



PLACER, County Recorder  
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**CONSOLIDATION AND AMENDMENTS TO  
 DECLARATION OF ROAD MAINTENANCE AGREEMENT**

This consolidation and Amendment to Declaration made this 1st day of July, 1996 by the undersigned Declarants supersedes all previous Road Maintenance Agreements recorded in the office of the recorder of Placer County, California. This agreement supersedes all previously recorded agreements, including but not limited to the following:

- Book 2170, Page 192, dated 9/14/79
- Book 2074, Page 532, dated 1/16/79
- Book 2138, Page 64, dated 6/26/79
- Book 2076, Page 568, dated 1/22/79
- Book 2105, Page 578, dated 4/3/79
- Book 2129, Page 658, dated 6/7/79
- Book 1958, Page 315, dated 3/17/79
- Book 1952, Page 320, dated 4/4/78
- Book 1885, Page 184, dated 9/15/77

- a. The undersigned Declarants are at least 2/3 of the legal owners of the lands affected by the previously recorded Declaration of Road Maintenance Agreements referred to above. All owners previously bound are now bound by this agreement.
- b. The undersigned Declarants hereby consolidate and amend all the declarations of Road Maintenance Agreements referred to above into the following Consolidated and Amended Declaration of Road Maintenance Agreement.

**CONSOLIDATED AND AMENDED DECLARATIONS OF ROAD MAINTENANCE AGREEMENT**

The undersigned hereby declare that they are the owners of an easement in the nature of a private right-of-way or of lands to which such easement is attached, such easement being more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference.

We hereby agree and declare that we shall bear equal shares of any and all equipment purchased, and costs related to or required for maintenance and repairs of said easement and equipment, under the terms and conditions set forth herein:

- 1. Said easement described herein shall be used in common with other owners of said easement or lands to which such easement is attached.

2. Said easement shall be maintained in a passable condition under all traffic and weather conditions, to the best of the Association's ability. During winter months, four-wheel drive with or without chains may be required at times to fully access the easement.

3. There is hereby established a Kearsarge Mill Road Association Board of Directors (BOD). The membership of this board shall be five in number. The elected positions shall be: President, Vice President, Secretary, Treasurer and Road Committee Chairperson. The BOD has the authority to establish committees and sub-committees as deemed necessary by the general membership. All financial decisions will be made by BOD. All elected officials shall be required to attend at least 75 percent of each year's meetings, or relinquish their position. Duties of Road Committee Chairperson are defined within this document.

4. There is also hereby established a Road Committee which is under the authority of the BOD. The initial membership of the Road Committee shall be the Road Committee Chairperson. The Committee Chairperson will submit a preliminary itemized budget at the first quarter meeting of the BOD of the calendar year. The itemized budget will include a description and location of work to be performed and equipment and/or materials to be purchased. The Road Committee will be responsible for road maintenance and snow removal.

5. The BOD shall hold a minimum of 4 quarterly meetings which will be open to the general membership. Notices shall be sent out to the general membership at least thirty (30) days prior to each meeting. Date, time, location and agenda of the following meeting will be an agenda item at each quarterly meeting. Annual general membership meetings will be held the 1st weekend of June. Meetings will be conducted under *Robert's Rules of Order*. Voting for elected positions will be held at the annual general membership meeting. Minutes are to be recorded by the Secretary. Agendas are to be prepared and followed at each meeting. All correspondence received addressed to the Association, is to be made available to the general membership at each meeting. Road Committee budget shall be an agenda item at the annual meeting and voted upon by the general membership.

6. All voting concerning Association business and elections shall be conducted in the following manner. Votes shall be counted and recorded in the minutes. Majority is defined as votes counted by those present at meetings, as well as votes received by proxy. To ensure fairness, mail must be checked and any proxy votes received prior to a meeting date must be counted. Any proxy votes received after the meeting date will be null and void. Voting at any election shall be on the following basis: Each parcel shall be entitled to two votes, with a "parcel" defined as a separate legal parcel as recognized by Placer County as a building site. The term parcels shall refer to all the parcels subject to this Agreement.

7. Elected positions consist of President, Vice President, Secretary, Treasurer, and the Road Committee Chairperson. Each position will be voted on every two years at the annual meeting as each term expires or is vacated. President and Secretary positions will be filled on even years, all others on odd years. Initially, some officials will serve for one year. Any elected member may be removed from that position by a special election called for that purpose. (see item 8) A vacancy shall occur in the membership of the board if any elected officer shall resign, die, be recalled or become divested of his/her ownership of land within the parcel described in Exhibit "A" hereof. Vacancies in the board shall be filled by vote by the remaining Board Members, appointing a general member not currently on the board, to serve until the next general membership annual meeting.

