

**EL DORADO COUNTY BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL
Meeting of October 3, 2006**

AGENDA TITLE: Abandonment of Easement #2006-13; Tahoe Paradise Unit No. 45, Lot 27; Judith C. Igoe and Shawn M. Igoe

DEPARTMENT: Transportation

DEPT SIGNOFF: 

CAO USE ONLY:

CONTACT: Deborah Gruber 

DATE: 8/22/2006

PHONE: XT 6519/5982

C - usg

DEPARTMENT SUMMARY AND REQUESTED BOARD ACTION:

The El Dorado County Department of Transportation recommends the Board of Supervisors:

1. Adopt the Resolution of Vacation
2. Authorize the Chairman to sign the Resolution.

CAO RECOMMENDATIONS:

*Recommend approval. Laura S. Glee
9/25/06*

Financial impact? () Yes (X) No

Funding Source: () Gen Fund () Other

BUDGET SUMMARY:

Other:

CAO Office Use Only:

Total Est. Cost _____

4/5's Vote Required () Yes () No

Funding

Change in Policy () Yes () No

Budgeted _____

New Personnel () Yes () No

New Funding _____

Savings _____

Other _____

CONCURRENCES:

Total Funding _____

Risk Management _____

Change in Net County Cost _____

County Counsel _____

Other _____

***Explain**

BOARD ACTIONS:

Vote: Unanimous _____ Or

I hereby certify that this is a true and correct copy of an action taken and entered into the minutes of the Board of Supervisors

Ayes:

Date: _____

Noes:

Attest: Cindy Keck, Board of Supervisors Clerk

Abstentions:

Absent:

By: _____



MAINTENANCE DIVISION:
2441 Headington Road
Placerville CA 95667
Phone: (530) 642-4909
Fax: (530) 642-9238

RICHARD W. SHEPARD, P.E.
Director of Transportation

Internet Web Site:
<http://co.el-dorado.ca.us/dot>

MAIN OFFICE:
2850 Fairlane Court
Placerville CA 95667
Phone: (530) 621-5900
Fax: (530) 626-0387



August 22, 2006

Board of Supervisors
330 Fair Lane
Placerville, California 95667

**Title: Abandonment of Easement #2006-13;
Tahoe Paradise Unit No. 45, Lot 27;
Judith C. Igoe and Shawn M. Igoe**

Meeting Date: October 3, 2006 \ District V \ Supervisor: Norma Santiago

Dear Members of the Board:

Recommendations:

The Department of Transportation recommends the Board of Supervisors:

1. Adopt the Resolution of Vacation.
2. Authorize the Chairman to sign the Resolution.

Reasons for Recommendations:

Public utility easements, as shown on the Tahoe Paradise Unit No. 45 final map, filed for record in Book D of Subdivision Maps at Page 32, were irrevocably offered in perpetuity to the County of El Dorado and accepted by Board of Supervisors in November of 1964.

An application has been submitted by Judith C. Igoe and Shawn M. Igoe, requesting a setback variance, more particularly described in Exhibit A and depicted in Exhibit B of the attached Resolution, reducing the minimum front yard setback to ten-feet, upon the condition that a Notice of Restriction Hold Harmless Agreement be executed and recorded in favor of the County of El Dorado. Owner acknowledges that the real property will be benefited by this action, and thus it is the intent that this deed restriction and indemnity covenant be recorded, be included in each subsequent conveyance of the property and shall be binding on all successors and assigns of the Owner.

The subject property is identified as Assessor's Parcel Number 034-662-04, Tahoe Paradise Unit No. 45, Lot 27, and is located on Arikara Street, east of Highway 89, and south of Pioneer Trail, in Meyers. Said action is necessary to accommodate construction of a garage and additional dwelling space on the subject lot.

All utility companies and agencies that may possibly be impacted by this vacation have supplied the Department of Transportation with written notification that they have no facilities within the subject area and have no objection to the proposed abandonment. All other existing easements will remain. The Department of Transportation's staff has reviewed the request and has no objection.

Fiscal Impact:

None.

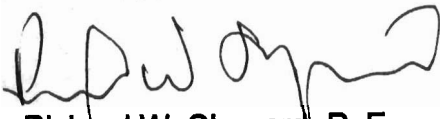
Net County Cost:

There is no net County cost.

