

No Fee

DOC # 0749181  
08/20/2009 08:55 AM Deputy: SG  
OFFICIAL RECORD  
Requested By:  
DC/DISTRICT ATTORNEY

Assessor's Parcel Number: 1219-16-002-013

Recording Requested By: JOSEPH L. WARD, JR  
DOUGLAS CO. CHIEF DEPUTY D. A.

Name: JOSEPH L. WARD, JR  
DOUGLAS CO. CHIEF DEPUTY D. A.

Address: P.O. Box 218

City/State/Zip MINDEN, NV 89423

Real Property Transfer Tax: \$ N/A

Douglas County - NV  
Karen Ellison - Recorder  
Page: 1 Of 18 Fee: 0.00  
BK-0809 PG- 4328 RPTT: 0.00



SETTLEMENT AGREEMENT AND RELEASE OF ALL CLAIMS

(Title of Document)

This page added to provide additional information required by NRS 111.312 Sections 1-2. (Additional recording fee applies)

*This cover page must be typed or legibly hand printed.*

**SETTLEMENT AGREEMENT AND RELEASE OF ALL CLAIMS**

This Settlement Agreement and Release of All Claims (this "Agreement") is entered into this \_\_\_ day of August, 2009, by and between the John and Sharon Macauley as Trustees of the Macauley Family Trust dated September 12, 1990 ("Macauleys" or "Plaintiffs") and Douglas County ("County" or "Defendant") (collectively the "Parties").<sup>1</sup>

**I.**

**Recitals**

1.01 **The Lawsuit.** On or about April 29, 2009, the Macauleys filed a Complaint for Declaratory and Injunctive Relief ("Complaint") against the County, Case Number 09-CV-0157 (the "Lawsuit"). The Macauleys commenced the Lawsuit to get such relief from the Court pertinent to the 50' by 50' "Well Maintenance Easement" situated on their property referred to herein as "Lot 38" or the "Property." The Macauleys Complaint focused on whether the placement of an air-stripping facility ("Facility") by way of the "Maintenance Project" or "Project" would overburden the Well Maintenance Easement. The Macauleys sought a judicial determination of the Parties' respective rights, duties and obligations under the Well Maintenance Easement. The Macauleys also sought injunctive relief to prevent the Facility from being placed by the Well within the Well Maintenance Easement.

1.02 **Settlement.** The Parties hereto desire to enter into this Agreement, which among other things provides for full and final resolution of the Lawsuit and any and all claims between the Parties relating to the Lawsuit, on the terms and conditions set forth herein.

**II.**

**Agreement**

NOW, THEREFORE, in consideration of the mutual promises and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which the Parties acknowledge, the Parties agree as follows.

2.01 **Facility in open-space.** With respect to the Maintenance Project, the County will install the Facility off-site from the Well in open space area adjacent to the Macauleys' 50' wide private driveway (Chalet Rd) as depicted in Exhibit "A." This Agreement is contingent upon approval from Five Creek, LLC to be evidenced by an amended final map modifying the planned development of Job's Peak Ranch ("JPR") and a deed from Five Creek, LLC transferring open space property in fee simple to the County and a Temporary Construction Easement to the County free of charge to facilitate the Facility project. This Agreement is also contingent upon a majority of the JPR Community Association, Inc. ("HOA") Board Members signing off on such final map and approval from the Douglas County Board of Commissioners. In the event a

<sup>1</sup> This Agreement runs with the land. References to the "Macauleys," "Michael Macauley" or Plaintiffs includes their heirs, assigns, and successors in interest, including any owner of the Property or Lot 38.

condemnation action is required pertinent to the open space area, the Macauleys will not interfere and, regardless, will continue to abide by the terms and conditions hereof. The Facility housing structure's architectural style will be designed and constructed as approved by the JPR Architectural and Landscape Council ("ALC"). Plaintiffs, or their designated representative Michael Macauley, may provide input and/or participate in discussions with the ALC regarding the architectural style of the Facility.

