

WATER SERVICE AREA REVIEW BOARD (WSARB)

9:00 a.m., Thursday, February 25, 2016
City Hall, 1st Floor, East Conference Room
255 W Alameda, Tucson, AZ 85701



Legal Action Report

- 1. Roll Call:** The meeting was called to order by Chairperson Nicole Ewing-Gavin at 9:00 a.m. Those present were:

WSARB Members present:

Nicole Ewing-Gavin Interim Director, Planning and Development Services (Chair)
Jim Mazzocco Interim Zoning Examiner

Members absent:

Albert Elias Assistant City Manager

Appellant:

Jesus A. Gamez 10750 S Nogales Hwy

Representing Tucson Water:

Richard Sarti System & Development Engineering Manager, Tucson Water

Others Present:

Flor Gill Bridging Gaps
Brian Wong CWAC
Carolyn Campbell Community Water Coalition
Andrew Greenhill Intergovernmental Management Coordinator
Johanna Hernandez Staff Assistant, Tucson Water
Kris LaFleur Staff Assistant, Tucson Water
Chris Avery Assistant Attorney, City of Tucson
Steve Arnquist Council Aide, Ward 1
Amy Stabler Council Aide, Ward 6

- 2. Announcements** – There were no announcements.
- 3. Review and Approval of LAR and Minutes from 10/28/2015** – Member Jim Mazzocco motioned for approval of the meeting minutes from October 28, 2015. The motion was seconded by Chair Nicole Ewing-Gavin. The motion passed unanimously by a voice vote of 2-0.
- 4. Water Service Request – 10750 S Nogales Hwy**
 - a. Report from Tucson Water Staff** – Mr. Richard Sarti provided a staff report on the denial of water service for 10750 S Nogales Hwy. The parcel is in unincorporated Pima County and outside of Tucson Water's obligated service area. One adjacent parcel to the north of the subject property is currently served by Tucson Water. The property to the west of the parcel is owned by Asarco, and the property to the east is owned by Union Pacific Railroad (UPRR), neither of which are served by Tucson Water. Mr Sarti reported that the parcel does not meet infill requirements under the Water Service Area Policy (WSAP), and was therefore denied service.

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- b. **Response from Appellant** – Mr. Jesus A. Gamez, owner of the parcel at 10750 S Nogales Highway, discussed his case with the Board with the assistance of Ms. Flor Gill, a Spanish-language interpreter. Mr. Gamez indicated that he had built a house on the property, although he is not yet living there, and that he also has animals on the property. He explained that he currently obtains water for his animals from a neighbor, but needs water service for the house. He explained that he has applied for permission to drill a well, but has not received permits. Mr. Gamez stated that the denial of water service made him feel discriminated against.
- c. **Call to the Audience** – Ms. Carolyn Campbell reminded those present that the WSAP was created through a long process involving public input. She thanked Tucson Water for following the policy, and encouraged the Board to uphold Tucson Water's decision.
- d. **WSARB Deliberation, and Recommendations or Decisions** – Chair Ewing-Gavin asked Mr. Chris Avery to clarify how the WSAP should be applied in situations where neighboring parcels are not serviceable by Tucson Water, as with set-aside lands such as national forest or state parks. Mr. Avery indicated that the neighboring Asarco and UPRR properties were private lands, and could not be considered non-serviceable.

Chair Ewing-Gavin asked staff if the parcel would be eligible for a private well. Mr. Sarti indicated that such a decision would be under the purview of the Arizona Department of Water Resources (ADWR), and not Tucson Water. Mr. Avery added that Tucson Water would not object to the appellant obtaining a well on the parcel under the state's exempt well statute [ARS §45-454].

Member Mazzocco asked staff to restate the criteria for denying water service to the parcel. Mr. Sarti specified that, in order to receive new service from Tucson Water, a parcel [outside of Tucson's Water Service Area] must be adjacent on three sides to other parcels currently being served [or obligated to be served] by Tucson Water. He reiterated that the parcel was denied service because it did not meet the criteria.

Member Mazzocco stated that the Board's role is to decide if Tucson Water has properly applied the WSAP when denying service. Chair Ewing-Gavin stated that Tucson Water had correctly followed policy in the current case.

Chair Ewing-Gavin pointed out that the subject parcel is separated from City Limits only by UPRR property [and the Nogales Hwy right of way]. She asked Mr. Avery if the property would be eligible for annexation or pre-annexation consideration by the City. Mr. Avery indicated that the parcel was not located in an area currently considered suitable for annexation by Mayor & Council, and that annexation into the City would not be an option.

Members and staff discussed the Tucson Water infrastructure located in Nogales Hwy, adjacent to the subject parcel.