8. Special meetings may be called when the owners of at least ten percent or more of the parcels concur that a special meeting is necessary. A written notice shall be presented with the signatures representing the owners of at least ten percent of the parcels to the Secretary of the board. The Secretary will, within five working days of receiving such notice, provide at least fifteen (15) days written notice of the date, time and place, and a description of the issue to be discussed, or voted upon, to the recorded owners of all parcels as such owners names appear on the Placer County tax rolls. Such notice may be given by personal service or US Mail and must be presented or mailed to each owner bound by this agreement,

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named on the last Placer County tax bill, addressed to such owner at the address to which the Placer County Treasurer mailed such tax bill. When the above criteria has been met, the Association will assume all costs of mailing for special meetings. Meeting locations must be held within ten (10) miles of said easement described as Exhibit "A" hereof.

9. Repairs or maintenance on said easement shall be required when the BOD or a majority vote of owners reach a decision that such repairs or maintenance are necessary. Pursuant to that decision, the BOD shall direct the Road Committee to start the process of the repairs or maintenance within sixty (60) days, weather permitting, with each of those owners bound by this agreement bearing equal shares of the cost and expense thereof, regardless of whether such owners have concurred in the decision to initiate repairs or not. The BOD has the authority to spend an amount determined by the owners at each year's Annual meeting. In an emergency situation the BOD has the authority to take the necessary measures to ensure safe and passable road conditions pursuant to item 2 above without exceeding the funds available at the time of the emergency, unless agreement of majority of owners is obtained.

10. Nothing herein shall be interpreted as requiring contribution for improvements in the traveled portion in said easement, however, if such improvements are constructed, this agreement shall apply to the repair and maintenance of such improved facilities.

11. Each of the parcel owners bound by this agreement agree that if they cause or allow said easement to be used in any manner which results in unusual wear or damage to the surface of said easement, they shall bear the cost and expense of restoring said surface as their sole and separate cost and expense.

12. If any one of the owners of said easement or lands to which said easement is attached fails, after demand in writing, to pay their proportion of the expense, action may be brought against him/her in a court of competent jurisdiction by the BOD, for amount due and costs of such legal action, including legal fees.

13. In the event that any owner bound by this agreement desires repairs or maintenance be performed on said easement and cannot obtain the concurrence of a majority of those owners bound by this agreement within one year after written notice for such concurrence, said owner shall have the right to apply for such relief as may be available by law.

14. This agreement and declaration shall be deemed and is intended to run with the land to be a restriction upon the said property and shall be binding upon the parcel owners, their heirs, personal representatives, successors and assigns until such time as the said easement shall be dedicated to and accepted for use as a public street by a governmental entity. It is the intent hereto that this instrument shall be recorded and that any subsequent transferee of the property or any part thereof, by acceptance of delivery of a deed and or conveyance of the said property shall be deemed to have consented to and become bound by these terms.

15. In the event said roads are improved to Placer County specifications and are acceptable to the County, and after a 2/3 majority vote by owners, each owner agrees upon request and without further consideration to execute such documents as may be necessary or convenient for dedication to Placer County of the rights-of-way now existing or hereinafter laid out by the property owners.

16. Nothing herein shall be interpreted as limiting or restricting the rights of the undersigned or their successors in interest from pursuing such remedies as may be available by law against owners of said easement or lands to which said easement is attached who are not bound by this agreement.

17. Any owner of said easement, or lands to which said easement is attached, not bound by this agreement, may request to be so bound by executing and attaching a legal description of the property owned, and after approval from a majority of the owners at a general membership annual meeting, and

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recording a copy of this declaration, at which time such owner shall be subject to all the benefits and duties herein.

18. Commencing on June 1st of each year, annual dues for each parcel are considered due and payable, and are considered delinquent on May 31st of the following year. Thirty days after dues are considered delinquent, a lien may be placed on the parcel. Failure to pay annual dues may result in legal action. This action may be a lien against the property and/or property owner(s) or any other legal remedy allowed by law. The amount and due dates of the annual dues are to be reviewed and voted on by the general membership, and if necessary, adjusted at the general membership annual meeting. Each parcel of land described in Exhibit "A" attached hereto or lands to which said easement are attached will be assessed an equal share of determined dues.

The areas within road rights-of-way shall not be excluded in determining the acreage of any owner.