2.02 **Facility parking pad.** The Facility, as depicted in Exhibit "A," will include a parking pad situated directly adjacent to the Facility and off of Chalet Road, the 50' wide private driveway, to avoid parking within such 50' wide private driveway. To the extent feasible and economically practicable, the County will construct the parking pad adjacent to the Facility on the side closest to the Macauley gate (i.e. the right hand side of the Facility when looking at the drawing on Exhibit "A"). Such parking pad may require the Facility, as depicted on Exhibit "A" to be flipped (i.e. a mirror image of the current drawing) in order to satisfy the construction of the parking pad on the side of the Facility closest to the Macauley gate. The County agrees to use its best efforts, subject to economic restraints, to ensure the parking pad is constructed in accordance with this provision.

2.03 **Project competed within 9 months.** Douglas County's contractor who is awarded the Maintenance Project will complete the Facility and the Project within nine (9) months from commencement of construction to completion. Douglas County agrees to require the contractor to post a performance bond or agree to a liquidated damages clause, to help ensure timely completion. The County shall provide Macauley a copy of the County's contract with the contractor within ten (10) days of Macauley requesting a copy of such contract.

2.04 **Necessary easements.** The Macauleys agree to allow the County to utilize the easements identified in Document #415114, which must include the placement of underground waterlines in the waterline easement, and will grant an access easement free of charge along the 50' wide private driveway to the open-space Facility, an easement for underground electrical and any other underground easement, including a temporary construction easement necessary for completion of the Maintenance Project or Facility and, possibly, a Well to replace Well #1. Furthermore, the Macauleys will grant an access easement free of charge along the 50' wide private driveway to a possible replacement well for Well #1 in the open-space area next to the Facility. To the extent such replacement well for Well #1 is drilled outside the presently existing easement which is deemed productive and satisfactory to the County, then the access and maintenance easement to Well #1 shall be abandoned in accordance with the provisions of paragraph 2.07 below.

2.05 **Restoration and other County obligations.** The County agrees to restore all trenched areas resulting from the use of underground easements to pre-Project condition. To the extent not already accomplished, the County will conduct a site survey, topographic mapping, a geotechnical investigation, and a preliminary site plan, at its expense, which it will present to the Douglas County Water Conveyance Advisory Committee and the JPR HOA and/or five Creek, LLC.

2.06 **Cost of Maintenance Project.** The Macauleys shall not be responsible for paying any of the costs incurred in connection with completing the construction of the Project and the Facility at the off-site open-space location, as depicted in Exhibit "A."

2.07 **Existing 10' by 10' housing structure, temporary construction easement and, eventually, the rehabilitation or re-drilling of the Well.** The County agrees to relinquish ownership and control of the housing structure on the "Well maintenance easement" within ninety (90) days from the completion of the Project. The Macauleys agree to have their homeowner's insurance include coverage on such structure, to have a new lock placed on such structure's door and maintain such structure. Thereafter, the Macauleys agree to indemnify and hold harmless the County against all expenses and liabilities arising out of the 10' by 10' structure, including indemnification against all costs and expenses reasonably incurred in connection with the defense of any claim, action, suit, or proceeding stemming from any injury or harm occurring at or because of such structure other than on account of the County's own equipment or actions. Within its "Well maintenance easement" the County will leave exposed a pit-less adaptor, a weather-proof electrical box and a small antenna which can remain on the 10' by 10' structure. The pit-less adaptor and electrical box shall be screened from view from the Macauleys' home and pool area with natural landscaping to be provided and planted by the County. A temporary construction easement equal in size to the existing 50' by 50' "Well maintenance easement" plus an additional 20' to the North and South leaving a temporary construction easement of 50' by 90' will be granted free of charge to the County by the Macauleys or owners of Lot 38 to facilitate rehabilitation of Well #1 or the re-drilling of a Well within the 50' by 50' "Well maintenance easement." In the event Well #1 fails and the County determines that the 10' by 10' structure should be removed to facilitate the drilling of a replacement Well within the 50' by 50' "well maintenance easement," 30 days after notice to the Macauleys from the County of its intent to remove such structure the Macauleys will allow its demolition and removal without requiring compensation or the replacement of such structure. In any event, the Macauleys shall have no claim against the County pertinent to such structure. To the extent the County decides to drill a replacement well other than in the presently existing easement (such as in the open space site next to the new Facility) in order to replace Well #1, and such new well is deemed productive and satisfactory to the County's engineer, then the County agrees to abandon the existing access and maintenance easements to Well #1 upon completion of the replacement well.

