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FISSURE NOTICE

This property may be located in an area that may contain Fissures which could be of concern to some individuals. Information regarding fissures can be obtained at the Arizona Geological Survey website: www.azgs.az.gov/CLASEFI.htm

By signing below, Buyer acknowledges receipt of this notice and a copy of the Arizona Republic article "Disclosure on fissures may become Arizona law" dated January 16, 2006 and the AZGS "Earth Fissure Map".

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Disclosure on fissures may become Arizona law

Lisa Nicita
The Arizona Republic
Jan. 16, 2006 12:00 AM

The Arizona Association of Realtors and several elected officials are drafting a bill to try to ensure that buyers receive truthful information about land fissures when they purchase property.

Earth fissures, or subsidence cracks, have been a problem for decades, but they have become more prevalent as growth has pushed toward the agricultural fringes of the Valley.

Many of the fissure areas have not been mapped in years, if at all, and the legislation would provide funding for new surveys.

Reps. Warde Nichols, R-Chandler, and John B. Nelson, R-Glendale, have been working for months with Maricopa County Supervisor Fulton Brock, the Arizona Association of Realtors and the Arizona Geological Survey on the issue.

They hope to introduce their bill in the new Legislative session, which began last Monday.

Input from homeowners, builders, real estate agents and state water and land agencies was gathered in meetings over the past several months. The groups had been working separately on bills for this session, but, "We would like to join forces and push one bill through," said Tom Farley, vice president of government affairs for the Arizona Association of Realtors.

The bill would ensure that properties in fissure and subsidence-prone areas are identified and recorded with the relevant county. Farley said the bill would help real estate agents and buyers feel confident that a seller isn't ignorant or deliberately untruthful about the condition of a property.

"The legislation needed to create this map is not that complicated," Farley said. "We can't force people to read, but we can make sure it's there."

The bill would be particularly helpful on sales of lot splits of fewer than five parcels, which are not regulated by the Arizona Department of Real Estate. It would also provide funding to the Arizona Geological Survey for fissure mapping and education.

"We've been really concerned about this issue, but it involves more than just Maricopa County," Brock said. "It involves Pinal County and the state for sure. We just haven't had the funding."

Lee Allison, new director of the Arizona Geological Survey, said he hopes legislators see how badly the funding is needed. The most current maps for many Valley areas are more than a decade old.

"I'm cautiously optimistic that enough people are concerned with this, and the proposals that are coming forward are very reasonable and practical," Allison said.

The bill comes too late for Joan Etzenhouser, who said such legislation would have helped her when she bought her property in Pinal County. She found three fissure cracks on her property after moving in a little more than a year ago. The one in her front yard is widening even without rain.

"They had to have known there was some really weird large holes on the property,

whether they knew what it was or not," she said. "It's starting to be a hot-button issue. Realtors want to know before they get their butt in a sling."

Etzenhouser said she has been looking for a lawyer to help her, but all of the lawyers she has contacted have expressed a conflict of interest.

"It's looking like if I get anything, that's the only way I may be able to have some recompense for a house that I don't think anyone's going to be dumb enough to buy if I ever want to move," she said.

In addition to developing legislation, Farley said the Realtors association, which has about 47,000 members statewide, will continue to encourage officials with Pinal and Maricopa counties to take advantage of the Growing Smarter Plus legislation passed in 2000. Farley said the gap that exists between the counties and the Arizona Department of Real Estate when it comes to regulating land splits and fissures can be managed better if the counties adopt ordinances that the Growing Smarter legislation allows. Counties were required to adopt parts of the Growing Smarter legislation, but other parts were optional.

"If they were truly seeking good planning, why didn't they adopt the ordinance?" Farley asked.

A provision in the legislation allows counties to adopt ordinances and regulations related to land splits that would require property owners to identify "topographic, hydrologic or other site constraints" before getting a building or use permit. Farley said fissures would fall into one of those categories.

Joy Rich, assistant Maricopa County manager, said the county doesn't think the measure would provide any more substantial information than what is now required. She said that to adopt the statute, the county would have had to add steps to the permit process and charge a fee.

"It duplicates a lot of things that people are already required to provide," she said.

Rich said topographic disclosures include features on top of the ground, while site constraints include drainage features and whether the property is on a hillside. Whether that statute applies to fissures, Rich said, is up for debate.

"I think it's certainly open to interpretation whether or not that section would address fissures," Rich said.

Pinal County, the newest housing hub and home to countless more fissures than Maricopa County, is developing ordinances permitted by Growing Smarter.

Dave Kuhl, county planning and development director, said the Board of Supervisors has directed the county staff to "put something together" that would help the county more clearly regulate minor land divisions. He said the ordinances are expected to go into effect this year.

