

GRANT OF EASEMENT
FOR A COUNTY PUBLIC ROAD RIGHT-OF-WAY
(County Road K-69, San Miguel County, Colorado)

THIS GRANT OF AN EASEMENT FOR COUNTY PUBLIC ROAD RIGHT-OF-WAY PURPOSES ("Grant") made the ~~14~~ day of ~~July~~, 2005 ("Effective Date") between Idarado Mining Company, a Delaware corporation, 1700 Lincoln Street, Denver, Colorado 80203 ("IMC"), Idarado Legacy, LLC, a Colorado limited liability company P.O. Box 1039, Telluride, CO 81435 ("Legacy") (IMC and Legacy are collectively referred to as the "Grantors") and The Board of County Commissioners of the County of San Miguel, State of Colorado, a body politic and corporate, P.O. Box 1170, Telluride, CO 81435 ("Grantee" or "BOCC").

RECITALS

- A. IMC and Legacy are each the current fee simple owner of that certain real property lying east of the Idarado Legacy Subdivision within the San Miguel River Valley, San Miguel County, Colorado ("Grantors Property").
- B. By Resolution of the BOCC captioned Resolution # 2001-25 ("Original K-69 Resolution"), the BOCC conditionally approved an application submitted by IMC vacating a portion of County Road K-69 ("K-69") and approving a realignment K-69 so that it would pass through the yard area between the Pandora Mill and the Idarado Office within the Grantor's Property.
- C. IMC has sought to modify the Original K-69 Resolution to realign the location of a portion of K-69, which was approved by the BOCC as reflected Resolution of the BOCC captioned Resolution # 2005-~~20~~ ("Modified K-69 Resolution").
- D. Grantor desires to grant to Grantee an irrevocable easement across a portion of Grantor's Property ("K-69 ROW") for public road right-of-way purposes pursuant to § 43-2-204, C.R.S., and for surface and underground utilities as provided for herein.
- E. A portion of the K-69 ROW includes land owned by Legacy, namely the easterly 6" wide buffer strip lying at the end of East Colorado Avenue.
- F. K-69 has been improved at those varying locations within the K-69 ROW as indicated and established in the Modified K-69 Resolution ("Existing K-69 Improvements").
- G. IMC is obligated to make certain additional improvements to K-69 as indicated and established in the Modified K-69 Resolution ("Future Additional K-69 Improvements").

GRANTS AND AGREEMENTS

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements set forth herein, and for other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, Grantors and Grantee agree as follows:

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1. **Creation and Grant of K-69 ROW.** Grantors, as the current, fee simple owner of the Grantors Property, does hereby establish, create, grant and convey to the Grantee a certain perpetual, irrevocable, non-exclusive easement over and across a strip of Grantors Property varying in width for public road right-of-way and highway purposes and for subsurface utilities ("K-69 ROW") over and across a portion of the Grantor Property as the same is described on attached **Exhibit "A"** and as it is depicted on the Plat showing the Modified K-69 alignment as approved in the Modified K-69 Resolution recorded on **AUG. 18, 2006** in Plat Book 1, Page **3522**, Reception No. **377066**.

2. **Grantee's Allowed Uses of K-69 ROW.** The K-69 ROW may be used by Grantee as follows:

2.1. For the use and benefit of the public as a public road right-of-way under the administration of Grantee pursuant to sections 43-2-110 and 43-2-201, C.R.S. The County shall have the perpetual right, but not the obligation, to repair, improve and maintain the K-69 ROW as it deems just and proper.

2.2. For the installation of underground public utilities, and associated surface facilities, installed within the K-69 ROW.

2.3. Grantee shall own any improvements constructed or installed by Grantee pursuant to or in accordance with this Grant, including the Existing K-69 Improvements and the Future Additional K-69 Improvements.

2.4. Grantors are not obligated to construct, install or maintain any portion of the Existing K-69 Improvements and are only obligated to construct the Future Additional K-69 Improvements. Grantors shall have no obligation to install utilities within the K-69 ROW, except that Grantors may elect to install utilities for its use and development

3. **Grantor's Reservation of Rights.**

3.1. Grantors expressly reserves unto itself and its successors, transferees, designees and assigns, the following rights:

3.1.1. The right to use existing roads, driveways and utilities in place as of the Effective Date to provide vehicular and pedestrian access to and from Grantors Property and provide utilities to and from Grantors Property for its current and its future uses and activities on the Grantors Property; and

3.1.2. The right to maintain or undertake improvements to existing roads, driveways or utilities and/or to construct and install new roads, driveways or utilities, subject to Grantor's compliance with BOCC Resolution 1996-23 and obtaining any required County Special Construction Permit(s) for construction related activities within the K-69 ROW.

3.2. Grantors hereby expressly agrees that they shall not excavate, erect, construct, create or maintain any obstruction on, within, under, adjacent or above the K-69 ROW which may unreasonably interfere with Grantee's quiet use and enjoyment of the same and its rights to subjacent and lateral support.