2.08 **Dismissal with prejudice.** The Macauleys agree to dismiss the Lawsuit with prejudice and without an award of fees or costs. The Parties agree that each shall bear their own fees and costs.

2.09 **Advance notice.** The Parties agree that pursuant to NRS 318.145 and 318.165, together with NRS 244.157, no advance notice from Douglas County is required for County visits to any County easement or facility on or adjacent to the Macauleys' property ("Property"), including Well No. 1, the Tank, the Facility and the easements incidental thereto. Nevertheless, the County agrees to provide the Macauleys an estimated and/or proposed regular maintenance schedule of planned visits to any such easement or facility within one year from the Maintenance Project completion date. If the Macauleys believe any County visit is, or visits are, contrary to law they may pursue the remedy provisions set forth in paragraph 2.10.



2.10 **Arbitration of Disputes.** Any controversy or claim arising out of or relating to this Agreement, or the claimed breach or interpretation thereof, including, but not limited to, any impasse reached by the Parties after negotiating in good faith, shall be resolved by binding arbitration, subject to the following provisions:

- a) The Party seeking arbitration (the "Demanding Party") shall deliver a written notice of demand to resolve dispute (the "Demand") to the other Party (the "Non-Demanding Party"). The Demand shall include a brief statement of the Demanding Party's claim or controversy, the amount or other nature thereof, and the name of the proposed arbitrator to decide the dispute. Within ten (10) days after receipt of the Demand, the Non-Demanding Party against whom the Demand is made shall deliver a written response to the Demanding Party. Such response shall include a short and plain statement of the Non-Demanding Party's defenses to the claim and shall also state whether such Party agrees to the arbitrator chosen by the Demanding Party. If the Non-Demanding Party fails to agree to the arbitrator chosen by the Demanding Party, then the Non-Demanding Party shall state in its response the name of its proposed arbitrator. If the Non-Demanding Party fails to deliver its written response to the Demanding Party within ten (10) days after receipt of the demand, or if the Non-Demanding Party fails to select in its written response a proposed arbitrator, then the arbitrator selected by the Demanding Party shall serve as the arbitrator. An arbitrator shall not be employed by any Party or any affiliate of any Party, directly, indirectly or as an agent, except in connection with an arbitration proceeding. Any person appointed as an arbitrator shall be knowledgeable and experienced in the matter(s) sought to be arbitrated.
- b) The locale of any arbitration shall be in Minden, Nevada.
- c) If the Non-Demanding Party responds within ten (10) days after receipt of the Demand and selects a proposed arbitrator different than the arbitrator selected by the Demanding Party, then the Parties shall within ten (10) days after the Demanding Party's receipt of the Non-Demanding Party's written response to the demand, attempt to agree upon an arbitrator. If the Parties cannot agree upon an arbitrator within such ten (10) day period, then upon request of the Demanding Party, a single neutral arbitrator shall be appointed by the two arbitrators selected by the Parties.
- d) The arbitrator shall apply the substantive laws of the State of Nevada and the Rules of Evidence of Nevada, the arbitration shall be conducted in accordance with the Nevada Arbitration Rules as set forth in Subpart B of the Nevada Rules Governing Alternative Dispute Resolution and the arbitrator's decision shall only be subject to review as set forth in Chapter 38 of the Nevada Revised Statutes.
- e) Unless ordered otherwise by the arbitrator as required by paragraph 2.17, the costs of resolution (including reporter costs) shall be split between the Parties pro rata. Such costs, along with all other costs and expenses, and attorneys' fees, shall be



subject to award, in full or in part, by the arbitrator to the prevailing Party in accordance with paragraph 2.17.

