

NF

DOC # 0669853
03/14/2006 11:32 AM Deputy: KLJ
OFFICIAL RECORD
Requested By:
D C/COMMUNITY DEVELOPMENT

Douglas County - NV
Werner Christen - Recorder
Page: 1 Of 9 Fee: 0.00
BK-0306 PG- 4835 RPTT: 0.00



Assessor's Parcel Number: 1320-17-000-009

Date: MARCH 14, 2006

Recording Requested By:

✓ Name: LYNDA TEGLIA/COMMUNITY DEVELOPMENT

Address: _____

City/State/Zip: _____

Real Property Transfer Tax: \$ N/A

▶ DITCH EASEMENT AGREEMENT #2006.055
(Title of Document)

FILED

2006.055

APN 1320-17-000-009

2006 MAR 14 AM 9:38

RECORDING REQUESTED BY AND
RETURN TO:

Cassell V. Ross
Rogers Shadek Wolf Ross & Herhusky, LLP
264 Village Blvd., Ste. 104
Incline Village, NV 89451
Re: American AVK

EXP. AREA REED
[Signature]

SPACE ABOVE THIS LINE FOR RECORDER'S USE

DITCH EASEMENT AGREEMENT

THIS DITCH EASEMENT AGREEMENT (hereinafter "Easement") is made as of this 1st day of February, 2006, by American AVK, a California corporation ("Grantor") to benefit all downstream users of the Heybourne Ditch water ascertainable by historical use at the creation of this easement ("collectively Grantee").

RECITALS

WHEREAS, Grantor is the Owner of certain real property located in Douglas County, Nevada, and more commonly identified as Assessor's Parcel Number 1320-17-000-009, and as is more particularly described in Exhibit A, hereto (the "Property").

WHEREAS, a water irrigation ditch commonly known as the Heybourne Ditch (the "Ditch") is located on the Property as is more particularly described in Exhibit B, hereto, which Ditch serves to provide irrigation waters to numerous parcels downstream.

WHEREAS, Grantor desires to grant to Grantee a perpetual nonexclusive easement in favor of and appurtenant to the Grantee's parcel(s), for the transmission of irrigation waters in, over and across the Heybourne Ditch, for maintenance of the Heybourne ditch and for access to the Heybourne Ditch for maintenance purposes.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Grantor hereby declares as follows:

ROGERS & SHADEK
WOLF ROSS & HERHUSKY
264 VILLAGE BOULEVARD, SUITE 104 INCLINE VILLAGE, NEVADA 89451

51P00451

DECLARATION

1. **Grant of Easement:** Grantor does hereby establish, give, grant and convey to Grantee, their respective successors and assigns, a non-exclusive perpetual easement for the benefit of, and appurtenant to, the Grantee's parcel, on, over and across that portion of the Heybourne Ditch as is more particularly described in Exhibit B, for the transmission of irrigation waters in, over and across the Heybourne Ditch, for maintenance of the Heybourne ditch and for access to the Heybourne Ditch for maintenance purposes.
2. **Indemnification:** Each party hereto, his successors and assigns, agrees to indemnify, defend and hold harmless the other, his successors and assigns, against all liabilities, damages, claims, costs, and expenses whatsoever (including reasonable attorney's fees and court costs) arising out of or in connection with that party's, his successors' and assigns' use of his respective easement area located on the other's parcel.
3. **Reservation of Rights:** Each party, his successors and assigns, reserve all rights of ownership in and to his respective parcel which are not inconsistent with the easements granted herein. Each party, his successors and assigns, further reserve the right to use his respective parcel for all uses not interfering with the uses permitted pursuant to these easements.
4. **Covenants Run With the Land:** The easement granted herein, and the agreements contained herein, shall be deemed an easement, restrictions and covenants running with the land of each party hereto and shall inure to the benefit of, and be binding upon, the parties hereto and their respective heirs, successors and assigns, including, but without limitation, all subsequent owners of the Grantor's and/or Grantee's parcels, and all persons claiming under them.
5. **Recitals and Exhibits:** The recitals contained herein shall be covenants as well as recitals. Any recital set forth above and any exhibits or schedules referred to and/or attached hereto are incorporated by reference into this Easement. The recitals shall be used to interpret the rights and intents of the parties.
6. **Amendment:** This Easement shall be modified or amended only by a writing signed by the parties or their successors in interest.
7. **Successors and Assigns:** The easements contained herein shall inure to the benefit of, and shall be binding upon, the executors, administrators, heirs, tenants, successors and assigns of the parties and shall be, and are, covenants running with the land, binding upon the respective parcels.
8. **Attorney's Fees:** In the event of any litigation or arbitration arising out of this Easement, the prevailing party shall be entitled to recover from the other, all attorney's fees and costs incurred therein.

