

**AGREEMENT
TO
FIRST AMENDMENT TO EASEMENT
(Amendment to Prior Easement Recorded in Book 672 at Page 755)**

THIS FIRST AMENDMENT TO EASEMENT (this "Agreement") is executed and granted with an effective date of the 7 day of September, 1998.

1. **PARTIES**. The parties to this Amended Easement are:
 - 1.1 ROBERT C. SCHUTT, JR. and SUZANNE M. SCHUTT (the "Schutts"); and
 - 1.2 TODD E. HEGSTROM ("Hegstrom").
2. **RECITALS**. The recitals applicable to this Agreement are as follows:

2.1 The Schutts are the owners of the real property described in Exhibit "A", attached and incorporated by reference, and commonly referred to as the 107-acre parcel.

2.2 Hegstrom is the owner of the parcel of real property described in Exhibit "B", attached and incorporated by reference, and commonly referred to as Lot 6, Slate River Estates.

2.3 On December 1, 1989, the Schutts were the owners of record of both the 107-acre parcel and Lot 6, Slate River Estates, and created and filed an easement (the "original easement") in the Gunnison County Clerk and Recorder's office in Book 672 at Page 755. Subsequently, the Schutts conveyed Lot 6, Slate River Estates, to Hegstrom.

2.4 The parties now desire by this document to amend the original easement to move the location of the non-exclusive easement from its current location to an area where it shall lie and run adjacent to the west boundary of Lot 6, Slate River Estates. The parties also desire to relocate the existing driveway and utility lines to the location of a new easement.

2.5 In consideration of the mutual terms and considerations of this Agreement, the parties agree as further set forth.

3. **NEW EASEMENT LOCATION**. The parties agree to vacate and rescind the easement and right-of-way described under the original easement, subject to the terms and conditions set forth in paragraph 9 below, and convey, accept and agree that the legal description of the amended easement shall be as described in the legal description prepared by Colorado licensed surveyor James P. Furey, a copy of which is attached as Exhibit "C", and incorporated by reference.

4. IMPROVEMENT LOCATION CERTIFICATE. An Improvement Location Certificate prepared by James P. Furey, Colorado licensed surveyor #11250, depicting the location of the original easement and the ~~20~~-foot-wide right-of-way created under the amended easement is attached as Exhibit "D", and incorporated by reference.

Handwritten notes:
20 ft
JK
JK
JK

5. RELOCATION OF ROAD AND UTILITIES. Hegstrom agrees to construct, in a workman-like manner, at his sole expense, a new access road or driveway of the same or similar condition and width of the currently existing road which serves as the Schutts' driveway to their 107-acre parcel. The new road shall be located within the easement described by James P. Furey, Colorado licensed surveyor #11250, previously described and attached as Exhibit "D", and incorporated by reference. The new road shall commence at a point where the southern boundary of Lot 6 adjoins Slate River Drive, shall extend to the northern boundary of Lot 6, and shall then intersect with the existing roadway on the Schutts' 107-acre parcel. Hegstrom will also relocate all existing utilities lines to the amended easement, at his sole expense, and in a workman-like manner.

6. INSPECTION OF WORK. Upon completion of the work, Hegstrom shall notify the Schutts who shall have the opportunity to inspect the location and condition of the new road.

Handwritten notes:
(Natural gas, electric, telephone, and cable TV) JK JK

7. PAYMENT FOR WORK. Hegstrom agrees to be solely responsible for all expenses related to the preparation of this Agreement and the work contemplated by it. Concurrently with the final payment to any contractor(s) for said work, Hegstrom will obtain a lien waiver and release from said contractor(s) and provide a copy to the Schutts.

8. COVENANT. This Agreement shall constitute a covenant running with the land, and may only be amended by the execution of a written instrument executed by the owner or owners of the parcels of land described in attached Exhibits "A" and "B", and shall inure to and be binding upon their respective successors, heirs, personal representatives, or assigns.

9. ORIGINAL EASEMENT. The original easement, except as is specifically amended or modified as set forth above, shall remain in full force and effect, so long as either the existing driveway, or any utility lines, lie within said easement. Upon the relocation of the driveway and all utility lines to the amended easement location, the original easement shall be vacated by written, recorded notice of same filed by the Schutts.

10. ATTORNEY'S FEES. It is agreed that if any action is brought in a court of law by any party to this Agreement as to the enforcement, interpretation or construction of this Agreement, or any document it provides for, the prevailing party in such action shall be entitled to reasonable attorney's fees, as well as all costs incurred in the prosecution or defense of such action.