- f) To the extent possible, the arbitration hearings shall be conducted on consecutive days, excluding Saturdays, Sundays and holidays, until the completion of the hearings.
- g) In connection with any arbitration proceedings commenced hereunder, any Party shall have the right to join any third Parties in such proceedings in order to resolve any other disputes, the facts of which are related to the matters submitted for arbitration hereunder.
- h) The arbitrator shall render his or her decision(s) concerning the substantive issues in dispute in writing. The written decision shall be sent to the Parties no later than thirty (30) days following the last hearing date.
- i) All hearings shall be concluded within ninety (90) days from the day the arbitrator is selected or appointed, unless the arbitrator demands that this deadline is impractical.
- j) If any of the provisions relating to arbitration are not adhered to or complied with, either Party may petition the Ninth Judicial District Court of the State of Nevada for appropriate relief.
- k) The award of the arbitrator may be entered as a judgment in a court of competent jurisdiction. To the extent permitted by law, compliance with this Article is a condition precedent to the commencement by any Party of a judicial proceeding arising out of any dispute relating to this Agreement in accordance with the Nevada Arbitration Rules as set forth in Subpart B of the Nevada Rules Governing Alternative Dispute Resolution and Chapter 38 of the Nevada Revised Statutes, and any judgment or award rendered by the arbitrator shall be final, binding and unappealable, and judgment may be entered by any court having jurisdiction thereof. The Parties hereto intend that the provisions to arbitrate set forth herein be valid, enforceable and irrevocable. In his or her award the arbitrator shall allocate, in his discretion, among the Parties to the arbitration, all costs of the arbitration, including the fees and expenses of the arbitrator and reasonable attorneys' fees, costs and expert witness expense of the Parties. The Parties hereto agree to comply with any award made in any such arbitration proceedings that has become final in accordance with Nevada law and agree to the entry of a judgment in any jurisdiction upon any award rendered in such proceedings becoming final. The arbitrator shall be entitled, if appropriate, to award any remedy in such proceedings, including monetary damages, specific performance, temporary restraining order, preliminary injunction, injunction and all other forms of legal and equitable relief recognized under Nevada law.

- l) Notwithstanding the arbitration requirements of this paragraph and the Agreement, to the extent either party believes the other is overburdening, interfering and/or acting unlawfully with respect to any easement, the party may first elect to seek a temporary restraining order and/or preliminary injunction from the Douglas County District Court to preserve the status quo until the issue can be resolved pursuant to the arbitration provisions set forth above.

2.11 **Recorded Agreement Runs With Land.** On or before September 8, 2009, the Parties shall execute and record this Agreement the terms of which will run with the land identified as Lot 38. See also following documents all recorded with the Douglas County Recorder: Job's Peak Ranch ("JPR") Unit 1 Planned Unit Development ("PUD") 2014-1 map recorded 6/13/97 in BK 697, PG 3042, Doc. #4155114 - 7 sheets; Public Utility Easement Deed recorded 5/15/98 in BK 598, PG 3128, Doc. #439779; Water Rights and Easement Quitclaim Deed recorded 3/3/06 in BK 306, PG 934, Doc. #669069; Agreement for Water System Dedication recorded 12/19/05 in BK 1205, PG 8817, Doc. #663827; Deed recorded 5/5/04 in BK 504, PG 1595, Doc. #612313, and Deed recorded 6/29/04 in BK 604, PG 13952, Doc. #617357.

2.12 **Macauleys' Release.** The Macauleys hereby fully releases and forever discharges the County of and from all claims, known or unknown, asserted or unasserted, of whatever nature, now existing or hereafter arising, including but not limited to claims for attorney's fees and costs, relating in any way to the Lawsuit, or any matters asserted therein, or which could have been asserted therein, or its subject matter.

2.13 **County's Release.** The County hereby fully releases and forever discharges the Macauleys of and from all claims, known or unknown, asserted or unasserted of whatever nature, now existing or hereafter arising, including but not limited to claims for attorneys' fees and costs, relating in any way to the Lawsuit, or any matters asserted therein, or which could have been asserted therein, or its subject matter.

2.14 **Contingency.** This Agreement is contingent upon approval from Five Creek, LLC (if it has not transferred the open space) or the Job's Peak Ranch Community Association, Inc. ("JPR HOA") and a majority of votes held by residents of JPR in accordance with Article 14 of the JPR Declaration of Covenants, Conditions & Restrictions ("CC&Rs") (if the open space has been transferred to the JPR HOA) and approval from the Douglas County Board of Commissioners.