Chair Ewing-Gavin asked staff if other water providers are located in the area, and Mr. Sarti indicated there are none.

Discussion among Members and Mr. Avery was held to develop a motion.

Member Mazzocco moved that the appeal be recommended for Mayor & Council consideration due to the following criteria:

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- Properties east and west of the parcel are unlikely to ever receive Tucson Water service
- The parcel is nearly adjacent to City Limits
- The parcel is a single-home site adjacent to TW infrastructure

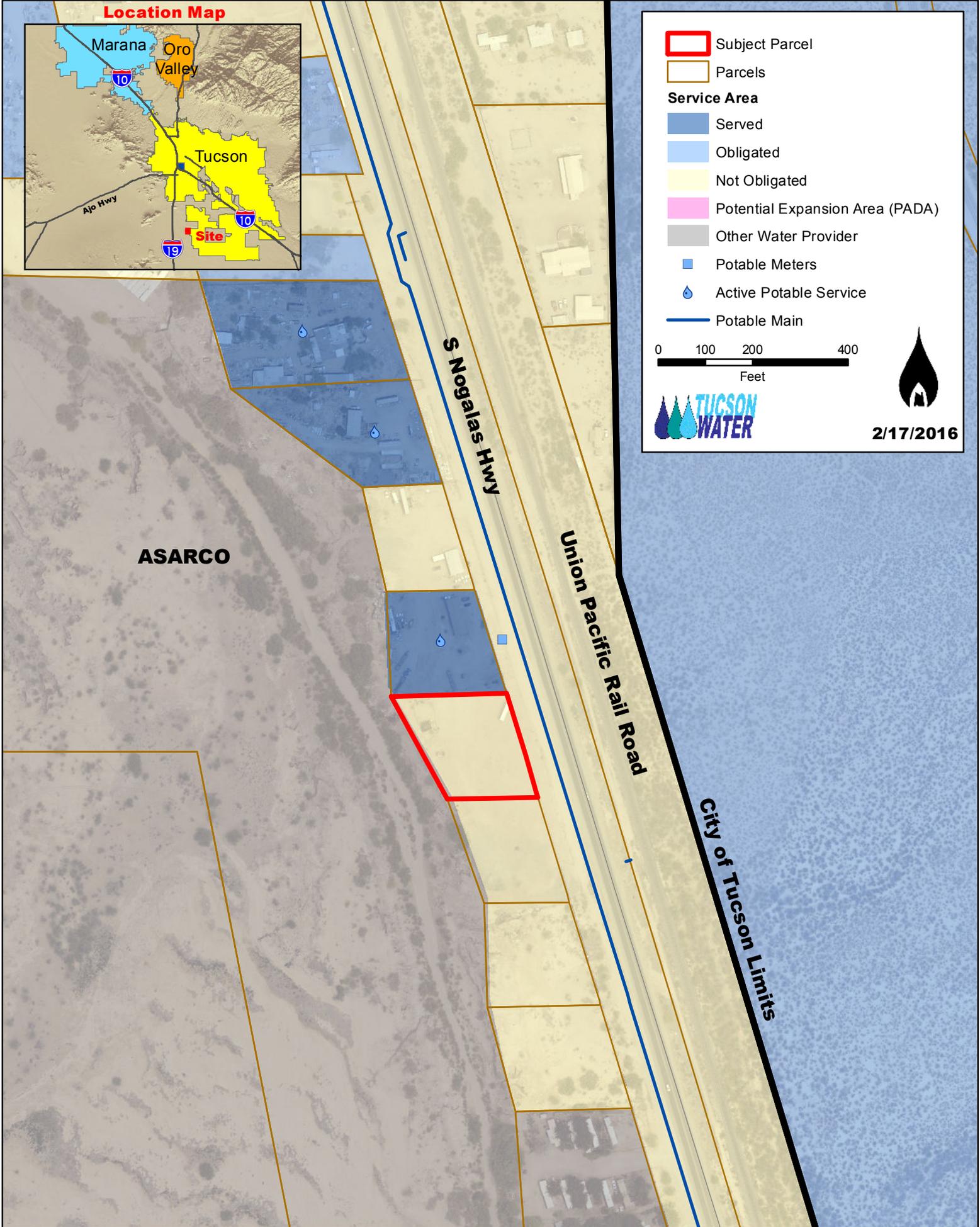
The motion also contained Member Mazzocco's recommendations that:

- Mayor & Council should consider annexation of the parcel, if desirable
- The applicant should continue to pursue an exempt well permit from ADWR

Chair Ewing-Gavin seconded the motion, which passed by voice vote of 2-0.

- 5. Call to the Audience** – Ms. Campbell adamantly disagreed with the Board's decision.
- 6. Adjournment** – The meeting was adjourned at 9:27 a.m.