19. All monies received by the Association shall be deposited in a savings and loan association or bank, subject to withdrawal only upon the signature of two members of the BOD. Such monies shall be withdrawn and expended by the BOD only for the purposes herein stated. All monies and equipment are to be used solely for the purpose of maintaining and repairing said easement. Property of the Association is not to be used for personal use. The Association is not in the position to loan money, time, equipment or material to any member or institution, nor will any compensation be given to those who donate money, time, equipment or material to the Association.

20. The BOD shall cause to be kept, true books of account wherein shall be set down all receipts and all expenditures which shall be open to inspection by any owner or owner's attorney or agent at all reasonable times. Books are to be kept by a professional Bookkeeper, not an association member nor related to a member. Bookkeeping expenses shall be an expense of the Association. Treasurer's reports shall be given at all regular meetings and all expenses and bank balances will be included in the Treasurer's report.

21. The BOD shall act by agreement of a majority of it's members either by vote at a meeting or in writing without a meeting. By such action, it may authorize one or more of its members to execute documents on its behalf and to give directions to others in carrying out the Board's purposes. A member of the board shall not vote or act upon any matter relating solely to himself/herself.

22. Board members, Committee members, and volunteers shall serve without compensation for Association service, and do so without incurring any liability, including personal injury or property damage, as a result of performing said services. Each and every officer, director, committee person and volunteer, specifically waives any claims for compensation for injuries occurring while performing services for the Association and shall look solely to their own insurance or personal resources. No member of the Board or Committee shall incur any liability for anything done or omitted by him/her or by the Board/Committee or it's agents or others, except only liability for his/her own misconduct.

23. This Association Agreement may be terminated at any time by a 2/3 majority vote of the owners. Upon termination of this agreement, all equipment must be sold and any monies remaining unexpended shall be distributed to the then owners in the same proportions as they would be required to make the contributions in accordance with this document. Any monies due the Association by a parcel or parcel owner will be deducted prior to distribution to that parcel or parcel owner.

24. Each owner agrees, upon request, and without further consideration, to execute such documents as may be necessary or convenient to grant easements for public utility purposes within any existing or future road rights-of-way.

25. The provisions of this Declaration shall become effective June 1, 1997 and shall affect and run with the land and shall exist and be binding upon all parties claiming an interest in any lots therein until June 1, 2005, after which time the same shall automatically be extended for successive periods of ten (10) years each, unless by a properly executed and recorded statement of the then owners of 51% or more of the lots elect to terminate or amend them in whole or part. Prior to June 1, 2005, this Declaration may be amended or extended by the affirmative vote of two-thirds (2/3) of the then lot owners.

26. If the Association or any party to this Agreement shall bring any action, suit, counterclaim, appeal, arbitration or mediation for any relief against any other party, declaratory or otherwise, to enforce the terms hereof or to declare rights hereunder (collectively, an Action), the losing party shall pay the prevailing party a reasonable sum for attorneys' fees and costs incurred in bringing and prosecuting such Action and/or enforcing any judgment, order, ruling, or award (collectively, a Decision) granted therein, all of which shall be deemed to have accrued on the commencement of such Action and shall be paid whether or not such Action is prosecuted to a Decision. Any Decision entered in such Action shall contain a specific provision providing for the recovery of attorneys' fees and costs incurred in enforcing such Decision. The court or arbitrator may fix the amount of reasonable attorneys' fees shall included, without limitation, fees incurred in the following: (1) postjudgement motions and collection actions; (2) contempt proceedings; (3) garnishment, levy, and debtor and third party examinations; (4) discovery; and (5) bankruptcy litigation. "Prevailing party" within the meaning of this paragraph includes, without limitation, a party who agrees to dismiss an Action on the other party's payment of the sums allegedly due or performance of the covenants allegedly breached, or who obtains substantially the relief sought by it.

EXHIBIT "A"

Area "K" as shown on Parcel Map 72982, recorded January 16, 1979 in Book 13 of Parcel Maps at Page 154, Official Records of Placer County.

Area "K" as shown on Parcel Map 73009, recorded June 26, 1979 in Book 14 of Parcel Maps at Page 138, Official Records of Placer County.

Area "K" as shown on Parcel Map 73011, recorded January 22, 1979 in Book 14 of Parcel Maps at Page 1, Official Records of Placer County, and that portion of Area "L" appurtenant to Parcel A only.

Area "K" as shown on Parcel Map 73010, recorded April 9, 1979 in Book 14 of Parcel Maps at Page 69, Official Records of Placer County.

Area "J" as shown on Parcel Map 72767, recorded June 7, 1979 in Book 14 of Parcel Maps at Page 120, Official Records of Placer County.

Area "J" as shown on Parcel Map 72765, recorded June 21, 1979 in Book 14 of Parcel Maps at Page 135, Official Records of Placer County.