2.15 **Property Damage.** As between the County and the Macauleys, the County shall be responsible for any and all risk, obligation and liability for any injury or damage to persons or personal property or for any injury or damage to the Property, including but not limited to any and all repairs and/or maintenance to the Property that arise pertinent to the Facility and the Maintenance Project. The County agrees to indemnify and hold the Macauleys harmless from any and all claims, causes of action, judgments or other demands of whatever nature or kind by any third party that are related in any way to the County Facility, Maintenance Project, or the County's other facilities or equipment on or underneath the Macauley property or which is otherwise accessed by the County or its contractor(s) via the Macauleys' private driveway.

2.16 **No Liability.** By entering into this Agreement, no party shall be deemed to admit: (i) any liability for any claims, causes of action, or demands; (ii) any wrong doing or fault; nor (iii) violation of any law, precedent, rule, regulation, or statute. Further, nothing contained in this Agreement may be construed as an admission against the interest of any party.

2.17 **Attorneys' Fees.** If any arbitration or action is commenced to enforce the terms of this Agreement, the prevailing party shall be entitled to recover all of its expenses related to such action, including but not limited to, its reasonable attorneys' fees, costs and litigation expenses.

2.18 **Acknowledgments.** Except as already set forth in this Agreement, the Parties mutually understand, agree, and warrant: (i) nothing contained herein shall be construed as admissions of liability since this Agreement is solely in compromise and settlement of disputed claims; (ii) that the releases contained herein extend and apply to and also cover and include all unknown, unforeseen, unsuspected, and unanticipated injuries, claims, damages, losses, and liabilities, if any, arising from the matters addressed herein; (iii) that no promise or inducement has been offered except as herein set forth; (iv) that this settlement is in good faith and is equitable; (v) that this Agreement is executed without reliance upon any statement or representation by any party or its representatives concerning the nature and extent of the claimed damages or legal liability therefore; (vi) that the Parties are legally competent to execute this Agreement and to accept full responsibility therefore; (vii) that this Agreement and the releases set forth herein have been carefully read in their entirety by the Parties, who have had the benefit and advice of counsel of their choosing, and this Agreement and the releases set forth herein are known by the Parties to be in full and final and complete compromise, settlement, release, accord and satisfaction, and discharge of all claims and actions as above stated; and (viii) that in entering into this Agreement and the settlement and releases that are encompassed herein, the Parties are acting freely and voluntarily and without influence, compulsion, or duress of any kind from any source, including, but not limited to, any other Party or Parties, their attorneys, representatives, or anyone acting or purporting to act on behalf of any Party. Pursuant to a valid Limited Power of Attorney in force at the time of execution, Michael Macauley has the authority to sign this Agreement on behalf of the Macauleys and the Macauley Family Trust dated September 12, 1990. See Power of Attorney attached hereto as Exhibit "B."

2.19 **Integration.** This Agreement constitutes the entire Agreement by and between the Parties and supersedes and replaces any and all previous agreements entered into or negotiated between the Parties, including Michael Macauley.

2.20 **Amendments.** This Agreement may not be amended or modified except in writing and signed by each of the Parties or a person authorized by a Party to so sign.

2.21 **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Nevada.

2.22 **Counterparts.** This Agreement may be executed in any number of counterparts confirmed by facsimile signatures transmitted by telephone, each of which shall be deemed a duplicate original.



2.23 **No Third Party Beneficiaries.** The benefits and burdens of this Agreement inure to the Parties alone, and no third parties are intended to benefit by or to have the right to enforce any term hereof.

2.24 **Successors and Assigns.** This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective heirs, executors, administrators, personal representatives, successors, or approved assigns, as the case may be. This Agreement shall be automatically assigned by the Macauleys' to a subsequent owner of the Property, and by such subsequent owner to any future owner of the Property upon the sale of the Property.

2.25 **Notices.** Except as provided for in paragraph 2.09, any Notice required or desired to be given under this Agreement shall be in writing and personally hand delivered, given by overnight express delivery with receipt, or given by United States registered or certified mail, postage prepaid, return receipt requested. All such Notices shall be sent to the receiving party at the following address or at such other address as the party may from time to time direct in writing:

If to the Macauleys:

Michael Macauley  
144 Summit Ridge Drive  
Minden, NV 89423

*With copies to:*

J. Robert Smith, Esq.  
Holland & Hart, LLP  
5441 Kietzke Lane, Second Floor  
Reno, NV 89511  
Phone: (775) 327-3000

Joshua P. Gang, Esq.  
Quadrant Information Services, LLC  
770 Trademark Dr., Ste 100  
Reno, NV 89521  
Phone: (775) 850-3633