10750 S Nogales Hwy (303-14-0160)



JESUS ANDRES GAMEZ
10750 S. Nogales HWY
Tucson AZ 85756

January 5th 2016

Attn:
Tucson Water
Strategic Initiatives Division
310 W. Alameda St.
P.O. Box 27210
Tucson, AZ 857226-7210

RE: Denial of water service request

To Whom It May Concern:

I, Jesus Andres Gamez, property owner of the parcel located at 10750 S. Nogales HWY in Tucson AZ
Want to exercise my right to appeal your denial of water service decision.

At your earliest convenience, please inform me when the public discussion can be scheduled. The following is my
contact information:

Email: jjor@live.com
Phone: 520 490 4011
Mail: 10750 S. Nogales HWY Tucson AZ 85756

Respectfully,

Jesus Andres Gamez



Jesus Andres Gamez 1/5/2016



CITY OF
TUCSON

TUCSON WATER
DEPARTMENT

November 24, 2015

Jesus Andres Gamez
450 E. 30th St.
Tucson, AZ 85713

Attn: Jesus Andres Gamez

**SUBJECT: Water Availability for project: 10750 S. Nogales Hwy, APN: 303140160,
Case #: WA1858, T-16, R-14, SEC-07, Lots: 6, Location Code: UNI, Total Area: 1.1ac
Zoning: GR-1**

Tucson Water is unable to provide water service to this parcel due to the fact that it does not conform to the requirements of the Tucson Water Service Area Policy. Please contact the Arizona Corporation Commission at 628-6550 for information regarding other potential water sources.

If you have any questions, please call me at New Development at 791-4718.

Sincerely,

Richard A. Sarti, P.E.
Engineering Manager
Tucson Water Department

RS:ka
CC: File



NEW DEVELOPMENT • P.O. BOX 27210 • TUCSON, AZ 85726-7210
(520) 791-4718 • FAX (520) 791-2501 • TDD (520) 791-2639 • www.tucsonaz.gov/water



ROUTING AND TRANSMITTAL SLIP			Date 11/24/15	
TO: (Name, office symbol, room number, building, Agency/Post)	Initial	Concur	Disagree	
1. Michael Liberti Hydrology (3S)	wfl	✓		
2. Terri Bunting Mapping (2S)	TB	✓		
3. Fred Coy Sys Planning (2W)	FC		✓	
4. New Development Manager	R.S.	✓		

Action	File	X	Note and Return
Approval	For Clearance	<input checked="" type="checkbox"/>	Per Conversation
As Requested	For Correction	<input type="checkbox"/>	Prepare Reply
<input checked="" type="checkbox"/> Circulate	For your Information	<input type="checkbox"/>	See me
<input checked="" type="checkbox"/> Comment	Investigate	<input type="checkbox"/>	Signature
Coordination	Justify	<input type="checkbox"/>	

