the application. **In addition**, the Town of Cave Creek has had personnel changes and individuals that were on file as the contact to review and comment are no longer employed by the Town. Therefore there was no response from Cave Creek for the initial review. We now have the new contact and the Town will be notified for comment for the final application review and comment phase.

After the final review and upon written recommendation to the Board of Supervisors, a notice by letter will be sent to all abutting property owners. The proposed abandonment area will have a notice posted. The abutting owners and other public users of the road have the right to object in writing or appear before the Board of Supervisors.

Sincerely,

Edmund Williams
Engineering Division, Manager .

Mike Wilson
Real Estate Div. Mngr.
Ph: 602-506-4706

Identification Initials : KG, kg

Enclosure: exhibit

cc: PAB-0007 - file

PATENT EASEMENT ABANDONMENT
INITIAL DETERMINATION
CHECKLIST

Application ID: PAB0007

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Road alignment is maintained by MCDOT		X
Road alignment is needed for future r/w		X
Prop abandon shares border and is parallel to row dedicated to County or public (Sect 5b)		X
Objection from any affected utility, Arizona State land, BLM or BOR (Sect 5d)		X
Objection from any Municipality or Tribe, (Sect 5e)		X

Statement of fact and Documentation for Items identified as not meeting abandonment requirements:

		REVIEWER	COMMENT	DISQUALIFYING CRITERIA
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		Denise Lacey	NR	
		Ed Williams	NR	
		Jack Lorbeer	NR	
		Jeff Kramer	NO objection	
		Jamie Winterstein	NO objection	
		Nicolaas Swart	NR	
		Paul Driver	NR	
		Tricia Brown	NO objection	
b	COUNTY	P&D	NO objection	
		RE Services	NO objection	
		Parks	NO objection	
		FCD	NO objection	
c	UTILITIES	APS*	NO objection	
		Century Link*	NO objection	
		Scottsdale Water	N/A	
		Cave Creek Water*	NR	
		Cox	N/A	
		SRP	N/A	
		SWG	N/A	
d	GOV AGENCIES	State Land	NO objection	
e	MUNICIPALITIES / TRIBES	Cave Creek	NR	

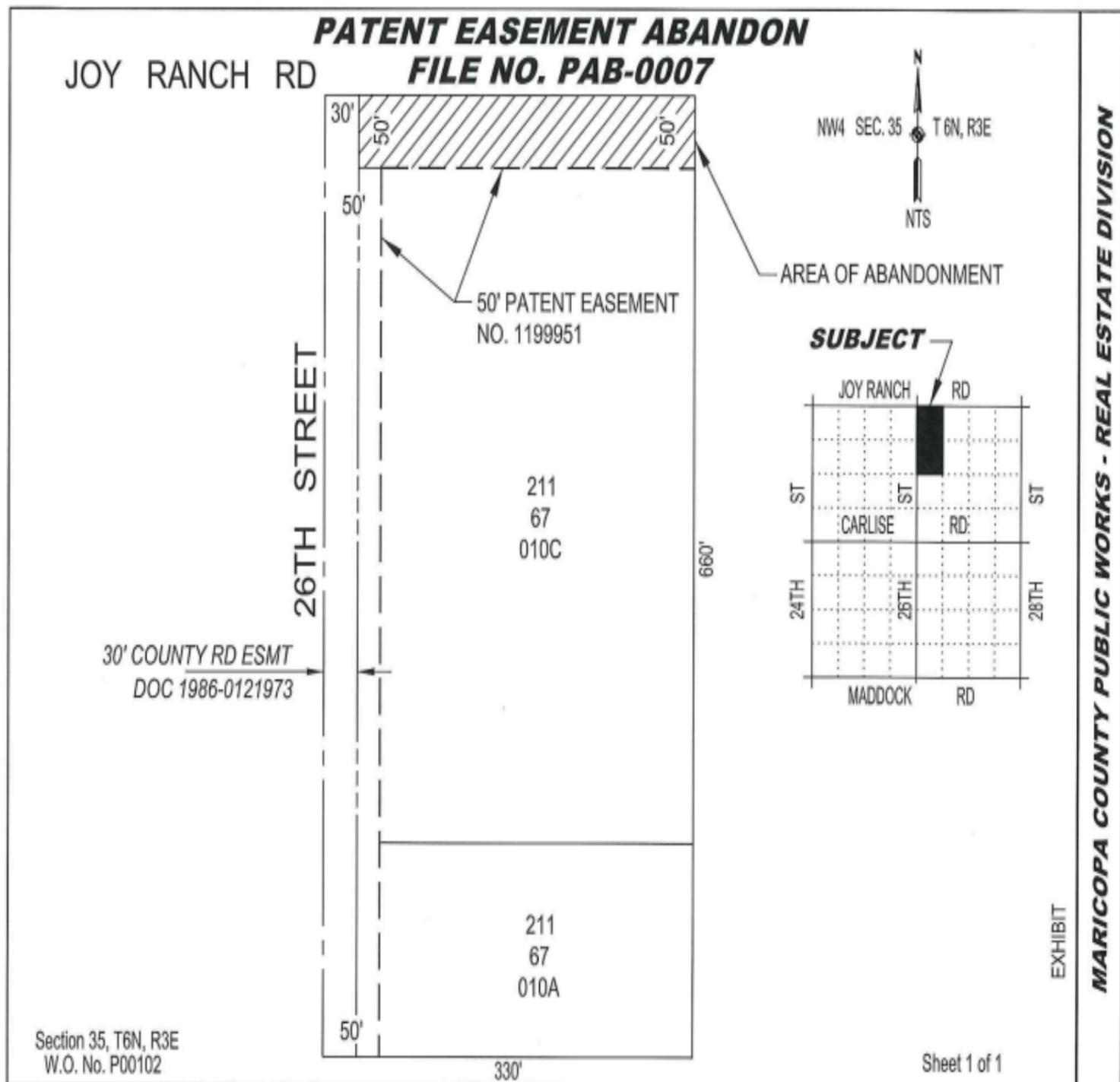
DATE: 7/23/2014

INIT: KG

PUBLIC NOTICE

MARICOPA COUNTY, ARIZONA PATENT EASEMENT ABANDONMENT PAB-0007

NOTICE IS HEREBY GIVEN that Pursuant to A.R.S §11-251.16, a public hearing will be held before the Board of Supervisors of Maricopa County, Arizona, on **January 7, 2014**, at **(9:00) a.m.**, in the Supervisors' Auditorium, 205 West Jefferson, Phoenix, Arizona, to consider the abandonment on Patent Easement No. **(PAB-0007)**, a portion of **Joy Ranch Road at 37703 N 26th Street, Cave Creek, Arizona.**



All persons wishing to appear for or against said Patent Easement Abandonment PAB-0007 are directed to attend the hearing or file a statement in writing with the Maricopa Department of Transportation, Attention: Ken Green, 2901 W Durango St, Phoenix, Arizona, 85009, prior to the hearing.

DATED this **21st** day of **November**, 2014



11/21/2014