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IN REPLY REFER TO A.G. NO.

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LEGAL OPINION

An unrecorded written easement will be binding and enforceable between the property owner granting the same and the utility company to which the easement is granted. However, since this written easement has been lost or destroyed by accident, the proof of its existence would be difficult.

Subsequent property owners who purchase the property without notice of the existence of the easement will not be bound by the terms and conditions thereof as they will be considered good faith purchasers without notice.

It is important to note, however, that DOH Form 310 indicates that the utility facility is in existence on the easement referred to therein. The existence of this easement should be sufficient performance on the part of the utility company to bind the property owner even though the easement cannot be produced and should also serve as constructive notice to all subsequent property owners that an interest across the land is found in the utility company.

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Project(UT) _____

Project(CN) _____

Location _____

AFFIDAVIT

STATE OF COLORADO)
)ss
COUNTY OF _____)

I, _____,
(Name of person signing affidavit)
of _____,
(Name of Corporation)

being of lawful age, hereby state, declare and affirm that:

1. I am the duly elected _____
(Office, e.g., President, etc.)
of _____
(Name of Corporation)

and, as such, I am duly authorized by the By-Laws and Articles of said Corporation to execute this Affidavit.

2. I am familiar with and have knowledge of the easement of said Corporation, passing on, over or under real property described as:

(Insert description of real property over which the easement in question passes.)

which property is owned of record by _____
(Name of Owner)

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

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

4. That said Corporation has been given a written easement over the above-described property by the record owner of said property, but said written easement has not been recorded.

5. That said easement has been lost or destroyed by accident and can no longer be produced.

6. 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)

(Office held) of _____
(Name of Corporation)

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

MY COMMISSION EXPIRES

(SEAL)

NOTARY PUBLIC, STATE OF COLORADO