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ROGERS & SHADEK
WOLF, ROSS & HERLISSKY
204 VILLAGE BOULEVARD, SUITE 300, INCLINE VILLAGE, NEVADA 89451



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9. Entire Agreement: This instrument constitutes the entire and exclusive agreement concerning the use of the easement and supersedes all prior discussions and writings relating to the easement.

10. Partial Invalidity: The invalidity, illegality or unenforceability of any one or more provisions of this Easement shall in no way effect or impair the validity, legality or enforceability of the remaining provisions hereof, which shall remain in full force and effect.

11. Choice of Laws and Jurisdiction: This Easement shall be construed and enforced according to the laws of the State of Nevada. Any suit or proceeding to enforce or interpret this Easement shall be filed only in the appropriate court of the State of Nevada, situated in Douglas County.

12. Assignment to Ditch Cooperative. In the event that any formal association, cooperative, entity or other form or common ownership, governance or use of the ditch ("Ditch Cooperative") is established at any time in the future by the ditch users or by operation of law, all rights, title and interest in and to this easement by Grantees shall be automatically assigned to the Ditch Cooperative.

13. Termination. In the event that the Ditch is re-routed or otherwise ceases to exist on Grantor's parcel, this easement shall automatically terminate.

IN WITNESS WHEREOF, the Grantor has executed this Easement as of the date first written above.

GRANTOR:
AMERICAN AVK,
a California corporation

By: Alan E. Johnson
Its: PRESIDENT

STATE OF CALIFORNIA)
) ss.
COUNTY OF FRESNO)

On this 1 day of FEBRUARY 2006 before me LAWRENCE R. MONTEE (NOTARY PUBLIC) personally appeared ALAN JURKONIS, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Lawrence R. Montee
Notary Public



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ROGERS & SHADEK
WOLF, ROSS & HERLIUKY
299 YIELDLAND BOULEVARD, SUITE 104, INCLINE VILLAGE, NEVADA 89311



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EXHIBIT A
LEGAL DESCRIPTION

The land referred to herein is situated in the State of Nevada, County of Douglas, described as follows:

A parcel of land located within portions of Sections 8 and 17, Township 13 North, Range 20 East, Mount Diablo Meridian, more particularly described as follows:

Parcel 1, Phase II as set forth on Record of Survey #1 of Meridian Business Park, Phase II for Allegretti and Company filed in the office of the County Recorder of Douglas County, State of Nevada on January 24, 2005, Book 0105, Page 8168, document number 635092.

1320-17-000-009

Together with all water rights, surface or ground, permitted, certificated, adjudicated, or vested as well as all seeps, springs and other rights to water, of any nature whatsoever appurtenant to or historically used on the property ALL WITH THE EXCEPTION of any surface agricultural water rights and all supplemental surface and ground water rights which shall be retained by Grantor.

Together with 981 gallons per day of sewer capacity rights (out of a total 2803.17 GPD) owned by Grantor which have been allocated to Phase II of the Meridian Business Park pursuant to that certain Agreement Regarding Meridian Business Park dated November 6, 1997, and recorded on November 13, 1997, in Book 1197, Page 2770 of the official records of the Recorder of Douglas County, Nevada, as Document number 0426341.