If to Douglas County:

Douglas County Department of Public Works  
Attn: Carl Ruschmeyer, Director  
P. O. Box 218  
Minden, NV 89423

*With a copy to:*

Douglas County District Attorney's Office  
Chief Civil Deputy District Attorney  
Joseph L. Ward, Jr.  
P. O. Box 218  
Minden, NV 89423  
Phone: (775) 782-9803

For purposes of this Agreement, Notices shall be deemed to have been given, delivered, or received upon personal delivery thereof or seventy-two (72) hours after having been deposited in the United States mail as provided herein.

2.26 **Headings.** All headings and subheadings employed within this Agreement are inserted only for convenience and ease of reference and shall not be considered in the construction or interpretation of any provision of this Agreement.

2.27 **No Presumption Regarding Drafter.** The Parties acknowledge and agree that the terms and provisions of this Agreement have been negotiated and discussed between them and their legal counsel and that this Agreement reflects their mutual agreement regarding the subject matter of this Agreement. Because of the nature of such negotiations and discussions, it would not be appropriate to deem either Party to be the drafter of this Agreement, and therefore no presumption for or against the drafter shall be applicable in interpreting or enforcing this Agreement.

2.28 **Severability.** If any provision contained in this Agreement is held to be unenforceable by a court of competent jurisdiction, this Agreement shall be construed as if such provision did not exist and the non-enforceability of such provision shall not be held to render any other provision or provisions of this Agreement unenforceable.

2.29 **Termination.** This Agreement deals with the Maintenance Project and placing the Facility in the open-space area as depicted in Exhibit "A." This will enable the County, as the operator of the JPR Water System, to safely provide healthy water to the System users. As such, the public interest is not served by the termination by either Party to this Agreement absent an opportunity to resolve an alleged breach and/or have its position on the claimed breach heard before a qualified arbitrator as required by this Agreement. This Agreement may be terminated only by the mutual consent and agreement of the Parties. If a Party is in breach of any portion of this Agreement, then the Party alleging such breach shall provide written notice to the other Party specifying the nature of the violation and allowing thirty (30) days for the Party in breach to correct the violation. If the breach is not corrected within the thirty (30) day period then the matter shall be submitted to binding arbitration as set forth in Paragraph 2.10 above. Pursuant to paragraph 2.23 of this Agreement, nothing contained in this paragraph 2.29, or elsewhere in this Agreement is intended to or shall create any third-party beneficiary.

2.30 **Force Majeure.** No Party to this Agreement shall be considered to be in default in the performance of any obligations under this Agreement when a failure of performance shall be due to any cause beyond the control of the Party, including but not limited to failure or threat of failure of facilities (which are not caused by the County, its agents or the result of its design or construction), flood, earthquake, storm, fire, lightning, and other natural catastrophes, epidemic, war, civil disturbance or disobedience, strike, labor dispute, labor or material shortage, sabotage, restraint by order of a court or regulatory body or agency of competent jurisdiction, and any non-action by, or failure to obtain the necessary authorization or approvals from a Federal governmental agency or authority, which by the exercise of due diligence and foresight such Party could not reasonably have been expected to overcome. Nothing contained herein shall be construed to require a Party to settle any strike or labor dispute in which it is involved or accede to claims or conditions which it believes to be adverse to its business or other interests.

2.31 **Public Records.** Pursuant to NRS 239.010, information or documents may be open to public inspection and copying. The Parties will have the duty to disclose unless a particular record is made confidential by law or a common law balancing of interests.





2.32 **Time is of the Essence.** The Parties acknowledge that time is of the essence in every aspect of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the dates set forth below.

The Macauleys

By: Michael Macauley

Date: \_\_\_\_\_

State of Nevada,  
County of \_\_\_\_\_

This instrument was acknowledged before me this \_\_\_\_ day of August, 2009, by Michael Macauley, on behalf of The Macauleys.