Handwritten mark: JK

11. **LEGAL REPRESENTATION.** The parties acknowledge that the Schutts were represented by Cliggett & Associates, P.C., Attorneys at Law, in the preparation of this Agreement, and Hegstrom is encouraged to have said Agreement reviewed by his own legal counsel.

12. **ENTIRE AGREEMENT.** This written easement contains the entire and only agreement between the Schutts and Hegstrom, and no oral statements or representations not contained in this easement shall be of any force or effect between the parties.

IN WITNESS WHEREOF, the parties have executed this Amended Easement effective the date first written above.

THE SCHUTTS:

Robert C. Schutt, Jr.
Robert C. Schutt, Jr.
Suzanne M. Schutt
Suzanne M. Schutt

HEGSTROM:

Todd E. Hegstrom
Todd E. Hegstrom

STATE OF TEXAS)
) ss.
County of *Lubbock*)

The foregoing instrument was acknowledged before me this *14* day of *October*, 1998, by **Todd E. Hegstrom.**
WITNESS my hand and official seal.
My commission expires:

(SEAL)

Suzanne Schutt
Notary Public

STATE OF COLORADO)
) ss.
County of Gunnison)

The foregoing instrument was acknowledged before me this 7th day of September, 1998, by **Robert C. Schutt, Jr.**
WITNESS my hand and official seal.
My commission expires: 3-27-99

(SEAL) Christine S. Hall
Notary Public

STATE OF COLORADO)
) ss.
County of Gunnison)

The foregoing instrument was acknowledged before me this 7th day of September, 1998, by **Suzanne M. Schutt.**
WITNESS my hand and official seal.
My commission expires: 3-27-99

(SEAL) Christine S. Hall
Notary Public

EXHIBIT "A"

Situate in Sections 1, 11 and 12, Township 14 South, Range 86 West, 6th P.M., as follows:

Commencing at the Southwest corner of said Section 1, thence North along the West section line approximately 2640 feet to the West quarter corner of said Section 1; thence N 89°49'44" E along the North line of the SW $\frac{1}{4}$ of said section a distance of approximately 1,320 feet to the thread of Slate River, a point on the westerly boundary of Silver Sage Subdivision; thence southerly along the thread of Slate River S 00°34'08" W 40.92 feet; thence S 79°19'49" E 69.58 feet; thence S 21°33'52" E 179.57 feet; thence S 66°43'04" E 179.63 feet; thence S 14°22'53" E 241.57 feet; thence S 05°18'26" E 367.58 feet; thence S 20°44'46" E 282.30 feet; thence S 02°25'41" 163.24 feet to a point on the North line of SE $\frac{1}{4}$ SW $\frac{1}{4}$, said Section 1; thence along said North line S 89°19'47" W 545.00 feet to the Northwest corner of the SE $\frac{1}{4}$ SW $\frac{1}{4}$, said Section 1; thence southerly along the West line of said SE $\frac{1}{4}$ SW $\frac{1}{4}$, Section 1, a distance of approximately 1050± feet to the point of intersection with the northwest corner of Lot 9, Slate River Estates; thence N 89°09'11" W 174.83 feet; thence S 70°37'23" W 281.07 feet; thence S 86°06'57" W 98.46 feet; thence S 79°51'09" W 151.71 feet; thence S 63°27'56" W 158.44 feet; thence S 41°15'36" W 132.25 feet; thence S 08°02'18" E 161.80 feet; thence S 24°51'40" E 327.47 feet; thence S 65°13'30" W 600.70 feet to a point on the East right-of-way boundary of State Highway 135; thence along said highway right-of-way N 56°34'48" W 557.94 feet; thence East 70.75 feet; thence N 44°12'34" W 434.35 feet; thence northerly 38°00'00" W 425 feet, more or less, to the intersection of the North line of said Section 11; thence N 89°37' E 1022 feet, more or less, to the southwest corner of said Section 1, the point of beginning,

County of Gunnison,
State of Colorado.

EXHIBIT "B"

Lot 6, Slate River Estates, according to the
plat thereof filed for record June 5, 1980,
bearing Reception No. 350487,

County of Gunnison,
State of Colorado.

EXHIBIT "C"

Easement Description prepared for John Collins.

A easement for ingress, egress, construction and maintenance of a road across a tract of land within Lot 6 of Slate River Estates, a recorded subdivision within Gunnison County, Colorado, said tract being more particularly described as:

The westerly ~~20.00~~ ^{15.00} feet of Lot 6, Slate River Estates, a recorded subdivision within Gunnison County, Colorado, said westerly ~~20.00~~ feet being bounded on the west by the westerly boundary of said Lot 6.