This legal description is taken from that certain Corporation Grant, Bargain, Sale Deed recorded on January 28, 2005, in the Office of the Douglas County Recorder in Book 0105, as Instrument number 0635495.

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ROGERS & SHADEK
WOLF, ROSS & HERGENROTHER

201 VILLAGE COURT SUITE 100 INCLINE VILLAGE, NEVADA 89411



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LEGAL DESCRIPTION

American AVK Heybourne Ditch Easement

All that certain real property for use as a ditch easement, situate within a portion of the Northwest one-quarter (1/4) of Section 17, T13N, R20E, MDM, County of Douglas, State of Nevada, more particularly described as follows:

Commencing at the North one-quarter (1/4) corner of said Section 17;

Thence along the north line of said Section 17, N 89°37'50" W, 25.00 feet to the northeast corner of Parcel 1, Phase II as shown on that certain "Record of Survey #1 of Meridian Business Park, Phase II for Allegretti & Company", recorded on January 24, 2005, as File No. 635092, Official Records of Douglas County, Nevada and the **POINT OF BEGINNING**;

Thence along the easterly line of said Parcel 1, also being the westerly right-of-way of Heybourne Road, S 00°09'34" E, 693.38 feet;

Thence along the arc of a curve to the right, having a radius of 20.00 feet, through a central angle of 89°57'04" and an arc length of 31.40 feet;

Thence along the northerly right-of-way of Meridian Boulevard also being the southerly line of said Parcel 1, S 89°47'30" W, 67.00 feet;

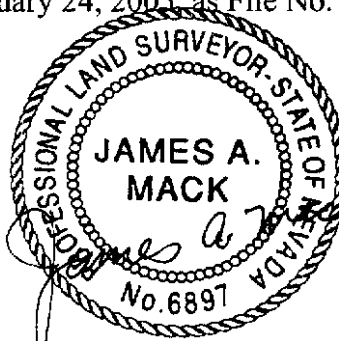
Thence departing said northerly right-of-way and said southerly Parcel line, N 00°09'34" W, 713.12 feet to the northerly line of said Parcel 1 also being the northerly line of said Section 17;

Thence along said northerly line, S 89°37'50" E, 86.98 feet to the Point of Beginning.

Containing an area of 61,956 square feet of land, more or less.

BASIS OF BEARINGS: "Record of Survey #1 of Meridian Business Park, Phase II for Allegretti & Company", recorded on January 24, 2005, as File No. 635092, Official Records of Douglas County, Nevada.