Instead of submitting legislation this session that would require counties to adopt the specific Growing Smarter ordinances as he first planned, Farley said he will work with the counties in the summer to draft separate lot-split legislation that everyone can agree on.

"What I'm concerned about now is, what do they see that won't work?" he said.

Already in effect is a change the Arizona Department of Real Estate made this year to its subdivision report. Subdivision developers are now required to describe "any known geological conditions such as fissures" and describe "environmental soil remediation" within or close to a subdivision.

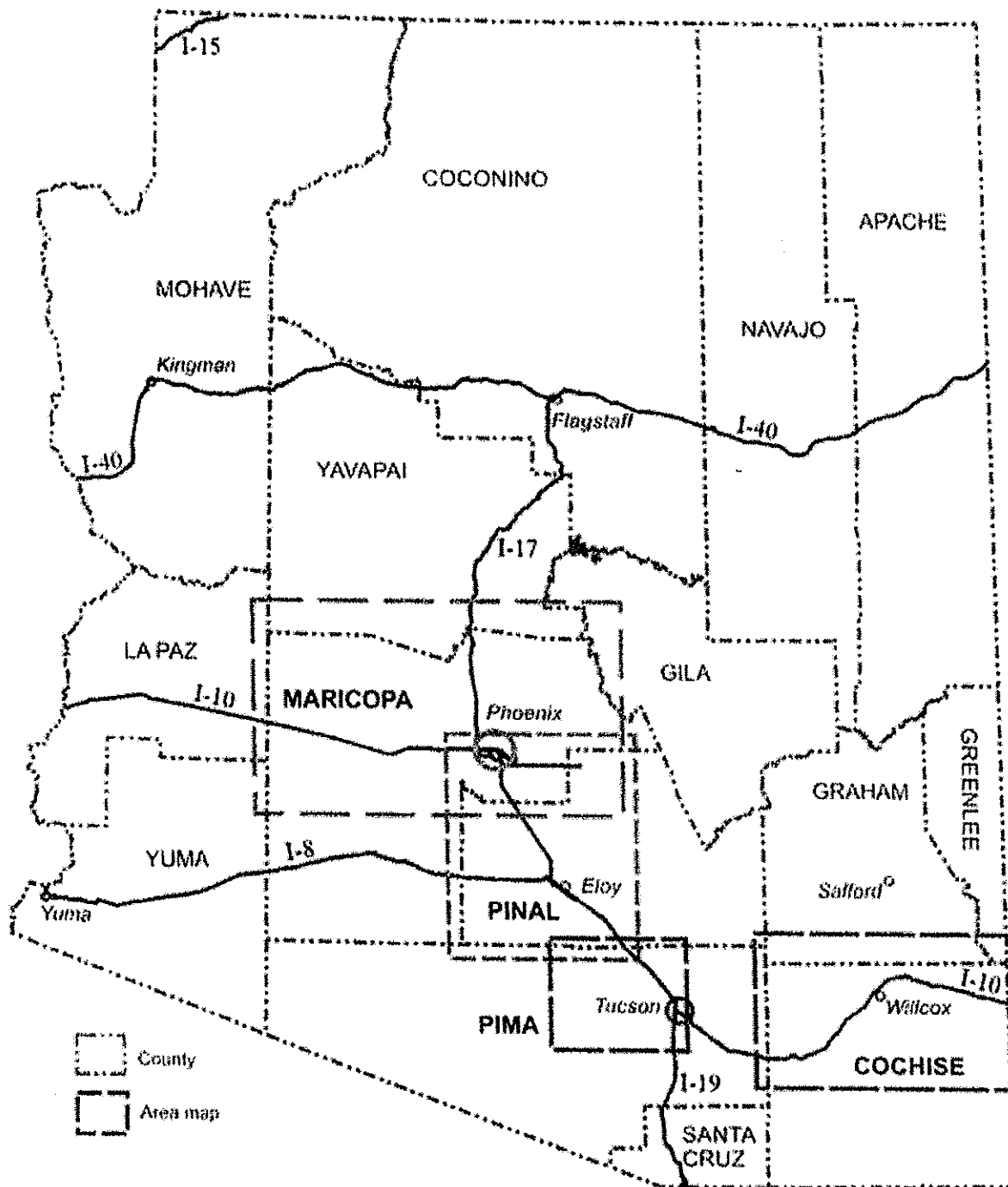
In previous subdivision reports, fissure disclosure was included with a soil study and not singled out.

Reach the reporter at lisa.nicita@arizonarepublic.com of (480) 385-7501.

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Earth Fissure Index Maps



Above map shows the areas in four Arizona counties where earth fissures have been mapped or identified by the Arizona Geological Survey. Individual maps of counties can be viewed by clicking on a county. Areas delineated on county maps indicate which AZGS Open File Report (OFR) contains the detailed maps of the fissures.