Action to be Taken Following Approval:

1. Said Resolution will be recorded.
2. A copy of the recorded Resolution will be sent to the property owner.
3. A Notice of Deed Restriction and Covenant to Indemnify the County of El Dorado will be recorded.
4. A Certificate of Correction may be recorded.

Sincerely,



Richard W. Shepard, P. E.
Director of Transportation

RWS: PF/dg

Attachment(s): Vicinity Map
Resolution
Exhibits
Notice of Deed Restriction and Covenant to Indemnify the County of El Dorado

149

171

EL DORADO

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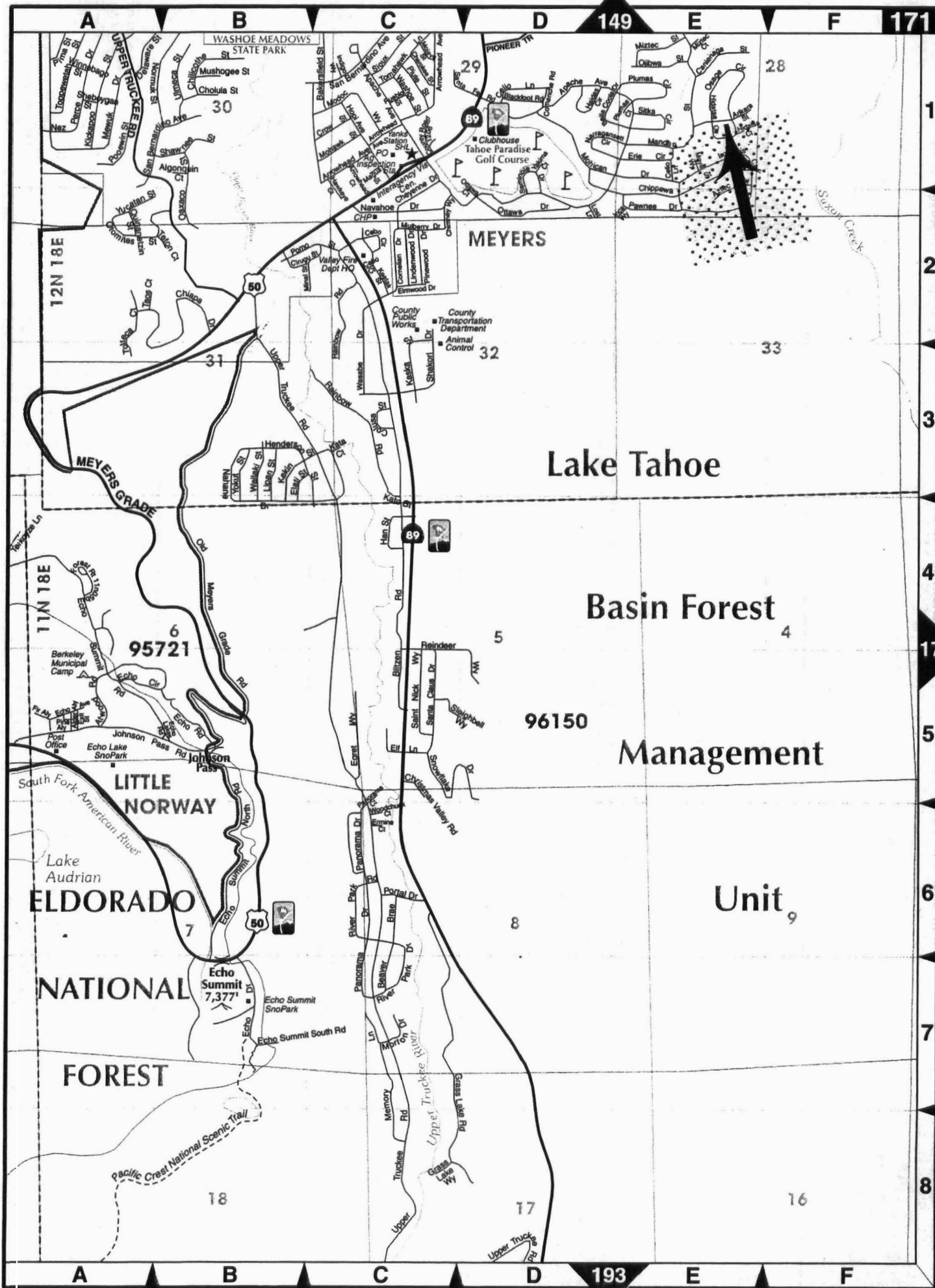
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See Page