REMARKS

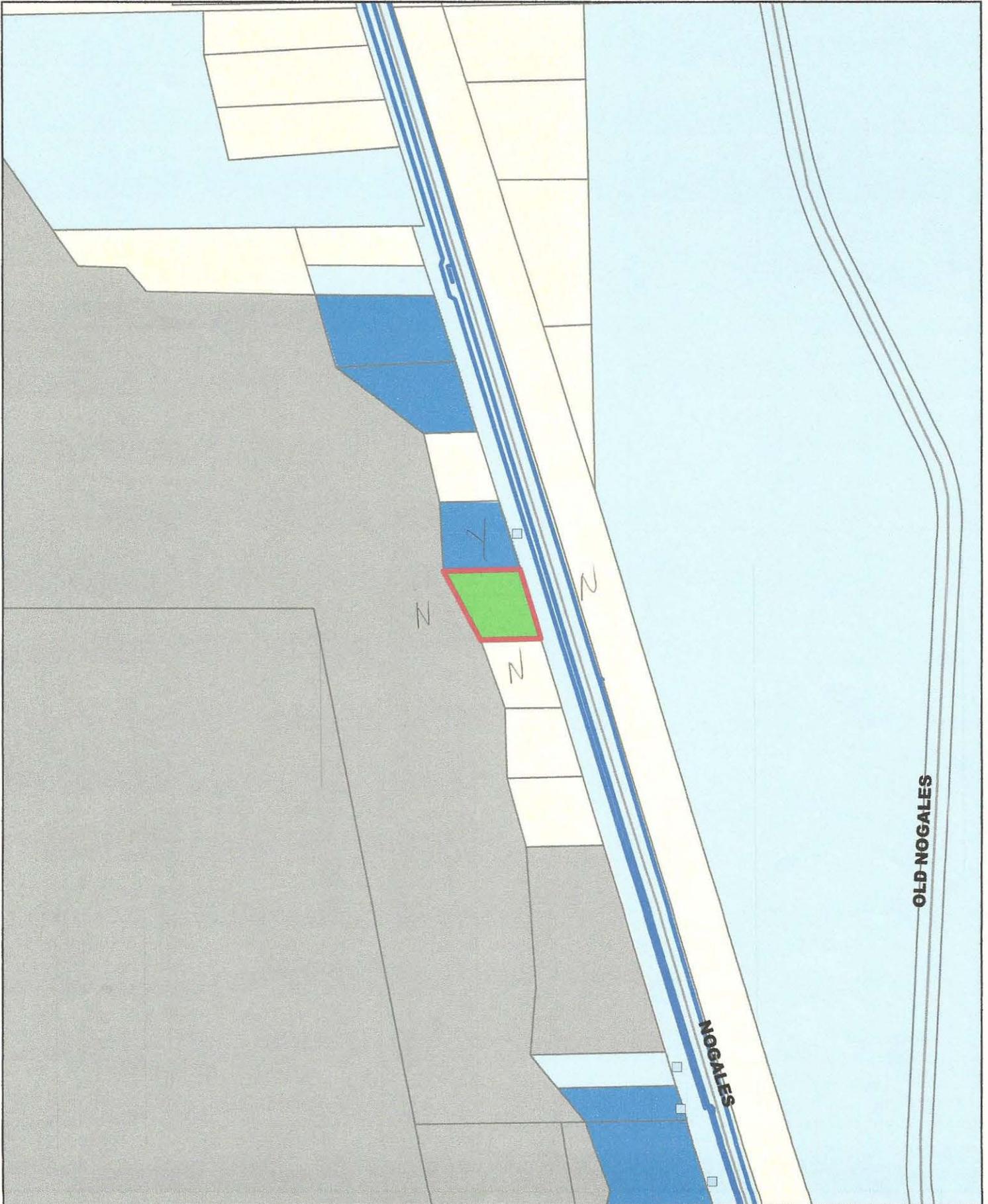
Denial. D.M.I. Only 1 side served.
Please review and route to next person.

West side = Asarco Copper Mine
East side = So. Pacific Railroad, part that is COT obligated

Neither will ever be sold or developed, Parcel is worthless even if south side parcel gets service under our rules.

FROM:	WA 1858
Kellie Anderson	Phone No. 837-2165

10750 S. Nogales Hwy



Water Availability Request

RECEIVED NOV 20 2015

Items needed and required to complete your request.

1. Letter requesting water service "reason for water service needed"
Attn: Richard Sarti

2. Township, Range and Section : 16-14-7

3. Parcel number = tax code : 303-14-0160

GR-1
UNI

4. Attach a location map that clearly defines your parcel, (see sample down below)

5. Name of the parcel or address, if none then closest cross streets:

10750 S Nogales Hwy TUCSON AZ

6. Persons information requesting Water Availability Letter

a. Name: JESUS ANDRES GAMEZ

b. ^(Optional) Business: _____

c. Mailing Address: 450 E 30 ST Zip Code 85713

d. Phone Number: (520) 490-4011

e. Fax Number: _____

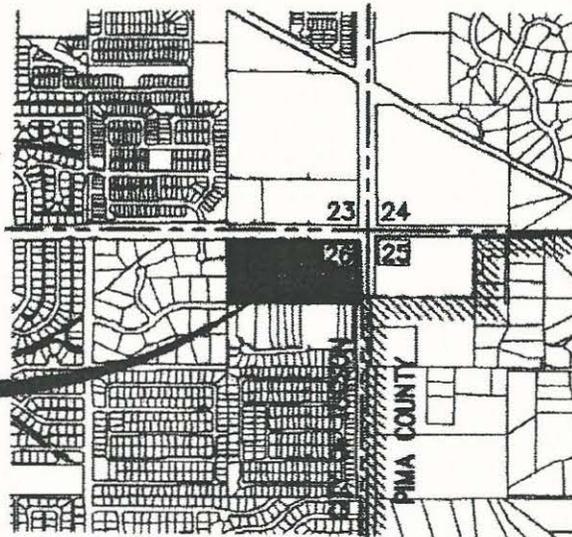
f. Email Address if applicable: JJOR@live.com

*** Sample Only ***



SCALE: 3" = 1 MILE

**THIS
PROJECT**



LOCATION MAP

PORTION OF SECTIONS 23, 24, 25 & 26,
T-14-S, R-15-E, G. & S.R.M., PIMA COUNTY, ARIZONA
CITY OF TUCSON WARD NO. 4

To DRINK AND SHOWER

TURNER ACRES

