



DUKE W. DUNBAR  
ATTORNEY GENERAL

# The State of Colorado

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

HIGHWAY DIVISION

4201 EAST ARKANSAS AVENUE

DENVER, COLORADO 80222

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October 9, 1967

IN REPLY REFER TO A.G. NO.

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ASSISTANT ATTORNEYS GENERAL

### 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. The written easement attached to the Affidavit D.O.H. Form 311 is binding between the utility company and the present property owners. However, subsequent property owners who purchase the property without notice of the existence of this easement will not be bound by the terms and conditions thereof as they will be considered good faith purchasers without notice.

It should be pointed out that notice will be presumed in the subsequent property owners if the physical existence of the easement is apparent from an examination of the property, i.e., if the utility line is in existence.

DUKE W. DUNBAR  
Attorney General

JOSEPH M. MONTANO  
Chief Highway Counsel  
Assistant Attorney General

  
GEORGE D. DIKEOU  
Assistant Attorney General



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 a copy of said written easement is attached hereto as Exhibit "A."

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)*

\_\_\_\_\_ 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