3.3. Grantors hereby expressly agrees that it shall not erect gates or barriers that block or impede public access to and from K-69, without the prior approval of the BOCC. The BOCC shall determine if and when gates or barriers should be installed within the K-69 ROW and may determine the circumstances by which they are to be opened or closed.

4. **Prior Encumbrances.** This Grant of the K-69 ROW is granted subject to all prior encumbrances and other matters of record, burdening and affecting the Property in San Miguel County, Colorado.

5. **Not a Fee Simple Conveyance.** Nothing herein shall be deemed or construed to constitute and express or implied conveyance of either of the Grantor's fee simple rights, title and interest in the K-69 ROW, other then for the surface road and subsurface utility easement rights specifically herein granted.

6. **Miscellaneous.**

6.1. **Heirs, Successors and Assigns.** The easements, duties, benefits and rights granted and agreed to herein, and the burdens and obligations imposed and agreed to herein, shall be binding upon and shall inure to the benefit of and shall be a burden upon the heirs, designees, guests, contractors, successors and assigns of the Grantors and Grantee.

6.2. **Run With The Land.** The Grant of the K-69 ROW, as stated herein, shall run with and be for the benefit of the Grantee and shall run with and be a burden upon of the Grantors and that portion of the Grantors Property burdened by the K-69 ROW.

6.3. **Modification.** This Grant may be amended only by the unanimous written consent of the Grantor and Grantee.

6.4. **Recordation.** This Agreement shall be recorded by the Grantors and Grantee in the Official Records of the Clerk and Recorder of San Miguel County, Colorado.

6.5. **Enforcement and Remedies.** This Grant and the rights and obligations of the Grantors and Grantee hereto shall be interpreted, construed and enforced in accordance with the laws of the State of Colorado. Venue is restricted to San Miguel County, Colorado. Grantors and Grantee may pursue any and all available rights and remedies in enforcing their rights hereunder. Grantors and Grantee each have a right to specific performance to ensure performance of another party's obligations hereunder. In any action for enforcement of rights hereunder, the prevailing party shall be entitled to an award for recovery of their costs and fees, including reasonable attorney fees. Except as may be expressly otherwise stated or provided, with respect to all required acts of the parties, time is of the essence.

LEGACY:

IDARADO LEGACY, LLC,
a Colorado limited liability company

By: CLH-Telluride Associates, LLC,
a Colorado limited liability company,
Member of Idarado Legacy, LLC

By: Wildcat Land Company, its Manager

By: William R. Hegberg
William R. Hegberg, President

Date: 7/14/05
J. DOLAN
NOTARY PUBLIC
STATE OF COLORADO
MY COMMISSION EXPIRES 4/5/2008

STATE OF COLORADO)
COUNTY OF San Miguel) ss.

Acknowledged, subscribed and sworn to before me this 14th day of July, 2005 by William R. Hegberg, President of Wildcat Land Company.

Witness my hand and official seal.

J. Dolan
Notary Public

My commission expires: 4/5/08

GRANTEE:

The Board of County Commissioners of the
County of San Miguel, State of Colorado,
a body politic and corporate

By: 
Art Goodtimes, Chairman

Date: August 2, 2005

STATE OF COLORADO)
) ss.
COUNTY OF SAN MIGUEL)

Acknowledged, subscribed and sworn to before me this 2 day of August, 2005 by Art Goodtimes, Chairman who acknowledged himself to be the Chair of the Board of County Commissioners.

Witness my hand and official seal.

Marie A. Thomas
Notary Public

My commission expires: 02/05/09



Exhibit "A"
(Legal Description)

A 60-foot wide strip of land being in portions of the Association Parcel and the Interpretive Trail Tract of the Second Amendment to the Final Idarado Subdivision Exemption Plat and Plan for Cluster Development Lots, in portions of the Gold Run Placer, Mineral Survey No. 554, the P&O Placer, Mineral Survey No. 2346, the Lucille Placer, Mineral Survey No. 12289 and the Newport Placer, Mineral Survey No. 2167, Upper San Miguel Mining District, County of San Miguel, State of Colorado, located within Section 5, T.42N., R.8W., lying 30.00 feet on each side of the following described centerline:

Beginning at a point on the easterly line of the East Colorado Tract of said Second Plat Amendment, from which the Southeast corner of said East Colorado Tract bears S23°24'31"W, a distance of 23.41 feet and the southeast corner of Lot P24 of the First Amendment to the Final Idarado Subdivision Exemption Plat and Plan for Cluster Development Lots according to the plat recorded in the office of the Clerk and Recorder in Plat Book 1 at page 3368 bears S23°08'44"W, a distance of 108.91 feet (the sidelines of said strip to intersect with the easterly line of said East Colorado Tract or to intersect with a prolongation southerly of the easterly line of said East Colorado Tract);

Thence southeasterly 182.67 feet along a curve concave to the southwest, having a radius of 530.00 feet, an included interior angle of 19°44'50", and a chord which bears S66°47'30"E for 181.77 feet;