\_\_\_\_\_  
Notary Public

Douglas County

Nancy McDermid  
By: Chair Nancy McDermid  
Douglas County Board of Commissioners

Date: 06 August 2009

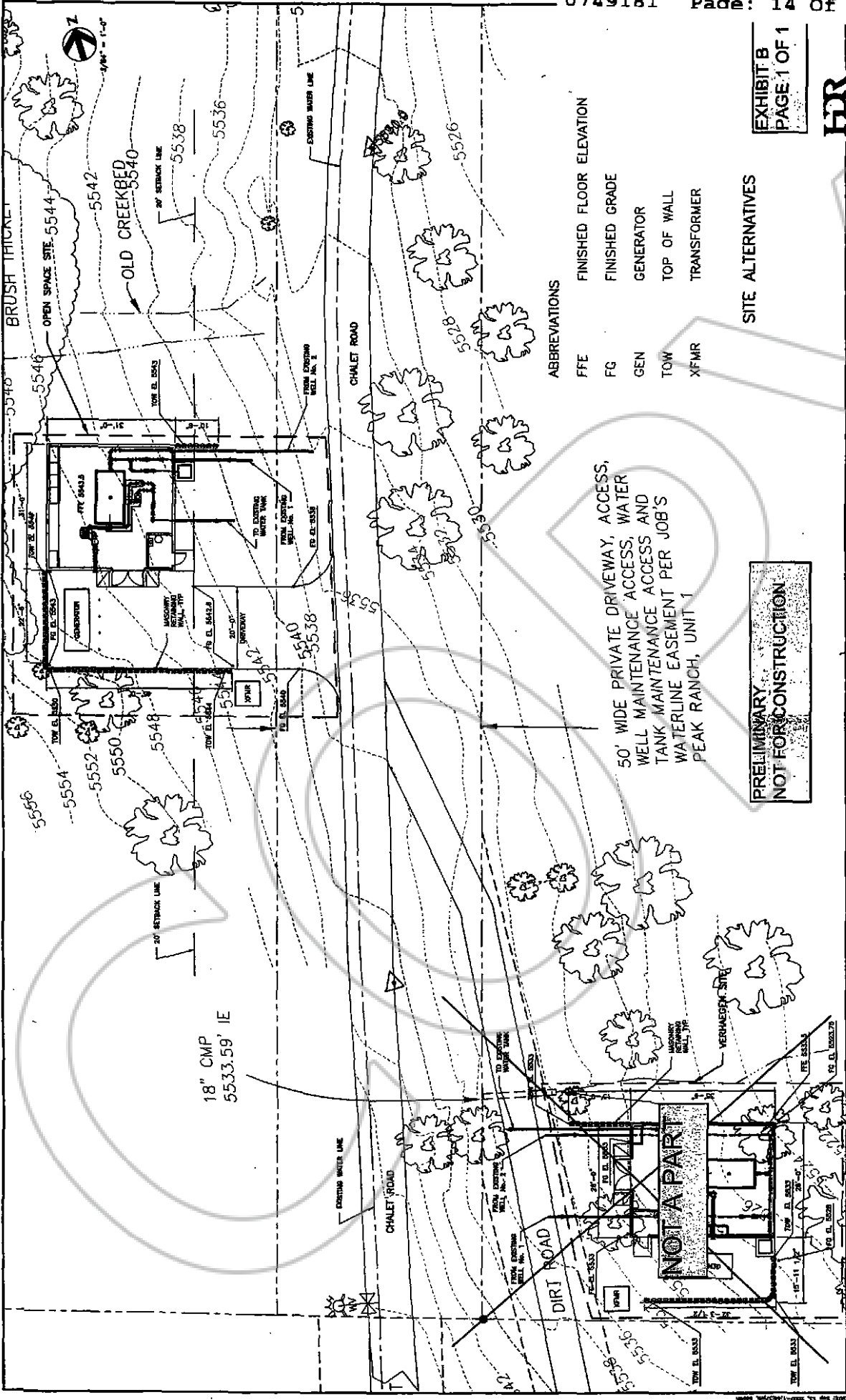
Attest:  
TED THRAN, Douglas County Clerk