Written by:
James A. Mack, PLS 6897
130 Vine St.
Reno, NV 89503
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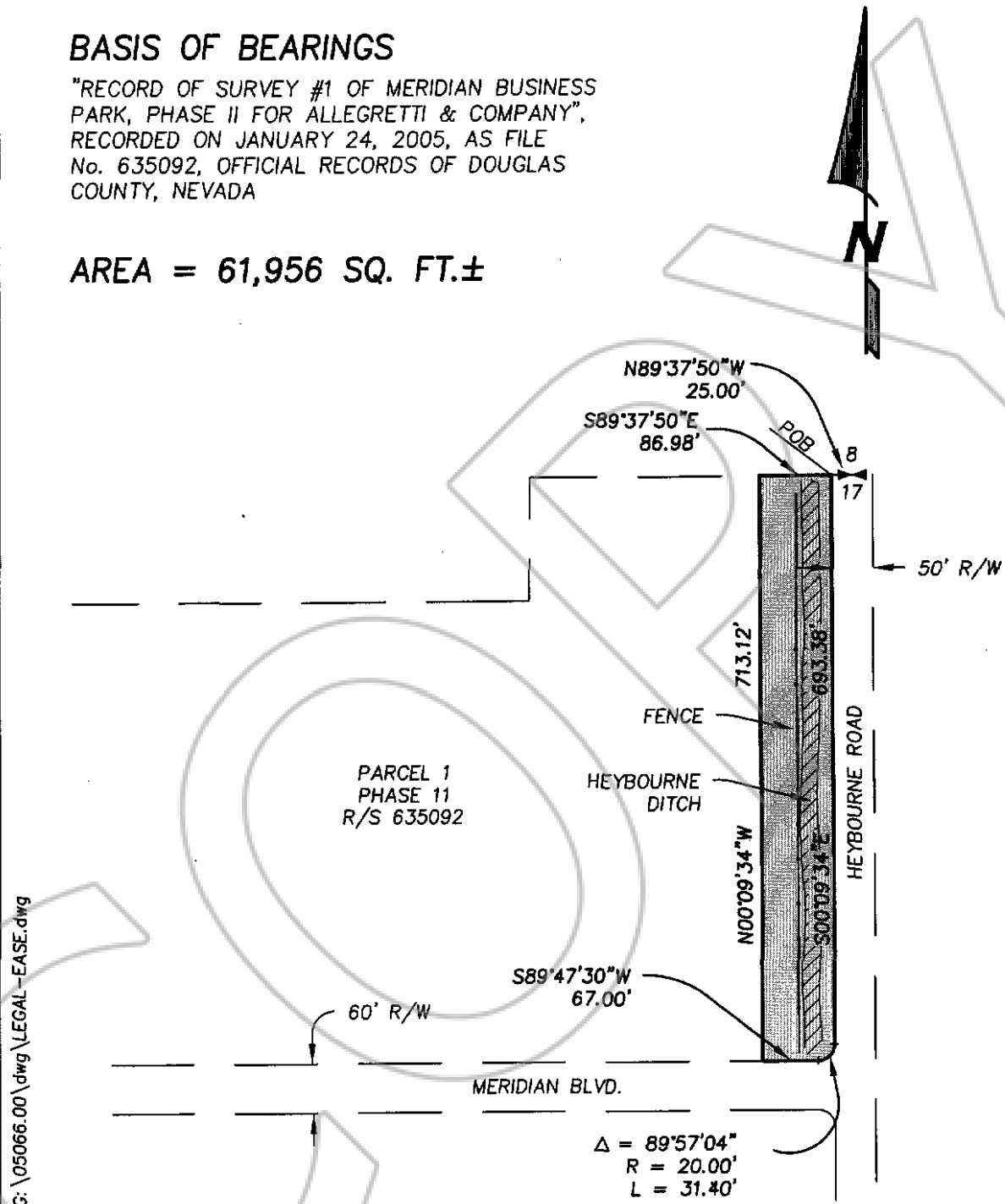
1-16-06
exp. 12-31-07



BASIS OF BEARINGS

"RECORD OF SURVEY #1 OF MERIDIAN BUSINESS PARK, PHASE II FOR ALLEGRETTI & COMPANY",
 RECORDED ON JANUARY 24, 2005, AS FILE
 No. 635092, OFFICIAL RECORDS OF DOUGLAS
 COUNTY, NEVADA

AREA = 61,956 SQ. FT.±



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MAP TO SUPPORT LEGAL DESCRIPTION AMERICAN AVK POR. NW 1/4 SEC. 17, T13N, R20E, MDM DOUGLAS COUNTY NEVADA	SCALE: 1" = 200'	 Gray & Associates INC CIVIL ENGINEERS • PLANNERS • SURVEYORS 130 Vine Street Reno, Nevada 89503 (775) 329-2911 • 329-6469 Fax www.grayassociates.net
	DRAWN BY: JAM	
	DATE: 12-23-05	
	JOB NO.: 05066.00	

EXHIBIT B

COPY

SEAL

CERTIFIED COPY

The document to which this certificate is attached is a full, true and correct copy of the original on file and on record in my office.

DATE: March 14 2006
B. Reed Clerk of the 2nd Judicial District Court
of the State of Nevada, in and for the County of Douglas.
By Carol D. Kunkel Deputy