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The State of Colorado

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

HIGHWAY DIVISION
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October 9, 1967

IN REPLY REFER TO A.G. NO.

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LEGAL OPINION

Under Colorado Law, it is impossible for a property owner to grant an enforceable easement or right of passage to a utility company by oral consent. The Colorado Statute of Frauds requires a conveyance or charge upon any estate or interest in lands to be in writing. However, an oral agreement may be valid and enforceable if the utility company has entered upon part performance, e.g., by the erection or location of its utility line on the property. It is also possible for a property owner to permit a utility facility to cross his property for the purpose of servicing the same.

Execution of the attached Affidavit D.O.H. Form 307, and the signature of the property owner found on this opinion, indicates that such oral permission with part performance or permission for servicing the same has been granted to the utility company by the property owner.

DUKE W. DUNBAR
Attorney General

JOSEPH M. MONTANO
Chief Highway Counsel
Assistant Attorney General


GEORGE D. DIKEOU
Assistant Attorney General

(Property Owners)

3. That said Corporation has located on such easement its _____

(Description of easement, e.g., ditch, power line, etc.)

4. That said Corporation has received the oral permission of the owner of record of the real property described above to install its utilities on said real property.

5. That upon relocation or removal of the above-cited facilities, when duly authorized and justly compensated therefor by the Colorado Department of Transportation, the _____

(Name of Corporation)

cedes and abandons all rights, interest and title to such claim of easement.

ATTEST: _____
(Corporate Name)

Secretary of Corporation: _____
By: _____
(Name of person signing affidavit)

(SEAL) Title: _____
(Office held in Corporation)

STATE OF COLORADO)
)ss
COUNTY OF _____)

This Affidavit was signed and acknowledged before me this _____ day of _____

_____, 20____ By: _____
(Name of person signing)

_____ of _____
(Office held) (Name of Corporation)

Witness my hand and official seal, this _____ day of _____, 20 _____.

MY COMMISSION EXPIRES

(SEAL) _____
NOTARY PUBLIC, STATE OF COLORADO