RESOLUTION NO. _____
OF THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO
Resolution of Vacation
Abandonment of Easement #2006-13
Tahoe Paradise Unit No. 45, Lot 27
Assessor's Parcel Number 034-662-04
Judith C. Igoe and Shawn M. Igoe

WHEREAS, the El Dorado County Board of Supervisors exercises the authority established by Section 8333 of the Streets and Highways Code, which authorizes the Board of Supervisors to summarily vacate public service easements by Resolution adopted in accordance with Section 8335 of the Streets and Highways code; and

WHEREAS, public utility easements, as shown on the Tahoe Paradise Unit No. 45 final map, were irrevocably offered in perpetuity to the County of El Dorado and the Board of Supervisors accepted said offer in November of 1964; and

WHEREAS, the Department of Transportation has received an application from Judith C. Igoe and Shawn M. Igoe requesting that the County of El Dorado vacate a portion of a twenty-foot wide public utility easement, located along the south boundary line of the property identified as Assessor's Parcel Number 034-662-04; and

WHEREAS, A. T. & T., Charter Communications, Sierra Pacific Power, South Tahoe Public Utility District and Southwest Gas Corporation have not used said public utility easement for the purpose for which it was dedicated or acquired; and

WHEREAS, the above noted utility companies find no present or future need exists for said easement and do not object to its vacation; and

WHEREAS, all other existing easements will remain; and

WHEREAS, the Department of Transportation has determined that said easement herein described in Exhibit A and depicted in Exhibit B, and made a part hereof has not been used for the purpose for which it was dedicated preceding the proposed vacation, and has no objection.

NOW, THEREFORE BE IT RESOLVED, that from and after the date this Resolution is recorded, said portion of the public utility easement which is described in Exhibit A and depicted in Exhibit B is vacated and no longer constitutes a public utility easement.

PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held on the _____ day of _____, 2006, by the following vote of said Board:

ATTEST
CINDY KECK
Clerk of the Board of Supervisors

Ayes:
Noes:
Absent:

By _____
Deputy Clerk James R. Sweeney, Chairman, Board of Supervisors

I CERTIFY THAT:
THE FOREGOING INSTRUMENT IS A CORRECT COPY OF THE ORIGINAL ON FILE IN THIS OFFICE.

DATE _____
ATTEST: CINDY KECK, Clerk of the Board of Supervisors of the County of El Dorado, State of California

By _____
Deputy Clerk

EXHIBIT "A"

All that certain real property located in the County of El Dorado, State of California, being a portion of the southwest quarter of Section 28, Township 12 North, Range 18 East, M.D.M., described as follows:

A strip of land, 20 feet in width , being the southerly 20 feet of Lot 27, Tahoe Paradise Unit No. 45, the plat of which is filed for record in the Office of the El Dorado County Recorder in Book D of Maps, at Page 32.

EXCEPTING THEREFROM the easterly 20 feet of said 20 foot wide strip.

ALSO EXCEPTING THEREFROM the westerly 2 feet of said 20 foot wide strip.

Containing 2,091 square feet, more or less.

The basis of bearing for this description is identical to Tahoe Paradise Unit No. 45.

See attached Exhibit "B".

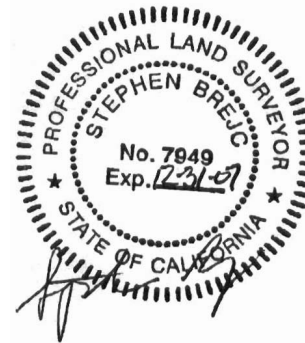

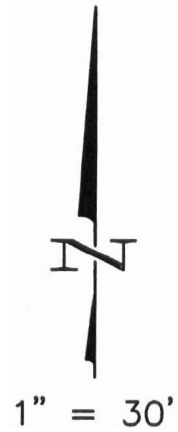


EXHIBIT "B"