Area "J" as shown on Parcel Map 72768, recorded June 21, 1979 in Book 14 of Parcel Maps at Page 134, Official Records of Placer County.

Areas "J" & "K" as shown on Parcel Map 72761, recorded June 7, 1979 in Book 14 of Parcel Maps at Page 121, Official Records of Placer County.

Areas "K" & "L" as shown on Parcel Map 73026, recorded October 17, 1980 in Book 17 of Parcel Maps at Page 64, Official Records of Placer County.

All that portion of the Northwest one-quarter of the Northeast one-quarter of Section 15, Township 16 North, Range 11 East, MDB&M described as a non-exclusive easement 25 feet in width for road and utilities purposes the East line of which is described as beginning at the Southeast corner of the Northwest one-quarter of said Section 15 and running along the East line of the Northwest one-quarter of the Northeast one-quarter North 0 36' 36 " East, 1330.91 feet to the Northwest corner of the Northeast one-quarter of the Northeast one-quarter of said section 15.

All that portion of the Northwest quarter of the Southeast quarter of Section 15, Township 16 North, Range 11 East, MDB & M described as a non-exclusive easement 50 feet in width for road and utilities purposes beginning at a point in the centerline of said road from which the center quarter of Section 15 bears North 0 31' 22" East, 44.50 feet; thence along said centerline through a curve to the right with a radius of 200.00 feet with an angle of 17 49' 12" for an arc length of 62.20 feet from which the center quarter of Section 15 bears North 89 40' 03" West, 42.96 feet.

**EXHIBIT A**

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All that portion of the Northeast one-quarter of the Northeast one-quarter of Section 15, Township North, Range 11 East, MDB&M described as a non-exclusive easement 25 feet in width for road and utilities purposes the West line of which is described as beginning at the Southwest corner of the Northeast one-quarter of the Northeast one-quarter of said Section 15; thence along the West line of said Northeast one-quarter of the Northeast one-quarter North 0° 36' 36" East, 1330.91 feet to the Northwest corner of the Northeast one-quarter of the Northeast one-quarter of said Section 15.

All that portion of the Southeast quarter of the Northeast quarter of the Northeast quarter Section 15, Township 16 North, Range 11 East, MDB&M described as a easement 25 feet in width the West line of which is described as beginning at the Northwest corner of the Southeast quarter of the Southeast quarter of the Northeast quarter; thence South 0° 36' 35" West, 462.76 feet; thence along a curve to the right with a radius of 200 feet to the West line of the Southeast quarter of the Northeast quarter of Section 15.

A portion of the Southwest quarter of the Southwest quarter of Section 15, Township 16 North, Range 11 East, MDB&M being an easement 50 feet in width the centerline of which is described as beginning at a point in the centerline of said easement from which the Southwest corner of said Southwest quarter of the Southwest quarter bears North 89° 40' 52" West, 64.25 feet. Thence along a curve to the right with a radius of 200 feet through an angle of 30° 03' 05" for an arc length of 104.90 feet to the East line of the Southwest quarter of the Southwest quarter from which the Southwest corner of said Southwest quarter of the Southwest quarter bears South 0° 26' 08" West, 81.27 feet.

Parcels # 062 - 251 - 037 - 000  
062 - 251 - 035 - 000

IN WITNESS WHEREOF, the Declarants hereby elect to accept the terms of this agreement:

Lilyanne Clark  
AUTHORIZED SIGNATURE

Lilyanne F Clark  
PRINT NAME

PARCEL NUMBER \_\_\_\_\_

DATE: MARCH 13 '99

William F Clark  
AUTHORIZED SIGNATURE

WILLIAM F CLARK  
PRINT NAME

PARCEL NUMBER \_\_\_\_\_

DATE: MARCH 13, 1999

\_\_\_\_\_  
AUTHORIZED SIGNATURE

\_\_\_\_\_  
PRINT NAME

PARCEL NUMBER \_\_\_\_\_

DATE: \_\_\_\_\_

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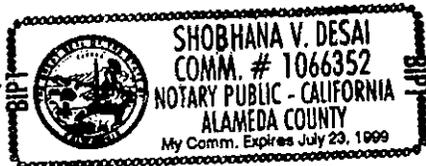
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State of California  
County of Alameda

On 03-13-99 before me, SHOBHANA V. DESAI  
personally appeared Lilyanne F. Clark and William F. Clark

~~personally known to me~~ - OR - 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/his/their~~ authorized capacity(ies), and that by ~~his/his/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



Shobhana V. Desai  
SIGNATURE OF NOTARY