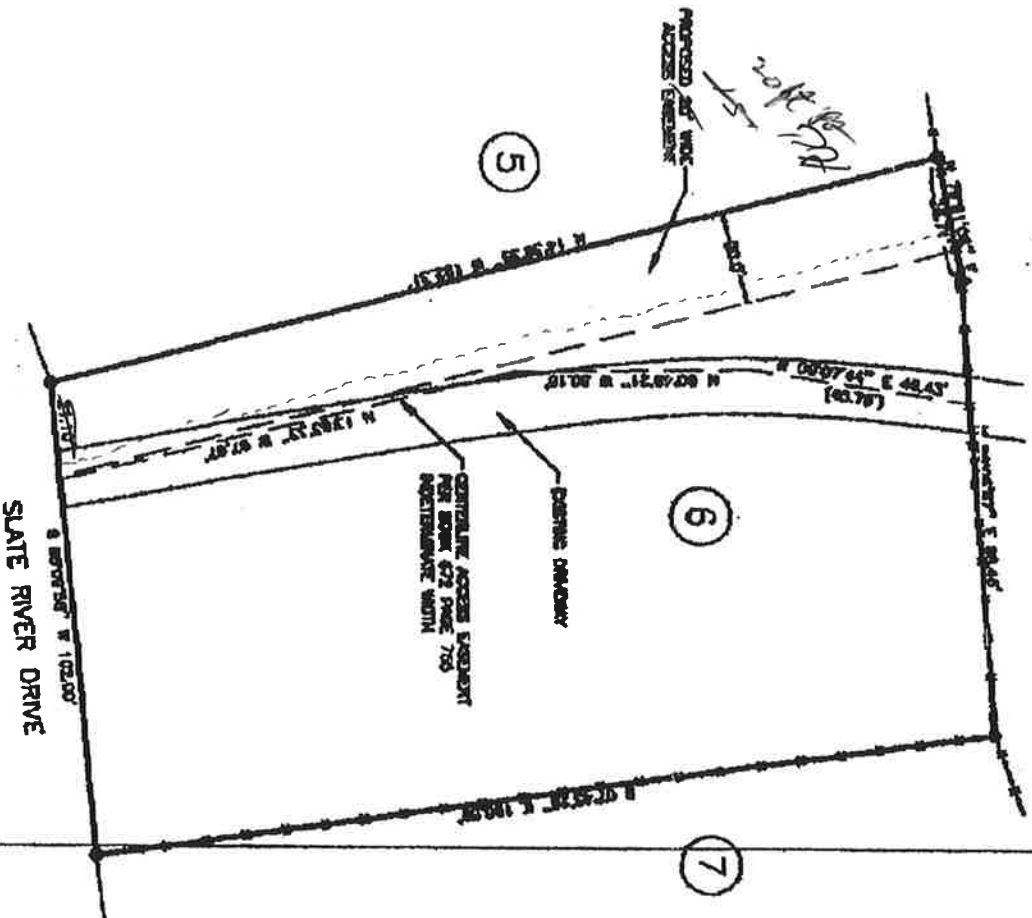
15.00
20.00
AK



[Handwritten Signature]
April 13, 1998

IMPROVEMENT LOCATION CERTIFICATE
 LOT 6, SLATE RIVER ESTATES
 GUNNISON COUNTY, COLORADO

UNPLATTED



- 1.22020
- 1. Property owner of easement survey -
 - 2. For 2002 data with 1/8" error 7.8 11200"
 - 3. Property owner - Rural 1/8" error - on map location
 - 4. Property owner - Rural 1/8" error - on map location
 - 5. Let transfer books with symbol
 - 6. Term or survey the
 - 7. Property 6th (subject street)



GENERAL NOTES: Property surveys supplied by field measurements from the south quarter corner of Section 12, using the line between said corner and a similar monument at the northeast corner of said Section as a basis of bearing of $287^{\circ}16'37.2''$, and measuring 141 corners by using bearings and distances as found and verified to said section corner.

APPROVED LOCATION CERTIFICATE

I hereby certify that this Improvement Location Certificate was prepared for John O'Brien, Surveyor, and that the improvement on the above described parcel is in accordance with the provisions of the Colorado Surveying Act, Chapter 10, Article 10, Section 10-10-1, C.R.S., and that I have no objection to the same. This certificate is subject to the provisions of the Colorado Surveying Act, Chapter 10, Article 10, Section 10-10-1, C.R.S., and that there is no objection on my part to the same. This certificate is subject to the provisions of the Colorado Surveying Act, Chapter 10, Article 10, Section 10-10-1, C.R.S., and that there is no objection on my part to the same.

Date: _____

James P. Perry
 Colorado L. S. No. 11930
 Gunnison, Colorado 81230