Thence S56°55'05"E, for a distance of 290.47 feet;

Thence southeasterly 145.30 feet along a tangential curve concave to the southwest, having a radius of 290.00 feet, an included interior angle of 28°42'30", and a chord which bears S42°33'50"E for 143.79 feet;

Thence continuing as a 50-foot wide strip, lying 25.00 feet on each side of the following described centerline:

Thence southerly 74.49 feet along a tangential curve concave to the west, having a radius of 290.00 feet, an included interior angle of 14°43'00", and a chord which bears S20°51'05"E for 74.28 feet;

Thence S13°29'35"E, for a distance of 266.73 feet;

Thence southeasterly 76.27 feet along a tangential curve concave to the northeast, having a radius of 120.00 feet, an included interior angle of 36°25'06", and a chord which bears S31°42'08"E for 75.00 feet;

Thence continuing as a 20-foot wide strip lying 10.00 feet on each side of the following described centerline:

Thence easterly 76.27 feet along a tangential curve concave to the north, having a radius of 120.00 feet, an included interior angle of 36°25'06", and a chord which bears S68°07'14"E for 75.00 feet;

Thence S86°19'47"E, for a distance of 181.25 feet;

Thence southeasterly 103.27 feet along a tangential curve concave to the southwest, having a radius of 170.00 feet, an included interior angle of 34°48'15", and a chord which bears S68°55'40"E for 101.69 feet;

Thence continuing as a 50-foot wide strip lying 25.00 feet on each side of the following described centerline:

Thence S51°31'32"E, for a distance of 103.98 feet;

Thence southeasterly 124.97 feet along a tangential curve concave to the southwest, having a radius of 240.00 feet, an included interior angle of 29°50'02", and a chord which bears S36°36'32"E for 123.56 feet;

Thence S21°41'31"E, for a distance of 265.65 feet;

Thence easterly 33.59 feet along a non-tangential curve concave to the north, having a radius of 33.00 feet, an included interior angle of 58°19'05", and a chord which bears S82°00'34"E for 32.16 feet;

Thence N47°36'25"E, for a distance of 52.63 feet;

Thence northerly 115.26 feet along a non-tangential curve concave to the west having a radius of 122.00 feet, an included interior angle of 54°07'42", and a chord which bears N04°25'07"E for 111.02 feet;

Thence northerly, easterly and southeasterly 83.62 feet along a tangential compound curve concave to the southeast, having a radius of 29.00 feet, an included interior angle of 165°12'01", and a chord which bears N59°57'17"E for 57.52 feet;

Thence southeasterly 152.93 feet along a tangential compound curve concave to the northeast, having a radius of 314.00 feet, an included interior angle of 27°54'19", and a chord which bears S51°23'52"E for 151.42 feet;

Thence southeasterly 82.07 feet along a tangential compound curve concave to the southwest, having a radius of 110.00 feet, an included interior angle of 42°44'58", and a chord which bears S43°58'33"E for 80.18 feet;

Thence southerly, easterly and northerly 91.12 feet along a tangential compound curve concave to the northwest, having a radius of 25.00 feet, an included interior angle of 208°49'37", and a chord which bears N52°59'08"E for 48.43 feet;

Thence northwesterly 98.57 feet along a tangential compound curve concave to the northeast, having a radius of 115.00 feet, an included interior angle of 49°06'33", and a chord which bears N26°52'24"W for 95.58 feet;

Thence northerly 46.47 feet along a tangential compound curve concave to the west, having a radius of 230.00 feet, an included interior angle of 11°34'37", and a chord which bears N08°06'26"W for 46.39 feet;

Thence N13°53'45"W, for a distance of 100.41 feet;

Thence northerly 129.00 feet along a tangential curve concave to the east, having a radius of 370.00 feet, an included interior angle of 19°58'33", and a chord which bears N03°54'28"W for 128.35 feet;

Thence northerly 40.51 feet along a tangential compound curve concave to the west, having a radius of 130.00 feet, an included interior angle of $17^{\circ}51'23''$, and a chord which bears $N02^{\circ}50'53''W$ for 40.35 feet;

Thence northerly 92.98 feet along a tangential compound curve concave to the east, having a radius of 500.00 feet, an included interior angle of $10^{\circ}39'16''$, and a chord which bears $N06^{\circ}26'56''W$ for 92.84 feet;

Thence $N01^{\circ}07'18''W$, for a distance of 55.10 feet;

Thence northerly 51.02 feet along a tangential curve concave to the west having a radius of 200.00 feet, an included interior angle of $14^{\circ}37'01''$, and a chord which bears $N08^{\circ}25'49''W$ for 50.88 feet;
Thence northerly 27.37 feet along a tangential curve concave to the east, having a radius of 25.00 feet, an included interior angle of $62^{\circ}43'01''$, and a chord which bears $N15^{\circ}37'11''E$ for 26.02 feet to the Point of Terminus, from which Corner 9 of said Lucille Placer bears $S08^{\circ}30'27''W$, for a distance of 479.76;