By: Ted Thran



COPY

**EXHIBIT A**



ABBREVIATIONS

- FFE FINISHED FLOOR ELEVATION
- FG FINISHED GRADE
- GEN GENERATOR
- TOW TOP OF WALL
- XFMR TRANSFORMER

SITE ALTERNATIVES

EXHIBIT B  
PAGE 1 OF 1

HDR

Figure 2

50' WIDE PRIVATE DRIVEWAY, ACCESS, WELL MAINTENANCE ACCESS, WATER TANK MAINTENANCE ACCESS AND WATERLINE EASEMENT PER JOB'S PEAK RANCH, UNIT 1

PRELIMINARY  
NOT FOR CONSTRUCTION





COPY

**EXHIBIT B**





### LIMITED POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS that we, JOHN and SHARON MACAULEY of San Mateo County, California, as TRUSTEES OF THE MACAULEY FAMILY TRUST DATED SEPTEMBER 12, 1990 (hereinafter the "Trust"), hereby make, constitute and appoint MICHAEL MACAULEY of Douglas County, Nevada, as the Trust's true and lawful attorney-in-fact, with full power and authority in the Trust's name and in the Trust's stead for the Trust's use and benefit:

1. To make any all decisions, and to provide any and all information, regarding and affecting the real property, including without limitation any easements relating thereto, located at located at 144 Summit Ridge Drive, Douglas County, Nevada (APN 1219-16-002-013), also known as Lot 38 of the Job's Peak Ranch Development (hereinafter the "Property"), which is owned by the Trust.
2. To perform any and all acts necessary to resolve and/or settle the Lawsuit filed in Douglas County District Court, captioned *John and Sharon Macauley as Trustees of the Macauley Family Trust Dated September 12, 1990 v. Douglas County*, Case No. 09-CV-0157 (hereinafter the "Lawsuit").

This limited power of attorney shall expire and be deemed fully performed and completed upon the dismissal of the Lawsuit and shall remain effective until that time unless revoked by us in writing, with such revocation to be delivered to the attorney in fact above named. In no event shall the term of this limited power of attorney extend beyond June 30, 2011. Everyone dealing with our attorney in fact shall be entitled to rely upon the certificate of such attorney in fact to the effect that his power is in effect and has not been revoked.

This power of attorney shall not be affected by my disability.

IN WITNESS WHEREOF, the undersigned have executed this Limited Power of Attorney this 1 day of JULY, 2009 in the presence of Witnesses MARY LYNN BAKER and GAY L. BAKER.

PRINCIPAL:

[Signature]  
John Macauley, as Trustee of the Macauley Family  
Trusted dated September 12, 1990

PRINCIPAL:

[Signature]  
Sharon Macauley, as Trustee of the Macauley Family  
Trusted dated September 12, 1990

WITNESSES:

[Signature]  
[Signature]

WITNESSES:

[Signature]  
[Signature]

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF SAN MATEO )

The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 2009 by John Macauley, Principal, Sharon Macauley, Principal, and by \_\_\_\_\_ and \_\_\_\_\_, Witnesses.

Witness my hand and official seal.  
My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Signature of Notary

# CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of San Mateo

On July 1, 2009 before me, Cheri Charles A Notary Public  
(Here, insert name and title of the officer)

personally appeared John Maccauley and Sharon Maccauley

who 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.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.  
Cheri Charles  
Signature of Notary Public



## ADDITIONAL OPTIONAL INFORMATION

### INSTRUCTIONS FOR COMPLETING THIS FORM

Any acknowledgment completed in California must contain verbiage exactly as appears above in the notary section or a separate acknowledgment form must be properly completed and attached to that document. The only exception is if a document is to be recorded outside of California. In such instances, any alternative acknowledgment verbiage as may be printed on such a document so long as the verbiage does not require the notary to do something that is illegal for a notary in California (i.e. certifying the authorized capacity of the signer). Please check the document carefully for proper notarial wording and attach this form if required.

**DESCRIPTION OF THE ATTACHED DOCUMENT**  
United Power of Attorney  
(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages 1 Document Date 7/1/09

(Additional information)

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. he/she/they, is /are ) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
  - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
  - ❖ Indicate title or type of attached document, number of pages and date.
  - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document

**CAPACITY CLAIMED BY THE SIGNER**

Individual (s)  
 Corporate Officer  
 \_\_\_\_\_  
(Title)

Partner(s)  
 Attorney-in-Fact  
 Trustee(s)  
 Other \_\_\_\_\_