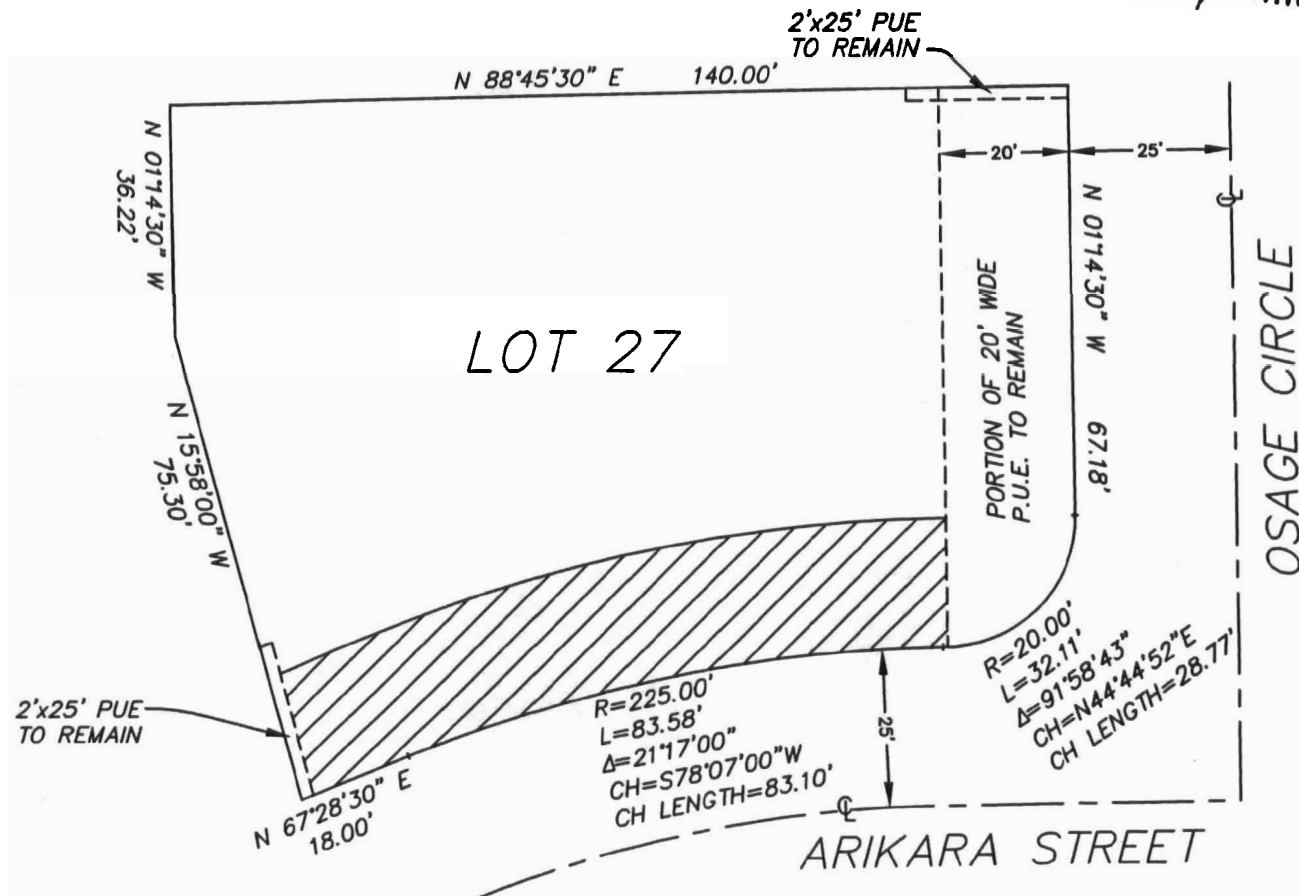
LEGEND

 20' WIDE PUE TO BE ABANDONED

--- EASEMENT LINE



LOT 27
 TAHOE PARADISE UNIT NO. 45
 APN 034-662-04



RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:
Steve Kooyman, P.E. Supervising Civil Engineer
Tahoe Engineering
El Dorado County
924 B Emerald Bay Road
South Lake Tahoe, CA 96150
APN: 034-662-04

Above section for Recorder's use

NOTICE OF DEED RESTRICTION AND COVENANT TO INDEMNIFY THE COUNTY OF EL DORADO

WHEREAS, the undersigned **JUDITH C. IGOE and SHAWN M. IGOE** (hereinafter referred to as "Owner") is the legal and record owner of the real property described as El Dorado County Assessor's Parcel Number 034-662-04 whose legal description is as follows:

See Exhibit A attached hereto and made a part hereof.

WHEREAS, the aforementioned real property adjoins a County road right-of-way, specifically Arikara Street, owned and maintained by the County of El Dorado; and

WHEREAS, Owner applied to the County of El Dorado to reduce the minimum 20-foot front yard building setback, required pursuant to Section 17.56.040(A) of County Code, to allow the construction of a garage and additional dwelling space on Lot 27; and

WHEREAS, all other setbacks and easements applicable to Lot 27, whether originating in the zoning code or by the subdivision map itself, remain in effect; and

WHEREAS, on October 3, 2006, the County of El Dorado granted the owner of the aforementioned real property, the requested setback variance reducing the minimum front yard setback upon the condition that a Notice of Restriction Hold Harmless Agreement shall be executed and recorded in favor of the County of El Dorado which places restrictions on the property in accordance with the conditions. Owner acknowledges that the real property will be benefited by this action, and thus it is the intent of the parties that this deed restriction and indemnity covenant be recorded, be included in each subsequent conveyance of the property and shall be binding on all successors and assigns of the Owner.

NOW, THEREFORE, for valuable consideration inclusive of the benefits conferred on the real property the receipt of which is hereby acknowledged, we, **JUDITH C. IGOE and SHAWN M. IGOE**, Owners of the herein described property, on behalf of ourselves, our heirs, assigns and successors, do hereby agree that, to the fullest extent allowed by law, we shall defend, indemnify, and hold harmless the County of El Dorado, its officers, employees, agency and representatives from and against any and all claims, actions, losses, injuries, damages and liability for damages, demands, actions, losses, costs, penalties and expenses or every name, kind, and description, including litigation cost and attorneys fees incurred, directly or indirectly arising out of, casually connected with, or resulting from the existence of the garage and dwelling space within the setback from the right-of-way on Arikara Street, adjacent to the aforementioned real property, excepting only loss, damage or other liability solely attributable to the gross negligence or willful misconduct of the County of El Dorado.

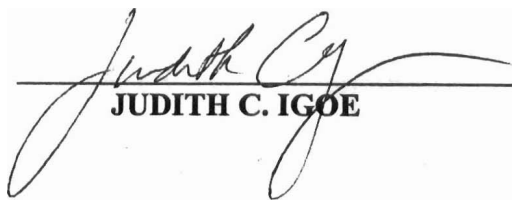
This duty to indemnify, hold the County of El Dorado free and harmless, includes the duties to defend, inclusive of this set forth in California Civil Code Section 2778. This duty of defense and indemnity shall run with the land and be binding upon any successor owner of the aforementioned real property, and shall inure to the benefit of the County of El Dorado and successor public agency owning or maintaining the aforementioned right-of-way.

We, **JUDITH C. IGOE and SHAWN M. IGOE**, Owners of the herein described real property, on behalf of ourselves, our heirs, assigns, and successors, do further covenant and agree that all subsequent grant(s) of an interest in this aforementioned real property, in whole or in part, shall be made on the condition that the aforementioned indemnity and defense provision shall be included in its entirety in the grant of deed to the successive owner(s) such that the successive owner(s) shall likewise indemnify and hold harmless the County of El Dorado.

This instrument shall be recorded in the Office of the El Dorado County Recorder-Clerk as provided in Civil Code Section 1468.

IN WITNESS WHEREOF, GRANTORS have hereunto subscribed their names this 23rd day of August, 2006.

GRANTORS



JUDITH C. IGOE



SHAWN M. IGOE

(All signatures must be acknowledged by a Notary Public)

EXHIBIT A

The land referred to in this Report is situated in the unincorporated area of the County of El Dorado, State of California, and is described as follows:

Lot 27, as shown on that certain Map entitled "Tahoe Paradise unit No. 45", filed in the office of the County Recorder of El Dorado County, State of California, on November 30, 1964, in Map Book "D" at Page 32.

EXCEPTING THEREFROM all oil, gas and hydrocarbon substances and all minerals of whatever kind or nature, together with the right to recover the same, provided, however, that such recovery shall only be by means of slant drilling or by mine shaft mining below a depth of 100 feet from the surface, as reserved by Lake Tahoe Mortgage and Loan, Inc., a California Corporation, in deed recorded August 12, 1965, in Book 752 of Official Records, at page 439.

APN: 034-662-04-100

STATE OF California

COUNTY OF El Dorado

On August 23, 2006 before me, Judy Brown, Notary Public
(Name of Notary Public)

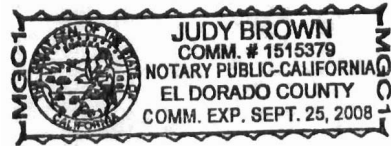
personally appeared Judith C. Igoe and Shawn M. Igoe

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.



Judy Brown



(This area for notarial seal)